

Case Number:	BOA-23-10300036
Applicant:	Fernando Agurcia
Owner:	Fernando Agurcia
Council District:	2
Location:	118 Shenandoah Street
Legal Description:	Lot 9, Block 2, NCB 1027
Zoning:	“RM-4 AHOD” Residential Mixed Airport Hazard Overlay District
Case Manager:	Jake Exler, Planner

### **Request**

A request for a 5’ variance from the minimum 10’ rear setback requirement, as described in Sec. 35-310.01, to allow a 5’ rear setback.

### **Executive Summary**

The subject property is located along Shenandoah on the east side near the Alamodome. The applicant is constructing 2 structures with a total of 3 units and requested an adjustment for the rear setback to be 5’ from the rear property line. The applicant submitted plans for multiple buildings in the “RM-4” property prior to the recent UDC amendment that requires all dwellings to be located in 1 structure on lots 1/3 of an acre or less.

### **Code Enforcement History**

The property has no Code Enforcement history.

### **Permit History**

Permits are awaiting the outcome of the Board of Adjustment hearing.

### **Zoning History**

The property was located in the original 36 square miles 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 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	Vacant Lot

### **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 under the Arena District plan and the future land use is “Medium Density Residential”. The subject property is in the Denver Heights Neighborhood Association.

### **Street Classification**

Shenandoah Street is classified as a local street.

### **Criteria for Review – 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.*

**There will be adequate space between the structure and neighboring houses and so it is not 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 unnecessary hardship as there would not be enough space to construct the dwelling.**

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 reduced rear setback requirement is in the spirit of the ordinance as there will be adequate space between the dwelling and adjacent 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 reduced rear setback requirement will not substantially injure the appropriate use of 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 variances are sought is due to unique circumstances existing on the property, such as the location of the property.**

**Alternative to Applicant's Request**

The alternative to the applicant's request is to conform to the Setback Regulations under Section 35-310.01 of the UDC.

**Staff Recommendation – Rear Setback Variance**

Staff recommends **Approval** in **BOA-23-10300036** based on the following findings of fact:

1. There will be adequate space between the structure and neighboring properties: and
2. It will not alter the essential character of the neighborhood.