



# City of San Antonio

## Agenda Memorandum

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**Agenda Date:** January 27, 2025

**In Control:** Board of Adjustment Meeting

**DEPARTMENT:** Development Services Department

**DEPARTMENT HEAD:** Amin Tohmaz, Interim Department Head

**CASE NUMBER:** BOA-24-10300252

**APPLICANT:** Jonathan Smith

**OWNER:** Beethoven Maennercher Inc

**COUNCIL DISTRICT IMPACTED:** District 1

**LOCATION:** 422 Pereida Street

**LEGAL DESCRIPTION:** Lot 6, Lot 7, and east 125' of Lot 9, Block 1, NCB 932

**ZONING:** "C-3 H HS AHOD" General Commercial Historic King William Historic Significant Airport Hazard Overlay District

**CASE MANAGER:** Melanie Clark, Planner

**A request for**

A 28'-9" variance from the minimum 30' side setback to allow a proposed addition, with dimensions limited to the site plan provided, to be 1'-3" from the side property line.  
Section 35-310.01

**Executive Summary**

Subject property is located within the historic King William District, east of Probandt Street, west of South St. Mary's Street on Pereida Street. The property owner is proposing development of a 313-square foot addition on the existing commercial property. As the subject property abuts an IDZ with residence use, the property owner is requesting a 28'-9" side setback variance to allow the proposed addition, limited to the site plan provided, to be 1'-3" from the side property line. An approved Certificate of Appropriateness from the Office of Historic Preservation has been obtained. Permits are pending results of the Board of Adjustment.

**Code Enforcement History**

No Code Enforcement history found.

**Permit History**

COM-PRJ-APP24-39802203- Commercial Project Application

**Zoning History**

The subject property is part of the original 36 square miles of the City of San Antonio and was originally zoned “J” Commercial District. The subject property was rezoned by Ordinance 74924, dated December 9, 1991, to “B-3” Business District. Under the 2001 Unified Development Code established by Ordinance 93881, dated May 03, 2001, the property zoned “B-3” Business District converted to the current “C-3” General Commercial District.

**Subject Property Zoning/Land Use****Existing Zoning**

“C-3 H HS AHOD” General Commercial Historic King William Historic Significant Airport Hazard Overlay District

**Existing Use**

Club House

**Surrounding Property Zoning/ Land Use****North****Existing Zoning**

“C-2 H HS AHOD” General Commercial Historic King William Historic Significant Airport Hazard Overlay District

**Existing Use**

Restaurant

**South****Existing Zoning**

“MF-33 H HS AHOD” Multi-Family Historic King William Historic Significant Airport Hazard Overlay District

**Existing Use**

Single-Family Residence

Office

**East****Existing Zoning**

“C-3 H HS AHOD” General Commercial Historic King William Historic Significant Airport Hazard Overlay District

“MF-33 H HS AHOD” Multi-Family Historic King William Historic Significant Airport Hazard Overlay District

**Existing Use**

Club House

## **West**

### **Existing Zoning**

“IDZ H HS AHOD” Infill Development Zone Historic King William Historic Significant Airport Hazard Overlay District

### **Existing Use**

Single-Family Residence

### **Comprehensive Plan Consistency/Neighborhood Association**

The subject property is in Downtown Area Regional Center Plan and is designated as “Urban Mixed use” in the future land use component of the plan. The subject property is located within the notification area of King William Neighborhood Association and the San Antonio Texas District One Resident Association, they have been notified of the request.

### **Street Classification**

Pereida Street is classified as a Local Street.

### **Criteria for Review – Side 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 public interest is defined as the general health, safety, and welfare of the public. The requested side setback variance, limited to the dimensions of site plan provided, will align the 313-square foot addition with the existing side setback and will provide sufficient distance between the commercial and neighboring residential property.

*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 unnecessary hardship as the proposed addition would have to be reconfigured to abide by the commercial setback regulations that restrict development of the lot.

*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 requested variance will maintain a safe distance from the neighboring property, abide by all remaining setback requirements and will observe 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, staff finds that the requested 1'-3" side setback variance will not substantially injure the appropriate use of adjacent conforming properties as similar building configurations can be seen within the surrounding area.

*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.*

The side setback variance is due to unique circumstances that were not created by the property owner such as the location of the lot and surrounding area.

**Alternative to Applicant's Request**

The alternative to the applicant's request is to conform to the setback regulations of the UDC Section 35-310.01.

**Staff Recommendation – Side Setback Variance**

Staff recommends Approval in BOA-24-10300252 based on the following findings of fact:

1. The requested variances will not injure the neighboring property.
2. The requested variances will not alter the essential character of the district.