

City of Lee's Summit

Development Services Department

September 10, 2021

TO: Board of Zoning Adjustments
FROM: Hector Soto, Jr., Planning Manager
RE: **PUBLIC HEARING – Application #PL2021-331 – Variance to Unified Development Ordinance (UDO) Article 8, Section 8.530.A.1, Table 8-1, Parking Requirements – 1109 NE Noeleen Ct; Stevie Treadwell, applicant**

Recommendation

The Development Services Department recommends **APPROVAL** of a variance to the requirement that a single-family residence have a minimum two enclosed parking spaces, to allow a single enclosed parking space.

Request

Variance Requested: a non-use variance to the minimum two (2) enclosed parking spaces for a single-family residence

Site Characteristics

Location: 1109 NE Noeleen Ct

Zoning: R-1 (Single-family Residential District)

Lot Area: 13,109 sq. ft. (0.30 acres)

Property Owner: Bleys Wright and Ellard Morales

Surrounding Zoning and Uses:

North (across NE Noeleen Ct): R-1 – single-family residential

South: R-1 – single -family residential

West: R-1 – single -family residential

East: R-1 – single -family residential

Ordinance Requirement

Background

- July 21, 2021 – The Development Services Department permit division issued a building permit (#PRRES20213304) to convert a portion of an attached two-car garage into a single-car garage and additional living space.
- July 21-30, 2021 – The Development Services Department building inspections division performed three all-rough (i.e., intermediate stage) inspections on the permitted garage space conversion.
- August 5, 2021 – The Development Services Department issued a stop work order after determining that the building permit for the garage conversion from two-car capacity to single-car capacity was issued in error. The UDO requires single-family residences to maintain a minimum of two enclosed parking spaces (i.e. two-car garage).

Ordinance Regulations

Parking Requirements. The UDO requires the single-family residence to have a minimum of two (2) enclosed parking spaces, meaning a two-car garage (UDO Section 8.530.A.1 and Table 8-1).

Existing Conditions. Construction of the garage conversion is nearly complete and is at a stage solely requiring scheduling and passage of a final inspection to allow occupancy of the converted living space.

Request. The applicant requests a variance to allow a single-family residence to have a single enclosed parking space in order to allow the nearly completed conversion to remain.

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 property owners or residents.

Granting a variance is not expected to adversely affect the rights of adjacent property owners or residents. One (1) enclosed parking space will remain. The existing driveway has capacity for four (4) vehicles, so the property will still provide a total of five (5) off-street parking spaces. NE Noeleen Ct is also available to provide on-street parking when needed.

Criteria #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 spirit and intent of parking requirements is to ensure that developed properties provide sufficient off-street parking opportunities to satisfy expected parking demands of the respective land uses.

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

Granting a variance to allow one (1) enclosed parking space to serve the single-family residence is not expected to adversely affect the public health, safety, morals or general welfare of the community. A total of five (5) off-street parking spaces (1 enclosed + 4-car driveway capacity) will still be available for use.

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

The request does not arise from a condition inherent to the property that is unique and peculiar. The need for a variance is due to staff error at the time of building permit review, which resulted in the erroneous issuance of a building permit. Construction was performed in good faith by the contractor based on the approved plans and issued building permit.

Criteria #5 – Substantial justice will be done by the granting of the variance.

The need for a variance is a result of staff error in the issuance of the permit under which construction activity was undertaken in good faith.

Analysis of Non-Use Variance

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.:

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

It is not impossible to re-establish the second enclosed parking space, but there is a level of practical difficulty in that the conversion to living space is at an advanced stage solely waiting final inspection for occupancy.

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 seeks approval to allow for one (1) enclosed parking space when two (2) enclosed parking spaces are required.

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

Granting a variance is expected to have little, if any, potential increase in population density or impact on public facilities and services. While this application is related to the conversion of garage space into additional living space, the use of the property as a single-family residence remains the same. The City has definitions and regulations in place that can limit the number of individuals that can reside in a single-family residence under different circumstances.

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

Staff does not expect that the variance will result in a substantial change to the character of the neighborhood. The remaining capacity of five (5) off-street parking spaces is expected to satisfy typical parking demands for a single-family residence. Additional parking is available on the street.

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

The need for a variance can be obviated by re-establishing the second enclosed garage space, but it would require demolition of the new living space that is near completion.

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 a variance arose from the erroneous issuance of a building permit by staff. The garage conversion activity was undertaken by the contractor in good faith based on the issued permit.

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.

There are no conditions inherent to the land that contribute to the need for a variance.

Attachments:

1. Board of Zoning Adjustment Application – 6 pages
2. Copy of Approved Building Plans for Building Permit Issuance, dated July 8, 2021
3. Copy of Scope of Work for Building Permit Application, dated July 12, 2021
4. Permit Copy of Building Permit issued on July 21, 2021
5. Copy of Stop Work Order issued on August 5, 2021
6. Photos of Converted Living Space – 2 pages
7. Location Map