



## STAFF REPORT

**MEETING DATE:** July 26, 2021  
**AGENDA ITEM TITLE:** 1307 I Street Variance Application  
**AGENDA SECTION:** Public Hearing

### REQUEST:

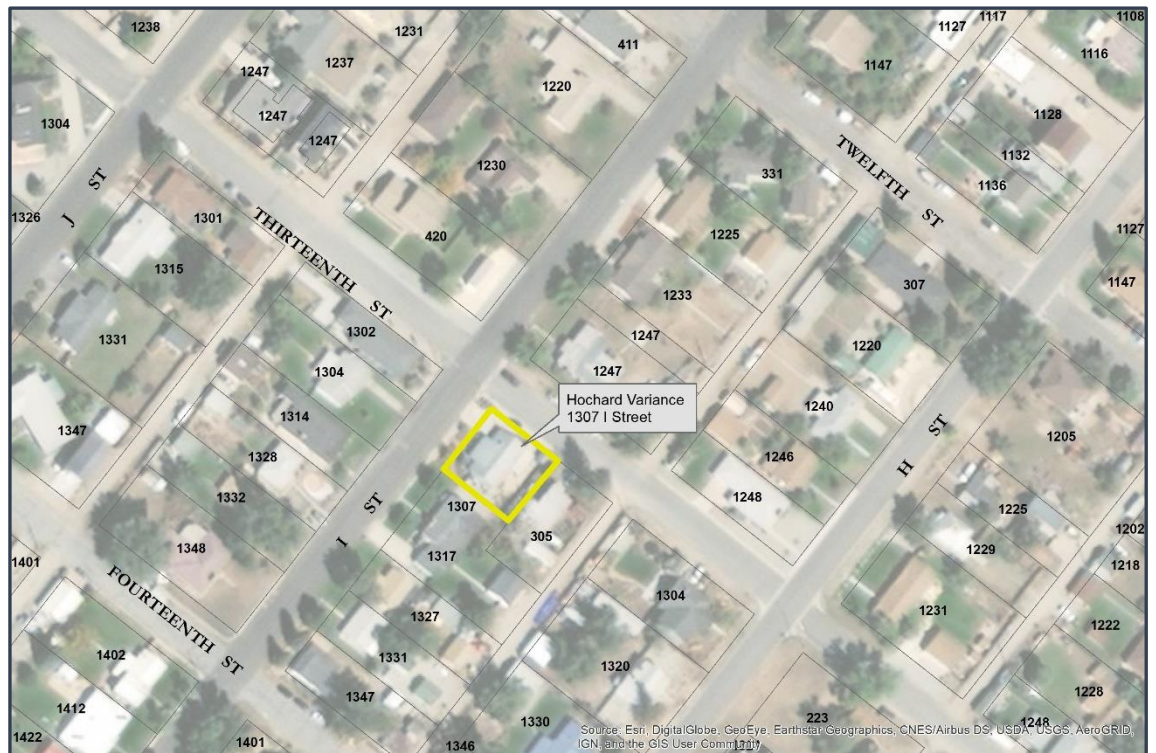
The purpose of the request is to receive a variance from the minimum setback of twenty (20) feet required for the rear yard setback of the primary structure. The applicant is requesting a minimum allowed rear yard setback of 12' 10 1/2" to remove the existing carport and build an addition on the back of the primary residence.

### APPLICANT:

The applicants are Travis and Becky Hochard, 1307 I Street, Salida, CO 81201. The applicant's representative is Sarah Whittington of Architectural Services.

### LOCATION:

The property is legally described as 81 1/2 ft front Lots 22, 23 and 24, Block 158 Kelseys Addition to the Town (now City) of Salida, Chaffee County, Colorado. This property is also known as 1307 I Street.



### PROCESS:

Variances are addressed in the City's Code of Ordinances, Section 16-4-180, Zoning Variances. Variances may be granted from the standards of the underlying zone district and shall be authorized only for maximum height, minimum floor area, maximum lot coverage, maximum lot size, minimum setbacks and parking requirements.

The Board of Adjustment holds a public hearing after fifteen days advance notice of the hearing. The public hearing shall be held, at which any person may appear or be represented by an agent or attorney. The Board may describe appropriate conditions and safeguards in conformity with the Zoning title of the City Code.

## OBSERVATIONS:

1. The subject property and the surrounding properties are located within the Medium Density Residential (R-2) zone district.

