

Case Number:	BOA-22-10300113
Applicant:	Orange Property LLC
Owner:	Blue Fly LLC
Council District:	1
Location:	638 West Elmira Street
Legal Description:	Lot 12, NCB 3599
Zoning:	"R-4 CD AHOD" Residential Single Family Airport Hazard Overlay District with a Conditional Use Three (3) Dwelling Units
Case Manager:	Richard Bautista-Vazquez, Planner

Request

A request for a variance to exceed the 2.5 story maximum, as described in Sec. 35-310.01, to allow 3 stories on a structure.

Executive Summary

The subject property is located on West Elmira Street and contains a single-family residence on a corner lot. Upon site visit staff notice that the building on the lot is a preexisting 3 story structure. The subject property did not meet the current Non-Conforming requirements as it was vacant for more than a year and any remodeling must meet current code. This exceeds the 2.5 story maximum requirement. This address has been recently rezoned. Case number being ZONING-Z-2022-10700072 and City Council voted to approve.

Code Enforcement History

There is no Code Enforcement History on file.

Permit History

Building permits are pending the outcome of the BOA Meeting.

Zoning History

The subject property was located within the original 36 square miles of the City of San Antonio and zoned "C" Apartment District. Under the 2001 Unified Development Code, established by Ordinance 93881, dated May 03, 2001, the property zoned "C" Apartment District converted to MF-33" Multi-Family District. The property was rezoned by Ordinance 97522, dated April 23, 2003, to "R-4 AHOD" Residential Single-Family Airport Hazard Overlay District. The property was rezoned by Ordinance 2022-05-19-0366, dated May 19, 2022, to "R-4 CD AHOD" Residential Single-Family Airport Hazard Overlay District with a Conditional Use for three (3) dwelling units.

Subject Property Zoning/Land Use

Existing Zoning	Existing Use
"R-4 CD AHOD" Residential Single Family Airport Hazard Overlay District with a Conditional Use Three (3) Dwelling Units	Single-Family Dwelling

Surrounding Zoning/Land Use

Orientation	Existing Zoning District(s)	Existing Use
North	"R-4 AHOD" Residential Single Family Airport Hazard Overlay District	Single-Family Dwelling
South	"C-2 AHOD" Residential Single Family Airport Hazard Overlay District	Office Building
East	"R-4 AHOD" Residential Single Family Airport Hazard Overlay District	Single-Family Dwelling
West	"R-4 AHOD" Residential Single Family Airport Hazard Overlay District	Single-Family Dwelling

Comprehensive Plan Consistency/Neighborhood Association

The subject property is in the Midtown Area Regional Center Plan and is designated “Urban Low Density Residential” in the future land use component of the plan. The subject property is located within the Five Points Neighborhood Association, and they were notified of the case.

Street Classification

West Elmira 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 applicants request to allow 3 stories will not be contrary to the public’s interest as the building was previously 3 stories in height before.

- 2. Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship because*

Without the requested variance the applicant will have to conform to the 2 1/2 maximum story requirement.

- 3. By granting the variance, the spirit of the ordinance will be observed and substantial justice will be done.*

The requested variance is to allow a structure to be 3 stories in height. Due to the configuration of the property and the structure being existing, this will 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.*

There are several other homes with a similar number of stories on West Elmira. The variance being requested will not 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.*

It appears 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 structure being existing. The variance request 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 per Sec. 35-310.01.

Staff Recommendation – Building Height Variance

Staff recommends **Approval** in **BOA-22-10300113** based on the following findings of fact:

1. The 3-story height will not alter the character of the district; and
2. The structure will not negatively affect neighboring properties; and
3. The building is preexisting.