

City of Lee's Summit

Development Services Department

July 15, 2021

TO: Board of Zoning Adjustments
FROM: Hector Soto, Jr., Planning Manager
RE: **PUBLIC HEARING – Application #PL2021-213 – Variance to Unified Development Ordinance (UDO) Article 6, Section 6.040, Table 6-3, Front Yard Setback – 302 NE Green St; A3G Architects, applicant**

Recommendation

The Development Services Department recommends **APPROVAL** of a variance to the minimum 30' front setback requirement in the R-1 zoning district, to allow a 7'-2" front yard setback.

Request

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

Site Characteristics

Location: 302 NE Green St

Zoning: R-1 (Single-Family Residential)

Property Owner: Christopher Hatt

Surrounding Zoning and Uses:

North: R-1 – single-family residential

South: R-1 – single-family residential

West: R-1 – single-family residential

East (across NE Green St): R-1 – single-family residential

Background

- March 16, 1887 – The plat of *Hearnes Addition* was recorded with Jackson County.
- Circa 1920 – The existing single-family residence was constructed on the subject property.
- January 12, 1954 – The City of Lee's Summit adopted its first zoning ordinance (Ordinance No. 421). Minimum setback requirements were not instituted prior to the adoption of the first zoning ordinance.
- November 1, 2001 – The Unified Development Ordinance (UDO) went into effect as the governing zoning ordinance.

Ordinance Requirement

Front Yard Setback Requirements. The Unified Development Ordinance requires a minimum setback of 30 feet from the front property line for properties zoned R-1 (UDO Article 6, Section 6.040, Table 6-3).

Existing Conditions. The existing single-family residence was constructed circa 1920. The home is set back 15'-2" from the front property line. There were no minimum setback

requirements in effect at the time the Hearnese Addition subdivision was platted in 1887, thus there was no platted minimum front building line established for any lots. There were no minimum setback requirements in effect at the time the home was constructed in 1920. The existing home encroaches 14'-10" into the minimum required 30' front yard setback under current City standards, but is considered a lawful non-conforming characteristic.

Request. The applicant proposes to construct a new covered entry and uncovered porch to serve the home's front entry. The proposed improvements are a combined 8' deep x 14' wide. The 6'-wide covered entry will only project an additional 2' beyond the existing eave overhang toward the front property line. The remaining portion of the improvements will essentially be the uncovered deck platform. The proposed covered entry and uncovered porch improvements reduce the home's existing 15'-2" front setback to 7'-2".

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 a variance is not expected to adversely affect the right of adjacent landowners or residents. The proposed setback encroachment is in the direction of NE Green St. The nearest home across NE Green St is located approximately 100' away. The proposed improvements will reduce the separation to 92'. The significant spatial buffer created by the street and accompanying public right-of-way ensure the maintenance of separation and privacy between the homes on opposite sides of the street. The proposed improvements comply with the required setbacks in the direction of the two abutting residences to the north and south.

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. The existing residence is located approximately 100' from the nearest residence in the direction of the encroachment. The proposed improvements reduce this separation to a still-substantial 92', inclusive of a street that serves as a physical buffer between the properties.

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 stems from the homeowner's desire to construct a covered entry and porch structure to mirror similar features on existing homes of the same era in the neighborhood. The neighborhood is primarily composed of single-family residences constructed in the late 19th and early to mid-20th centuries, which often had covered or partially-covered front porches to define the home's entry.

Criteria #5 – Substantial justice will be done.

Substantial justice would be done by granting a variance. While the UDO's current standard calls for a minimum 30' front yard setback in the R-1 zoning district, the surrounding neighborhood developed between the late 1800s and mid 1900s at a time when there were no setback requirements. The lack of setback requirements resulted in a varied development pattern along the street line that we see along older urban neighborhoods, particularly in the heart of Lee's Summit historic residential downtown. Existing residences in the blocks surrounding the subject property have front setbacks ranging from 5' to 25'. The proposed 7'-2" front setback falls within this range.

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.

The existing residence already has a lawful non-conforming front yard setback of 15'-2". It is not possible to construct any improvements on the front of the house without further encroaching into the front yard setback required under current development standards.

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 22'-10" encroachment into the required 30' front 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 requested variance will not produce a change in the character of the neighborhood. Existing setbacks for area single-family homes in the historic residential downtown range from 5' to 25'. Ample separation between the subject property and residences to the east across NE Green St will continue to exist if a variance is granted.

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

The residence already has a lawful non-conforming front yard setback. There is no other method to pursue any improvements to the front of the house other than a variance.

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 need for the variance stems from the homeowner's desire to add a covered entry and uncovered porch to the front of the existing residence. The need for the variance is also attributed to the application of current UDO standards, created for modern suburban development, to a historic downtown neighborhood developed in a denser urban-like pattern. The lack of setback

requirements at the time the neighborhood was developed resulted in a varied development pattern typical of historic downtowns. The absence of uniformity in the existing built environment is at odds with the uniformity/consistency strived for under current development standards.

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 subject property is located in Lee's Summit's historic residential downtown. The heart of the residential downtown was developed prior to the establishment of front yard setbacks. The area surrounding the subject property has established setbacks ranging from 5' to 25', whereas current standards require a minimum 30' setback for R-1 zoned properties. The subject property has an existing lawful non-conforming front setback of 15'-2". Any proposed improvement projecting from the front of the house requires a variance.

Attachments:

1. Board of Zoning Adjustment Application and Variance Criteria – 7 pages
2. Proposed site plan and zoning setback survey, dated June 14, 2021 – 2 pages
3. Location Map