



# City of San Antonio

## Legislation Details (With Text)

**File #:** 17-3198  
**Type:** Zoning Case  
**In control:** Board of Adjustment  
**On agenda:** 5/15/2017  
**Title:** A-17-107: A request by EIM Partners for a 2,080 square foot variance from the 6,000 square foot minimum lot size to allow a lot with 3,920 square feet, located at 131 Kearney Street. Staff recommends Approval. (Council District 1)  
**Sponsors:**  
**Indexes:**  
**Code sections:**  
**Attachments:** 1. A-17-107 Attachments

Date	Ver.	Action By	Action	Result
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**Case Number:** A-17-107  
**Applicant:** EIM Partners  
**Owner:** Cosplus Investments, LLC  
**Council District:** 1  
**Location:** 131 Kearney Street  
**Legal:** Lot S. 60 ft. of 8, NCB 2956  
**Description:**  
**Zoning:** “R-6 H AHOD” Residential Single-Family Lavaca Historic Airport Hazard Overlay District  
**Case Manager:** Margaret Pahl, AICP, Senior Planner

### Request

A request for a 2,080 sq. ft. variance from the 6,000 sq. ft. minimum lot size requirement in the “R-6” zoning district to allow a lot 3,920 sq. ft. in area, as described in section 35-310.

### Executive Summary

The subject property is located at 131 Kearney Street west of South Presa Street, and includes a 3,920 square foot lot area. The lot is currently vacant and cannot be expanded as the surrounding properties are already developed. The applicant is seeking a variance to reduce the minimum lot size by 2,080 to build a detached single-family dwelling.

### Subject Property Zoning/Land Use

Existing Zoning	Existing Use
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“R-6 H AHOD” Residential Single-Family Lavaca Historic Airport Hazard Overlay District	Vacant Lot
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### **Surrounding Zoning/Land Use**

<b>Orientation</b>	<b>Existing Zoning District(s)</b>	<b>Existing Use</b>
North	“RM-4 H AHOD” Mixed Residential Lavaca Historic Airport Hazard Overlay District	Single-Family Dwelling
South	“RM-4 H AHOD” Mixed Residential Lavaca Historic Airport Hazard Overlay District	Single-Family Dwelling
East	“RM-4 H AHOD” Mixed Residential Lavaca Historic Airport Hazard Overlay District	Single-Family Dwelling
West	“R-6 H AHOD” Residential Single-Family Lavaca Historic Airport Hazard Overlay District	Single-Family Dwelling

### **Comprehensive Plan Consistency/Neighborhood Association**

The property is within the boundaries of the Lavaca Neighborhood Plan and is designated for Low Density Residential uses in the future land use component of the plan. The subject property is also located within the boundaries of Lavaca Neighborhood Association. As such, they were 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 minimum lot sizes that provide for consistent development within the neighborhood. The “R-6” Residential Single-Family District is intended for single-family dwelling uses on a minimum lot size of 6,000 square feet. The proposed construction of a detached single-family dwelling meets the intentions of the zoning district and is not contrary to the public interest.**

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

**The subject property is a 3,920 square foot lot that cannot be expanded as the surrounding lots are already developed. In addition, current City regulations require all properties to be platted before building permits are issued. The property is currently vacant and not platted. In order for new construction, the property must be platted. However, a plat cannot be approved since the property does not meet the minimum 6,000 square foot lot size requirement. Therefore a single-family dwelling cannot be constructed unless a variance is granted.**

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

Granting the request will result in substantial justice, because the proposed development of a detached single-family dwelling advances the efforts of the zoning designation. The variance will promote infill development on this lot that has been vacant from existence. Furthermore, all design aspects of this development must be approved by OHP and HDRC. HDRC has granted conditional conceptual approval of the proposed design.

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.*

**The variance will not authorize the operation of a use other than those uses specifically authorized in the “R-6 H AHOD” Residential Single-Family Lavaca Historic 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.*

**The surrounding single-family dwellings will not be injured by granting the variance, because the lot size will not create incompatible development, nor will it detract from the character of the community. Also, HDRC grants approvals of conceptual design based on design that is consistent with the surrounding historic structures. The character of the surrounding neighborhood will not be altered and the proposed development will be cohesive with the existing pattern of the immediate neighborhood.**

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 unique condition present is that the property has been in its current configuration since 1957 and was given the “R-6” zoning designation in 1965. The property has never been platted and in order to construct on the property there must be a plat, but a plat cannot be approved unless a variance is granted to allow for a smaller lot size.**

#### **Alternative to Applicant’s Request**

Denial of the requested variance would result in the applicant not being able to develop on this parcel.

#### **Staff Recommendation**

Staff recommends **APPROVAL of the requested variance in A-17-107** based on the following findings of fact:

1. The property is not platted and cannot be expanded. This is of no fault of the owner and constitutes a deviation from the minimum lot size; and
2. The surrounding single-family dwellings are unlikely to be negatively affected by the requested variance. This will not alter the essential character of the district.