

Case Number:	BOA-23-10300131
Applicant:	Ziga Architecture Studio, PLLC
Owner:	Delafield Investments, LLC
Council District:	2
Location:	118 May Street
Legal Description:	The north 74.33 feet of Lot 25, Block 1, NCB 1373
Zoning:	“RM-4 H AHOD” Residential Mixed Historic Dignowity Hill Airport Hazard Overlay District
Case Manager:	Joseph Leos, Planner

Request

A request for a 1,040 square feet variance from the minimum 4,000 square feet lot, as described in Section 35-310.01, to allow a 2,960 square feet lot.

Executive Summary

The subject property is located at 118 May Street, near the intersection of East Houston Street and North Pine Street. The subject property fronts onto May Street, with the side and rear facing other residentially zoned districts. Currently, the lot does not meet the minimum lot size requirement of 4,000 square feet, leading the applicant to seek a variance to deviate from the minimum square footage for an “RM-4” zoned district. Upon site visits, staff observed other smaller lots in the immediate area.

Code Enforcement History

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

Permit History

There are no relevant permits pulled for the subject property.

Zoning History

The subject property was located within the original 36 square miles of the City of San Antonio and zoned “C” Apartment District. The property rezoned under Ordinance 70785, dated December 14, 1989 from “C” Apartment 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 H AHOD” Residential Mixed Historic Dignowity Hill Airport Hazard Overlay District	Vacant Residential

Surrounding Zoning/Land Use

Orientation	Existing Zoning District(s)	Existing Use
North	“RM-4 H AHOD” Residential Mixed Historic Dignowity Hill Airport Hazard Overlay District	Single-Family Residence

South	“RM-4 H AHOD” Residential Mixed Historic Dignowity Hill Airport Hazard Overlay District	Church
East	“RM-4 H AHOD” Residential Mixed Historic Dignowity Hill Airport Hazard Overlay District	Single-Family Residence
West	“RM-4 H AHOD” Residential Mixed Historic Dignowity Hill Airport Hazard Overlay District	Vacant Residential

Comprehensive Plan Consistency/Neighborhood Association

The subject property is in the Dignowity Hill Neighborhood 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 Dignowity Hill Neighborhood Association and they have been notified of the request.

Street Classification

May Street is classified as a local road.

Criteria for Review – Lot Size 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 to maintain the integrity of the assigned base zoning district and to prevent the overcrowding of smaller lots. Given that there are other non-conforming lots in the immediate area, the request appears highly unlikely to be contrary to the public interest.

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

The special condition found on the subject property is the lot is smaller in size. A literal enforcement of the ordinance would result in the applicant not being able to build on the vacant lot, which would result in an unnecessary hardship.

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 lot with its current dimensions will observe the spirit of the ordinance, as the applicant is following all other building 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 will be 2,960 square feet, which is highly unlikely to alter the essential character of the district. The anticipated structure is proportional with the size of the lot. Additionally, the structure is meeting by the minimum setback requirements, which won't interfere with surrounding 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, such as the small size of the lot. 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 Requirements of the UDC Section 35-310.01.

Staff Recommendation – Rear Setback Variance

Staff recommends **Approval** in **BOA-23-10300131** based on the following findings of fact:

1. The lot with its current dimensions will observe the spirit of the ordinance, as the applicant is meeting by all other building requirements, and
2. The anticipated structure is proportional with the size of the lot.