



# City of San Antonio

## Agenda Memorandum

**File Number:**16-3305

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**Agenda Item Number:** 3.

**Agenda Date:** 5/23/2016

**In Control:** Board of Adjustment

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**Case Number:** A-16-079  
**Applicant:** Robie Slagh  
**Owner:** Robie Slagh  
**Council District:** 10  
**Location:** 13415 Pebble Hollow  
**Legal Description:** Lot 12, Block 46, NCB 17058  
**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, as described in Section 35-514, to allow for a fence that is eight feet tall in the front yard of the property and 2) a variance to allow for a two-foot wide section of that fence to be ten feet tall, also described in Section 35-514.

### Executive Summary

The subject property is located at 13415 Pebble Hollow, approximately 125 feet north of Pebble Hill. The fence was designed to provide added privacy to the property owners. Many homes in this garden-home community have six foot wood privacy fences. Because many homes have tall fencing along the front facades, this eight foot fence does not stand out from other homes in the community. There is a small section of the fence that is ten feet tall and incorporates a decorative wagon-wheel design element. This element is considered a fence by definition, and because special exceptions can only be granted to allow fences up to eight feet tall on residential property, a variance is required for this small section of fencing.

A fence is defined in the Unified Development Code as "A tangible enclosure or barrier, constructed of any material allowable by this chapter, but not including hedges, shrubs, trees, or other natural growth, erected for the purposes of providing a boundary, separation of areas, means of protection, to prevent uncontrolled access, decorative purposes, or concealment".

### Subject Property Zoning/Land Use

Existing Zoning	Existing Use
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"R-5 AHOD" Residential Single-Family Airport Hazard Overlay District	Single-Family Dwelling
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### **Surrounding Zoning/Land Use**

<b>Orientation</b>	<b>Existing Zoning District(s)</b>	<b>Existing Use</b>
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 Northern Hills Neighborhood Association. As such, the neighborhood association was notified and asked to comment.

According to Section 35-482(h) of the UDC, in order for a special exception to be granted, the Board of Adjustment must find that the request meets each of the five following conditions:

*A. The special exception will be in harmony with the spirit and purpose of the chapter.*

**The UDC allows fences as tall as eight feet as a special exception, authorized under certain circumstances in accordance with specific factors as described in this report. If granted, this request would be harmony with the spirit and purpose of the ordinance.**

*B. The public welfare and convenience will be substantially served.*

**In that the fence meets the criteria for a special exception, staff finds that the public welfare will be served.**

*C. The neighboring property will not be substantially injured by such proposed use.*

**The fence is flush with the front-most wall of the subject property. The fence does not run along the side property lines and is unlikely to harm adjacent properties.**

*D. The special exception will not alter the essential character of the district and location in which the property for which the special exception is sought.*

**The location of the fencing is not out of character in this neighborhood. Much of the height of the fence is blocked with landscaping, and the additional height is not immediately noticeable from the street. Thus, granting the exception will not alter the character of the district.**

*E. The special exception will not weaken the general purpose of the district or the regulations herein*

*established for the specific district.*

**The purpose of the single-family residential zoning districts is to encourage patterns of residential development that provide housing choices and a sense of community, including fencing provisions. Therefore, the requested special exception will not weaken the general purpose of the district.**

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 maximum fence heights to ensure consistent fence design within our communities and to provide for privacy. The applicant requires a variance only for the ten foot tall section of the fence which has incorporated a wagon-wheel feature. This is categorized as fencing per the UDC, and requires a variance because a special exception can only grant heights up to eight feet tall in residential districts. If approved, the applicant will be required to submit engineered plans to Development Services Department for review.**

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

**As this section of fencing is only 24 inches wide and provided as a design-element, staff finds that a literal enforcement of the code may result in unnecessary hardship.**

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

**Granting the requested variance will result in substantial justice as the property owner simply wishes to add a decorative element to their home. The ten foot tall fencing is contained to a mere 24 inches of the fence.**

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.*

**Such variance is not likely to negatively alter the character of the district. The wagon-wheel element, while still fencing, is contained to only a two foot wide section of the fence, and is primarily used for decorative purposes.**

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 wagon-wheel is used for decoration, not for fencing. Also, engineered plans will have to be submitted for review that will ensure that the design element is safe.**

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

The applicant could remove the wagon-wheel to keep the fencing design consistent with the remaining portion of the fence.

### **Staff Recommendation**

Staff recommends **APPROVAL of variance request in A-16-079** based on the following findings of fact:

1. Most homes in the community have fencing in the same location that is six feet tall. The additional two feet in fence height does not detract from the essential character of the district.
2. The wagon-wheel design element, though categorized as fencing, is used more for decoration.