

Case Number:	BOA-22-10300135
Applicant:	Jose Madrigal
Owner:	Madrigal Select
Council District:	4
Location:	8722 Big Creek Drive
Legal Description:	Lot 29, Block 14, NCB 15985
Zoning:	“R-6 MLOD-2 MLR-1 AHOD” Residential Single-Family Lackland Military Lighting Overlay Military Lighting Region 1 Airport Hazard Overlay District
Case Manager:	Rebecca Rodriguez, Senior Planner

Request

A request for a 1,000 square foot variance from the minimum 6,000 square foot lot size requirement, as described in Section 35-310.01, to allow a lot size of 5,000 square feet.

Executive Summary

The subject property is located south of Lackland Airforce Base near Pearsall Road. The lot is currently vacant and has been vacant for some time. The applicant is requesting a 1,000 square foot variance from the minimum 6,000 square foot lot size requirement to construct a single-family dwelling. The property was platted as a 5,000 square foot lot in September of 1972, which was prior to annexation into the City of San Antonio. Once the property was annexed, it was given a Temporary “R-1” Single-Family Residence District designation. This zoning designation was then converted to the current “R-6” Residential Single-Family District, which requires a minimum lot size of 6,000 square feet. The applicant submitted building plans for the construction of a new single-family residence which prompted the variance request. A preliminary review for a non-conforming lot of record was completed, however, the plat exception has not been granted.

Code Enforcement History

There are no code violations for this property.

Permit History

A permit application for a new single-family residence was submitted on June 7, 2022. The issuance of the permit is pending the outcome of the Board of Adjustment hearing due to a hold on the zoning and building reviews.

Zoning History

The property was annexed into the City of San Antonio by Ordinance 41419, dated December 26, 1972, and zoned Temporary “R-1” Single-Family Residence District. Under the 2001 Unified Development Code, established by Ordinance 93881, dated May 03, 2001, the property zoned Temporary “R-1” Single-Family Residence District converted to the current “R-6” Residential Single-Family District.

Subject Property Zoning/Land Use

Existing Zoning	Existing Use
“R-6 MLOD-2 MLR-1 AHOD” Residential Single-Family Lackland Military Lighting Overlay Military Lighting Region 1 Airport Hazard Overlay District	Single-Family Residence

Surrounding Zoning/Land Use

Orientation	Existing Zoning District(s)	Existing Use
North	“R-6 MLOD-2 MLR-1 AHOD” Residential Single-Family Lackland Military Lighting Overlay Military Lighting Region 1 Airport Hazard Overlay District	Single-Family Residence
South	“R-6 MLOD-2 MLR-1 AHOD” Residential Single-Family Lackland Military Lighting Overlay Military Lighting Region 1 Airport Hazard Overlay District	Single-Family Residence
East	“R-6 MLOD-2 MLR-1 AHOD” Residential Single-Family Lackland Military Lighting Overlay Military Lighting Region 1 Airport Hazard Overlay District	Single-Family Residence
West	“R-6 MLOD-2 MLR-1 AHOD” Residential Single-Family Lackland Military Lighting Overlay Military Lighting Region 1 Airport Hazard Overlay District	Single-Family Residence

Comprehensive Plan Consistency/Neighborhood Association

The subject property is in the United Southwest Communities Plan and is designated “Low Density Residential” in the future land use component of the plan. The subject property is located within the Southwest Community Association and were notified of the case.

Street Classification

Big Creek Drive as a local road.

Criteria for Review – Minimum Lot Size 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 1,000 square foot variance from the 6,000 minimum lot size requirement. The variance request does not appear to be contrary to the public interest, as granting the variance would allow the development of a single-family residence.

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 having to maintain the property vacant as it would not be developable with the current square footage. Staff finds an unnecessary hardship as the property was platted in 1972 in its current form.

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 setback requirements will remain the same and no other uses will be permitted on the property other than a single-family residence. The request appears to observe 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.*

Staff does not find evidence that the requested variance would alter the essential character of the district. The properties adjacent to the subject property also do not meet the minimum lot size requirements of the “R-6” base zoning district therefore injury to adjacent properties is highly unlikely.

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. The property and surrounding properties were platted in its current configuration which prevents the development of a new single-family residence on the lot. The request does not appear merely financial.

Alternative to Applicant’s Request

The alternative to the applicant’s request is to conform to the minimum lot size requirements per 35-310.01 of the Unified Developed Code.

Staff Recommendation – Minimum Lot Size Requirement

Staff recommends **Approval** in **BOA-22-10300135** based on the following findings of fact:

1. The lot size is currently 5,000 square feet; and
2. The lot size variance will allow the development of the lot; and
3. The variance does not appear to negatively affect adjacent properties.