

Case Number:	BOA-22-10300157
Applicant:	James Ramirez
Owner:	James Ramirez
Council District:	1
Location:	204 Wickes
Legal Description:	West IRR 57.55 feet of Lot 2, Block 1, NCB 942
Zoning:	“RM-4 H HS AHOD” Residential Mixed Historic King William Historic Significant Airport Hazard Overlay District
Case Manager:	Joseph Leos, Planner

Request

1) A request for a 4’ variance to the required 5’ side setback for a swimming pool, as described in Section 35-516 (h), to allow a swimming pool to have a 1’ side setback, 2) A request for a 4’ variance to the required 5’ rear setback for an accessory structure, as described in Section 35-370 (b)(1), to allow an accessory structure to have a 1’ rear setback.

Executive Summary

The subject property is located along Wickes Street near South Alamo Street. The applicant is proposing to construct an in-ground swimming pool that encroaches upon the side setback. Upon site visits, staff also observed a swimming pool pump located in the rear setback. Swimming pools and accessory structures are required to be 5’ from the side and rear property lines. The Office of Historic Preservation issued a Certificate of Appropriateness for approval.

Code Enforcement History

September 2022- Overgrown Yard Investigation

Permit History

There are no relevant permits pulled for the subject property. The issuance of a building permit is pending the outcome of the Board of Adjustments.

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 rezoned under Ordinance 74924, dated December 9, 1991, from “D” Downtown District to “R-2” Two-Family Residence District. Under the 2001 Unified Development Code, established by Ordinance 93881, dated May 03, 2001, the property zoned “R-2” Two-Family Residence District converted to the current “RM-4 Residential Mixed-Use District.

Subject Property Zoning/Land Use

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

Surrounding Zoning/Land Use

Orientation	Existing Zoning District(s)	Existing Use
North	“RM-4 H HS AHOD” Residential Mixed Historic King William Historic Significant Airport Hazard Overlay District	Single-Family Residence
South	“RM-4 H HS AHOD” Residential Mixed Historic King William Historic Significant Airport Hazard Overlay District	Single-Family Residence
East	“RM-4 H HS AHOD” Residential Mixed Historic King William Historic Significant Airport Hazard Overlay District	Single-Family Residence
West	“RM-4 H HS AHOD” Residential Mixed Historic King William Historic Significant Airport Hazard Overlay District	Single-Family Residence

Comprehensive Plan Consistency/Neighborhood Association

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

Street Classification

Wickes Street is classified as a local road.

Criteria for Review – Side and Rear 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 request is for a swimming pool and an accessory structure to be 1’ from the side and rear property lines. Both are in the rear yard of the property and are not contrary to the public interest.

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 building the swimming pool and moving the accessory structure 5’ from the side and rear property lines. Staff finds an unnecessary hardship due to the size of the rear yard.

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 4' variance from the 5' minimum side and rear setback requirement to allow a swimming pool and an accessory structure to be 1' from the side and rear property lines 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.*

Staff does not find evidence that the requested variances would alter the essential character of the district. Properties located along Wickes Street all have similar lot dimensions, therefore the request would not 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 such as the limited size of the lot and width available for the swimming pool and accessory structure. The variance request is not merely financial.

Alternative to Applicant's Request

The alternative to the applicant's request is to conform to the Swimming Pool and Accessory Structure Setback Regulations per Sections 35-516. (h) and 35-370 (b)(1).

Staff Recommendation – Rear Setback Variance

Staff recommends **Approval** in **BOA-22-10300157** based on the following findings of fact:

1. The applicant is requesting a variance for a swimming pool prior to obtaining a building permit; and
2. The accessory structure is in the rear yard; and
3. There is a limited amount of space available to comply with the side and rear setback requirements.