



# City of San Antonio

## Legislation Details (With Text)

**File #:** 15-4110  
**Type:** Staff Briefing - Without Ordinance  
**In control:** Board of Adjustment

**On agenda:** 7/20/2015

**Title:** A-15-117: A request by Felipe Morin for a one foot variance from the four foot maximum fence height in the front yard to allow a five foot fence, located at 410 Rosa Verde. (Council District 5)

**Sponsors:**

**Indexes:**

**Code sections:**

**Attachments:** 1. Exhibits

Date	Ver.	Action By	Action	Result
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**Case Number:** A-15-117  
**Applicant:** Felipe Morin  
**Owner:** Felipe and Maria R. Morin  
**Council District:** 5  
**Location:** 410 Rosa Verde  
**Legal Description:** Lot 26, Block 6, NCB 277  
**Zoning:** "MF-33 AHOD" Multi-Family Airport Hazard Overlay District  
**Case Manager:** Kristin Flores, Planner

### Request

A request for a one foot variance from the four foot front yard, predominately open fence height, as described in Section 35-514 (d), to allow a five foot tall fence in the front yard of the property.

### Executive Summary

The subject property is located at 410 Rosa Verde approximately 115 feet west of South Leona Street. The applicant constructed a five foot tall fence in the front yard of the property. The fence was constructed to protect the family and their property as, per the applicant; several homes within this community have been broken into. Staff found several other homes within the community with similar front yard fences.

### Subject Property Zoning/Land Use

Existing Zoning	Existing Use
"MF-33 AHOD" Multi-Family Airport Hazard Overlay District	Single-Family Dwelling

### Surrounding Zoning/Land Use

Orientation	Existing Zoning District(s)	Existing Use
North	“MF-33 AHOD” Multi-Family Airport Hazard Overlay District	Single-Family Dwelling
South	“MF-33 AHOD” Multi-Family Airport Hazard Overlay District	Single-Family Dwelling
East	“MF-33 AHOD” Multi-Family Airport Hazard Overlay District	Single-Family Dwelling
West	“MF-33 AHOD” Multi-Family Airport Hazard Overlay District	Single-Family Dwelling

**Comprehensive Plan Consistency/Neighborhood Association**

The property is within the boundaries of the Downtown Neighborhood Plan and designated Mixed Use in the future land use component of the plan. The subject property is not located within the boundaries of any registered neighborhood association.

**Criteria for Review**

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, these criteria are represented by fence height limitations to protect home owners, and also to provide for a sense of community. The applicant had a five foot tall fence constructed in the front yard of the property without a fence permit and was cited by Code Enforcement. The five foot tall fence was built to deter thefts and home burglaries which, per the applicant, have affected the neighborhood on multiple occasions, recently. Additionally, the applicant owns two Rottweiler dogs and wants to ensure the animals are contained on his property. Staff finds that the additional one foot is not contrary to the public interest.**

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

**The special condition present in this case is the occurrence of criminal activity within this community. The applicant had the fence built to protect the home from such crime. The additional one foot of height will serve to protect the home more adequately from such activity.**

3. *By granting the variance, the spirit of the ordinance will be observed and substantial justice will be done.*

**Granting the requested variance would result in substantial justice as the variance would allow the family to adequately protect their home from crime in the community.**

4. *The variance will not authorize the operation of a use other than those uses specifically authorized for the district in which the property for which the variance is sought is located.*

**The requested variance will not authorize the operation of a use on the subject property other than those specifically permitted in the “MF-33 AHOD” Multi-Family Airport Hazard Overlay District.**

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.*

**Staff noted that several homes in this community have similar fences in front yards. Staff does not find that the request detracts from the character of the community.**

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.*

**The unique circumstance present in this case is that the neighborhood has been negatively affected by criminal activity. Staff finds that the request for one additional foot of fence height to protect the home is a legitimate request that is not merely financial in nature, nor the fault of the owner of the property.**

### **Alternative to Applicant's Request**

The applicant needs to remove one foot of the fence to come into compliance with the four foot height limitation, as described in Section 35-514.

### **Staff Recommendation**

Staff recommends **APPROVAL of A-15-117** based on the following findings of fact:

1. The existing fence serves to protect the family from crime in the community;
2. Several properties in the community have similar fencing.

### **Attachments**

- Attachment 1 - Notification Plan (Aerial Map)
- Attachment 2 - Plot Plan (Aerial Map)
- Attachment 3 - Site Plan
- Attachment 4 - Site Photos