

Case Number:	BOA-22-10300088
Applicant:	Juan Flores
Owner:	Juan M. Flores Jr
Council District:	7
Location:	6816 Whitby Road
Legal Description:	Lot 22, Block 1, NCB 14647
Zoning:	“RE AHOD” Residential Estate Airport Hazard Overlay District
Case Manager:	Rebecca Rodriguez, Senior Planner

Request

A request for 1) a variance from the fence materials, as described in Section 35-514, to allow for a corrugated metal fence along the side property line and 2) a 3' special exception from the maximum 3' fence height, as described in Section 35-514, to allow a solid screened fence to be 6' in the front yard.

Executive Summary

The subject property is located along Whitby Road, on the northwest side of San Antonio and currently has a single-family residence. The applicant is requesting to have a corrugated metal fence along the side property line. Additionally, a portion of the fence is located past the front façade of the residence, and measures 6' in height, thus exceeding the maximum 3' allowance for a solid screened fence within the front yard. The corrugated metal does have protected edges and is being requested to provide additional security and privacy.

Code Enforcement History

An investigation was opened on August 19, 2021 for Building Without a Permit and a Stop Work Order was posted.

Permit History

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

Zoning History

The subject property was annexed into the City of San Antonio by Ordinance 41426 dated December 26, 1972 and zoned Temporary “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” Temporary Single-Family Residence converted to the current “R-6” Residential Single-Family District. The property was rezoned by Ordinance 94424, dated August 23, 2001, to the current “RE” Residential Estate District.

Subject Property Zoning/Land Use

Existing Zoning	Existing Use
“RE AHOD” Residential Estate Airport Hazard Overlay District	Single Family Residence

Surrounding Zoning/Land Use

Orientation	Existing Zoning District(s)	Existing Use
North	“RE AHOD” Residential Estate Airport Hazard Overlay District	Single Family Residence
South	“RE AHOD” Residential Estate Airport Hazard Overlay District	Single Family Residence
East	“RE AHOD” Residential Estate Airport Hazard Overlay District and “R-20 AHOD” Residential Single-Family Airport Hazard Overlay District	Single Family Residence
West	“RE AHOD” Residential Estate Airport Hazard Overlay District and “R-20 AHOD” Residential Single-Family Airport Hazard Overlay District	Single Family Residence

Comprehensive Plan Consistency/Neighborhood Association

The subject property is located within the Huebner/Leon Creeks Community Plan and is designated Low Density Residential Estate in the future land use component of the plan. The subject property is located within the boundaries of the Huebner/Leon Creeks Neighborhood Association, and they were notified of the case.

Street Classification

Whitby Road 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 side yard of the subject property. It is not easily detected from the public right-of-way and has protected edges and painted, 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 an unnecessary hardship. The property is substantial in size and a fence constructed of a permitted material would require constant maintenance due to vegetation found in the area.

- 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 will only be placed along the side property line for added security and durability. The fence also contains protected edges thus observing 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 properties due to the protected edges of the metal. Additionally, the fence is stained brown that adds a natural look and 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 and is not merely financial. The property is situated in an area with large lots and a rural feel thus a corrugated metal fence may alleviate the need to replace a fence as frequently.

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 6' in height and solid screened located along a portion of the front 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. A 6' 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 adjacent properties. The 6' solid screened fence will not be noticeable from the Right-of-Way therefore it is highly unlikely to substantially injure 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 will not alter the essential character of the district. The fence will only surpass the front façade of the residence by a few feet, while the rest of the front yard fence conforms to the permitted fencing material and height.

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 residence. 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 Fence Material and Fence Height Requirements of the UDC Section 35-514.

Staff Recommendation – Corrugated Metal Fence Variance

Staff recommends **Approval** in **BOA-22-10300088** based on the following findings of fact:

1. The corrugated metal fence material is located along the side property line and does not alter the essential character of the district; and
2. There is an existing fence located along the front that complies with the fence material and height requirements; and
3. The property measures over four (4) acres in size thus the fence will not be easily visible from the Right-Of-Way.

Staff Recommendation – Front Yard Fence Special Exception

Staff recommends **Approval** in **BOA-22-10300088** 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. Only a portion of the fence along the side property line is located within the front yard; and
3. The additional height to a portion of the front yard fence does not appear to alter the character of the neighborhood.