

Case Number:	BOA-23-10300055
Applicant:	John McFall
Owner:	John McFall
Council District:	2
Location:	726 Aransas Avenue
Legal Description:	Lots 10, 11 and 12, Block 32, NCB 1606
Zoning:	“RM-4 AHOD” Residential-Mixed Airport Hazard Overlay District
Case Manager:	Mirko Maravi, Principal Planner

Request

A request for 1) a 1,750 square foot variance from the minimum 4,000 square foot, as described in Section 35-310.01, to allow a lot size of 2,250 square feet, 2) a 9’ variance from the minimum 10’ front setback, as described in Section 35-310.01, to allow a 1’ front setback, 3) a 4’ variance from the minimum 10’ rear setback, as described in Section 35-310.01, to allow a structure to be on the property line (with 6’ credit from the alley), 4) a 4’-11” variance from the minimum 5’ side setback, as described in Section 35-310.01, to allow a 1” side setbacks on the east and west property lines, and 5) a half story variance from the maximum 2.5 story, as described in Section 35-310.01, to allow a building with 3 stories.

Executive Summary

The subject property is located on Aransas Avenue in Denver Heights. The applicant is proposing to construct a single-family residence with reduced setbacks on all sides on a substandard lot. The applicant is requesting variances to build on a 1,750 square foot lot in an RM-4, a variance to allow a home with a carport to be 1” from the front and side property lines and on the rear property line (with 6’ credit from the alley). The applicant is also requesting a half story variance to allow the building to have three stories.

Code Enforcement History

There are no relevant code violations for this property.

Permit History

There are no permits on file for the property.

Zoning History

The property was located within the original 36 square miles of San Antonio and zoned “B” Residence District. The properties were 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 converted from “R-2” Two-Family Residence District 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	Multi-Family Housing
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 Neighborhood Community Plan and is designated “Medium Density Residential” in the future land use component of the plan. It is in the Denver Heights Neighborhood Association.

Street Classification

Aransas Avenue is classified as a local road.

Criteria for Review

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 requested variances are contrary to the public interest as it will not provide adequate setbacks in a substandard lot and would have a higher elevation than others in the area.

2. *Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship.*

A literal enforcement of the ordinance would not result in an unnecessary hardship since the design can be altered to meet the Unified Development Code standards.

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 request does not appear to be in the spirit of the ordinance as the required setbacks allow a separation between the property line and the structure, and the building height limit is intended to not have structures of higher height.

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 finds that the variance would substantially injure the appropriate use of adjacent properties as the request is reducing the setbacks to a foot and less in a substandard lot with a greater allowable height. This will alter the essential character of the district.

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 not due to unique circumstances existing on the property. While the lot is substandard, a rezoning to an appropriate zoning district and a redesign of the structure will allow appropriate development of the site.

Alternative to Applicant's Requests

The alternative to the applicant's request is to conform to the minimum lot size requirements of the UDC Sec 35-310.01.

Staff Recommendation

Staff recommends Denial in BOA-23-10300055 based on the following findings of fact:

1. Variances will leave no space between property line and structure; and
2. It will alter the essential character of the district.