



Wylie Zoning Board of Adjustments

AGENDA REPORT

Department: Planning
Prepared By: Kevin Molina

Item Number: 1

Subject

Hold a Public Hearing to consider and act upon a request by Amy Elliot for a variance to Section 3.1 and Section 9.5 of the Zoning Ordinance to allow for side setbacks of five feet in lieu of ten feet and the expansion of a non-conforming use. Property located at 200 S Third Street. (ZBA 2025-07).

Recommendation

Motion to **approve or deny**.

Discussion

OWNER: Amy Elliot

APPLICANT: Amy Butscher

The applicant is requesting a variance to Section 3.1 and Section 9.5 of the Zoning Ordinance to allow for side setbacks of five feet in lieu of ten feet and for the expansion of a non-conforming use by allowing for the increase in size of a detached single family home within the Multi-Family zoning district. The variance request is being made to allow for an attached garage addition.

The purpose of the Ordinance restricting side setback requirements is to provide separation from adjacent properties and existing structures. While the City's zoning ordinance standard requirement for setbacks is 10', there are numerous exceptions in town. Several Planned Developments have 5' setbacks, which is the generally accepted minimum for fire separation between single-family homes without additional requirements.

The purpose of Section 9.5 of the Zoning Ordinance regarding non-conforming uses is to closely regulate the expansion of uses in areas that have been rezoned and the current use may no longer be compatible. The ZO grants the rights of the Zoning Board of Adjustment to approve the expansion and continuation of a non-conforming use.

The applicant believes the variance request has merit for the following reasons:

- A five foot side setback shall remain to allow for the access and maintenance of remaining open space.
- No windows affecting the adjacent neighbors' privacy are being proposed on the side facing south. A letter in support by the adjacent property owner at 202 S 3rd Street was provided and is included in the packet.
- The alternative solution would be to place a detached garage near the rear of the property which would impact existing mature trees in the area and allow for a three foot side setback in contrast to the proposed five foot setback.
- The existing single family home was constructed prior to 1921 before the Multi-Family zoning designation was placed on the property. Approving the variance will allow for the continued use of the single family home while providing a driveway and covered parking solution for the current homeowners.

Public comment forms were mailed to eight-teen (18) property owners within 200 feet of this request, as required by State Law. At the time of posting two comment forms were returned in favor and none in opposition of the request.

The Board shall not grant a variance to the development code which:

- (1) Permits a land use not allowed in the zoning district in which the property is located; or
- (2) Is in the public right-of-way or on public property; or
- (3) Alters any definition of the development code; or

- (4) Is other than the minimum variance that will afford relief with the least modification possible to the requirements of the development code; or
- (5) Is based on physical conditions or circumstances of the property so general or recurring in nature as to reasonably make practicable the formulation of a general regulation to be adopted as an amendment to the development code; or
- (6) Is based exclusively on findings of personal or financial hardship.

In order to grant a variance to the development code the Board shall find that all the following have been satisfied:

- (1) That there are unique physical circumstances or conditions of the lot, or other exceptional physical condition particular to the affected property;
- (2) That because of these unique physical circumstances or conditions, the property cannot be reasonably developed or used in compliance with the provisions of the development code;
- (3) That due to such unique physical circumstances or conditions, the strict application of the development code would create a demonstrated hardship;
- (4) That the demonstrable hardship is not self-imposed;
- (5) That the variance if granted will not adversely affect the proposed development or use of adjacent property or neighborhood;
- (6) That the variance, if granted will not change the character of the zoning district in which the property is located;
- (7) That the variance, if granted is in keeping with the intent of the development code; and
- (8) That the variance, if granted, will not adversely affect the health, safety or welfare of the citizens of Wylie.