

RECOMMENDED FINDINGS (DENIAL)

Variance

In order to approve the Variance, the following findings must be made:

1. Because of exceptional or extraordinary circumstances or conditions applicable to the property, or use, including size, shape, topography, location or surroundings, the strict application of the ordinance is found to deprive the property owner of privileges enjoyed by other properties in the vicinity and within the same zoning district. **[Finding not met]**

The subject parcel is located midblock along South Pastoria Avenue near the intersection with Lewis Avenue. The site is surrounded by residential developments of one and two unit homes. The 5,750-square foot lot is under the minimum lot size requirement of 8,000 square feet for R-2 zoning; and has a lot width of 50 feet, which is under the minimum lot width requirement of 76 feet at the front setback. However, the property is sufficiently deep and scaled appropriately compared to adjacent properties and is not constrained by floor area ratio or lot configuration. The subject parcel is developed with a 1,508 square-foot home and 280 square-foot attached garage which totals approximately 31% of the lot area, well under the 45% FAR allowed in the R-2 zoning district. The lot has very little slope with a grade slope of negative .9% from front to back. Aside from one protected tree and four unprotected trees in the rear yard, there are no natural obstructions on the lot.

Therefore, the strict application of the ordinance is not found to deprive the property owner of privileges enjoyed by other properties in the vicinity and within the same zoning district.

2. The granting of the Variance will not be materially detrimental to the public welfare or injurious to the property, improvements or uses within the immediate vicinity and within the same zoning district. **[Finding met]**

The accessory structure is visible from adjacent neighbors homes, however, there are no windows on the walls adjacent to the side and rear property lines. The shed roof is at its lowest height of 8 feet, 7 inches along the side property line. The existing fencing and landscaping helps reduce the visual impacts. As a result, adjacent neighbors have limited visibility of the structure and its use does not unreasonably disrupt the privacy and enjoyment of adjacent properties. Furthermore, the applicant is proposing to relocate the air conditioner out of the rear setback area so noise impacts should be negligible.

3. Upon granting of the Variance, the intent and purpose of the ordinance will be still served and the recipient of the Variance will not be granted special privileges not enjoyed by other surrounding property owners within the same zoning district. **[Finding made]**

Several properties in the vicinity have legal nonconforming accessory structures. The neighborhood has a pattern of having a house situated at the front of the lot and a detached garage behind the home. Typically, the detached garage will have deficient rear and side setbacks. In the vicinity, there are four examples of homes being granted Variances for deficient setbacks including 119 South Pastoria Avenue, 168 South Pastoria Avenue, 386 South Pastoria Avenue, and 389 South Pastoria Avenue. Most of these Variances involved larger structures, including second story additions and accessory dwelling units, which have far more impacts on neighbors than what is being proposed. The intent of required yard setbacks is to ensure the separation of buildings across property lines and to mitigate potential impacts to privacy, light, air, or the enjoyment of property whether current or in the future. The Zoning Administrator finds that the granting of a Variance for the accessory structure at the subject address would not constitute a special privilege being granted to the property owner because the structure poses far less impacts on neighboring residences than other types of accessory structures that have been granted Variances in the vicinity.