



# City of San Antonio

## Agenda Memorandum

**File Number:**16-3547

**Agenda Item Number:** 9.

**Agenda Date:** 6/20/2016

**In Control:** Board of Adjustment

**Case Number:** A-16-100  
**Applicant:** Jim Poteet, Poteet Architects  
**Owner:** Your Loved Home Solutions Inc.  
**Council District:** 1  
**Location:** 419 Cedar Street  
**Legal Description:** Lot 5, Block 3, NCB 2968  
**Zoning:** "RM-4 H HS AHOD" Residential-Mixed King William Historic Significant Airport Hazard Overlay District  
**Case Manager:** Shepard Beamon, Planner

### Request

A request for a two (2) foot variance from the minimum five (5) foot side setback, as described in Section 35-310, to allow an addition to the primary dwelling to be built three (3) feet from the side property line.

### Executive Summary

The applicant is requesting a variance to construct an addition to the existing single family dwelling unit. The existing structure was constructed in 1905 and has a side setback less than two feet from the side property line. As the subject property is located in a historic district, the applicant received approval from the Historic and Design Review Commission (HDRC) on May 18, 2016. Construction has not yet begun on the home as the applicant is currently acquiring appropriate permits and approval.

### Subject Property Zoning/Land Use

Existing Zoning	Existing Use
"RM-4 H HS AHOD" Residential-Mixed King William Historic Significant Airport Hazard Overlay District	Single-Family Dwelling

### Surrounding Zoning/Land Use

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

### **Comprehensive Plan Consistency/Neighborhood Association**

The property is within the boundaries of the Downtown Plan and currently designated 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, the neighborhood association was 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 defined as the general health, safety, and welfare of the public. In this case, the public interest is represented by side setbacks to protect property owners and to contribute to a sense of community. The proposed addition will not disrupt the character of the existing neighborhood. Also, the variance request will allow for building maintenance without trespass, no water runoff will occur on the adjacent property, and will not increase fire risk.**

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

**The special condition presented in this case is the original location of the existing home. The existing home is less than two feet from the side property line. If the home were three feet from the side property line, then the proposed addition would be permitted by right per section 35-516 (b).**

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 letter of the law. Side setbacks were created to provide some separation between homes to prevent the spread of fire. If approved the applicant will have to ensure the structure meets fire standards. Granting the requested variance will result in substantial justice.**

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 “RM-4 H AHOD” Residential Single-Family King William Historic 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.*

**Staff finds that allowing the addition will not detract from the overall character of the King William community. The requested three foot separation will provide the needed space for maintenance without trespass and is not likely to cause water runoff on neighboring properties. In addition, the plans have been approved by HDRC, which ensures new construction and renovations are in keeping with the historic nature of the neighborhood.**

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.*

**Per the Unified Development Code, an addition can be built in line to the existing home if no part of the structure is less than 3 feet from the side property line. In this case, the existing home is less than two feet from the side property line. The addition would fulfill the Code requirements if the current existing structure were built three feet from the property line, which is permitted by right.**

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

The applicant could build the addition to meet the current five foot setback, as described in Section 35-510.

### **Staff Recommendation**

Staff recommends **APPROVAL of variance request in A-16-100** based on the following findings of fact:

1. The location of the original house being closer than three feet prohibits any addition from being built with the permitted three foot setback. 2. The plans have been approved by the Historic and Design Review Commission. 3. The proposed addition is in keeping with the character of the community.