

Case Number:	BOA-23-10300300
Applicant:	Francisco J Morales
Owner:	JSA Homes LLC
Council District:	5
Location:	319 South San Marcos
Legal Description:	Lot 36, Block 2, NCB 2346
Zoning:	“R-4 CD AHOD” Residential Single-Family Airport Hazard Overlay District with a Conditional Use for two (2) dwelling units.
Case Manager:	Vincent Trevino, Senior Planner

Request

A request for 8" variance from the minimum 5' side setback, as described in Section 35-310.01, to allow a 4'-4" side setback on the southern property line.

Executive Summary

The subject property is located on South San Marcos, east of IH-35 in the Historic Westside community of San Antonio. The lot is currently empty and has been for some time. The applicant is seeking a variance for the side setback on the southern property line to construct a duplex. Due to the size of the lot and the proposed square footage of the duplex, a side setback variance is required. Upon site visits, staff observed a single-family residence adjacent to the subject property. The property was rezoned in June 2023 for two (2) units, the site plan indicated the reduced 4’-4” side setback on the southern property line and the applicant is following through with a variance request following their rezoning.

Code Enforcement History

There is no code history for the subject property.

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 rezoned by Ordinance 97325, dated March 13, 2003, to “R-4” Residential Single-Family District. The property was rezoned by Ordinance 2023-06-15-0443, dated June 25th, 2023, to “R-4 CD AHOD” Residential Single-Family Airport Hazard Overlay District with a Conditional Use for two (2) dwelling units.

Subject Property Zoning/Land Use

Existing Zoning	Existing Use
“R-4 CD AHOD” Residential Single-Family Airport Hazard Overlay District with a Conditional Use for two (2) dwelling units.	Vacant Residential

Surrounding Zoning/Land Use

Orientation	Existing Zoning District(s)	Existing Use
North	“R-4 AHOD” Residential Single-Family Airport Hazard Overlay District	Single-Family Residence
South	“R-4 AHOD” Residential Single-Family Airport Hazard Overlay District	Vacant Residential
East	“I-2 AHOD” Heavy Industrial Airport Hazard Overlay District	Warehouse
West	UZROW	Alazan Creek

Comprehensive Plan Consistency/Neighborhood Association

The subject property is in the Downtown Neighborhood Plan and is designated as “Residential” in the future land use component of the plan. The subject property is located within the boundary of Historic Westside Residents Neighborhood Association, and they have been notified of the request.

Street Classification

South San Marcos is classified as a local road.

Criteria for Review – Side Setback 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 to the side setback on the southern property line to allow a 4’-4” from the side property line, which is not contrary to the public interest.

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 building the structure 5’ from the southern property line, which would result in an unnecessary hardship as the structure would have to reduce the square footage to meet the setback requirements on a long and narrow lot.

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 structure would be 4’-4” from the southern property line, which observes the spirit of the ordinance due to the size of the lot and the proposed square footage of the structure.

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 structure will be 4'-4" from the southern property line due to the size of the lot and the proposed square footage of the structure and would not 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.

Alternative to Applicant's Request

The alternative to the applicant's request is to conform to the building setback requirement of the UDC Section 35-310.01.

Staff Recommendation – Side Setback Variance

Staff recommends **Approval** in **BOA-23-10300300** based on the following findings of fact:

1. Due to the size of the lot and the proposed square footage of the structure; and
2. It will not alter the essential character of the district.