

City of Lee's Summit

Development Services Department

November 14, 2025

TO: Board of Zoning Adjustments
FROM: Hector Soto, Jr., Planning Manager
RE: **PUBLIC HEARING – Application #PL2025-289 – Variance to Unified Development Ordinance (UDO) Article 6, Section 6.1330, Table 6.IV-1, Side Yard Setback – 1420 SW Hook Rd; Ron Moscoso, applicant**

Recommendation

The Development Services Department recommends **APPROVAL** of a variance to the 35 feet minimum side yard setback in the AG (Agricultural) zoning district, to allow a detached garage with a 10-foot side yard setback.

Request

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

Site Characteristics

Location: 1420 SW Hook Rd

Zoning: AG (Agricultural)

Property Owner: Ron & Moscoso

Surrounding Zoning and Uses:

North: AG – Lee's Summit West High School

South (across SW Hook Rd): AG – single-family residential on large acreage

West: AG – single-family residential on large acreage

East: AG – single-family residential on large acreage

Background

- June 16, 1992 – A building permit (#92-630) was issued for construction of a single-family residence on the subject 8.2-acre property.
- October 9, 1995 – A building permit (#95-1163) was issued for construction of a 672 sq. ft. (24' x 28') detached garage with an 11' side yard setback from the east property line. The detached garage was in conformance with all setback requirements in effect at the time, which called for a minimum 10' side and rear yard setback for accessory structures in the AG zoning district.
- November 1, 2001 – The Unified Development Ordinance went into effect and increased the minimum side and rear yard setbacks for accessory structures in the AG zoning district from 10' to 35'.
- January 1, 2002 – A building permit (#B0200064) was issued for a 966 sq. ft. addition to the single-family residence on the subject property.

Ordinance Requirement

Side Yard Setback Requirements. The Unified Development Ordinance requires a minimum 35-foot setback from the side property line for detached garages on AG property (UDO Article 6, Section 6.1330, Table 6.IV-1).

Existing Conditions. The subject property is developed with a single-family residence. As mentioned above, the existing residence and existing 24' x 28' detached garage complied with all setback requirements in effect at the time of their construction in 1992 and 1995, respectively. More specifically, the existing detached garage maintains an 11-foot setback from the east property line. The minimum setback requirement for a detached garage was 10 feet at the time it was approved and constructed.

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 10 feet to 35 feet for accessory buildings.

Request. The applicant requests a 25-foot variance to the minimum 35-foot setback for a detached garage in the AG zoning district for the purpose of constructing an additional detached garage. The proposed detached garage will have a 10-foot side yard setback from the east property line. The proposed detached garage will be located approximately 75 feet due north of the existing 672 sq. ft. detached garage that maintains a similar 11-foot side yard setback from the east property line.

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 east property line. At its closest point, the proposed detached garage will sit approximately 365 feet from the existing residence located on the lot to the east. Additionally, an existing mature tree line between the proposed detached garage's location and the existing home to the east serve as a visual and physical buffer between the two structures.

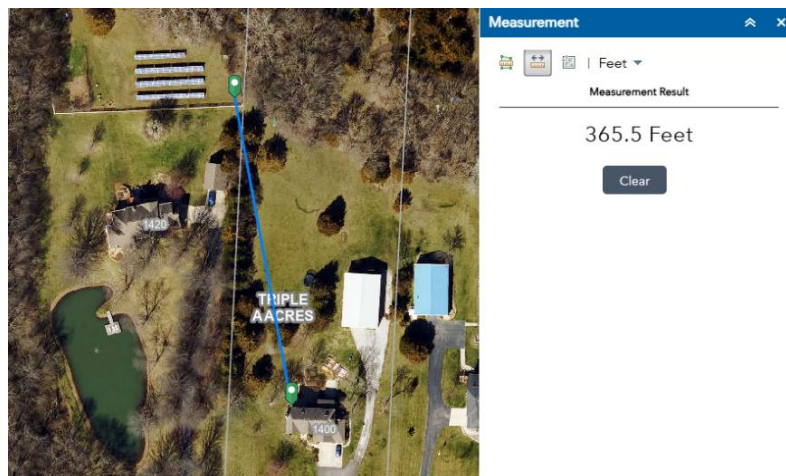


Figure 1 - Aerial showing detached garage location relative to neighboring home.

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 365 feet away. The subject and neighboring properties in the area were developed pre-UDO, which only required a minimum 10-foot side yard setback for accessory structures. Most accessory structures on the large lot residences along SW Hook Rd between SW Ward Rd and SW Pryor Rd maintain setbacks between 10 feet and 20 feet. The proposed detached garage with a 10-foot setback falls within the range of existing setbacks in the area.

