



Meeting Date: December 3, 2020

AGENDA MEMORANDUM

To: Board of Adjustment

From: Tammy King
Zoning Manager

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

Subject Property: 121 N. Gilbert Street

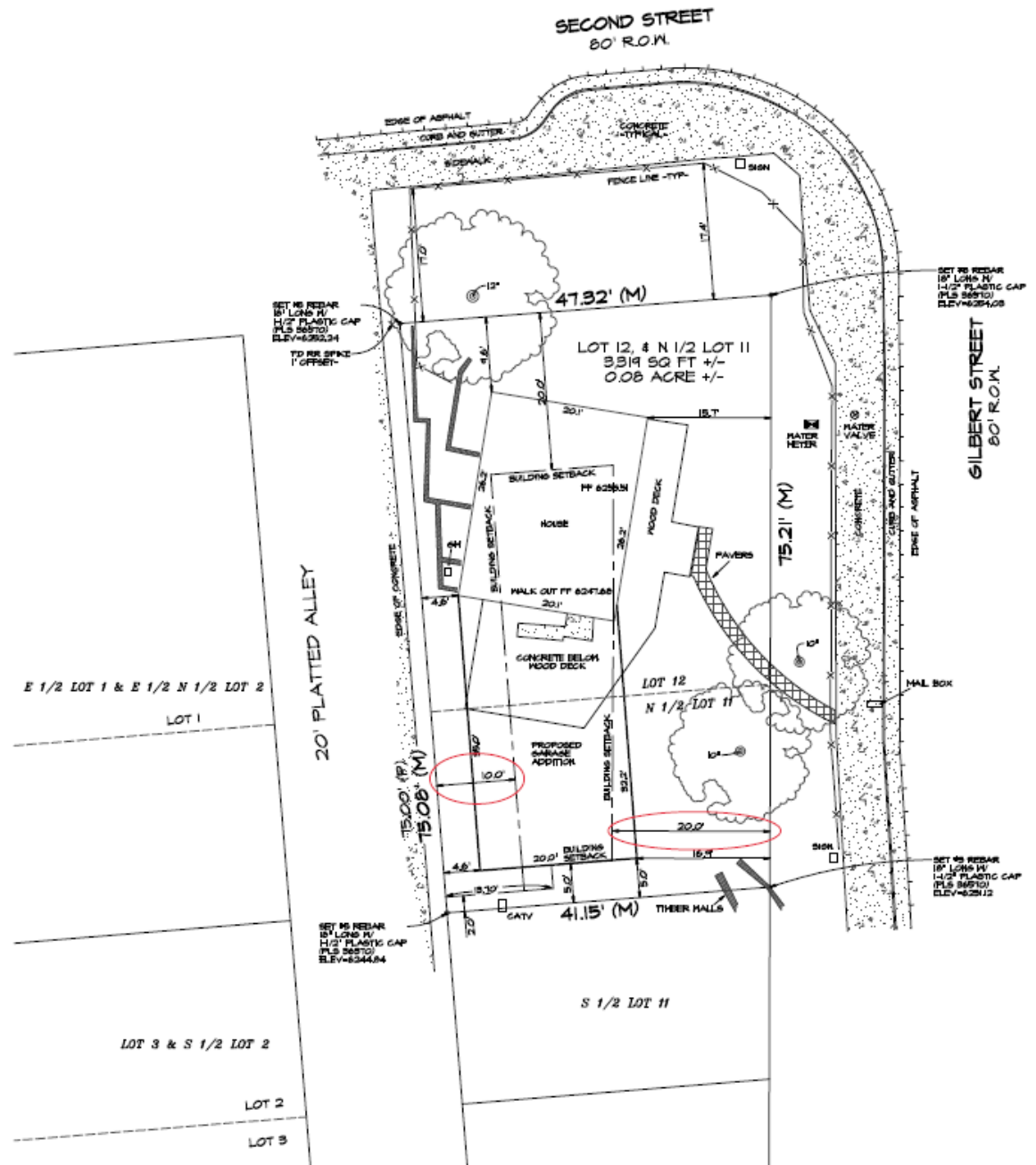
Summary

The purpose of this staff memorandum is to seek action by the Board of Adjustment on a request by Marilyn Biggers for variance from the minimum required front and rear yard setback of twenty-five feet (25') to build a 700sf garage addition 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 constitute an approximate fifteen feet (15') rear and five feet (5') front variance to the minimum required twenty-five foot (25') FRONT AND REAR yard setback in the R-2 zone district, if approved by the Board.



The applicant is requesting consideration by the Board for approval of a variance from strict enforcement of the zoning regulations for the minimum setback from the FRONT AND REAR property line to build a 700sf garage addition to the existing single family dwelling that encroaches fifteen feet (15') in the rear and five feet (5') in the front required twenty-five feet (25') front and rear setback.



- The existing home is legal non-conforming for lot size (required is 6,000sf and the lot is 3,319sf) and setbacks for the existing home (front and rear setback). The existing home encroaches on the front setback by 9.3' and encroaches on the rear setback by 20.4'.
- The rear setback backs to a 20' platted alley easement.

- Existing property does not have a garage.
- 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



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.

- 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;

- 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;

- 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 of the proposed addition backs to a 20' platted alley easement
- Existing property does not have a garage
- 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 Marilyn Biggers' request for approval of a variance from the minimum required front and rear yard setback to construct a garage addition on a single-family residence in the R-2 zone; based upon: _____

Option 2

I MOVE THAT THE BOARD OF ADJUSTMENT DENY Marilyn Biggers' request for approval of a variance from the minimum required front and rear yard setback to construct a garage addition on a single-family residence 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 JANUARY 7,2021.

Attachments:

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