

Case Number:	BOA-23-10300143
Applicant:	Bob Wise
Owner:	Bob Wise
Council District:	1
Location:	218 West Huisache Avenue
Legal Description:	The east 45' of Lot 6 and west 30' of Lot 7, Block 2, NCB 2953
Zoning:	“R-4 H HS AHOD” Residential Single-Family Historic Monte Vista Historic Significant Airport Hazard Overlay District
Case Manager:	Vincent Trevino, Senior Planner

Request

A request for a 4'-11” variance from the minimum 5' side setback, as described in Section 35-370(b)(1), to allow a detached accessory structure with a 1” side setback.

Executive Summary

The subject property is located along West Huisache Avenue between the intersections of Howard Street and Belknap Place. The applicant is proposing to add a second story to the accessory structure. The applicant is requesting a 4’-11” variance to allow a detached accessory structure to be 1” from the side of the property. The property is zoned “R-4” and per the UDC, a minimum required side setback is 5’. Upon site visits, it appears that other properties have garages or structures placed within the 5’ setback requirement.

This property is located within the Monte Vista 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 March 15, 2023, the Office of Historic Preservation issued approval to construct a second-story addition on a detached garage. OHP staff finds the rear garage original to the primary structure and appears on the 1935 Sanborn. The existing setbacks match the historic development pattern; the proposed changes do not alter the existing or the historic development pattern.

Code Enforcement History

There is no Code Enforcement History for the subject property.

Permit History

The issuance of a Building Permit is Pending the Outcome of the Board of Adjustment.

Zoning History

The subject property was located within the original 36 square miles of the City of San Antonio and zoned “B” Residence District. Under the 2001 Unified Development Code, established by Ordinance 93881, dated May 03, 2001, the property zoned “B” Residence District converted to “R-4” Residential Single-Family District.

Subject Property Zoning/Land Use

Existing Zoning	Existing Use
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“R-4 H HS AHOD” Residential Single-Family Historic Monte Vista Historic Significant Airport Hazard Overlay District	Single-Family Residence
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Surrounding Zoning/Land Use

Orientation	Existing Zoning District(s)	Existing Use
North	“R-4 H HS AHOD” Residential Single-Family Historic Monte Vista Historic Significant Airport Hazard Overlay District	Private School
South	“MF-33 H HS AHOD” Multi-Family Historic Monte Vista Historic Significant Airport Hazard Overlay District	Apartments
East	“R-4 H HS AHOD” Residential Single-Family Historic Monte Vista Historic Significant Airport Hazard Overlay District	Single-Family Residence
West	“R-4 H HS AHOD” Residential Single-Family Historic Monte Vista Historic Significant Airport Hazard Overlay District	Single-Family Residence

Comprehensive Plan Consistency/Neighborhood Association

The subject property is not within a comprehensive neighborhood plan. The subject property is in the Monte Vista Historical Neighborhood Association, and they have been notified of the request.

Street Classification

West Huisache Avenue is classified as a local street.

Criteria for Review

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. In this case, the public interest is represented by restricted side setback to provide spacing between the property line and the accessory structure. The applicant is requesting a variance to the side setback to allow an accessory structure to be 1” from the side property line. Staff finds this distance is not suitable, as it imposes on the public interest of the adjacent neighbor by being too close to the shared property line as water runoff may imposed.

2. *Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship.*

Staff found no special conditions on the subject property that warrant the need for the accessory structure to have a 1” side setback. No unnecessary hardship seems to be presented in this case, as the applicant could relocate the 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. In this case, the intention is for sufficient spacing between the accessory structure and the property line. The accessory structure will be 1” from the side property line, which does not observe the spirit of the ordinance or intent of the code as it will be too close to the shared 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, the structure will have a 1” from the side property line which is likely to injure the appropriate use of the adjacent conforming property by having a structure 1” inch from the side property line.

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 found no unique circumstances on the subject property that would warrant the need for a reduced side setback. The property has sufficient space in the rear yard to relocate the structure.

Alternative to Applicant’s Requests

The alternative to the applicant’s request is to conform to the building setback requirement of the UDC Section 35-370(b)(1).

Staff Recommendation- Side Setback

Staff recommends Denial in BOA-23-10300143 based on the following findings of fact:

1. This distance is not suitable, as it imposes on the public interest of the adjacent neighbor by being too close to the shared property line as water runoff may be imposed; and
2. The applicant could relocate the structure.