

“How to Read the Staff Report” - Tips from the Staff

Development Standards Variance Case Study

Updated: Fall 2009



**CITY OF COLUMBUS
BOARD OF ZONING APPEALS
(August 25, 2009 Meeting)**

STAFF REPORT

Docket No. / Project Title: C/DS-09-28 (Sarah Kemp)
Staff: Emilie Pannell
Applicant: Sarah Kemp
Property Size: 4,752 Square Feet
Current Zoning: RS4 (Single-Family Residential 4)
Location: 1710 Franklin Street, in the City of Columbus

Background Summary:

The applicant has indicated that the proposed variance from Zoning Ordinance Section 3.11 (C) is for the purpose of allowing a primary structure to encroach into the 5 foot rear setback by 3 feet.

Preliminary Staff Recommendation:

Approved

Zoning Ordinance Considerations:

District Intent: The intent of the RS4 (Single-family Residential 4) zoning district is as follows: This district is intended to provide areas for high density single-family residences in areas with compatible infrastructure and services. Development in this zoning district should be served by sewer and water utilities. Such development should also provide residents with convenient access to Collector and Arterial roads, parks and open space, employment, and convenience goods.

Development Standards:

1. Zoning Ordinance Section 3.11 (C) states that the minimum rear setback for primary structures in the RS4 zoning district is 5 feet.
2. Zoning Ordinance Subsection 11.3 (B)(2) states that any legal nonconforming structure that is intentionally altered shall either (a) conform to the regulations of the district in which it is located or (b) decrease the nonconformity. The legal nonconforming features may not be resumed.
3. Zoning Ordinance Subsection 11.3 (B)(3) states that any legal nonconforming structure that is moved for any distance or replaced shall conform to the regulations of the district in which it is located, and the discontinued legal nonconforming features may not be resumed.

Current Property Information:

Land Use:	Single family residence
Site Features:	The property includes a home and detached garage.

Preliminary Staff Recommendation:

Provides the recommendation of the staff with the information available at the time the staff report is written (about 10 days before the hearing).

Does not include:

- Public Input
- Applicant Changes
- Applicant Responses to the Staff Report

In many cases the details of the request change in response to the staff report.

Zoning Ordinance Considerations:

Describes the intent of the zoning district and lists the standards from which the variance is sought. The Board should be attentive to whether or not that variance request would be contrary to the intent of the zoning district. The list of development standards may also include ordinance excerpts that provide a context for the variance request.

Current Property Information:

Describes the basic features of the property.

Flood Hazards:	No flood hazards exist on the subject property.
Vehicle Access:	The property is adjacent to Franklin Street (Local Street) but gains access from an alley directly north of the property.

Surrounding Zoning and Land Use:		
	Zoning:	Land Use:
North:	RS4 (Single-family Residential 4)	Single-family Residential
South:	RS4 (Single-family Residential 4)	Single-family Residential
East:	RS4 (Single-family Residential 4)	Single-family Residential
West:	RS4 (Single-family Residential 4)	Single-family Residential

Interdepartmental Review:	
City Engineering:	As long as the new garage is intended to sit in the same footprint as the old garage and car port, the Engineering Department has no comments to add.
City Utilities:	City Utilities has no issue with the request to construct the new garage in the same location as the existing garage.
City Fire Department	The Columbus Fire Department has no issues with the request.
Department of Technical Code Enforcement	The Indiana Residential Building Code would allow for this 2 foot setback from the property line. However, any part of the wall or overhang that is less than 3 feet from the property line would be required to meet a "one hour fire resistive rated" construction. This wall would also not be permitted to have any openings such as windows or vents. We would require construction plans to detail the materials and method used to meet this requirement as part of the permitting process.

