


City of Lee's Summit

Department of Planning & Special Projects

July 27, 2017

TO: Board of Zoning Adjustments

FROM: Christina Stanton, Senior Planner 

RE: **PUBLIC HEARING – Application #PL2017-141 – Variance to Unified Development Ordinance Article 8, Table 8-1, Maximum Square Footage for a Detached Garage – 304 SE Johnson Street; McRoberts Building Corporation, applicant**

Recommendation

The Department of Planning & Special Projects recommends **DENIAL** of the variance pursuant to the maximum area requirements, for a detached garage, of the Unified Development Ordinance.

Request

Variance Requested: a non-use variance to the maximum area for a detached garage

Site Characteristics

Location: 304 SE Johnson Street

Lot Area: 9,171.21 square feet

Zoning: TNZ (Transitional Neighborhood Zone)

Property Owner(s): Edith M. & Charles W. Wheeler

Surrounding Zoning and Uses:

North: TNZ—hair salon

East (across SE Johnson St.): CP-2 – convenience store

West: TNZ – Licata's Flower Shop

South: TNZ – single-family residence

Background

- 1920s – The single-family residence located at 304 SE Johnson Street was constructed. The City no longer has record of a building permit for the residence.

Ordinance Requirement

Maximum Square Footage. Detached garages shall not exceed 250 square feet for each 5,000 square feet of lot area, with a maximum of 1,000 square feet for lots less than 4 acres (UDO Article 8, Table 8-1). Based on the 9,171.21 square foot lot area, no larger than a 458.5 square foot detached garage is allowed on the subject property.

Existing Conditions. The existing single-family residence located at 304 SE Johnson Street was constructed between 1918 and 1927, according to the City's Historic Resources Surveys completed in 1990 and 2001. It does not currently have a garage.

Request. The applicant proposes to construct a 2-car detached garage with a second floor residential loft. The detached garage is calculated to comprise a 626 square foot footprint; it is roughly 25' x 26' with a rectangular area of 24 square feet taken out. There is a residential loft space of equal area as the building footprint.

Analysis of Variance

With respect to all variances, the following is an evaluation of the criteria set forth in the Unified Development Ordinance Article 4, Sec. 4.590.B.3.:

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

Granting the requested variance will not adversely affect the rights of the adjacent landowners. The two abutting properties maintain businesses and have parking lots immediately adjacent to 304 SE Johnson Street. In addition, Licata's Flower Shop (located immediately to the west of this property) has 3 loft units located above the retail shops. Second floor loft residential units are an allowed accessory use in the TNZ District.

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

The intent of the size limitation is to maintain a degree of proportionality between the primary structure on a residential property and the associated accessory building so that the primary use is not dominated by an accessory use. While the proposed structure is larger than the ordinance allows, it does not appear that this structure would dwarf the existing single-family residence.

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

It is not anticipated that granting a variance will cause an increased risk in the health, safety, or general welfare of the surrounding community.

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 arises from the property owners' desire to have a larger garage than what the ordinance allows. There are 107 properties zoned TNZ. Of these, 57 are identified as properties with a residential use. The TNZ District does not have a minimum lot size; the UDO simply states that the setbacks and lot coverage requirements shall dictate the overall lot area. As a result, the smallest lot size staff observed (with a residential use) was 3,866.67 square feet, and the largest was 19,913.44 square feet. Staff removed seven of the 57 properties that are vacant lots to calculate the average lot size of single-family residential properties zoned TNZ, the result of which is 10,768.32 square feet. While the applicant is requesting a slightly larger detached garage with loft unit above than the ordinance will allow, it can be noted that this lot is somewhat smaller than the average single-family TNZ lot (by 1,597.11 square feet). The property would need to be 12,520 square feet for the 626 square foot detached garage with loft unit above to meet the ordinance.

Criteria #5 – Substantial justice will be done.

Substantial justice will not be done by approving the variance. The need for the variance stems solely from the applicants' desire to construct a 626 square foot detached garage with residential loft above.

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 4, Sec. 4.590.B.2.:

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

There are no practical difficulties that make it impossible to carry out the strict letter of the Ordinance. The variance request stems from the applicants' desire to build a 626 square foot detached garage with a residential loft on their property versus the maximum allowed 458.5 square foot detached garage.