2. The existing single-family residence is considered nonconforming because it does not meet the required 20' rear setback with the attached carport. The house was built in the late 1960's or early 1970's at the current front setback of 29+ feet, leaving less than 5 feet for an addition on the rear portion of the residence that will meet the required 20' rear setback.



3. The request is to receive relief from the minimum 20' rear setback to remove the existing rear carport and construct an addition on the existing residence. The applicants are not requesting to increase the nonconformity, they are requesting the variance to be able to build an addition with the same or reduced rear setback as the existing carport.



4. The applicants could, according to code, enclose the existing nonconforming attached carport because the nonconformity would not be increased. They would like to remove the old carport and build the addition to closely match the existing residence.
5. The applicants submitted a letter from the adjoining neighbor at 305 W. 13<sup>th</sup> Street who is in support of the variance request. As of Thursday, July 22<sup>nd</sup> staff has not received any opposition to the variance request.

**REQUIRED SHOWING (Section 16-4-180):** The applicant shall demonstrate that a majority of the following criteria to the Board of Adjustment before a variance may be authorized.

1. Special Circumstances Exist. There are special circumstances or conditions which are peculiar to the land or building for which the variance is sought that do not apply generally to land or buildings in the neighborhood.

Applicant's response: *The existing house is on a corner lot but the lot does not extend the full depth of a standard lot back to the alley. Between the house and the alley there is another property which is oriented to 13<sup>th</sup> Street. This house may have been the original house in this location as it was built in 1967. With this adjacent property to the rear of the lot, the Hochard lot is 75'-0" w x only 81'-9" deep. The lot size does not allow for the standard rear yard area of the adjacent houses or provide access from an alley.*

- The existing lot is a fraction of three lots that were subdivided many years ago and is only 81 ½" deep. The existing lot does not have the depth to construct an addition on the rear of the residence and meet the required 20' rear setback because the house was built in its current configuration with a 29'+ front setback.
- Special circumstances exist because the residence was built at the current setbacks prior to the applicant owning the property. The existing carport attached to the residence was built in 1971 and 11' from the rear property line which met setback requirements at that time but is currently considered nonconforming.

2. Not result of Applicant. The special circumstances and conditions have not resulted from any action of the applicant.

Applicant's response: *The existing house was originally built in 1970. The placement of the house does not utilize the front setback but is set back from the front property line 29'-9". This placement is consistent with the neighboring houses on the block and presents a unified streetscape. However, with the shorter lot depth the rear of the existing house is only 24'-8 ½" from the rear property line. The house is also placed in the center on the lot from side to side, which does not leave room for side additions. The size of the lot and existing house placement are existing conditions.*

- Special circumstances and conditions have not resulted from any action of the applicant. The applicant did not construct the existing attached carport within the rear setback.
- The carport is allowed to be maintained or repaired in its current location without a variance. The applicant would like to remove the carport and construct the addition to create more living space within the residence.

3. Strict Application Deprives Reasonable Use. The special circumstances and conditions are such that the strict application of the provisions of this Chapter would deprive the applicant a reasonable use of the building or land.

Applicant's response: *With the smaller lot and the current house placement, the areas for expansion are limited. In the existing house the Kitchen, Dining and Utility areas are to the rear of the house. As the proposed addition's goal is to expand these areas, a rear or southwest orientation is preferable and works best with the existing lot conditions. Using the basic area of the existing rear covered porch area keeps the addition from adding to the structure's overall footprint and reduces any greater impact to the neighborhood. A rear addition maintains level of compatibility at the front of the house to the adjacent neighbor's.*

- Strict application would deprive the applicant of making a functional living space by removing the carport and constructing an addition which does not increase the existing non-conformity.

4. Variance is Necessary to Provide Reasonable Use. The granting of the variance is necessary to provide the applicant a reasonable use of the land or building.

Applicant's response: *The current house is 1,350 square feet with a smaller, cramped kitchen and dining area. The proposed addition would allow the kitchen to be expanded and provide a more standard dining room area. The addition also has a small mud room/utility area. By utilizing an existing covered porch area for the addition the footprint is consistent with the current house configuration and does not add to any level of non-conformity.*

- The variance is not necessary to make reasonable use of the property.
- All new construction in the City is required to meet the setback requirements unless some special circumstance exists such as an existing building that does not meet the setback requirements. Currently the residence, with attached carport, meets all of the setback requirements with the exception of the rear setback. The carport was constructed 9' into the required 20' setback.

