



# City of San Antonio

## Legislation Details (With Text)

**File #:** 17-6345  
**Type:** Zoning Case  
**In control:** Board of Adjustment  
**On agenda:** 11/20/2017  
**Title:** A-17-202: A request by Jim Poteet for 1) a ten foot variance from the 20 foot rear setback to allow an addition to be ten feet from the rear property line and 2) a four foot variance from the five foot pool setback to allow a pool to be one foot from the side property line, located at 143 Cedar Street. Staff recommends Approval. (Council District 1)  
**Sponsors:**  
**Indexes:**  
**Code sections:**  
**Attachments:** 1. A-17-202 Attachments

Date	Ver.	Action By	Action	Result
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**Case Number:** A-17-202  
**Applicant:** Jim Poteet  
**Owner:** Dwight Hobart and Patty Ortiz  
**Council District:** 1  
**Location:** 143 Cedar Street  
**Legal:** South 43.8 Feet of the East 100 Feet of Lot 9 & the North 6.2  
**Description:** Feet of the East 100 Feet of Lot 10, Block B, NCB 935  
**Zoning:** "MF-33 H HS AHOD" Multi-Family King William Historic Significant Airport Hazard Overlay District  
**Case Manager:** Logan Sparrow, Principal Planner

### Request

A request for 1) a ten foot variance from the 20 foot rear setback, as described in Section 35-310.01, to allow an addition to be ten feet from the rear property line and 2) a four foot variance from the required five foot side yard pool setback, as described in Section 35-516(h), to allow a pool to be one foot from the side property line.

### Executive Summary

The subject property is located at 143 Cedar Street, approximately 50 feet northwest of its intersection with Pereida Street. The applicant is seeking two variances. The first is to reduce the rear setback from 20 feet to ten feet to allow for an addition to the historic home. The second addition is to permit a swimming pool one foot from the side property line.

### Subject Property Zoning/Land Use

Existing Zoning	Existing Use
“MF-33 H AHOD” Multi-Family King William Historic Significant Airport Hazard Overlay District	Multi-Family Dwellings

### Surrounding Zoning/Land Use

Orientation	Existing Zoning District(s)	Existing Use
North	“IDZ H HS AHOD” Infill Development King William Historic Significant Airport Hazard Overlay District	Multi-Family Dwellings
South	“RM-4 H HS AHOD” Residential Mixed King William Historic Significant Airport Hazard Overlay District	Single-Family Dwelling
East	“RM-4 H HS AHOD” Residential Mixed King William Historic Significant Airport Hazard Overlay District	Multi-Family Dwellings
West	“RM-4 H HS AHOD” Residential Mixed King William Historic Significant Airport Hazard Overlay District	Single-Family Dwelling

### Comprehensive Plan Consistency/Neighborhood Association

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

### 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 represented by setbacks to provide separation between incompatible uses and to ensure fair and equal access to air and light. Of the 16 residential zoning districts, nine of them only require a ten foot rear setback. As such, the request for a ten foot rear setback is not unsafe.**

**Further, the property to the north is zoned “IDZ”, which permits as little as a five foot rear setback. Lastly, the zoning of the property is “MF-33” Multi-Family District. Had the development been multi-family in nature, it would only have required a ten foot rear setback. The UDC states that single-family development within multi-family zoning district is permitted so long as the development follows the standards of an “R-4” Residential Single-Family zoned lot, which requires a 20 foot rear setback. Staff finds the request to reduce the rear setback to ten feet is not contrary to the public interest.**

**Also, the applicant is proposing to have a pool one foot from the side property line. Because the pool is not a structure, and will not pose a fire threat to adjacent property, staff finds that this request is not contrary to the public interest.**

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

The special condition in this case is that the only reason that the 20 foot rear setback is required is because the owner is developing a single-family project in a multi-family zone. If the property carried the “RM-4” Residential Mixed zoning like other surrounding properties, no rear setback variance would be necessary.

The special condition present in this case related to the swimming pool is that, unlike other development near property lines such as carports or additions, a swimming pool won’t require trespass to maintain nor pose any fire spread threat. Staff finds that a literal enforcement of the ordinance would result in unnecessary hardship.

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 requirements rather than the strict letter of the law. The intent of the setback is to provide sufficient separation between incompatible uses. As the addition still provides a ten foot rear setback, the same setback required by adjacent property, staff finds that the spirit of the ordinance will be observed.

Further, because the pool poses little risk to adjacent property, staff finds that that request also observes the spirit of the code.

4. The variance will not authorize the operation of a use other than those uses specifically authorized for the district in which the property for which the variance is sought is located.

The requested variance will not authorize the operation of a use on the subject property other than those specifically permitted in the “MF-33 H AHOD” Multi-Family King William Historic Significant Airport Hazard Overlay 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.

It is unlikely that either variance request will injure adjacent property owners. Neither variance sought by the applicant would lead to water runoff, fire threat, or trespass. The variances sought are not contrary to 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.

The unique circumstance present in the case is that the 20 foot rear setback is only required because a single-family home is being developed within a multi-family zone. There is minimal space on the small lot for a pool, and allowing it one foot from the side property line is unlikely to harm adjacent property owners.

#### **Alternative to Applicant’s Request**

Denial of the variance request would result in the owner having to meet the required setbacks.

#### **Staff Recommendation**

Staff recommends **APPROVAL of the requested variance in A-17-202**, based on the following findings of fact:

1. The requested rear setback is consistent with those required for properties surrounding it, and;

2. The pool setback is unlikely to harm adjacent property owners in that it will increase the threat of fire nor require trespass to maintain.