In making such recommendation, the Staff has analyzed the following considerations set forth in the Unified Development Ordinance Article 4, Sec. 4.590.B.2.:

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

The maximum allowable size for detached garages on residentially-zoned lots shall not exceed 250 square feet for each 5,000 square feet of lot area, with a cap of 1,000 square feet for lots less than 4 acres. The lot area is 9,171.21 square feet, according to data from Jackson County's parcel layer in GIS, this area yields a maximum allowable area of 458.5 square feet. The applicants propose to construct a 2-car garage with a residential loft above. The footprint of this structure comprises of 626 square feet. Thus, the applicant is requesting a variance for 167.5 square feet.

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

Approval of the requested variance is anticipated to have minimal, if any, effect on the overall population and 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.

A substantial change in the character of the neighborhood will not be produced since the detached 2-car garage with loft above will have architectural features similar to the existing house. The biggest change will be the fact that there is a new structure where once there was open lot area. However, this is not anticipated to create any sort of detriment to the adjoining properties as the architecture is similar to what is existing and there are already loft units nearby.

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

A smaller 2-car garage with loft unit above could be constructed. The ordinance requires a standard parking space of 9' x 19', so a 2-car garage of 20' x 20' could be constructed and it would meet the parking dimensions and area restriction requirements of the UDO. The applicant has stated that the variance is needed in order to meet the homeowners needs.

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.

Granting the requested variances will not serve the interests of justice. The need for the variances stems solely from the applicants' desire to construct a 626 square foot 2-car garage with loft unit above.

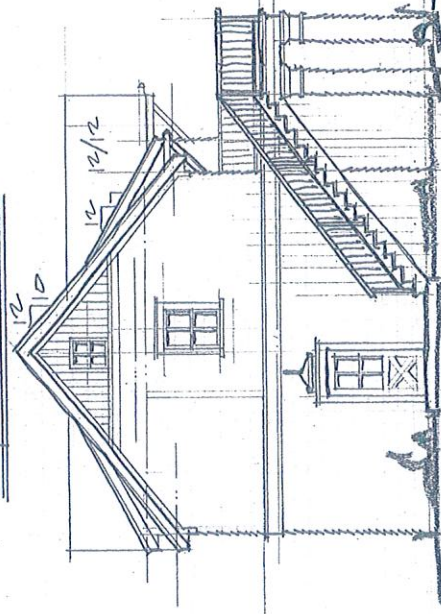
Consideration #6 – Conditions of the land in question, and not conditions personal to the landowner. Evidence of the applicant's personal financial hardship unrelated to any economic impact upon the land shall not be considered.

The variance request does not arise from a condition that is unique or inherent to the property. There are smaller residential lots that are zoned TNZ, there are also much larger residential lots zoned TNZ. This particular lot is close to the middle range of existing residential lots zoned TNZ, but slightly less (1,597.11 square feet) than the average (10,768.32 square feet). The lot would need to be larger than the average to accommodate the structure at the size requested.

Attachments:

1. Architectural drawing of proposed 2-car garage with residential loft, date stamped June 28, 2017 – 1 page
2. Certificate of Survey with setbacks called out and proposed building overlaid, date stamped June 28, 2017 – 1 page
3. Aerial image with lot line dimensions, setbacks, and proposed building overlaid, date stamped June 28 – 1 page
4. Google Images of 304 SE Johnson Street – 2 pages
5. Board of Zoning Adjustment Application and Variance Criteria – 6 pages
6. Location Map

