

Case Number:	BOA-21-10300152
Applicant:	Amanda Carollo
Owner:	Amanda Carollo
Council District:	10
Location:	3906 Cordoba Creek
Legal Description:	Lot 17, Block 23, NCB 17728
Zoning:	"R-6 ERZD" Residential Single-Family Edwards Recharge Zone District.
Case Manager:	Roland Arsate, Planner

Request

A request for 1) a 4' 8" variance from the 5' minimum side setback requirement, as described in Section 35-370, to allow an accessory structure to be 4" from the side property line, 2) a 4' 4" variance from the 5' minimum rear setback requirement, as described in Section 35-370, to allow an accessory structure to be 8" from the rear property line, and 3) 5' 6" variance from the 6' maximum fence height, as described in Section 35-514, to allow 11' 6" fencing in the rear yard.

Executive Summary

The subject property is located along Cordoba Creek. There is currently a single-family residence constructed on the property. The applicant is requesting to keep two accessory structures that are currently erected in the rear yard of the property. The structures are currently 4" from side property lines and 8" from the rear property line. The accessory structures are also considered fencing as they are being used as screening from the adjacent properties. The fencing is 11' 6" in height and is being used to assist with privacy for the swimming pool located on the subject property. Other unique features of the lot include that it is abutting a vacant commercial lot to the rear and there is a significant change in topography from front to rear.

Code Enforcement History

June 2021 - Building without a permit.

Permit History

None

Zoning History

The subject property was annexed into the City of San Antonio by Ordinance 87821, dated July 4, 1998 and zoned Temporary "R-1" Single Family Residential District. Upon adoption of the 2001 Unified Development Code, the zoning converted from Temporary "R-1" to the current "R-6" Residential Single-Family District, established by Ordinance 93881, dated May 3, 2001.

Subject Property Zoning/Land Use

Existing Zoning	Existing Use
"R-6 ERZD" Residential Single-Family Edwards Recharge Zone District.	Single-Family Residence

Surrounding Zoning/Land Use

Orientation	Existing Zoning District(s)	Existing Use
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North	"R-6 ERZD" Residential Single-Family Edwards Recharge Zone District.	Single-Family Residence
South	"R-6 ERZD" Residential Single-Family Edwards Recharge Zone District.	Single-Family Residence
East	"C-2 PC-1 ERZD" Commercial Bulverde Road Preservation Corridor Edwards Recharge Zone District	Vacant Property
West	"R-6 ERZD" Residential Single-Family 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 located within the Valencia Enclave Home Owners Association and they were notified of the case.

Street Classification

Cordoba Creek is classified as a local road.

Criteria for Review – Side and Rear Setback Variances and Variance to Fence Height

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 variance to the side and rear setbacks in order to allow two detached accessory structures in the rear of the property. The location of these structures is not contrary to the public interest.

The accessory structures are also considered fencing since they are screening from the neighboring properties. The height of the fencing is currently 11' 6", which does appear to be contrary to the public interest. The maximum fence height is 6' so the applicant is requesting to exceed the height by 5' 6". Staff recommends that the fencing be altered to 8' in height.

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 remove the structures and relocate them 5' from the side and rear property lines. There do not appear to be issues with the location of the structures due to the fire-rated material.

The height of the installed fencing does appear to be excessive and should be reduced to 8' to maintain the character of the neighborhood while allowing for more security and privacy of the rear yard containing a swimming pool.

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 two structures will maintain 4” of space from the side property lines and 8” from the rear property line, which observes the spirit of the ordinance.

Staff finds that the current height of the fencing does not observe the spirit of the ordinance. Reducing the height to 8’ would be an appropriate size for the surrounding area and will observe 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.*

If granted, the structures will remain in their current position which is 4” from the side property line and 8” from the rear property line. This does not seem likely to alter the essential character of the district. The structures are made from a fire-rated material which does not appear to injure adjacent conforming lots.

The height of the fencing would be more appropriate at 8’ as the current height of 11’ 6” does 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 existing on the property. The rear yard has a significant change in grade from the front to the rear as it slopes down. These circumstances were not created by the owner and are not merely financial.

Alternative to Applicant’s Request

The alternative to the applicant’s request is to conform to the Lot and Building Dimensions of the UDC Sections 35-310.01 and the Fence Height Regulations of Section 35-514.

Staff Recommendation – Side and Rear Setback Variance

Staff recommends **Approval** in **BOA-21-10300152** based on the following findings of fact:

1. The property is abutting a vacant commercially zoned property to the rear; and
2. There are other similar structures in the area; and
3. The accessory structures will not adversely affect neighboring properties.

Staff Recommendation –Fence Height Variance

Staff recommends **Denial with an Alternate Recommendation to allow an 8’ tall solid-screened fence** in **BOA-21-10300152** based on the following findings of fact:

1. The fence is currently standing at 11' 6" tall which exceeds the maximum fence height by 5' 6"; and
2. Reducing the height of the fence to 8' will still provide security of the rear yard while maintaining the essential character of the district.