



# City of San Antonio

## Agenda Memorandum

**File Number:**18-2661

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**Agenda Item Number:** 10.

**Agenda Date:** 4/2/2018

**In Control:** Board of Adjustment

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**Case Number:** A-18-063  
**Applicant:** Orange Bison Enterprises, LLC  
**Owner:** Orange Bison Enterprises, LLC  
**Council District:** 1  
**Location:** 110 Kearney Street  
**Legal:** Lot E, Block 2, NCB 3035  
**Description:**  
**Zoning:** "RM-4 NCD-1 AHOD" Residential Mixed South  
Presa/South St. Mary's Neighborhood Conservation Airport  
Hazard Overlay District  
**Case Manager:** Dominic Silva, Planner

### Request

A request for 1) a 5'7" inch variance from the median blockface front setback, as described in the South Presa/South St. Mary's Neighborhood Conservation District design requirement, to allow the front setback of the dwelling to be 7'6" and 2) a 3'4" variance from the 5' side setback requirement, as described in Section 35-310.01, to allow the east side setback of the dwelling to be 2'8" and 3) a 2'4" variance from the 5' rear setback, as described in Section 35-370.02, for a detached garage to be 2'8" from the rear property line.

### Executive Summary

The subject property is located at 110 Kearney Street, 140 feet east of South Presa Street. The applicant has requested to re-build a three story residential unit on top of the existing foundation. The applicant states the previous structure was blown down by Hurricane Harvey in 2017 and thus any new renovations on a lot of this size (3,337 square feet) will require setback relief on the front and sides from the Board.

### Subject Property Zoning/Land Use

Existing Zoning	Existing Use
"RM-4 NCD-1 AHOD" Residential Mixed South Presa/South St. Mary's Neighborhood Conservation	Single-Family Dwelling

## Surrounding Zoning/Land Use

Orientation	Existing Zoning District(s)	Existing Use
North	“RM-4 NCD-1 AHOD” Residential Mixed South Presa/South St. Mary’s Neighborhood Conservation	Single-Family Dwelling
South	“RM-4 NCD-1 AHOD” Residential Mixed South Presa/South St. Mary’s Neighborhood Conservation Overlay District	Single-Family Dwelling
East	“RM-4 NCD-1 AHOD” Residential Mixed South Presa/South St. Mary’s Neighborhood Conservation	Single-Family Dwelling
West	“RM-4 NCD-1 AHOD” Residential Mixed South Presa/South St. Mary’s Neighborhood Conservation	Single-Family Dwelling

## Comprehensive Plan Consistency/Neighborhood Association

The subject property is within the boundaries of the Lavaca Neighborhood Plan and currently designated as Mixed Use in the future land use component of the plan. The subject property is located within the boundaries of the 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, given the lot constraints, granting the variances still provides adequate accessibility to light, air, and open space.**

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 unnecessary hardship by requiring the lot to remain vacant with only concrete slab foundation. Further, if enforced, the ordinance would significantly reduce the amount of developable space on the lot.**

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 the intent of the code, rather than the strict letter of the law. The intent of the setback limitation is to prevent fire spread, allow adequate space for maintenance, and encourage proper storm water drainage. All intents of this law will be observed if approved.**

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

**The requested variance will not authorize the operation of a use on the subject property other than those specifically permitted in the “RM-4 NCD-1 AHOD” Residential Mixed South Presa/South St. Mary’s Neighborhood Conservation 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.*

**This variance would not substantially injure or alter the use or character of adjacent conforming property. Specifically, the variance would not place the structure out of character within the community as the re-built structure is being placed directly on the existing foundation and is the same size as the previous structure.**

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 circumstances existing on the property are due to the lot. Given the size, any future additions will need relief from the Board due to the lack developable space available.**

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

The alternative to the applicant's request is to conform to setbacks set forth in the Unified Development Code.

#### **Staff Recommendation**

Staff recommends **APPROVAL of A-18-063** based on the following findings of fact:

1. The requested variance is will not detract from the character of the district, and;
2. Adequate space will be utilized to prevent storm water runoff, maintenance of property, and maintenance of the structure without trespass, and;
3. The lot is too small to reasonably provide for all required setbacks.