City of San Antonio

Agenda Memorandum

File Number:21-5379

Agenda Item Number: 12.

Agenda Date: 9/20/2021

In Control: Board of Adjustment

Case Number:	BOA-21-10300112
Applicant:	Eric Duxstad
Owner:	Eric Duxstad
Council District:	2
Location:	123 and 131 Boudet Place
Legal Description:	South 50 feet of East 70 feet of Lot 1, North 100 feet of South 150 feet of East 70 feet of Lot 1, and Lot 1A, Block 2, NCB 1528
Zoning:	"IDZ-2 MLOD-3 MLR-2 AHOD" Medium Intensity Infill Development Zone Martindale Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District with uses permitted for 6 units
Case Manager:	Kayla Leal, Senior Planner

Request

A request for 1) a 2' variance from the 5' minimum side setback to allow a residential structure to be 3' from the side property lines.

Executive Summary

The subject property is located at the dead-end of Boudet Place. The applicant recently changed the zoning of the property to "IDZ-2" Medium Intensity Infill Development Zone with uses permitted for six (6) units. The zoning district requires a 5' setback for the perimeter of the project, and the applicant is requesting to reduce the 5' setback for the northernmost and southernmost property lines to 3' in order to better accommodate the proposed design of the development. The site plan approved by City Council displayed a 3' side setback from these two property lines, however it was understood by the applicant that a variance would still need to be obtained after the getting approval for the zoning change.

Code Enforcement History

There are no relevant Code Enforcement violations or investigations for the subject property.

Permit History
No relevant permits have been found for the subject property.

Zoning History
The subject property was a part of the original 36 square miles of the City of San Antonio and was originally zoned "C" Residence District. The property was rezoned from "C" to "R-2" Residence District by Ordinance 79329, dated December 16, 1993. Under the 2001 Unified Development Code, established by Ordinance 93881, dated May 03, 2001, the property zoned "R-2" converted to the current "RM-4" Residential Mixed District. The zoning changed from "RM-4" to the current "IDZ-2" Medium Intensity Infill Development Zone on August 19, 2021, established by Ordinance 2021-08-19-0592.

Subject Property Zoning/Land Use

Existing Zoning	Existing Use
"IDZ-2 MLOD-3 MLR-2 AHOD" Medium Intensity Infill Development Zone Martindale Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District with uses permitted for 6 units	Single-Family Residence

Surrounding Zoning/Land Use

Orientation	Existing Zoning District(s)	Existing Use
North	"RM-4 MLOD-3 MLR-2 AHOD" Mixed Residential Martindale Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District	Vacant Lot
South	"RM-4 MLOD-3 MLR-2 AHOD" Mixed Residential Martindale Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District	Vacant Lot
East	"RM-4 MLOD-3 MLR-2 AHOD" Mixed Residential Martindale Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District	Single-Family Residence
West	"RM-4 MLOD-3 MLR-2 AHOD" Mixed Residential Martindale Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District	Vacant Lot

Comprehensive Plan Consistency/Neighborhood Association
The subject property is in the Arena District/Eastside Community Plan and is designated "High Density Residential" in the future land use component of the plan. The subject property is located within the Denver Heights Neighborhood Association and they were notified of the case.

Street Classification
Boudet Place is classified as a local road.

Criteria for Review - Variance

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 from the side setback for a new development of single-family dwellings. The request would reduce the setback for two side property lines by 2' and all other setbacks will be met for the proposed development.

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 the applicant in adjusting the design layout of the development, which would reduce the amount of space between other structures or the amount of livable space.

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. A 3' side setback will continue observing the spirit of the ordinance, as the walls will be required to be fire-rated to reduce any risk of fire hazard.

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.

Staff finds the request for the reduction in the side setback for only the northernmost and southernmost property lines is not likely to alter the essential character of the district nor will injure the appropriate use of adjacent properties.

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 such as the limited amount of available space to provide quality housing.

Alternative to Applicant's Request

The alternative to the applicant's request is to conform to the Lot and Building Dimensions of the UDC Section 35-310.

Staff Recommendation - Side Setback Variance

Staff recommends **Approval** in **BOA-21-10300112** based on the following findings of fact:

1. The proposed structures will be 3' from the side property lines; and
2. The structures to be located 3' from the side property lines shall be fire-rated to reduce the risk of fire hazards; and
3. The proposed development will accommodate six (6) new residential dwellings.