



# City of San Antonio

## Agenda Memorandum

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**Agenda Date:** June 3, 2024

**In Control:** Board of Adjustment Meeting

**DEPARTMENT:** Development Services Department

**DEPARTMENT HEAD:** Michael Shannon

**CASE NUMBER:** BOA-24-10300089

**APPLICANT:** Moonstar Adventures, LLC

**OWNER:** Moonstar Adventures, LLC

**COUNCIL DISTRICT IMPACTED:** District 10

**LOCATION:** 167 Country Lane

**LEGAL DESCRIPTION:** Lot 44, Block 1, NCB 11857

**ZONING:** "NP-10 AHOD" Neighborhood Preservation Airport Hazard Overlay District

**CASE MANAGER:** Mirko Maravi, Principal Planner

**A request for**

A 6' variance from the maximum 3' fence height to allow an 9' privacy fence in the front yard.  
Section 35-514

**Executive Summary**

Subject property is located near the San Antonio International Airport, just south of the intersection of Loop 410 and Nacogdoches Road. On February 21, 2024, a permit was applied for and issued for a fence showing a 3-foot privacy fence in the front yard. On March 19, 2024, a Code Enforcement investigation was initiated for building outside the scope of the permit. Upon staff site visit, staff observed a front yard fence of 8-9 feet in height. The lot is 55,103-square feet per Bexar County Appraisal District, and as such is permitted an increased in height of a front yard fence up to 6-feet predominantly open. Properties in the area are predominantly over 20,000-square feet, which permits up to a 6-feet predominantly open fence. No other properties in the area were found to have a tall privacy fence in the front yard. This request does not qualify for a fence height

special exception as those are limited to 8-feet in height on a residential lot. Code Compliance Officer issued a “Stop Work Order” on March 19, 2024, and it appears that finishing work was done to the fence after this date.

### **Code Enforcement History**

INV-PBP-24-3100001579 – March 19, 2024 – Constructing fence outside the scope of permit.

### **Permit History**

RES-FEN-APP24-31800181 – February 21, 2024 – Fence Permit (showing 3’ front yard privacy fence)

### **Zoning History**

The subject property was annexed into the City of San Antonio by Ordinance 18115, dated September 24, 1952, and zoned Temporary “A” Single-Family Residence District. The property was rezoned by Ordinance 24621, dated March 7, 1957, to the “A” Single-Family Residence District. Under the 2001 Unified Development Code, established by Ordinance 93881, dated May 03, 2001, the property zoned “A” Single-Family Residence District converted to the “R-5” Residential Single-Family District. The property was rezoned by Ordinance 2006-06-15-0728, dated June 15, 2006, to the current “NP-10” Neighborhood Preservation District.

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

#### **Existing Zoning**

“NP-10 AHOD” Neighborhood Preservation Airport Hazard Overlay District

#### **Existing Use**

Single-Family Dwelling

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

#### **North**

#### **Existing Zoning**

“NP-10 AHOD” Neighborhood Preservation Airport Hazard Overlay District

#### **Existing Use**

Vacant Lot

#### **South**

#### **Existing Zoning**

“NP-10 AHOD” Neighborhood Preservation Airport Hazard Overlay District

#### **Existing Use**

Single-Family Dwelling

#### **East**

#### **Existing Zoning**

“NP-10 AHOD” Neighborhood Preservation Airport Hazard Overlay District

#### **Existing Use**

Single-Family Dwelling

#### **West**

**Existing Zoning**

“NP-10 AHOD” Neighborhood Preservation Airport Hazard Overlay District

**Existing Use**

Single-Family Dwelling

**Comprehensive Plan Consistency/Neighborhood Association**

The subject property is in the Northeast Inner Loop Neighborhood Plan and is designated as “Low Density Residential” in the future land use component of the plan. The subject property is located within the notification area of Oak Park Northwood Neighborhood Association and the Northeast Neighborhood Alliance Community Organization, and they have been notified of the request.

**Street Classification**

Country Lane is classified as a Local Street.

**Criteria for Review – Fence Height Variance**

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 the privacy fence height in the front yard. This is contrary to the public interest as emergency vehicles are hindered from being able to respond of an emergency on the lot or in the immediate area which compromises the general health, safety and welfare to the public.

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

Staff found no special conditions on the property that could result in unnecessary hardship by abiding by the fence height standards in the Unified Development Code. The property is permitted an extra foot by right because of the size of the lot.

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

By granting the variance, the spirit of the ordinance will not be observed as the additional fence height goes beyond then increased front yard predominantly open fence height.

4. *The variance will not authorize the operation of a use other than those uses specifically authorized in the zoning district in which the variance is located.*

No uses other than those allowed within the district will be allowed with this variance.

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 requested fence height variance will substantially injure the appropriate use of adjacent conforming property and alter the essential character of the district by creating a fortress like development on a residential area.

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 request is not due to any unique circumstances existing on the property as the configuration of the property is similar to the area.

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

The alternative to the applicant's request is to conform to the Fence Height Standards of the UDC Section 35-514.

#### **Staff Recommendation – Fence Height Variance**

Staff recommends Denial in BOA-24-10300089 based on the following findings of fact:

1. The privacy fence height far exceeds the additionally permitted height in the front yard.
2. The variance will alter the essential character of the district by creating a fortress like development on a residential area.
3. Public interest will be compromised as the general safety of the area will be impacted.