



# City of San Antonio

## Agenda Memorandum

**File Number:**20-6680

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**Agenda Item Number:** 7.

**Agenda Date:** 11/16/2020

**In Control:** Board of Adjustment

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Case Number: BOA-20-10300101  
Applicant: Elebrt Fuqua  
Owner: Elebrt Fuqua  
Council District: 2  
Location: 400 Montana  
Legal Description: Lot West 25 Feet of Lot 1, Block 1, NCB 609  
Zoning: "IDZ-2 AHOD" Medium Density Infill Development  
Zone Airport Hazard Overlay District with uses permitted  
for two (2) residential units  
Case Manager: Azadeh Sagheb, Planner

### **Request**

A request for from the Medium Density Infill Development (IDZ-2) design standards for a 4' variance from the 5' perimeter requirement to allow the new structure to be 1' away from the side property line.

### **Executive Summary**

The subject property is located at the intersection of Montana and South Mesquite Street, 520 feet Eastern side of Alamodome. The applicant is requesting a 4' side setback variance to construct a new residential building to be within the side setback. The property was rezoned into IDZ-2 Medium Density Infill Development Zone with uses permitted for two (2) residential units in July 2019, and that development of two dwelling units with a maximum of four (4) stories is allowed on this lot. There is currently a 3-story house built on this property, and the applicant is willing to build the second 3-story house.

On October 7, 2019, two variance requests to allow both structures to be within the side setbacks in the east and west side property line received approval from the Board of Adjustment, and the current request has been filed for the north side.

The site plan adopted by City Council reflects 1500 square feet as the living space for both structures, but the proposed square footage for the new building is 1820 sq.ft. and the applicant is in the process of submitting a minor amendment request for the new site plan to comply with the Code requirement.

### **Code Enforcement History**

There is no Code enforcement record for the subject property.

### **Permit History**

There is a pending permit application on file for a new three-story single family residential with an attached garage for this property.

### **Clear Vision Review**

A review of Clear Vision is not required.

### **Zoning History**

The property is within the original 36 square miles of the City of San Antonio and was originally zoned as "R-2" Two Family Residence District. The "R-2" zoning converted to "RM-4" Residential Mixed District with the adoption of the 2001 Unified Development Code (UDC), established by Ordinance 93881, on May 3, 2001. In December 14, 2009 the property was part of a large rezoning case that changed the "RM-4" Residential Mixed District to "AE-2" Arts and Entertainment District. The subject property converted by Ordinance 2019-06-06-0471 dated July 6, 2019 to the current "IZD-2" Infill Development Zone with uses permitted for Two Residential Units.

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

Existing Zoning	Existing Use
"IDZ-2 AHOD" Infill Development Zone with uses permitted for Two Residential Units Airport Hazard Overlay District	Residential

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

Orientation	Existing Zoning District(s)	Existing Use
North	"AE-2 AHOD" Arts and Entertainment Airport Hazard Overlay District	Residential
South	"RM-4 AHOD" Residential Mixed Airport Hazard Overlay District Units Airport Hazard Overlay District	Residential
East	"AE-2 AHOD" Arts and Entertainment Airport Hazard Overlay District	Vacant
West	"AE-2 AHOD" Arts and Entertainment Airport Hazard Overlay District	Residential

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

The subject property is located within the boundaries of the Downtown Neighborhood Plan is currently designated as "Residential" in the future land use component of the plan. The subject property is located within the boundaries of the Alamodome Gardens Neighborhood Association. As such, they were notified and asked to comment.

## **Street Classification**

Montana 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, reducing the north property line to 1' would leave adequate space for long term maintenance and fire spread separation.**

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 creating difficulties in reducing the amount of developable space on the site. The applicant will not be able to construct the single-family home as intended.**

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 in the zoning district in which the variance is located.*

**The requested variances will not permit a use not authorized within the district it is located in.**

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 or character of the district. Specifically, the variance would not place the structure out of character within the community.**

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. Due to the design guidelines of a minimum setback requirement, the amount of developable space is reduced.**

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

The alternative to the applicant's request is to conform to the setbacks set forth in the Unified Development Code, Section 35-310.01.

### **Staff Recommendation**

Staff recommends **APPROVAL of BOA-20-10300101** because of the following reasons:

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.