

Case Number:	BOA-22-10300037
Applicant:	Fernando De Leon
Owner:	Jose Cuellar
Council District:	1
Location:	2614 West Poplar Street
Legal Description:	North 78 feet of the East 27.2 feet of Lot 1 & North 78 feet of the West 15.6 feet of Lot 2, Block 1, NCB 2132
Zoning:	“R-4 MLOD-2 MLR-2 AHOD” Residential Single-Family Lackland Military Overlay Military Lighting Region 2 Airport Hazard Overlay District
Case Manager:	Richard Bautista-Vazquez, Planner

Request

A request for a 560 square foot variance from the minimum 4,000 square foot requirement, as described in Section 35-310, to allow a 3,440 square foot lot and 2) a request for a 10’ variance from the minimum 20’ rear setback requirement, as described in Section 35-310, to allow a structure to be 10’ from the rear property line.

Executive Summary

The applicant is requesting a minimum lot size variance because the lot is 3,440 square feet in size. The lot is currently vacant. The applicant intends to build a home, with no garage, on the lot. The applicant is proposing to construct the dwelling 10’ from the rear property line. The lot measures 80 feet in length by 43 feet wide.

Code Enforcement History

There is no Code Enforcement History on file.

Permit History

No permits have been issued. Building permits and a Certificate of Determination are pending the outcome of the BOA Meeting.

Zoning History

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

Subject Property Zoning/Land Use

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

Surrounding Zoning/Land Use

Orientation	Existing Zoning District(s)	Existing Use
North	“MF-33 MLOD-2 MLR-2 AHOD” Multi-Family Lackland Military Overlay Military Lighting Region 2 Airport Hazard Overlay District	Single-Family Dwelling
South	“R-4 MLOD-2 MLR-2 AHOD” Residential Single-Family Lackland Military Overlay Military Lighting Region 2 Airport Hazard Overlay District	Single-Family Dwelling
East	“R-4 MLOD-2 MLR-2 AHOD” Residential Single-Family Lackland Military Overlay Military Lighting Region 2 Airport Hazard Overlay District	Single-Family Dwelling
West	“R-4 MLOD-2 MLR-2 AHOD” Residential Single-Family Lackland Military Overlay Military Lighting Region 2 Airport Hazard Overlay District	Single-Family Dwelling

Comprehensive Plan Consistency/Neighborhood Association

The subject property is not located within a Plan Area therefore consistency is not applicable. The subject property is located within the Prospect Hill Neighborhood Association and the West End Hope in Action Neighborhood Association, and they were notified of the case.

Street Classification

West Poplar Street is classified as a local road.

Criteria for Review - 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. The applicant is requesting a 560 square foot variance from the minimum 4,000 square foot requirement to allow a lot size of 3,440 square feet. Additionally, due to the depth of the lot being 80 feet, the applicant is requesting a rear setback variance. These variance requests do not appear contrary to the public interest due to the limited space existing on the property.

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 having to postpone any development on the lot. The small shape of the lot presents a hardship to the development of the lot.

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 proposed lot size variance and rear setback variance will observe the spirit of the ordinance. The variances will not adversely affect surrounding properties in the immediate area and will allow for the development of a vacant lot.

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 finds the request for a 560 square foot variance from the minimum 4,000 square foot requirement to allow a lot size of 3,440 square feet is not likely to negatively affect adjacent properties. Additionally, the request for a 10' variance from the minimum 20' rear setback requirement to allow a structure to be 10' from the rear property line provides enough space from the property line. Neither request appear 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 unique circumstances existing on the property such as the small amount of available space on the lot.

Alternative to Applicant's Request

The alternative to the applicant's request is to conform to the Setback and the Minimum Lot Size Requirements per UDC Section 35-310.

Staff Recommendation – Minimum Lot Size & Rear Setback Variance

Staff recommends **Approval** in **BOA-22-10300037** based on the following findings of fact:

1. The depth of the lot is 80 feet; and
2. The proposed rear setback is 10 feet; and
3. The size of the existing lot is currently 3,440 square feet; and
4. The variance requests do not appear to alter the essential character of the district.