

Case Number:	BOA-23-10300233
Applicant:	Orfa Trevino
Owner:	Orfa Trevino
Council District:	5
Location:	165 North San Felipe Avenue
Legal Description:	Lot 9, Block 23, NCB 8879
Zoning:	“R-5 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 1’- 4” variance from the minimum 5’ side setback, as described in Section 35-310.01, to allow a structure with 3’-8” side setbacks, and 2) a 2,125 square foot variance from the minimum 5,000 square foot, as described in Section 35-310.01, to allow development on a 2,875 square foot lot.

Executive Summary

The subject property is located along North San Felipe Avenue north of West Commerce Street. The applicant is proposing to construct a single-family dwelling on a currently vacant lot. Lot and building regulations for an “R-5” zoned lot include a minimum lot size of 5,000 square feet and 5’ from the side property lines. Currently, the applicant is proposing a lot size of 2,875 square feet and a structure to be located 3’-8” from both side property lines.

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.

Zoning History

The property was annexed into the City of San Antonio by Ordinance 2590, dated September 5, 1945 and zoned “C” Apartment District. Under the 2001 Unified Development Code, established by Ordinance 93881, dated May 03, 2001, the property zoned “C” Apartment District converted to “MF-33” Multi-Family District. The property was then rezoned by Ordinance 97385, dated March 27, 2003 from “MF-33” Multi-Family District to the current “R-5” Residential Single-Family District.

Subject Property Zoning/Land Use

Existing Zoning	Existing Use
“R-5 MLOD-2 MLR-2 AHOD” Residential Single-Family Lackland Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District	Vacant Residential

Surrounding Zoning/Land Use

Orientation	Existing Zoning District(s)	Existing Use
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North	“R-5 MLOD-2 MLR-2 AHOD” Residential Single-Family Lackland Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District	Single-Family Dwelling
South	“R-5 MLOD-2 MLR-2 AHOD” Residential Single-Family Lackland Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District	Single-Family Dwelling
East	“R-5 MLOD-2 MLR-2 AHOD” Residential Single-Family Lackland Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District	Vacant Residential
West	“R-5 MLOD-2 MLR-2 AHOD” Residential Single-Family Lackland Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District	Single-Family Dwelling

Comprehensive Plan Consistency/Neighborhood Association

The subject property is in the West/Southwest Sector Plan and is designated as “General Urban Tier” in the future land use component of the plan. The subject property is not located within the boundary of a registered neighborhood association.

Street Classification

North San Felipe Avenue Street is classified as a local road.

Criteria for Review – Side Setback and Lot Size 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 served by minimum lot sizes to prevent the overcrowding of development into smaller lots and setback requirements to provide spacing between structures. The applicant is requesting a variance to deviate from these minimum requirements, which are demonstrated to not be contrary to the public interest. A 2,125 square foot variance to allow a lot to be 2,875 square feet provides for the development of a vacant lot. Further, a 1’-4” variance to allow a 3’-8” side setback allows for suitable spacing of structures and space for routine maintenance.

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

In this case, the lot dimensions of the subject property are the special condition. The development of a single-family home cannot be successfully completed without the granting of all variances. An unnecessary hardship will be presented by having the applicant alter construction plans, which could drastically reduce square footage of the dwelling or pursue a rezoning to “R-2” Single-Family Residential District.

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 intent of the code is to prevent overcrowding into smaller lots and provide suitable spacing between properties. The spirit of the ordinance will be observed, as the applicant will be abiding by all other building requirements and construction has not begun.

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 have the deviated building requirements. These variances will not substantially injure the appropriate use of adjacent conforming properties or alter the essential character of the district. Upon site visits, staff observed the block face was composed of one-story single-family dwellings, all constructed on similar lot sizes and setbacks. Most of the homes in this area were constructed prior to current setback and lot size regulations, so the requests will not directly interfere with the neighborhood fabric and won't detract from the character of the community.

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 property owner for which the variance is sought is due to unique circumstances existing on the property, such as the lot dimensions of the property.

Alternative to Applicant's Request

The alternative to the applicant's request is to conform to the Lot and Building Regulations of Section 35-310.01 of the Unified Development Code.

Staff Recommendation – Side Setback and Lot Size Variances

Staff recommends **Approval** in **BOA-23-10300233** based on the following findings of fact:

1. The development of a single-family home cannot be successfully completed without the granting of all variances; and
2. The requests are not out of character with the neighborhood.