



City of San Antonio

Legislation Details (With Text)

File #: 21-5363

Type: Staff Briefing - Without Ordinance

In control: Board of Adjustment

On agenda: 9/13/2021

Title: BOA-21-10300100: A request by Daniel Moreno for 1) a 25 square-foot variance from the minimum 4,000 square foot requirement to allow a lot size of 3,975 square feet, 2) a 2' variance from the minimum 5' side setback requirement to allow a residential structure to be 3' from the side property line, and 3) a 4' 7" variance from the minimum 20' rear setback to allow a residential structure to be 15' 5" away from the rear property line, located at 2723 Chihuahua Street. Staff recommends Approval. (Council District 5) (Kayla Leal, Senior Planner (210) 207-0197, Kayla.Leal@sanantonio.gov, Development Services Department)

Sponsors:

Indexes:

Code sections:

Attachments: 1. Attachments

Date	Ver.	Action By	Action	Result
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Case Number:	BOA-21-10300100
Applicant:	Daniel Moreno
Owner:	Mary Peck
Council District:	5
Location:	2723 Chihuahua Street
Legal Description:	Lot 37 and 38, Block 2, NCB 2892
Zoning:	"R-4 MLOD-2 MLR-2 AHOD" Residential Single-Family Lackland Military Lighting Overlay Military Lighting Region 1 Airport Hazard Overlay District
Case Manager:	Kayla Leal, Senior Planner

Request

A request for 1) a 25 square-foot variance from the minimum 4,000 square foot requirement, as described in Section 35-310, to allow a lot size of 3,975 square feet, 2) a 2' variance from the minimum 5' side setback requirement, as described in Section 35-310, to allow a residential structure to be 3' from the side property line, and 3) a 4' 7" variance from the minimum 20' rear setback, as described in Section 35-310, to allow a residential structure to be 15' 5" away from the rear property line.

Executive Summary

The subject property is located on the corner of Chihuahua Street and South Minter Street. The lot is currently vacant and the applicant is proposing to build a single-family dwelling on the property. The lot has a constructed pier-and-beam foundation which is built 3’ from the side property line. Additionally, it encroaches into the rear setback by 4’ 7” and the lot size does not meet the minimum square footage requirement of 4,000 square feet.

Code Enforcement History

There is no relevant Code Enforcement History for the subject property.

Permit History

A Demolition Permit was issued on March 10, 2021.

Residential Building Permit Applications have been submitted for the subject property.

Zoning History

The subject property is located in the Original San Antonio City Limits and was zoned “B” Residence District. The zoning changed to “R-7” Small Lot Home District on May 8, 1992, established by Ordinance 75720. Upon adoption of the 2001 Unified Development Code, the zoning converted from “R-7” to the current “R-4” Residential Single-Family District, established by Ordinance 93881, dated May 3, 2001.

Subject Property Zoning/Land Use

Existing Zoning	Existing Use
“R-4 MLOD-2 MLR-2 AHOD” Residential Single-Family Lackland Military Lighting Overlay Military Lighting Region 1 Airport Hazard Overlay District	Single-Family Residence

Surrounding Zoning/Land Use

Orientation	Existing Zoning District(s)	Existing Use
North	“R-4 MLOD-2 MLR-2 AHOD” Residential Single-Family Lackland Military Lighting Overlay Military Lighting Region 1 Airport Hazard Overlay District	Single-Family Residence
South	“R-4 MLOD-2 MLR-2 AHOD” Residential Single-Family Lackland Military Lighting Overlay Military Lighting Region 1 Airport Hazard Overlay District	Single-Family Residence
East	“R-4 MLOD-2 MLR-2 AHOD” Residential Single-Family Lackland Military Lighting Overlay Military Lighting Region 1 Airport Hazard Overlay District	Single-Family Residence

West	“R-4 MLOD-2 MLR-2 AHOD” Residential Single-Family Lackland Military Lighting Overlay Military Lighting Region 1 Airport Hazard Overlay District	Single-Family Residence
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Comprehensive Plan Consistency/Neighborhood Association

The subject property is located within the Guadalupe Westside Community Plan and is designated “Low Density Residential” in the future land use component of the plan. The subject property is located within the El Charro Neighborhood Association and were notified of the case.

Street Classification

Chihuahua Street and South Minter Street are both classified as local roads.

Criteria for Review - Variances

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 variances are for the lot size, side setback, and rear setback. The variance requests do not appear to be contrary to the public interest as the property is located on a corner lot.

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

A literal enforcement of the ordinance would result in the applicant having to rezone the property and abide by the development standards. A demolition permit was issued in March of 2021 and the new development is proposed to be built on the existing foundation.

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 defined as the intent of the code, rather than the exact letter of the law. The recommended variance to allow a 3’ side setback and a 15’ 5” rear setback will maintain the spirit of the ordinance to create more space allow for adequate space.

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.*

If the variance is granted, the structure is not likely to alter the essential character of the district. The distance from the side property line and rear property line is adequate space and does not appear to pose any risk for fire hazards.

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 the plight of the owner of the property for which the variance is sought is due to unique circumstances existing on the property such as the small amount of available space and its location on a corner lot.

Alternative to Applicant's Request

The alternative to the applicant's request is to conform to the Lot and Building Dimensions of the UDC Section 35-310.

Staff Recommendation - Lot Size & Setback Variances

Staff recommends **Approval** in **BOA-21-10300100** based on the following findings of fact:

1. The lot currently measures 3,975 square feet; and
2. The subject property is located on a corner lot; and
3. The residential structure will be setback 3' from the side property line; and
4. The residential structure will be setback 15' 5" from the rear property line.