

Case Number:	BOA-23-10300301
Applicant:	Ada Consulting Group, INC.
Owner:	Otima Homes
Council District:	2
Location:	627 Essex Street
Legal Description:	Lots 40, 41, and 42, Block 38, NCB 1632
Zoning:	“RM-4 AHOD” Residential Mixed Airport Hazard Overlay District
Case Manager:	Joseph Leos, Planner

Request

A request for 1) a 2’ variance from the minimum 5’ side setback requirement, as described in Section 35-310.01, to allow a structure to be 3’ from the eastern property line of Lot 40, 2) a 1’ variance from the minimum 5’ side setback requirement, as described in Section 35-310.01, to allow a structure to be 4’ from both side property lines on Lot 41, 3) a 2’ variance from the minimum 5’ side setback requirement, as described in Section 35-310.01, to allow a structure to be 3’ from the western property line of Lot 42, 4) a request, as described in Section 35-310.06(a)(1), to allow three separate structures on an “RM-4” lot less than 1/3 of an acre, and 5) a variance from the front entry oriented to the primary street, as described Section 35-310.01, to allow a side door orientation.

Executive Summary

The subject property is located along Essex Street. The applicant is requesting a total of five variances. Items one through three is for a scenario that requires three Certificate of Determinations to be issued for the three original lots. Each lot will need a side setback variance. The second scenario would require the applicant to obtain a variance from the “RM-4” standards that states all units shall be contained within a single structure if the lot is less than 1/3 of an acre. This will allow the applicant to construct three separate structures. Upon review by Development Services, it was noted that the applicant would need to obtain a variance from the front entry orientation to allow a side door. Construction of two (2) to four (4) units on lots one-third (1/3) of an acre in size or smaller, shall have a front entry oriented to the primary street in which the lot is addressed on. A front walkway from the door shall also be provided. If all requested variances are approved, the applicant will have 2 separate development paths to move forward with. The reduced setback variances would not apply to the separate structure/front door orientation scenario and vice versa.

Code Enforcement History

There is no code enforcement history for the subject property.

Permit History

The issuance of a 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 was originally zoned “C” Apartment District. The property rezoned under Ordinance 79329, dated December 16, 1993, from “C” Apartment District to “R-2” Two-Family Residence District. Under the 2001 Unified Development Code, established by Ordinance 93881, dated May 03, 2001, the property zoned R-2” Two-Family Residence District converted to the current “RM-4” Residential Mixed District.

Subject Property Zoning/Land Use

Existing Zoning	Existing Use
“RM-4 AHOD” Residential Mixed Airport Hazard Overlay District	Vacant Lot

Surrounding Zoning/Land Use

Orientation	Existing Zoning District(s)	Existing Use
North	“RM-4 AHOD” Residential Mixed Airport Hazard Overlay District	Single-Family Dwelling
South	“RM-4 AHOD” Residential Mixed Airport Hazard Overlay District	Single-Family Dwelling
East	“RM-4 AHOD” Residential Mixed Airport Hazard Overlay District	Single-Family Dwelling
West	“RM-4 AHOD” Residential Mixed Airport Hazard Overlay District	Single-Family Dwelling

Comprehensive Plan Consistency/Neighborhood Association

The subject property is located within the Arena District/ Eastside Neighborhood Community Perimeter Plan and is designated as “Medium Density Residential” in the future land use component of the plan. The subject property is located within the boundary of the Denver Heights Neighborhood Association, and they have been notified of the request.

Street Classification

Essex Street is classified as a local road.

Criteria for Review – Side Setback, Separate Structures on “RM-4” under 1/3 acre, and Front Door Orientation 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.*

In this case, the public interest is represented by minimum setback requirements, as they are enforced to provide adequate spacing between properties. The applicant is requesting a variance to the side setback for three COD approved lots. The request is not contrary to the public interest, as the reduced side setback is not affecting the adjacent properties.

The applicant is also requesting variances to allow for three separate structures on an "RM-4" that is less than one-third of an acre and a variance from the front entry oriented to the primary street to allow a side door orientation. The public interest is defined as the general health, safety, and welfare of the public. In this case, the public interest is represented by efficient land use by concentrating units within a single structure and providing front entry orientation to the primary street for lots 1/3 of an acre or less. If granted, the request will be contrary to the public interest, as concentrating units within a single structure can prevent overcrowding on smaller lots and front entry orientation for consistent streetscape for smaller lots.

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

The special condition found on the subject property is the size. Abiding by the minimum side setback requirements of 5' would result in an unnecessary hardship, as reduction in livable space areas would be drastically reduced.

Staff found no other special conditions on the subject property to warrant the need to allow for three structures to not be contained within a single structure and the front entry to not be oriented towards the primary street. A literal enforcement of the ordinance would not result in an unnecessary hardship, as construction of a triplex can fit on the 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. In this case, the intention is for sufficient spacing between structures and property lines. The spirit of the ordinance will be observed, as the structure will be abiding by all other building requirements.

The spirit of the ordinance is defined as the intent of the code, rather than the exact letter of the law. Staff finds that the need to allow for three structures to not be contained within a single structure will not observe the spirit of the ordinance. Deviating from this requirement does not protect smaller properties from becoming overcrowded.

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 requests will not injure the appropriate use of adjacent conforming properties and alter the essential character of the district, as other lots in the area appeared to not abide by side setback requirement.

If granted, the "RM-4" zoned lot will be allowed to contain three separate structures on a lot that is less than one-third of an acre, which interferes with the development pattern of the neighborhood and front entry will be on side, which impacts the community feel of the neighborhood. The requests will injure the adjacent use of conforming properties and will 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, such as the narrowness of the lots.

The development is still in its preliminary stages and can be altered without the need for the variances.

Alternative to Applicant's Request

The alternative to the applicant's request is to conform to Density Requirements of "RM-4" Lots Less than 1/3 of an Acre Separate Structures of Section 35-310.06(a)(1) and Building Requirements of Section 35-310.01.

Side Setback Variances

Staff recommends **Approval** in **BOA-23-10300301** based on the following findings of fact:

1. The request is not contrary to the public interest, as the reduced side setback is not affecting the adjacent properties; and
2. The structure will be abiding by all other building requirements.

Separate Structures on "RM-4" under 1/3 acre and Front Door Orientation Variances

Staff recommends **Denial** in **BOA-23-10300301** based on the following findings of fact:

1. Concentrating the units in a single structure can prevent overcrowding on lots 1/3 of acre or smaller;
2. Not providing front entry orientation to the street the property is addressed from is out of character and contrary to addressing requirements; and
3. The requests will alter the essential character of the district.