

Case Number:	BOA-23-10300219
Applicant:	Killen, Griffin & Farrimond, PLLC
Owner:	Richard Carduner
Council District:	1
Location:	760 East Locust Street
Legal Description:	Lot 23 and Lot 24, Block 5, NCB 6793
Zoning:	“IDZ-2 AHOD” Medium Intensity Infill Development Zone Airport Hazard Overlay District with uses permitted for four (4) dwelling units
Case Manager:	Vincent Trevino, Senior Planner

### **Request**

A request for 1) a driveway variance, as described in Section 35-506(r), to allow two driveways within 50' and 2) a variance from the maximum 50% impervious cover requirement, as described in Section 35-515(d), to allow the front yard to exceed the maximum 50% impervious cover.

### **Executive Summary**

The subject property is located on East Locust Street, just west of US Hwy 281, between the intersections of N St. Mary's Street and East Euclid Avenue. Applicant is requesting variances for a driveway within 50' on a separate lot and impervious cover to allow the front yard to exceed the maximum 50% coverage for the property. The configuration of the lot and design of the structure requires the additional driveway and impervious cover which will enable each occupant to access their living space at different times of the day.

### **Code Enforcement History**

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

### **Permit History**

RES-RBP-PMT22-36602736 (Residential New Building Permit)- May 2022

### **Zoning History**

The subject property was located within the original 36 square miles of the City of San Antonio and zoned “J” Commercial District. The property was rezoned by Ordinance 83331, dated December 14, 1995 to “R-1” Single-Family Residence District. Under the 2001 Unified Development Code, established by Ordinance 93881, dated May 03, 2001, the property zoned “R-1” Single-Family Residence District converted to the current “R-6” Residential Single-Family District. The property was rezoned by Ordinance 2019-09-19-0770, dated September 19, 2019 to “IDZ-2” Limited Intensity Infill Development Zone with uses permitted for four (4) dwellings units.

### **Subject Property Zoning/Land Use**

Existing Zoning	Existing Use
“IDZ-2 AHOD” Medium Intensity Infill Development Zone Airport Hazard Overlay District with uses permitted for four (4) dwelling units	Single-Family Residence

### **Surrounding Zoning/Land Use**

Orientation	Existing Zoning District(s)	Existing Use
North	“IDZ AHOD” Infill Development Zone Airport Hazard Overlay District with uses permitted in “MF-33” Multi-Family District	Single-Family Residence
South	“R-6 AHOD” Residential Single-Family District	Single-Family Residence
East	“R-6 AHOD” Residential Single-Family District	Single-Family Residence
West	“R-6 AHOD” Residential Single-Family District	Single-Family Residence

### **Comprehensive Plan Consistency/Neighborhood Association**

The subject property is in the Midtown Regional Center Area Plan and is designated as “Employment/Flex Mixed Use” in the future land use component of the plan. The subject property is within the Tobin Hill Community Neighborhood Association and were notified of the case.

### **Street Classification**

East Locust Street is classified as a local street.

### **Criteria for Review – Additional Driveway and Impervious 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. The applicant is requesting to have a driveway within 50’ of another driveway and to allow the front yard to exceed 50% impervious cover for the front yard. The variance request does not appear to be 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 only having one driveway on an Infill Development that allows 4 dwelling units. Based on the design and configuration of the lot, an additional driveway is required, thus adding additional impervious cover.**

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. Based on the design and configuration of the lot only one driveway can be allowed on a lot that is under 50’ frontage, an additional driveway is being requested for the structure for the use. Additionally, due to the additional driveway the impervious coverage will exceed 50%. The request appears to observe the spirit of the ordinance.**

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 does not find evidence that the requested variance would alter the essential character of the district. The additional driveway being requested for the structure is for the use. Additionally, due to the additional driveway the impervious coverage will exceed 50%. The additional driveway and impervious cover are based on the design and configuration of the lot.**

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. Based on the design and configuration of the lot the additional driveway and increase in impervious cover request do not appear merely financial.**

#### **Alternative to Applicant's Request**

The alternative to the applicant's request is to conform to the Additional Driveway of the UDC Section 35-506(r) and conform to Impervious Cover of the UDC Section 35-515(d)

#### **Staff Recommendation – Additional Driveway and Impervious Cover Variance**

Staff recommends **Approval** in **BOA-23-10300219** based on the following findings of fact:

1. Based on the design and configuration of the lot and the use, the additional driveway and additional impervious cover does not appear to be contrary to the public interest; and
2. The variance requests do not appear to alter the essential character of the district.