



# City of San Antonio

## Agenda Memorandum

**File Number:**15-4098

**Agenda Item Number:** 1.

**Agenda Date:** 7/20/2015

**In Control:** Board of Adjustment

**Case Number:** A-15-115  
**Applicant:** Alicia Pearl  
**Owner:** Alicia and Eden Pearl  
**Council District:** 10  
**Location:** 330 E Terra Alta  
**Legal Description:** Lot 16, NCB 11898  
**Zoning:** "NP-10 AHOD" Neighborhood Preservation Airport Hazard Overlay District  
**Prepared By:** Logan Sparrow, Senior Planner

### Request

A request for 1) a two foot variance from the maximum six foot rear yard privacy fence height, as described in Section 35-514, to allow an eight foot fence in the rear yard of the property and 2) a five foot variance from the maximum three foot tall front yard solid fence height limitation, also described in Section 35-514, to allow an eight foot tall fence in the front yard of the property.

### Executive Summary

The subject property is located at 330 E Terra Alta Drive, approximately 612 feet west of New Braunfels Avenue. The subject property is developed on a flag lot and located nearly 160 feet from the street, behind another home. The home has previously benefited from a variance which reduced the setbacks for the homes development in coordination with BABA Support Our Troops, an organization dedicated to constructing homes for wounded war veterans. The fence serves to increase privacy for both the home owner and the neighbor affected by the flag lot design and will run along the northwest property line of the home. It is located in both the front and rear yards of the subject property.

### Subject Property Zoning/Land Use

Existing Zoning	Existing Use
"NP-10 AHOD" Neighborhood Preservation Airport Hazard Overlay District	Single-Family Dwelling

### Surrounding Zoning/Land Use

Orientation	Existing Zoning District(s)	Existing Use
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North	“R-4 AHOD” Residential Single-Family Airport Hazard Overlay District	Single-Family Dwelling
South	NP-10 AHOD” Neighborhood Preservation Airport Hazard Overlay District	Single-Family Dwelling
East	“MF-40 AHOD” Residential Single-Family Airport Hazard Overlay District	Multi-Family Dwellings
West	“NP-10 AHOD” Neighborhood Preservation Airport Hazard Overlay District	Single-Family Dwelling

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

The property is within the boundaries of the Northeast Inner Loop Community Plan and currently designated Low Density Residential in the future land use component of the plan. The subject property is located within the boundaries of the Oak Park/Northwood 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, these criteria are represented by fence height limitations to protect property owners and also to encourage a sense of community. The requested fence variance is not contrary to the public interest in that the proposed fencing design serves to protect both properties. The neighbor located in front of the property, being the property owner most directly affected by the request, has expressed written support of the request to city staff.**

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 related to the previous variance being granted on the subject property. In October of 2012 the Board granted variances to reduce the setbacks on the subject property to make development of the home possible. The Board found that reducing the setbacks was necessary as the type of home required a larger footprint to accommodate a special layout to meet the needs of the applicant. The special condition present in this case is that having the home located nearer the property line does come at the cost of reduced privacy. Denial of the requested variance will result in unnecessary hardship for both the homeowner and the neighbor.**

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

**Granting the variance will result in substantial justice in that both the home owner and neighbor will reclaim the level of privacy enjoyed by other home owners in the City of San Antonio. The spirit of the ordinance will be observed as the proposed fence will not be visible from any public right of way.**

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 “NP-10 AHOD” Neighborhood Preservation 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 proposed fence will not substantially injure adjacent properties, rather, it will contribute to an increased enjoyment for both the home owner and the neighbor most directly affected by the variance request.**

*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, by granting the variance to reduce the setbacks in October of 2012, both the home owner and the neighbor have experienced less privacy. The requested variance is in response to a unique circumstance and that the plight of the owner is not due to, or the result of, general conditions within the community, nor merely financial in nature.**

**Alternative to Applicant's Request**

Denial of the variance request would result in the property owner being permitted only a six foot tall fence, a height that does not provide for privacy to either the home owner or their neighbor.

**Staff Recommendation**

Staff recommends **APPROVAL of the requested variances in A-15-115** based on the following findings of fact:

1. The special condition is the result of a previous variance being granted.
2. The proposed fencing design contributes to increased enjoyment of multiple properties.
3. The proposed fence will not be visible from any public right-of-way.