

Case Number:	BOA-23-10300164
Applicant:	Raoul Garza
Owner:	Sholomo Krausz
Council District:	2
Location:	115 Milton Street
Legal Description:	Lot 54, Block 4, NCB 6782
Zoning:	“MF-33 NCD-6 AHOD” Multi-Family Mahncke Park Neighborhood Conservation Airport Hazard Overlay District
Case Manager:	Joseph Leos, Planner

Request

A request for 1) a 9’ variance from the maximum 15’ NCD-6 curb cut requirement, as described in Section 35-335(c)(F), to allow a curb cut to be 24’, 2) a 2-parking space variance from the minimum 4 parking spaces, as described in Section 35-335(c)(F), to allow two units in the NCD-6 to have 2 parking spaces, 3) a 8” variance from the maximum 2’-6” driveway ribbon, as described in Section 35-335(c)(F), to allow a 3’-2” driveway ribbon, 4) a 3’-11” variance from the minimum 4’ NCD-6 Front Walkway Standard, as described in Section 35-335(c)(F), to allow the separation distance of a front walkway and driveway to be 1”, and 5) a 12’ variance from the maximum 12’ driveway width, as described in Section 35-335(c)(F), to allow a driveway to be 24’ in width.

Executive Summary

The subject property is located 115 Milton Street near Natalen Avenue, within the boundaries of the Mahncke Park Neighborhood Conservation District. The owner purchased 154 Claremont in May 2022, and at the time, the property extended from Claremont to the alley. The property was replatted to create a separate lot, fifty feet in width, from the back part of the property. This is the lot now addressed as 115 Milton. The structure was designed and received a building permit based on a plan to have two parking spaces in the rear, effectively having alley access for parking spaces within the backyard of the new lot. After further review from our Streets Division, it was noted that the applicant would not be able to use the alley or have an effective turning radius. After the reconfiguration of the site plan, the applicant needed to obtain multiple variances to deviate from the Mahncke Park Neighborhood Conservation District (NCD-6) design requirements. The applicant is requesting a variance from the NCD-6 maximum curb cut of 15’ to allow a curb cut to be 24’. Additionally, a 2-parking space variance from the minimum 4 parking spaces to allow two units in the NCD-6 to have 2 parking spaces, a 8” variance from the maximum 2’-6” driveway ribbon to allow a 3’-2” driveway ribbon, a 3’-11” variance from the minimum 4’ NCD-6 Front Walkway Standard to allow the separation distance of a front walkway and driveway to be 1”, and a 12’ variance from the maximum 12’ driveway width to allow a driveway to be 24’ in width is 4’.

The Mahncke Park Neighborhood Conservation District (NCD-6) was created in 2008 to address a wide range of architectural elements of houses, such as porches, garages and auto storage structures and exterior building materials. The intent of the design standards is not to replicate the styles, but to ensure the historically common site/building configurations are perpetuated in the future.

Code Enforcement History

Property Maintenance Investigation (INV-BDS-23-2670000732) – January 2023

Permit History

The issuance of a building permit is pending the outcome of the Board of Adjustment.
 Commercial Project Application (Pavement on Existing Alley)- November 2022

Zoning History

The subject property was located within the original 36 square miles of the City of San Antonio and zoned “D” Apartment District. Under the 2001 Unified Development Code, established by Ordinance 93881, dated May 03, 2001, the property zoned “D” Apartment District converted to the current “MF-33” Multi-Family District.

Subject Property Zoning/Land Use

Existing Zoning	Existing Use
“MF-33 NCD-6 AHOD” Multi-Family Mahncke Park Neighborhood Conservation Airport Hazard Overlay District	Duplex

Surrounding Zoning/Land Use

Orientation	Existing Zoning District(s)	Existing Use
North	“MF-33 NCD-6 AHOD” Multi-Family Mahncke Park Neighborhood Conservation Airport Hazard Overlay District	Single-Family Residence
South	“MF-33 NCD-6 AHOD” Multi-Family Mahncke Park Neighborhood Conservation Airport Hazard Overlay District	Single-Family Residence
East	“MF-33 NCD-6 AHOD” Multi-Family Mahncke Park Neighborhood Conservation Airport Hazard Overlay District	Single-Family Residence
West	“MF-33 NCD-6 AHOD” Multi-Family Mahncke Park Neighborhood Conservation Airport Hazard Overlay District	Single-Family Residence

Comprehensive Plan Consistency/Neighborhood Association

The subject property is in the Midtown Area Regional Center Plan and is designated “Urban Low Density Residential” in the future land use component of the plan. The subject property is located within the boundary of the Mahncke Park Neighborhood Association, and they have been notified of the request.

Street Classification

Milton Street is classified as a local road.

Criteria for Review Curb Cut, Parking Space, Driveway Ribbon, Front Walkway and Driveway Width 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 development regulations for structures and design standards to promote the architectural integrity of an already established neighborhood. The NCD- 6 (Mahncke Park Conservation District) provides guidelines for development, which were passed through neighborhood contribution so that historically common site/building configurations are perpetuated in the future. The requested variances deviate from this requirement, which is contrary to the public interest of those who want to preserve the neighborhood fabric.

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

Staff found no special conditions on the subject property that would warrant the need for the requested variances. Upon site visits, staff observed these variances were not constructed and the applicant could alter plans to abide by the NCD-6 design requirements.

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 aim of the code is for the Mahncke Park Neighborhood Conservation District to enforce design guidelines, which are provided to allow for consistent development patterns, architectural integrity, and preservation of neighborhoods. The requested variances appear to not adhere to the spirit of the ordinance.

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 requested variances will be taking away from the architectural integrity of the neighborhood and could potentially injure the appropriate use of adjacent conforming properties. The enforcement of the design requirements allows for buildings to be consistent with the surrounding area. Upon site visits, staff did not observe other structures with deviated from the design requirements.

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.

Alternative to Applicant's Request

The alternative to the applicant's request is to conform to the Mahncke Park Neighborhood Conservation District of the UDC Section 35-335 (c)(F).

Staff Recommendation – Curb Cut, Parking Space, Driveway Ribbon, Front Walkway and Driveway Width Variances

Staff recommends Denial in BOA-23-10300164 based on the following findings of fact:

1. The Mahncke Park Neighborhood Conservation District design guidelines are provided to allow for consistent development patterns, architectural integrity, and preservation of neighborhoods.