

Case Number:	BOA-23-10300192
Applicant:	Christopher Gill
Owner:	Christopher Gill
Council District:	1
Location:	311 Eagleland Drive
Legal Description:	Lot 11 and south 11.7 feet of Lot 10, Block 3, NCB 2914
Zoning:	“RM-4 H AHOD” Residential Mixed Historic King William Airport Hazard Overlay District
Case Manager:	Vincent Trevino, Senior Planner

### **Request**

A request for a 3’-5” variance from the minimum 5’ side setback, as described in Section 35-371(b)(1), to allow an accessory dwelling with overhang to be 1’-7” from the side property line.

### **Executive Summary**

The subject property is located along Eagleland Drive between the intersections of Mission Street and Adams Street. The applicant is constructing an accessory dwelling with a overhang to be 1’-7” from the side property line. Accessory dwellings constructed in San Antonio are required to maintain 5’ from the side property line and must obtain a variance to deviate from this minimum requirement. Residential New Building Permit (RES-RBP-PMT23-36602508) was issued, and plan indicated no overhang, however overhang was added during construction. Upon site visits, staff did not observe any accessory dwellings in the area towards the side and front of the properties. Applicant indicated property owner will reside on the property when construction is completed. Staff informed applicant that a duplex with an accessory dwelling unit over 800 square feet will require a separate variance, however 3 units is permitted on the property. Applicant indicated they will work on meeting the requirement or will apply for a parking variance.

### **Code Enforcement History**

INV-COM-INV23-22702514-Strike Team Complaint- May 2023

### **Permit History**

MEP-MEC-PMT23-33919022-Mechanical Permit- June 2023

MEP-PLM-PMT23-34318160-Plumbing General Permit-June 2023

MEP-GAS-PMT23-34218164-Plumbing Gas Permit-June 2023

MEP-SEW-PMT23-34818163-Plumbing Sewer Permit-June 2023

RES-RBP-PMT23-36602508-Residential New Building Permit-April 2023

### **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 was rezoned by Ordinance 74924, dated December 1991 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 District.

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

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

## **Surrounding Zoning/Land Use**

<b>Orientation</b>	<b>Existing Zoning District(s)</b>	<b>Existing Use</b>
North	“RM-4 H AHOD” Residential Mixed Historic King William Airport Hazard Overlay District	Single-Family Residence
South	“RM-4 H RIO-4 AHOD” Residential Mixed Historic King William River Improvement Overlay 4 Airport Hazard Overlay District	Public School
East	“RM-4 H AHOD” Residential Mixed Historic King William Airport Hazard Overlay District	Single-Family Residence
West	“RM-4 H AHOD” Residential Mixed Historic King William Airport Hazard Overlay District	Single-Family Residence

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

The subject property is in the Downtown Area Regional Center Plan and is designated as “Medium Density Residential” in the future land use component of the plan. It is in the King William Neighborhood Association, and they have been notified of the request.

## **Street Classification**

Eagleland Drive is classified as a local street.

Adams Street 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 dwelling. The applicant is requesting a variance to the side setback to allow an accessory dwelling to be 1’-7” 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, water runoff may impose, and risk of fire spread is greater.

*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 dwelling to have a 1’-7” side setback. No unnecessary hardship seems to be presented in this case.

*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 dwelling and the property line. The accessory dwelling will be 1’-7” 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 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 maintain 1' 7" from the side property line, which is likely to injure the appropriate use of the adjacent conforming property, as staff did not observe the adjacent neighbor with the shared property line violating setback violations.

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. Additionally, the original construction plans were deviated from that were approved for permit with no overhang on the side.

#### **Alternative to Applicant's Requests**

The alternative to the applicant's request is to conform to the Accessory Dwelling Side Setback requirement of the UDC Section 35-371(b)(1).

#### **Staff Recommendation- Side Setback**

Staff recommends Denial in BOA-23-10300192 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, water runoff may impose, and risk of fire spread is greater.