

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 #PL2021-220 – Variance to Unified Development Ordinance (UDO) Article 6, Section 6.1350.J, Table 6.IV-1, Hobby shop size – 100 NW Market St; Kary L. Sprinkle, applicant**

Recommendation

The Development Services Department recommends **APPROVAL** of a variance to the maximum allowable 250 sq. ft. for a hobby shop, to allow a structure size of 276 sq. ft.

Request

Variance Requested: a non-use variance to the 250 sq. ft. maximum size for a hobby shop

Site Characteristics

Location: 100 NW Market St

Zoning: RP-2 (Planned Two-family Residential District)

Lot Area: 10,029 sq. ft. (0.23 acres)

Property Owner: Kary L. Sprinkle

Surrounding Zoning and Uses:

North: RP-2 – two-family residential

South: RP-2 – two-family residential

West: RP-2 –two-family residential

East (across NW Market St): CP-2 (Planned Community Commercial) – single-family residences; and Union Pacific railroad tracks

Ordinance Requirement

Background.

- Circa 1947 – The existing single-family residence was constructed.
- May 16, 2021 – The Development Services Department issued a building permit (#PRRES20211810) covering the hobby shop and associated electrical work.

The building permit was obtained after the City was made aware that the hobby shop had been recently constructed and perhaps did not comply with City ordinances. Following investigation by the City, it was determined that a building permit was required for the hobby shop.

Ordinance Regulations

Hobby Shop Size Requirements. The UDO allows hobby shops up to 250 sq. ft. in size as an accessory use to a residence in all residential districts, subject to certain conditions (UDO Section 6.1350.J and Table 6.IV-1).

Existing Conditions. The applicant has a 380 sq. ft. hobby shop (276 sq. ft. enclosed area + 104 sq. ft. porch with enclosed loft storage area). The applicant was not aware of the need for a building permit or the UDO's size limitations prior to the purchase of the structure and its installation at the subject property. The City subsequently became aware of the structure and contacted the applicant informing her of the need for a building permit and the need for compliance with the applicable UDO hobby shop standards.

Request. To help address the structure's non-compliance with the maximum allowable 250 sq. ft. size, the applicant indicates that she will remove the porch component (with loft storage area above). Removal of the porch feature reduces the structure size to 276 sq. ft., which requires a variance of 26 sq. ft.

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. The requested increase in allowable structure size is only 26 sq. ft. The building meets the required 10' setbacks from the side and rear property lines, so the requested increase in building size does not result in an encroachment to required setbacks.

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 size limitations for accessory structures (e.g. hobby shops, sheds, detached garages, etc.) in residential zoning districts is to ensure that the residences on the property remain the prominent structure and primary use on land designated for residential purposes. The existing residence on the property is approximately 1,000 sq. ft. A 276 sq. ft. hobby shop would clearly be a subordinate structure to the residence on the same property.

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

Granting a variance of 26 sq. ft. for the hobby shop will not adversely affect the public health, safety, morals or general welfare of the community.

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 arises because the applicant purchased the structure unaware of the UDO's size limitations or that a building permit was required.

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

Substantial justice would be done by approving the variance. Now aware of the UDO's size standards, the applicant proposes to bring the structure closer to compliance with the UDO by

removing the loft storage area and thereby only requiring a 26 sq. ft. variance versus a 130 sq. ft. variance. The hobby shop satisfies all other UDO standards.

Should the applicant desire to maintain a porch feature on the hobby shop, the applicant can simply remove the loft storage space above the porch and keep the gambrel roof overhang. As long as the porch remains unenclosed open space and serves no other purpose than roofed shelter from the elements, the porch's footprint does not count toward the building's square footage. As currently constructed with loft storage space above the porch, the porch's footprint counts toward the building's square footage.

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.

Practical difficulties exist to bring the existing structure into compliance with the UDO. In addition to removal of the porch and loft storage space above, exterior walls would need to be removed, in whole and in part, to reduce the building by 26 sq. ft.

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 26 sq. ft. variance to the 250 sq. ft. maximum allowable size, to allow a 276 sq. ft. hobby shop.

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

Approval of the hobby shop size variance 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.

The variance request would allow a hobby shop that is only 26 sq. ft. larger than the UDO maximum. Staff does expect that the variance will result in a substantial change to the character of the neighborhood.

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 the applicant, but it would require the partial reconstruction of the existing structure.

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 applicant not being aware of the need for a building permit or City ordinances prior to the purchase and installation of the structure. To address the size issue, the applicant will be removing the porch with loft storage space above to bring the structure closer to compliance and therefore reducing the degree of non-compliance.

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 and Variance Criteria – 5 pages
2. Plot Plan
3. Photos – 2 pages
4. Location Map