



# City of San Antonio

## Agenda Memorandum

**File Number:**15-4277

**Agenda Item Number:** 4.

**Agenda Date:** 8/3/2015

**In Control:** Board of Adjustment

**Case Number:** A-15-126  
**Applicant:** Sonia Onofre  
**Owner:** Antonio and Sonia Onofre  
**Council District:** 5  
**Location:** 170 Willee Drive  
**Legal Description:** Lot 2, Block 20, NCB 10547  
**Zoning:** "R-6 AHOD" Residential Single-Family Airport Hazard Overlay District  
**Case Manager:** Kristin Flores, Planner

### **Request**

A request for a 1 foot variance from the 4 foot maximum front yard, predominately open fence height limitation, as described in Section 35-514 (d), to allow a 5 foot tall predominately open fence in the front yard of the property.

### **Executive Summary**

The subject property is located at 170 Willee Drive approximately 140 feet East of Yolanda Drive. The applicant has begun constructing a five foot tall fence in the front yard of the property. The fence was constructed to protect the family and their property. Police reports included with the application note the applicant has experienced burglary. Additionally, staff found several other homes within the community with front yard fences constructed of similar height and material.

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

Existing Zoning	Existing Use
"R-6 AHOD" Single-Family Airport Hazard Overlay District	Single-Family Dwelling

### **Surrounding Zoning/Land Use**

Orientation	Existing Zoning District(s)	Existing Use
North	"R-6 AHOD" Single-Family Airport Hazard Overlay District	Single-Family Dwelling

South	"R-6 AHOD" Single-Family Airport Hazard Overlay District	Single-Family Dwelling
East	"R-6 AHOD" Single-Family Airport Hazard Overlay District	Single-Family Dwelling
West	"R-6 AHOD" Single-Family Airport Hazard Overlay District	Single-Family Dwelling

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

The property is within the boundaries of the West Sector Plan and currently designated General Urban Tier in the future land use component of the plan. The subject property is located within the boundaries of the Loma Park 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 home owners, and also to provide for a sense of community. **The applicant was constructing a five foot tall fence in the front yard of the property without a fence permit and was cited by Code Enforcement. The five foot tall fence is being built to deter thefts and home burglaries which, per the applicant, have affected her recently. Staff finds that the additional one foot is not contrary to the public interest.**

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

**The special condition present in this case is the occurrence of criminal activity within this community. The applicant is having the fence built to protect the home from such crime. The additional one foot of height will serve to protect the home more adequately from such activity.**

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

**Granting the requested variance would result in substantial justice as the variance would allow the applicant to adequately protect her home from crime in the community.**

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 AHOD" Single-Family 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.*

**Staff noted that several homes in this community which have fences constructed of the same material and height. Staff does not find that the request detracts from the character of 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 circumstance present in this case is that the applicant has been negatively affected by criminal activity. Staff finds that the request for one additional foot of fence height to protect the home is a legitimate request that is not merely financial in nature, nor the fault of the owner of the property.**

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

The applicant needs to remove one foot of the fence to come into compliance with the four foot height limitation, as described in Section 35-514.

### **Staff Recommendation**

Staff recommends **APPROVAL of A-15-126** based on the following findings of fact:

1. The fence will serve to protect the family from criminal activity in the community;
2. The fence is in keeping with the character of the community as several properties in the community have fences of a similar height and material.

### **Attachments**

Attachment 1 - Notification Plan (Aerial Map)

Attachment 2 - Plot Plan (Aerial Map)

Attachment 3 - Site Plan

Attachment 4 - Site Photos