



# City of San Antonio

## Legislation Details (With Text)

**File #:** 16-3101

**Type:** Staff Briefing - Without Ordinance

**In control:** Board of Adjustment

**On agenda:** 5/9/2016

**Title:** A-16-068: A request by Jon D. Alonzo for ) a special exception to allow an eight foot tall privacy fence in a portion of the front and side yard of the property and 2) a variance from the prohibition against corrugated or sheet metal as a fencing material to allow a fence made of sheet metal, located at 4235 Diamondhead. (Council District 2)

**Sponsors:**

**Indexes:**

**Code sections:**

**Attachments:** 1. Attachments

Date	Ver.	Action By	Action	Result
Case Number:		A-16-068		
Applicant:		Jon D. Alonzo		
Owner:		Jon D. Alonzo		
Council District:		2		
Location:		4235 Diamondhead		
Legal Description:		Lot 36, Block 4, NCB 12374		
Zoning:		"R-5 AHOD" Residential Single-Family Airport Hazard Overlay District		
Case Manager:		Logan Sparrow, Senior Planner		

### Request

A request for 1) a special exception to allow an eight foot tall privacy fence in the front and side yard of the property and 2) a variance from the prohibition against corrugated or sheet metal as a fencing material, as described in Section 35-514, to allow a fence made of sheet metal.

### Executive Summary

The subject property is located at 4235 Diamondhead, approximately 515 feet east of Kingston Street. The applicant was cited by Code Enforcement for construction of a fence without permits. The fence in question is eight feet tall and located in the front and side yard of the property. This height may be granted by the Board of Adjustment through a special exception. However, in addition to the increased height, the fence is made of sheet metal - a prohibited material as described in the Unified Development Code. To approve this material, the Board of Adjustment would also have to grant a variance.

### Subject Property Zoning/Land Use

Existing Zoning	Existing Use
"R-5 AHOD" Residential Single-Family Airport Hazard Overlay District	Single-Family Dwelling

### Surrounding Zoning/Land Use

Orientation	Existing Zoning District(s)	Existing Use
North	"R-5 AHOD" Residential Single-Family Airport Hazard Overlay District	Single-Family Dwelling
South	"R-5 AHOD" Residential Single-Family Airport Hazard Overlay District	Single-Family Dwelling
East	"R-5 AHOD" Residential Single-Family Airport Hazard Overlay District	Single-Family Dwelling
West	"R-5 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 as Low-Density Residential in the future land use component of the plan. The subject property is within the East Terrell Hills Neighborhood Association. As such, the neighborhood association was notified and asked to comment.

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, the public interest is represented by prohibitions against certain fencing materials considered inconsistent with neighborhood design. This fencing material stands out in the community, and is immediately noticeable from the street. The design is contrary to the public interest in that it breaks the fencing consistency in the neighborhood.

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

Staff was not able to find a property-related special condition that allows for sheet metal fencing on the property. As designed, the eight foot tall sheet metal fence appears to surround a front patio to provide privacy. This is not a special condition and, if a permit was sought, staff could have advised on other approaches to achieve a similar result.

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

Granting the requested variance will not result in substantial justice because the fence, as designed, is out of place within this residential 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 “R-5 AHOD” Residential Single-Family Airport Hazard Overlay District.

*1. 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.*

A sheet metal fence is noticeably out of character within this residential community. The fence dominates the facade of the home and has become the most distinguished feature of the property. As constructed, the fence height and material make it look less like a fence and more like a wall. Staff finds that this fence does detract from the essential 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.*

Staff did not find any unique circumstance that warrants the granting of the requested variance. Had the applicant have applied for a permit, staff could have assisted with an alternative design that benefits the applicant and the community.

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

The applicant could consider a shorter fence made of permitted fencing materials.

### **Staff Recommendation**

Staff recommends **DENIAL of variance request in A-16-068** based on the following findings of fact:

1. There are no special conditions present to warrant the granting of the requested special exception or variance. 2. The fence, as designed, detracts from the essential character of the district and is contrary to the public interest.