

Case Number:	BOA-23-10300117
Applicant:	Villahan Betancur
Owner:	Villahan Betancur
Council District:	2
Location:	511 Claude W. Black
Legal Description:	Lot 22, Block 27, NCB 623
Zoning:	“RM-4 AHOD” Residential Mixed Airport Hazard Overlay District
Case Manager:	Mirko Maravi, Principal Planner

Request

A request for variance to allow a corrugated metal fence, as described in Sec 35-514(a)(6), in the side and rear yard.

Executive Summary

The property is located east of Downtown, just east of the Alamodome. A Code Compliance investigation was found the fence was built with no permits and with prohibited material. Upon site visit, no other corrugated fences were observed, and no other variance requirements were found on the subject property.

Code Enforcement History

INV-PTI-23-3090000478 - PMT-Building Without a Permit – April 2023

Permit History

The issuance of a fence permit is pending the outcome of the Board of Adjustment.

Zoning History

The property was located within the original 36 square miles of San Antonio and zoned “J” Commercial District. The properties were rezoned by Ordinance 79329, dated December 16, 1993, to “R-2” Two-Family Residence District. Under the 2001 Unified Development Code, established by Ordinance 93881, dated May 03, 2001, the property converted from “R-2” Two-Family Residence District to the current “RM-4” Residential-Mixed District.

Subject Property Zoning/Land Use

Existing Zoning	Existing Use
“RM-4 AHOD” Residential-Mixed Airport Hazard Overlay District	Single-Family Residence

Surrounding Zoning/Land Use

Orientation	Existing Zoning District(s)	Existing Use
North	“RM-4 AHOD” Residential-Mixed Airport Hazard Overlay District	Single-Family Residence
South	“RM-4 AHOD” Residential-Mixed Airport Hazard Overlay District	Single-Family Residence
East	“RM-4 AHOD” Residential-Mixed Airport Hazard Overlay District	Single-Family Residence

West	“RM-4 AHOD” Residential-Mixed Airport Hazard Overlay District	Vacant City Owned Lot
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Comprehensive Plan Consistency/Neighborhood Association

The subject property is in the Downtown Neighborhood Plan and is designated as “Residential” in the future land use component of the plan. It is in the Downtown Neighborhood Association.

Street Classification

Claude W. Black is classified as a local road.

Criteria for Review

According to Section 35-482(e) of the UDC, in order for a variance to be granted, the applicant must demonstrate all of the following:

1. *The variance is not contrary to the public interest.*

The public interest is defined as the general health, safety, and welfare of the public. The requested variance is contrary to the public interest as it will permit a prohibited fencing material that can cause harm to the surrounding community.

2. *Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship.*

A literal enforcement of the ordinance would not result in an unnecessary hardship since various permitted fencing materials are available under the Unified Development Code standards.

3. *By granting the variance, the spirit of the ordinance will be observed and substantial justice will be done.*

The spirit of the ordinance is defined as the intent of the code, rather than the exact letter of the law. The request does not appear to be in the spirit of the ordinance as the location or height are not the issue but the prohibited fencing material are.

4. *The variance will not authorize the operation of a use other than those uses specifically authorized in the zoning district in which the variance is located.*

No uses other than those allowed within the district will be allowed with this variance.

5. *Such variance will not substantially injure the appropriate use of adjacent conforming property or alter the essential character of the district in which the property is located.*

Staff finds that the variance would substantially injure the appropriate use of adjacent properties as the request will introduce a prohibited fence material to the area. This will alter the essential character of the district.

6. *The plight of the owner of the property for which the variance is sought is due to unique circumstances existing on the property, and the unique circumstances were not created by the owner of the property and are not merely financial, and are not due to or the result of general conditions in the district in which the property is located.*

Staff finds the plight of the owner of the property for which the variance is sought is not due to unique circumstances existing on the property. The property owner had the opportunity to construct the fence with a permitted fencing material.

Alternative to Applicant's Requests

The alternative to the applicant's request is to conform to the prohibited fence material requirements of the UDC Sec 35-514(a)(6).

Staff Recommendation

Staff recommends Denial in BOA-23-10300117 based on the following findings of fact:

1. Variance will introduce a prohibited fencing material to the area; and
2. It will alter the essential character of the district.