



# City of San Antonio

## Agenda Memorandum

**File Number:**15-4898

**Agenda Item Number:** 3.

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

**In Control:** Board of Adjustment

**Case Number:** A-15-145  
**Applicant:** Mary Lou Galvan  
**Owner:** Mary Lou Galvan  
**Council District:** 4  
**Location:** 5747 Broken Lance Drive  
**Legal Description:** Lot 56, Block 2, NCB 15972  
**Zoning:** "R-6 AHOD" Residential Single-Family Airport Hazard Overlay District  
**Case Manager:** Logan Sparrow, Senior Planner

### Request

A request for a two foot variance from the four foot maximum predominately open front yard fence height, as described in Section 35-514, to allow a six foot tall chain link fence in the front yard of the property.

### Executive Summary

The subject property is located at 5747 Broken Lance Drive, approximately 620 feet west of Running Horse Drive. The applicant is seeking a two foot variance from the six foot maximum front yard, predominately open fence height to allow for the construction of a six foot tall chain link fence. The applicant is requesting the fence to protect her property, which she states have been vandalized and stolen from, and also to keep her three dogs contained on. The applicant submitted police reports of her dog, a Pit Bull, who jumped the existing four foot tall chain link fence and bit a passerby. Further, the applicant claims that this is not the first person her dogs, who reside in the front yard to protect the property, have bitten.

### 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
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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 within the boundaries of the United Southwest Neighborhood 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 Southwest Community 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 fence height limitations to protect property owners and to contribute to a sense of community. Staff finds that the request for a six foot tall fence is not contrary to the public interest as the fence is intended to protect the property owner as well as the public from the property owner's dogs that have bitten passersby on more than one occasion. Additionally, staff noted that the property owner next door has a six foot tall fence in a portion of the front yard, too.**

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

**The applicant provided photographs of an act of vandalism to their vehicles. During the attack, the windows were busted out and the body damaged. Staff finds that allowing the property owner to install a six foot fence will help to deter such acts in the future within this high crime area. Additionally, staff finds that, as the property owner's dogs have bitten people on multiple occasions that this, too, qualifies as a special condition that merits an increased fence height.**

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

**Granting the requested variance will result in substantial justice as the fence will be able to protect the property owner from vandalism and will protect the public from the property owner's dogs.**

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.*

**Staff finds that, as the neighbor already has a six foot tall fence, that the proposed fence will not substantially injure adjacent property, nor will it 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.*

**Staff finds that the unique circumstances present in this case are the abnormally high occurrences of crime within this community and that the adjacent property owner already has the same fence that is requested.**

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

The applicant could reduce the height of the fence to five feet, a height which still protects the property and maintains a more consistent design within this community.

### **Staff Recommendation**

Staff recommends **APPROVAL of variance request in A-15-145** based on the following findings of fact:

1. The fence will protect the property owner from crime which occurs at abnormally high rates within the community and; 2. The fence will protect passersby from the property owner's dogs.
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