

Case Number:	BOA-23-10300025
Applicant:	Maria Martinez
Owner:	Maria Anita Nieto Martinez
Council District:	5
Location:	1617 Saltillo Street
Legal Description:	Lot 27, Block 14, NCB 3719
Zoning:	“R-4 MLOD-2 MLR-2 AHOD” Residential Single-Family Lackland Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District
Case Manager:	Joseph Leos, Planner

Request

A request for 1) a 2'-10" special exception from the maximum 3' front fence height requirement, as described in Section 35-514, to allow a 5'-10" solid screened fence in the front yard, and 2) an 8'-8" variance from the minimum 15' clear vision requirement, as described in Section 35-514(a)(2), to allow a fence to be 6'-4" from the front driveway.

Executive Summary

The subject property is located along Saltillo Street southwest of the intersection of Cupples Road and Castroville Road. The applicant was in the process of constructing a 5'-10" solid screened fence along the side property lines and passed the front façade of the principal structure but was halted by Code Enforcement for building without permits (INV-PBP-23-3100000229). The fence is currently constructed only the western property line and the applicant is proposing adding it on the other eastern side as well. Solid screened fences that are constructed passed the front façade of the principal structure have a maximum height of 3'. The applicant informed staff that they needed this for privacy and safety concerns. Upon site visits, staff observed the already constructed fence imposing into the clear vision area of her front driveway. The distance measured 6'-6" from the front curb and minimum distance required is 15'.

Code Enforcement History

The issuance of a building permit is pending the outcome of the Board of Adjustment Building Without A Permit (INV-PBP-23-3100000229- January 2023

Permit History

There are no relevant permits pulled for the subject property.

Zoning History

The subject property was located within the original 36 square miles of the City of San Antonio and zoned “B” Residence District Under the 2001 Unified Development Code, established by Ordinance 93881, dated May 03, 2001, the property zoned “B” Single-Family Residence District converted to the current “R-4” Residential Single-Family District.

Subject Property Zoning/Land Use

Existing Zoning	Existing Use
“R-4 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-4 MLOD-2 MLR-2 AHOD” Residential Single-Family Lackland Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District	Single-Family Residence
South	“C-3NA MLOD-2 MLR-2 AHOD” General Commercial Nonalcoholic Sales Lackland Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District	Church
East	“R-4 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-4 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 not located within a neighborhood community plan. The subject property is located within the boundary of the El Charro Neighborhood Association and they have been notified of the request.

Street Classification

Saltillo Street is classified as a collector road.

Criteria for Review – Special Exception for Fence Height Modifications

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. Staff finds the proposed 5’-10” solid screened fence being requested in the front yard is not in harmony with the spirit and purpose of the ordinance as it is intended to provide uniformity within a community.

B. The public welfare and convenience will be substantially served.

In this case, these criteria are represented by fence heights to protect commercial utilities while still promoting a sense of community. Staff did not observe any significant topographical changes on the subject property or adjacent properties. The fence at its current height does not appear to serve the public welfare and convenience.

C. The neighboring property will not be substantially injured by such proposed use.

Solid screened fences were not observed in the surrounding neighborhood; therefore, the additional height could adversely 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 fence height in the front yard and along the side and rear property lines will alter the essential character of the district, as there is no established precedence for solid screened fences in the immediate area.

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 allows for the use of a single-family dwelling. The requested special exception will likely weaken the general purpose of the district.

Criteria for Review – Clear Vision 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 8'-8" variance from the minimum 15' clear vision requirement to allow a fence to be 6'-4" from the front driveway. In this case, the public interest is represented by sight distances for driveways to assure vehicular traffic protection. Staff finds that this request is contrary as this distance proposes on the safety of a public.

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 altering the fence to meet the minimum 15' distance requirement. Staff found no special conditions on the subject property that would warrant the need for a reduced distance. No unnecessary hardship is presented in this, as the applicant would only need to alter the fence to meet code.

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 is currently 6'-4" from the front driveway. Staff finds the spirit of the ordinance will not be observed and substantial justice will not be done with the requested variance as adequate sight distance aren't presented.

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 distance will maintain 6'-4" from the front driveway which is likely to alter the essential character of the district. Upon site visits, staff observed other front yard fences in the immediate vicinity; however, were predominantly open.

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. Had the applicant obtained permits, the information would have been given regarding clear vision requirements.

Alternative to Applicant's Request

The alternative to the applicant's request is to conform to the Fence Height listed under the UDC Section 35-514 and Section 35-514(a)(2).

Staff Recommendation – Fence Height Special Exception

Staff recommends Denial in BOA-23-1030025 based on the following findings of fact:

1. Solid screened fences were not observed in the surrounding neighborhood; therefore, the additional height for the front, side, a rear yard could adversely injure neighboring properties; and
2. There is no established precedence for solid screened fences in the immediate area.

Staff Recommendation – Clear Vision Variance

Staff recommends Denial in BOA-23-10300025 based on the following findings of fact:

1. The request is contrary as this distance proposes on the safety of a public; and
2. No special conditions on the subject property were found that would warrant the need for a reduced distance.