

Case Number:	BOA-23-10300111
Applicant:	Antonio Lopez
Owner:	Antonio Lopez
Council District:	10
Location:	4123 Barrington Street
Legal Description:	Lot 22, Block 1, NCB 14149
Zoning:	“R-5 AHOD” Residential Single-Family Airport Hazard Overlay District
Case Manager:	Joseph Leos, Planner

Request

A request for 1) a 1'-5" special exception from the maximum 6' fence height requirement, as described in Sec. 35-514, to allow a 7'-5" solid screened fence along the rear property line, 2) a 5'-2" variance from the minimum 15' clear vision requirement, as described in Sec. 35-514(2)(b), to allow a solid screened fence to be 9'-10" from the side yard driveway curb, 3) a 7'-4" variance from the minimum 20' rear setback requirement, as described in Sec. 35-310.01, to allow a structure to be 12'-8" from the rear property line, and 4) a 2'-7" variance from the minimum 5' rear setback requirement, as described in Sec. 35-370(b)(1), to allow an accessory structure to be 2'-5" from the rear property line.

Executive Summary

The subject property is located along Barrington Street, in a neighborhood northwest of the intersection of Perrin Beitel and NE Loop 410. The applicant constructed 7'-5" solid screened privacy fence along their rear property line. Furthermore, the applicant states they added the additional fence height for privacy concerns because of the irregular shape of the lot. The applicants rear property line is the abutting neighbors side property line. Upon site visits, staff observed other variances that needed to be addressed. Those of which include the fence imposing into the clear vision field by being 9'-10" from the side yard driveway curb. Additionally, staff observed a structure attached to the principal home, located within the rear setback, and measuring 12'-8" from the rear property line. Staff also observed a detached accessory structure imposing into the rear setback, measuring 2'-5" from the rear property line. Per BCAD, both of which were constructed prior to 2001.

Code Enforcement History

There is no relevant code enforcement history for the subject property.

Permit History

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

Zoning History

The subject property was annexed into the City of San Antonio by Ordinance 32611, dated September 23, 1964, and originally zoned "A" Single-Family Residence District. Under the 2001 Unified Development Code, established by Ordinance 93881, dated May 03, 2001, the property zoned "A" Single-Family Residence District converted to "R-5" Residential Single-Family District.

Subject Property Zoning/Land Use

Existing Zoning	Existing Use

“R-5 AHOD” Residential Single-Family Airport Hazard Overlay District	Single-Family Residence
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Surrounding Zoning/Land Use

Orientation	Existing Zoning District(s)	Existing Use
North	“R-5 AHOD” Residential Single-Family Airport Hazard Overlay District	Single-Family Residence
South	“R-5 AHOD” Residential Single-Family Airport Hazard Overlay District	Single-Family Residence
East	“R-5 AHOD” Residential Single-Family Airport Hazard Overlay District	Single-Family Residence
West	“R-5 AHOD” Residential Single-Family Airport Hazard Overlay District	Single-Family Residence

Comprehensive Plan Consistency/Neighborhood Association

The subject property is in the San Antonio International Airport Vicinity Land Use 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 Village North II Neighborhood Association and they have been notified of the request.

Street Classification

Barrington Street 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 additional fence height being requested is only located along the rear property lines and does not exceed 8’ in height. If granted, staff finds the request would be in harmony with the spirit and purpose of the ordinance.

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

In this case, these criteria are represented by fence heights to protect property owners while still promoting a sense of community. The fence is exceeding the maximum height requirement by 1’-5” and is located along the rear property line. Due to the irregular orientation of the subject property’s lot with the neighboring lot, an increased fence height will serve the public welfare and substantial justice will be served.

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

The fence will create enhanced security and privacy for the subject and adjacent properties.

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 fence height of the subject property does not appear to alter the location for which the special exception is sought, as the abutting base zoning districts are residentially zoned. Additionally, the orientation of the property is unique and would benefit from an increase in fence height.

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

The requested special exception will not weaken the general purpose of the district.

Criteria for Review – Clear Vision and Rear Setback Variances

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 applicant is requesting a clear vision variance to allow a fence to be 9'-10" from the side driveways. Staff finds that this request will not be contrary to the public interest as this is an acceptable distance. The applicant is also requesting a variance to deviate from the minimum rear setback requirement. In this case, the public interest is represented by restricted setbacks to provide suitable spacing between structures. Staff finds that this an allowable amount of spacing, as the structures will provide a suitable distance from neighboring properties.

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

A literal enforcement of the ordinance would result in the applicant altering the fence to meet the minimum 15' clear vision requirement for the side driveway. This would result in an unnecessary hardship as the rear yard of the subject property would decrease in size. Further, the enforcement of the rear setback for the attached and detached structures would result in an unnecessary hardship, as there is limited room in the rear yard to adhere to the ordinance.

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

The clear vision request to allow a fence to be 9'-10" from the side driveway will observe the spirit of the ordinance by providing a safe distance between the two points, allowing vehicular traffic to not be obstructed. Additionally, the driveway reverses onto a cul-de-sac street. The proposed rear setback will adhere to the spirit of the ordinance and substantial justice will be done by allowing for suitable distances between structures and neighboring properties. Additionally, the structures are meeting all other building regulations.

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.*

If granted, the clear vision distance will be 9'-10" from the side driveway and the structures will maintain their reduced setbacks, which are not likely to 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 due to unique circumstances existing on the property, such as the orientation of the lot and limited space for adjustments in rear yard.

Alternative to Applicant's Request

The alternative to the applicant's request is to conform to the Setback Regulations of the UDC Section 35-310.01, Fence Height Regulations of the UDC Section 35-514, and Fence Clear Vision Area of the UDC Section 35-514 (a)(2).

Staff Recommendation – Fence Height Special Exception Variance

Staff recommends **Approval** in **BOA-23-10300111** based on the following findings of fact:

1. The fence does not exceed 8' and is located along the rear property line.

Staff Recommendation – Clear Vision and Rear Setback Variances

Staff recommends **Approval** in **BOA-23-10300111** based on the following findings of fact:

1. Vehicular traffic will not be obstructed with the reduced clear vision; and
2. The rear setback distances provide suitable spacing between structures.