



# City of San Antonio

## Agenda Memorandum

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**Agenda Date:** April 15, 2024

**In Control:** Board of Adjustment Meeting

**DEPARTMENT:** Development Services Department

**DEPARTMENT HEAD:** Michael Shannon

**CASE NUMBER:** BOA-24-10300031

**APPLICANT:** Claudia Berteaux

**OWNER:** Colin Wheeler

**COUNCIL DISTRICT IMPACTED:** District 1

**LOCATION:** 415 Cedar Street

**LEGAL DESCRIPTION:** Lot 4, Block 3, NCB 2968

**ZONING:** "RM-4 H HS AHOD" Residential Mixed Historic King William Historic Significant Airport Hazard Overlay District

**CASE MANAGER:** Melanie Clark, Planner

**A request for**

1) A 2' variance from the minimum 5' side setback requirement to allow an addition to be 3' from the side setback. (Section 35-310.01)

**Executive Summary**

The subject property is located within the Historic King William District, west of Highway 281, east of Probandt Street on Cedar Street. The applicant, on behalf of the property owner, is requesting a 2' variance to allow an addition to be located 3' from the side setback. Due to limited space within the residence, the utility closet was constructed on the outside of the house to accommodate a new water softener system for the property. The applicant is seeking the variance to complete the construction of the addition. The addition will be limited to a maximum width of 5'. Additionally, due to the historical significance of the property, the property owner will need to obtain an approved Certificate of Appropriateness with the Office of Historic Preservation. If the

variance is approved, the applicant will need to apply for a building permit and comply with all associated fire and building codes.

### **Code Enforcement History**

No Code Enforcement history found.

### **Permit History**

The applicant has not yet applied for the building permit.

### **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 9, 1991, from "D" Apartment District to "R-2A" Three and Four-Family Residence District. Under the 2001 Unified Development Code, established by Ordinance 93881, dated May 03, 2001, the property zoned "R-2A" Three and Four-Family Residence District converted to the current "RM-4" Residential Mixed District.

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

#### **Existing Zoning**

"RM-4 H HS AHOD" Residential Mixed Historic King William Historic Significant Airport Hazard Overlay District

#### **Existing Use**

Single-Family Residential

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

#### **North**

#### **Existing Zoning**

"RM-4 H HS AHOD" Residential Mixed Historic King William Airport Hazard Overlay District

#### **Existing Use**

Single-Family Residential

#### **South**

#### **Existing Zoning**

"RM-4 H HS AHOD" Residential Mixed Historic King William Airport Hazard Overlay District

#### **Existing Use**

Single-Family Residential

#### **East**

#### **Existing Zoning**

"RM-4 H AHOD" Residential Mixed Historic King William Airport Hazard Overlay District

#### **Existing Use**

Single-Family Residential

#### **West**

#### **Existing Zoning**

"RM-4 H HS AHOD" Residential Mixed Historic King William Historic Significant Airport Hazard Overlay District

**Existing Use**

Single-Family Residential

**Comprehensive Plan Consistency/Neighborhood Association**

The subject property is in the Downtown Area Regional Center and is designated as "Medium Density Residential" in the future land use component of the plan. The subject property is located within the notification area of the King William Neighborhood Association and the San Antonio Texas District One Resident Association, and they have been notified of the request.

**Street Classification**

Cedar Street is classified as a local.

**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 interest is represented by restricted setbacks to provide adequate spacing between properties. The applicant is requesting a variance to the side setback to allow an attached utility closet to be 3' from the side property line. The variance is not contrary to the public interest as Staff finds the distance from the neighboring property to be suitable and by limiting the width of the addition to 5', the structure will not impose on the public interest of the surrounding area.

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

A literal enforcement of the ordinance as applied would require the applicant to abide by the 5' side setback, which would result in an unnecessary hardship as this would reduce the square footage of the utility closet rendering it impractical for use due to the narrowness of the lot.

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 structures and property lines. The addition would be 3' the side property line, which observes the spirit of the ordinance as the structure will be abiding by all other building requirements.

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 addition, limited to a maximum width of 5', will be 3' from the side property line, which will not injure the neighboring property and is not likely to alter the essential character of the district.

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, such as limited side yard space. 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 side setback requirement of the UDC Section 35-310.01.

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

Staff recommends Approval in BOA-24-10300031 limited addition width to 5' based on the following findings of fact:

1. The addition will not injure neighboring lot as there is adequate space between properties; and
2. Due to limited size, the proposed addition will not alter the essential character of the district.