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

It is not anticipated that a variance to allow the reduced setback will create an increased 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 in this area developed prior to adoption of the UDO. The subject lot was originally created and developed under agricultural standards that called for a minimum lot size of 5 acres; minimum lot width of 165 feet; minimum side yard setback of 15 feet for a residence; and minimum setback of 10 feet for an accessory structure. The subject and neighboring properties 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 detached garage with a 10-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. As previously mentioned, most area accessory structures maintain setbacks between 10 feet and 20 feet versus the UDO's current 35-foot setback requirement. The proposed detached garage would closely mirror the 11-foot side yard setback maintained by the existing detached garage on the subject 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 impractical for the applicants to carry out the strict letter of the ordinance. Situating the proposed detached garage 35 feet from the east property line in compliance with the current UDO standard conflicts with the location of an existing solar array on the subject property. The proposed 10' side yard setback eliminates the conflict with the solar array.

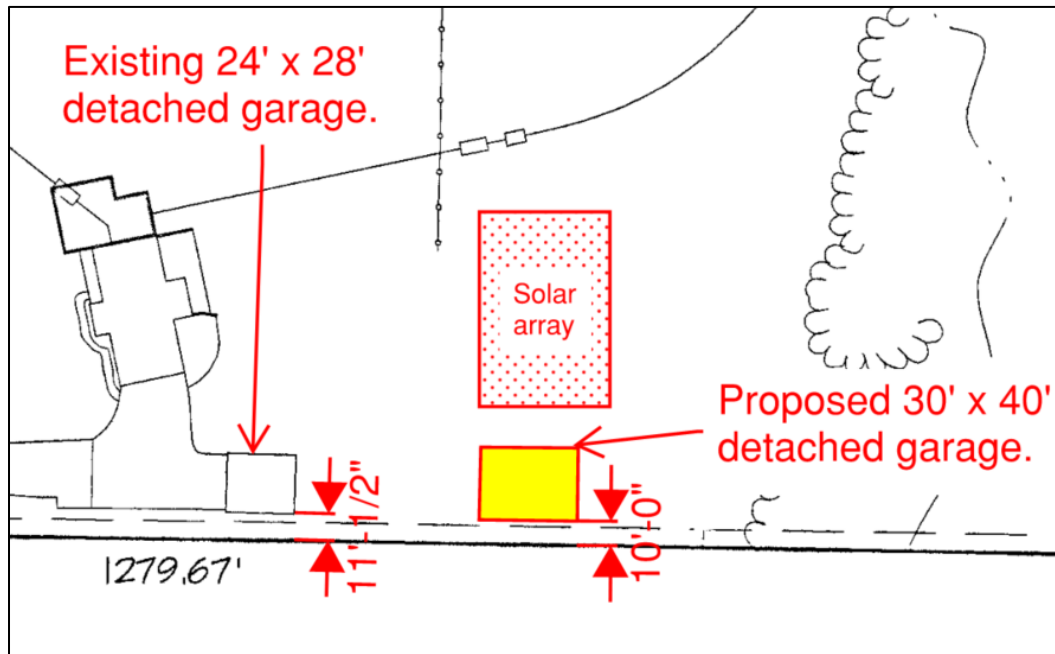


Figure 2 - Existing and proposed site conditions (plan north to the right).



Figure 3 - Aerial showing proposed garage location relative to solar array.

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 35-foot side yard setback for a detached garage in the AG zoning district, yielding a 10-foot side yard setback.

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 thus would have minimal, if any, 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. Similarly situated AG-zoned single-family residences in the area have existing detached garages and other accessory structures with side yard setbacks ranging from 10 feet up to 80 feet, with most setbacks ranging between 10 feet and 20 feet. The existing detached garage on the subject property maintains an 11-foot side yard setback from the east property line.

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

The applicants cannot feasibly pursue another method to meet the setback requirement. There is open area on the north side of the house and along the west side of the solar array large on which a detached garage could be located, but a sewer line leading to the septic lagoon at the north end of the property runs through the open area and therefore cannot serve as a site for the proposed garage.

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 development standards currently in effect for AG-zoned properties under the UDO are disproportionate when applied to smaller AG-zoned lots created prior to the UDO, as is the case with the subject property. Furthermore, the existing solar array and existing septic lagoon system serving the property limits the placement of a detached garage on the site.

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 combination of two conditions does not allow the landowners to meet the setback requirements for the proposed detached garage. The first is that the UDO's setback requirements disproportionately impact existing properties created and developed prior to the UDO going into effect. The second is that the existing solar array and septic lagoon system on the property place practical limitations on where the proposed detached garage can be located.

Attachments:

1. Board of Zoning Adjustment Application and Variance Criteria – 12 pages

2. Copy of marked-up plot plan for on-site waste disposal system for the existing single-family residence, dated January 2, 2002 – 2 pages
3. Location Map