- Planning Consideration(s):**
- The following general site considerations, planning concepts, and other facts should be considered in the review of this application:
1. The applicant is proposing to replace an existing, dilapidated garage and carport with a new, two car garage that will attach to the primary structure. The new garage will be placed in the same location, in regards to the rear setback, as the old garage and carport, the garage will have a setback of 2 feet from the rear property line.
 2. The proposed garage will be approximately 4 feet longer, measuring from north to south, than the existing garage (approximately 21 feet total). Therefore, the new garage is proposed to encroach into the required setback for a greater distance than the existing garage.
 3. The garage gains access from an adjacent 10 foot wide alley. Two additional neighbors share this alley for primary vehicle access to their properties.

Surrounding Zoning & Land Use:

Summarizes the dominant zoning and land use in the area of the subject property. This section is intended to be paired with the "Current Property Information" to provide a glimpse of how the property currently relates to its context.

Interdepartmental Review:

The Planning Department will offer other City and County Departments, utility providers, and other agencies an opportunity to comment on most applications.

Like the rest of the staff report, these comments were generated at least 10 days prior to the hearing based on the information available at that time. They may or may not reflect any revised details provided by the applicant at the hearing. The staff or the applicant will typically make reference to these comments during the meeting to indicate whether or not any concerns have been addressed.

In many instances some agencies may decline to comment. No comment should always be interpreted as "no objection". However, new details provided by an applicant at the hearing may require further review by one or more of these agencies.

Planning Considerations:

See next page.

4. The distance between the existing home and the rear setback line to the west is approximately 24 feet.
5. Section (7.1)(Table 7.1) of the Zoning Ordinance requires that residential uses provide 2 parking spaces per dwelling unit. A standard parking space measures 9 feet wide by 18 feet in length.
6. The subject property is located in a historical neighborhood characterized by small lots and building setbacks. Building setbacks of less than 5 feet are not uncommon in this neighborhood.

Provisional Findings of Fact/Decision Criteria:

The Board may approve a variance from the development standards of the City of Columbus Zoning Ordinance. The Board may impose reasonable conditions as part of an approval. A variance from the development standards may only be approved upon a determination in writing that:

1. **The approval will not be injurious to the public health, safety, morals, and general welfare of the community.**

Provisional Findings: The approval of this request will not be injurious to the public health or general welfare of the community. Due to the historical nature of the homes, the surrounding neighborhood is characterized by small building setbacks. Furthermore, the request involves the replacement of a deteriorating structure. *This criterion has been met.*

2. **The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner.**

Provisional Findings: The use and value of adjacent properties will not be affected in a substantially adverse manner because the existing detached garage has encroached into the current required setback since it was constructed in 1940. Adjacent property owners will not experience a difference in the use of the subject property or their properties since the new garage will be constructed with the same 2 foot setback as the existing garage. *This criterion has been met.*

3. **The strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the property. This situation shall not be self-imposed, nor be based on a perceived reduction of, or restriction on, economic gain.**

Provisional Findings: The 24 feet of distance between the existing home and the rear setback line does not provide adequate space for a two car garage. The inability to construct a two car garage on this property represents a practical difficulty in its use and future value. *This criterion has been met.*

Board of Zoning Appeals Options:

In reviewing a request for development standards variance the Board may (1) approve the petition as proposed, (2) approve the petition with conditions, (3) continue the petition to a future meeting of the Board, or (4) deny the petition (with or without prejudice). Failure to achieve a quorum or lack of a positive vote on a motion results in an automatic continuance to the next regularly scheduled meeting.

Planning Considerations:

The planning considerations section is used for 2 purposes (1) to communicate facts about the application or the property that is important to the discussion and (2) apply the professional expertise, training, and experience of the staff.

This text is used to...

- explain why certain requirements exist,
- bring current trends and community planning concepts into the discussion,
- describe the likely implications of certain decisions, and
- identify factors that may influence decision making.

Decision Criteria:

Identifies the Indiana law-mandated criteria on which the Board must judge the application. The decision criteria will vary by the type of request – use variance, development standards variance, conditional use. The staff-offered findings are labeled as “provisional”. These findings also reflect the information available about 10 days before the hearing and may need to be updated in response to new information.

Options:

Identifies the possible actions that the Board can take regarding the application.