

Case Number:	BOA-21-10300160
Applicant:	Joe Terrazas
Owner:	Juan Hernandez
Council District:	3
Location:	1414 Estancia Street
Legal Description:	Lot 37 & 38, Block 17, NCB 15646
Zoning:	"R-6 AHOD" Residential Single-Family Airport Hazard Overlay District.
Case Manager:	Roland Arsate, Planner

Request

A request for 1) a 1,500 sq. ft. variance from the minimum 6,000 sq. ft. requirement, as described in Section 35-310, to allow a 4,500 sq. ft. lot and 2) a 4' variance from the minimum 5' side setback requirement, as described in Section 35-310, to allow a structure to be 1' from the side property line.

Executive Summary

The subject property is located along Estancia Street near Roosevelt Avenue. The subject property is currently zoned Residential Single Family. The applicant is proposing to construct a residential home on the subject property. The lot is currently smaller than the minimum square footage requirement, so the applicant is requesting 1,500 square foot variance to construct a house on a 4,500 sq. ft. lot. The shape of the lot is irregular, so the applicant is also requesting a 4' variance to allow a residential structure to be 1' from side property line which abuts a commercial property where his business is located.

Code Enforcement History

There are no relevant Code Enforcement violations pending.

Permit History

October 2020 – Demolition permit

Zoning History

The subject property was annexed by the City of San Antonio by Ordinance 41434, dated December 25, 1972, and zoned Temporary "R-1" Single-Family Residence District. Upon adoption of the 2001 Unified Development Code, the zoning converted from "R-1" Single-Family Residence District to the current "R-6" Residential Single-Family District, established by Ordinance 93881, dated May 3, 2001.

Subject Property Zoning/Land Use

Existing Zoning	Existing Use
"R-6 AHOD" Residential Single-Family Airport Hazard Overlay District	Vacant Lot

Surrounding Zoning/Land Use

Orientation	Existing Zoning District(s)	Existing Use
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North	"R-6 AHOD" Residential Single-Family Airport Hazard Overlay District	Vacant Lot
South	"R-6 AHOD" Residential Single-Family Airport Hazard Overlay District and "C-3NA AHOD" General Commercial Nonalcoholic Sales Airport Hazard Overlay District	Single-Family Residence / Commercial Business
East	"R-6 AHOD" Residential Single-Family Airport Hazard Overlay District	Single-Family Residence
West	"C-3NA AHOD" General Commercial Nonalcoholic Sales Airport Hazard Overlay District	Commercial Business

Comprehensive Plan Consistency/Neighborhood Association

The subject property is in the Heritage South Sector Plan and is designated "General Urban Tier" in the future land use component of the plan. The subject property is located within the Villa Coronado Neighborhood Association and they were notified of the case.

Street Classification

Estancia Street is classified as a local road.

Criteria for Review – Minimum Lot Size and Side Setback 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 4' variance to the side setback of 5' for a residential structure to be 1' from the side property line.

The alternate would be for the applicant to move the setback to 3' from side property line as this would reduce the safety caused by possible fire. The applicant is also requesting a variance to the minimum lot size requirement of 6,000 sq. ft. to allow the construction of a single-family residence on the vacant property that is 4,500 sq. ft. in size.

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 build a house on the lot which would cause the lot to remain vacant.

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. A 4' variance to the 5' side setback to allow a residential house to be 1' from side property line will observe the spirit of the ordinance.

Staff recommends an alternate of a 3' side setback which will maintain the spirit of the ordinance to create more space between the residential structure and the adjacent commercial property. The lot size variance also observes the spirit of the ordinance. The residential structure being proposed makes good use of this vacant lot and will provide value to the immediate area, 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.*

Staff finds the request for a 4' variance is proposed too close to the property line and is likely to affect the adjacent property and the subject property.

If the alternate recommendation is granted, the structure maintain three feet of space which is not likely to alter the essential character of the district. If the lot size variance were granted, the structure will be constructed on a 4,500 sq. ft. lot size which is ample room to build a house while maintaining proper setbacks on the property, which is not likely to 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.*

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 subject property has a unique shape and requesting this variance for the construction of a residential house only adds value to a vacant lot. 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 35-310.01.

Staff Recommendation – Minimum Lot Size Variance

Staff recommends **Approval** in **BOA-21-10300160** based on the following findings of fact:

1. The lot size of the subject property is currently 4,500 square feet; and
2. The property is unique in shape which was not created by the owner; and
3. A residential structure built on a vacant property will not adversely affect the surrounding area.

Staff Recommendation – Side Setback Variance

Staff recommends Denial with **Alternate Recommendation of a 2' variance to allow a structure to be 3' from the side property line in BOA-21-10300160** based on the following findings of fact:

1. The property is unique in shape which was not created by the owner; and
2. A 3' side setback will provide for adequate space for the new residential structure.