

City of Lee's Summit

Development Services Department

June 12, 2026

TO: Board of Zoning Adjustments
FROM: Hector Soto, Jr., Planning Manager
RE: **PUBLIC HEARING – Application #PL2026-148 – Variance to Unified Development Ordinance (UDO) Article 6, Section 6.040, Table 6-3, Side Yard Setback – 392 NE Velie Rd; Vernacular Design, LLC, applicant**

Recommendation

The Development Services Department recommends **APPROVAL** of a variance to the 50 feet minimum side yard setback in the AG (Agricultural) zoning district, to allow a 25-foot side yard setback for a building addition.

Request

Variance Requested: a non-use variance to the side yard setback requirement.

Site Characteristics

Location: 392 NE Velie Rd

Zoning: AG (Agricultural)

Property Owner: Olson Anthony Ray & Kelly - Trustees

Surrounding Zoning and Uses:

North: R-1 (Single-family Residential) – Single-family residential

South: AG – Single-family residential on large acreage; and
R-1 – Single-family residential

West: R-1 – Single-family residential

East: R-1 – Single-family residential

Background

- September 16, 1959 – The City annexed approximately 9,757 acres by Ordinance No. 584. The subject property comprised a portion of the annexation.
- September 28, 1978 – The City Council approved the final plat (Appl. #1978-XXX) titled *Gards Estates, Lots 1 & 2* by Ordinance No. 1933. The subject 5-acre property is Lot 1 of said final plat.
- November 6, 1978 – The City approved a building permit (Permit #78-674) for construction of a single-family residence with a 43'-6" side yard (south) setback on the subject property.
- November 1, 2001 – The Unified Development Ordinance went into effect and increased the minimum side yard setback for a primary structure (e.g., a residence) in the AG zoning district from 15' to 50'.

Ordinance Requirement

Side Yard Setback Requirements. The Unified Development Ordinance requires a minimum 50-foot setback from the south/southeast side property line for a principal structure (e.g., a single-family residence) on AG property (UDO Article 6, Section 6.040, Table 6-3).

Existing Conditions. The subject property is developed with a single-family residence maintaining a 43'-6" side yard setback from the south/southeast property line. The residence complied with the 15' side yard setback in effect at the time of its construction in 1978. Ordinance No. 715 was the governing development (i.e., zoning) ordinance in effect at that time.

Ordinance No. 715 was replaced by the UDO as the city's governing development ordinance on November 1, 2001. The advent of the UDO introduced significant changes to the development standards for AG-zoned properties, most pertinent to this case being the increase of the minimum side yard setback from 15 feet to 50 feet for principal structures such as residences. The existing residence's 43'-6" side yard setback is now considered a lawful non-conforming condition.

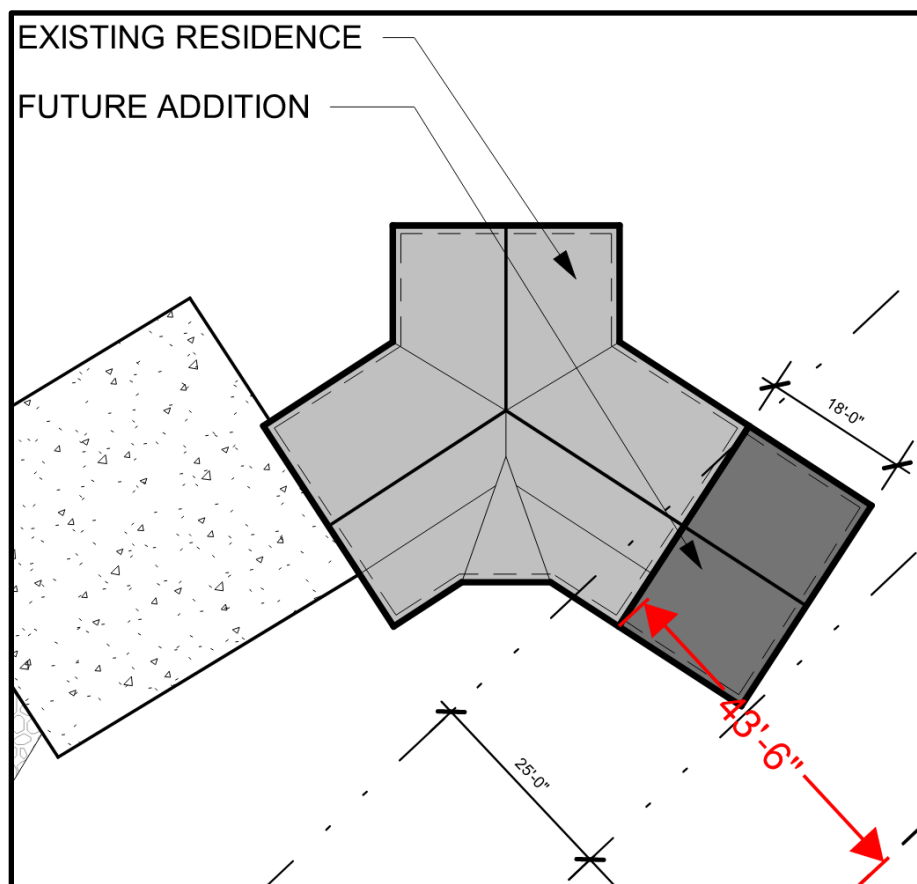


Figure 1 - Plot plan showing existing building footprint with dimension.