JUN 28 2017

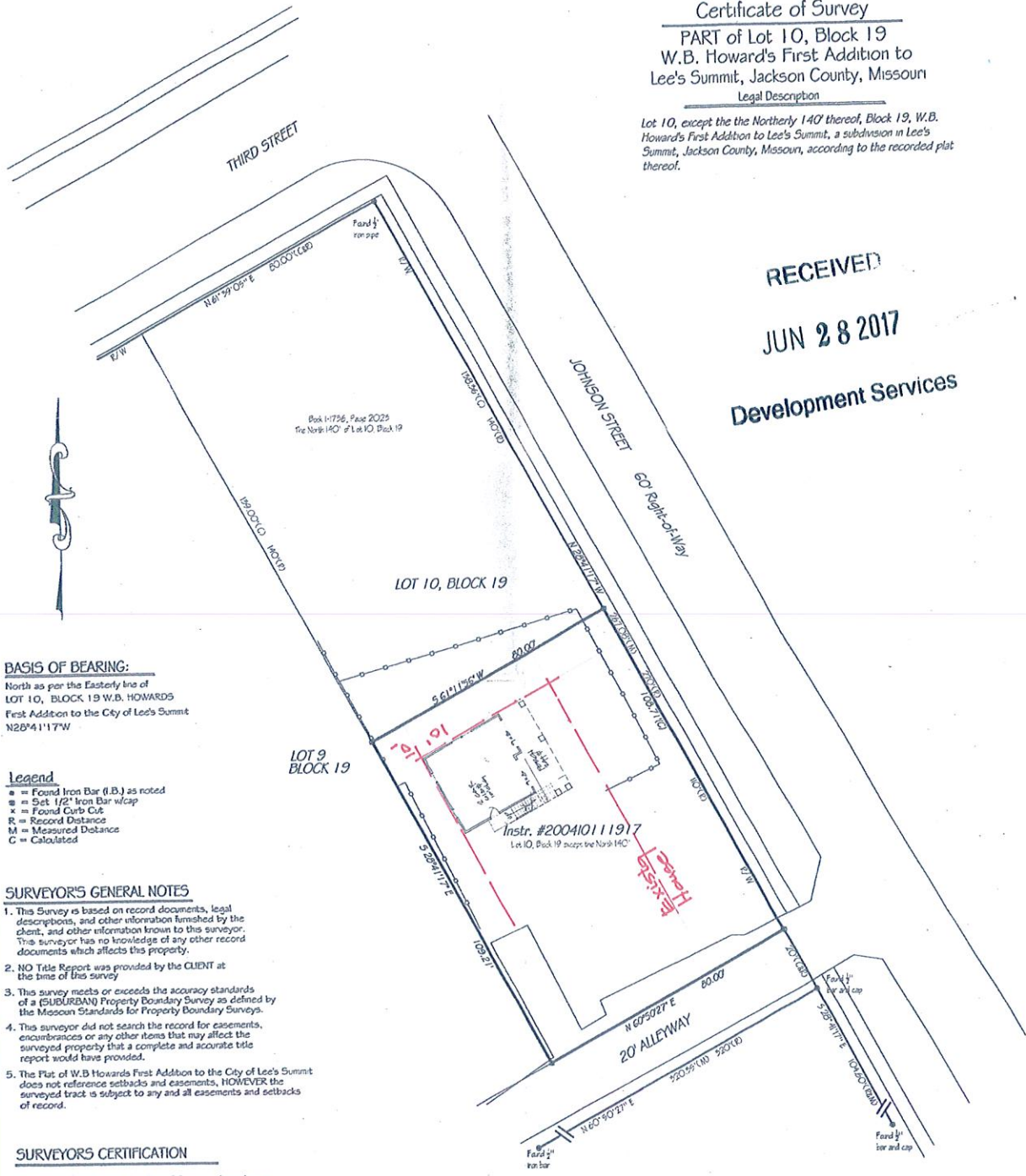
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LET SIDE ELEVATION
1/2" = 1'-0" ESC 7.044 0.28.17

Certificate of Survey
PART of Lot 10, Block 19
W.B. Howard's First Addition to
Lee's Summit, Jackson County, Missouri
Legal Description

Lot 10, except the the Northerly 140' thereof, Block 19, W.B.
Howard's First Addition to Lee's Summit, a subdivision in Lee's
Summit, Jackson County, Missouri, according to the recorded plat
thereof.

RECEIVED
JUN 28 2017
Development Services



BASIS OF BEARING:
North as per the Eastern line of
LOT 10, BLOCK 19 W.B. HOWARDS
First Addition to the City of Lee's Summit
N20°41'17\"/>

Legend
● = Found Iron Bar (I.B.) as noted
■ = Set 1/2\"/>

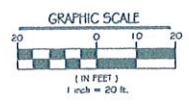
- SURVEYOR'S GENERAL NOTES**
1. This Survey is based on record documents, legal descriptions, and other information furnished by the client, and other information known to this surveyor. This surveyor has no knowledge of any other record documents which affects this property.
 2. NO Title Report was provided by the CLIENT at the time of this survey.
 3. This survey meets or exceeds the accuracy standards of a (SUBURBAN) Property Boundary Survey as defined by the Missouri Standards for Property Boundary Surveys.
 4. This surveyor did not search the record for easements, encumbrances or any other items that may affect the surveyed property that a complete and accurate title report would have provided.
 5. The Plat of W.B. Howard's First Addition to the City of Lee's Summit does not reference setbacks and easements, HOWEVER the surveyed tract is subject to any and all easements and setbacks of record.