5. Minimum Variance. The granting of the variance is the minimum necessary to make possible the reasonable use of the land or building.

Applicant's response: *The proposed addition is kept to a modest size and has the intent to minimize the impact to the neighborhood by keeping the footprint to an existing structure. The proposed addition would be slightly smaller than the existing rear covered porch area but placed in the same area. Though modest in size, the addition would greatly improve the function of the current house and make the overall house more reasonable for a family of four.*

- Currently the applicant has reasonable use of the property. The proposal is to replace the existing carport and not increase the nonconformity as the footprint would remain the same or be reduced.

6. No Injury to the Neighborhood. The granting of the variance will not be injurious to the neighborhood surrounding the land where the variance is proposed, and is otherwise not detrimental to the public welfare or the environment.

Applicant's response: *The property directly to the southwest would be the main neighbor impacted by this proposed addition. The neighbors to the northwest and southeast have larger lots and the proposed house addition placement is consistent with the street. As the addition is similar to and replaces the existing rear covered porch, there would be minimal change or impact to the neighborhood. In addition, as the adjacent neighbor's house is oriented to 13<sup>th</sup> Street, the proposed addition would have less impact to the neighbor than if the existing house was oriented the same direction and utilizing a side yard setback .*

*The owners have contacted the neighbor to the southwest and he approved of their proposed addition with required variance. Please see attached letter.*

- The granting of the variance will not be injurious to the neighborhood and the applicants will be able to maintain the addition on their own property.
  - The Fire Department and Public Works Director have no concerns with the variance request.
7. Consistency with Code. The granting of the variance is consistent with the general purposes and intent of this Land Use Code.

Applicant's response: *The proposed addition will meet all other design criteria for a residence in the R-2 Medium Density residential zone of the Land Use Code. The proposed addition is constituent with the footprint of the existing rear covered porch and leaves 12'-8 1/2" setback to the adjacent property. The owners will have room to maintain the addition on their own property and any additional impact to solar access for the neighbor will be minimal.*

- The applicants comply with all other aspects of the code besides the proposed rear setback.
- Setbacks help provide open space and to address basic safety issues: distances between buildings decrease the potential damage in case of a fire, provide the room necessary for a homeowner to maintain his/her buildings on his/her own property and provide for solar access and ventilation. There will be adequate space which the owner can use for maintenance of the addition.

#### **REVIEW AGENCIES:**

**Fire Department – Assistant Fire Chief, Kathy Rohrich** – Fire Department has no concerns at this time.

**Public Works Department – David Lady** – No concerns.

#### **REQUIRED ACTIONS BY THE BOARD:**

1. The Board shall confirm that adequate notice was provided.
2. The Board shall conduct a public hearing.
3. The Board shall make findings that a majority of the points 1 through 7 of the above section are met by the applicant.

**RECOMMENDED FINDINGS:**

That the variance requests are in conformance with Section 16-4-180 (e), Required showing, because the variance allows the highest and best use of the property, will not be injurious to the neighbors and maintenance is feasible, will not impact adjacent neighbors and is in keeping with the general purposes of the Code.

**STAFF RECOMMENDATION:**

Staff believes the proposed variance meets the preponderance of criteria #'s 1, 2, 3, 4, 5, 6 and 7.

Based on the findings below, staff recommends the Board of Adjustment **APPROVE** the variance request based on the following findings of fact:

1. The existing conditions of the lot are not the result of any action by the applicants.
2. The applicant is not requesting to increase the existing nonconformity.
3. The applicant will be able to maintain the proposed addition on the subject property and will not be injurious to neighbors as required by Section 16-4-180 (6).

**RECOMMENDED MOTION: “I make a motion to approve the Hochard Variance requests as the request meets the review standards for Zoning Variances, subject to the following condition.**

1. That the applicant submits a building permit that meets the requirements of the building department.

BECAUSE THIS APPLICATION IS FOR A VARIANCE, THE SALIDA BOARD OF ADJUSTMENT SHALL MAKE THE FINAL DECISION ON THIS APPLICATION. THE DECISION OF THE BOARD OF ADJUSTMENT MAY BE APPEALED WITHIN 15 DAYS OF THE DECISION BY AN AGGRIEVED PERSON AS SET FORTH IN SECTION 16-2-70 OF THE LAND USE CODE.

Attachments: Application materials  
Agency reviews