

Case Number:	BOA-22-10300176
Applicant:	Michael Perez
Owner:	MP2 URBAN DEVELOPMENT LLC
Council District:	2
Location:	923 South Mesquite Street
Legal Description:	The south 50 feet of Lots 19 and 20, Block 9, NCB 651
Zoning:	“RM-4 AHOD” Residential Mixed Airport Hazard Overlay District
Case Manager:	Richard Bautista-Vazquez, Planner

### **Request**

A request for a 5' variance from the minimum 10' reverse corner lot side setback requirement, as described in Sec 35-516(i), to allow a structure to be 5' from the side property line.

### **Executive Summary**

The subject property is located on a corner lot on South Mesquite Street and contains a vacant lot. The applicants site plan has the proposed structure 5' from the side property line. The applicant has applied for the variance prior to commencing the construction of the structure. The proposed structure will be addressed off South Mesquite Street instead of the adjacent Indiana Street, which created the reverse corner lot requiring a 10' side setback on the southern property line. The subject property is also in the process of a preliminary plat MP2 Mesquite Subdivision last updated on 9/19/2022.

### **Code Enforcement History**

There are no code violations for this property.

### **Permit History**

There are a variety of residential permits pulled for the property.

The permit for the structure is 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 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 converted to “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**

<b>Orientation</b>	<b>Existing Zoning District(s)</b>	<b>Existing Use</b>
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 “C-3R AHOD” General Commercial Restrictive Alcohol Sales Airport Hazard Overlay District	Vacant Lot 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 Denver Heights Neighborhood Association and were notified of the case.

### **Street Classification**

South Mesquite Street and Indiana Street are classified as local roads.

### **Criteria for Review – Side 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 variance to the side setback to allow a structure to be 5’ from the side property line. The structure will meet the front and rear setback requirement and 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.*

**The ordinance would result in the applicant having to maintain 5’ from the side property line. Staff finds an unnecessary hardship since the lot is too small to allow the development of a structure with this requirement.**

- 3. By granting the variance, the spirit of the ordinance will be observed and substantial justice will be done.*

**The structure has not been constructed and the proposed setback is 5’ from the side property line. The spirit of the ordinance will be observed as there will still be reasonable space between the structure and neighboring properties.**

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.*

**The neighborhood in which the subject property is located has several similar sized lots.**

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.*

**Because of the width of the lot and it being a reverse corner lot maintaining a 10' side setback is not achievable. The request is not merely financial.**

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

The alternative to the applicant's request is to conform to the setback requirements of the UDC Section 35-516(i).

#### **Staff Recommendation – Side Setback Variance**

Staff recommends **Approval** in **BOA-22-10300176** based on the following findings of fact:

1. The structure has not been constructed; and
2. The structure conforms to the front and rear setback requirements; and
3. There is a limited amount of space available to comply with the side setback and to develop a structure.