SURVEYOR'S CERTIFICATION

I HEREBY CERTIFY: that this Plat of Survey is based on an actual Survey made by me or under my direct supervision and that said survey meets or exceeds the current Minimum Standards for Property Boundary Surveys as established by the Department of Natural Resources, Division of Geology and Land Survey of the State of Missouri, and Missouri Standards for Property Boundary Surveys, established by the Missouri Board for Architects, Professional Engineers, and Land Surveyors.

Mark B. Holt Date: 04/13/2017
Mark B. Holt- FLS No. 2001015251
Eagle Pointe Surveying, LLC, 2009006804

DATE OF SURVEY: April, 2017 CLASS OF PROPERTY: Suburban SURVEY CREW: MBH DRAWING NAME: 201704-1149	EAGLE POINTE SURVEYING 1216 NE Applewood St. Lee's Summit, MO 64086 (816) 456-0156	This Survey was prepared for: Edith Wheeler 304 SE Johnson St. Lee's Summit, MO 64063
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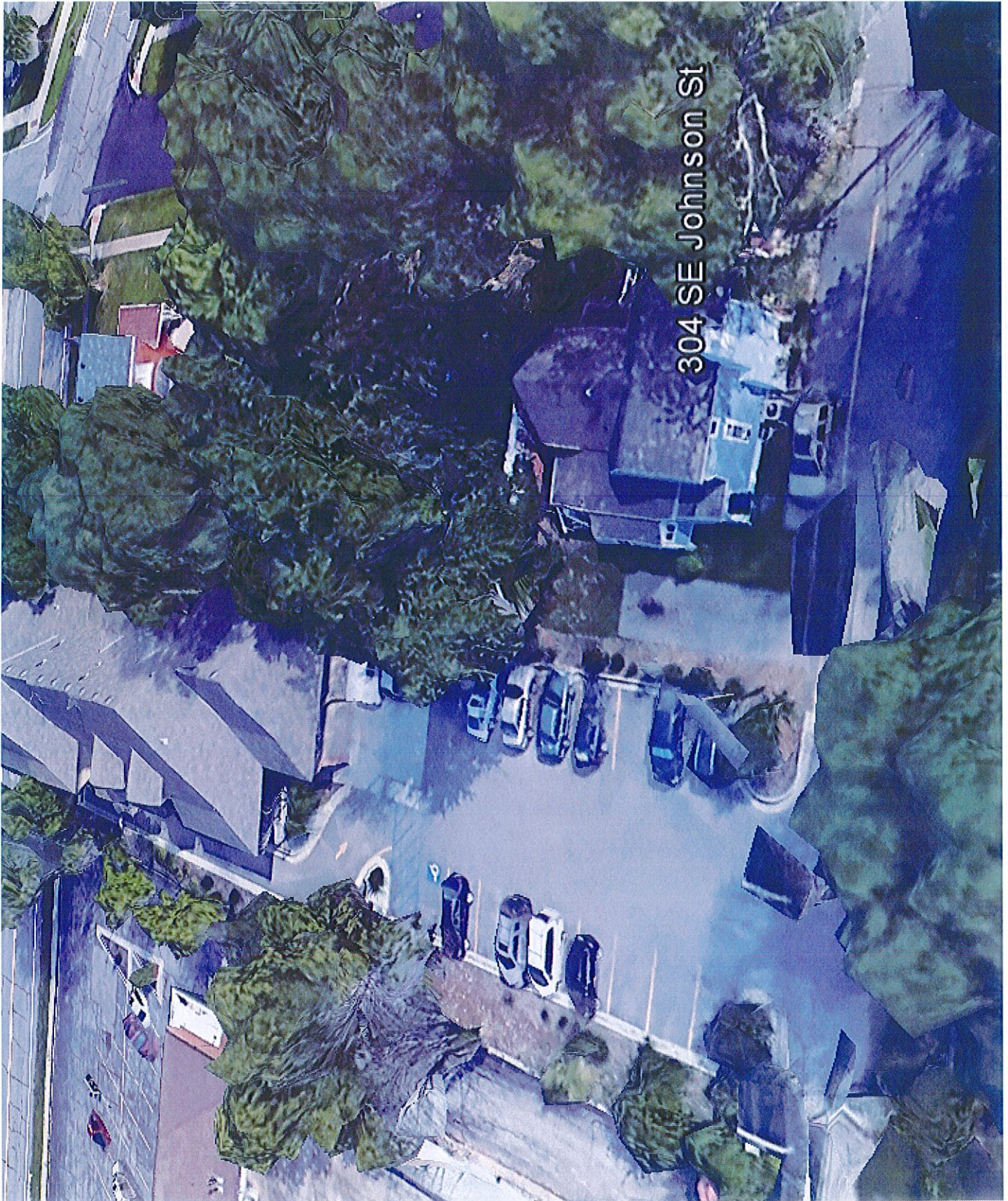


