



# City of San Antonio

## Legislation Details (With Text)

**File #:** 21-4980

**Type:** Staff Briefing - Without Ordinance

**In control:** Board of Adjustment

**On agenda:** 8/2/2021

**Title:** BOA-21-10300070: A request by Jim Popa for 1) a 412 square foot variance from the required 6,000 square foot minimum lot size requirement to allow for a 5,588 square foot lot, located at 221 Rose Lane. Staff recommends Approval. (Council District 1) (Roland Arsate, Planner (210) 207-3074, Roland.Arsate@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-21-10300070
Applicant:	Jim Popa
Owner:	D&O Developers
Council District:	1
Location:	221 Rose Lane
Legal Description:	Lot S 100 FT OF A1, NCB 1719
Zoning:	"R-6 UC-4 AHOD" Residential Single-Family North St. Mary's Street Urban Corridor Airport Hazard Overlay District
Case Manager:	Roland Arsate, Planner

### Request

A request for 1) a 412 sq. ft. variance from the required 6,000 sq. ft. minimum lot size requirement, as described in Section 35-310.01, to allow a 5,588 sq. ft. lot.

### Executive Summary

The subject property is located on 221 Rose Lane and is currently vacant. The applicant is requesting a variance to the minimum lot size requirement in order to build a single family residence on the property. The zoning is currently "R-6" which requires a minimum lot size of 6,000 square feet and the property is currently 5,588 square feet. Upon the site visit conducted by BOA staff, it appeared that the front yard fence may be

located within the city's Right-of-Way. The applicant has been informed of this issue to find a resolution.

In accordance with the San Antonio City Unified Development Code, the Office of Historic Preservation reviews all demolition applications for any property located within the city limits of San Antonio. Approval of a zoning variance does not imply approval of or take the place of such demolition review as directed by the UDC. On May 6, 2021, the Office of Historic Preservation approved an emergency demolition at this address.

### **Code Enforcement History**

An emergency demolition was performed on the existing structure on July 08, 2021 due to dangerous structural conditions.

### **Permit History**

A residential building permit was pulled on 12/15/2020. The permit has since expired without any work being conducted.

An application for a new residential home was submitted on 02/28/2021 and is currently under plan review.

### **Zoning History**

The subject property is located within the Original City Limits of San Antonio and was zoned "B" Residence District. The zoning changed from "B" to "R-1" Single-Family Residential District, established by Ordinance 83331, dated December 14, 1995. The zoning converted from "R-1" to the current "R-6" Residential Single-Family District upon adoption of the 2001 Unified Development Code (Ordinance 93881, dated May 3, 2001).

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

<b>Existing Zoning</b>	<b>Existing Use</b>
"R-6 UC-4 AHOD" Residential Single-Family North St. Mary's Street Urban Corridor Airport Hazard Overlay District	Single-Family Residence

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

<b>Orientation</b>	<b>Existing Zoning District(s)</b>	<b>Existing Use</b>
North	"R-6 UC-4 AHOD" Residential Single-Family North St. Mary's Street Urban Corridor Airport Hazard Overlay District	Single-Family Residence
South	"R-6 UC-4 AHOD" Residential Single-Family North St. Mary's Street Urban Corridor Airport Hazard Overlay District	Single-Family Residence
East	"R-6 UC-4 AHOD" Residential Single-Family North St. Mary's Street Urban Corridor Airport Hazard Overlay District	Single-Family Residence

West	“R-6 UC-4 AHOD” Residential Single-Family North St. Mary’s Street Urban Corridor Airport Hazard Overlay District	Single-Family Residence
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### **Comprehensive Plan Consistency/Neighborhood Association**

The subject property is designated as “Urban Low Density Residential” in the future land use. component of the Midtown Regional Center Area Plan. The subject property is in the Tobin Hill Community Association and they were notified of the case.

### **Street Classification**

Rose Lane is classified as Local Road

### **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 applicant is requesting a variance to the minimum lot size required to erect a residential home, which is not contrary to the public interest and does not pose any adverse effects.**

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

**The proposed structure will be on Rose Lane, so a literal enforcement of the ordinance would result in a variance to the minimum lot size requirement.**

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. With the structure on Rose Lane maintaining a 10’ front setback and 5 ft from the side and 20’ rear setback from the property line, the spirit of the ordinance will be observed and substantial justice will be done.**

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 granted, the structure is not likely to alter the essential character of the district.**

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. The proposed structure facing Rose Lane already existed previously prior to demolition. The circumstances were not created by the owner and are not merely financial.**

### **Alternative to Applicant's Request**

The alternative to the applicant's request is to conform to the Minimum Building Setbacks Standards of Section 35-310.01.

### **Staff Recommendation - Minimum Lot Size Variances Waiver**

Staff recommends **Approval** in **BOA-21-10300070** based on the following findings of fact:

1. Some lots in the area have been subdivided into smaller lots to construct residential homes
2. The structure facing Rose Lane matches similar lot sizes in area of the proposed house.
3. A new residential structure will enhance the surrounding neighborhood.