

Case Number:	BOA-22-10300085
Applicant:	Jacob Castro
Owner:	Jacob & Virginia Castro
Council District:	5
Location:	2347 SW 21 <sup>st</sup> Street
Legal Description:	LOT 86, BLK 36, NCB 3695
Zoning:	"R-6 MLOD-2 MLR-2 AHOD" Residential Single-Family Lackland Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District
Case Manager:	Vincent Trevino, Senior Planner

### **Request**

A variance from the fence materials, as described in Section 35-514, to allow a corrugated metal fence in the rear yard.

### **Executive Summary**

The subject property is located near the corner of SW 21<sup>st</sup> Street and Darby Street. The subject property is currently a single-family residence. The applicant is requesting to keep a corrugated metal fence along the rear property line and a portion of the side property lines. The fence meets the 6' height requirement along the side property lines. There is an alley to the rear of the property so an 8' fence is permitted by right, but the fence still measured to be 6'. The corrugated metal does have protected edges and is being requested to provide additional security and privacy as this portion of the property abuts an alley.

### **Code Enforcement History**

December 2021 – Building without a permit

### **Permit History**

Residential Minor Repair Permit have been pulled for the subject property. A fence permit is pending the outcome of the BOA Hearing.

### **Zoning History**

The subject property was located within the original 36 square miles of the City of San Antonio and zoned "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 the current "R-6" Residential Single-Family District.

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

Existing Zoning	Existing Use
"R-6 MLOD-2 MLR-2 AHOD" Residential Single-Family Lackland Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District	Single Family Residence

## Surrounding Zoning/Land Use

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

## Comprehensive Plan Consistency/Neighborhood Association

The subject property is located within Port San Antonio Area Regional Center Plan and is designated Low Density Residential in the future land use component of the plan. The subject property is located within the boundaries of the Thompson Neighborhood Association, and they were notified of the case.

## Street Classification

SW 21<sup>st</sup> Street is classified as a local street.

## Criteria for Review – Variance from Fence Materials

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 requested variance is for a corrugated metal fence in the rear yard of the subject property. It is not easily detected from the public right-of-way and has protected edges, so the variance does not appear 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 needing to replace the material of the fence and may result in the property being more vulnerable due to its proximity to an alley. With the special conditions of the property abutting an alley the variance will assist in alleviating this hardship.**

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 fence meets the height requirements and is only along the rear property line and a portion of the side property lines. This variance request observes the spirit of the ordinance.**

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 does not find the request for the corrugated metal to substantially injure adjacent conforming properties due to the protected edges of the metal. With the location of the fence being in the rear yard, the request also does not appear to alter the essential character of the district.**

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 such as its location abutting an alley 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 Material Requirements of the UDC Section 35-514.

### **Staff Recommendation – Corrugated Metal Fence Variance**

Staff recommends **APPROVAL** in **BOA-22-10300085** based on the following findings of fact:

1. The corrugated metal fence material is in the rear yard and does not alter the essential character of the district; and
2. The fence is only partially constructed of corrugated metal; and
3. The fence is placed in the rear yard along an alley and meets all fence height requirements which observes the spirit of the ordinance.