



REQUEST FOR BOARD OF ADJUSTMENT ACTION

MEETING DATE:

May 26, 2020

AGENDA ITEM NO. 1.**PRESENTED BY:**

Kristi Jefferson

REQUEST:

The purpose of the request is to receive a variance from the minimum setback of twenty (20) feet required for the rear yard of the primary structure. The applicant is requesting a minimum allowed rear yard setback of 5' to build an attached garage to the proposed primary structure at 326 Crestone Avenue, Unit C.

**BACKGROUND:**

The subject property is located at 326 Crestone Avenue on Lot 1 of the Cordova Minor Subdivision. The property is within the Medium Density Residential Zone District (R-2). The adjacent zoning to the north of this parcel is Commercial (C-1) and Single-family Residential (R-1) is to the south of this parcel. Surrounding properties are primarily multi-family apartment buildings, single-family residences and commercial heavy equipment storage.

On July 23, 2018 the Planning Commission approved a limited impact review request for multiple principal structures on the vacant lot. The approval was for the construction of a duplex with attached garages and a single-family residence with an attached garage. Principal structures are required to meet primary setbacks.

The duplex is complete and now the applicant is ready for the construction of the single-family residence and is not able to meet the required 20' rear setback for the primary structure with an attached garage.

The proposed site plan is identical to what was presented on July 23, 2018. At that time staff identified the setback issue. The applicant has tried to fit the new home and garage within the setbacks.

VARIANCE 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



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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 (15) 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.

NOTICE:

Staff advertised the proposed variance request in the May 08, 2020 Mountain Mail for the May 26th Board of Adjustment public hearing. Notices were mailed to landowners within 175' of the property describing the request and public hearing.

REQUIRED SHOWING AND STAFF ANALYSIS (Section 16-4-180): The applicant shall demonstrate a majority of the following 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.

- Special circumstances do exist because of the odd shape of the lot, utility and access easements and the required access to the garage of the duplex. The buildable area of the lot is reduced quite a bit by the easements making it difficult to build the residence with an attached garage and meet primary setbacks.
- The applicant tried arranging the single-family residence with a detached garage to meet the primary setbacks for the house and accessory structure setbacks for a detached garage. He was unable to meet the setback requirements with a detached garage because of the odd shape of the lot, the utility and access easements and the access to the duplex.
- This photo shows where the corner of the house would be if the garage is detached which makes it difficult for vehicles to back out of the existing duplex garages.



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

- The odd shape of the lot and easement constraints are not a result of the applicant.

(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.



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- The applicant is requesting the variance so that the access to the existing duplex is not restricted as shown in the application materials. The encroachment has been limited to only the attached garage.
- (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.
- The granting of the variance will not be injurious to the neighborhood as the rear property line is on a steep slope above the adjoining property. The adjoining property to the rear of this lot is used as heavy equipment storage and is zoned commercial.
 - Staff has not received concerns from any of the adjoining neighbors.
 - The Fire Chief and Public Works Director had no concerns with the proposed construction of the attached garage.
- (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 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.
 - The purpose of the Medium Density (R-2) zone district is to provide for residential neighborhoods comprised of detached single-family dwellings, duplex dwellings and multi-family residences. There are a variety of housing types on this lot including apartments and a duplex and single-family residence will be available on this property.

REVIEW AGENCIES: The Public Works Director, Fire Chief, and Chaffee County Building Department were invited to comment on the variance request. Staff received comments back from the Fire and Public Works Departments and they had no concerns with the request.

STAFF RECOMMENDATION:

Staff supports the proposed rear setback variance request from 20' to 5' for the construction of an attached garage. Staff believes the proposed variance meets criteria #'s 1, 6 and 7, and arguably meets criteria # 3. There will be no impact on adjoining neighbors and will result in a variety of housing on the property.

RECOMMENDED MOTION:

"I make a motion to approve the Bourget Variance request after a consideration and balance of the seven (7) criteria for Zoning Variances.

Attachments: Application materials
Site plan
Agency reviews
Proof of publication