



# City of San Antonio

## Legislation Details (With Text)

**File #:** 19-2372

**Type:** Zoning Case

**In control:** Board of Adjustment

**On agenda:** 3/4/2019

**Title:** BOA-19-10300011: A request by Fisher Heck Architects for 1) a 4'11" variance from the 5' side setback requirement to allow for a detached accessory dwelling unit to be 1" from the side property line, and 2) a 4'11" variance from the 5' rear setback requirement to allow for a detached accessory dwelling unit to be 1" from the rear property line, located at 235 Madison Street. Staff recommends Approval. (Council District 1)

**Sponsors:**

**Indexes:**

**Code sections:**

**Attachments:** 1. BOA-19-10300011 Attachments

Date	Ver.	Action By	Action	Result
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**Case Number:** BOA-19-10300011

**Applicant:** Fisher Heck Architects

**Owner:** Helia B. Moore-Sepulveda

**Council District:** 1

**Location:** 235 Madison Street

**Legal Description:** The North 47.6 feet of the East 100.5 feet of Lot 20 and the

South 8.4 foot of the East 100.5 feet of Lot 19, Block 3, NCB 740

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

**Case Manager:** Debora Gonzalez, Senior Planner

### Request

A request for 1) a 4'11" variance from the 5' side setback requirement, as described in Section 35-310.01, to allow for a detached accessory dwelling unit to be 1" from the side property line, and 2) a 4'11" variance from the 5' rear setback requirement, as described in Section 35-310.01, to allow for a detached accessory dwelling unit to be 1" from the rear property line.

### Executive Summary

The applicant wishes to add a detached accessory dwelling unit to the side and rear of the home. The existing property has stone ruins of a historic two-story barn structure from the 1870's. The Office of Historic Preservation has approved the proposed addition and the remodeling of the primary structure. The owners'

intent is to renovate the existing main house and to transform the historic unit into a studio apartment for their daughter. The construction of the studio apartment will be on the same footprint as the original barn while utilizing the existing stone as one of its primary building materials.

**Code Enforcement History**

No violations of the requirements of the UDC were observed upon a staff visit to the site, and there have been no code violations reported.

**Permit History**

No permit history related to this proposed addition exists on the property. The property owner is seeking a variance to allow for a permit to be issued.

**Subject Property Zoning/Land Use**

<b>Existing Zoning</b>	<b>Existing Use</b>
“RM-4 H AHOD” Residential Mixed King William Historic Airport Hazard Overlay District	Multi-Family Dwelling

**Surrounding Zoning/Land Use**

<b>Orientation</b>	<b>Existing Zoning District(s)</b>	<b>Existing Use</b>
North	“RM-4 H AHOD” Residential Mixed King William Historic Airport Hazard Overlay District	Single-Family Dwelling
South	“RM-4 H AHOD” Residential Mixed King William Historic Airport Hazard Overlay District	Multi-Family Dwelling
East	“RM-4 H AHOD” Residential Mixed King William Historic Airport Hazard Overlay District	Multi-Family Dwelling
West	“RM-4 S H AHOD” Residential Mixed King William Historic Airport Hazard Overlay District with Specific Use Authorization for a Bed and Breakfast	Multi-Family Dwelling

**Comprehensive Plan Consistency/Neighborhood Association**

The property is within the Downtown Neighborhood Plan and designated as “Residential” in the future land use component of the plan. The subject property is located within the boundaries of the King William Neighborhood Association. As such, they were notified and asked to comment.

**Street Classification**

Madison 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 project seeks to restore a historic artifact within a celebrated historic district, while also transitioning the main house from a rental property into a single family residence. In addition, the footprint of the historic barn and its surviving walls do not currently interfere with the adjacent property owners and do not extend past the property lines. Overall, the project seeks to return the residence to a proud asset for the neighborhood. Staff finds the requests are not contrary to the public interest.**

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

**Due to the historic existing stone ruins, a literal enforcement of the ordinance would result in unnecessary hardship because the owner would be left with the burdened of the wall's current unusable condition.**

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 the intent of the code, rather than the strict letter of the law. The intent of the setback limitation is to prevent fire spread, allow adequate space for maintenance, and encourage proper storm water drainage. All intents of this law will be observed if approved.**

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.*

**The variance will not authorize the operation of a use other than those uses specifically authorized by the zoning district.**

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.*

**This variance would not substantially injure or alter the use or character of adjacent conforming property or character of the district. Specifically, the variance would not place the structure out of character within the community. Further, the accessory dwelling is highly unlikely to be seen from the public right-of-way.**

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.*

**The unique circumstance present in the case is that the property addition has some historical ruins that the owner would like to reuse maintaining its existing location.**

### **Alternatives to Applicant's Request**

The alternative to the applicant's request is to conform to side and rear setbacks set forth in the Unified Development Code.

**Staff Recommendation**

Staff recommends **APPROVAL** of variances in **BOA-19-10300011** based on the following findings of fact:

1. The requested variances will not detract from the character of the district and is highly unlikely to be seen from the right-of-way, and;
2. Adequate space will be utilized to prevent storm water runoff, maintenance of property, and maintenance of the structure without trespass.
3. Office of Historic Preservation and the Historic and Design Review Commission have approved the proposed design.