

Case Number:	BOA-23-10300260
Applicant:	Marek Sieczynski
Owner:	Marek Sieczynski
Council District:	1
Location:	315 Henry Street
Legal Description:	Lots 30, 31, 32 & 33, Block 6, NCB 2090
Zoning:	“IDZ-2 MLOD-2 MLR-2 AHOD” Medium Intensity Infill Development Zone Lackland Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District with uses permitted for a Rooming House
Case Manager:	Joseph Leos, Planner

Request

A request for a half story variance from the maximum 2.5 stories, as described in Section 35-517, to allow a structure with 3 stories.

Executive Summary

The subject property is located along Henry Street near North Hamilton Street. The applicant is seeking a variance from the maximum height limitation for properties adjacent to residentially zoned uses, to allow for a three-story structure that will be used as a rooming house. The maximum height is limited to 35’ or 2 ½ stories. Per Section 35-517, the maximum height of any portion of a commercial, office or multi-family zoning district located within fifty (50) linear feet of the property line of an established single-family residential use shall be limited to the maximum height of the single-family district.

Code Enforcement History

Vehicle Investigation (INV-JNV-23-2810007953)- April 2022
Property Maintenance Investigation (INV-BDB-22-2690005885)- February 2022

Permit History

The issuance of a building permit is pending the outcome of the Board of Adjustment

Zoning History

The subject property was located within the original 36 square miles of the City of San Antonio and 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 “MF-33” Multi-Family District. The property was then rezoned by Ordinance 2022-12-01-0924 dated December 1, 2022, from “MF-33” Multi-Family District to the current “IDZ-2” Medium Intensity Infill Development Zone District with uses permitted for a Rooming House.

Subject Property Zoning/Land Use

Existing Zoning	Existing Use
“IDZ-2 MLOD-2 MLR-2 AHOD” Medium Intensity Infill Development Zone Lackland Military Lighting Overlay Military Lighting Region 2 Airport Hazard	Vacant

Overlay District with uses permitted for a Rooming House	
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Surrounding Zoning/Land Use

Orientation	Existing Zoning District(s)	Existing Use
North	“R-2 MLOD-2 MLR-2 AHOD” Single-Family Residential Lackland Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District & “R-5 MLOD-2 MLR-2 AHOD” Residential Single-Family Lackland Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District	Single-Family Dwellings
South	“R-2 MLOD-2 MLR-2 AHOD” Single-Family Residential Lackland Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District & “R-5 MLOD-2 MLR-2 AHOD” Residential Single-Family Lackland Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District	Single-Family Dwellings
East	“R-2 MLOD-2 MLR-2 AHOD” Single-Family Residential Lackland Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District	Single-Family Dwelling
West	“R-5 MLOD-2 MLR-2 AHOD” Residential Single-Family Lackland Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District	Single-Family Dwelling

Comprehensive Plan Consistency/Neighborhood Association

The subject property is not located within a Neighborhood Community Perimeter Plan. The subject property is located within the boundary of the Prospect Hill Neighborhood Association and the West End Hope in Action Neighborhood Association, and they have been notified of the request.

Street Classification

Henry Street is classified as a local road.

Criteria for Review – Height 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. For this case, the public interest is represented by height requirements for the protection of view for the adjacent residential uses. The applicant is requesting to deviate from the maximum 2 ½ stories permitted if adjacent to residential uses, to allow a structure to be 3 stories tall. Staff finds this request is contrary to public interest of the abutting properties, as a towering structure can impose onto the interest of the single-family residential uses.

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

There are no special conditions on the subject property that would warrant the need for a deviated height. A literal enforcement of the ordinance would result in the applicant altering the building plans to abide by the 35' or 2 ½ story height requirements. Abiding by the height ordinance will not result in an unnecessary hardship in this case.

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. In this case, the spirit of the ordinance will not be observed, as the maximum height requirements are enforced for standards to protect access of light and air to public streets and adjacent building.

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.*

The granting of this variance will allow for the structure to be 3 stories. This will injure the appropriate use of adjacent conforming properties, as all abutting residential properties are currently 1 story. The towering structure will impose onto the abutting properties by providing inadequate access to light and air. Staff does recognize that the maximum height permitted within the current "IDZ-2" district is 4 stories, however the granting of the variance will alter the essential character of the district as it is out of character with the surrounding area.

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 not due to unique circumstances existing on the property. Since the structure has not been constructed yet, the applicant has the option to alter building plans to abide by the height requirement.

Alternative to Applicant's Request

The alternative to the applicant's request is to conform to the Building Height Regulations of the UDC Section 35-517.

Staff Recommendation – Height Variance

Staff recommends Denial in BOA-23-10300260 based on the following findings of fact:

1. The request is contrary to public interest of the abutting properties, as a three-story structure can impose onto the interest of the single-family residential uses.