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| Case Number: | BOA-23-10300234 |
| Applicant: | Edmundo Gomez |
| Owner: | Edmundo and Marie E. Gomez |
| Council District: | 4 |
| Location: | 1310 Saint Lawrence Street |
| Legal Description: | Lot 20, Block 48, NCB 15910 |
| Zoning: | “R-6 MLOD-2 MLR-1 AHOD” Residential Single-Family Lackland Military Lighting Overlay Military Lighting Region 1 Airport Hazard Overlay District |
| Case Manager: | Richard Bautista-Vazquez, Planner |

Request

A request for 1) a 9" special exception from the maximum 3' height, as described in Section 35-514, to allow a 3'-9" privacy fence in the front yard, and 2) a 5' variance from the minimum 15' clear vision, as described in Section 35-514(a)(2), to allow a 10' driveway clear vision.

Executive Summary

The subject property is located along Saint Lawrence Street and is currently has a single-family dwelling on the lot. The applicant has constructed a masonry fence that measures 3’-9” to its highest point. A Building Without A Permit violation was filed on 07/31/2023. Upon site staff visit, a fence was observed that measured 10’ from the curb causing a Clear Vision violation.

Code Enforcement History

PMT-Building Without A Permit 07/31/2023

Permit History

The issuance of the permit is pending various departmental reviews including the outcome of the Board of Adjustment.

Zoning History

The property was annexed into the City of San Antonio by Ordinance 83136 dated December 30, 1995 and zoned Temporary “R-1” Single-Family Residence District. Ordinance 85420 dated January 9, 1997 rezoned the property to “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 “R-6” Residential Single-Family District.

Subject Property Zoning/Land Use

| Existing Zoning | Existing Use |
|--|------------------------|
| “R-6 MLOD-2 MLR-1 AHOD” Residential Single-Family Lackland Military Lighting | Single-Family Dwelling |

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|--|--|
| Overlay Military Lighting Region 1 Airport Hazard Overlay District | |
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Surrounding Zoning/Land Use

| Orientation | Existing Zoning District(s) | Existing Use |
|-------------|---|------------------------|
| North | “R-6 MLOD-2 MLR-1 AHOD” Residential Single-Family Lackland Military Lighting Overlay Military Lighting Region 1 Airport Hazard Overlay District | Single-Family Dwelling |
| South | “R-6 MLOD-2 MLR-1 AHOD” Residential Single-Family Lackland Military Lighting Overlay Military Lighting Region 1 Airport Hazard Overlay District | Single-Family Dwelling |
| East | “R-6 MLOD-2 MLR-1 AHOD” Residential Single-Family Lackland Military Lighting Overlay Military Lighting Region 1 Airport Hazard Overlay District | Single-Family Dwelling |
| West | “R-6 MLOD-2 MLR-1 AHOD” Residential Single-Family Lackland Military Lighting Overlay Military Lighting Region 1 Airport Hazard Overlay District | Single-Family Dwelling |

Comprehensive Plan Consistency/Neighborhood Association

The subject property is in the West/ Southwest Sector Plan and is designated as “Suburban Tier” in the future land use component of the plan. The subject property is not located withing a Neighborhood Association.

Street Classification

Saint Lawrence is classified as a local road.

Criteria for Review – Clear Vision 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 requested variance to allow a fence to be 10' withing the Clear Vision, encroaching by 5', and is not contrary to the public interest. Cars will be able to enter and exit the property safely with this distance.

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

Maintaining a 10' clear vision field is enough to see oncoming traffic from the right of way. The removal of the fence would result in an unnecessary hardship.

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

The fence will observe the spirit of the ordinance, as the fence does not obstruct vision significantly.

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.*

There are similar properties located in the area that have similar style fences, therefore the request would not alter the essential character of the neighborhood.

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.*

The variances are sought is due to unique circumstances existing on the property such as the size of the lot. The variance request is not merely financial.

Criteria for Review – Fence Height Special Exception

According to Section 35-482(h) of the UDC, in order for a special exception to be granted, the Board of Adjustment must find that the request meets each of the five following conditions:

- 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 was observed and, 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 residential property owners while still promoting a sense of community. The fence is located along the front property line and is only exceeding the maximum height requirement by 9”.

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

The fence will create enhanced security and privacy for the subject property and is unlikely to substantially injure any neighboring 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 height for the section of front yard fence will not alter the essential character of the district.

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 current use of a single-family home. The requested special exception will not weaken the general purpose of the district.

Alternative to Applicant's Request

The alternative to the applicant's request is to conform to Fence Height and Clear Vision Regulations in Sec. 35-514 of the UDC.

Staff Recommendation – Clear Vision Variance

Staff recommends **Approval** in **BOA-23-10300234** based on the following findings of fact:

1. The request does not appear out of character for the area; and
2. The property has unique circumstances on the property such as the small lot.

Staff Recommendation – Front Yard Fence Special Exception

Staff recommends **Approval** in **BOA-23-10300234** based on the following findings of fact:

1. The front yard fence does not appear to alter the essential character of the district;