

Case Number:	BOA-22-10300227
Applicant:	Susan Ramirez
Owner:	Susan Ramirez
Council District:	6
Location:	155 Meadow Park Street
Legal Description:	Lot 27, Block 5, NCB 6160
Zoning:	"R-6 MLOD-2 MLR-1 AHOD" Residential Single-Family Lackland Military Lighting Overlay Military Lighting Region 1 Airport Hazard Overlay District
Case Manager:	Joseph Leos, Planner

Request

A request for a 2'-5" variance from the 6' side yard fence height, as described in Section 35-514, to allow an 8'-5" fence in the side yard.

Executive Summary

The subject property is located along Meadow Park Street near the intersection of Marbach Road and Interstate Highway 410. The applicant pulled building permits to construct a 6' solid screened privacy fence; however, constructed it at 8'-5". Upon site visits, staff did not observe significant topographical changes in the immediate area. Additionally, staff observed another 8' fence in the immediate vicinity, which a variance was not requested for.

Code Enforcement History

The issuance of a building permit is pending the outcome of the Board of Adjustment
 Permit Investigation- September 2022
 Overgrown Yard Investigation- December 2021

Permit History

Residential Fence Permit- April 2022
 Mechanical Permit- April 2021

Zoning History

The subject property was annexed into the City of San Antonio by Ordinance 41422, dated December 25, 1972, and originally 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 Temporary "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-1 AHOD" Residential Single-Family Lackland Military Lighting Overlay Military Lighting Region 1 Airport Hazard Overlay District	Single-Family Residence

Surrounding Zoning/Land Use

Orientation	Existing Zoning District(s)	Existing Use
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North	"R-6 MLOD-2 MLR-1 AHOD" Residential Single-Family Lackland Military Lighting Overlay Military Lighting Region 1 Airport Hazard Overlay District	Single-Family Residence
South	"R-6 MLOD-2 MLR-1 AHOD" Residential Single-Family Lackland Military Lighting Overlay Military Lighting Region 1 Airport Hazard Overlay District	Single-Family Residence
East	"R-6 MLOD-2 MLR-1 AHOD" Residential Single-Family Lackland Military Lighting Overlay Military Lighting Region 1 Airport Hazard Overlay District	Single-Family Residence
West	"R-6 MLOD-2 MLR-1 AHOD" Residential Single-Family Lackland Military Lighting Overlay Military Lighting Region 1 Airport Hazard Overlay District	Single-Family Residence

Comprehensive Plan Consistency/Neighborhood Association

The subject property is in the West Sector Plan and is designated “General Urban Tier” in the future land use component of the plan. The property is also in the Meadow Village Neighborhood Plan and is designated “Low Density Residential” in the future land use component of the plan. The subject property is located within the boundary of the Meadow Village Neighborhood Association, and they have been notified of the request.

Street Classification

Meadow Park Street is classified as a local road.

Criteria for Review – Fence Height Variance

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. Staff finds a 2’-5” variance from the 6’ side yard fence height requirement to allow an 8’-5” fence is contrary to the public interest, as no other similar fence height exists in the area.

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 having to alter the already constructed fence to be 6’. This would not result in unnecessary hardship, as the applicant pulled building permits to originally construct a 6’ fence but built it at 8’-5”. Additionally, placing a 6’ fence in place of the 8’-5” would appear to provide enough security to the property.

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. Restrictions in fence heights are meant to provide uniformity while maintaining

security within a community. The additional fence height in the area does not observe the spirit of the ordinance as there were no noticeable topographical changes within the subject property.

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 fence will be 8'-5", which is likely 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 not due to unique circumstances existing on the property. Additionally, the circumstances do not appear to be merely financial in nature.

Alternative to Applicant's Request

The alternative to the applicant's request is to conform to the Fence Height Regulations of the UDC Section 35-514.

Staff Recommendation – Rear Setback Variance

Staff recommends Denial in BOA-22-10300227 based on the following findings of fact:

1. The fence is currently 8'5"; and
2. Staff did not observe any significant topographical changes in the immediate area.