

TO: Zoning Board of Adjustment
FROM: Community Development Department

DATE: June 19, 2018

RE: **CASE #BA-18-003**
REQUEST: A variance from Section 15.09.050-R-2/Two-Family Residential District- Site Development Regulations- to allow a home addition that would connect a detached garage to the principal structure, which would reduce the rear yard setback for the primary structure to 9 feet, 5 inches from the required 20 feet.

APPLICABLE

CODE SECTION: **Section 15.09.050 Site Development Regulations for the R-2/Two-Family Residential Zoning District**

RELIEF SOUGHT: A 10 foot, 7 inch variance to the Rear yard Minimum Setbacks for the Principal Structure in the R-2/Two-Family Residential District.

LEGAL

DESCRIPTION: Lot 6 and the eastern ½ of the vacated alley adjacent, Block 30, Bryant and Clark Addition, City of Council Bluffs, Pottawattamie County, Iowa.

LOCATION: 3325 4th Avenue

APPLICANT/OWNER: Stanley Wills, Jr., 3325 4th Avenue, Council Bluffs, IA 51501

BACKGROUND INFORMATION – Stanley Wills, Jr. has applied for a variance from Section 15.09.050, Site Development Regulations in the R-2/Two-Family Residential District of the Municipal Code (Zoning Ordinance) in order to construct a home addition nine feet, five inches (9’5”) from the rear property line as opposed to the required 20 feet. The home addition would attach an existing detached accessory structure to the principal structure. The applicant also proposes additional home additions to the front of the existing home, which will comply with R-2 District setback requirements and will not require any variances.

The following attachments have been included for your reference:

Attachment A: General Location Map

Attachment B: Applicant’s Submitted Site Plan

Attachment C: General Footprint of Proposal

CURRENT ZONING AND LAND USE – The subject property is zoned R-2/Two-Family Residential District. Surrounding properties include the Queen of Apostles Catholic Church to the North, Rue Elementary School approximately one block to the South, and residential structures comprising a majority of the surrounding area. Properties in the immediate vicinity are also zoned R-2/Two-Family Residential.

CITY DEPARTMENTS AND UTILITIES – All City departments and local utility providers were notified of the requested variance. The following comments were received:

- The Council Bluffs Building Department had no comments regarding the proposal.
- The Council Bluffs Fire Marshall had no comments regarding the proposal.
- The Council Bluffs Public Works Department had no comments regarding the proposal.
- Council Bluffs Water Works had no comments regarding the proposal.
- MidAmerican Energy stated they have no objections, provided minimum code clearances of 10 feet from the power pole and secondary overhead conductors are maintained from any structure.

NEIGHBORHOOD RESPONSE – All property owners within 200 feet of the subject property were notified of the requested variance. No comments have been received as of the date of this report.

COMMENTS - Evidence must be presented to demonstrate that a literal enforcement of the Ordinance will create a hardship for which relief is necessary. The Board of Adjustment shall approve a variance to grant relief when ‘unforeseen applications of this Ordinance...create particular hardships’. No variance shall be granted unless the Board of Adjustment makes findings of fact based on the standards and conditions that follow. A variance less than requested may be granted by the Board when the record supports the applicant’s right to some relief, but not to the entire relief requested. (*§15.02.080 – Variances*)

1. *The particular property, because of size, shape, topography or other physical conditions suffers singular disadvantage through the application of this ordinance, which does not apply to other properties in the vicinity. The size, shape and topography of the property are typical of those in the general vicinity and surrounding area. The lot is substandard in size by today’s regulations, as it would not meet the minimum lot depth standards for the R-2/Two Family Residential District, but the lot is allowed to exist as a legal nonconformity.*
2. *Because of such disadvantage, the owner is unable to make reasonable use of the affected property. The existing home does not appear to meet the rear setback standards of today’s ordinance. Without a variance, the existing structures are allowed to remain, and could be expanded so long as the expansion would not increase any nonconformities, and are in compliance with all other sections of the Municipal Code (Zoning Ordinance).*
3. *The disadvantage does not exist because of conditions created by the owner or previous owners of the property. The need for the variance is created by the applicant’s wish to attach the accessory structure to the principal structure. The existing accessory structure currently meets the required rear yard setback standards.*
4. *Granting the variance will not confer on the applicant any special privileges that are denied by this ordinance to other properties or structures in the same district. Granting the variance will allow the applicant to construct a home addition that would increase the nonconformity of a legally nonconforming structure, which would give the applicant a privilege denied by ordinance to other properties.*
5. *Granting the variance will not be contrary to the public interest, will not adversely affect other property in the vicinity, and will be in harmony with the purpose and intent of this ordinance. The variance process is to provide a narrowly circumscribed means by which relief may be granted from unforeseen applications of this ordinance that create particular hardships. The request for the above mentioned variances are the result of a design preference, not a physical hardship specific to the individual property.*

RECOMMENDATION

The Community Development Department recommends denial of the requested variance to Section 15.09.050-R-2/Two-Family Residential District- Site Development Regulations- for property legally described as Lot 6 and the eastern ½ of the vacated alley adjacent, Block 30, Bryant and Clark Addition, City of Council Bluffs, Pottawattamie County, Iowa, based on the reasons stated above.



Christopher Gibbons, AICP
Planner

Chris Meeks
Planner

CITY OF COUNCIL BLUFFS ZONING BOARD OF ADJUSTMENT LOCATION/ZONING MAP - CASE # BA-18-003



Map Legend

-  Subject Property
-  Parcels



Last Amended: 5/24/18

DISCLAIMER
This map is prepared and compiled from records of the City of Council Bluffs, Iowa, and is not intended to be used for any other purpose. The City of Council Bluffs is not responsible for any errors or omissions in this map. The user should verify the accuracy of information shown on this map and assume full responsibility for the information contained on this map.

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Attachment B
Applicant's Submitted Site Plan

