

Case Number:	BOA-22-10300060
Applicant:	Mary Hernandez
Owner:	Mary Hernandez
Council District:	1
Location:	1423 Santa Anna
Legal Description:	Lot 16, Block 32, NCB 7104
Zoning:	"R-4 AHOD" Residential Single-Family Airport Hazard Overlay District
Case Manager:	Rebecca Rodriguez, Senior Planner

### **Request**

A request for a 2' special exception from the maximum 6' fence height, as described in Section 35-514, to allow a solid screened fence to be 8' tall along the side property line.

### **Executive Summary**

The subject property is located along Santa Anna and has a single-family residence. The applicant constructed an 8' solid screened fence along the side and rear property lines without obtaining a fence permit and a code investigation was opened. Staff measured the wood fence at 8' in height. The maximum height permitted for a side and rear fence is 6'. Staff observed an alleyway located along the rear of the property which allows the 8' fence by right along the alley. Additionally, the property has a swimming pool installed recently and the neighboring property was observed to be slightly elevated.

### **Code Enforcement History**

An investigation was opened on March 28, 2022 for Building Without a Permit and a Stop Work Order was posted.

### **Permit History**

A swimming pool permit was issued on January 28, 2021. A permit for the fence is pending the outcome of the Board of Adjustment hearing.

### **Zoning History**

The property was annexed into the City of San Antonio by Ordinance 1845, dated May 6, 1940, and zoned "B" Residence District. Under the 2001 Unified Development Code, established by Ordinance 93881, dated May 03, 2001, the property zoned "B" Residence District converted to the current "R-4" Residential Single-Family District.

### **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 Near Northwest Community Plan and is designated “Urban Low Density Residential” in the future land use component of the plan. The subject property is located within the boundary of the Los Angeles Heights Neighborhood Association, and they have been notified of the request.

### **Street Classification**

Santa Anna 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 solid screened, located along the side and rear property lines. The fence along the rear is permitted by right due to the alley, so the request is only for the fence along the side property line. 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. An 8’ fence along the side property line 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 to adjacent properties. Other solid screened fences were observed in the area therefore the request is unlikely to substantially injure any neighboring properties. An 8’ fence will enhance security to the property and surrounding area.**

*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 along the side and rear will not alter the essential character of the district. An 8’ fence is permitted by right along property lines that abut an alleyway. The neighborhood features alleyways along each block, concluding that the essential character of the area will not be changed.**

*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 behind the front façade of the residence and does not appear out of character for the neighborhood.**

**Alternative to Applicant's Request**

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

**Staff Recommendation – Side Fence Special Exception**

Staff recommends **Approval** in **BOA-22-10300060** based on the following findings of fact:

1. The 8' fence will add additional security and privacy to the subject property and immediate area; and
2. An 8' privacy fence is permitted by right along the rear property line due to the alley; and
3. The subject property has a swimming pool; and
4. The neighboring residence sits on an elevated foundation.