

Case Number:	BOA-22-10300255
Applicant:	Nathan Manfred
Owner:	Dennis & Cathy Spar
Council District:	1
Location:	337 Madison Street
Legal Description:	Lot 10 and the southwest 16.7 feet of 9, Block 2, NCB 743
Zoning:	“RM-4 H HS AHOD” Residential Mixed Historic King William Historic Significant Airport Hazard Overlay District
Case Manager:	Joseph Leos, Planner

Request

A request for 1) a 4’-11” variance from the minimum 5’ side setback requirement, as described in Section 35-310.01, to allow an existing structure to be 1” from the side property line and a new structure with a 5’-2” width to be 3’-6” from the side property line, 2) a 4” variance from the minimum 5’ side setback requirement, as described in Section 35-370(b)(1), to allow an accessory structure to be 4’-8” from the side property line, and 3) a request for a 5’-7” variance from the minimum 10’ front setback requirement, as described in Section 35-310.01, to allow a structure to be 4’-5” from the front property line.

Executive Summary

The subject property is located along Madison Street near S. Alamo Street. The applicant is proposing to construct an attached structure that encroaches into the side setback. The anticipated distance would be 3’-6” from the side property line. Upon site visits, staff observed existing structures that encroached into the side and front setbacks. The existing structures that intrude into side setback are currently 1” and 4’-8” from the property line. Additionally, the existing structure that encroaches into the front setback is currently 4’-5” from the front property line. Structures are required to be 5’ from the side property line and 10’ from the front property line. Anytime a new construction needs a variance, it is required that existing structures obtain one too.

Code Enforcement History

There is no relevant code enforcement history for the subject property.

Permit History

Solar- Photovoltaic Permit- October 2022

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 “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
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“RM-4 H HS AHOD” Residential Mixed Historic King William 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	“RM-4 H HS AHOD” Residential Mixed Historic King William Historic Significant Airport Hazard Overlay District	Single-Family Residence
South	“RM-4 H HE AHOD” Residential Mixed Historic King William Historic Exceptional Airport Hazard Overlay District	Single-Family Residence
East	“RM-4 H HE AHOD” Residential Mixed Historic King William Historic Exceptional Airport Hazard Overlay District	Single-Family Residence
West	“MF-33 H HE AHOD” Multi-Family King William Historic Exceptional 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 “Urban Low 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

Madison Street is classified as a local road.

Criteria for Review – Side and Front 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.*

Staff finds a 4’-11” variance to allow an existing structure to be 1” from the side property line and a new structure with a 5’-2” width to be 3’-6” from the side property line, a 4” to allow an accessory structure to be 4’-8” from the side property line, and a request for a 5’-7” variance to allow a structure to be 4’-5” from the front property line are not contrary to the public interest, as these distances provide adequate spacing between adjacent properties.

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

A literal enforcement of the ordinance would result in the applicant altering the existing and new structures 5’ and 10’ from the side and front property line, which would result in an unnecessary hardship as the existing structures are non-conforming and will prevent the applicant from constructing a new structure that is sizeable.

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. The existing structures in their current place will provide a decent amount of distance between adjacent properties. Additionally, the new structure is anticipated to be a 5'-2" width and to be 3'-6" from the side property line, which observes the spirit of the ordinance.

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 existing structures will continue to maintain 1" and from the side property line and 4'-5" from the front property from the side property line, which is not likely to alter the essential character of the district as other narrow lots were found in the immediate area. Additionally, this narrowness will prevent the applicant from constructing a decent sized structure.

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 the subject property being situated on a narrow lot. 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 Setbacks of the UDC Section 35-310.01 and Section 35-370(b)(1).

Staff Recommendation – Side and Front Setback Variance

Staff recommends **Approval** in **BOA-22-10300255** based on the following findings of fact:

1. The existing structures distances provide adequate spacing between adjacent properties; and
2. The narrow lot that the subject property is located within prevents the applicant from building a sizeable structure; and
3. The new structure is anticipated to be a 5'-2" width and to be 3'-6" from the side property line, which observes the spirit of the ordinance.