

Case Number:	BOA-23-10300225
Applicant:	Alan Capraro
Owner:	Alan Capraro
Council District:	2
Location:	1611 South Gevers Street
Legal Description:	Lot 50, Block 9, NCB 1643 to include up to 15' east of the property line
Zoning:	“RM-4 MLOD-3 MLR-2 AHOD” Residential Mixed Martindale Army Airfield Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District
Case Manager:	Joseph Leos, Planner

Request

A request for a 1) 1’ special exception from the maximum 3' front yard fence height requirement, as described in Section 35-514, to allow a 4' solid screened fence in the front yard, and 2) a request for a 9’ variance from the minimum 15’ driveway clear vision, as described in Section 35-514(a)(2), to allow a 6’ driveway clear vision.

Executive Summary

The subject property is located on the corner of South Gevers Street and Essex Street. Prior to construction, the applicant is requesting a special exception to allow a 4’ solid screened fence in the front yard. The maximum height permitted for solid screened fences is 3’. Due to the placement of the fence, the applicant would also need a variance to deviate from the minimum clear vision requirement of 15’. The applicant is proposing to be 6’ from the front yard driveway curb. Upon review, it was noted that the applicant anticipates on constructing the fence within the Right of Way. The applicant would need to obtain permission from Public Works regarding constructing within the Right of Way prior to hearing.

Code Enforcement History

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

Permit History

The issuance of a permit is pending the outcome of the Board of Adjustment.
 Residential Fence Permit (RES-FEN-APP23-31800468) Side and Rear Yard- April 2023
 Residential New Building Permit (RES-RBP-PMT22-36601827)- April 2022

Zoning History

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

Subject Property Zoning/Land Use

Existing Zoning	Existing Use
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“RM-4 MLOD-3 MLR-2 AHOD” Residential Mixed Martindale Army Airfield Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District	Single-Family Residence
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Surrounding Zoning/Land Use

Orientation	Existing Zoning District(s)	Existing Use
North	"C-3 MLOD-3 MLR-2 AHOD" General Commercial Martindale Army Air Field Military Lighting Military Lighting Region-2 Airport Hazard Overlay District & RM-4 MLOD-3 MLR-2 AHOD" Residential Mixed Martindale Army Air Field Military Lighting Military Lighting Region 2 Airport Hazard Overlay District.	Bar & Single-Family Residence
South	“RM-4 MLOD-3 MLR-2 AHOD” Residential Mixed Martindale Army Air Field Military Lighting Military Lighting Region-2 Airport Hazard Overlay District.	Single-Family Residence
East	“RM-4 MLOD-3 MLR-2 AHOD” Residential Mixed Martindale Army Air Field Military Lighting Military Lighting Region-2 Airport Hazard Overlay District.	Single-Family Residence
West	“RM-4 MLOD-3 MLR-2 AHOD” Residential Mixed Martindale Army Air Field Military Lighting Military Lighting Region-2 Airport Hazard Overlay District.	Single-Family Residence

Comprehensive Plan Consistency/Neighborhood Association

The subject property is in the Arena District/Eastside Community Plan and is designated as “Medium Density Residential” in the future land use component of the plan. The subject property is located within the Denver Heights Neighborhood Association, and they were notified of the case.

Street Classification

South Gevers Street and Essex Street are classified as Collector Roads.

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 proposed fence being requested is solid screened and located along within the front yard. 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. A 4' fence in the front yard will not pose any adverse effects to the public welfare.

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

The fence will add security to the subject property and adjacent properties. Other solid screened fences were observed in the area therefore the request 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 in fence will not alter the essential character of the district as it will be contained entirely in the front yard.

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 will not weaken the general purpose of the district. The fence is located solely passed the front façade of the residence; thus, it does not appear out of character for the neighborhood.

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 applicant is requesting a variance to the Clear Vision Standards to allow a solid screened fence to be 6' from the curb along the driveway approach. To observe the safety of vehicular traffic for those traveling along South Gevers and reversing from the subject property, the variance to the Clear Vision Standards appears to be contrary to the public interest.

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

A literal enforcement of the Clear Vision Standards would not result in unnecessary hardship, as the applicant will just need to relocate a portion of the fence.

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

The variance to the clear vision requirements does not appear to observe the spirit of the ordinance since the fence appears to allow for alterations to meet the 15' Clear Vision Field.

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 variance request will injure the appropriate use of adjacent conforming properties. While staff does recognize that numerous fences were seen within the clear vision field along South Gevers Street, primarily because they were constructed prior to current zoning regulations, staff cannot support the proposed clear vision distance.

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 has the option to relocate the fence.

Alternative to Applicant's Request

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

Staff Recommendation – Fence Height Special Exception

Staff recommends **Approval** in **BOA-23-10300225** based on the following findings of fact:

1. The fence will add security to the subject property and adjacent properties.

Staff Recommendation – Clear Vision Variance

Staff recommends **Denial** in **BOA-23-10300225** based on the following findings of fact:

1. To observe the safety of vehicular traffic for those traveling along South Gevers and reversing from the subject property, the variance to the Clear Vision Standards appears to be contrary to the public interest.