

Variance Criteria

Respond completely and fully to all six criteria listed below to demonstrate that the request meets the standards of Land Development Code Sec. 30.43(3) for the granting of a variance.

1. Describe the special condition and circumstances that exist which are peculiar to the land, structure, or building involved, and which are not applicable to other lands, structures, or building in the same zoning district.

The request is for 2.8 feet of encroachment into the northwest front yard setback consisting of a triangular area of approximately 2.8 feet by approximately 7.5 feet for a total of approximately 13 square feet. The structure was initially constructed in 1959 and the property survey clearly illustrates the structure was constructed on corner lot.

2. Describe how special conditions and circumstances that currently exist are not the result of the actions of the applicant or petitioner.

The proposed addition of a bedroom and bathroom necessitated by a growing family is the only feasible alternative for the applicant in a neighborhood consisting of entry level housing. Expanding the floor plan on the southeast corner would require a variance to encroachment into the side yard setback and increasing the floor plan on the southwest corner of the structure will substantially increase the cost of the improvements as it would require an expanded scope of work for interior modifications to facilitate the flow of the floor plan. The applicant has hired an engineer to incorporate the additional bedroom and bath and as indicated in number 1 due to the original construction not parallel to the lot lines a variance is required in order to accommodate the addition.

3. Explain how the granting of the variance request would not confer on the applicant, or petitioner, any special privilege that is denied by Chapter 30 to other lands, buildings, or structures in the same zoning district.

Although Section 30.206(a)(2) states that the twenty-five (25) feet street side minimum yard shall be reduced to fifteen (15) feet for corner lots located on intersections without geometric restriction or other site limitations it has been determined that this regulation is not applicable as the Sunland Drive frontage is the front yard and cannot be reduced to fifteen (15) feet. Further in the event the proposed improvement encroachment was reduced by 0.3 feet an administrative variance would be applicable but would result in an asymmetrical foot print. Granting of the variance which is de minimis and extremely minor since an administrative variance can be granted for 2.5 feet of encroachment into the front yard setback and would not confer and special privilege to the applicant.

4. Describe how the literal interpretation of the zoning regulations would deprive the applicant, or petitioner, of rights commonly enjoyed by other properties in the same zoning district and would work unnecessary and undue hardship on the applicant or petitioner.

Typically, residential structures are constructed parallel to the front yard setback, and as the site plan illustrates it is not typical. Expanding the floor plan improvements on a circa 1959 existing structure sited in an unusual configuration on the lot is constrained by the setbacks of the zoning district which would not typically be encountered on a typically sited residential structure in the same district. The unique siting of the structure creates a hardship to improve the structure to the applicant's needs within the required setback, thus not granting the variance would cause the applicant to search for another home meeting their spatial needs or curtail the necessary needs of their family due to the additional construction costs associated with articulation of the walls and interior spaces to accommodate the setback requirements.

5. Describe how the requested variance is the minimum variance that will make possible the reasonable use of the land, building or structure.

The proposed improvements follow a parallel projection of the existing structural walls without additional articulation of the walls which increases the cost of the improvements. The request represents the minimum area requiring the variance resulting from the projection of the existing front structural wall.

6. Describe how the granting of the variance will be in harmony with the general intent and purpose of the zoning regulations and will not be injurious to the neighborhood, or otherwise detrimental to the public welfare.

Based on the proposed request the approval of the variance would be imperceptible from the adjacent properties and the adjacent property owners have provided approval letters supporting the application. The di minimis encroachment would not be perceptible by the residents in the neighborhood and has no impact on the public welfare.