

RESOLUTION NO. 201181 NOV 3 1970

WHEREAS, OWEN and WILLIE FAYE JOHNSON, Owner, "Applicant," filed an application for a variance under Zoning Administrator Case No. 10028 to maintain 72 feet of picket fence, six feet high and to erect 12 feet of picket fence six feet high, observing zero-foot front yard where a maximum three-foot high fence is permitted within a 12-foot established setback located at 5625 McHugh Street between 56th Street and Bollenbacher Street, more particularly described as Lot 10, Emerald Hills Estates, in the R-1-5 Zone; and

WHEREAS, the Zoning Administrator of The City of San Diego denied the request for said variance, which decision was filed in the office of the City Clerk on August 12, 1970; and

WHEREAS, Applicant appealed the decision of the Zoning Administrator to the Board of Zoning Appeals pursuant to Section 101.0507 of the San Diego Municipal Code; and

WHEREAS, the Board of Zoning Appeals on September 28, 1970 upheld the decision of the Zoning Administrator under Case No. 10028, and denied the variance and filed the same in the office of the City Clerk on October 2, 1970; and

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WHEREAS, pursuant to the provisions of Section 101.0507.1 of the San Diego Municipal Code, Owen and Willie Faye Johnson by Fred E. Corbin, Attorney, filed an appeal from the decision of the Board of Zoning Appeals to the City Council on October 13, 1970; and

WHEREAS, said appeal was set for public hearing and was heard on November 3, 1970, testimony having been heard and evidence having been submitted and the City Council having fully considered the matter and being fully advised concerning the same; NOW, THEREFORE,

BE IT RESOLVED, by the Council of The City of San Diego, as follows:

That all of the following facts exist with respect to the granting of a variance that allows Applicant to maintain 72 feet of picket fence, six feet high and to erect 12 feet of picket fence six feet high, observing zero-foot front yard where a maximum three-foot high fence is permitted within a 12-foot established setback located at 5625 McHugh Street between 56th Street and Bollenbacher Street, more particularly described as Lot 10, Emerald Hills Estates, in the R-1-5 Zone.

1. There are special circumstances and conditions applying to the land and buildings for which the adjustment is sought, which circumstances are peculiar to such land and

buildings and do not apply generally to the land and buildings in the neighborhood.

2. The circumstances and conditions are such that the strict application of the provisions of the ordinance would deprive the owners of the reasonable use of the land and buildings and the granting of this adjustment is necessary for the reasonable use of the land and buildings and the adjustment as granted by the City Council is the minimum adjustment that will accomplish this purpose.

3. The granting of the variance will be in harmony with the general purpose and intent of the ordinance and will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

4. The granting of the variance will not adversely affect the Master Plan of the City.

The above findings are further supported by the minutes, tape of the proceedings, maps and exhibits, all of which are incorporated by reference.

BE IT FURTHER RESOLVED, that by a vote of 5 to 4 the City Council does hereby grant the appeal of Owen and Willie Faye Johnson by Fred E. Corbin, Attorney, from the decision of the Board of Zoning Appeals and does hereby grant to OWEN and WILLIE FAYE JOHNSON a variance in the form

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and with the terms and conditions as set forth in the variance
attached hereto and made a part hereof.

APPROVED: JOHN W. WITT, City Attorney

By C. Alan Sumption
C. Alan Sumption, Deputy

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CAS:srr
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VARIANCE - CITY COUNCIL
Case No. 10028

This variance is granted by the Council of The City of San Diego to OWEN and WILLIE FAYE JOHNSON, Owner, "Applicant," for the purposes and terms and on the conditions as set out herein pursuant to the authority contained in Section 101.0503 of the San Diego Municipal Code and related parts thereof and Resolutions Nos. 201181 and 201182, adopted November 3, 1970 by the City Council of The City of San Diego.

1. Permission is hereby granted to Applicant under Zoning Administrator Case No. 10028 to maintain 72 feet of picket fence, six feet high, and to erect 12 feet of picket fence six feet high, observing zero-foot front yard where a maximum three-foot high fence is permitted within a 12-foot established setback located at 5625 McHugh Street between 56th Street and Bollenbacher Street, more particularly described as Lot 10, Emerald Hills Estates, in the R-1-5 Zone.

2. Applicant shall fully comply with all the provisions of the San Diego Building Code except as to height and with engineering requirements as to public right-of-way.

3. The effectiveness of this variance is expressly conditioned upon and the same shall not become effective for any purpose unless and until the following events have occurred:

- a. Applicant shall have agreed to each and every condition hereof by having this variance signed

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within 90 days of the Council's decision.

b. This variance, executed as indicated shall have been recorded in the office of the County Recorder.

4. This variance shall inure to the benefit of and shall constitute a covenant running with the land, and the terms, conditions and provisions hereof shall be binding upon Applicant and any successor or successors thereto and the interest of any such successor shall be subject to each and every condition herein set out.

5. This variance is not a permit or license, and any permit or license required by law must be obtained from the proper department.

6. In addition to any other remedy provided by law, any breach in any of the terms or conditions of this variance or any default on the part of Applicant or its successors in interest shall be deemed a material breach hereof and this variance may be cancelled or revoked. Cancellation or revocation may be instituted by City or Applicant. The Zoning Administrator shall set the matter for public hearing before the Board of Zoning Appeals giving it the same notice as provided in Section 101.0503 of the San Diego Municipal Code. An appeal from the decision of the Board of Zoning Appeals may be taken to the City Council by any interested person within ten days after the decision is filed with the City Clerk.

The Clerk shall set the matter for public hearing before the City Council giving the same notice as provided in Section 101.0503.

7. Any zone variance granted by the City shall be null and void and shall be revoked automatically one year after its effective date unless the use or construction permitted, or both, is commenced before said time expires, in accordance with Municipal Code Section 101.0506.

Passed and adopted by the Council of The City of San Diego on November 3, 1970.

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Passed and adopted by the Council of The City of San Diego on NOV 3 1970,
 by the following vote:

RECEIVED
 CITY CLERK'S OFFICE
 1970 NOV 12 AM 10:26
 SAN DIEGO, CALIF.

| Councilmen | Yeas | Nays | Excused | Absent |
|--------------------|-------------------------------------|-------------------------------------|--------------------------|--------------------------|
| Helen Cobb | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Sam T. Loftin | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Henry L. Landt | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Leon L. Williams | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Floyd L. Morrow | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Bob Martinet | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Allen Hitch | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Mike Schaefer | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Mayor Frank Curran | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |

AUTHENTICATED BY:

FRANK CURRAN
 Mayor of The City of San Diego, California.

JOHN LOCKWOOD
 City Clerk of The City of San Diego, California.

(Seal)

By Elfa P. Hamel, Deputy.

Office of the City Clerk, San Diego, California

Resolution Number 201181 Adopted NOV 3 1970

FORM CC-1276 (1-69)

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