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| Case Number: | BOA-22-10300090 |
| Applicant: | Jose Garza |
| Owner: | Clover BLDG LLC |
| Council District: | 1 |
| Location: | 1330 West Mulberry Ave |
| Legal Description: | Lot 5 & Part of 6, Block 85, NCB 3254 |
| Zoning: | “C-1 AHOD” Light Commercial Airport Hazard Overlay District |
| Case Manager: | Richard Bautista-Vazquez, Planner |

Request

A request for 1) a 1 parking space variance from the minimum 7 parking spaces required, as described in Section 35-525, to allow a business to have 6 parking spaces, 2) a 9’ variance from the minimum 40’ driveway access requirement, as described in Section 35-506, to allow a driveway to be 31’, 3) a 75’ variance from the minimum 125’ driveway length, as described in Section 35-506, to allow a driveway to be 50’, and 4) a 10’ variance from the maximum 20’ setback, as described in Section 35-310, to allow a structure to be 30’ from the front property line.

Executive Summary

The subject property is currently a vacant corner lot on the corner of West Mulberry Avenue and the frontage road of Interstate Highway 10. The property is zoned “C-1” Light Commercial District and the applicant is proposing to construct an office on the property. Upon the site visit, staff did observe that there is currently one access point from West Mulberry Avenue and no access from the adjacent frontage road. DSD Traffic reviewed the request and commented that due to the smaller size of the lot and it being a corner lot that the requested access variances from West Mulberry would be appropriate. The subject property had a previous case heard by the Board of Adjustment for a different request. The case was heard in November of 2020 and the variances approved were for 1) a 10' variance from the 15' Type B buffer yard to allow a buffer yard to be 5' along the east and west property lines and 2) a 5' variance from the minimum 10’ side setback to allow a structure to be 5’ from the east and west property lines.

Code Enforcement History

There is no Code Enforcement history on file.

Permit History

No permits have been issued. Commercial Building Permits are pending the outcome of the BOA Meeting. The plans have already been submitted.

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 to the current “R-4” Residential Single-Family District, established by Ordinance 93881, dated May 3, 2001. Ordinance 2016-04-07-0252 dated April 7, 2016, rezoned the property to “C-1” Light Commercial District.

Subject Property Zoning/Land Use

| Existing Zoning | Existing Use |
|---|---------------------|
| “C-1 AHOD” Light Commercial Airport Hazard Overlay District | Vacant Lot |

Surrounding Zoning/Land Use

| Orientation | Existing Zoning District(s) | Existing Use |
|--------------------|--|-------------------------|
| North | “O-2 AHOD” High Rise Office Airport Hazard Overlay District | Medical Clinic |
| South | “R-4 AHOD” Residential Single Family Airport Hazard Overlay District | Vacant Lot |
| East | UZROW | Interstate 10 |
| West | “R-4 AHOD” Residential Single Family Airport Hazard Overlay District | Single Family Dwellings |

Comprehensive Plan Consistency/Neighborhood Association

The subject property is in the Near North Community Plan and is designated “Community Commercial” in the future land use component of the plan. The subject property is located within the Keystone Heights Neighborhood Association and were notified of the case.

Street Classification

West Mulberry 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 for a variance from the minimum parking requirement to provide 6 parking spaces, a variance from the minimum 40’ driveway access requirement to allow a driveway to be 31’, a variance from the 125’ minimum driveway length to allow a driveway to be 50’, and a variance from the 20’ maximum to allow a structure to be 30’ from the front property line. The requested variances will not be contrary to the public interest as they will allow the lot to be developed which will remove a vacant lot from the neighborhood.

- 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 parking, lot, and setback requirements. The lot is small which presents an unnecessary hardship causing the applicant to alter the site plan and leave little to no room for the structure itself.

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 requested variances may not negatively affect the surrounding area as DSD Traffic reviewed the proposed plans and did not have concerns.

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 requesting lot is not likely to negatively affect the adjacent neighboring properties. The access to the lot is very limited due to the size and the review conducted by DSD Traffic Staff did not find any adverse effects. The proposed development does not appear as though it will alter the 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 and location of the lot, and is not merely financial in nature.

Alternative to Applicant's Request

The alternative to the applicant's request is to conform to the Parking Regulations in Section 35-525 and Transportation and Street Design Regulations Section Sec. 35-506, in the UDC.

Staff Recommendation - Variances to Parking, 40' Driveway Access, Minimum Driveway Length, Maximum Setback

Staff recommends **Approval** in **BOA-22-10300090** based on the following findings of fact:

1. DSD Traffic reviewed the request and did not find likelihood of adverse effects; and
2. The size of the lot is currently 7840.80 square feet; and
3. The small size and location of the lot appear to present unnecessary hardships;
4. The requested variances will avoid the lot from becoming landlocked due to a lack of access.