



# City of San Antonio

## Agenda Memorandum

**File Number:**15-1756

**Agenda Item Number:** 5.

**Agenda Date:** 3/2/2015

**In Control:** Board of Adjustment

To: Board of Adjustment  
Case Number: A-15-043  
Date: March 02, 2015  
Applicant: Victor Richmond  
Owner: Victor Richmond  
Council District: 9  
Location: 110 Champions Bend  
Legal Description: Lot 1, Block 7, NCB 19217  
Zoning: "R-6 PUD ERZD" Residential Single-Family Planned Unit  
Development Edwards Recharge Zone District  
Prepared By: Logan Sparrow, Planner

### **Request**

A request for a one foot variance from the six foot maximum rear yard fence height, as described in Section 35-514, to allow a seven foot tall wall in the rear yard of the property.

### **Executive Summary**

The subject property is located at 11105 Vance Jackson Road approximately 235 feet northeast of Champions Way. The applicant is seeking a variance to allow construction of a seven foot tall wall in the rear yard of the property. The applicant's property abuts the access driveway to the community recreational center. The recreation center is located at a significantly higher elevation than the subject property. As such, when leaving the center and travelling along the driveway, neighbors have a clear view into the applicant's rear yard. The applicant is asking the Board of Adjustment to approve one additional foot so that the family may enjoy their yard with more privacy than would be afforded to them without the variance.

### **Subject Property Zoning/Land Use**

| Existing Zoning  | Existing Use           |
|--|------------------------|
| "R-6 PUD ERZD" Residential Single-Family Planned Unit Development Edwards Recharge Zone District | Single-Family Dwelling |

## Surrounding Zoning/Land Use

| Orientation | Existing Zoning District(s)  | Existing Use                |
|-------------|--|-----------------------------|
| North       | "R-6 PUD ERZD" Residential Single-Family<br>Planned Unit Development Edwards<br>Recharge Zone District | Vacant                      |
| South       | "R-6 PUD ERZD" Residential Single-Family<br>Planned Unit Development Edwards<br>Recharge Zone District | Community Recreation Center |
| East        | "R-6 PUD ERZD" Residential Single-Family<br>Planned Unit Development Edwards<br>Recharge Zone District | Vacant                      |
| West        | "R-6 PUD ERZD" Residential Single-Family<br>Planned Unit Development Edwards<br>Recharge Zone District | Single-Family Dwelling      |

## Comprehensive Plan Consistency/Neighborhood Association

The property is not within the boundaries of any neighborhood plan. The subject property is located within the boundaries of the Champions Ridge registered 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 the public interest is represented by height limitations for fencing as a means to encourage a sense of community. This property is unique in that it abuts a driveway to a community recreation center, which is located on land that is significantly higher than the subject property. Without the variance, the applicant would enjoy almost no privacy in their back yard. Additionally, during the evening, cars leaving the recreation center shine their headlights directly into the applicant's house, lessening the enjoyment that one should expect to gain from their home.**

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

**A literal enforcement of the code would require that they build a fence not to exceed six feet in height. The special condition present in this case is the rapid change in elevation between two abutting properties. Without the variance, it is likely that the applicant would be subject to 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 intends to provide for a sense of community, but also to provide protection for homeowners so that they may enjoy their property. The requested variance does not conflict with the spirit of the ordinance in that the request is to allow a fence that protects the homeowner from the adverse affects experienced as a result of the abutting property being significantly elevated. Staff finds**

**that allowing the applicant to build the fence will result in substantial justice.**

*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 PUD ERZD” Residential Single-Family Planned Unit Edwards Recharge Zone 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 variance is unlikely to harm adjacent, conforming properties. The proposed variance seeks only an additional one foot of height. Due to the change in elevation it is unlikely that the fence will appear out of scale within 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 circumstances present in this case are the elevation changes between two parcels of land. Without the variance the applicant would not enjoy the privacy similarly enjoyed by neighboring properties. The elevation is not the fault of the owner of the property and is not merely financial in nature.**

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

The applicant needs to construct a fence not to exceed six feet in height to come into compliance with the standards established by the Unified Development Code.

### **Staff Recommendation**

Staff recommends **APPROVAL of A-15-043** based on the following findings of fact:

1. The proposed fence is needed to protect the applicant’s home from the adverse affects stemming from the elevated recreation center that abuts the property;
2. The proposed fence would not be out of character or scale within this community.