

Case Number:	BOA-21-10300139
Applicant:	Mario Manzano
Owner:	Mario Manzano
Council District:	2
Location:	206 South Mesquite Street
Legal Description:	Lot 1, Block 1, NCB 604
Zoning:	"AE-2 S AHOD" Arts and Entertainment Airport Hazard Overlay District w/ Specific Use Authorization for Two Dwelling Units
Case Manager:	Roland Arsate, Planner

Request

A request for a half story variance from the maximum 2.5 story building height limitation, as described in Section 35-358 (e)(4)(B), to allow a residential structure to be 3 stories.

Executive Summary

The subject property is located along South Mesquite Street. The subject property currently is a vacant lot and is zoned Arts and Entertainment District w/ Specific Use for a Two Dwelling Units. The applicant is proposing to construct a residential structure and is requesting a variance to be able to construct it three (3) stories high. The zoning district limits the height to 2.5 stories. The proposed project will be in compliance with the maximum 35 feet height.

Code Enforcement History

There are no relevant Code Enforcement violations pending.

Permit History

August 2021 – Plans submitted for building plans

Zoning History

The subject property is located within the Original 1938 City Limits of San Antonio and was zoned “D” Apartment District. The property was rezoned to “R-2” Two Family Residence District by ordinance 79329 dated December 16, 1993. Upon adoption of the 2001 Unified Development Code, the zoning converted from “R-2” to the current “RM-4” Residential Mixed District, established by Ordinance 93881 dated May 3, 2001. The property was rezoned by ordinance 200812041126 from “RM-4” Residential Mixed District to “AE-2” Arts and Entertainment District dated December 4, 2008. Zoning changed from “AE-2” Arts and Entertainment District to “IDZ-1” Infill Development Zone by Ordinance 2021-08-19-0595 dated August 19, 2021.

Subject Property Zoning/Land Use

Existing Zoning	Existing Use
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"AE-2 S AHOD" Arts and Entertainment Airport Hazard Overlay District w/ Specific Use Authorization for Two Dwelling Units	Vacant Lot
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Surrounding Zoning/Land Use

Orientation	Existing Zoning District(s)	Existing Use
North	"AE-1 AHOD" Arts and Entertainment Airport Hazard Overlay District	Vacant Lot
South	"AE-2 AHOD" Arts and Entertainment Airport Hazard Overlay District	Single-Family Residence
East	"AE-2 AHOD" Arts and Entertainment Airport Hazard Overlay District	Single-Family Residence / Vacant Lot
West	"AE-2 AHOD" Arts and Entertainment Airport Hazard Overlay District	Single-Family Residence

Comprehensive Plan Consistency/Neighborhood Association

The subject property is in the Downtown Area Regional Center Plan and is designated “Mixed Use” in the future land use component of the plan. The subject property is located within the Alamodome Gardens Neighborhood Association and they were notified of the case.

Street Classification

South Mesquite Street is classified as a local road.

Criteria for Review – Floor Height 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 a variance for third story structure, where only 2.5 stories is permitted per UDC 35-358(e)(4)(B). Additionally, the property was recently rezoned to allow the two units which included a site plan indicating the total building footprint and square footage of living space. The variance 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 building a 2.5 story structure on the vacant property. The variance would increase the amount of livable

space within the structure. Additionally, the property was recently rezoned to allow the two units which included a site plan.

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 three-story structure will abide by the setbacks required by UDC code, which observes 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.*

If granted, the structure will be three stories in height and would meet all other required setbacks from the front, rear and side property lines, which is not likely to alter the essential character of the district. There is one other non-conforming structure in the area that appears to have three stories. Additionally, the property was recently rezoned to allow the two units which included a site plan.

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 local area lots are relatively small in size and the variances will accommodate a larger living area for the new proposed structure. The circumstances were not created by the owner and are 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 Sections 35-358 and only construct a new residential building that is 2.5 stories high.

Staff Recommendation – Floor Height Variance

Staff recommends **Approval** in **BOA-21-10300139** based on the following findings of fact:

1. The additional half-story will allow for more livable space in the new proposed structure; and
2. There is a similar structure just one block away from this vacant lot; and

3. The new construction will enhance the neighborhood; and
4. The new structure will not harm adjacent neighboring properties; and
5. The subject property was recently rezoned for this use which included the site plan.