



# City of San Antonio

## Agenda Memorandum

**File Number:**21-4482

**Agenda Item Number:** 8.

**Agenda Date:** 6/21/2021

**In Control:** Board of Adjustment

Case Number:	BOA-21-10300062
Applicant:	Brett Henneke
Owner:	Brett Henneke
Council District:	2
Location:	1717 Burnet St
Legal Description:	Lot 144, Block E, NCB 11546
Zoning:	"MF-33 EP-1 MLOD-3 MLR-2 AHOD" Multi-Family Facility Parking/Traffic Control Martindale Army Air Field Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District
Case Manager:	Mirko Maravi, Senior Planner

### **Request**

A request for 1) a 10' variance from the minimum 20' rear setback as required in Section 35-310.01, to allow the structure to be 10' from the rear property line, 2) an 1,827 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 2,173 square feet, and 3) an 8' variance from the minimum 20' garage setback, as described in Section 35-516(g), to allow a garage to have a 12' front setback.

### **Executive Summary**

The subject property is located east of downtown, just east of the Burnet Street and North New Braunfels Avenue intersection. The area is zoned "MF-33" with smaller sized dwellings/multi-family units in the area as the dwelling proposed with the requested variances. Single family residential built in "MF" zoning must adhere to the standards for "R-4" single family residential zoning. However, the lot is 2,173 square feet well below the 4,000 square foot requirement. The garage is attached to the proposed dwelling and does not extend past the front façade of principal dwelling.

### **Code Enforcement History**

Various overgrown, debris and fire damage code enforcement history.

### **Permit History**

RES-RBP-APP21-35502278 applied for on April 26, 2021. Zoning staff notified property owner of required variance on May 6, 2021. Permit pending approval of requested variances.

### **Zoning History**

The subject property is in the original 36 square miles of the City of San Antonio and originally zoned "C" Apartment District. Under the 2001 Unified Development Code, established by Ordinance 93881, dated May 03, 2001, the property zoned "C" Apartment District converted to the current "MF-33" Multi-Family District.

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

Existing Zoning	Existing Use
"MF-33 EP-1 MLOD-3 MLR-2 AHOD" Multi-Family Facility Parking/Traffic Control Martindale Army Air Field Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District	Vacant Lot

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

Orientation	Existing Zoning District(s)	Existing Use
North	"MF-33 EP-1 MLOD-3 MLR-2 AHOD" Multi-Family Facility Parking/Traffic Control Martindale Army Air Field Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District	Vacant Lot
South	"MF-33 EP-1 MLOD-3 MLR-2 AHOD" Multi-Family Facility Parking/Traffic Control Martindale Army Air Field Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District	Multi-Family
East	"MF-33 EP-1 MLOD-3 MLR-2 AHOD" Multi-Family Facility Parking/Traffic Control Martindale Army Air Field Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District	Single-Family Residence

West	"MF-33 EP-1 MLOD-3 MLR-2 AHOD" Multi-Family Facility Parking/Traffic Control Martindale Army Air Field Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District	Single-Family Residence
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### **Comprehensive Plan Consistency/Neighborhood Association**

The subject property is in the Arena District Community Plan and is designated “Medium Density Residential” in the future land use component of the plan. The subject property is not located within any registered Neighborhood Association.

### **Street Classification**

Burnet Street is classified as a Local Roads.

### **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 rear setback, minimum lot size requirement and garage setback requirement. The requested variances are not contrary to the public interest.**

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

**The lot has a size of 2,173 square feet, which can reasonably accommodate a single-family dwelling, however not enough space for a rear setback and a garage driveway setback. A literal enforcement of the ordinance would prevent the construction of a single-family dwelling.**

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. The size of the lot would be equivalent to an “R-2” zoned lot which would permit the current lot size and the setback requested. The variance will also include the garage setback needed for a lot this size.**

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 single-family dwelling will match similar sized dwelling in the immediate area and 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 size of the lot presents a unique circumstance which would require a rear setback and lot size variance to build a single-family dwelling. The attached garage does not exceed past the front façade of the principal structure and still requires a garage setback.**

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

The alternative to the applicant's request is to conform to the Setback and Lot and Building Dimensions of the UDC Sections 35-310.01, and garage setback in UDC Section 35-516(g).

### **Staff Recommendation**

Staff recommends **Approval** in **BOA-21-10300062** based on the following findings of fact:

1. Setback and lot size variance would not be required with adequate zoning with same use; and
2. The garage does not exceed past the front façade of the principal dwelling.