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JUN 28 2017

Development Services





304 SE Johnson St



LEE'S SUMMIT MISSOURI

NON-USE VARIANCE APPLICATION FORM

Application No. #PL2017-141

APPLICATION IS HEREBY MADE TO THE BOARD OF ADJUSTMENTS OF THE CITY OF LEE'S SUMMIT, MISSOURI, REQUESTING A VARIANCE TO THE UNIFIED DEVELOPMENT ORDINANCE, AS SET FORTH BELOW,

VARIANCE REQUEST (Give description of variance(s) requested) Construction of a 2 car detached garage with living quarters above. This requires a variance from current ordinance to add 141 1/2 sq. feet to the footprint.

PROPERTY ADDRESS 304 SE Johnson St. Lee's Summit, MO. 64063

LEGAL DESCRIPTION Howards 1st Addition Lot 10 BLK 19 (EX NLY 140')

PROPERTY OWNER Charles William Wheeler

ADDRESS 304 SE Johnson Street

CITY—STATE—ZIP Lee's Summit, MO. 64063

PHONE 816-914-0136 FAX None

APPLICANT McRoberts Building Corporation

ADDRESS 1601 NW Cliffside Ct.

CITY—STATE—ZIP Lee's Summit, MO. 64081

PHONE 816-321-2725 FAX 816-321-2731

THIS APPLICATION MUST BE ACCOMPANIED BY:

- Acknowledgement of the Board of Adjustment Process.
- One set of drawings to clearly indicate the requested variance in relation to the property and/or structures. These could include plot plan, plat, site plan, survey and/or building elevation(s).




LEE'S SUMMIT MISSOURI

NON-USE VARIANCE APPLICATION FORM

(Note: These drawings must be able to be clearly read as well as being reproduced. If the drawings are larger than 11" by 17", a smaller copy of the drawings shall also be provided.)

- Statement of Non-use Variance Criteria.
- Enclosed is the fee in the amount of \$ 465.00 (\$300 filing fee plus \$165 advertising charge) Payable to the **City of Lee's Summit**.

The application must be signed by the legal property owner AND the applicant, if other than the owner. The property owner may grant permission for the filing of the application by means of a signed and notarized affidavit to that effect.


PROPERTY OWNER

Print name here: CHARLES WHEELER


APPLICANT

Kevin McRoberts - McRoberts Building Corp

Receipt #: 2017028219 Date Filed: 6/28/17 Processed by: CS



LEE'S SUMMIT MISSOURI

BOARD OF ZONING ADJUSTMENTS PROCESS

- Any evidence presented to the Board will become public record and must be provided in duplicate to the City or tagged as an exhibit at the hearing.

Board's Authority

- The Board of Zoning Adjustment may grant a variance, only if application of the UDO when applied to a particular property, would significantly interfere with the use of the property.
- The Board's authority is limited by the statutes of the State of Missouri and the UDO. The Board may only grant a variance if, in its discretion, each of the variance criteria is met (See Statement of Variance Criteria). **It is the applicant's responsibility to demonstrate to the Board that each of these criteria have been met.** The Board may evaluate the evidence in the record before it, and exercise its discretion on whether each of these criteria has been met on a case by case basis.

