

Case Number:	BOA-23-10300209
Applicant:	Spesen Management, LLC
Owner:	Spesen Management, LLC
Council District:	1
Location:	211 West Sheridan Street
Legal Description:	The south 120 feet of east 50 feet of Lot A6, NCB 930
Zoning:	“RM-4 HS RIO-7D AHOD” Residential Mixed Historic Significance River Improvement Overlay 7d Airport Hazard Overlay District
Case Manager:	Joseph Leos, Planner

### **Request**

A request for a variance, as described in Section 35-310.06(a)(1), to allow two separate structures on an "RM-4" that is less than one-third of an acre.

### **Executive Summary**

The subject property is located along West Sheridan Street, southeast of South Flores Street. Currently, the lot has an existing single-family residence, with the applicant anticipating on adding a second dwelling unit in the rear yard. While the second dwelling is permitted by right in the “RM-4” Residential Mixed District, the applicant is requesting a variance to allow two separate structures on an “RM-4” lot that is less than 1/3 of an acre. Per Section 35-310.06 (a)(1), multi-unit construction on lots one-third ( $\frac{1}{3}$ ) of an acre in size or smaller, shall be within a single structure.

This property is designated an individual local historic landmark. 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. To date, no application has been made to the Office of Historic Preservation for work on this property. Additionally, based on the information provided in the application, there may be conflicts with the Historic Design Guidelines and the proposed project.

### **Code Enforcement History**

Electrical Investigation (INV-ELE-INV23-23300811) - April 2023

Building Investigation (INV-BLD-INV23-23200819) - April 2023

Mechanical Investigation (INV-MEC-INV23-23400809) - April 2023

Plumbing Investigation (INV-PLB-INV23-23500811)- April 2023

Permit Investigation (INV-PBP-22-3100001920)- May 2022

Dangerous Premises Investigation (INV-BSB-INV21-2900000429)- September 2021

Property Maintenance Investigation (INV-STE-21-2640019926)- July & October 2021

Licensing Investigation (INV-PST-INV21-300000596) June 2021 & May 2022

### **Permit History**

Mechanical Permit (MEP-MEC-PMT23-33906846)- March 2023

Electrical General Permit (MEP-ELE-PMT23-33341573)- February 2023

Plumbing General Permit (MEP-PLM-PMT23-34301734)- January 2023

Residential Repair Permit (REP-RRP-PMT-22-35305076)- December 2022

Foundation Repair Permit (REP-FND-PMT22-35100006)- January 2022

### **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” Apartment 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 District.

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

Existing Zoning	Existing Use
“RM-4 HS RIO-7D AHOD” Residential Mixed Historic Significance River Improvement Overlay 7d Airport Hazard Overlay District	Vacant Residential

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

Orientation	Existing Zoning District(s)	Existing Use
North	“C-3NA HS RIO-7D AHOD” General Commercial Nonalcoholic Sales Historic Significance River Improvement Overlay 7d Airport Hazard Overlay District	Professional Offices
South	“RM-4 HE RIO-7D AHOD” Residential Mixed Historic Exceptional River Improvement Overlay 7d Airport Hazard Overlay District	Single-Family Residence
East	“RM-4 HS AHOD” Residential Mixed Historic Significance Airport Hazard Overlay District	Single-Family Residence
West	“C-3NA HS RIO-7D AHOD” General Commercial Nonalcoholic Sales Historic Significance River Improvement Overlay 7d Airport Hazard Overlay District	SAHA Head Quarters

### **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. The subject property is located within the boundary of the King William Neighborhood Association, and they have been notified of the request.

### **Street Classification**

West Sheridan Street is classified as a local road.

### **Criteria for Review – Two Separate Structures on an “RM-4” that Is Less Than One-Third of an Acre 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. In this case, the public interest is defined by separate structures to prevent overcrowding on smaller lots. The applicant is requesting a variance to allow two separate structures on an "RM-4" that is less than one-third of an acre. Staff finds this request is contrary to the public interest as maintaining density of two units contained in a single structure can prevent overcrowding on smaller lots, provides open spaces, and contributes to a more comfortable and aesthetically pleasing environment in an established single structure neighborhood.

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 would permit two separate structures on a lot that is less than 1/3 of an acre. The second structure has not been constructed and plans appear to allow for alterations to accommodate the UDC requirement.

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. Staff finds the spirit will not be observed, as the containment of units within a single structure is enforced to ensure efficient land use and maintain the quality of life in an established neighborhood. Deviating from this requirement allows for density requirements to be loosened that protect smaller properties from becoming overcrowded.

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 "RM-4" zoned lot will be allowed to contain two separate structures on a lot that is less than one-third of an acre. The granting of this variance will injure the appropriate use of adjacent conforming properties, as this type of development is out of character with the development pattern of the neighborhood. Upon site visits, staff did not observe other "RM-4" properties with multiple units not contained in a single structure in the immediate vicinity.

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, as the project is in preliminary stages and plans appear to allow for alterations. The circumstances do not appear to be merely financial.

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

The alternative to the applicant's request is to conform to the Lot and Building Specification of the UDC Section 35-310.06(a)(1).

**Staff Recommendation – Two Separate Structures on an “RM-4” that Is Less Than One-Third of an Acre Variance**

Staff recommends Denial in BOA-23-10300209 based on the following findings of fact:

1. Maintaining density requirements can prevent overcrowding on smaller lots, provides open spaces, and contributes to a more comfortable and aesthetically pleasing environment in an established single structure neighborhood.