



AGENDA ITEM COVERSHEET

PREPARED BY: Gloria Abbotts, Sr Planner

DEPARTMENT: Planning &
Development

MEETING: Board of Adjustment – 9/20/2021

SUBJECT: Variance to the required 25' front yard setback to 9.1' for 511 Harper

BACKGROUND:

The applicants Jack and Lisa Greene are requesting a variance of 9.1' from Section Sec. 40-74. - Dimensional standards for lots and principal structures that requires a 25' front yard setback. The property is located at 511 Harper Ave is in the R-3 zoning district. The property consists of one 8,779 sq ft lot, Lot 7R that was recombined in 2020 (LOT 7 (TRACT 2) & LOTS 8-10 (TRACT 1) BLK 101). The owner of the property owns both lots, 511 and 515 Harper. The house under construction was staked incorrectly by the surveyor and built with a setback of 15.9' from the front property line along Harper Avenue. The original site plan submitted along with the permit application proposed the home be placed 16' from the front property line. Staff asked the applicant to change the site plan and bring it into compliance with the required 25' setback. The approved site plan for construction had a proposed setback of 26' from the front property line. Per Sec. 40-73(a)(5) a front yard setback may be reduced to no less than the calculated average front yard setback distance for existing buildings on all lots located wholly or partly within 200 feet. All lots must be in the same zoning district, front the same side of the street, be considered as having the minimum required front yard setback if the lot is vacant, and shall not be reduced to less than 50 percent of the required setback. Per the survey submitted by the applicant, the average setback within 200 feet is 22.3'.

To resolve the situation the applicant requests a 9.1' variance to the required 25' front yard setback. The home under construction meets the minimum required side (7.5') and rear (10') yard setbacks. To come into compliance with the ordinance the home would have to be torn down and rebuilt.

REQUIRED FINDINGS:

When unnecessary hardships would result from carrying out the strict letter of a zoning ordinance, the board of adjustment shall vary any of the provisions of the ordinance upon a showing of all of the following:

1. Unnecessary hardship would result from the strict application of the ordinance. It shall not be necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property.
2. The hardship results from conditions that are peculiar to the property, such as location, size, or topography. Hardships resulting from personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or the general public, may not be the basis for granting a variance.
3. The hardship did not result from actions taken by the applicant or the property owner. The act of purchasing property with knowledge that circumstances exist that may justify the granting of a variance shall not be regarded as a self-created hardship.
4. The requested variance is consistent with the spirit, purpose, and intent of the ordinance, such that public safety is secured, and substantial justice is achieved.

CONDITIONS:

In granting any variance, the Board may prescribe reasonable and appropriate conditions and safeguards, in conformity with this ordinance. Violation of any such conditions or safeguards, when made part of the terms under which the variance is granted, shall be deemed a violation of this ordinance and punishable under Article 19 of the Zoning Ordinance:

If the board supports the findings staff recommends the below condition for the variance

The variance is granted for the existing house under construction only and any new structures on the property shall conform to the setback requirements.

Attachments

1. Application
2. Site Plan submitted with Permit Application – March 10, 2021
3. Approved Site Plan – May 7, 2021
4. Foundation Survey – July 20, 2021
5. Neighboring Properties Setback Map