



City of San Antonio

Agenda Memorandum

File Number:20-3918

Agenda Item Number: 6.

Agenda Date: 7/6/2020

In Control: Board of Adjustment

Case Number: BOA-10300053
Applicant: Orange Bison Enterprises, LLC
Owner: Orange Bison Enterprises, LLC
Council District: 1
Location: 110 Kearney
Legal: Lot E 71 FT of Lot 1, Block 2, NCB 3035
Description:
Zoning: "RM-4 AHOD" Residential Mixed Airport Hazard Overlay
District
Case Manager: Azadeh Sagheb, Planner

Request

A request for 1) a 663 square foot variance from 4,000 square foot minimum lot size requirement to allow a lot size to be 3,337 square feet and 2) a 4'6" variance from the 10' minimum rear setback to allow a structure to be 5'6" from the rear property line, and 3) a 2'6" variance from the required 20' minimum separation between garage entrance to property line to allow a garage entrance to be located 17'6" away from the front property line.

Executive Summary

The subject property is located at 110 Kearney Street, 140 feet east of South Presa Street. The applicant bought the property in 2017 and states that the incomplete structure was blown down by Hurricane Harvey in 2017, and only the foundation was remained. In 2018, the applicant applied for the BOA with case number A-18-063 requesting setback variances approval on the front and sides of the property for constructing a new building that was denied.

The lot size is 3,337 square feet which is below the required 4,000 square feet for RM-4 base zoning.

There was a BOA request A-17-107 for a minimum lot size of a neighboring property located at 131 Kearney, zoned "R-6" to be 3,920 square feet from the 6,000 square feet minimum lot size requirement that was approved on May 15, 2017.

Code Enforcement History

Previous code enforcement cases are closed.

Permit History

No permit history exists on this property.

Zoning History

The subject property is located within the original 36 square miles of the City of San Antonio. Under the 2001 Unified Development Code, established by Ordinance 93881, dated May 03, 2001, the property zoned “R-2” Two-Family Residence District converted to the current “RM-4” Residential Mixed District.

Subject Property Zoning/Land Use

Existing Zoning	Existing Use
“RM-4 AHOD” Residential Mixed Airport Hazard Overlay District	Vacant

Surrounding Zoning/Land Use

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

Comprehensive Plan Consistency/Neighborhood Association

The subject property is within the boundaries of the Downtown Area Regional Center Plan and currently designated as Urban Low Density Residential in the future land use component of the plan. The subject property is located within the boundaries of Lavaca Neighborhood Association. As such, they were notified and asked to comment.

Street Classification

Kearney Street is classified as a local street.

Criteria for Review

According to Section 35-482(e) of the UDC, in order for variances 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 size constraints, granting the variances is not contrary to the public interest.
2. *Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship.*
The unnecessary hardship relates to the fact that if the variance is not granted, the applicant will not be able to build on this site and the property will be kept vacant. It creates hardship on the neighbors who do not enjoy a vacant lot beside them.
3. *By granting the variance, the spirit of the ordinance will be observed and substantial justice will be done.*
The property on this variance relates to an arbitrary lot created long ago prior to the current owner's purchase. The owner acquired the property with the current specific size and has invested time and effort for its development.
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 subject property and the adjacent properties are residential. Further, since it is the same residential use, this variance would not substantially injure or alter the use or character of adjacent conforming property or 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.*
The unique circumstances existing on the property are neither due to the general conditions of the district, nor due to the owner, and is not financial in nature. This is created by the proliferation of older, outdated substandard lots.

Alternative to Applicant's Request

Denial of the request would result in the owner having to meet the required lot size requirements adhering to Section 35-310, and setback requirements as described in Section 35-516.

Staff Recommendation

Staff recommends **APPROVAL of BOA-10300053** of the requested variances based on the following findings of fact:

1. The requested variances will not detract from the neighborhood character, and;
2. The lot size is too small to reasonably comply with all setback standards, and;
3. Adequate space will be utilized to prevent storm water runoff, and maintenance of the

property.