



Meeting Date: April 1, 2021

AGENDA MEMORANDUM

To: Board of Adjustment

From: Tammy King
Zoning Manager

Title: Request for Approval of Variance from the Minimum Front, Rear and Side Corner Yard Setback
R-2 (Single Family and Duplex Residence District)

Subject Property: 121 N. Gilbert Street

Summary

The purpose of this staff memorandum is to seek action by the Board of Adjustment on a request by Corbin Wanninger for variance from the minimum required front, rear and side corner setbacks for a deck and addition, that includes a garage, deck and additional living area on an existing single-family residence in the R-2 Zone (Single Family and Duplex Residence District). The subject property is addressed as 121 Gilbert Street, also known as N ½ Lot 11, all of Block 12 Block 16 Craig and Gould's Addition to Castle Rock.

The applicant has submitted a site plan which will require the following variances:

- 20.4' rear variance from the required 25' rear setback for the addition
- 15.9' front variance from the required 25' front setback for the deck
- 8.1' front variance from the required 25' front setback for the addition
- 9.6' side street variance from the required 20' side corner setback for the deck

Discussion

- The existing home is legal non-conforming for lot size (required is 6,000sf and the lot is 3,319sf). The setbacks for the existing home are also legal non-conforming. The existing home encroaches 9.3' on the front setback (plus deck and stairs), encroaches 10.4' on the side corner setback and encroaches 20.4' on the rear setback.
- The rear yard backs to a 20' platted alley easement. The side corner yard backs to approximately 17 feet Town Right of Way. The front setback also fronts to a Town water easement.
- Existing property does not have a garage.
- Front, rear and side street of the property all have attached Town owned property.
- With the required 25' front and rear setback and 20' side corner setback, the property is unable to have any additional construction.
- Topography of the lot.
- The home is in the Historical District and will require a public hearing before the Historic Preservation Board for approval of the addition.



