



# City of San Antonio

## Agenda Memorandum

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**Agenda Date:** April 22, 2024

**In Control:** Board of Adjustment Meeting

**DEPARTMENT:** Development Services Department

**DEPARTMENT HEAD:** Michael Shannon

**CASE NUMBER:** BOA-24-10300048

**APPLICANT:** Ramon Torres

**OWNER:** Scott Wells

**COUNCIL DISTRICT IMPACTED:** District 1

**LOCATION:** 328 Madison Street

**LEGAL DESCRIPTION:** Lot 18, Block 3, NCB 744

**ZONING:** "RM-4 H HS AHOD" Residential Mixed Historic King William Historic Significant Airport Hazard Overlay District

**CASE MANAGER:** Colton Uden, Planner

**A request for**

A 3' variance from the minimum 5' rear setback to allow a 2' rear setback for an accessory structure. Section 35-371(b)(3)

**Executive Summary**

The subject property is located along Madison Street, west of South St. Mary's Street. The applicant is remodeling an existing accessory dwelling unit and is maintaining prior building footprint and dimensions. Accessory dwellings units at 3' from the property line cannot have overhang or protrusions. The structure wall is 3' from the rear property line with overhang encroaching 1', causing the structure to be 2' from the rear setback.

This property is located within the King William Historic District. Any exterior modifications or new construction will require approval from the Office of Historic Preservation. Approval of a site

plan or materials submitted as part of a variance application does not supersede any requirements for design review outlined in Article VI of the Unified Development Code. On October 4, 2023, the Historic & Design Review Commission approved the request to remove the CMU portion of the rear accessory and construct a pergola and roof deck over the proposed hot tub.

### **Code Enforcement History**

No Code Enforcement history found.

### **Permit History**

The applicant has not yet applied for the building permit.

### **Zoning History**

The subject property was located within the original 36 square miles of the City of San Antonio and zoned “D” Apartment District. The property was rezoned by Ordinance 74924, dated December 9, 1991, to “R-2A” Three and Four-Family Residence District. Under the 2001 Unified Development Code, established by Ordinance 93881, dated May 03, 2001, the property zoned “R-2A” Three and Four-Family Residence District converted to “RM-4” Residential Mixed District.

### **Subject Property Zoning/Land Use**

#### **Existing Zoning**

“RM-4 H HS AHOD” Residential Mixed Historic King William Historic Significant Airport Hazard Overlay District

#### **Existing Use**

Single-Family Dwelling

### **Surrounding Property Zoning/ Land Use**

#### **North**

#### **Existing Zoning**

“RM-4 H HS AHOD” Residential Mixed Historic King William Historic Significant Airport Hazard Overlay District

#### **Existing Use**

Multi-Family Dwelling

#### **South**

#### **Existing Zoning**

“RM-4 H HS AHOD” Residential Mixed Historic King William Historic Significant Airport Hazard Overlay District

#### **Existing Use**

Single-Family Dwelling

#### **East**

#### **Existing Zoning**

“RM-4 H HS AHOD” Residential Mixed Historic King William Historic Significant Airport Hazard Overlay District

#### **Existing Use**

Bed And Breakfast

**West**

**Existing Zoning**

“RM-4 H HS AHOD” Residential Mixed Historic King William Historic Significant Airport Hazard Overlay District

**Existing Use**

Single-Family Dwelling

**Comprehensive Plan Consistency/Neighborhood Association**

The subject property is in the Downtown Area Regional Center Plan and is designated as “Urban Low Density Residential” in the future land use component of the plan. The subject property is located within the boundary of the King William Neighborhood Association, and they have been notified of the request.

**Street Classification**

Madison Street is classified as a local road.

**Criteria for Review – Rear Setback Variance**

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 applicant is requesting a variance to deviate from the minimum rear setback requirement. In this case, the public interest is represented by restricted setbacks to provide suitable spacing between structures. The applicant is requesting a variance to the rear setback to allow an accessory structure to be 2’ from the rear property line. Staff finds that this an allowable amount of spacing, as the structure will provide a suitable distance from neighboring properties.

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 altering the built structure to adhere by the rear setback requirement. This would result in an unnecessary hardship, as this would not allow adequate roofing for the structure.

3. *By granting the variance, the spirit of the ordinance will be observed and substantial justice will be done.*

In this case, the proposed rear setback will adhere to the spirit of the ordinance and substantial justice will be done by allowing for suitable distances between structures and neighboring properties. Additionally, the structure will abide by all other setback requirements.

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.*

A 2' rear setback for the structure does not appear to alter the essential character of the district nor will it injure adjacent properties.

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 circumstances do not appear to be merely financial.

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

The alternative to the applicant's request is to conform to the Detached Accessory Dwelling Setback Regulations Section 35-371(b)(3).

#### **Staff Recommendation – Rear Setback Variance**

Staff recommends Approval in BOA-24-10300048 based on the following findings of fact:

1. The applicant maintained the original building dimensions of the accessory dwelling unit;
2. The structures on the lot will be abiding by all other setbacks; and
3. The variance will not alter the essential character of the neighborhood.