

HISTORY OF THE CORNER LOT SETBACK REQUIREMENT

1. 2009 or earlier: Corner lots must have 30 foot side setbacks along both streets unless the lot is one of two lots having abutting rear lot lines and the two lots form one block. Zoning Code Section 107-76(c). This requirement has existed in the Code since at least 2009, to insure uniform setbacks along streets.

2. 2019/2020: Applications for variance of the corner lot setback requirement are sent to Board of Adjustment.

BOA denies request to vary the 30-foot corner lot setback requirement on 304 Almarion to 20 feet. Minutes of the April 9, 2019, Board of Adjustment, Item 4.

BOA denies request to vary the 30-foot corner lot setback on 205 Almarion to 20 feet. Minutes of the April 14, 2020, Board of Adjustment, Item 3.

3. March 4, 2020: City legal counsel advises that if building lines are shown on plats they must be correct: "the building lines do not have to be on the plat but if they are being put on the plat they need to be correct." Minutes of the March 4, 2020, P&Z Meeting, Item 3.

4. Feb. 16, 2022: City Attorney advises that P&Z plat approval does not supersede zoning setbacks and that a request to approve reduced setbacks must be sent to the Board of Adjustment for approval. Minutes of February 16, 2022, City Council meeting, Agenda item 13.

II. 400 FARLEY PROPERTY TIMELINE:

Actions before Feb. 16, 2022 City Attorney clarification.

Aug. 25, 2021 - requests address change. Farley owner seeks approval of a change of address in a one sentence letter: "I would like to change the mailing address from 2500 Bettis to 400 Farley Trail." Minutes of the August 25, 2021 city council meeting, Agenda Item 25.

Jan 5, 2022 - initial plat certified by City and filed but subsequently superseded. Farley owner files a plat of the Farley property with Travis county clerk. City Administrator Amber Lewis certifies that plat meets subdivision [not zoning] requirements. This plat is superseded by a later plat filed May 5, 2022. (Travis County real property records)

Actions subsequent to Feb. 16, 2022 City Attorney clarification.

May 4, 2022- files building permit. Farley owner files building permit application. (Permit file)

May 5, 2022 - new superseding plat filed. Farley owner files a new plat with the Travis County clerk's office, showing a 20 foot setback along Bettis and a 30 foot setback along Farley. On April 19, 2022, the City Administrator certifies that "the requirements of the subdivision ordinance" [not the zoning ordinance] have been met. Per city attorney's advice on March 4, 2020 and Feb. 16, 2022, this certification does not certify compliance with the zoning requirements.

July 20, 2022 - 1st zoning review - K. Friese denies approval stating a 30' setback on the side yard adjacent to Bettis is required. (Permit file)

Aug. 8, 2022 - K. Friese again denies approval stating a 30' setback on side yard adjacent to Bettis is required. (Permit file.)

Aug. 16, 2022 - K. Friese 2nd zoning review states: "This item has been cleared at the executive direction of Mayor Massingill... the Mayor ordered the permit to be issued *despite the setbacks not complying with the zoning code.*" (Permit file.)

Aug. 17, 2022 - My Permit Now shows 8-17-2022 as the "issued" date for the Farley property. (My Permit Now)

Aug. 28, 2022 - Memo from Mayor, dated Aug. 28, 2022, stating the Mayor directed the permit to be issued. (Permit file.)

III. DIFFERENCES BETWEEN THE ROLOSON AND FARLEY PROPERTIES

The Farley property owner:

did not seek a variance or approval of his plat from the P&Z (Roloson sought a P&Z 'variance' and approval of her plat before the Feb. 16, 2022 Council meeting, it was approved by the P&Z, thought P&Z approval extended to approval of the lot lines, and was not told otherwise until July 2022);

did not request a P&Z determination that his lot meets the exception in 107-76(c)(3) (Roloson argued this at P&Z; Farley rear lot line abuts neighbor's side lot line);

did not present letters from neighbors approving his setback request (Roloson presented such letters with P&Z hearing request);

submitted his plat and building permit application after the Feb. 16, 2022, advice of Counsel that plat approval does not supersede zoning setbacks (Roloson permit application was in the fall of 2021, before the this advice was given);

had actual notice in writing in the regular course of the building permit review process that his building permit application did not meet code requirements (three times: July 20, 2022, Aug. 8, 2022, Aug. 16, 2022) (Roloson was told the Feb. 2022 P&Z approval OK'd setbacks and was not advised until five months later (July. 2022), after construction started, that a variance would be required);

has not started construction and lot is for sale (Roloson started construction in mid-2022, before the permit issue came to Council in Jan. 2023).