

Case Number:	BOA-23-10300258
Applicant:	Nathan Manfred
Owner:	Charles H & Carolyn D Adams
Council District:	1
Location:	124 Adams Street
Legal Description:	The west 150 Feet of Lot 12, Block 1, NCB 932
Zoning:	“RM-4 H HE AHOD” Residential Mixed Historic King William Historic Exceptional Airport Hazard Overlay District
Case Manager:	Joseph Leos, Planner

**Request**

A request for a 3' variance from the minimum 5' side setback requirement, as described in Section 35-310.01, to allow a 2' side setback.

**Executive Summary**

The subject property is located along Adams Street near Pereida Street. The applicant is proposing enclosing an existing patio to allow for additional living space. The addition will encroach into the side setback, with the anticipated distance to be 2' from the side property line. The minimum distance required is 5'. Current side setback prior to the addition is 3', in which a 3' in-line addition is permitted by right.

This property is located within the King William 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 August 16, 2023, the Historic & Design Review Commission approved the request to convert the existing screen porch to an enclosed space, extend the addition toward the north property line, and construct a 240-square-foot rear wood deck with stipulations. The stipulations have not been met yet.

**Code Enforcement History**

There is no code history for the subject property.

**Permit History**

The issuance of a building permit is pending the outcome of the Board of Adjustment. Mechanical Permit (MEP-MEC-PMT23-33921625)- July 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 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 “RM-4” Residential Mixed District.

**Subject Property Zoning/Land Use**

Existing Zoning	Existing Use

“RM-4 H HE AHOD” Residential Mixed Historic King William Historic Exceptional Airport Hazard Overlay District	Single-Family Dwelling
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**Surrounding Zoning/Land Use**

Orientation	Existing Zoning District(s)	Existing Use
North	“MF-33 H HE HS AHOD” Multi-Family Historic King William Historic Exceptional Historic Significance Airport Hazard Overlay District	Single-Family Residence
South	“RM-4 H HS AHOD” Residential Mixed Historic King William Historic Significance Airport Hazard Overlay District	Single-Family Residence
East	“RM-4 H AHOD” Residential Mixed Historic King William Airport Hazard Overlay District	Single-Family Residence
West	“RM-4 CD H HS AHOD” Residential Mixed Historic King William Historic Significance Airport Hazard Overlay District with a Conditional Use for 5 Units	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. The subject property is located within the boundary of the King William Neighborhood Association, and they have been notified of the request.

**Street Classification**

Adams Street 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. In this case, the public interested is represented by setback requirements to prevent storm water runoff and routine maintenance without trespass. The applicant is requesting a variance to the side setback to allow a structure to be 2’ from the side property line. This distance provides adequate spacing, and water runoff will not impose on the adjacent neighbor, which are not contrary to the public interest.**

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

**In this case, the current setback of the subject property is a special condition. The property is located within the original 36 square miles of the City of San Antonio and the dwelling was constructed during the 1938 zoning code, when setback regulations were**

less restrictive. An unnecessary hardship will be presented by having the applicant alter construction plans to abide by the minimum 5' side setback, which could reduce square footage of the 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 intent of the code is to provide suitable spacing between properties. The spirit of the ordinance will be observed, as the applicant will be abiding by all other building requirements and construction has not begun.**

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 reduced side setback. This will not substantially injure the appropriate use of adjacent conforming properties or alter the essential character of the district. Upon site visits, staff observed the block face was composed of one-story and two-story single-family dwellings, all constructed on similar lot sizes and setbacks. Most of the homes in this area were constructed prior to current setback and lot size regulations, so the requests will not directly interfere with the neighborhood fabric and will not detract from the character of the community.**

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 property owner for which the variance is sought is due to unique circumstances existing on the property, such as the lot dimensions of the property.**

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

The alternative to the applicant's request is to conform to the Lot and Building Regulations of the UDC Section 35-310.01

### **Staff Recommendation – Side Setback Variance**

Staff recommends **Approval** in **BOA-21-10300258** based on the following findings of fact:

1. A 2' side setback will observe the spirit of the ordinance, and
2. The request does not appear to be contrary to the public interest, as reduced setbacks were seen in the immediate area.