

## Legislation Text

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File #: 21-1094, Version: 1

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Presenter/Contact*Applicant: Kristen Burnup**(830) 514-2237 - kristen22799@yahoo.com***SUBJECT:**

ZB21-0005 Hold a public hearing and consider a request for two variances: 1) Section 3.3-2(b)(1)(iii) to allow a proposed addition to encroach up to 4 feet and 4 inches into the required 15-foot corner side setback ; and, 2) Section 3.3-2(b)(1)(iv) to allow a proposed attached carport to encroach up to 20 feet into the required 20-foot garage setback in the "R-2" Single-Family and Two-Family District, addressed at 325 S. Santa Clara.

**BACKGROUND / RATIONALE:****Case #:** ZB21-0005

**Applicant:** Kristen Burnup  
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**Staff Contact:** Maddison O'Kelley  
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The subject property is located on the northeast corner of S. Santa Clara Avenue and Marguerite Street and is zoned "R-2" Single-Family and Two-Family District. Due to the configuration of the lot, the front property line is adjacent S. Santa Clara and the corner-side property line is adjacent Marguerite Street. The property is approximately 150 feet in depth and 75 feet in width, totaling 11,250 square feet in area. With the required setbacks of the "R-2" zoning district, the buildable area is 55 feet wide by 105 feet deep (5,775 square feet in area).

There is an existing single-family dwelling on the property that is approximately 1,928 square feet in area that was constructed in 1938 with a covered porch added to the rear of the house in 2008, and a detached structure (referenced as a carriage house within the application) at the rear of the property that is 440 square feet in area.

The applicant is requesting two variances to construct a 500 square foot addition within the corner-side setback with an attached 388 square foot carport to be located within the garage setback. The addition is proposed to encroach 4 feet and 4 inches into the required the 15-foot corner side setback and, therefore, would be set back 10 feet and 8 inches from the corner side property line. The attached carport is proposed to encroach up to 20 feet into the required 20-foot setback for carports in the "R-2" District, resulting in a zero-foot setback. The carport is proposed to gain access from Marguerite Street and the area between the side property line and the edge of pavement is

approximately 10 feet which does not include a sidewalk. If approved, the carport must meet the minimum requirements of the building code for structures built within 5 feet of a property line.

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 subject property is a narrow corner lot which requires a significant corner-side setback for new construction and that there is not enough room to construct the proposed addition at the rear of the house due to an existing rear porch and large pecan trees. The applicant states the home was built in 1925 in the colonial style and if the addition was constructed in front of the home, it would destroy the architectural symmetry of the house and the historic colonial façade which the applicant intends to maintain. The applicant further states there is not sufficient space to construct the addition on the other side of the house. Staff notes the subject property meets the minimum width for corner lots in the “R-2” and 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. Furthermore, while the intent to preserve the existing face can be challenging to achieve while maintain the required setbacks, the façade is not considered a special circumstance of the land itself and there is sufficient room behind the house for an addition) **and**
- 2) **That the variance is necessary for the preservation and enjoyment of a substantial property right of the applicant;** (The applicant states the proposed addition would maintain the same setback as the existing detached carriage house at the rear of the property. The applicant further cites the age of the home, stating it was constructed without central air conditioning, one bedroom, and a cast iron stove to cook on. The applicant describes various improvements made to the home since its initial construction, however, the applicant states the home is still too small to accommodate a modern standard of living and that a primary suite is needed on the first floor of the home. The applicant states the reason for the addition is to accommodate older guests and the limited mobility of the property owner. The applicant then states the carport is necessary to protect vehicles parked on the driveway from inclement weather. Staff notes the substantial property right to use the property for a residential dwelling is not removed due to the corner side setback or garage setback requirements as space remains behind the house. Staff also notes that because carports are not required by the zoning ordinance, they are not considered a substantial property right of the applicant. The property does not have any local, state, or federal historical landmark designations.) **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. Staff notes all neighboring properties will still be required to comply with zoning ordinance standards for any new construction and the permit construction plans must meet the minimum requirements of the building code for structures built within 5 feet of a property

line.) and

**5) That an undue hardship exists;** (The applicant cites the limited use of the property due to the antiquated construction of the home as an undue hardship. The applicant further states the hardship is not self-created due to the age of the home nor is it personal, because the layout of the home would be challenging for any elderly or disabled person from using the house. The applicant states the hardship is not financial because the disfunction and layout of the home cannot be resolved at a specific cost. The applicant further states the proposed layout would allow for proper drainage on the lot, because there is a downward slope toward the house from Marguerite Street, where water tends to pool at the side of the house. The applicant states the addition and carport would allow the applicant to capture water through gutters before it collects and damages the home. 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. Staff did not identify a significant change in grade on the lot that would result a hardship in construction due to drainage.) and

**6) That the granting of a variance will be in harmony with the spirit and purpose of these regulations.** (The applicant states the addition is a modest size that is necessary to make the home more livable and accessible for the property owner. The applicant further states a 10-foot setback from the corner side property will be maintained which still allows for adequate sight distance and that the intent for the request is to preserve the historic character of the home while allowing for necessary updates to bring it up to a modern standard of living. Staff acknowledges the historic character of the home and the intent to preserve the façade while expanding the footprint of the house. Staff notes there are additional requirements for structures built within 5 feet of a property line under the building code that will be subject to review upon permit application for the carport. The property has not sought local historic landmark designation so it is unknown if the proposed addition would be in character with the historic characteristics of the house.)

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:**

11,250 square feet in area

150 feet in depth

75 feet in width

**Variance Request Due to Notice of Violation:**

No

**Surrounding Zoning and Land Use:**

North - R-2 / Church

South - Across S. Santa Clara, R-2 / Single Family Dwelling

East - Across Marguerite Street, R-2 / Single Family Dwellings

West - R-2/ Church parking lot

**Notification**

Public hearing notices were sent to 15 owners of property within 200 feet. Staff has not received any responses in favor or in objection.

**Attachments:**

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