



City of San Antonio

Legislation Details (With Text)

File #: 20-1088
Type: Staff Briefing - Without Ordinance
In control: Board of Adjustment
On agenda: 1/13/2020
Title: BOA-19-10300161: A request by Roberto Elizondo for an 850 square foot variance from the minimum 4,000 square foot lot size to allow a lot size to be 3,150 square feet, located at 1002 Lamar Street. Staff recommends Approval. (Council District 2) (Rachel Smith, Planner (210) 207- 5407, rachel.smith@sanantonio.gov, Development Services Department)

Sponsors:

Indexes:

Code sections:

Attachments: 1. BOA-19-10300161 Attachments

Date	Ver.	Action By	Action	Result
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Case Number: BOA-19-10300161
Applicant: Roberto Elizondo
Owner: WMC Real Estate Investments Corp.
Council District: 2
Location: 1002 Lamar St
Legal Lot 11, Block J, NCB 1315
Description:
Zoning: “R-4 MLOD-3 MLR-2 AHOD” Residential Single Family
Martindale Army Air Field Overlay Military Lighting Region
2 Airport Hazard Overlay District
Case Manager: Rachel Smith, Planner

Request

A request for an 850 square foot variance from the minimum 4,000 square foot lot size requirement, as described in Section 35-310.01, to allow a lot to be 3,150 square feet.

Executive Summary

The subject property is a vacant corner lot at the southwest corner of Lamar and N Palmetto Street. The property is within the original 36 square miles of the City of San Antonio but did not exist as a lot at that time, it was part of the public right of way. The lot was created arbitrarily before 1988, where it appears on a city map with a recorded dimension of 50’ wide by ## ‘ deep. Today, according to the Bexar County Appraisal District, the lot is 30’. There is no record of a plat recorded for the property which would be required for

building permits to be issued.

The applicant is under contract to purchase the property, pending the outcome of resolving zoning issues to allow for the development of single family homes. The applicant is also planning to purchase the adjacent lot (1000 Lamar) to develop a single family home. The applicant states he will be able to comply with the building setback requirements for the home on this lot, which he is proposing to be approximately 1,500 square feet. A survey of the property is being conducted. The applicant will be filing for a Certificate of Determination for the subject property to be able to obtain building permits and appears to meet the requirements except for the lot size.

Code Enforcement History

There is no code enforcement history on file for this property.

Permit History

The property has no permits on file.

Zoning History

The subject property is within the original 36 square miles of the City of San Antonio and was zoned “C” Apartment district. The property was rezoned by Ordinance 70785 dated December 14, 1989, from “C” Apartment district to “R-7” Small lot residential district. Under the 2001 Unified Development Code, established by Ordinance 93881, dated May 3, 2001, the property zoned “R-7” Two-family residential district was converted to “R-4” Residential Single Family district.

Subject Property Zoning/Land Use

Existing Zoning	Existing Use
“R-4 MLOD-3 MLR-2 AHOD” Residential Single Family Martindale Army Air Field Overlay Military Lighting Region 2 Airport Hazard Overlay District	Vacant lot

Surrounding Zoning/Land Use

Orientation	Existing Zoning District(s)	Existing Use
North	“R-4 MLOD-3 MLR-2 AHOD” Residential Single Family Martindale Army Air Field Overlay Military Lighting Region 2 Airport Hazard Overlay District	Single family residence
South	“R-4 MLOD-3 MLR-2 AHOD” Residential Single Family Martindale Army Air Field Overlay Military Lighting Region 2 Airport Hazard Overlay District	Single Family Residence

East	“R-4 MLOD-3 MLR-2 AHOD” Residential Single Family Martindale Army Air Field Overlay Military Lighting Region 2 Airport Hazard Overlay District	Single Family Residence
West	“R-5 MLOD-3 MLR-2 AHOD” Residential Single Family Martindale Army Air Field Overlay Military Lighting Region 2 Airport Hazard Overlay District	Single family residence

Comprehensive Plan Consistency/Neighborhood Association

The subject property is in the Dignowity Hill Plan and designated as “Low Density Residential” in the future land use component of the plan. The subject property is in the boundaries of the Dignowity Hill Neighborhood Association and as such, they were notified of the case.

Street Classification

Lamar Street is classified as a local street.

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 the minimum lot sizes that provide for consistent development within the neighborhood. The “R-4” Residential Single-Family District requires a minimum lot size of 4,000 square feet. The subject property was arbitrarily created with a lot size that is just under the required lot size. The requested variance of the lot size is not contrary to the public interest

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

The literal enforcement of the ordinance would not allow the owner of the property to develop the lot as intended. In order for new construction, the property must be platted or the applicant must have a Certificate of Determination to avoid platting. The lot appears to meet the requirements for a Certificate of Determination (COD). However, a COD cannot be granted, because the property does not meet the minimum 4,000 square foot lot size requirement, and 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 detached single-family dwellings advances the efforts of the zoning designation. The variance will promote

infill development on this lot.

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.*

The surrounding single-family dwellings will not be injured by granting the variance, because the lot size will not create incompatible development. The character of the surrounding neighborhood will not be altered and the proposed development will be cohesive with the existing pattern of development within 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 lot does not meet the required minimum lot size and it was created arbitrarily. A Certificate of Determination cannot be approved unless a variance is granted to allow for a smaller lot size to develop single-family dwelling units.

Alternative to Applicant's Request

The alternative to the applicant's request is to conform to the lot size requirements of the UDC section 310.01 or to rezone the property to a district that allows that lot size.

Staff Recommendation

Staff recommends **APPROVAL** of the special exception in **BOA-19-10300161** based on the following findings of fact:

1. The property is not platted and this is of no fault of the owner.
2. The surrounding dwellings are unlikely to be negatively affected by the requested variance.
3. The variance will not alter the essential character of the district.