



# City of San Antonio

## Agenda Memorandum

---

**Agenda Date:** October 7, 2024

**In Control:** Board of Adjustment Meeting

**DEPARTMENT:** Development Services Department

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

**CASE NUMBER:** BOA-24-10300178

**APPLICANT:** Daniel Sepulveda

**OWNER:** Daniel Sepulveda

**COUNCIL DISTRICT IMPACTED:** District 1

**LOCATION:** 504 Madison Street

**LEGAL DESCRIPTION:** Lot 10, Block 9, NCB 750

**ZONING:** "IDZ H HS AHOD" Infill Development Zone Historic King William Historic Significant Airport Hazard Overlay District with Mixed Residential Uses.

**CASE MANAGER:** Melanie Clark, Planner

**A request for**

A 3'-5" variance from the minimum 5' side setback to allow a detached accessory structure to be 1'-7" from the side setback.

Section 35-370

**Executive Summary**

Subject property is located west of South St. Mary Street, east of South Main Avenue, near the intersection of East Johnson Street and Madison Street. On August 24, 2024, Code Enforcement was contacted to investigate an accessory structure constructed on the property. The investigation concluded that the accessory structure encroached the side setback. The applicant, also being the property owner, is requesting a 3'-5" side setback variance to allow an accessory structure to remain 1'-7" from the side setback. As the property is located within the Historic King William

district, the applicant has applied for a Certificate of Appropriateness with the Office of Historic Preservation however, conclusion for the CoA is pending the outcome of the Board of Adjustment.

### **Code Enforcement History**

INV-ZPS-24-3160002391 - Zoning – UDC Investigation

### **Permit History**

The applicant has not yet applied for the building permit.

### **Zoning History**

Subject property is a part of the Original 36 square miles of the City of San Antonio and was zoned “J” Commercial District. The property was rezoned by Ordinance 74924 dated, December 9, 1991, to “R-2” Two-Family Residence District. With the adoption of the Unified Development Code, established by Ordinance 93881, on May 3, 2001, the zoning converted from “R-2” Two-Family Residence District to “RM-4” Residential Mixed District. The property was rezoned by Ordinance 2011-12-15-0038 dated, December 15, 2001, to “IDZ” Infill Development Zone District.

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

#### **Existing Zoning**

“IDZ H HS AHOD” Infill Development Zone Historic King William Historic Significant Airport Hazard Overlay District with Mixed Residential Uses.

#### **Existing Use**

Single Family Residence

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

#### **North**

##### **Existing Zoning**

“RM-4 H HS RIO-4 AHOD” Residential Mixed Historic King William Historic Significant River Improvement Overlay 4 Airport Hazard Overlay District with Mixed Residential Uses.

##### **Existing Use**

Single-Family Residence

#### **South**

##### **Existing Zoning**

“IDZ H HS AHOD” Infill Development Zone Historic King William Historic Significant Airport Hazard Overlay District with Mixed Residential Uses.

##### **Existing Use**

Single-family Residence

#### **East**

##### **Existing Zoning**

“IDZ H HS AHOD” Infill Development Zone Historic King William Historic Significant Airport Hazard Overlay District with Mixed Residential Uses.

##### **Existing Use**

Residential

**West**

**Existing Zoning**

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

**Existing Use**

Single-Family Residence

**Comprehensive Plan Consistency/Neighborhood Association**

The subject property is in the Downtown/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 the King William Neighborhood Association and San Antonio Texas District One Resident Association, and they have been notified of the request.

**Street Classification** (all streets the abut property)

Madison Street is classified as a local road.

**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 to allow an accessory structure to be 1’-7” from the side property line is contrary to the public interest as it creates water runoff issues and leaves limited room from structure to 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 not result in unnecessary hardship. The lot lacks sufficient size and development area to accommodate the proposed accessory structure.

*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 to permit the accessory structure to be 1’-7” from the side setback does not align with the spirit of the ordinance, as it does not provide adequate space from the property line.

*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 side setback variance will substantially injure the appropriate use of adjacent conforming property by creating a water runoff issue and potentially decrease fire mitigation.

*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 created by the property owner such as the location and size of the lot that leaves limited space for the proposed accessory structure.

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

The alternative to the applicant's request is to conform to the accessory structure setback regulations of the UDC Section 35-370.

#### **Staff Recommendation – Side Setback Variance**

Staff recommends Denial in BOA-24-10300178 based on the following findings of fact:

1. The requested variance will create a water runoff issue and potentially decrease fire mitigation.
2. The lot lacks sufficient size and development area to accommodate the proposed accessory structure.