

Case Number:	BOA-22-10300017
Applicant:	Salvador Gutierrez
Owner:	Jocelyn Gutierrez
Council District:	4
Location:	1011 West Villaret
Legal Description:	Lot 328C, Block 33, NCB 11132
Zoning:	“R-4 MLOD-2 MLR-2 AHOD” Residential Single Family Lackland Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District
Case Manager:	Richard Bautista-Vazquez, Planner

### **Request**

A request for 1) 2' 9” special exception from the maximum 3' solid screened fence requirement, as described in Section 35-514, to allow a 5' 9” solid screen fence in the front yard and 2) a 1' 10” special exception from the maximum 6' large lot predominantly open screened fence requirement, as described in Section 35-514, to allow a 7' 10” predominantly open screened fence in the front yard.

### **Executive Summary**

The applicant has constructed a solid screened fence and a predominantly open screened fence in the front yard without pulling fence permits. As it stands the fence does not appear to impede any of the surrounding neighbors. There is a single-family residential dwelling existing on the property, so a maximum height allowed for a solid screened fence is three (3) feet. Due to the subject property exceeding 20,000 square feet in area, the large lot is permitted to have a six (6) foot tall predominately open fence. Upon examination, the fences do not violate any Clear Vision Standards. Upon site visit staff noticed that two gates at each driveway that are predominantly open. One at each point of ingress on the eastern and western side of the front property line.

### **Code Enforcement History**

Building Permit Investigation Created On 11/19/2020

### **Permit History**

No permits have been issued. A fence permit is pending the outcome of the BOA Meeting.

### **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” Residence District 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 MLOD-2 MLR-2 AHOD” Residential Single Family Lackland Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District	Single-Family Dwelling

## Surrounding Zoning/Land Use

Orientation	Existing Zoning District(s)	Existing Use
North	“R-4 MLOD-2 MLR-2 AHOD” Residential Single Family Lackland Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District	Single-Family Dwelling
South	“R-4 MLOD-2 MLR-2 AHOD” Residential Single Family Lackland Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District	Single-Family Dwelling
East	“R-4 MLOD-2 MLR-2 AHOD” Residential Single Family Lackland Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District	Single-Family Dwelling
West	“R-4 MLOD-2 MLR-2 AHOD” Residential Single Family Lackland Military Lighting Overlay Military Lighting Region 2 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 General Urban Tier in the future land use component of the plan. The subject property is not located within the boundary of a registered neighborhood association.

## Street Classification

West Villaret is classified as a local road.

## 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 for the predominately open front yard fence 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.**

The solid screened fence does not appear to be in harmony with the spirit and purpose of the chapter as the maximum fence height allowed is three (3) feet.

*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 2’ 9” and 1’ 10”. The fence is mixture of completely solid-screened and predominantly open fence which still serves the public welfare and convenience. Staff finds that the special exception for the**

**predominately open fence will serve the public welfare and convenience, but the solid screened fence does not appear to.**

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

**The special exception for the predominately open gate 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 predominately open section of front yard fence will not alter the essential character of the district.**

The requested special exception to allow a 5' 9" solid screened fence does not appear to keep the essential character of the district.

Staff recommends that the solid screened section be converted to predominantly open.

*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 Regulations of Section 35-514.

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

Staff recommends Denial with an Alternative recommendation for a 6' predominantly open front yard fence in BOA-22-10300017 based on the following findings of fact:

1. The front yard solid screened fence is 5' 9"; and
2. The solid screened fence appears to be out of character for the surrounding area.

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

Staff recommends **Approval** in **BOA-22-10300017** based on the following findings of fact:

1. The predominately open front yard fence is 7' 10" tall; and
2. The fences do not appear to alter the essential character of the district; and
3. The front yard fence does not violate any Clear Vision Standards.