

Case Number:	BOA-23-10300302
Applicant:	ADA Consulting Group, Inc.
Owner:	Otima Investments, LLC
Council District:	2
Location:	803 South Palmetto Street
Legal Description:	East 60 feet of Lot 2 and east 60 feet of north 40 feet of Lot 4, Block 2, NCB 1027 (BCAD: 111656)
Zoning:	“RM-4 AHOD” Residential Mixed Airport Hazard Overlay District
Case Manager:	Colton Unden, Planner

Request

A request for 1) a variance to allow two separate structures on an “RM-4”, as described in Section 35-310.06(a)(1)(b), that is less than one-third of an acre, and 2) a 2’-6” variance from the minimum 20’ garage setback requirement, as described in Section 35-516(g), to allow a 17’-6” garage front setback.

Executive Summary

The subject property is located along South Palmetto Street, west of South New Braunfels Avenue and is currently a vacant lot. Prior to construction, the applicant is requesting a variance from “RM-4” standards to have two separate structures on a single lot. Multi-unit construction on lots one-third (1/3) of an acre in size or smaller, shall be within a single structure. The applicant is additionally requesting a variance from the garage setback requirement of 20’ for the proposed attached garages to be 17’-6” from the front property line.

Code Enforcement History

There is no relevant 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 property was part of the original thirty-six (36) square miles of the City of San Antonio and was originally zoned “C” Apartment District. The property was rezoned by Ordinance 79329, dated December 16, 1993 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
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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 in the Arena District / Eastside Community 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 Association, and they have been notified of the request.

Street Classification

South Palmetto Street and Virginia Boulevard are classified as local roads.

Criteria for Review – Separate Structures on “RM-4” under 1/3 acre and Garage 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. In this case, the public interest is represented by efficient land use by concentrating units within a single structure. The applicant is requesting a variance to allow two separate structures on an "RM-4" that is less than one-third of an acre. If granted, the request will be contrary to the public interest by maintaining the density of units being contained in a single structure can prevent overcrowding on smaller lots.

The public interest is defined as the general health, safety, and welfare of the public. In this case, the public interest is represented by minimum garage setback requirements. The applicant is requesting a variance from the minimum garage setback requirement of 20’ to allow an attached garage to be 17’-6” from the front property line. The variance does not appear to impose on the public interest of the adjacent neighbors, while additionally guaranteeing parking on the lot to avoid street overcrowding.

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

Staff found no other special conditions on the subject property to warrant the need to allow for two structures to not be contained within a single structure. A literal enforcement of the ordinance would not result in an unnecessary hardship, as the site provides adequate room for a single structure with multiple units.

The special condition found is the irregular lot shape as it relates to depth compared to similar nearby lots. A literal enforcement of the ordinance would result in an unnecessary hardship, as abiding by the garage setback requirements would result in less buildable area and a square footage reduction for the structure.

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. Staff finds that the need to allow for two structures to not be contained within a single structure will not observe the spirit of the ordinance. Deviating from this requirement allows for density requirements to be loosened that protect smaller properties from becoming overcrowded.

The spirit of the ordinance is defined as the intent of the code, rather than the exact letter of the law. The structure will be observing the spirit of the ordinance, as it will be abiding by all other setback requirements and not imposing on the public interest of the adjacent neighbors.

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 “RM-4” zoned lot that is less than 1/3 of an acre will be allowed to have two separate structures. Upon site visits, staff observed all other properties in the immediate vicinity to abiding by the minimum building requirements.

The granting of the variance will not substantially injure the appropriate use of adjacent conforming properties or alter the essential character of the district in which the property is located. Upon site visits, staff observed in the immediate vicinity other structures positioned in irregular lots significantly closer to the right of way. The request is not out of character due to this circumstance.

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 development is still in its preliminary stages and can be altered.

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 irregular lot shape. The circumstances do not appear to be merely financial.

Alternative to Applicant’s Request

The alternative to the applicant’s request is to conform to the “RM-4” standards of the UDC Section 35-310.06(a)(1)(b) and the Garage Setback standards of the UDC Section 35-516(g).

Staff Recommendation – Separate Structures on “RM-4” under 1/3 acre

Staff recommends Denial in BOA-23-10300302 based on the following findings of fact:

1. Maintaining the density of units being contained in a single structure can prevent overcrowding on smaller lots; and
2. The request will alter the essential character of the district.

Staff Recommendation – Garage Setback Variance

Staff recommends **Approval** in **BOA-23-10300302** based on the following findings of fact:

1. The proposed garages do not appear to impose on the public interest of the adjacent neighbors, as the structures will follow all other front and side setbacks; and
2. Abiding by the garage setback requirements would result in less buildable area and a square footage reduction for the structure.