

Case Number:	BOA-22 -10300154
Applicant:	Antonio Martel
Owner:	Jose Alonzo Valdez
Council District:	2
Location:	318 Utah Street
Legal Description:	The west 30.4 feet of Lot 16 and the east 9.6 feet of Lot 17, Block 2, NCB 1033
Zoning:	“RM-4 AHOD” Residential Mixed Airport Hazard Overlay District
Case Manager:	Rebecca Rodriguez, Senior Planner

Request

A request for 1) a 1,160 square foot variance from the minimum 4,000 square foot lot size requirement, as described in Section 35-310.01, to allow a lot size of 2,840 square feet, 2) a 1’ 9” variance from the minimum 5’ side setback requirement, as described in Section 35-310.01, to allow a structure to be 3’ 3” from the side property line, 3) a 2’ 5” variance from the minimum 5’ side setback requirement, as described in Section 35-310.01, to allow a carport to be 2’ 7” from the side property line, 4) 12’ 10” variance (with 5’ credit from the alley) from the minimum 20’ rear setback requirement, as described in Section 35-310.01, to allow a structure to be 2’ 2” from the rear property line.

Executive Summary

The subject property is located along Utah Street on the east side of San Antonio and contains a single-family residence. On August 23, 2022, an investigation was opened by Code Enforcement due to the structure being dilapidated and for working without permits. The applicant is requesting a 1,160 square foot variance to allow a lot size of 2,840 square feet in lieu of the required 4,000 square foot set forth in the “RM-4” base zoning district. Additionally, the applicant is proposing to remodel the structure, add a second story addition, construct a patio cover to the rear, and construct a side carport. Due to the current location of the primary structure, a 1’ 9” variance is being requested due to the structure only being 3’ 3” from the side property line. A proposed carport will maintain 2’ 7” from the side property and a patio cover structure attached to the rear of the structure is proposed to maintain 2’ 2” from the rear property line. There is an alleyway located along the rear of the property that measures 10’ in width. The property owner is able to utilize half of the alleyway, 5’, towards the rear setback. The property is zoned “RM-4” Residential Mixed District which requires a 10’ front setback, 5’ side setback, and 10’ rear setback.

Code Enforcement History

There is an active Code Enforcement investigation opened on August 23, 2022 for the subject property due to working without permits.

Permit History

There are no permits on file for the subject property. The issuance of the permits are pending the outcome of the Board of Adjustment hearing.

Zoning History

The subject property was located within the original 36 square miles of the City of San Antonio and zoned “C” Apartment District. The property was rezoned through a large area rezoning 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	Single-Family Residence
South	“RM-4 AHOD” Residential Mixed Airport Hazard Overlay District	Single-Family Residence
East	“RM-4 AHOD” Residential Mixed Airport Hazard Overlay District	Single-Family Residence
West	“RM-4 AHOD” Residential Mixed Airport Hazard Overlay District	Single-Family Residence

Comprehensive Plan Consistency/Neighborhood Association

The subject property is in the Arena District/Eastside Community Plan and is designated “Medium Density Residential” in the future land use component of the plan. The subject property is located within the boundary of the Denver Heights Neighborhood Association, and they have been notified of the request.

Street Classification

Utah Road is classified as a local road.

Criteria for Review – Minimum Lot Size and Side and Rear 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 side and rear setback requirements to allow the redevelopment of the existing structure and the erection of new structures to include a patio cover and a carport. The property is abutting an alleyway and the variance will allow the redevelopment of a dilapidated residence; therefore, the request 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 having to move or rebuild the main structure. Staff finds an unnecessary hardship as the property was platted in 1923 in what appears to be its current configuration. This prevents any additional structures to be added as they cannot meet the side and rear setback 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. The applicant is requesting the variances to allow the remodel of the existing house and addition of new structures to a property which appears to have been abandoned for some time. The spirit of the ordinance will be observed as there will still be space between the structures and the property lines.

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 is situated in an older neighborhood where small lots are commonly found. Staff also observed numerous non-conforming structures in the immediate area that do not meet the current setback requirements therefore injury to adjacent properties is 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 lot cannot maintain the minimum lot size requirement due to the current size and configuration of the lot. In addition, the lot is small which prevents the new construction to meet the side and rear setback requirements. 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 and setback requirements per 35-310.01 of the Unified Developed Code.

Staff Recommendation – Minimum Lot Size Requirement

Staff recommends **Approval** in **BOA-22-10300154** based on the following findings of fact:

1. The lot size is currently 2,840 square feet; and
2. The property was platted in 1923; and
3. The lot size variance will allow the redevelopment of the lot; and

Staff Recommendation – Side and Rear Setback Variance

Staff recommends **Approval** in **BOA-22-10300154** based on the following findings of fact:

1. Due to unique circumstances existing on the property, the existing structure cannot maintain the required side setback; and
2. The small size and configuration of the lot present hardships to new construction with the UDC setback requirements in place; and
3. Non-Conforming structures not meeting the setback requirements were observed in proximity to the subject site; and
4. The property abuts an alleyway along the rear property line which gives the rear setback a credit of 5'.