

Case Number:	BOA-22-10300244
Applicant:	Jose Ramon Campos
Owner:	JRAmerica Investments LLC
Council District:	2
Location:	108 Spruce Street
Legal Description:	Lot 16, Block 1, NCB 626
Zoning:	“RM-4 AHOD” Residential Mixed Airport Hazard Overlay District
Case Manager:	Joseph Leos, Planner

Request

A request for a 2’-9” variance from the minimum 5’ side setback requirement, as described in 35-310.01, to allow a structure to be 2’-3” from the side property line.

Executive Summary

The subject property is located along Spruce Street near South Hackberry Street and is currently a duplex. The applicant halted construction for a side setback variance, which measured at 2’-3” from the side property line. Upon site visits, staff observed that there is currently a vacant lot abutting the subject property for which the side setback variance is requested for.

Code Enforcement History

Overgrown Yard Investigation- February 2022

Overgrown Yard Investigation- January 2022

Code Work Order- September 2021

Overgrown Yard Investigation- August 2021

Building Investigation- August 2021

Complaint- August 2021

Electrical Investigation- August 2021

Mechanical Investigation- August 2021

Plumbing Investigation- August 2021

Permit History

The issuance of a building permit is pending the outcome of the Board of Adjustment.

Mechanical Permit- May 2022

Electrical General Permit- February 2022

Plumbing Sewer Permit- December 2021

Residential Repair Permit- August 2021

Zoning History

The subject property was located within the original 36 square miles of the City of San Antonio and zoned “C” Apartment District. The property was rezoned by Ordinance 79329, dated December 16, 1993 to “R-2” Two-Family Residence District. Under the 2001 Unified Development Code, established by Ordinance 93881, dated May 03, 2001, the property zoned “R-2” Two Family Residence District converted to the current “RM-4” Residential Mixed District.

Subject Property Zoning/Land Use

Existing Zoning	Existing Use
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“RM-4 AHOD” Residential Mixed Airport Hazard Overlay District	Duplex
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Surrounding Zoning/Land Use

Orientation	Existing Zoning District(s)	Existing Use
North	“RM-4 AHOD” Residential Mixed Airport Hazard Overlay District	Vacant Residential
South	“RM-4 AHOD” Residential Mixed Airport Hazard Overlay District	Single-Family Residence
East	“RM-4 AHOD” Residential Mixed Airport Hazard Overlay District	Single-Family Residence
West	“RM-4 AHOD” Residential Mixed Airport Hazard Overlay District	Single-Family Residence

Comprehensive Plan Consistency/Neighborhood Association

The subject property is in the Downtown Neighborhood Plan and is designated “Residential” in the future land use component of the plan. The subject property is located within the boundary of the Denver Heights Neighborhood Association and they have been notified of the request.

Street Classification

Spruce Street is classified as a local road.

Criteria for Review – Side Setback 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 to the side setback in order to allow a structure to be 2’-3” from the side property line. The structure meets the minimum front setback requirement and there is still adequate spacing between the structure and side property line, which does not appear to be contrary to the public interest.

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 moving the structure 5’ from the side property line. This would result in an unnecessary hardship, as the size of the lot is inadequate to build a sizeable duplex.

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 structure is currently 2’-3” from the side property line, which does observe the spirit of the ordinance by providing a decent amount of space between properties.

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 that the requested variance will not alter the essential character of the district. Upon site visits, staff observed that small lots were found in the immediate area, including the adjacent property. Additionally, the adjacent property has not been established and is currently a vacant lot.

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. The circumstances do not appear to be merely financial.

Alternative to Applicant's Request

The alternative to the applicant's request is to conform to the setback requirements of the UDC Section 35-310.01.

Staff Recommendation – Side Setback Variance

Staff recommends **Approval** in **BOA-22-10300244** based on the following findings of fact:

1. The structure is currently 2'-3" from the side property line; and
2. The size of the lot is small, which prohibits the structure to be adequately constructed to the side; and
3. The neighboring property is not established and is currently vacant.