

**CITY OF AUSTIN**  
**Board of Adjustment**  
**Decision Sheet**  
**ITEM05**

**DATE: Monday August 14, 2023**

**CASE NUMBER: C15-2023-0033**

Y Thomas Ates  
 N Jessica Cohen  
 Y Melissa Hawthorne  
 Y Brian Poteet  
 Y Marcel Gutierrez-Garza  
 - Margaret Shahrestani (OUT)  
 - Richard Smith (OUT)  
 Y Janel Venzant  
 Y Michael Von Ohlen  
 Y Yung-ju Kim  
 Y Kelly Blume (Alternate)  
 - VACANT (Alternate)  
 - Suzanne Valentine (Alternate)

**APPLICANT: George Ducas**

**OWNER: Chuong Thai-Lazaro & Christian David Lazaro**

**ADDRESS: 828 FALKLAND TRCE**

**VARIANCE REQUESTED:** The applicant is requesting a variance(s) from the Land Development Code, Section 25-2-899 (*Fences as Accessory Uses*) (E) (1) & (2) to increase the height permitted from 6 feet (required) to 8 feet 4 inches (requested), in order to maintain a masonry-wood fence west and north of the property in an “SF-4A”, Single-Family Residence zoning district.

*Note: The Land Development Code 25-2-899 Fences as Accessory Uses*

*(E) a solid fence along a property line may be constructed to a maximum height of eight feet if each owner of property that adjoins a section of the fence that exceeds a height of six feet files written consent to the construction of the fence with the building official; and*

*(1) there is a change in grade of at least two feet within 50 feet of the boundary between adjoining properties; or*

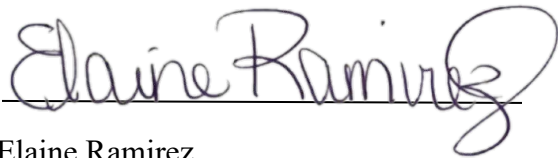
*(2) a structure, including a telephone junction box, exists that is reasonably likely to enable a child to climb over a six foot fence and gain access to a hazardous situation, including a swimming pool.*

**BOARD’S DECISION: AUG 14 BOA MEETING The public hearing was closed by Madam Chair Jessica Cohen, Board member Michael Von Ohlen motions to approve 8 feet fence with condition that the fence is solid and the fence is moved to the outside of the paneling wall to be flush with the outside of the wall one contiguous level plane and not a foothold; Board member Melissa Hawthorne seconds on 8-1 votes (Chair Jessica Cohen nay); GRANTED 8 FEET FENCE WITH CONDITION THAT THE FENCE IS SOLID**

**AND THAT THE FENCE IS MOVED TO THE OUTSIDE OF THE PANELING WALL TO BE FLUSH WITH THE OUTSIDE OF THE WALL TO BE ONE CONTIGUOUS LEVEL PLANE AND NOT A FOOTHOLD.**

**FINDING:**

1. The Zoning regulations applicable to the property do not allow for a reasonable use because: the presence of a Spa-Pool and a lower fence would be a hazard to the area since there are adjacent structures that can be used to the NE and NW to traverse a lower fence.
2. (a) The hardship for which the variance is requested is unique to the property in that: the property has a steep slope, the fence is used to stabilize accessibility and mobility by retaining flat grounds, the fence also protects against potential hazardous conditions because of a spa-pool, the fence also protects against adjacent structures that allow others to traverse a lower fence  
  
(b) The hardship is not general to the area in which the property is located because: the property has a spa-pool and falls under section fences and accessory uses part 1 and 2, and the fence will minimize security problems and hazardous issues, requesting permission to use property without encumbrances and also has approval of the neighborhood.
3. The variance will not alter the character of the area adjacent to the property, will not impair the use of adjacent conforming property, and will not impair the purpose of the regulations of the zoning district in which the property is located because: being a corner property of masonry construction, the fence blends very well with the architecture of the neighborhood.



Elaine Ramirez  
Executive Liaison

*Diana A. Ramirez* for

Jessica Cohen  
Madam Chair