The person completing the application must sign below.

Valerie Holman

SIGNATURE

Valerie Holman

PRINT NAME HERE



LEE'S SUMMIT MISSOURI

STATEMENT OF VARIANCE CRITERIA (NON-USE)

In accordance with Section 4.520.B.3 of the Lee's Summit Unified Development Ordinance, the applicant must meet each of the following requirements to support the granting of the requested variance. **Failure to complete each may result in an incomplete application.** Explain **IN DETAIL** how this application meets each of the following requirements.

1. The granting of the variance will not adversely affect the rights of adjacent property owners or residents.

The proposed structure will be within the legal boundaries of the property. Additional square footage is needed for the footprint of the structure to accommodate a 2 car garage + apartment above. The structure will be in proportion to the existing house + similar in style.

2. The granting of the variance will not be opposed to the general spirit and intent of the ordinance from which the variance is sought.

The additional square footage is needed to make the space practical for the resident's needs. The maximum footprint square footage that is allowed based on the total square footage of the lot under the current ordinance is too small. An additional 141.5 square feet is required.

3. The variance requested will not adversely affect the public health, safety, morals, or general welfare of the community.

All work performed on the site will be done in strict accordance of current building codes by a licensed + insured contractor. (McRoberts Building Corporation.)

4. The variance requested arises from a condition which is unique and peculiar to the property in question and which is not ordinarily not found in the same zone or district, and further, is not created by an action or actions of the property owner or applicant.

The lot this residence is situated on is smaller than



LEE'S SUMMIT MISSOURI

STATEMENT OF VARIANCE CRITERIA (NON-USE)

both lots on either side + this is the only house that does not have driveway access to Johnson St. Currently the homeowner must use the ally to the south of their home to gain access to the existing driveway.

5. Substantial justice will be done by the granting of this variance.

This variance would allow enough square footage for the proposed detached garage with living space above to accommodate the property owners son, who helps Mr. Wheeler care for his handicapped wife. Care givers quarters + a driveway to Johnson St. will enhance the comfort of the owner + allow better use of the lot. Further, in accordance with Section 4.530.B.2 of the Lee's Summit Unified Development Ordinance, the applicant must meet each of the following requirements to support the granting of the requested non-use variance. Explain **IN DETAIL** how this application meets each of the following requirements.

1. Practical difficulties exist that would make it impossible to carry out the strict letter of the Unified Development Ordinance when considered in light of the following factors:

a. How substantial the requested variation is, in relation to the requirement of the Ordinance.

The maximum foot print size currently under the ordinance is 458.5 square feet. The square footage needed for the proposed structure is 600 feet.

b. The effect of increased population density, if any, on available public facilities and services, if the variance is allowed.

Due to the size of the structure and the limited number of additional sewer traps, there would be minimal, if any effect at all.

c. Whether a substantial change will be produced in the character of the neighborhood, or whether a substantial detriment to adjoining properties will be created, if the variance is allowed.

The architectural style of the addition shall be in keeping with the style of the existing home, thus enhancing the property + maintaining the neighborhood aesthetic.



LEE'S SUMMIT MISSOURI

STATEMENT OF VARIANCE CRITERIA (NON-USE)

d. Whether it is feasible for the applicant to pursue a method, other than a variance, to obviate the practical difficulty.

In order to meet the homeowners needs an additional 141.5 square feet is required above what is allowed by the current ordinance allows.

e. Whether the interests of justice will be served by allowing the variance, in view of the manner in which the practical difficulty arose in consideration of all of the above factors.

Allowing the requested variance would solve space issues created by the size of the lot. The increased square footage would enable the construction of the proposed structure thus giving adequate living space for Mr. Wheeler's son.

f. Conditions of the land in question, and not conditions personal to the landowner. (The Board will not consider evidence of the applicant's or landowner's personal financial hardship unrelated to any economic impact on the land.)

The space available on the lot combined with the lack of access from Johnson St. creates a hardship as for as the footprint square footage & property access is concerned.

This sheet must be signed by the person completing this sheet.

Valeri Holman
SIGNATURE

Valerie Holman
PRINT NAME HERE

**Appl. #PL2017-141--VAR to area for detached garage
304 SE Johnson St.;
McRoberts Building Corporation, applicant**

