



# City of San Antonio

## Agenda Memorandum

**File Number:**15-4897

**Agenda Item Number:** 2.

**Agenda Date:** 9/21/2015

**In Control:** Board of Adjustment

**Case Number:** A-15-144  
**Applicant:** Douglas Gonzalez  
**Owner:** Douglas Gonzalez  
**Council District:** 5  
**Location:** 1260 Kirk Place  
**Legal Description:** Lot 9, Block 3, NCB 6777  
**Zoning:** "R-6 AHOD" Residential Single-Family Airport Hazard Overlay District  
**Case Manager:** Margaret Pahl AICP, Senior Planner

### Request

A request for a 16 inch variance from the maximum 4 foot front yard fence height, as described in 35-514 (d) to allow a 5 foot 4 inch predominately open fence in the front yard.

### Executive Summary

The applicant installed a 5 foot 4 inch tall wrought iron fence within the front yard and was cited by Code Enforcement. According to the applicant, the taller fence was necessary to protect their three small children who like to play in the front yard. In addition, they state that their street is heavily traveled (over 3,000 trips per day) and the fence increases their sense of safety. The UDC currently limits fencing in the front yard to a height of 4 feet, though the Board has recommended increasing the permitted height to 5 feet in the proposed UDC amendment process.

### Subject Property Zoning/Land Use

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

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

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

The property is located within the boundaries of the Kelly/South San Pueblo Neighborhood Plan and currently designated as Low-Density Residential in the future land use component of the plan. The subject property is located within the boundaries of the Thompson Neighborhood Association, a registered 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 public interest is defined as the general health, safety, and welfare of the public. The requested increase in front fencing 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 circumstance present on the subject property is its proximity to a busy street.**

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

**The spirit of the ordinance is observed since the permitted fence height is proposed to increase at the end of the year.**

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" Residential 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.*

**The design of the fence is irregular rod lengths, which reduces its perceived height. The fence does not have a negative impact on the character of the street.**

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.*

**According to the applicant, they have had their vehicle stolen and wanted additional height for security. Their three small children also enjoy playing in the enclosed front yard.**

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

The applicant could modify the fence height to conform to the UDC.

### **Staff Recommendation**

Staff recommends a modified **APPROVAL of A-15-144** based on the following findings of fact:

1. The requested additional fence height is within the anticipated allowance if the Board's recommended text amendments are approved.