



# City of San Antonio

## Agenda Memorandum

**File Number:**15-3986

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**Agenda Item Number:** 5.

**Agenda Date:** 7/6/2015

**In Control:** Board of Adjustment

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**Case Number:** A-15-111  
**Applicant:** Patricia Sosa  
**Owner:** Patricia Sosa  
**Council District:** 3  
**Location:** 2527 Schubert Drive and the adjacent parcel generally located on the 2500 block of Schubert Drive.  
**Legal Description:** Lot 20 and 25, Block, NCB 7537  
**Zoning:** "MF-33 AHOD" Multi-Family Airport Hazard Overlay District and "R-6 AHOD" Residential Single-Family Airport Hazard Overlay District  
**Case Manager:** Kristin Flores, Planner

### Request

A request for 1) a variance from the requirement that multi-family residential uses erect a 6 foot solid screen fence along a property line shared with single-family residential uses, as described in Section 35-514 (e), and 2) a 2 foot variance from the maximum 4 foot front yard fence height, as described in Section 35-514 (d), to allow a 6 foot wrought iron fence surrounding the property.

### Executive Summary

After buying the property in 2011, the applicant has been working to complete the multi-family dwelling in an effort to provide new housing for the area. The applicant was cited by code enforcement for a fence built beyond standards and having a fence, which is not a solid screen, adjacent to a single family use. According to the applicant, the subject property has experienced trespass and vandalism. The applicant installed wrought iron fencing to increase the security and protection of her future residents. The wrought iron fence also includes private entrances to limit trespass for future residents.

### Subject Property Zoning/Land Use

Existing Zoning	Existing Use
"MF-33 AHOD" Multi-Family Airport Hazard Overlay District	Apartments
"R-6 AHOD" Residential Single-Family Airport Hazard Overlay District	Vacant

## Surrounding Zoning/Land Use

Orientation	Existing Zoning District(s)	Existing Use
North	"R-6 AHOD" Residential Single-Family Airport Hazard Overlay District	Single-Family Dwelling
South	"MF-33 AHOD" Multi-Family Airport Hazard Overlay District	Multi-Family Dwellings
East	"R-6 AHOD" Single Family Airport Hazard Overlay District	Vacant
West	"R-6 AHOD" Residential Single-Family Airport Hazard Overlay District	Vacant

## Comprehensive Plan Consistency/Neighborhood Association

The subject property is not located in a sector plan or a community plan and is not part of a future land use plan. There is no registered neighborhood association.

## 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 fence height limitations and the requirement of a solid screen fence separating multi-family dwellings and adjacent single family uses, to provide for safety, and also to promote a sense of community. The applicant asserts that the fence is required to secure the property from trespassing patrons. In addition, having a wrought iron, as opposed to a solid screen fence, allows current and future residents to monitor the neighborhood, reduce crime, and ensure the safety of the neighborhood. Reducing crime and protection of personal property is well within the public interest.**

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

**Staff finds that the special condition present in this case is that the request serves to mitigate criminal activities which have been inflicted upon the applicant's property in the past. A literal enforcement would result in the reduction in fence height along the back property line and result in 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 provides fencing height and design requirements to protect homes and also to encourage a sense of community. This fence does not detract from the residential nature of the community, nor does its design conflict with the spirit of the ordinance. In fact, the wrought iron fence adds to the character of the community. Therefore, the variance would be consistent with the spirit of the ordinance.**

- 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” Residential Single-Family District and “MF-33” Multi-Family 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 subject property fence is in keeping with adjacent property and will not alter the essential character of the district.**

*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 applicant’s property is affected by its experience with trespassing, creating the need for additional property barriers. This circumstance was not created by the applicant.**

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

The applicant needs to reduce the fence height and build a solid screen fence adjacent to single family uses to come into compliance with the Unified Development Code.

### **Staff Recommendation**

Staff recommends **APPROVAL of A-15-111** based on the following findings of fact:

1. The additional fence height is necessary to protect property within the backyard;
2. The fence is in keeping with the character of the community.