

Case Number:	BOA-23-10300044
Applicant:	Phoenix Vintage Opportunity Fund, LLC
Owner:	Francisco J & Marie J Villafuerte
Council District:	2
Location:	315 Tilden Street
Legal Description:	South 64.5 feet of Lot 8, Block 3, NCB 3135
Zoning:	“R-6 MLOD-3 MLR-2 AHOD” Residential Single-Family Martindale Army Airfield Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District
Case Manager:	Joseph Leos, Planner

Request

A request for 1) a 2,750 square feet variance from the minimum 6,000 square feet lot size requirement, as described in Sec. 35-310.01, to allow a lot to be 3,250 square feet, and 2) a 5' variance from the minimum 20' rear setback requirement, as described in Sec. 35-310.01, to allow a structure to be 15' from the rear property line.

Executive Summary

The subject property is in Government Hill along Tilden Street. The applicant is seeking a building permit to construct a single-family home on a lot that is less than the current zoning district minimum lot size allows. Currently, the subject property is zoned “R-6”, which permits lot sizes to be a minimum 6,000 square feet and currently, the lot is 3,250 square feet. The subject property underwent a large area rezoning in 2008 (2008-10-16-0955), which led to the property not meeting the minimum lot size for the current base zoning district. Additionally, the applicant is requesting a rear setback variance of 5’. The proposed structure is anticipated to be 15’ from the rear property line and the required minimum distance is 20’.

Code Enforcement History

Overgrown Yard Investigation – September 2019

Overgrown Yard Investigation- May 2019

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 “C Apartment District. Under the 2001 Unified Development Code, established by Ordinance 93881, dated May 03, 2001, the property zoned “C” Apartment District converted to “MF-33” Multi-Family District. The property rezoned under Ordinance 2008-10-16-0955, dated October 16, 2008, from “MF-33” Multi-Family District to the current “R-6” Residential Single-Family District.

Subject Property Zoning/Land Use

Existing Zoning	Existing Use
“R-6 MLOD-3 MLR-2 AHOD” Residential Single-Family Martindale Army Airfield Military Lighting	Vacant Lot

Overlay Military Lighting Region 2 Airport Hazard Overlay District	
--	--

Surrounding Zoning/Land Use

Orientation	Existing Zoning District(s)	Existing Use
North	“R-6 MLOD-3 MLR-2 AHOD” Residential Single-Family Martindale Army Airfield Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District	Single-Family Residence
South	“R-6 MLOD-3 MLR-2 AHOD” Residential Single-Family Martindale Army Airfield Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District	Single-Family Residence
East	“R-6 MLOD-3 MLR-2 AHOD” Residential Single-Family Martindale Army Airfield Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District	Single-Family Residence
West	“R-6 MLOD-3 MLR-2 AHOD” Residential Single-Family Martindale Army Airfield Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District	Single-Family Residence

Comprehensive Plan Consistency/Neighborhood Association

The subject property is in the Government Hill Neighborhood Plan and is designated “Low Density Residential” in the future land use component of the plan. The subject property is located within the boundary of the Government Hill Alliance Neighborhood Association, and they have been notified of the request.

Street Classification

Tilden Street is classified as a local road.

Criteria for Review –Lot Size 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. In this case, the public interest is represented by minimum lot sizes in order to preserve neighborhood character. The applicant is requesting a variance from the minimum lot size requirement of 6,000 square feet to allow a lot to be 3,250 square feet. Staff finds this request contrary, as the request increases density for the assigned zoning district, which can infringe on surrounding property owners.

The applicant is requesting a variance to deviate from the minimum rear setback requirement. In this case, the public interest is represented by restricted setbacks to provide suitable spacing between structures. The applicant is requesting a variance to the rear setback to allow a structure to be 15’ from the rear property line. Staff finds that

this an allowable amount of spacing, as the structure will provide a suitable distance from neighboring properties.

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 re zoning the property to “R-3” to allow for the development on a 3,250 square foot lot. This would not result in an unnecessary hardship, as the applicant would only need to rezone.

A literal enforcement of the ordinance would result in the applicant altering the proposed structure to adhere by the rear setback requirement. This would result in an unnecessary hardship, as this would not allow for a sizeable single-family home.

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. If approved, the lot will not meet the minimum lot size in the assigned zoning district. Staff finds the spirit of the ordinance will not be observed, as minimum lot size requirements are enforced to provide consistency within a zoning district.

In this case, the proposed rear setback will adhere to the spirit of the ordinance and substantial justice will be done by allowing for suitable distances between structures and neighboring properties. Additionally, the structure will abide by the front and side setback requirements.

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.*

If granted, the lot size granted would be 3,250 square feet within an “R-6” zoned district. Staff finds this request will injure the appropriate use of adjacent conforming properties and alter the essential character of the district, as majority of properties in the immediate vicinity are abiding by the minimum lot size requirement.

A 15’ rear setback for the structure does not appear to alter the essential character of the district nor will it 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 unique circumstances existing on the property. The circumstances do not appear to be merely financial.

Alternative to Applicant's Request

The alternative to the applicant's request is to conform to the Lot and Building Dimensions and minimum lot size requirements of the UDC Section 35-310.01.

Staff Recommendation – Minimum Lot Size Variance

Staff recommends Denial in BOA-23-10300044 based on the following findings of fact:

1. The applicant could rezone to “R-3” to accommodate for the minimum lot size requirement.

Staff Recommendation – Rear Setback Variance

Staff recommends **Approval** in **BOA-23-10300044** based on the following findings of fact:

1. The structure is going to be abiding by the front and side setback, and
2. The variance will allow for the applicant to construct a sizeable single-family home on a formerly vacant lot.