

Case Number:	BOA-22-10300046
Applicant:	Nicholas Nunium
Owner:	Adage Venture Capital LLC
Council District:	2
Location:	325 South Hackberry Street
Legal Description:	The south 29.25 feet of Lot 8, Block 2, NCB 609
Zoning:	“RM-4 AHOD” Residential Mixed Airport Hazard Overlay District
Case Manager:	Rebecca Rodriguez, Senior Planner

### **Request**

A request for a 6’ 3” variance from the minimum 10’ front setback requirement, as described in Section 35-310, to allow a structure to be 3’9” from the front property line.

### **Executive Summary**

The subject property is located along South Hackberry Street and has a single-family residence that was built in 1940. The applicant is currently repairing and remodeling the structure. The applicant is requesting to remove and replace the existing front porch, which does not meet the minimum front setback requirement of 10’ but does maintain the required side setback of 5’. The request is to allow the structure to be 3’9” from the front property line. During the site visit conducted by staff, staff observed non-conforming structures within the surrounding area, including the property located to the east.

### **Code Enforcement History**

There are no relevant Code Enforcement investigations for the subject property.

### **Permit History**

The following permits have been issued to the property:

- REP-RRP-PMT-22-35301314 – Siding Repair permit issued April 5, 2022
- REP-ROF-PMT22-35200860 – Re-Roof permit issued March 15, 2022
- RES-FEN-PMT22-31900155 – Fence permit issued February 17, 2022
- REP-RRP-PMT-22-35300532 – Interior repairs permit issued February 10, 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. 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	Single-Family Residence

## Surrounding Zoning/Land Use

Orientation	Existing Zoning District(s)	Existing Use
North	“RM-4 AHOD” Residential Mixed Airport Hazard Overlay District	Commercial Retail and Single-Family Residence
South	“C-3NA AHOD” General Commercial Non-Alcoholic Sales Airport Hazard Overlay District	Professional Office
East	“RM-4 AHOD” Residential Mixed Airport Hazard Overlay District	Fourplex
West	“RM-4 AHOD” Residential Mixed Airport Hazard Overlay District	Single-Family Residence

## Comprehensive Plan Consistency/Neighborhood Association

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

## Street Classification

South Hackberry is classified as a Secondary Arterial B.

## Criteria for Review – Front 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 front setback to allow a structure to be 3’ 9” from the front property line. The structure meets the minimum side setback requirement and will maintain adequate spacing between the structure and front property line, which does not appear to be 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 reconstructing the porch to be 10’ from the front property line. Staff finds an unnecessary hardship due to the size of the lot and configuration of the existing residence, which prevents the replacement of an existing patio cover.**

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 applicant is requesting to remove and replace the existing front patio cover. The proposed structure would maintain the existing 3’ 9” from the front property line and meets the side setback requirement. The spirit of the ordinance will be observed as this is the only lot that is fronting Hackberry Street.**

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 does not find evidence that the requested variance would alter the essential character of the district. The property currently has an existing patio cover located to the front of the property and the applicant is requesting to replace the non-conforming structure. The proposed 3' 9" front setback for the attached structure does not appear to injure adjacent properties.**

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 the unique size and location of the lot and is not merely financial.**

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

The alternative to the applicant's request is to conform to the Zoning District Design Regulations of the UDC Section 35-310.

#### **Staff Recommendation – Front Setback Variance**

Staff recommends **Approval** in **BOA-22-10300046** based on the following findings of fact:

1. There is an existing non-conforming patio cover; and
2. The request is to remove and replace the structure; and
3. Due to the unique circumstances of the existing structure, the patio cannot maintain the required 10' minimum setback.