



# City of San Antonio

## Legislation Details (With Text)

**File #:** 15-5870

**Type:** Staff Briefing - Without Ordinance

**In control:** Board of Adjustment

**On agenda:** 11/16/2015

**Title:** A-16-011: A request by Shawn Flat for a 2 foot variance from the 6 foot maximum rear yard fencing to allow an 8 foot fence in the rear yard, located 13820 Landmark Hill. (Council District 10)

**Sponsors:**

**Indexes:**

**Code sections:**

**Attachments:** 1. A-16-011 Exhibits

Date	Ver.	Action By	Action	Result
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**Case Number:** A-16-011

**Applicant:** Shawn Flat

**Owner:** Shawn Flat

**Council District:** 10

**Location:** 13820 Landmark Hill

**Legal Description:** Lot 11, Block 13, NCB 15907

**Zoning:** "R-6 AHOD" Residential Single-Family Airport Hazard Overlay District

**Case Manager:** Kristin Flores, Planner

### Request

A request for 2 foot variance from the maximum 6 foot maximum rear yard fencing, as described in Section 35-314(d), to allow an 8 foot fence in the rear yard.

### Executive Summary

The subject property is located at 13820 Landmark Hill in the Northern Hills Neighborhood. This is a residential neighborhood with modest size homes and winding suburban streets. The residential neighborhood was built over a largely sloping and hilly topography. The owner of the subject property has a pool in the rear yard and wishes to ensure privacy of his home and rear yard. As explained in the application and witnessed by staff, the home in the rear of the subject property sits a higher elevation than the subject property. The applicant has requested a variance to allow additional fence height. The requested height increase is strictly for the most rear portion of the rear yard and is unlikely to be seen from the public right of way.

### Subject Property Zoning/Land Use

Existing Zoning	Existing Use
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"R-6 AHOD" Residential Single-Family Airport Hazard Overlay District	Single-Family Residence
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### Surrounding Zoning/Land Use

Orientation	Existing Zoning District(s)	Existing Use
North	"R-6 AHOD" Residential Single-Family Airport Hazard Overlay District	Single-Family Residence
South	"R-6 AHOD" Residential Single-Family Airport Hazard Overlay District	Single-Family Residence
East	"R-6 AHOD" Residential Single-Family Airport Hazard Overlay District	Single-Family Residence
West	"R-6 AHOD" Residential Single-Family Airport Hazard Overlay District	Single-Family Residence

### Comprehensive Plan Consistency/Neighborhood Association

The property is located within the boundaries of the San Antonio International Airport Vicinity Plan and is designated as Low Density Residential in the future land use component of the plan. The subject property is located within the boundary of the Northern Hills 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 minimum fence height to protect home owners, and also to provide for a sense of community. This neighborhood has significant sloping topography which has caused the applicant's backyard to be situated slightly above neighboring property. The proposed fence will serve to provide increased privacy and security of the property. This 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 in this case is the sloping topography in the neighborhood which has resulted in decreased privacy.**

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 letter of the law. The additional fence height is intended to provide safety, security, and privacy of the applicant. Therefore, this variance observes the spirit of the code.**

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 AHOD” Residential Single-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.*

**The proposed fence is unlikely to be seen from the public right of way and therefore, would not alter 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 on this property is the vastly sloping topography. This is not merely financial and was not created by the property owner.**

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

The applicant must build the fence not to exceed to six foot maximum, as described in Section 35-314 (d).

### **Staff Recommendation**

Staff recommends **APPROVAL of a two foot variance from the six foot minimum to allow a fence to be eight feet in height in A-16-011** based on the following findings of fact:

1. The sloping topography has posed barriers to ensuring privacy of residents;
2. The proposed fence is not likely to be visible from the public right of way;
3. The proposed fence is in keeping with the character of the community.

### **Attachments**

Attachment 1 - Notification Plan (Aerial Map)

Attachment 2 - Plot Plan (Aerial Map)

Attachment 3 - Site Plan

Attachment 4 - Site Photos