

Case Number:	BOA-22-10300248
Applicant:	Gretchen Sellard (KFW Engineers & Surveyors)
Owner:	Crosspoint Inc.
Council District:	2
Location:	1526 Semlinger Road
Legal Description:	Lot 59, NCB 12886
Zoning:	"R-5 CD MLOD-3 MLR-1" Residential Single-Family Martindale Army Air Field Military Lighting Overlay Military Lighting Region 3 District with a Conditional Use for a Transitional Home
Case Manager:	Rebecca Rodriguez, Senior Planner

Request

A request for a 4' variance from the maximum 6' rear yard fence requirement, as described in Sec. 35-514, to allow a solid fence to be 10' in height along the rear yard.

Executive Summary

The subject property is located in the far east side of San Antonio a few miles southwest from Martindale Army Air Field. The property was subject to a rezoning that occurred in 2020 which added a Conditional Use for a Transitional Home. The lot is currently vacant, but the intention is to develop multiple structures on the property that a non-profit organization will occupy. The rear property line abuts SE Loop 410 which led to the applicant requesting a variance to allow a 10' solid fence along the rear property line. Additionally, the immediate properties to the South and West are also owned and occupied by the organization. Should the variance be granted, the proposed fence would require certification by a licensed engineer that the foundation and support structure are designed to sustain wind loads in accordance with the International Building Code.

Code Enforcement History

There are no code investigations for this property.

Permit History

There are no permits on file for the subject property. The issuance of the fence permit is pending the outcome of the Board of Adjustment Meeting.

Zoning History

The subject property was annexed into the City of San Antonio by Ordinance 25568, dated September 18, 1957, and zoned "A" Single-Family Residence District. Under the 2001 Unified Development Code, established by Ordinance 93881, dated May 03, 2001, the property zoned "A" Single-Family Residence District converted to the current "R-5" Residential Single-Family District. Ordinance 2020-12-03-0866 dated December 3, 2020 rezoned the property to "R-5 CD" Residential Single-Family District with a Conditional Use for a Transitional Home.

Subject Property Zoning/Land Use

Existing Zoning	Existing Use
"R-5 CD MLOD-3 MLR-1" Residential Single-Family Martindale Army Air Field Military Lighting Overlay	Vacant Lot

Military Lighting Region 3 District with a Conditional Use for a Transitional Home	
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Surrounding Zoning/Land Use

Orientation	Existing Zoning District(s)	Existing Use
North	"R-5 MLOD-3 MLR-1" Residential Single-Family Martindale Army Air Field Military Lighting Overlay Military Lighting Region 3 District	Single-Family Residence
South	"R-5 MLOD-3 MLR-1" Residential Single-Family Martindale Army Air Field Military Lighting Overlay Military Lighting Region 3 District	Church
East	ROW	Loop 410
West	"R-5 MLOD-3 MLR-1" Residential Single-Family Martindale Army Air Field Military Lighting Overlay Military Lighting Region 3 District	Single-Family Residence

Comprehensive Plan Consistency/Neighborhood Association

The subject property is in the Eastern Triangle Community Plan and is designated "High Density Mixed Use" in the future land use component of the plan. The subject property is located within the boundary of the Dellcrest Neighborhood Association, and they have been notified of the request.

Street Classification

Semlinger 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. The applicant is requesting a 4' variance to allow a 10' fence along the rear property line which abuts SE Loop 410. Due to the street classification, the proposed fence could be developed at 8' by right. An additional 2' of fence does not appear to be 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 mean that the fence may only be installed at 8' in height. The lot is large in size and due to the proposed use and proximity of the highway, the site requires additional security leading to an unnecessary hardship should the variance be denied.

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 located along the rear property line and is being requested due to the safety concerns of being located adjacent to SE Loop 410.

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.*

The proposed fence would be approximately 430' from the Semlinger Right-Of-Way therefore will not be easily visible from the front. The request will not 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 existing on the property, such as the size and location of the property.

Alternative to Applicant's Request

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

Staff Recommendation –Fence Height Variance

Staff recommends **Approval** in **BOA-22-10300248** based on the following findings of fact:

1. The fence will only be located on the East property line; and
2. There is a highway adjacent to the subject property; and
3. The proposed use requires enhanced security; and
4. The fence will not be easily visible from Semlinger Road.