



# City of San Antonio

## Legislation Details (With Text)

**File #:** 18-6366  
**Type:** Zoning Case  
**In control:** Board of Adjustment  
**On agenda:** 11/19/2018  
**Title:** BOA-18-900001: A request by Joel Martinez for a 920 square foot variance from the minimum 4,000 square foot lot size to allow a lot size to be 3,080 square feet in area, located at 2014 Montezuma Street. Staff recommends Approval. (Council District 5)  
**Sponsors:**  
**Indexes:**  
**Code sections:**  
**Attachments:** 1. Attachments

Date	Ver.	Action By	Action	Result
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**Case Number:** BOA-18-900001  
**Applicant:** Joel Martinez  
**Owner:** Joel Martinez  
**Council District:** 5  
**Location:** 2014 Montezuma Street  
**Legal Description:** Lot 23 and the East 19 feet of Lot 22, Block 1, NCB 2883  
**Zoning:** "R-4 MLOD-2 MLR-2 AHOD" Residential Single-Family  
Lackland Military Lighting Overlay Military Lighting  
Region-2 Airport Hazard Overlay District  
**Case Manager:** Nyliah Acosta, Planner

### Request

A request for a 920 square foot variance from the minimum 4,000 square foot lot size, as described in Section 35-310.01, to allow a lot size to be 3,080 square feet.

### Executive Summary

The subject property is located at 2014 Montezuma Street, and includes a 3,080 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 920 to build a detached single-family dwelling.

### Code Enforcement History

There is no Code Enforcement history directly related to this application.

### Permit History

On 9/11/2018, a residential building application was submitted to Development Services Department. Permits cannot be issued until the lot size discrepancy is addressed.

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

<b>Existing Zoning</b>	<b>Existing Use</b>
“R-4 MLOD-2 MLR-2 AHOD” Residential Single-Family Lackland Military Lighting Overlay Military Lighting Region-2 Airport Hazard Overlay District	Vacant Lot

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

<b>Orientation</b>	<b>Existing Zoning District(s)</b>	<b>Existing Use</b>
North	“C-3R MLOD-2 MLR-2 AHOD” General Commercial Restrictive Alcohol Sales Lackland Military Lighting Overlay Military Lighting Region-2 Airport Hazard Overlay District, “C-2 MLOD-2 MLR-2 AHOD” Commercial Lackland Military Lighting Overlay Military Lighting Region-2 Airport Hazard Overlay District, and “R-4 MLOD-2 MLR-2 AHOD” Residential Single-Family Lackland Military Lighting Overlay Military Lighting Region-2 Airport Hazard	Vacant Lots, Restaurant, Barber Shop
South	“R-4 MLOD-2 MLR-2 AHOD” Residential Single-Family Lackland Military Lighting Overlay Military Lighting Region-2 Airport	Single-Family Dwelling
East	“R-4 MLOD-2 MLR-2 AHOD” Residential Single-Family Lackland Military Lighting Overlay Military Lighting Region-2 Airport	Single-Family Dwelling
West	“R-4 MLOD-2 MLR-2 AHOD” Residential Single-Family Lackland Military Lighting Overlay Military Lighting Region-2 Airport	Single-Family Dwelling

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

The property is within the boundaries of the Guadalupe Westside Community Plan and is currently designated “Low Density Residential” in the future land use component of the plan. The subject property is not located in, or within 200 feet of, any registered neighborhood association.

### **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-4" Residential Single-Family District is intended for single-family dwelling uses on a minimum lot size of 4,000 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 3,080 square foot lot that cannot be expanded as the surrounding lots are already developed. In addition, the lot qualifies for a Certificate of Determination (COD) due to the property having an antiquated plat. Because the property does not meet the minimum 4,000 square foot lot size requirement 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.

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

The variance will not authorize the operation of a use other than those uses specifically authorized in the zoning 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. 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 circumstance existing on the property is that in order to construct on the property the applicant must first secure a Certificate of Determination, but a Certificate of Determination cannot be approved unless a variance is granted to allow for the 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 BOA-18-900001** based on the following findings of fact:

1. The property cannot be expanded, and this is of no fault of the owner and a Certificate of Determination cannot be issued until the variance is granted; 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.