



# City of San Antonio

## Legislation Details (With Text)

**File #:** 15-4275

**Type:** Staff Briefing - Without Ordinance

**In control:** Board of Adjustment

**On agenda:** 8/3/2015

**Title:** A-15-123: A request by William Goodman for a two foot variance from the maximum six foot rear yard fence height to allow an eight foot tall fence in the rear yard of the property, located at 13011 N Hunters Circle. (Council District 8)

**Sponsors:**

**Indexes:**

**Code sections:**

**Attachments:** 1. Exhibits

Date	Ver.	Action By	Action	Result
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**Case Number:** A-15-123

**Applicant:** William Goodman

**Owner:** Pamela K. Goodman

**Council District:** 8

**Location:** 13011 North Hunters Circle

**Legal Description:** Lot 3, Block 5, NCB 16963

**Zoning:** "R-6" Residential Single-Family District

**Case Manager:** Kristin Flores, Planner

### Request

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

### Executive Summary

The subject property is located within the San Antonio International Airport Vicinity Plan approximately 300 feet from Hunter Circle. The applicant recently moved into the home and wants to replace an old, broken fence with a new fence. The applicant has not yet built the fence and is coming to the Board of Adjustment to seek approval before construction. The applicant has a pool in his backyard and wishes to ensure the increased safety of his property and minimize trespass in the pool.

### Subject Property Zoning/Land Use

Existing Zoning	Existing Use
"R-6 AHOD" Residential Single-Family 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	"R-6 AHOD" Residential Single-Family Airport Hazard Overlay District	Single-Family Dwelling
East	"R-6 AHOD" Residential Single-Family Airport Hazard Overlay District	Single-Family Dwelling
West	"R-6 AHOD" Residential Single-Family Airport Hazard Overlay District	Single-Family Dwelling

**Comprehensive Plan Consistency/Neighborhood Association**

The property is within the boundaries of the San Antonio International Airport Vicinity Plan and currently designated Low Density Residential in the future land use component of the plan. The subject property is located within the boundaries of the Hunter Creek neighborhood association. As such, the neighborhood association was notified and asked to comment.

**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, and also to promote a sense of community. The applicant asserts that the fence is required to secure the property from trespassing patrons. Reducing crime and protection of personal property is well within the public interest.**

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

**Staff finds that the special condition present in this case is that the request serves to mitigate trespass and increase security of property. In addition, the rear of the property backs onto a drainage easement providing increased opportunity for trespass in the rear yard. A literal enforcement would result in 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 and design requirements to protect homes and also to encourage a sense of community. This fence does not detract from the residential nature of the community, nor does its design conflict with the spirit of the ordinance. In addition, due to the large amount of landscaping and trees located on the property, the fence would not be visible from any public right of way. Therefore, the variance would be consistent with the spirit of the ordinance.**

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 “R-6” Residential Single-Family 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 fence is in keeping with adjacent property and 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 abuts a drainage easement increasing access to the property and the potential for trespass. Thus, the applicant wishes to minimize the liability risk of uninvited swimmers. 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-15-123** based on the following findings of fact:

1. The additional fence height is necessary to protect property within the backyard;
2. The fence is in keeping with the character of the community and is not visible from the public right of way.

### **Attachments**

Attachment 1 - Notification Plan (Aerial Map)

Attachment 2 - Plot Plan (Aerial Map)

Attachment 3 - Site Plan

Attachment 4 - Site Photos