



# City of San Antonio

## Agenda Memorandum

**File Number:**18-2210

**Agenda Item Number:** 5.

**Agenda Date:** 3/5/2018

**In Control:** Board of Adjustment

**Case Number:** A-18-030  
**Applicant:** Hoda Cummings  
**Owner:** Hoda Cummings  
**Council District:** 1  
**Location:** 431 Adams Street  
**Legal:** Lot 9, Block 5, NCB 2880  
**Description:**  
**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 three foot and six inch variance from the five foot side and rear setbacks, as described in Section 35-370, to allow a new accessory dwelling unit with attached garage to be located one foot and six inches from the side and rear property lines and 2) a request for a 17 foot variance from the 20 foot garage setback, as described in Section 35-516(g), to allow a garage to be three feet from the property line.

### Executive Summary

The subject property is located at 431 Adams Street at the intersection with Barbe Street and Wickes Street. The applicant is constructing a detached accessory dwelling unit with an attached garage in the rear yard and is proposing to be one foot and six inches from the side and rear property lines. The accessory dwelling unit will be approximately 780 square feet of living space. The conceptual design of the structure was approved on June 15, 2016 by the Historic and Design Review Commission.

### Subject Property Zoning/Land Use

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

### Surrounding Zoning/Land Use

Orientation	Existing Zoning District(s)	Existing Use
-------------	-----------------------------	--------------

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	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 Community Plan and is currently designated Residential in the future land use component of the plan. The subject property is within the King William Neighborhood 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 defined as the general health, safety, and welfare of the public. In this case, the variances are not contrary to the public interest as the structure provides room for maintenance, will not create water runoff on the adjacent property, and will not injure the rights of the adjacent property owners. The attached garage will be three feet from the property lines and no portion of the garage is in violation of the Clear Vision field.**

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

**An unnecessary hardship would result from the enforcement of the ordinance as strict enforcement would result in not allowing the owner of the property to build the requested accessory dwelling unit as proposed.**

3. *By granting the variance, the spirit of the ordinance will be observed and substantial justice will be done.*

**Substantial justice will be done as the requested setbacks will still provide for a safe development pattern. Both requests provide fair and equal access to air and light, and provide for adequate fire separation.**

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

**The variance will not authorize the operation of a use other than those uses specifically authorized in the "RM-4 H AHOD" Residential Mixed 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.*

In older neighborhoods such as this, it is common for accessory units to be located within the side and rear setbacks established by the current Unified Development Code. The requests will not detract from the character of the district. The proposed unit will be in the rear of the home, not affecting the public right-of-way or the clear vision ordinance. Within the time span the original garage has been in place, there has been no observed harm done to adjacent properties. As the expansion of the structure will occur away from the adjacent property, it is unlikely the request will injure the adjacent property.

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 existing on the property is that the proposed structure in question was originally built in the current location as a two-car garage in line with the existing driveway. As there is an existing cement slab used for the garage and uniquely sloped topography in the rear yard, it is more feasible to build on the existing building pad than elsewhere in the rear yard.

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

Denial of the variance request would result in the owner having to meet the required five foot side setback.

#### **Staff Recommendation**

Staff recommends **APPROVAL** of the requested variances in **A-18-030**, based on the following findings of fact:

1. The requested setbacks provide room for adequate light, air, and maintenance,
2. The variances are unlikely to detract from the character of the district, and;
3. The variances are unlikely to have a negative impact on the adjacent properties.