

Board of Adjustment  
July 26, 2023  
BOA-2223-23

**STAFF REPORT**

**GENERAL INFORMATION**

<b>APPLICANT</b>	Kirk Hays and Samantha Watson
<b>LOCATION</b>	107 N. Findlay Avenue
<b>ZONING</b>	R-2, Two-Family Dwelling District
<b>REQUESTED ACTION</b>	Variance of 2% to 36-516(c)(6) to allow for building coverage in excess of 40% to add a pergola; and Variance to 36-516(c)(5)(a) to allow a two-family dwelling on a 3,750 sq. ft. lot
<b>SUPPORTING DATA</b>	Location Map Application with attachments Site Plan

**SYNOPSIS:** The applicant is developing this property by adding a new residential building. The plan includes adding a pergola in the backyard that increases the building coverage to 42%, 2% more than the allowed 40% for the R-2 district. Additionally, the applicant is adding a second cooking facility in the house. Because only one cooking facility is allow per dwelling, the applicant is asking to allow a two-family dwelling on a 3,750 sq. ft. lot; the R-2 district requires a lot area of 7,000 sq. ft. for a two-family dwelling.

The application, site plan, and the Existing Variance Conditions form are attached for your review.

**VARIANCE CRITERIA PER SECTION 570(k):**

A variance from the terms of this ordinance shall not be granted by the Board of Adjustment unless and until:

- (1) An applicant shall submit to the Board of Adjustment a written application indicating:
  - (a) That special conditions and circumstances exist that are peculiar to the land, structure, or building involved and are not applicable to other lands, structures, or buildings in the same district;
  - (b) That the literal interpretation of the provisions of this ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this ordinance;

- (c) That the special conditions and circumstances do not result from the actions of the applicant;
- (d) That granting the variances requested will not confer on the applicant any special privilege that is denied by this ordinance to other lands, structure, or buildings in the same district;

No non-conforming use of neighboring lands, structures, or buildings in the same district and no permitted use of lands, structures, or buildings in other districts shall be considered grounds for the issuance of a variance.

**The applicant provided responses to the four variance criteria. Please see the attached Existing Variance Conditions form and related information.**

**DISCUSSION:** This property already has 3 variances approved by the Board in July 2020: to build a single-family home on a 3,750 sq. ft. lot; to allow a front setback of 2'3"; and to allow a rear setback of 10'.

The pergola needs to be located at least 1 foot from the rear property line and meet building code requirements. The property will still meet the 65% impervious coverage requirement; they are currently proposing approximately 60% impervious coverage.

The proposed floorplan does not show a separation of the two units. The applicant will need to provide a separation that meets building codes at building permit stage.

**CONCLUSION:** Staff forwards this request for a variance to the building coverage maximum and lot area for a two-family dwelling as BOA-2223-23 to the Board of Adjustment for consideration.