

Case Number:	BOA-23-10300141
Applicant:	Jamell Yarborough and David Schlenker
Owner:	Jamell Yarborough and David Schlenker
Council District:	1
Location:	945 West Summit Avenue
Legal Description:	Lots 25 and 26, Block 16, NCB 1788
Zoning:	“R-6 NCD-5 AHOD” Residential Single-Family Beacon Hill Area Neighborhood Conservation Airport Hazard Overlay District
Case Manager:	Mirko Maravi, Principal Planner

**Request**

A request for a 2' special exception from the maximum 6' fence height, as described in Sec 35-335(c)(E), to allow an 8' privacy fence in the side and rear yard.

**Executive Summary**

The subject property is located north of downtown, between IH-10 West and Blanco Road in the Beacon Hill Area Neighborhood Conservation District. The applicant is requesting an exception for an 8’ fence already built that separates an accessory dwelling from the rest of the rear yard. There is an alley in the rear, which would normally allow an 8’ fence in the rear and side yard; however, the Beacon Hill Area Neighborhood Conservation District does not permit any fences in the rear and side yard over 6’.

**Code Enforcement History**

None.

**Permit History**

The issuance of a fence permit has not been applied for yet and will be pending the outcome of the Board of Adjustment.

**Zoning History**

The subject property is located within the original 36 square miles of the City of San Antonio. The property was rezoned by Ordinance 86704, dated September 25, 1997, to the “R-1” Single-Family Residence District. Under the 2001 Unified Development Code, established by Ordinance 93881, dated May 03, 2001, the property zoned “R-1” Single-Family Residence District converted to the current “R-6” Residential Single-Family District.

**Subject Property Zoning/Land Use**

Existing Zoning	Existing Use
“R-6 NCD-5 AHOD” Residential Single-Family Beacon Hill Area Neighborhood Conservation Airport Hazard Overlay District	Single Family Dwelling

**Surrounding Zoning/Land Use**

Orientation	Existing Zoning District(s)	Existing Use
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North	“R-6 NCD-5 AHOD” Residential Single-Family Beacon Hill Area Neighborhood Conservation Airport Hazard Overlay District	Single Family Dwelling
South	“R-6 NCD-5 AHOD” Residential Single-Family Beacon Hill Area Neighborhood Conservation Airport Hazard Overlay District	Single Family Dwelling
East	“R-6 NCD-5 AHOD” Residential Single-Family Beacon Hill Area Neighborhood Conservation Airport Hazard Overlay District	Single Family Dwelling
West	“R-4 NCD-5 AHOD” Residential Single-Family Beacon Hill Area Neighborhood Conservation Airport Hazard Overlay District	Single Family Dwelling

**Comprehensive Plan Consistency/Neighborhood Association**

The subject property is in the Midtown Neighborhoods Neighborhood Plan and is designated as “Low Density Residential” in the future land use component of the plan. The subject property is located within the boundary of the Beacon Hill Neighborhood Association, and they have been notified of the request.

**Street Classification**

West Summit Avenue is classified as a Local Road.

**Criteria for Review – Fence Height Special Exception**

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

*A. The special exception will be in harmony with the spirit and purpose of the chapter*

The UDC states the Board of Adjustment can grant a special exception for a fence height modification. The fence height being requested is an 8’ privacy fence rear yard. If granted, staff finds the request would not be in harmony with the spirit and purpose of the ordinance as no similar fences exist in the area and against the neighborhood conservation district guidelines.

*B. The public welfare and convenience will be substantially served.*

In this case, the fence height criteria protect residential property owners and the neighborhood conservation district while still promoting a sense of community. The privacy fence will not contribute to the public welfare and convenience as the privacy height will be exceeded by 2’.

*C. The neighboring property will not be substantially injured by such proposed use.*

Privacy fences above the 6’ maximum in the rear yard were not observed in the vicinity of the subject site, therefore the additional height could likely substantially injure other properties in the neighborhood.

*D. The special exception will not alter the essential character of the district and location in which the property for which the special exception is sought.*

The additional height in fence along the side property line will alter the essential character of the district and the neighborhood conservation district, as other houses in the area are within the maximum side and rear yard fence height standards.

E. The special exception will not weaken the general purpose of the district or the regulations herein established for the specific district.

The current zoning permits the use of a single-family home. The requested special exception may weaken the general purpose of the district and the neighborhood conservation district, as it does not permit privacy fences in the rear or side yard over 6' unless it is abutting a commercial use lot. The requested special exception will weaken the general purpose of the district.

### **Alternative to Applicant's Request**

The alternative to the applicant's request is to conform to the NCD-5 Fence Standards of the UDC Section 35-335(c)(E).

### **Staff Recommendation – Side Setback**

Staff recommends Denial in BOA-23-10300141 based on the following findings of fact:

1. The additional fence height goes against the established neighborhood conservation district standard; and
2. It will alter the essential character of the district as no other 8' fences were observed.