

Case Number:	BOA-23-10300205
Applicant:	Colin Hardee
Owner:	Colin Hardee
Council District:	8
Location:	3443 Hunters Circle
Legal Description:	Lot 6, Block 2, NCB 16961
Zoning:	"R-6 MLOD-1 MLR-2" Residential Single-Family Camp Bullis Military Lighting Overlay Military Lighting Region 2 District
Case Manager:	Vincent Trevino, Senior Planner

Request

A request for a 2' variance from the maximum 8' fence height, as described in Section 35-514, to allow a 10' privacy fence in the rear property line.

Executive Summary

The subject property is located on Hunters Circle between the intersections of Hunters Breeze and Lockhill Selma. Applicant constructed a 10' fence without a permit. The property is permitted an 8' privacy side/rear yard fence since the abutting neighbor has a swimming pool. The property contains an 8' privacy fence in rear, however the property owner added an additional screening fence that has a height of 10'.

Code Enforcement History

INV-PTI-23-3090001368 – Building Without a Permit (No Violation) June 2023

Permit History

RES-FEN-PMT23-31900535 – Residential Fence Permit- June 2023

Zoning History

The property was annexed into the City of San Antonio by Ordinance 51924, dated April 20, 1980 and zoned Temporary "R-1" Single-Family Residence District. Under the 2001 Unified Development Code, established by Ordinance 93881, dated May 03, 2001, the property zoned Temporary "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 MLOD-1 MLR-2" Residential Single-Family Camp Bullis Military Lighting Overlay Military Lighting Region 2 District	Single-Family Residence

Surrounding Zoning/Land Use

Orientation	Existing Zoning District(s)	Existing Use
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North	"R-6 MLOD-1 MLR-2" Residential Single-Family Camp Bullis Military Lighting Overlay Military Lighting Region 2 District	Single-Family Residence
South	"R-6 MLOD-1 MLR-2" Residential Single-Family Camp Bullis Military Lighting Overlay Military Lighting Region 2 District	Single-Family Residence
East	"R-6 MLOD-1 MLR-2" Residential Single-Family Camp Bullis Military Lighting Overlay Military Lighting Region 2 District	Single-Family Residence
West	"R-6 MLOD-1 MLR-2" Residential Single-Family Camp Bullis Military Lighting Overlay Military Lighting Region 2 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 a boundary of Hunter's Creek Neighborhood Association, and they were notified of this request.

Street Classification

Hunters Circle is classified as a local road.

Criteria for Review – Fence Height Variance

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. In this case, the public interest is represented by restricted fence height to provide uniformity within a community. The variance is contrary to the public interest as the fence exceeds the 8' maximum height permitted by right.

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

Staff found no special conditions on the subject property that would warrant the applicant to construct a 10' fence in the rear property line. A literal enforcement of the ordinance would not result in an unnecessary hardship as the fence height would need to comply with the 8' maximum height.

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. In this case, the spirit of the ordinance will not be observed, as the rules and regulations for maximum fence heights were intended to provide consistency and uniformity within an established community.

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 fence will be allowed the prohibited fence height. If so, this will injure the appropriate use of adjacent conforming properties and alter the essential character of the district. Upon site visits, staff did not observe any fences exceeding the maximum fence height.

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 elevation difference and abutting lot's swimming pool allows an additional 2' in height.

Alternative to Applicant's Request

The alternative to the applicant's request is to conform to the Fence Regulations of the UDC Section 35-514.

Staff Recommendation – Fence Height Variance

Staff recommends Denial in BOA-23-10300205 based on the following findings of fact:

1. There are no unique circumstances existing on the property; and
2. The 10' fence would not provide uniformity within the community.