

Case Number:	BOA-23-10300035
Applicant:	Minette Olson
Owner:	Minette Olson
Council District:	1
Location:	148 Crofton Avenue
Legal Description:	Lot 15, Block 3, NCB 940
Zoning:	“RM-4 H HS RIO-4 AHOD” Residential Mixed King William Historic Significant River Improvement Overlay Airport Hazard Overlay District
Case Manager:	Jake Exler, Planner

Request

A request for a 2’-6” variance from the minimum 5’ side setback requirement, as described in Section 35-371(b)(7), to allow a structure to be 2’-6” from the side property lines.

Executive Summary

The subject property is located along Crofton in King William. The applicant is seeking to construct a structure that is anticipated to be 2’-6” from both side property lines. Structures are required to be setback 5’ from the side property line and the applicant requesting a 2’-6” variance. The rear setback is eliminated since the property abuts a alley over 10’ in width.

Code Enforcement History

There is no relevant Code Enforcement History for the subject property.

Permit History

There is no permit history.

Zoning History

The subject property is located within the original 36 square miles of San Antonio and originally zoned “D” Apartment District. The property rezoned under Ordinance 74924, dated December 9, 1991, from “D” Apartment to the “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 District.

Subject Property Zoning/Land Use

Existing Zoning	Existing Use
“RM-4 H HS RIO-4 AHOD” Residential Mixed King William Historic Significant River Improvement Overlay Airport Hazard Overlay District	Single-Family Residence

Surrounding Zoning/Land Use

Orientation	Existing Zoning District(s)	Existing Use
North	“RM-4 H HS RIO-4 AHOD” Residential Mixed King William Historic Significant River	Single-Family Residence

	Improvement Overlay Airport Hazard Overlay District	
South	“RM-4 H HS RIO-4 AHOD” Residential Mixed King William Historic Significant River Improvement Overlay Airport Hazard Overlay District	Single-Family Residence
East	“RM-4 H HS RIO-4 AHOD” Residential Mixed King William Historic Significant River Improvement Overlay Airport Hazard Overlay District	Single-Family Residence
West	“RM-4 H HS RIO-4 AHOD” Residential Mixed King William Historic Significant River Improvement Overlay Airport Hazard Overlay District	Single-Family Residence

Comprehensive Plan Consistency/Neighborhood Association

The subject property is in the Downtown Area Regional Center Plan and designated “Urban Low Density Residential” in the future land use component of the plan. The subject property is not located in the King William Neighborhood Association.

Street Classification

Crofton 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. Setback regulations ensure that structures do not affect neighboring properties. The applicant is requesting a variance to the side setback to allow a structure to be 2’-6” from the side property lines. This distance does not provide suitable spacing and so is 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 structure five feet from the side property line, which would not result in an unnecessary hardship as staff found no special conditions on the subject property that would warrant the need for a reduced side setback.

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 structure would be 2’-6” from the side property lines, which does not observe the spirit of the ordinance as it would be too close to the side property line and neighboring 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.*

If granted, the structure will be 2'-6" from the side property lines, which is likely to cause harm to the adjacent conforming property, as these setbacks are regulated for safety reasons, such as fire prevention for neighboring 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 not due to unique circumstances existing on the property.

Alternative to Applicant's Request

The alternative to the applicant's request is to conform to the Setbacks per Section 35-371(b)(7) of the UDC.

Staff Recommendation - Side Setback Variance

Staff recommends Denial in BOA-23-10300035 based on the following findings of fact:

1. The structure will be 2'-6" from the side property line, which does not provide adequate spacing.