Request. The applicant requests a 25-foot variance to the minimum 50-foot side yard setback in the AG zoning district for the purpose of constructing an addition to the existing residence. The proposed addition will have a 25-foot side yard setback from the south/southeast property line.

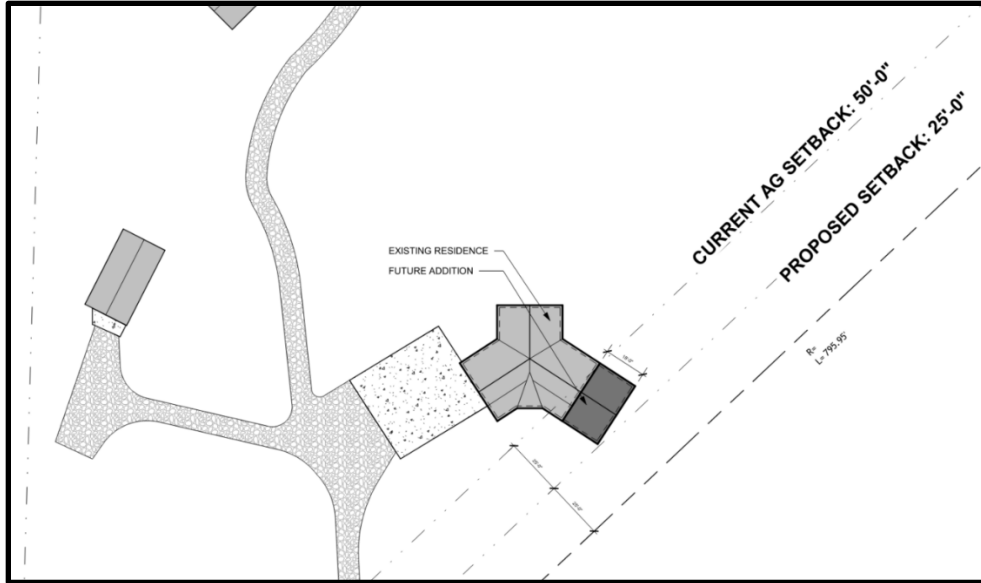


Figure 2 - Plot plan showing proposed building addition and 25' side yard setback.

Analysis of Variance

With respect to all variances, the following is an evaluation of the criteria set forth in the Unified Development Ordinance Article 2, Sec. 2.530.B.3.:

Criteria #1 – The granting of the variance will not adversely affect the rights of adjacent landowners or residents.

Granting the variance is not expected to adversely affect the adjacent property owners. The proposed encroachment is toward the south/southeast property line. At its closest point, the proposed addition will sit approximately 240 feet from the existing residence located on the abutting to the south/southeast.

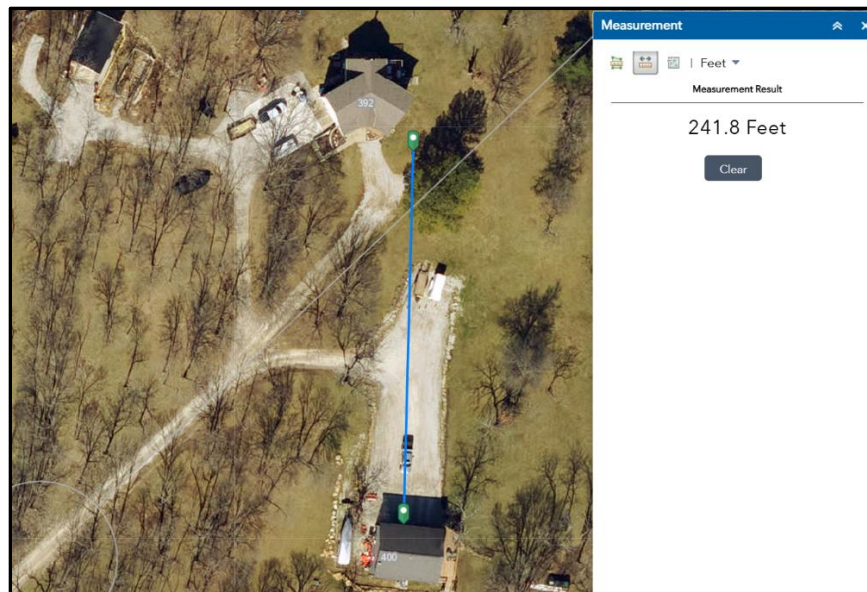


Figure 3 - Aerial showing existing single-family residence location relative to neighboring home in the direction of the addition.

