

Case Number:	BOA-22-10300079
Applicant:	Alan Neff
Owner:	Christina & Perry Balleza
Council District:	1
Location:	312 West Agarita Avenue
Legal Description:	Lot 8, Block 5, NCB 3058
Zoning:	"R-5 H AHOD" Residential Single-Family Monte Vista Historic Airport Hazard Overlay District
Case Manager:	Rebecca Rodriguez, Senior Planner

Request

A request for a 184 square foot variance from the maximum 40% allowance of 530 square feet, as described in Section 35-371, to allow an accessory detached dwelling unit to be 714 square feet.

Executive Summary

The subject property is located along West Agarita Avenue within the Historic Monte Vista District. The property owner is requesting to demolish an existing 630 square foot Accessory Detached Dwelling Unit (ADDU) and rebuild a new 714 square foot accessory dwelling unit. The building footprint of an ADDU cannot exceed forty (40) percent of the building footprint of the principal residence. The principal residence has a footprint of 1,326 square feet, therefore the maximum size allowed for the ADDU is 530 square feet. The proposed structure will meet all other requirements, including the minimum side and rear setback requirements. The Historic and Design Review Commission (HDRC) completed a conceptual review of the request, however a Certificate of Appropriateness has not been issued. The proposed design to HDRC had a larger square footage of the structure, but one of the stipulations for approval is that the structure be reduced by 50 square feet. The request being proposed to the Board of Adjustment is 50 square feet smaller than what was proposed to the HDRC.

Code Enforcement History

There are no Code Enforcement investigations for this property.

Permit History

There are no relevant permits pulled for the subject property.

Zoning History

The subject property was located within the original 36 square miles of the City of San Antonio and originally zoned "A" Single-Family Residence District. Under the 2001 Unified Development Code, established by Ordinance 93881, dated May 03, 2001, the property zoned "A" Single-Family Residence District converted to the current "R-5" Residential Single-Family District.

Subject Property Zoning/Land Use

Existing Zoning	Existing Use
"R-5 H AHOD" Residential Single-Family Monte Vista Historic Airport Hazard Overlay District	Single-Family Residence

Surrounding Zoning/Land Use

Orientation	Existing Zoning District(s)	Existing Use
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North	"R-5 H AHOD" Residential Single-Family Monte Vista Historic Airport Hazard Overlay District	Single-Family Residence
South	"R-5 H AHOD" Residential Single-Family Monte Vista Historic Airport Hazard Overlay District	Single-Family Residence
East	"R-5 H AHOD" Residential Single-Family Monte Vista Historic Airport Hazard Overlay District	Single-Family Residence
West	"R-5 H AHOD" Residential Single-Family Monte Vista Historic Airport Hazard Overlay District	Single-Family Residence

Comprehensive Plan Consistency/Neighborhood Association

The subject property is in the Monte Vista Neighborhood Plan however there are no future land use designations listed on the plan. The subject property is located within the boundary of the Monte Vista Neighborhood Association, and they have been notified of the request.

Street Classification

West Agarita Avenue is classified as a local road.

Criteria for Review – ADDU Footprint 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 from the maximum footprint allowed based on the principal structure's square footage. The variance is not contrary to the public interest as there are other accessory dwelling units observed in the area.

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 only being able to build a 530 square foot accessory detached dwelling unit which is smaller than the existing accessory dwelling unit found on the property. Staff finds an unnecessary hardship due to the limitation based on the main structure's footprint, which will prevent the reconstruction of the existing accessory dwelling unit.

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 accessory detached dwelling unit will meet all other code requirements therefore the spirit of the ordinance will be observed.

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 neighborhood has numerous properties that have an accessory dwelling unit. Additionally, the property owner has proposed their conceptual review to HDRC which finds that accessory structures contribute to the character of historic properties and the historical development pattern within a historic 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 size of the existing residence and the existing ADDU. Due to the property being located within a historic district, expansion of the main residence may be limited which poses a limit on the size of an accessory detached dwelling unit. The variance request is not merely financial.

Alternative to Applicant's Request

The alternative to the applicant's request is to conform to the Accessory Dwelling Unit Design Regulations of the UDC Section 35-371.

Staff Recommendation – Accessory Dwelling Unit Footprint Variance

Staff recommends **Approval** in **BOA-22-10300079** based on the following findings of fact:

1. There is an existing non-conforming accessory dwelling unit on the property that exceeds the maximum footprint allowed; and
2. The request does not appear to be out of character for the surrounding area; and
3. Historic and Design Review Commission (HDRC) has granted conceptual approval based on the stipulation that the square footage be reduced by 50 square feet, which was completed prior to the Board of Adjustment Hearing.