

Case Number:	BOA-22-10300054
Applicant:	Francisco Gonzalez
Owner:	WAM Retirement LLC
Council District:	2
Location:	1210 South New Braunfels Avenue
Legal Description:	Lot S 50 FT OF 24-25-26, Block 19, NCB 1604
Zoning:	“RM-4 MLOD-3 MLR-2 AHOD” Residential Mixed Martindale Army Airfield Military Lighting Overlay Military Lighting Region Airport Hazard Overlay District
Case Manager:	Richard Bautista-Vazquez, Planner

Request

A request for 1) a variance from the Lot Layout Regulations to allow driveway access off of South New Braunfels Avenue, as described in Section 35-515(c)(4), and 2) a 250 square foot lot size variance from the minimum 4,000 square foot requirement, as described in Section 35-310, to allow a 3,750 square foot lot.

Executive Summary

The subject property is currently vacant and located on South New Braunfels Avenue. The applicant is proposing to construct a duplex on the property with access off of South New Braunfels. The property does not face any other local streets and there appears to be a small unimproved alleyway along the side property line, which would not serve as good access. Upon the site visit conducted by staff, other properties were observed in the area that have similar access from South New Braunfels Avenue.

Code Enforcement History

There is no Code Enforcement history on file.

Permit History

No permits have been issued. Residential Building Permits 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. Ordinance 79329 dated December 16, 1993, rezoned the property to “R-2” Two-Family Residence District. Upon adoption of the 2001 Unified Development Code, the zoning converted from “R-2” Two-Family Residence District to the current “RM-4” Residential Mixed District, established by Ordinance 93881, dated May 3, 2001.

Subject Property Zoning/Land Use

Existing Zoning	Existing Use
“RM-4 MLOD-3 MLR-2 AHOD” Residential Mixed Martindale Army Airfield Military Lighting Overlay Military Lighting Region Airport Hazard Overlay District	Vacant Lot

Surrounding Zoning/Land Use

Orientation	Existing Zoning District(s)	Existing Use
North	“RM-4 MLOD-3 MLR-2 AHOD” Residential Mixed Martindale Army Airfield Military Lighting Overlay Military Lighting Region Airport Hazard Overlay District	Single-Family Dwelling
South	“C-2NA MLOD-3 MLR-2 AHOD” Commercial Nonalcoholic Sales Martindale Army Airfield Military Lighting Overlay Military Lighting Region Airport Hazard Overlay District	Medical Clinic
East	“RM-4 MLOD-3 MLR-2 AHOD” Residential Mixed Martindale Army Airfield Military Lighting Overlay Military Lighting Region Airport Hazard Overlay District	Single-Family Dwelling
West	“RM-4 MLOD-3 MLR-2 AHOD” Residential Mixed Martindale Army Airfield Military Lighting Overlay Military Lighting Region Airport Hazard Overlay District	School

Comprehensive Plan Consistency/Neighborhood Association

The subject property is in the Arena District/Eastside Community Plan and is designated “Neighborhood Commercial” in the future land use component of the plan. The subject property is located within the Denver Heights Neighborhood Association and were notified of the case.

Street Classification

South New Braunfels is classified as a Primary Arterial B.

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 variances to the minimum lot size and the access to the property. The lot currently has a unique orientation where the only entrance can be from South New Braunfels, which is a Primary Arterial B.

- 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 meet the minimum lot requirements and possibly improve the alley for access. These will cause an unnecessary hardship because the best access point to the property is from South New Braunfels.

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. A variance to allow street frontage on a Primary Arterial B will observe the spirit of the ordinance, as it is the only access currently available for the property. The variances appear 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 finds the requests are not negatively affect the adjacent neighboring property due to the other residential properties that are similar in the surrounding area.

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 and the orientation and location of the lot.

Alternative to Applicant's Request

The alternative to the applicant's request is to conform to the Lot and Building Dimensions Section 35-310 and Lot Layout Regulations Section 35-515(c)(4), in the UDC.

Staff Recommendation – Minimum Lot Size Variance and Lot Frontage Variance

Staff recommends **Approval** in **BOA-22-10300054** based on the following findings of fact:

1. Other lots were found to have access off of South New Braunfels Avenue in the immediate area; and
2. The size of the existing lot is currently 3,750 square feet; and
3. The variance requests do not appear to alter the essential character of the district; and
4. The orientation of the lot appears to be a unique circumstance on the property that would require access from South New Braunfels Avenue.