Criteria #2 – The granting the variance will not be opposed to the general spirit and intent of this Ordinance.

The intent of setbacks is to keep privacy and separation between uses and structures. Granting the requested variance will not be opposed to the spirit and intent of the ordinance. As stated above, the nearest residence in the direction of the encroachment is approximately 240 feet away.

Criteria #3 – The variance desired will not adversely affect the public health, safety or general welfare.

Granting a variance to allow the reduced setback will not increase a risk in the health, safety, morals and general welfare.

Criteria #4 – The variance requested arises from a condition that is unique to the property in question, is not ordinarily found in the same zoning district, and is not created by an action or actions of the landowner or the applicant.

The variance request primarily arises from a condition unique to AG-zoned property developed prior to adoption of the UDO. The subject lot was originally created and developed under agricultural zoning standards that called for a minimum lot size of 5 acres; minimum lot width of 165 feet; and minimum side yard setback of 15 feet for a residence. The subject and neighboring AG-zoned property were scaled and laid out in accordance with these pre-UDO standards. All these standards increased at least two-fold at the time the UDO went into effect in 2001. The setback standards currently in effect under the UDO are based on 10-acre lots, which is the current minimum lot size in an agricultural zoning district. The current UDO setback requirements do not consider lots created under previous standards and thus place a disproportionate burden on smaller “grandfathered” lots when applying current standards to these “historic” lots.

Criteria #5 – Substantial justice will be done.

Substantial justice would be done by granting the requested variance to the side yard setback. The governing UDO development standards have a disproportionate impact on lots established and developed pre-UDO. The proposed building addition with a 25-foot side yard setback would have complied with the development ordinance (Ordinance No. 715) in effect at the time the property was developed. It is not expected that a variance will have any negative impact on any surrounding property.

Analysis of Non-Use Variance

With respect to a non-use variance, the following is an evaluation of the criteria set forth in the Unified Development Ordinance Article 2, Sec. 2.530.B.2.:

Criteria #1 – Whether practical difficulties exist that would make it impossible to carry out the strict letter of the Ordinance.

It is impossible for an addition to be constructed on the east side of the existing residence in strict compliance with the letter of the ordinance. The existing residence maintains a 43'-6" setback from the south/southeast property line, which already encroaches into the minimum 50' side yard setback under the current AG zoning district standards. Any addition on the east side of the residence further encroaches into the minimum side yard setback.

In making such recommendation, the Staff has analyzed the following considerations set forth in the Unified Development Ordinance Article 2, Sec. 2.530.B.2.:

Consideration #1 – How substantial the variation is, in relation to the requirement.

The applicant requests a 25-foot variance to the 50-foot side yard setback for a residence in the AG zoning district.

Consideration #2 – If the variance is allowed, the effect of increased population density, if any, on available public facilities and services.

Approval of the setback encroachment will not increase population and will have no effect on the available public facilities.

Consideration #3 – Whether a substantial change will be produced in the character of the neighborhood or a substantial detriment to adjoining properties is created.

Granting the variance will not produce a change in the character of the neighborhood. The subject property is located in an area dominated by R-1 (Single-family Residential) zoning. The minimum side yard setback in the R-1 zoning district is 7.5'. If the requested variance is approved, the proposed building addition will maintain a 25' side yard setback, which is over 3x greater than the dominant R-1 zoning district setback in the area.

Consideration #4 – Whether the difficulty can be obviated by some method, feasible for the applicant to pursue, other than a variance.

The only alternate method for the applicant to feasibly pursue is to rezone the subject property to the RLL (Residential Large Lot) or R-1 zoning district, which have 10' and 7.5' minimum side yard setback requirements, respectively. The rezoning process is a 3-month public hearing process before both the Planning Commission and City Council.

Consideration #5 – Whether, in view of the manner in which the difficulty arose and considering all of the above factors, the interests of justice will be served by allowing the variance.

The interests of justice would be served by allowing the variance. The existing home was in compliance with all setback requirements in effect at the time of its construction 1978. The proposed addition could also be constructed in compliance with the setback requirements in effect in 1978. However, the minimum side yard setbacks in the AG zoning district more than tripled from 15' to 50' with the adoption of the UDO in 2001 and caused the existing residence to be in violation of current side yard setbacks. Said setback increase disproportionately burdens smaller AG-zoned lots created prior to the UDO, as evidenced by the fact that the existing home has been considered to be a lawful non-conforming structure since 2001.

Consideration #6 – Conditions of the land in question, and not conditions personal to the landowner. Evidence of the applicant's personal financial hardship unrelated to any economic impact upon the land shall not be considered.

The proposed addition cannot be constructed in compliance with current UDO setback requirements due the disproportionate impact imposed on the subject property with the adoption of the UDO standards in 2001 that increased side yard setbacks in the AG zoning district from 15' to 50'.

Attachments:

1. Board of Zoning Adjustment Application and Variance Criteria – 7 pages
2. Site Plan, dated April 24, 2026
3. Location Map