



CITY OF MARSHALL AGENDA ITEM REPORT

Presenter:	Ilya Gutman
Meeting Date:	Tuesday, July 25, 2023
Category:	NEW BUSINESS
Type:	ACTION
Subject:	Consider the Request for a Variance Adjustment Permit for Reduced Setbacks for an Accessory Building at 710 South Bend Avenue
Background Information:	<p>This is a request from the property owner to construct a new detached garage in the rear corner of their property with a 5-FT rear setback and a 2-FT side yard setback. There is an existing detached garage in this location today. The property owner desires to demolish the existing 22' x 22' structure and replace it with a larger structure, likely 24' wide by 36' deep. See attached drawing.</p> <p>Granting of a variance may be permitted only if the request meets the “practical difficulties” test, which requires that proposed use is reasonable, that the problem is caused by conditions that are unique to this property, and that granting the variance will not change the character of the area.</p> <p>Upon review, city staff believes that the argument could be made that this proposal generally meets the practical difficulties test for a rear yard variance. There are numerous structures in this neighborhood and area that do not meet minimum setbacks and there is a garage located here today. This makes the request both reasonable and doesn't change the character of the area. Staff believe that the lot is unique due to the orientation of the lot. The rear yard of this lot aligns with the side yard of 604 W. Southview Drive. In a more typical lot orientation, the neighbor at 604 W. Southview Drive could expect a structure within 5-FT of the lot line.</p> <p>As for the side yard request, staff questions the reasonableness of placing a larger structure so close to the lot line. The existing building is smaller than the proposed building, and the proposed detached garage will be quite close to the neighboring structure. It would appear that the property owner could construct the new detached garage in a manner that meets the required 5-FT side yard setback.</p> <p>The variance regulations and procedures are found in Section 86-29. A property aerial photo with proposed site plan is attached for reference.</p> <p>At the Planning Commission meeting on July 12, 2023, a public hearing was held and Pieper MADE A MOTION, SECOND BY Doom to recommend to City Council to approve the 5' rear and 2' side yard variance adjustment permit for reduced setbacks for accessory building at 710 South Ben Avenue and directing City staff to prepare the Finding of Facts document that outlines the basis for the decision. . ALL VOTED IN FAVOR OF THE MOTION.</p> <p>During the Planning Commission meeting, Owner presented some evidence for this application satisfying all three components of the “practical difficulty” test. Meeting minutes include his arguments.</p>

Fiscal Impact:	None known.
Alternative/ Variations:	Follow staff recommendation and allow 5-foot rear yard instead of 12 feet but maintain required 5-foot side yard.
Recommendations:	The Planning Commission recommends that the Council approve the request of Bradin Wyffels for a Variance Adjustment Permit to have reduced setbacks for an accessory building as follows: 5 feet for rear yard and 2 feet for side yard.