

Case Number:	BOA-23-10300030
Applicant:	Jane Wetzel
Owner:	Janice H Wetzel & Robert Kramer
Council District:	9
Location:	17103 Springhill Drive
Legal Description:	Lot 14, Block 2, NCB 14806
Zoning:	“R-6 MLOD-1 MLR-2 ERZD” Residential Single-Family Camp Bullis Military Lighting Overlay Military Lighting Region 1 Edwards Recharge Zone District
Case Manager:	Joseph Leos, Planner

Request

A request for a variance from the fence materials, as described in Section 35-514 (a)(6), to allow for a corrugated metal fence in the side and rear yards.

Executive Summary

The subject property is located along Springhill Drive near the intersection of U.S. Highway 281 North and Texas Loop 1604 North. The applicant constructed a corrugated metal fence in the side and rear yards of the subject property to replace an existing wood fence. A Zoning UDC Investigation (INV-ZRD-22-3170002505) began when Code Enforcement issued a citation for building with prohibited fence material, corrugated metal. It was noted that the applicant obtained a residential fence permit, after the issuance of a citation, which indicated that it was for a solid screened wood privacy fence. After reinspection, another Zoning UDC Investigation (INV-ZRD-22-3170003003) began for working outside the scope of the given permit by constructing with the prohibited fence material causing the applicant to go towards the Board of Adjustment for a variance.

Code Enforcement History

The issuance of a building permit is pending the outcome of the Board of Adjustment
Zoning UDC Investigation (INV-ZRD-22-3170003003)- November 2022
Zoning UDC Investigation (INV-ZRD-22-3170002505)- September 2022

Permit History

Residential Fence Permit (RES-FEN-PMT22-31901253)- December 2022

Zoning History

The subject property was annexed into the City of San Antonio by Ordinance 41429, dated December 25, 1972, and originally zoned “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” 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-1 MLR-2 ERZD” Residential Single-Family Camp Bullis Military Lighting Overlay Military Lighting Region 1 Edwards Recharge Zone District	Single-Family Residence

Surrounding Zoning/Land Use

Orientation	Existing Zoning District(s)	Existing Use
North	“R-6 MLOD-1 MLR-2 ERZD” Residential Single-Family Camp Bullis Military Lighting Overlay Military Lighting Region 1 Edwards Recharge Zone District	Single-Family Residence
South	“R-6 MLOD-1 MLR-2 ERZD” Residential Single-Family Camp Bullis Military Lighting Overlay Military Lighting Region 1 Edwards Recharge Zone District	Single-Family Residence
East	“R-6 MLOD-1 MLR-2 ERZD” Residential Single-Family Camp Bullis Military Lighting Overlay Military Lighting Region 1 Edwards Recharge Zone District	Single-Family Residence
West	“R-6 MLOD-1 MLR-2 ERZD” Residential Single-Family Camp Bullis Military Lighting Overlay Military Lighting Region 1 Edwards Recharge Zone District	Single-Family Residence

Comprehensive Plan Consistency/Neighborhood Association

The subject property is in the North Sector Plan and is designated “Suburban Tier” in the future land use component of the plan. The subject property is not located within a boundary of a registered neighborhood association.

Street Classification

Springhill Drive is classified as a local road.

Criteria for Review – Rear Setback 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. In this case, the public interest is represented by restricted fence materials to provide uniformity within a community. The variance is contrary to the public interest as the corrugated metal fencing is conflicting with the immediate property owner fence materials. Additionally, the subject property is located on corner lot on a primary street entrance to the community.

- 2. Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship.*

Staff found no special conditions on the subject property that would warrant the applicant to construct a fence in the rear and side yards with prohibited fence materials. A literal enforcement of the ordinance would not result in an unnecessary hardship as the applicant would need to switch the corrugated metal with an allowable fence material.

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. In this case, the spirit of the ordinance will not be observed, as the rules and regulations for fence materials were intended to provide consistency and uniformity within an established community.

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 allowed the prohibited fence material. If so, this will injure the appropriate use of adjacent conforming properties and alter the essential character of the district. Upon site visits, staff did not observe any other corrugated metal fencing in the immediate area. The fences observed seemed to be constructed from wood or stone.

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. If the applicant had obtained a residential fence permit before construction, they would have been informed about the restricted fence materials. After reinspection, the applicant obtained a fencing permit and marked “wood” as the fencing material. In conclusion, all circumstances were caused by the property owner.

Alternative to Applicant’s Request

The alternative to the applicant’s request is to conform to the Fence Regulations of the UDC Section 35-514 (a)(6).

Staff Recommendation – Corrugated Metal Variance

Staff recommends Denial in BOA-23-10300030 based on the following findings of fact:

1. Due to the subject property being located on corner lot on a primary street entrance to the community, the variance is contrary to the public interest as immediate property owners can immediately notice it from the public right of way; and
2. Upon site visits, staff did not observe any other corrugated metal fencing in the immediate area;
3. The fence was constructed without obtaining a residential fence permit.