

Case Number:	BOA-23-10300001
Applicant:	Angela Aguinaga
Owner:	Angela Aguinaga
Council District:	5
Location:	126 Huerta Street
Legal Description:	Lot 7, Block 8, NCB 6750
Zoning:	“R-4 MLOD-2 MLR-2 AHOD” Residential Single-Family Lackland Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District
Case Manager:	Joseph Leos, Planner

Request

A request for a 770 square feet variance from the minimum 4,000 square feet lot size requirement, as described in Section 35-310.01, to allow a lot to be 3,230 square feet.

Executive Summary

The subject property is located along the intersection of Huerta Street and South Cibolo Street. The applicant is proposing a variance to the minimum lot size to construct a new single family residential dwelling. Upon site visits, staff observed other smaller lots in the immediate area. Additionally, the abutting property was granted a lot size variance request (BOA-21-10300188) to construct a single-family home by the Board of Adjustment in 2021.

Code Enforcement History

Overgrown Yard Investigation – December 2022
Property Maintenance Investigation- October 2022
Overgrown Yard Investigation- October 2022
Code Work Order- April 2022
Overgrown Yard Investigation- April 2022
Overgrown Yard Investigation- August 2021

Permit History

The issuance of a building permit RES-RBP-APP22-35504271, applied for on September 9, 2022 is pending the outcome of the Board of Adjustment.

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 the “MF-33” Multi-Family District. The property rezoned under Ordinance 96343 dated September 12, 2002, from “MF-33” Multi-Family District to the current “R-4” Residential Single-Family District.

Subject Property Zoning/Land Use

Existing Zoning	Existing Use
“R-4 MLOD-2 MLR-2 AHOD” Residential Single-Family Lackland Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District	Vacant Lot

Surrounding Zoning/Land Use

Orientation	Existing Zoning District(s)	Existing Use
North	“R-4 MLOD-2 MLR-2 AHOD” Residential Single-Family Lackland Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District	Single-Family Residence
South	“R-4 MLOD-2 MLR-2 AHOD” Residential Single-Family Lackland Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District	Single-Family Residence
East	“R-4 MLOD-2 MLR-2 AHOD” Residential Single-Family Lackland Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District	Single-Family Residence
West	“R-4 MLOD-2 MLR-2 AHOD” Residential Single-Family Lackland Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District	Single-Family Residence

Comprehensive Plan Consistency/Neighborhood Association

The subject property is in the Guadalupe Westside Community Plan and is designated “Low Density Residential” in the future land use component of the plan. The subject property is located within the boundary of the San Juan Gardens and Collins Garden Neighborhood Association and they have been notified of the request.

Street Classification

Huerta Street is classified as a local road.

Criteria for Review – Rear 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 for 770 square feet from the 4,000 minimum lot size to allow a lot to be 3,230 square feet, 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 not being able to construct the single-family dwelling, as the lot size does not meet the minimum square footage required

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 variance of 770 square feet will observe the spirit of the ordinance and substantial justice will be served as there are other properties with similar lot sizes and dimension were observed in the immediate area.

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.*

The essential character of the district will not be altered, as the request for a 770 square feet variance will be harmonious with the lot shape and sizes 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. Concluding, the 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 of the UDC Section 35-310.01.

Staff Recommendation – Minimum Lot Size Variance

Staff recommends **Approval** in **BOA-23-10300001** based on the following findings of fact:

1. There are lots with similar size and dimensions found in the immediate area; and
2. The variance to the minimum lot size will not adversely affect neighboring properties as the abutting neighbor underwent a variance request and was approved.