



City of San Antonio

Agenda Memorandum

Agenda Date: August 19, 2024

In Control: Board of Adjustment Meeting

DEPARTMENT: Development Services Department

DEPARTMENT HEAD: Amin Tohmaz, Interim Department Head

CASE NUMBER: BOA-24-10300143

APPLICANT: Juan Delallata

OWNER: Juan Delallata

COUNCIL DISTRICT IMPACTED: District 2

LOCATION: 1204 Delaware Street

LEGAL DESCRIPTION: East 16 feet of north 89.35 feet of Lot 1 and west 14.03 feet of north 89.35 feet of Lot 2, Block 4, NCB 1035

ZONING: "RM-4 AHOD" Residential Mixed Airport Hazard Overlay District

CASE MANAGER: Colton Unden, Planner

A request for

1) A 1,330 square feet variance from the minimum lot size requirement of 4,000 square feet to allow development on 2,670 square feet lot.
Section 35-310.01

2) A 4' variance from the minimum 5' side setback requirement to allow a structure to have 1' side setbacks.
Section 35-310.01

3) A 6' variance from the minimum 10' rear setback requirement to allow a structure to have a 4' rear setback.
Section 35-310.01

Executive Summary

The subject property is located along Delaware Street, north of Aransas Avenue, located within the Denver Heights Neighborhood Association. The applicant is seeking to remodel and expand an existing structure on the lot. The existing structure was built as a shed according to Bexar County records and is approximately 1 foot from a side property line, and 4 feet from the rear property line. Additionally, the lot sits at 2,670 square feet, below the minimum lot size of 4,000 square feet for an RM-4. Numerous lots immediately to the west and south are also below the minimum lot size for an RM-4. The RM-4 lots that is under the minimum required square footage is limited to 1 dwelling unit, regardless of the Board of Adjustment decision.

Code Enforcement History

No relevant code enforcement history.

Permit History

The issuance of build permits is pending Board of Adjustment outcome.

Zoning History

The subject property was included in the original 36 square miles of the City of San Antonio and was originally zoned “B” Residence District. The property was rezoned by Ordinance 79329, dated December 16, 1993, from “B” Residence District to “R-2” Two-Family Residence District. Under the 2001 Unified Development Code, established by Ordinance 93881, dated May 03, 2001, the properties zoned “R-2” Two-Family Residence District converted to the current “RM-4” Residential Mixed District.

Subject Property Zoning/Land Use

Existing Zoning

“RM-4 AHOD” Residential Mixed Airport Hazard Overlay District

Existing Use

Transitional

Surrounding Property Zoning/ Land Use

North

Existing Zoning

“RM-4 AHOD” Residential Mixed Airport Hazard Overlay District

Existing Use

Single-Family Dwelling

South

Existing Zoning

“RM-4 AHOD” Residential Mixed Airport Hazard Overlay District

Existing Use

Transitional

East

Existing Zoning

“RM-4 AHOD” Residential Mixed Airport Hazard Overlay District

Existing Use

Single-Family Dwelling

West**Existing Zoning**

“RM-4 AHOD” Residential Mixed Airport Hazard Overlay District

Existing Use

Single-Family Dwelling

Comprehensive Plan Consistency/Neighborhood Association

The subject property is in the Eastside Community Area and is designated as “Urban Low Density Residential” in the future land use component of the plan. The subject property is located within the Denver Heights Neighborhood Association, and they have been notified of this request.

Street Classification

Delaware Street is classified as a Local Road.

Criteria for Review – Minimum Lot Size, and Side and Rear Setback 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 public interest is represented by minimum side setback requirements between residential properties, as the space ensures that buildings, drives, and parking is positioned a safe and suitable distance from property lines. Staff finds the reduced setbacks with the proposed development does not provide a suitable distance.

The applicant is requesting a 1,330 square feet variance from the 4,000 square feet minimum lot size requirement. The variance request does not appear to be contrary to the public interest as granting the variance would be in line with other lot sizes in the area.

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

Staff finds no special conditions that would result in unnecessary hardship for the side and rear setback variances requested. The lot possesses sufficient space to meet the required setbacks.

Staff finds a special condition exists for the minimum lot size variance, as this lot, and many other lots in the area are below the minimum lot size for their zoning and a rezoning will produce equal results for one dwelling unit.

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 request appears not to be in the spirit of the ordinance as the requirement is there to protect the neighborhood.

The minimum lot size variance will be following the spirit of the ordinance as many lots in the neighborhood are already below the minimum lot size and it is not out of character for the neighborhood in which the lot is located.

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 side and rear setback variances will substantially injure the appropriate use of the adjacent properties as other lots in the neighborhood do not maintain the setbacks the variances are requesting for this lot.

Staff finds that the lot size variance would not substantially injure the appropriate use of adjacent properties as numerous other lots in the area do not meet the minimum lot size requirements.

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 that the side and rear setback variances would substantially injure the appropriate use of adjacent properties as many other lots in the neighborhood do not maintain reduced setbacks at this level.

Staff finds that the lot size variance would not substantially injure the appropriate use of adjacent properties as many other lots do not meet the minimum lot size requirements.

Alternative to Applicant's Request

The alternative to the applicant's request is to conform to the Lot and Building Regulations of Section 35-310.01 of the Unified Development Code.

Staff Recommendation – Minimum Lot Size Variance

Staff recommends Approval in BOA-24-10300143 based on the following findings of fact:

1. Numerous adjacent lots in the neighborhood also maintain lot sizes less than the minimum prescribed in the zoning for the area.
2. The request will not alter the essential character of the district.

Staff Recommendation – Side and Rear Setback Variances

Staff recommends Denial in BOA-24-10300143 based on the following findings of fact:

1. No other structures on nearby properties encroach into setbacks, thus allowing the variance would be out of character with the area.
2. These requests will alter the essential character of the district as other properties maintain proper setbacks and the requested setbacks are too close to abutting properties and could cause increased risk for fire spread to neighboring property.