

Legislation Details (With Text)

File #:	21-323	Name:	
Type:	Report	Status:	Individual Item Ready
File created:	3/29/2021	In control:	Board of Adjustment
On agenda:	6/24/2021	Final action:	

Title: Z-18-004 Hold a public hearing and consider a request for four variances to Sections 3.3-2(b)(1)(i), Section 3.3-2(b)(1)(iv), and Section 5.4(c) to allow 1) a proposed dwelling to encroach up to 10 feet into the required 15-foot corner side setback, 2) a proposed dwelling to encroach 9 inches into the required 5-foot interior side setback, 3) a proposed detached garage to encroach 3 feet and 7 inches into the required 5-foot interior side setback and 4) a proposed detached garage to encroach up to 7 feet and 1 inch into the required 20-foot garage setback in the "R-2" Single and Two-Family District, addressed at 298 W. Edgewater Terrace.

Sponsors:

Indexes:

Code sections:

Attachments: 1. Aerial Map, 2. Aerial with Floodplain, 3. Application, 4. Site Plan with Proposed and Existing IMprovements, 5. Elevation and Floor Plans, 6. Notice List and Map, 7. Sec. 3.3-2 R-2 Single Family and Two-Family District, 8. Sec. 5.4 Accessory Uses and Structures, 9. Schematic of Typical Garage Dimensions

Date	Ver.	Action By	Action	Result
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Presenter/Contact
Applicant: Susan Tolbert
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SUBJECT:

Z-18-004 Hold a public hearing and consider a request for four variances to Sections 3.3-2(b)(1)(i), Section 3.3-2(b)(1)(iv), and Section 5.4(c) to allow 1) a proposed dwelling to encroach up to 10 feet into the required 15-foot corner side setback, 2) a proposed dwelling to encroach 9 inches into the required 5-foot interior side setback, 3) a proposed detached garage to encroach 3 feet and 7 inches into the required 5-foot interior side setback and 4) a proposed detached garage to encroach up to 7 feet and 1 inch into the required 20-foot garage setback in the "R-2" Single and Two-Family District, addressed at 298 W. Edgewater Terrace.

BACKGROUND / RATIONALE:

Case #: Z-18-004

Applicant: Susan Tolbert
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This request was postponed from the February 22, 2018 meeting but not to a specific date and the provided site plan has since been updated. Therefore, a revised public notice has been provided to property owners within 200 feet of the subject property.

The subject property is located at the northeast corner of W. Edgewater Terrace and N. Liberty Avenue and is 9,240 square feet in area. The property is zoned "R-2" Single and Two-Family District, is approximately 40 feet wide, 231 feet deep and abuts Landa Lake at the rear of the property. The lot width is approximately 30 feet less than the minimum 70 feet required for corner lots in the "R-2" district. Approximately 73% of the property is located within the 1% chance annual floodplain and approximately 23% of the property is located within the floodway. Due to the required setbacks within "R-2", the buildable area is 20 feet wide by 186 feet deep (3,720 square feet). When the floodway area at the rear of the property is subtracted the remaining buildable area is approximately 2,860 square feet.

The existing property improvements include a 1,270 square-foot single family dwelling located within the floodway and floodplain and a 536 square-foot detached accessory structure located within the floodplain. The existing dwelling currently encroaches into both the corner and interior side setbacks: approximately 10 feet into the 15-foot corner side setback along N. Liberty Avenue; and, is setback approximately 4 feet and 3 inches from the interior side property line (a 9-inch encroachment). The existing detached structure is located in front of the main dwelling and encroaches 3 feet and 7 inches into the 5-foot interior side setback (1 foot and 5 inches from the property line).

The applicant is proposing to demolish both structures and construct new replacement structures. The proposed single-family dwelling has a larger footprint that is approximately 2,495 square feet in area. The dwelling is proposed to be set back approximately 5 feet from the corner side property line along N. Liberty Avenue and 4 feet and 3 inches from the interior side property line. The required setbacks for main dwellings in "R-2" are 15 feet for corner side setbacks and 5 feet for interior side setbacks, therefore variances are required for an encroachment into each side setback.

The proposed 810 square foot (26' x 31') detached accessory structure is a front entry garage in the approximately the same location. The proposed front setback exceeds 60 feet allowing it to be located in front of the main house. The applicant proposes to preserve a section of the existing wall of the detached structure that is currently encroaching into the interior side setback and use it for a portion of a longer wall of the new detached garage. Therefore, the new detached garage will encroach 3 feet and 7 inches into the required 5-foot interior side yard setback for accessory structures for a longer distance. Garages, whether detached or attached to the main structure in the "R-2" district, are required to be set back a minimum of 20 feet from any property line along a roadway where vehicles will enter directly into said garage. This provides an area for vehicles to park in front of a garage door without becoming visual or physical hazards to pedestrians or other vehicles on the roadway. Side entry garages follow the setback requirements established for the main buildings since vehicles parked in front of their garage doors will not encroach onto sidewalks or into the roadway. Common 2-car garages are 24 feet by 24 feet but are often built smaller. The façade of the proposed garage where the vehicles will be loaded is proposed to be setback 12 feet and 11 inches from the property line along N. Liberty Avenue and therefore a variance to encroach up to 7 feet and 1 inch into the required 20-foot garage setback is being requested.

