

Case Number:	BOA-21-10300188
Applicant:	Tobias Mandujano
Owner:	MANDUJANO INVESTMENTS INC
Council District:	5
Location:	122 Huerta Street
Legal Description:	Lot 6, 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:	Roland Arsate, Planner

Request

A request for 1) a 770 sq. ft. variance from the minimum 4,000 sq. ft. requirement, as described in Section 35-310, to allow a lot size of 3,230 sq. ft. and 2) a 9' 4" variance from the minimum 20' rear setback requirement, as described in Section 35-310, to allow a residential structure to be built 10' 8" away from the rear property line.

Executive Summary

The subject property is located on Huerta Street near South Cibolo Street. The applicant is proposing a variance to the minimum lot size and a variance for the required 20' rear setback in order to construct a new single family residential dwelling. The subject property is currently vacant. There were many vacant lots observed upon the site visit conducted by staff.

Code Enforcement History

October 2021 – Overgrown Yard

Permit History

October 2021 – Residential Building Application Permit

Zoning History

The subject property was part of the original 36 square miles of the City of San Antonio and zoned "C" Apartment District. Upon adoption of the 2001 Unified Development Code, the zoning converted from "C" Apartment District to the current "MF-33" Multi-Family District. The property was rezoned by Ordinance 96343, dated September 12, 2002 from "MF-33" Multi-Family District to "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
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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.	Vacant Lot
West	"R-4 MLOD-2 MLR-2 AHOD" Residential Single-Family Lackland Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District.	Vacant Lot

Comprehensive Plan Consistency/Neighborhood Association

The subject property is in the Guadalupe Westside Plan and is designated “Low Density Residential” in the future land use component of the plan. The subject property is located within the San Juan Gardens/Collins Garden Neighborhood Association and were notified of the case.

Street Classification

Huerta Street is classified as a local road.

Criteria for Review - 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 to the minimum lot size as well as the rear setback requirement which do not appear to be contrary to the public interest. The lot size is currently 3,230 square feet and the rear setback is being proposed at 10' 8" from the rear property line.

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 property owner not building the structure as the lot size does not meet the minimum square footage required and was platted prior to the adoption of the current zoning code. In addition, an enforcement of the ordinance would result in the applicant having to construct 20' away from the rear property line, which would result in minimizing the livable space of the single-family dwelling.

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 770 sq. ft. variance will observe the spirit of the ordinance, as there are other properties in the immediate area are of similar size and dimensions. The variance request for the rear setback requirement would allow a larger habitable living area for the proposed single-family home.

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 770 sq. ft. variance will not alter the essential character of the district as there are surrounding similar in size and shape. Staff also finds that the request for a 9' 4" variance to a rear property line setback is not likely to affect neighboring properties and it provides ample room between the proposed structure and the rear property line.

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 and similar lot sizes in the surrounding district, and is not merely financial in nature.

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 and Rear Setback Variance

Staff recommends **Approval** in **BOA-21-10300188** based on the following findings of fact:

1. There are lots with similar sizes in the immediate area; and
2. The variance to the minimum lot size will not adversely affect neighboring properties; and
3. The rear setback variance does not appear to adversely affect surrounding properties as there appears to be adequate space from adjacent structures.