

# Memorandum

**To:** Mayor Nelson and Members of the City Council  
**From:** Daniel R. Buchholtz, MMC, Administrator, Clerk/Treasurer  
**Date:** August 26, 2024  
**Subject:** Variance – 725 82<sup>nd</sup> Avenue NE

**Background**

Gene Pagel, 725 82<sup>nd</sup> Avenue NE, has submitted an application for a variance from the side yard setback for a driveway addition to his property.

The applicant is seeking a variance from the 5 foot side yard setback requirement, as set forth in SLPC 16.40.030 of the Spring Lake Park City Code.

The site is located on the 700 block of 82<sup>nd</sup> Avenue NE. The property is guided for low density residential in the 2040 Comprehensive Plan. The property is zoned R-1, Single Family Residential – allowed uses include single-family homes and duplexes. Property records show that the house on the property was constructed in 1964.



The City’s current yard setback standards for the R-1 zoning district is as follows:

Dwelling, single family – front yard	35 feet
Dwelling, single family – rear yard	40 feet
Dwelling, single family – side yard	10 feet
Accessory uses, rear yard	5 feet
Accessory uses, side yard	5 feet

SLPC 16.40.030 governs parking and loading spaces.

**§ 16.40.030 Yards; Setbacks**

Off-street parking and loading facilities shall be subject to the front yard, side yard, and rear yard regulations for the use district in which the parking is located, with the following exceptions.

In any of the residence districts, no parking or loading space shall be located within 15 feet of any property line. Driveways, garages and carports in conjunction with any single- or two-family residence shall be exempted from this requirement; however, they shall not be located less than five feet from the property line, except by variance obtained in the manner provided in this code. Variances in the case of driveways may be allowed down to zero feet setback from the property line. Recreational vehicles parked in conformance with SLPC 16.20.120 paragraph B,2 are also exempted from the above yard setback regulations.

The applicant is seeking a 5 foot variance from the side yard setback (0 feet from the western property line instead of 5 feet). **This is an after-the-fact variance, as the concrete driveway has already been poured**



**APRIL 2024**



**AUGUST 2024**

*Previous applications:* Applicant received a variance in 2002 to extend the existing garage 20 feet toward the rear property line while maintaining the existing width of the garage. This resulted in an 8 inch variance from the 10 foot side yard setback.

## Variance

Section §16.60.040 of the City of Spring Lake Park's zoning code outlines the criteria for considering variances:

“The City Council may grant a variance from the strict application of this title and impose conditions and safeguards on the variance so granted only in instances where their strict enforcement would cause practical difficulties in complying with the official control because of circumstances unique to the individual property under consideration, and may grant a variance only when it is demonstrated that such actions will be in harmony with the general purposes and intent of this title and when the variances are consistent with the Comprehensive Plan. “Practical difficulties” as used in connection with granting of a variance means that the property owner proposes to use the property in a reasonable manner not permitted by an official control, the plight of the landowner is due to circumstances unique to the property not created by the landowner, and the variance, if granted, will not alter the essential character of the locality. Economic considerations alone do not constitute practical difficulties. Practical difficulties also includes, but is not limited to, direct sunlight for solar energy systems. A variance shall not be granted to allow a use that is not allowed in the zoning district involved.”

## Recommendations

Staff recommended approval of the variance. Staff's analysis of the application shows that the proposed driveway expansion will not alter the character of the neighborhood as there are other driveways in the vicinity of this property that are located within the side yard setback, including the neighbor to the north.

The Planning Commission unanimously voted to recommend approval of the variance, subject to the following conditions:

1. Driveway modifications must be constructed pursuant to the standards set forth by the City of Spring Lake Park. Applicant must secure a zoning permit, after the fact, from the Code Enforcement Department for the expanded driveway.
2. Drainage must be handled in such a way not to deposit storm water or snow onto a neighboring property.

If you have any questions regarding this application, please don't hesitate to contact me at 763-784-6491.