

Legislation Text

File #: 21-697, Version: 1

Presenter/Contact

Applicant: Toya Ohlrich Boyer
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SUBJECT:

ZB21-0002 Hold a public hearing and consider a request for two variances to Sections 3.3-2(b)(1)(ii) and 3.3-2(b)(v) to allow a proposed dwelling to 1) encroach up to 5 feet into the required 25-foot front setback and 2) encroach up to 15 feet into the required 20-foot rear setback in the "R-2" Single and Two-Family District, addressed at 1020 Cole Avenue.

BACKGROUND / RATIONALE:

Case #: ZB21-0002

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The subject property is located within the Landa Park Estates neighborhood at the northeast corner of Cole Avenue and W. Klingemann Street and is zoned "R-2" Single and Two-Family District. The property is approximately 100 feet in depth and 87 feet in width, totaling 8,750 square feet in area. The front property line is along Cole Avenue and the corner side property line is along W. Klingemann Street. Due to the required setbacks within the "R-2" district, the buildable area is 67 feet wide by 55 feet deep (3,685 square feet in area).

The existing property improvements include a 2,168 square-foot single family dwelling built in 1946 with multiple subsequent additions including a 600 square foot addition constructed in 1966, a porch enclosure and bathroom addition in 1972, and a second story built in 2000. An attached carport was also constructed at the front of the home and two sheds are located in the rear yard, one of which is structurally attached to the home and the other detached.

The main structure currently encroaches into several required setbacks. The encroachments are approximately:

- 15 feet into the required 25-foot front setback.
- 10 feet into the 20-foot garage setback for carports.
- 5 inches into the required 5-foot side setback.
- 11 feet into the 15-foot corner side setback.
- 20 feet into the required 20-foot rear setback.

The applicant is proposing to demolish all existing structures on the property to construct a new single-family dwelling. The applicant is requesting two variances to allow the new residence to encroach 5 feet into the 25-foot front setback and 15 feet into the 20-foot rear setback. The setbacks of the new home would reduce the existing front and rear setback encroachments by 5 feet each. Therefore, if both variances are approved, the home would be set back 20 feet from the front property line and 5 feet from the rear property line. The applicant intends to bring the interior side setback and 15-foot corner side setback into conformance with the zoning ordinance, thereby reducing the interior side setback encroachment by 5 inches and the corner side setback by 11 feet.

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 current setback requirements were designed for newer developments that have lots that are more than 100' in depth and that the current setback requirements would restrict the applicant from building on 45' of buildable space on the lot. The applicant further states the hardship is the size of the lot and code required setbacks. Staff notes that the minimum depth for all lots in "R-2" is 100 feet. Although the nearly square configuration of the lot is not typical for lots in "R-2", the subject property meets the minimum lot depth (100 feet) requirement and exceeds the minimum requirements for lot width (70 feet) and area (7,000 sf) for corner lots in the district. Additionally, setback requirements are not a special circumstance of the land itself since their impact on development of the subject property is shared with other residential properties with the same zoning. The request appears to be more related to the minimum standards of the R-2 district for the neighborhood as opposed to special circumstances or conditions of the property.) **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 not necessary to preserve a substantial property right of the property owner. Staff notes the substantial property right to use the property for a residential dwelling is not removed due to the rear and front setback requirements.) **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. While the proposed building envelope reduces the existing encroachments, however, all neighboring properties will still be required to comply with zoning ordinance standards for any new construction.) **and**
- 5) **That an undue hardship exists;** (The applicant states the existing structure is in violation of all setbacks on each side of the property and that they want to improve the neighborhood. The applicant further states that, if the variances are not approved, the buildable area would require a taller, skinnier structure to be constructed that would be out of character for the neighborhood. Staff has not identified a physical hardship due to the nature of the land

itself that is not shared by other residential property within the neighborhood.) **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. The applicant further states the setback adjustments will allow them to make improvements in keeping with the neighborhood than the current structure. Staff acknowledges the existing encroachments within each required setback are proposed to be reduced.)

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:

8,750 square feet in area

100 feet in depth

87.5 feet in width

Variance Request Due to Notice of Violation:

No

Surrounding Zoning and Land Use:

North - R-2 / Single Family Dwellings

South - Across W. Klingemann Street, R-2 / Single Family Dwellings

East - R-2 / Single Family Dwellings

West - Across Cole Avenue, R-2/ Single family Dwellings

Notification

Public hearing notices were sent to 27 owners of property within 200 feet. Staff has received 3 responses in favor and none in objection.

Attachments:

1. Aerial Map
2. Application
3. Existing Survey and Proposed Site Plan
4. Pictures of Subject Property
5. Notification Packet
6. Sec. 3.3-2 "R-2" Single Family and Two-Family District
7. Pictures Provided by Applicant of Neighborhood Properties