

Case Number:	BOA-23-10300139
Applicant:	Aragon Builders
Owner:	Aragon Homes, LLC
Council District:	5
Location:	1330 and 1332 Montezuma Street
Legal Description:	Lot 1 and Lot 2, Block 2, NCB 6127
Zoning:	“R-4 MLOD-2 MLR-2 AHOD” Residential Single-Family Lackland Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District
Case Manager:	Joseph Leos, Planner

Request

A request for 1) a 5' variance from the minimum 10' front setback requirement, as described in Section 35-310.01, to allow a structure to be 5' from the front property lines, 2) a 2' variance from the minimum 5' side setback requirement, as described in Section 35-310.01, to allow a structure to be 3' from the side property lines, 3) a 10' variance from the minimum 20' rear setback requirement, as described in Section 35-310.01, to allow a structure to be 10' from the rear property lines, 4) a 2,740 square feet variance from the minimum 4,000 square feet requirement, as described in Section 35-310.01, to allow a 1,260 square feet lots, and 5) a 14' variance from the minimum 35' lot width requirement, as described in Section 35-310.01, to allow lots with 21' width.

Executive Summary

The subject properties are located near the intersections of Guadalupe Street and South Zarzamora Street. The applicant is seeking a variance to deviate from the minimum front, side, and rear setback, lot width, and lot size requirements to construct a single-family dwelling on 1330 and 1332 Montezuma. 1332 Montezuma and both properties combined received separate Certificate of Determination from Development Services.

Code Enforcement History

There is no relevant code enforcement history for the subject property.

Permit History

The issuance of a building permit is pending the outcome of the Board of Adjustment
There are no relevant permits pulled for the subject property.

Zoning History

The subject properties were located within the original 36 square miles of the City of San Antonio and zoned “G” Local Retail District. The properties rezoned under 75720, dated May 7th, 1992, from “G” Local Retail District to “R-7 Small Lot Home District. Under the 2001 Unified Development Code, established by Ordinance 93881, dated May 03, 2001, the properties zoned “R-7” Small Lot Home District converted to the current “R-4” Residential Single-Family District.

Subject Property Zoning/Land Use

Existing Zoning	Existing Use
“R-4 MLOD-2 MLR-2 AHOD” Residential Single-Family Lackland Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District	Vacant Lot

Surrounding Zoning/Land Use

Orientation	Existing Zoning District(s)	Existing Use
North	“R-4 MLOD-2 MLR-2 AHOD” Residential Single-Family Lackland Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District	Single-Family Residence
South	“R-4 MLOD-2 MLR-2 AHOD” Residential Single-Family Lackland Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District	Single-Family Residence
East	“R-4 MLOD-2 MLR-2 AHOD” Residential Single-Family Lackland Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District	Single-Family Residence
West	“R-4 MLOD-2 MLR-2 AHOD” Residential Single-Family Lackland 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 Guadalupe/ Westside Community 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 El Charro and Historic Westside Residents Neighborhood Association, and they have been notified of the request.

Street Classification

Montezuma Street is classified as a local road.

Criteria for Review – Front, Side, Rear, Lot Size and Lot Width 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 public interest is represented by restricted setbacks to provide spacing between property line and structures and by minimum lot sizes and width to prevent the overcrowding of development into smaller lots. Staff finds the anticipated setback distances are not suitable, as it imposes on the public interest of the adjacent neighbor by being too close to the shared property line, water runoff may impose, and risk of fire spread is greater. Additionally, the increase of density for the assigned zoning district can infringe on surrounding property owners by the lot being smaller in size.

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

Staff found no special conditions on the subject property that warrant the need for the structure to have the anticipated setbacks. The requests provide no room for front, side, and rear yard maintenance without trespass, nor allows for storm water mitigation or fire spread prevention. A literal enforcement of the ordinance would result in the applicant re zoning the property to “R-1” to allow for the development on this lot. This would not result in an unnecessary hardship the variances would not be necessary, as the applicant would meet the lot dimensions and width required with no need a variance. No unnecessary hardship seems to be presented in this case.

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. In this case, the intention is for sufficient spacing between structures, property lines, and right of ways. The structures do not observe the spirit of the ordinance or intent of the code as it will be too close to the shared property line and neighboring structure. If approved, the lot will not meet the minimum lot size and width in the assigned zoning district. Staff finds the spirit of the ordinance will not be observed, as lot dimension requirements are enforced to provide consistency within a assigned base zoning district and surrounding areas

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 structure will be constructed at their anticipated distances, which are likely to injure the appropriate use of the adjacent conforming properties. Staff does recognize that the homes in the immediate area impede into the setback, mainly because they were constructed prior to current setback regulations. Staff cannot recommend approval for the anticipated distances, as it will be too close to neighboring structures. Additionally, staff finds these requests 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.

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 does not find the plight of the owner of the property for which the variance is sought is due to unique circumstances existing on the property, as the applicant can rezone the property to allow for his requested variances. 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 Dimensions of the UDC Section 35-310.01.

Staff Recommendation – Front, Side, Rear, Lot Size and Lot Width Variances

Staff recommends Denial in BOA-23-10300139 based on the following findings of fact:

1. These distances are not suitable, as it imposes on the public interest of the adjacent neighbor by being too close to the shared property line, water runoff may impose, and risk of fire spread is greater;
2. The increasement of density for the assigned zoning district can infringe on surrounding property owners by the lot being smaller in size; and
3. The applicant can rezone to a zoning district that would alleviate the need for the requested variances.