

Case Number:	BOA-21-10300197
Applicant:	Jason Trujillo
Owner:	Jason M. and Leandra N. Trujillo
Council District:	5
Location:	601 Hunstock Avenue
Legal Description:	Lot 1, North 5' of Lot 2, and Lot 22, Block 11, NCB 3130
Zoning:	"R-4 AHOD" Residential Single-Family Airport Hazard Overlay District
Case Manager:	Kayla Leal, Principal Planner

**Request**

A request for 1) a 1' 2" special exception from the maximum 3' solid screen fence height restriction, as described in Section 35-514, to allow a 4' 2" solid screened fence in the front yard, 2) a 1' 8" variance from the 5' side setback requirement, as described in Section 35-570, to allow a detached garage to be 3' 4" from the side property line, 3) a 15' 1" variance from the 20' minimum garage setback requirement, as described in Section 35-516, to allow a detached garage to be 4' 11" from the rear property line, and 4) a 10' 4" variance from the Clear Vision Standards, as described in Section 35-514, to allow a solid screened fence to be 4' 8" from the curb.

**Executive Summary**

The subject property is located at the corner of Hunstock Avenue and Loretta Place. There is an existing single-family dwelling on the property, and the applicant is wanting to construct a detached garage located on the rear of the subject property with access off Loretta Place. There is an existing concrete slab that the applicant wishes to utilize for the detached garage. The proposed detached garage will be 3' 4" from the side property line and 4' 11" from the rear property line, which is where access to the garage will be located. Upon the site visit conducted by staff, a solid screened fence was observed to be placed in the front yard at a height of 4' 2" where a maximum of 3' is permitted by right. Additionally, a 6' solid screened fence was installed along the rear property line, and was observed to be encroaching 10' 4" into the Clear Vision Field adjacent to the driveway approach for the detached garage.

**Code Enforcement History**

There are no relevant Code Enforcement investigations or violations pending.

**Permit History**

Renovation Permits were pulled in 2019 for the renovation of the structure. A Fence Permit was not found on record, and the fence appears to have been replaced sometime in 2019.

**Zoning History**

The subject property was located within the original city limits of San Antonio and was zoned "B" Residence District. Upon adoption of the 2001 Unified Development Code, the zoning converted from "B" to the current "R-4" Residential Single-Family District, established by Ordinance 93881 dated May 3, 2001.

**Subject Property Zoning/Land Use**

Existing Zoning	Existing Use
"R-4 AHOD" Residential Single-Family Airport Hazard Overlay District	Single-Family Residence

## Surrounding Zoning/Land Use

Orientation	Existing Zoning District(s)	Existing Use
North	"R-4 AHOD" Residential Single-Family Airport Hazard Overlay District	Single-Family Residence
South	"R-4 AHOD" Residential Single-Family Airport Hazard Overlay District	Single-Family Residence
East	"R-4 AHOD" Residential Single-Family Airport Hazard Overlay District	Single-Family Residence
West	"R-4 AHOD" Residential Single-Family Airport Hazard Overlay District	Single-Family Residence

## Comprehensive Plan Consistency/Neighborhood Association

The subject property is in the Downtown Area Regional Center Plan and is designated “Urban Low Density Residential” in the future land use component of the plan. The subject property is located within the Roosevelt Park Neighborhood Association and were notified of the case.

## Street Classification

Hunstock Avenue and Loretta Place are both classified as a local roads.

## Criteria for Review - 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 variance to the 5’ side setback and the 20’ garage setback requirements for a proposed detached garage. The detached garage is being proposed 3’ 4” from the side property line and 4’ 11” from the rear property line. These variance requests do not appear contrary to the public interest due to the limited space existing on the property and the existing concrete slab.**

The applicant is also requesting a variance to the Clear Vision Standards to allow a solid screened fence to be 4’ 8” from the curb along the driveway approach to the proposed detached garage. To observe the safety of vehicular traffic, the variance to the Clear Vision Standards 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 needing to construct the detached garage 5’ from the side property line and 20’ from the rear property line. The configuration and depth of the lot does not provide enough space to meet the 20’ garage setback, so 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 or reduce the height of the rear yard fence to 3' to allow for clear visibility next to the driveway.

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. The recommended variance to allow a variance to the side setback and garage setback do appear to observe the spirit of the ordinance. The shape of the lot is unusual and the limited space of the rear yard present an unnecessary hardship.**

The variance to the clear vision requirements does not appear to observe the spirit of the ordinance since the fence can be altered 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 detached garage will maintain 3' 4" from the side property line and 4' 11" from the rear property line. These distances are not likely to alter the essential character of the district as there is a garage with a similar approach adjacent to the property.**

The fence was installed in 2019 without proper permits. If permits had been pulled, the Clear Vision Standards would have been required to be met. The variance to the Clear Vision Standards do appear to alter the essential character of the district, if granted.

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 unusual configuration of the lot and is not merely financial.**

### **Criteria for Review – Fence Height**

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 upon the site visit 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 exceeding the maximum height requirement by 1' 2". The fence isn't completely solid-screened which still serves the public welfare and convenience.**

*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 the Accessory Structure Setback Regulations of Section 35-570, Lot Layout Requirements of UDC Section 35-516, and the Fence Height Regulations of Section 35-514.

### **Staff Recommendation – Side and Garage Setback Variance**

Staff recommends **Approval** in **BOA-21-10300197** based on the following findings of fact:

1. The detached garage is 3' 4" from the side property line and 4' 11" from the rear property line; and
2. The limited space in the rear yard and unusual configuration of the lot present a hardship in the construction of the detached garage.

### **Staff Recommendation – Clear Vision Variance**

Staff recommends **Denial** in **BOA-21-10300197** based on the following findings of fact:

1. The fence can be altered to meet the Clear Vision Standards.

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

Staff recommends **Approval** in **BOA-21-10300197** based on the following findings of fact:

1. The front yard fence is 4' 2" and does not appear to alter the essential character of the district; and
2. The front yard fence does not violate any Clear Vision Standards.