



# City of San Antonio

## Agenda Memorandum

**File Number:**21-1618

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**Agenda Item Number:** 4.

**Agenda Date:** 2/15/2021

**In Control:** Board of Adjustment

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Case Number: BOA-21-10300006  
Applicant: Philip Schulman  
Owner: Philip Schulman  
Council District: 3  
Location: 105 Lux Lane  
Legal Description: Lot N 108 feet of Lot 6, Block 50, NCB 3318  
Zoning: "R-4 MLOD-3 MLR-2 AHOD" Residential Single-Family  
Martindale Air Field Military Lighting Overlay Military  
Lighting Region 2 Airport Hazard Overlay District  
Case Manager: Azadeh Sagheb, Planner

### **Request**

A request for 1) a 1,480 square foot variance from the minimum lot size square footage of 4,000, as described in Section 35-310.01, to allow a lot to be 2,520 square feet, and 2) a 5' variance from the minimum 20' rear setback requirement, also described in Section 35-310.01, to allow the structure to be 15' from the rear property line.

### **Executive Summary**

The subject property is located on Lux Lane, South of IH-10 East Access Road and East of South New Braunfels Avenue. The property was a portion of a larger lot which was subdivided in 2016 and created a substandard lot with an area of 2,520 square feet. The applicant is requesting a lot size variance. There currently exists a nonconforming structure on this lot, and the applicant wants to provide some necessary repairs, remodel the structure and bring it up to Code. As the proposed adjustments will be more than 50% of the structure's value, the variance must be obtained. The applicant states that the overall square footage of the structure will be maintained.

The subject property is abutting an alley on the south side that covers the side setback requirement. However, the structure is 15' away from the rear property line, and in order to comply with the Code, a 5' variance to the rear setback is also needed. If the variances are granted, the applicant will go through the re-platting process.

### **Code Enforcement History**

No code enforcement history exists on this property.

### **Permit History**

No permits have been processed for this property.

### **Clear Vision Review**

A review of Clear Vision is not required for this request.

### **Zoning History**

The property is within the original 36 square miles of the City of San Antonio and was originally zoned as “B” Residence District. The subject property was converted to the current “R-4” Residential Single-Family District with the adoption of the 2001 Unified Development Code (UDC), established by Ordinance 93881, on May 3, 2001.

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

<b>Existing Zoning</b>	<b>Existing Use</b>
"R-4 MLOD-3 MLR-2 AHOD" Residential Single-Family Martindale Air Field Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District	Residential

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

<b>Orientation</b>	<b>Existing Zoning District(s)</b>	<b>Existing Use</b>
North	"R-4 MLOD-3 MLR-2 AHOD" Residential Single-Family Martindale Air Field Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District	Residential
South	"R-4 MLOD-3 MLR-2 AHOD" Residential Single-Family Martindale Air Field Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District	Residential
East	"R-4 MLOD-3 MLR-2 AHOD" Residential Single-Family Martindale Air Field Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District	Residential

West	"R-4 MLOD-3 MLR-2 AHOD" Residential Single-Family Martindale Air Field Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District	Residential
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### Comprehensive Plan Consistency/Neighborhood Association

The subject property is located within the Highlands Community Plan and is designated as “Low-Density Residential” in the future land use component of the plan. The subject property is within the boundaries of the Highland Park Neighborhood Association.

### Street Classification

Lux Lane 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, given the lot constraints, granting the variances still provides adequate accessibility to light, air, and open space. The neighborhood is predominantly surrounded by single-family residential and restoring this house will add to the wellbeing of the surrounding community.**
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. In the absence of variances, the intended redevelopment will not be possible. The lot square footage is below the minimum code requirement, so any development on the lot will require variances.**
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. Approving the requested variances will not detract from the intent of the ordinance to provide safety, beauty, and quality of life in the neighborhood. All intents of this law will be observed.**
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.*  
**The requested variances to reduce the lot size and the rear setback would not substantially injure or alter the use or character of adjacent conforming property or character of the district. The variances would not alter the essential character of the vicinity.**
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 plight resulted from the exceptional character of the property, which is its size and being used as a**

**neglected rental residence. The current owner wants to upgrade the structure and return it to occupancy.**

**Alternative to Applicant's Request**

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

**Staff Recommendation**

Staff recommends **APPROVAL** of **BOA-21-10300006**, based on the following findings of fact:

1. The intended redevelopment would enhance the structure and the neighborhood, and;
2. The requested variances will not detract from the character of the district.