

Case Number:	BOA-22-10300002
Applicant:	Brett Henneke
Owner:	Totoro, LLC
Council District:	2
Location:	1659 North Center Street
Legal Description:	Lot 54, Block 4, NCB 6332
Zoning:	"R-4 MLOD-3 MLR-2 AHOD" Residential Single-Family Martindale Army Air Field Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District
Case Manager:	Kayla Leal, Principal Planner

Request

A request for a 2' 6" variance from the minimum 5' side setback requirement, as described in Section 35-310, to allow a structure to be 2' 6" from the side property line.

Executive Summary

The subject property is a singular lot located at the corner of Center Street and North Walters Street. The subject property is currently vacant and the applicant is requesting a variance to the side setback requirement in order to better-accommodate the construction of a single-family dwelling for the lot. The variance request is to build the dwelling 2' 6" from the side property line abutting North Walters Street. In December of 2021, the subject property was approved for a 6" variance to be able to build 4' 6" from the side property line abutting North Walters Street, however the applicant received a new survey showing that two feet of the lot along North Walters Street was taken for Right-Of-Way dedication, which reduced the width of the lot. In order to maintain the width of the proposed structure, a 2' 6" variance was required to be requested from the Board of Adjustment.

Code Enforcement History

There is no relevant Code Enforcement History for the subject property.

Permit History

Residential Building Permit Applications have been submitted for the subject property.

Zoning History

The subject property was located within the Original 36 square miles of San Antonio and was zoned "B" Residence District. Upon adoption of the 2001 Unified Development Code, established by Ordinance 93881, dated May 3, 2001, the zoning converted from "B" to the current "R-4" Residential Single-Family District.

Subject Property Zoning/Land Use

Existing Zoning	Existing Use
"R-4 MLOD-3 MLR-2 AHOD" Residential Single-Family Martindale Army Air Field 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-3 MLR-2 AHOD" Residential Single-Family Martindale Army Air Field Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District	Single-Family Residence
South	"R-4 MLOD-3 MLR-2 AHOD" Residential Single-Family Martindale Army Air Field Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District	Single-Family Residence
East	"R-4 MLOD-3 MLR-2 AHOD" Residential Single-Family Martindale Army Air Field Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District	Single-Family Residence
West	"R-4 MLOD-3 MLR-2 AHOD" Residential Single-Family Martindale Army Air Field Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District	Single-Family Residence

Comprehensive Plan Consistency/Neighborhood Association

The subject property is in the Arena District Community Plan and is designated "Medium Density Residential" in the future land use component of the plan. The subject property is located within the Jefferson Heights Neighborhood Association and they were notified of the case.

Street Classification

Center Street is classified as a local road.

Criteria for Review – Side Setback 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 a variance to the side setback along North Walters Street in order to allow a residential structure to encroach 2' 6" into the side setback. The variance is not contrary to the infill development nor 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 the applicant needing to meet the 5' side setback, which will alter the design of the dwelling. A literal enforcement would result in 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 variance does observe the spirit of the ordinance as the reduced setback will be along a lot line that is fronting North Walters Street.

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 maintain 2' 6" from the eastern side property line, which is not likely to 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 due to the small size of each property and is not merely financial.

Alternative to Applicant's Request

The alternative to the applicant's request is to conform to the Lot and Building Dimensions of the UDC Section 35-310.01.

Staff Recommendation – Side Setback Variance

Staff recommends **Approval** in **BOA-22-10300002** based on the following findings of fact:

1. The variance is for the proposed residential structure to encroach 2' 6" into the side setback along North Walters Street; and
2. This lot is located on the corner and the reduced setback will be facing North Walters Street; and
3. The variance will not alter the essential character of the district and will observe the spirit of the ordinance.