



# City of San Antonio

## Legislation Details (With Text)

**File #:** 15-3953

**Type:** Staff Briefing - Without Ordinance

**In control:** Board of Adjustment

**On agenda:** 7/6/2015

**Title:** A-15-108: A request by Hortencia Salazar for a 1.5 foot variance from the maximum 6 foot fence height to allow a 7.5 foot fence in the rear yard, located at 6443 Honey Hill. (Council District 7)

**Sponsors:**

**Indexes:**

**Code sections:**

**Attachments:** 1. A-15-108 legis attachments

Date	Ver.	Action By	Action	Result
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**Case Number:** A-15-108

**Applicant:** Hortencia Salazar

**Owner:** Hortencia Salazar

**Council District:** 7

**Location:** 6443 Honey Hill

**Legal Description:** Lot 60, Block 044, NCB 15490

**Zoning:** "RM-4 AHOD" Residential Mixed Airport Hazard Overlay District

**Case Manager:** Margaret Pahl, AICP Senior Planner

### Request

A request for a 1.5 foot variance from the maximum 6 foot maximum rear yard fence height, as described in Section 35-514 (d), to allow a 7.5 foot tall fence in the rear yard of the property.

### Executive Summary

The subject property is located in the mixed residential neighborhood behind the commercial businesses along Loop 410. It was platted as the Summit North Townhouse Subdivision in 1976 and the home was built in 1977. The Glen Oaks Park Unit #7 plat, a single-family residential project to the north, was recorded before this one in 1965. This subdivision included a stub street aimed directly at this property for future connectivity, but the street connection was not required during the townhouse plat review. According to the applicant, this stub street creates a unique circumstance which contributes to her need for the variance. In addition, the Glen Oaks Park neighborhood has fenced off a 16 foot wide utility easement which appears to be an unkempt alley between the two projects. This *alley* also detracts from the applicant's sense of security and privacy. The applicant also has a swimming pool in the rear yard, triggering the need for additional security measures.

### Subject Property Zoning/Land Use

Existing Zoning	Existing Use
“RM-4 AHOD” Residential Mixed Airport Hazard Overlay District	Single-Family Dwelling

### Surrounding Zoning/Land Use

Orientation	Existing Zoning District(s)	Existing Use
North	“R-6 AHOD” Residential Single-Family Airport Hazard Overlay District	Single-Family Dwelling
South	“MF-33 AHOD” Multi-Family Airport Hazard Overlay District	Single-Family Dwelling
East	“RM-4 AHOD” Residential Mixed Airport Hazard Overlay District	Single-Family Dwelling
West	“RM-4 AHOD” Residential Mixed Airport Hazard Overlay District	Single-Family Dwelling

### Comprehensive Plan Consistency/Neighborhood Association

The property is within the boundaries of the North Sector Plan and currently designated Mixed Use Center in the future land use component of the plan. The subject property is not located within the boundaries of a 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 provide for safety, as well as promote a sense of community. The applicant states a vehicle has driven through an adjacent fence from the stub street. Protection of personal property and restricting unauthorized pool access is well within 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 that the fence is adjacent to a stub street where people typically park to avoid passing traffic. A literal enforcement would require the reduction in fence height along the back property line and result in an unnecessary hardship.**

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

**The spirit of the ordinance provides fencing height regulations to protect homes and to encourage a sense of community. This fence is generally only visible from the stub street and its design does not conflict with the spirit of the ordinance. In addition, swimming pools can also attract trespass.**

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 “RM-4” Residential Mixed 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.*

**The subject property’s fence is hidden from view from her neighborhood and only visible from the stub street, where other rear yards and privacy fencing are typical. Therefore, it 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.*

**The applicant’s property is adjacent to a dead end stub street, creating the need for additional property barriers. This circumstance was not created by the applicant.**

#### **Alternative to Applicant’s Request**

The applicant needs to reduce the fence height to come into compliance with the Unified Development Code.

#### **Staff Recommendation**

Staff recommends **APPROVAL of A-15-108** based on the following findings of fact:

1. The additional fence height is necessary to protect property within the backyard;
2. The fence is only visible from the adjacent dead end street.