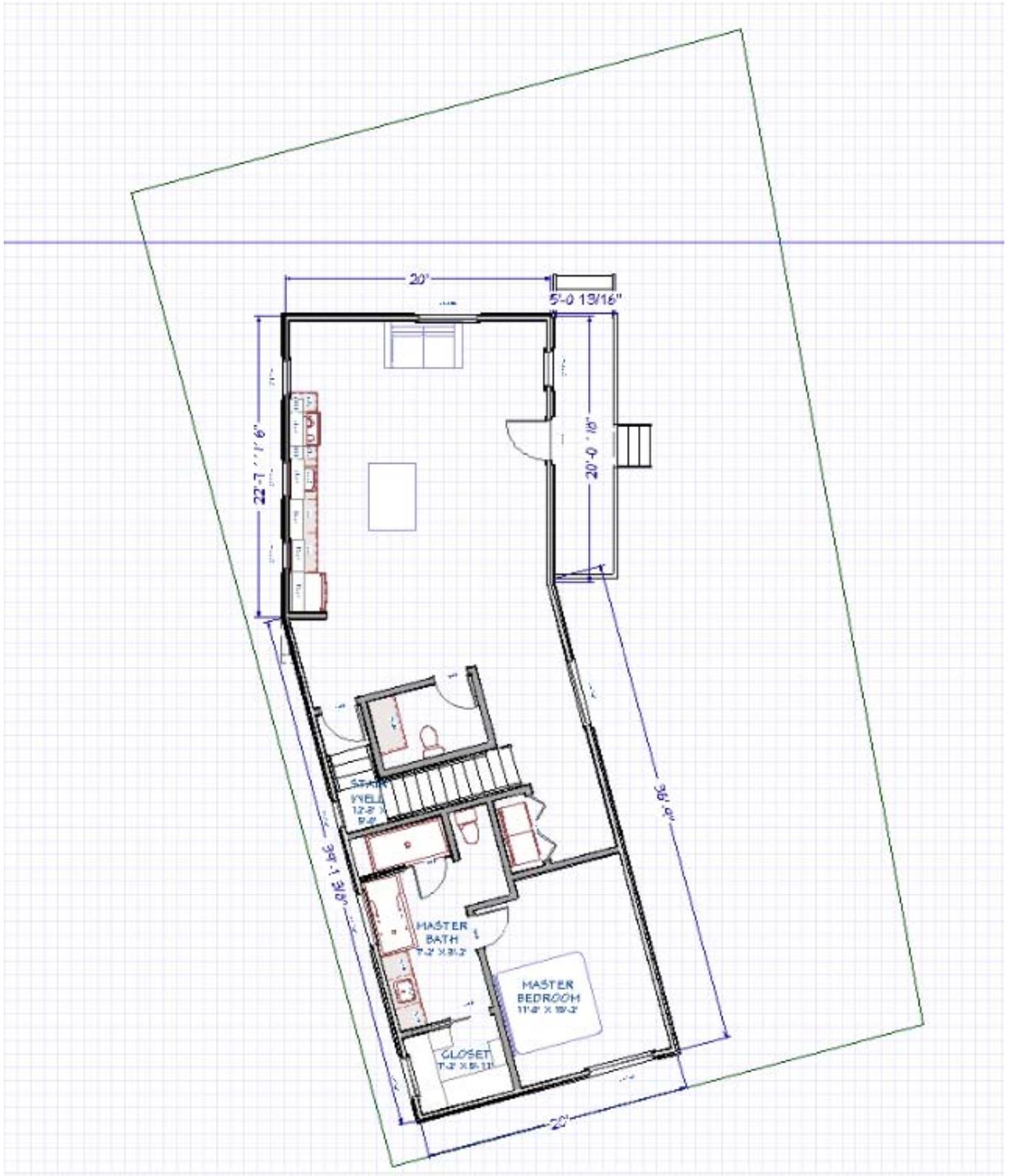
FRONT OF THE HOME



VIEW FROM THE REAR OF THE PROPERTY



FLOOR PLAN



ELEVATIONS





Town of Castle Rock Municipal Code 17.06.020 Powers and Duties

B. Variances

1. Following proper notice; the Board shall hear and decide an appeal on specific cases for a variance to the following: *Minimum front and rear yard.*
2. In making its decision on a variance application, the Board shall consider the following and find:
 - a. The strict enforcement of the provisions of this Code will result in practical difficulties or unnecessary hardship to the applicant, inconsistent with the intent and purpose of this Code;
 - b. The practical difficulties or unnecessary hardship were not created by the applicant;
 - c. Unique physical conditions or exceptional topography exist on the subject property and similar unique conditions do not exist on neighboring properties;
 - d. The property is unable to be reasonably developed in conformity with the provisions of this Code due to unique physical conditions or exceptional topography;
 - e. The variance, if granted, will not substantially alter the character of the neighborhood in which the property is located, or impair the use or development on adjacent property; and
 - f. The variance, if granted, will not create an adverse effect on public health, safety and welfare or cause harm to adjacent properties.
3. The Board may impose reasonable conditions on the grant of a variance. In addition, upon approval of a variance, the Board shall determine whether the variance is limited to

the condition existing on the property at the time of approval, or whether the variance runs with the land regardless of whether the conditions on the property change.

4. The decision of the Board shall be final, subject to judicial review.

Staff Findings

- A. The strict enforcement of the provisions of this Code will result in practical difficulties or un-necessary hardship to the applicant, inconsistent with the intent and purpose of this Code:

***Staff finds** that strict enforcement of the Code may result in practical difficulties contrary to the intent and purpose of the Code due to the existing home is legal non-conforming for the front and rear setback and minimum lot size. The lot has a 17'+ Town owned property on the side street setback. A 20' alley abuts the rear of the property. A water easement runs the length of the front of the property. Additionally, strict enforcement of the code would essentially render the property undevelopable.*

- B. The practical difficulties or unnecessary hardship **were not** created by the applicant:

***Staff finds** the practical difficulties or unnecessary hardship was created by legal non-conforming factors on the property.*

- C. Unique physical conditions or exceptional topography exist on the subject property and similar, unique conditions do not exist on neighboring properties:

***Staff finds** that unique physical conditions may exist for this property due to the existing home on the lot not meeting required setbacks and the substandard lot size, and the topography of the lot;*

- D. The property is unable to be reasonably developed in conformity with the provisions of this Code due to unique physical conditions or exceptional topography:

***Staff has** information to support the concept that unique physical conditions or exceptional topography exist on the subject property that would prevent the property from being developed in conformity with the provisions of the current Town code due to a front and rear setback of 25' is more than the total lot depth of 47' +/-;*

- E. The variance, if granted, will not substantially alter the character of the neighborhood in which the property is located, or impair the use or development on adjacent property:

***Staff finds** that the variance, if granted, will not substantially alter the character of the surrounding neighborhood; and the construction of the addition on the single-family residence will generally be harmonious with other surrounding neighboring properties;*

- F. The variance, if granted, will not create an adverse effect on public health, safety and welfare, or cause harm to adjacent properties:

***Staff finds** that the variance, if granted, will not create an adverse effect on public health, safety and welfare or cause harm to adjacent property if the proposed new construction meets all current building code requirements.*

Staff Recommendation

Staff recommends APPROVAL due to:

- The existing home and lot are legal non-conforming. The rear yard backs to a 20' platted alley easement. The side corner yard backs to approximately 17 feet Town Right of Way. The front setback also fronts to a Town water easement.
- Existing property does not have a garage.
- With the required 25' front and rear setback and 20' side corner setback, the property is unable to have any additional construction.
- Topography of the lot.
- The home is in the Historical District and will require a public hearing before the Historic Preservation Board for approval of the addition.

Motion Options

In accordance with criteria as stated in the Town of Castle Rock Municipal Code Section 17.06.020 BOARD OF ADJUSTMENT:

Option 1

I MOVE THAT THE BOARD OF ADJUSTMENT APPROVE Corbin Wanninger's request for approval of a variance from the minimum required front and rear yard setback to construct a garage and deck addition on a single-family residence, as shown in the attached survey, in the R-2 zone; based upon: _____.

Option 2

I MOVE THAT THE BOARD OF ADJUSTMENT DENY Corbin Wanninger's request for approval of a variance from the minimum required front and rear yard setback to construct a garage and deck addition on a single-family residence, as shown in the attached survey, in the R-2 zone based on the required hardship has not been demonstrated.

Option 3

I MOVE THAT THE BOARD OF ADJUSTMENT CONTINUE THE PUBLIC HEARING TO THE NEXT REGULAR MEETING ON May 6, 2021.

Attachments:

Attachment A: BOA Application Packet – BOA20-0005 – 121 N Gilbert Street