



# City of San Antonio

## Agenda Memorandum

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**Agenda Date:** June 3, 2024

**In Control:** Board of Adjustment Meeting

**DEPARTMENT:** Development Services Department

**DEPARTMENT HEAD:** Michael Shannon

**CASE NUMBER:** BOA-24-10300086

**APPLICANT:** Jarred Barfield

**OWNER:** Henneke Financial Group LLC

**COUNCIL DISTRICT IMPACTED:** District 2

**LOCATION:** 211 North Polaris

**LEGAL DESCRIPTION:** The south 41.5 feet of Lot 13, Block 1, NCB 1419

**ZONING:** "R-4 MLOD-3 MLR-2 AHOD" Residential Single-Family Martindale Army Airfield Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District

**CASE MANAGER:** Colton Unden, Planner

**A request for**

1) An 1,816 square foot variance from the minimum lot size requirement of 4,000 square foot to allow a 2,184 square foot lot.

Section 35-310.1

2) A 15' variance from the minimum 20' rear setback to allow a 5' rear setback.

Section 35-310.1

3) A 15' variance from the minimum 20' garage setback to allow a garage to be 5' from the front property line.

Section 35-516(g)

4) A half-story variance from the maximum 2.5 stories to allow a 3-story structure.

## Section 35-310.1

### **Executive Summary**

The subject property is located along North Polaris Street, east of North New Braunfels Avenue, located within the Jefferson Heights Neighborhood Association. The property is a vacant lot. The Board of Adjustment previously approved (1) an 1,816 square feet variance from the minimum lot size, (2) a 10-foot variance to the minimum rear setback, (3) 10-foot variance to the garage front setback on September 21, 2020 (BOA-20-10300078). The applicant did not get building permits within 12 months of being granted the variances and is requesting variances again, with modifications and an additional request, to commence construction on the vacant lot.

### **Code Enforcement History**

No relevant code enforcement history for the subject property.

### **Permit History**

The applicant has not yet applied for the building permit.

### **Zoning History**

The subject property was located within the original 36 square miles of the City of San Antonio and originally zoned “B” Residence District. Under the 2001 Unified Development Code, established by Ordinance 93881, dated May 03, 2001, the property zoned “B” Residence District converted to the current “R-4” Residential Single-Family District.

### **Subject Property Zoning/Land Use**

#### **Existing Zoning**

"R-4 MLOD-3 MLR-2 AHOD" Residential Single-Family Martindale Army Airfield Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District

#### **Existing Use**

Vacant Lot

### **Surrounding Property Zoning/ Land Use**

#### **North**

##### **Existing Zoning**

"R-4 MLOD-3 MLR-2 AHOD" Residential Single-Family Martindale Army Airfield Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District

##### **Existing Use**

Single-Family Dwelling

#### **South**

##### **Existing Zoning**

"R-4 MLOD-3 MLR-2 AHOD" Residential Single-Family Martindale Army Airfield Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District

##### **Existing Use**

Single-Family Dwelling

#### **East**

**Existing Zoning**

"R-4 MLOD-3 MLR-2 AHOD" Residential Single-Family Martindale Army Airfield Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District

**Existing Use**

Single-Family Dwelling

**West****Existing Zoning**

"R-4 MLOD-3 MLR-2 AHOD" Residential Single-Family Martindale Army Airfield Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District

**Existing Use**

Single-Family Dwelling

**Comprehensive Plan Consistency/Neighborhood Association**

The subject property is in the Arena District/ Eastside Community Plan and is designated as "Mixed Use" in the future land use component of the plan. The subject property is located within the Jefferson Heights Neighborhood Association, and they have been notified of the request.

**Street Classification**

North Polaris Street is classified as a Local Road.

**Criteria for Review – Lot Size Minimum, Rear Setback, Garage Front Setback, and Half Story 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 applicant is requesting variances to the minimum lot size, rear setback, garage front setback, and height. The public interest is represented by allowing adequate spacing between properties as well as preventing towering structures obstructing the light and view of nearby conforming properties. The requests are contrary to public interest for these reasons.

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

A literal enforcement of the minimum lot size, rear setback, garage front setback, and height standards would not result in unnecessary hardship, as the applicant can rezone to a more suitable zoning district and adjust proposed structure to permit development on the lot.

3. *By granting the variance, the spirit of the ordinance will be observed and substantial justice will be done.*

The variances do not appear to observe the spirit of the ordinance since the degree of variances required from the code indicate the property is better suited for rezoning.

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 variance requests will injure the appropriate use of adjacent conforming properties. Upon site visits, staff found no other similar structures exhibiting encroachments into the rear setback, front garage setback, or height limits in the immediate vicinity.

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. The property owner has the option to rezone and adjust their proposed structure.

#### **Alternative to Applicant's Request**

The alternative to the applicant's request is to conform to the Lot and Building Dimension Regulations of Section 35-310.1 and the Garage Setback Regulations of Section 35-516(g) of the Unified Development Code.

#### **Staff Recommendation – Lot Size Minimum, Rear Setback, Garage Front Setback, and Half Story Variances**

Staff recommends Denial in BOA-24-10300086 based on the following findings of fact:

1. The variances will alter the essential character of the district.
2. Staff found no other properties in the immediate vicinity requiring or exhibiting the degree of variances requested.
3. Development would benefit from rezoning into a suitable base zoning district.