

Case Number:	BOA-21-10300167
Applicant:	Sylvia G. Gonzales
Owner:	Sylvia G. Gonzales
Council District:	5
Location:	1018 Barclay
Legal Description:	Lot 31, Block 7, NCB 6240
Zoning:	“MF-33 MLOD-2 MLR-1 AHOD” Multi-Family Lackland Military Lighting Overlay Military Lighting Region 1 Airport Hazard Overlay District
Case Manager:	Rebecca Rodriguez, Planner

### **Request**

A request for 1) a 10” special exception from the maximum 5’ fence height, as described in Section 35-514, to allow a predominately open fence to be 5’10” tall along in the front yard, and 2) a 3’ variance from the 15’ minimum clear vision standard, as described in Section 35-314(a)(2), to allow a front gate to be 12’ from the curb.

### **Executive Summary**

The subject property is located along Barclay Street near Saltillo Street. The applicant began to construct a wrought iron fence without obtaining a fence permit. Upon the site visit conducted by staff, the front fence measured to be 5’10” in height. The maximum height permitted for a predominately open front fence is 5’. Additionally, the front gate is encroaching into the Clear Vision area as it is 12’ from the curb. Staff observed a public park abutting the residential property which can cause security concerns for the property owner.

### **Code Enforcement History**

An investigation was opened on October 25, 2021, for Building Without a Permit and a Stop Work Order was posted. The case is pending resolution.

### **Permit History**

There are no relevant permits on file for this property. The permit for the fence is pending the outcome of the Board of Adjustment hearing.

### **Zoning History**

The subject property is located within the original 36 square miles of the City of San Antonio and zoned “C” Apartment District. Under the 2001 Unified Development Code, established by Ordinance 93881, dated May 03, 2001, the property zoned “C” Apartment District converted to “MF-33” Multi-Family District.

### **Subject Property Zoning/Land Use**

Existing Zoning	Existing Use
“MF-33 MLOD-2 MLR-1 AHOD” Multi-Family Lackland Military Lighting Overlay Military Lighting Region 1 Airport Hazard Overlay District.	Single-Family Residence

### **Surrounding Zoning/Land Use**

<b>Orientation</b>	<b>Existing Zoning District(s)</b>	<b>Existing Use</b>
North	“MF-33 MLOD-2 MLR-1 AHOD” Multi-Family Lackland Military Lighting Overlay Military Lighting Region 1 Airport Hazard Overlay District.	Single-Family Residence
South	“MF-33 MLOD-2 MLR-1 AHOD” Multi-Family Lackland Military Lighting Overlay Military Lighting Region 1 Airport Hazard Overlay District.	Single-Family Residence
East	“MF-33 MLOD-2 MLR-1 AHOD” Multi-Family Lackland Military Lighting Overlay Military Lighting Region 1 Airport Hazard Overlay District.	Public Park
West	“MF-33 MLOD-2 MLR-1 AHOD” Multi-Family Lackland Military Lighting Overlay Military Lighting Region 1 Airport Hazard Overlay District.	Single-Family Residence

### **Comprehensive Plan Consistency/Neighborhood Association**

The subject property is not located within a Neighborhood, Community, or Sector Plan. The subject property is located within the boundary of the El Charro Neighborhood Association and they have been notified of the request.

### **Street Classification**

Barclay 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 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 predominately open, located along the front property line and does not exceed 6’ 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 residential property owners while still promoting a sense of community. A 5’ 10” tall fence in the front yard does 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 predominately open 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 in the front yard of the subject property does not appear to 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 use of a single-family home. The requested special exception will not weaken the general purpose of the district.**

#### **Criteria for Review - Variances**

*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 variance to the clear vision field. The fence is predominately open and they have 12' of clear vision so the variance does not appear 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 ordinance would result in the applicant having to move the gate 3' inward which would reduce the size of the front yard.**

*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. A variance request for 3' to the clear vision requirement of 15' observes the spirit of the ordinance as the fence is predominately open.**

*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.*

**Staff finds the request for a 3' variance to the clear vision field will not injure adjacent properties or alter the essential character of the district. The fence line is consistent with others in the immediate area.**

*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 and is not merely financial in nature.**

**Alternative to Applicant's Request**

The alternative to the applicant's request is to conform to the Fence Height and Clear Vision Regulations listed under Section 35-314 of the UDC.

**Staff Recommendation – Front Yard Fence Special Exception**

Staff recommends **Approval** in **BOA-21-10300167** based on the following findings of fact:

1. The 6' fence will add additional security and privacy to the subject site and immediate area; and
2. Predominantly open front yard fences were observed within the surrounding area so it will not alter the essential character of the district.

**Staff Recommendation – Clear Vision Variance**

Staff recommends **Approval** in **BOA-21-10300167** based on the following findings of fact:

1. The predominately open fence and gate is 12' from the curb; and
2. The gate is on a rolling track and will not further impede into the clear vision field.