Both buildings are proposed to be located within the floodplain and a majority of the dwelling is proposed to be constructed within the floodway. Any construction within the floodway and floodplain

must conform to the city's adopted floodplain management requirements, including raising the elevation of any habitable space to two feet above the base flood elevation. The existing wall proposed to be preserved on the detached structure will likely need to be demolished and rebuilt to meet floodproofing standards required for construction within the floodplain.

Section 2.2-3(a) of the Zoning Ordinance states the ZBA may authorize a variance from the zoning regulations only upon finding all of the following facts:

- 1) **That there are special circumstances or conditions affecting the land involved such that the strict application of the provisions of this Chapter would deprive the applicant of the reasonable use of land;** (The applicant states the location of the floodplain on the property is a special circumstance affecting the land itself as well as the 40-foot width of the lot. Staff acknowledges the amount of floodway and floodplain on the property and with the width of the lot 30 feet less than the minimum required lot width for corner lots in "R-2" district impacts the property; however, the applicant is not attempting to reduce the impact on the floodway or floodplain with the proposed layout.) **and**
- 2) **That the variance is necessary for the preservation and enjoyment of a substantial property right of the applicant;** (The applicant states the variances are necessary to build an adequate size home and that the lot width restricts the width of the home. Staff notes the substantial property right to use for the property for residential dwelling is not removed due to the corner side setback requirement. Furthermore, the ability to construct a detached garage is not considered a substantial property right and a smaller or side loaded detached garage could be constructed in compliance with city standards and allow vehicles to park in front of the garage door without encroaching into the roadway or conflict with pedestrians.) **and**
- 3) **That the granting of the variance will not be detrimental to the public health, safety or welfare, or injurious to other property within the area;** (The applicant states the variance should not be detrimental to public health, safety or welfare.) **and**
- 4) **Granting of the variance will not have the effect of preventing the orderly use of other land within the area in accordance with the provisions of this Chapter;** (The applicant believes the variance should not prevent orderly use of other land within the area. There does not appear to be a negative effect preventing orderly use of other land within the area by granting the variance for the house, however, all neighboring properties will still be required to comply with zoning ordinance standards for any new construction and vehicles parked in front of the garage could be hazardous to pedestrians and motorists. Furthermore, the proposed structures are required to comply with all city codes and standards required for structures built within 5 feet of a property line and within the floodway and floodplain.) **and**
- 5) **That an undue hardship exists;** (The applicant states the undue hardship is the location of the floodplain on the property which restricts the location of new construction of a single-family dwelling. The applicant further states the property is only 40 feet in width which restricts the buildable width of a new dwelling. Staff has not identified a physical hardship due to the nature of the land itself that is not shared by other residential property in the neighborhood and the applicant is proposing to construct within the floodway and floodplain, however, staff acknowledges the buildable width of the property is limited due to its overall width and the fact it is a corner lot.) **and**
- 6) **That the granting of a variance will be in harmony with the spirit and purpose of these regulations.** (The applicant states granting of the variance will be in harmony with the

spirit and purpose of the zoning ordinance.)

Per Section 2.2-3 of the Zoning Ordinance, a variance shall not be granted to relieve a self-created or personal hardship, nor based solely on economic gain or loss, nor shall it permit any person the privilege in developing a parcel of land not permitted by Chapter 144 to other parcels of land in the particular zoning district. No variance may be granted which results in undue hardship upon another parcel of land.

GENERAL INFORMATION:

Size:

9,240 square feet in area

240 feet in depth

40.3 feet in width

Variance Request Due to Notice of Violation:

No

Surrounding Zoning and Land Use:

North - Across Comal River, R-2 / Single Family Dwellings

South - Across W. Edgewater Terrace, R-2 / Single Family Dwellings

East - R-2 / Single Family Dwellings

West - Across N. Liberty Avenue, R-2/ Single family Dwellings

Notification

Public hearing notices were sent to 20 owners of property within 200 feet. Staff has received no responses

Attachments:

1. Aerial Map
2. Aerial with Floodplain
3. Application
4. Site Plan with Proposed and Existing Improvements
5. Elevation and Floor Plans
6. Notification List and Map
7. Sec. 3.3-2 "R-2" Single Family and Two-Family District
8. Sec. 5.4 Accessory uses and structures
9. Schematic of Typical Garage Dimensions