



# City of San Antonio

## Agenda Memorandum

**File Number:**21-5154

**Agenda Item Number:** 7.

**Agenda Date:** 8/16/2021

**In Control:** Board of Adjustment

Case Number:	BOA-21-10300085
Applicant:	Henry Banowsky
Owner:	Henry Banowsky
Council District:	5
Location:	1301 South Hamilton Street
Legal Description:	Lot 10 & 11, NCB 2490
Zoning:	"R-4 MLOD-2 MLR-2 AHOD" Residential Single-Family Lackland Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District.
Case Manager:	Roland Arsate, Planner

### **Request**

A request for a 251 square foot variance from the minimum lot size requirement of 4,000 square feet, as described in Section 35-310, to allow a lot size of 3,749 square feet.

### **Executive Summary**

The subject property is located on the corner of South Hamilton Street and Tampico Street. There are currently no structures on the subject property. The subject property was previously platted on November 19, 1924 with the measurements of 1,875 square feet for each lot. The applicant is currently looking to build a residential structure on lots 10 and 11. In 2001 the zoning converted to "R-4" Residential-Single Family District, which requires a minimum lot size of 4,000 square feet. The site plan submitted by the applicant confirms the proposed structure will abide by all other setbacks.

### **Code Enforcement History**

There are no relevant Code Enforcement violations pending.

### **Permit History**

Residential Building application submitted for a 1400 sq ft residential house on April 25, 2021.

### **Zoning History**

The subject property is located within the Original City Limits of San Antonio and was zoned “B” Residence District. The zoning changed from “B” to “R-7” Small Lot Home District, established by Ordinance 75720, dated May 7, 1992. The zoning converted from “R-7” to the current “R-4” Residential Single-Family District upon adoption of the 2001 Unified Development Code (Ordinance 93881, dated May 3, 2001).

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

<b>Existing Zoning</b>	<b>Existing Use</b>
“R-4 MLOD-2 MLR-2 AHOD” Residential Single-Family Lackland Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District.	Single-Family Residence

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

<b>Orientation</b>	<b>Existing Zoning District(s)</b>	<b>Existing Use</b>
North	“R-4 MLOD-2 MLR-2 AHOD” Residential Single-Family Lackland Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District.	Single-Family Residence
South	“R-4 MLOD-2 MLR-2 AHOD” Residential Single-Family Lackland Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District.	Single-Family Residence
East	“MF-33 MLOD-2 MLR-2 AHOD” Multi-Family Lackland Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District.	Multi-Family District
West	“R-4 MLOD-2 MLR-2 AHOD” Residential Single-Family Lackland Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District.	Single-Family Residence

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

The subject property is designated “Low Density Residential” in the future land use component of the Guadalupe Westside Plan. The property is located in the El Charro Neighborhood Association and they were notified of the case.

### **Street Classification**

South Hamilton Street is classified as a Local Road.

## **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 minimum lot size requirement for a 1,200 sq. ft. house to be constructed on a vacant lot, which is not contrary to the public interest. The side setback for the structure must also be a minimum of 5 ft. from property line per Section 35-310, which does not pose any adverse effects.**

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

**The proposed structure facing South Hamilton is pending construction, so a literal enforcement of the ordinance would result in the applicant having to rezone and replat the property. A Certificate of Determination will suffice, however a variance is required first.**

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. With the proposed structure facing South Hamilton Street maintaining all minimum setback requirements, the spirit of the ordinance will be observed and substantial justice will be done.**

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 proposed structure will maintain the required structure setbacks from the property lines which is 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 proposed structure facing South Hamilton Street is pending approval from the Board of Adjustments for construction on a vacant lot. The circumstances were not created by the owner and are not merely financial.**

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

The alternative to the applicant's request is to conform to the Minimum Building Setbacks Standards of Section 35-516 (g).

### **Staff Recommendation - Minimum Lot Size Variances Waiver**

Staff recommends **Approval** in **BOA-21-10300085** based on the following findings of fact:

1. Lots in area have all been subdivided numerous times into smaller lots to construct residential homes; and
2. The structure facing South Hamilton matches similar lot sizes in area of proposed house; and
3. A new residential structure will enhance the surrounding neighborhood.