

Case Number:	BOA-22-10300260
Applicant:	Brio Builders
Owner:	Saint Ann Apartments LLC
Council District:	1
Location:	103 Saint Ann
Legal Description:	Lot 21, Block 9, NCB 2020
Zoning:	“RM-4 AHOD” Residential Mixed Airport Hazard Overlay District
Case Manager:	Joseph Leos, Planner

Request

A request for 1) a request for a 7’ variance from the minimum 20’ garage setback requirement, as described in Section 35-516(g), to allow a garage to be 13’ from the front property line, 2) a request for a 4’-5” variance from the minimum 10’ rear setback requirement, as described in Section 35-310.01, to allow a structure to be 5’-7” from the rear property line, and 3) a variance from the maximum 50% impervious cover requirement, as described in Section 35-515(d), to allow the front yard to exceed the 50% impervious cover.

Executive Summary

The subject property is located on the intersection of Cincinnati Street and St Ann Street. The applicant is requesting a variance to deviate from the required 20’ garage setback, 10’ rear setback requirement, and exceed impervious coverage limitation. The subject property recently underwent an address change to be addressed of Saint Ann Street, providing new setback limitations. Additionally, the subject property went towards the Board of Adjustment in 2018 (A-18-128) and was granted the request for the garage setback; however, was expired because the applicant did not obtain building permits within a 1-year period.

Code Enforcement History

Vacant-Overgrown Property- June 2022

Overgrown Yard- Trash- June 2021

Vacant- Overgrown Property- December 2021

Permit History

The issuance of a building permit is pending the outcome of the Board of Adjustment.

Zoning History

The subject property was located within the original 36 square miles of the City of San Antonio and zoned “B” Residence District. The property rezoned under Ordinance 86704, dated September 25, 1997, from “B” Residence District 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	Fourplex

Surrounding Zoning/Land Use

Orientation	Existing Zoning District(s)	Existing Use
North	“R-6 AHOD” Residential Single-Family Airport Hazard Overlay District	Single-Family Residence
South	“R-6 AHOD” Residential Single-Family Airport Hazard Overlay District	Single-Family Residence
East	“R-6 AHOD” Residential Single-Family Airport Hazard Overlay District	Single-Family Residence
West	“R-6 AHOD” Residential Single-Family Airport Hazard Overlay District	Single-Family Residence

Comprehensive Plan Consistency/Neighborhood Association

The subject property is in the Midtown Area Regional Center 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 Uptown Neighborhood Association, and they have been notified of the request.

Street Classification

St Ann Street is classified as a local street.

Criteria for Review – Garage, Rear, and Impervious Cover 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 interest of the public is depicted by the enforcement of garage setbacks to ensure that vehicles do not interfere with the Right of Way. The requested variance provides adequate distance between the garage and front property line, which is not contrary to the public interest. Additionally, the applicant is requesting a variance for the rear setback and to exceed the impervious cover requirement. Staff finds that the distance between the structure and rear property line is not contrary because there would be enough room for maintenance and will not create water runoff on the adjacent property. Furthermore, the requested impervious cover is not contrary, as this will allow for more space to park vehicles on the owner’s property and off the public street.

- 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 alter the garage setback to 20’, adjust the rear setback to 10’, and reduce the impervious coverage. This would result in an unnecessary hardship by having the applicant altering the existing main structure to abide by the enforced limitations.

- 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. Substantial justice will be served as this will allow for vehicles to use the garages for the required off street parking. The current rear setback of 5'-7" will observe the spirit of the ordinance as this request provides a suitable amount of spacing between the subject and adjacent properties. Furthermore, the impervious cover request provides a decent amount of permeable surfaces in the front yard.

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 requested variances will not injure the appropriate uses of adjacent properties or alter the essential character of the neighborhood as the requested garage setback variance is highly unlikely to affect the public right of way and is the only property on the block face addressed off Saint Ann Street. The requested rear setback variance will not alter the essential character of the district, as smaller lots were found in the immediate area.

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, such as the narrow lot size and orientation of the newly addressed structure off Saint Ann Street.

Alternative to Applicant's Request

The alternative to the applicant's request is to conform to the Lot and Building Dimension Regulations of Section 35-310.01, Setback and Frontage Regulations of Section 35-516(g), and Lot, Layout, Height, and Density/ Intensity Standard of Section 35-515(d) of the UDC.

Staff Recommendation – Garage and Rear Setback, and Impervious Cover Variances

Staff recommends **Approval a request for a 7' variance from the minimum 20' garage setback requirement to allow a garage to be 13' from the front property line, 2) a request for a 4'-5" variance from the minimum 10' rear setback requirement to allow a structure to be 5'-7" from the rear property line, and 3) a variance from the maximum 50% impervious cover requirement to allow the front yard to exceed the 50% impervious cover in BOA-22-10300260 based on the following findings of fact:**

1. The requested variance provides adequate distance between the garage and front public Right of Way; and
2. The distance between the structure and rear property line would provide enough room for maintenance and will not create water runoff on the adjacent property; and
3. The impervious cover request provides a decent amount of permeable surfaces in the front yard.