



# City of San Antonio

## Agenda Memorandum

**File Number:**17-5408

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**Agenda Item Number:** 3.

**Agenda Date:** 10/2/2017

**In Control:** Board of Adjustment

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Case Number: A-17-182  
Applicant: Calixta R. de Veliz  
Owner: Calixta R. de Veliz  
Council District: 1  
Location: 1307 W. French Place  
Legal: Lot South 84 feet of 25, Block 4, NCB 1994  
Description:  
Zoning: "C-3NA NCD-5 AHOD" General Commercial Non-Alcoholic Sales Beacon Hill Neighborhood Conservation Airport Hazard Overlay District  
Case Manager: Shepard Beamon, Senior Planner

### Request

A request for 1) a 2 foot variance from the NCD-5 maximum 4 foot predominantly open fencing to allow a 6 foot tall wrought iron fence in the front yard and 2) a 3.5 foot variance from the NCD-5 maximum 4 foot fence height to allow a 7.5 foot tall wrought iron gate in the front yard.

### Executive Summary

The applicant is requesting the special exception to allow a six foot wrought iron fence and seven and a half foot tall gate in the front yard. The fence was constructed without a permit and the owner received a citation from Code Enforcement. The Beacon Hill NCD requires a maximum height of four foot predominantly open fencing in the front yard.

### Subject Property Zoning/Land Use

Existing Zoning	Existing Use
"C-3NA NCD-5 AHOD" General Commercial Non-Alcoholic Sales Beacon Hill Neighborhood Conservation Airport Hazard Overlay District	Single-Family Dwelling

### Surrounding Zoning/Land Use

Orientation	Existing Zoning District(s)	Existing Use
North	“C-3NA NCD-5 AHOD” General Commercial Non-Alcoholic Sales Beacon Hill Neighborhood Conservation Airport Hazard Overlay District; “C-2 NCD-5 AHOD” Commercial Beacon Hill Neighborhood Conservation Airport Hazard Overlay District; “R-6 NCD-5 AHOD” Residential Single-Family Beacon Hill Neighborhood Conservation Airport Hazard Overlay District	Barber Shop, Hotel, Bakery, Vacant Commercial, Single-Family Dwellings
South	“C-3NA NCD-5 AHOD” General Commercial Non-Alcoholic Sales Beacon Hill Neighborhood Conservation Airport Hazard Overlay District; “R-6 AHOD” Residential Single-Family Airport Hazard Overlay District	Church, Public School
East	“C-3NA NCD-5 AHOD” General Commercial Non-Alcoholic Sales Beacon Hill Neighborhood Conservation Airport Hazard Overlay District	Restaurant, Vacant Commercial, Auto Repair
West	“R-6 AHOD” Residential Single-Family Airport Hazard Overlay District	Single-Family Dwellings

### **Comprehensive Plan Consistency/Neighborhood Association**

The property is within the boundaries of the Midtown Neighborhood Plan and currently designated Mixed Use in the future land use component of the plan. The subject property is located within 200 feet of the Beacon Hill Neighborhood Association. As such, they were 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 request is contrary as it inhibits social interaction of people along the street.

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

Enforcement of the ordinance would not result in an unnecessary hardship. Had the owner pulled the appropriate permits, they would have been informed of the NCD requirements.

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

Substantial justice will not be done as the requested fence and gate height conflict with the objectives of the NCD requirements which are intended to improve the visual quality of front yards throughout the neighborhood. The fence disrupts the continuity of the blockface.

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 “C-3NA NCD-5 AHOD” General Commercial Non-Alcoholic Sales Beacon Hill

Neighborhood Conservation 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 requested fence height does significantly alter the appearance of the district as there are no other properties along the street that have front yard fencing that exceeds the maximum fence height.

*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.*

There are no unique circumstances existing on the property that warrants the approval of the variance.

#### **Alternative to Applicant's Request**

The applicant would have to construct a four foot predominantly open fence.

#### **Staff Recommendation**

Staff recommends **DENIAL of the variances in A-17-182** based on the following findings of fact:

1. The fence alters the character of the district; and 2. There is no unique circumstance warranting the approval of the variance.