



STAFF REPORT

MEETING DATE: January 24, 2022

AGENDA ITEM TITLE: Capozza Variance Application – 343 Teller Street

AGENDA SECTION: Public Hearing

REQUEST:

The purpose of the request is to receive a variance from the minimum rear lot line setback to build a second story addition on the existing nonconforming accessory structure. In the Medium Density Residential (R-2) zone district the required minimum rear lot line setback is 5' for accessory structures. The accessory structure was built in 1985 at the current rear setback of 2.19' and the applicant is requesting the variance to construct a second story ADU to match the footprint of the existing accessory structure.

APPLICANT:

The applicant is Rocco Capozza, 343 Teller Street, Salida CO 81201.

LOCATION:

The subject property is located at 343 Teller Street, legally known as Lots 1 & 2, Block 9, Blake and Westerfields Addition, City of Salida, Chaffee County, Colorado.

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

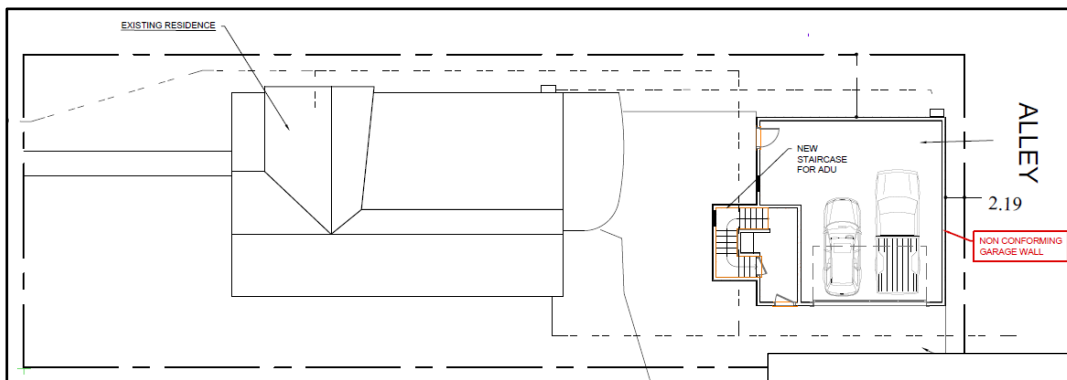
underlying zone district and shall be authorized only for maximum height, minimum floor area, maximum lot coverage, maximum lot size, minimum setbacks and parking requirements.



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 is located within the Medium Density Residential(R-2) zone district. Surrounding properties are primarily single-family homes.
2. The existing accessory structure is considered a nonconforming structure. Nonconforming structures are structures that were lawfully established pursuant to the zoning and building regulations in effect at the time of their development which do not now conform to the provisions of the current zoning regulations.
3. The request is to receive relief from the required minimum 5' rear setback to construct a second story addition to match the rear setback of 2.19' of existing accessory structure. The applicant is not requesting to increase the nonconformity further into the setback, he is requesting the variance to be able to build the second story accessory dwelling unit at the existing rear setbacks.

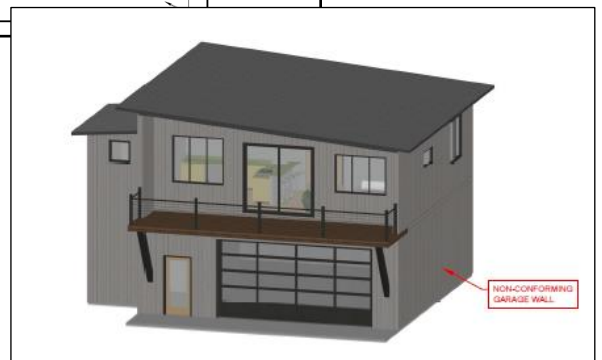


4. The applicant submitted letters from adjoining neighbors who were in support of the variance request. As of Friday, January 21st staff has not received any opposition to the variance request.

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 garage is located 2.19' from the alley and we would like to build the ADU directly above the existing first floor of the garage.



- Special circumstances exist because the existing garage was built at the current setbacks.
2. Not result of Applicant. The special circumstances and conditions have not resulted from any action of the applicant.

Applicant's response: *The garage was already in its current location when we purchased the property.*

- Special circumstances and conditions have not resulted from any action of the applicant. The applicant did not construct the garage at the current rear setbacks and is requesting the variance to construct the second story addition at the same setback.
 - The applicant would like to construct the second story addition to have an accessory dwelling unit.
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: *The variance would allow us to continue the second story wall directly above the existing garage wall where as strict application of the setback would cause considerable construction issues.*

- Strict application would deprive the applicant of constructing an accessory dwelling unit directly above the nonconforming garage without creating cost prohibitive constraints.
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 variance would allow us to continue the second story wall directly above the existing garage.*

- The variance is not necessary to make reasonable use of the property. The second story addition will allow the applicant to build an accessory dwelling unit above the existing nonconforming garage.
- 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. The required side yard setbacks for accessory dwelling units will be met. The existing garage was built at the current setback of 2.19' and does not meet the required 5' rear 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: *It is the minimum variance of having a 2.19' setback instead of the required 5' based off of the existing garage footprint.*

- The applicant has reasonable use of the property. The proposal is to construct the second story addition at the current 2.19' rear setback and not increase the nonconformity further into the setback, as the footprint would remain the same.

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 existing garage wall is already located at the variance location and does not cause any issues to the neighborhood so the second story wall will have no negative effect.*

- The granting of the variance will not be injurious to the neighborhood and the applicant will be able to maintain the addition on his own property.

7. Consistency with Code. The granting of the variance is consistent with the general purposes and intent of this Land Use Code.

- The applicant complies with all other aspects of the code.
- 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.

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 request is 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, maintenance of the addition 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 condition of the accessory structure is not the result of any action by the applicant.
2. The second story addition will not be injurious to the neighborhood as required by Section 16-4-180(6) and the applicant will be able to maintain the proposed addition on the subject property.

RECOMMENDED MOTION: "I make a motion to approve the Capozza Variance 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