

Case Number:	BOA-23-10300099
Applicant:	New Comfort Homes Inc.
Owner:	New Comfort Homes Inc.
Council District:	2
Location:	130 Kansas Street
Legal Description:	The north 63' of Lot 8, Block 2, NCB 609
Zoning:	“RM-4 AHOD” Residential Mixed Airport Hazard Overlay District
Case Manager:	Mirko Maravi, Principal Planner

**Request**

A request for 1) a 346 square feet variance from the minimum 4,000 square feet, as described in Sec. 35-310.01, to allow development on a lot with 3,654 square feet, 2) a 4 parking spaces variance from the minimum 5 required parking spaces, as described in Sec. 35-526, to allow 1 parking space, 3) a 9'-11" variance from the 10' minimum front setback, as described in Sec. 35-310.01, to allow a front setback of 1", 4) a 9'-11" variance from the 10' minimum reverse corner, as described in Sec. 35-516(i), lot side setback to allow a side setback of 1", and 5) a 9'-11" variance from the 10' minimum rear setback, as described in Sec. 35-310.01, to allow a rear setback of 1".

**Executive Summary**

The subject property is located on the intersection of South Hackberry Street and Kansas Street. The building appears to have been constructed in 1950 and in 1980 a retail use was constructed according to county records. From historical zoning maps, it appears that an antique shop was established on the lot prior to 1993. It appears Lot 8 was separated by deed in 1961, and the structure was built in 1950. The applicant is requesting the variance initially to remodel the single-family structure into 3 units, which would require meeting the minimum lot size. The additional variances were observed during site visits.

**Code Enforcement History**

INV-BDS-21-2670014533 - Bandit Signs

**Permit History**

The issuance of a remodeling Permit is Pending the Outcome of the Board of Adjustment.

**Zoning History**

The subject property was part of the original 36 square miles of the City of San Antonio and zoned “D” Apartment District. The property was rezoned by Ordinance 79329, dated December 16, 1993, to the “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
“RM-4 AHOD” Residential Mixed Airport Hazard Overlay District	Mixed Residential Development

**Surrounding Zoning/Land Use**

Orientation	Existing Zoning District(s)	Existing Use
North	“RM-4 AHOD” Residential Mixed Airport Hazard Overlay District	Single-Family Residence
South	“RM-4 AHOD” Residential Mixed Airport Hazard Overlay District	Single-Family Residence
East	“C-2 NA AHOD” Residential Mixed Airport Hazard Overlay District	Vacant Lot
West	“RM-4 AHOD” Residential Mixed Airport Hazard Overlay District	Single-Family Residence

**Comprehensive Plan Consistency/Neighborhood Association**

The subject property is under the Downtown Neighborhood Plan and is designated as “Residential” in the future land use component of the plan. The subject property is within the notification area of the Denver Heights Neighborhood Association, and they were notified of the request.

**Street Classification**

Kansas Street is classified as a local street and South Hackberry Street is classified as a Secondary Arterial Type B.

**Criteria for Review – Front, Rear, Reverse Corner Lot Setback, Lot Size and Parking Requirements**

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. If approved the substandard lot will be permitted up to 4 residential units and 1 parking space.

**The reduced setbacks and reverse corner lot setback are not contrary to the public interest as they are existing and appear to have been built prior the lot dividing and other development are built inside the setback facing South Hackberry.**

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

A literal enforcement of the ordinance would not result in unnecessary hardship. The structure use is permitted for a single-family dwelling with the appropriate amount of parking spaces.

**A literal enforcement of the ordinance would result in an unnecessary hardship as other structures exist with similar setbacks in the area.**

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. Increasing the units permitted in the substandard lot while reducing required parking spaces is not within the spirit of the ordinance.

**The current reduced setbacks observe the spirit of the ordinance as it was built prior to the separation of lots.**

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 substandard lot size would injure neighboring properties and alter the essential character of the district as it will increase density and increase parking in the right of way.

**The reduced clear setbacks would not injure any adjacent properties as they are already established.**

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 variances are sought are not due to unique circumstances existing on the property. While the zoning district permits up to 4 units, the substandard lot was not designed for the use to include the lack of adequate parking spaces.

**Staff finds the plight of the owner of the property for which the setback variances are sought is due to unique circumstances on the property. The established setbacks were established when permitted and as similar was developed.**

### **Alternative to Applicant's Request**

The alternative to the applicant's request is to conform to the Lot Size and Setback Regulations under Sec 35-310.01, Reverse Corner Lot Setback Regulations under Sec 35-35-516(i), and Parking Regulations under Sec. 35-526 of the UDC.

### **Staff Recommendation – Lot Size and Parking Requirement Variances**

Staff recommends Denial in BOA-23-10300099 based on the following findings of fact:

1. The essential character of the neighborhood would be altered; and
2. The reduced parking requirement would create excess parking in the right of way.

### **Staff Recommendation – Front, Rear and Reverse Corner Lot Setback Variance**

Staff recommends **Approval** in **BOA-23-10300099** based on the following findings of fact:

1. The structure is existing and developed prior to lot split and similar development in the area; and
2. The variance would not alter the essential character of the district.