

Case Number:	BOA-21-10300170
Applicant:	Patrick Williams Christensen
Owner:	VGA Villaret LP
Council District:	4
Location:	1455 West Villaret Boulevard
Legal Description:	West 210' of the East 262.5' of Lot 337, Block 35, NCB 11134
Zoning:	"MF-33 AHOD" Multi-Family Airport Hazard Overlay District
Case Manager:	Kayla Leal, Principal Planner

Request

A request for a half-story variance from the two and a half-story maximum, as described in Section 35-517, to allow a multi-family structure to be three stories tall within the 50' residential setback.

Executive Summary

The subject property is located along Villaret Boulevard and is currently vacant. The applicant is proposing a multi-family development. The property currently abuts single-family residential zoning to the rear and sides, and when a multi-family development is proposed abutting residential, the height of the multi-family buildings is limited to two and a half stories tall. Prior to code amendments that occurred in 2019, "MF-33" allowed a maximum height of 45 feet. As a result of a CCR to review this code provision, a taskforce put forward amendments to address the 45 feet height allowance abutting single family uses that were only allowed to be 35 feet. Section 35-517(d)(2) of the code reads that the "maximum height of any portion of a commercial, office or multi-family zoning district located within fifty (50) linear feet of the property line of an established single-family residential use shall be limited to the maximum height of the single-family district." There is an existing single-family residential use on the property directly to the east of the subject property. Single family zoning and uses are limited to 35 feet/2.5 stories. The applicant is requesting to build the multi-family buildings at 35 feet / three stories tall, which would exceed the height limit by a half-story. The half story measurements are taken from inside the structure and only habitable space meets the definition of half story.

In accordance with the San Antonio City Unified Development Code, the Office of Historic Preservation reviews all demolition applications for any property located within the city limits of San Antonio. Approval of a variance does not imply approval of or take the place of such demolition review as directed by the UDC. To date, no application for demolition at this address to accommodate the proposed use has been submitted for review to the Office of Historic Preservation.

Code Enforcement History

There are no relevant Code Enforcement investigations open for the subject property.

Permit History

There are no relevant permits issued for the subject property.

Zoning History

The subject property was annexed into San Antonio City Limits on September 24, 1952, established by Ordinance 18115 and was zoned “B” Residence District. The zoning changed from “B” to “R-3” on May 15, 1986, established by Ordinance 62887. Upon adoption of the 2001 Unified Development Code (Ordinance 93881, dated May 3, 2001) the zoning converted from “R-3” to the current “MF-33” Multi-Family District.

Subject Property Zoning/Land Use

Existing Zoning	Existing Use
“MF-33 AHOD” Multi-Family Airport Hazard Overlay District	Vacant Lot

Surrounding Zoning/Land Use

Orientation	Existing Zoning District(s)	Existing Use
North	“R-4 AHOD” Residential Single-Family Airport Hazard Overlay District	Public School
South	“R-4 AHOD” Residential Single-Family Airport Hazard Overlay District	Palo Alto College
East	“R-4 AHOD” Residential Single-Family Airport Hazard Overlay District	Single-Family Dwelling
West	“R-4 AHOD” Residential Single-Family Airport Hazard Overlay District	Vacant Residential

Comprehensive Plan Consistency/Neighborhood Association

The subject property is in the West Sector Plan and is designated “General Urban Tier” in the future land use component of the plan. The subject property is not located within the boundaries of a Neighborhood Association.

Street Classification

West Villaret Boulevard is classified as a Collector 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 building height regulations to allow for a three-story multi-family development. The Board can consider that the property is over 200 feet in width, allowing for enough distance from the adjacent residential uses. Additionally, the maximum height of 35 feet is the same height allowed for the adjacent residential uses.

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 development being limited to 2 ½ stories tall for the 50’ linear area from the residentially-used property. The applicant is

requesting only a half-story more, which is measured inside the structure only, than the maximum while maintaining the 35 feet maximum height.

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 Board could consider that the height of 35 feet is still maintained allowing for the additional half story within the structure.

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 Board could consider that the request to construct a three-story multi-family development, while maintaining the maximum 35 feet height, does not appear to substantially injure adjacent conforming properties or 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 and is not merely financial.

Alternative to Applicant's Request

The alternative to the applicant's request is to conform to the building height regulations of Section 35-517(d)(2).

Staff Recommendation – Building Height Variance

Staff recommends **Denial** in **BOA-21-10300170** based on the following findings of fact:

1. The proposed multi-family will be built three stories tall; and
2. Abutting residential structure is restricted to 2.5 stories.