

City of Lee's Summit

Development Services Department

November 18

TO: Board of Zoning Adjustments
FROM: Hector Soto, Jr., Planning Manager
RE: **PUBLIC HEARING – Application #PL2021-423 – Variance to Unified Development Ordinance (UDO) Article 6, Section 6.040, Table 6-3, Rear Yard Setback – 508 SW Seagull St; Dewey Roberts, applicant**

Recommendation

The Development Services Department recommends **APPROVAL** of a variance to the minimum 30' rear setback requirement for a room addition in the R-1 zoning district, to allow a 9' and 20' rear yard setback from the northeast and northwest property lines, respectively.

Request

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

Site Characteristics

Location: 508 SW Seagull St

Zoning: R-1 (Single-Family Residential)

Property Owner: Dewey and Robin Roberts

Surrounding Zoning and Uses:

North: R-1 – common area and single-family residential

South (across SW Seagull St): R-1 – single-family residential

West: R-1 – common area and lake

East: R-1 – single-family residential

Background

- October 14, 1991 – A building permit (#91-881) was issued for construction of a single-family residence and rectangular 12' x 20' deck on the subject property. At its closest point, the approved deck was shown with a 22' setback from the northeast rear property line.

Ordinance Requirement

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

Existing Conditions. A single-family residence with two deck exists on the subject property. The residence backs up to common area and lake area along the eastern shore of Raintree Lake. The nearest residence to the existing home and deck structures is located across common area to the northeast, approximately 60 feet away. To the west/northwest is a large expanse of open common area and Raintree Lake. The existing home includes a circular-type deck located approximately 16' from the nearest rear property to the northeast. This particular deck was not

depicted on the original plot plan for the home's construction. The City has no record of any building permits approving construction of said deck. Aerial photography shows that the deck has existing since at least 2001.



Figure 1 – Subject property with abutting common area to the north and west.

Request. The applicant proposes to remove the existing circular-type deck and construct a “Florida room”, or rather a sunroom-type addition, in its place on the back corner of the home. The proposed addition is 16’ deep x 26’ wide. It will yield a 9’ setback from the northeast rear property line and a 20’ setback from the northwest rear 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 a variance is not expected to adversely affect the rights of adjacent landowners or residents. The proposed setback encroachment is toward the rear where the subject property backs up to common area and Raintree Lake. The nearest residence in the direction of the encroachment is across common area, approximately 60 feet away. 900 feet away.

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. The proposed encroachment is not toward the two adjacent single-family lots to the east and south. The encroachment is toward the large common area, lake and residences located across common area to the north.

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 subject property is located on a cul-de-sac bulb. The irregular curving nature of the front property line causes the lot's buildable envelope to be smaller than that of a typical rectangular lot. This is a result of cul-de-sac bulbs causing setback lines, and thus homes, to be pushed further back into the smaller buildable envelope.

Compounding this particular issue on the subject property is the fact that the two side property lines are of unequal length and results in an angular rear property that doesn't follow a uniform alignment relative to the existing residence. The west side property line is 130' in length. The east side property line is 99' in length, yielding a difference of 31'.



Criteria #5 – Substantial justice will be done.

Substantial justice would be done by granting a variance. The shape of the lot on the cul-de-sac bulb impacts the ability to satisfy the required rear yard setback for an addition to the principal structure (i.e. home). If the requested variance is granted, the proposed setback encroachment is mostly toward common area and 235-acre lake. What portion of the encroachment will be oriented toward an adjacent residence to the northeast is approximately 60' away across an open common area tract.

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.:

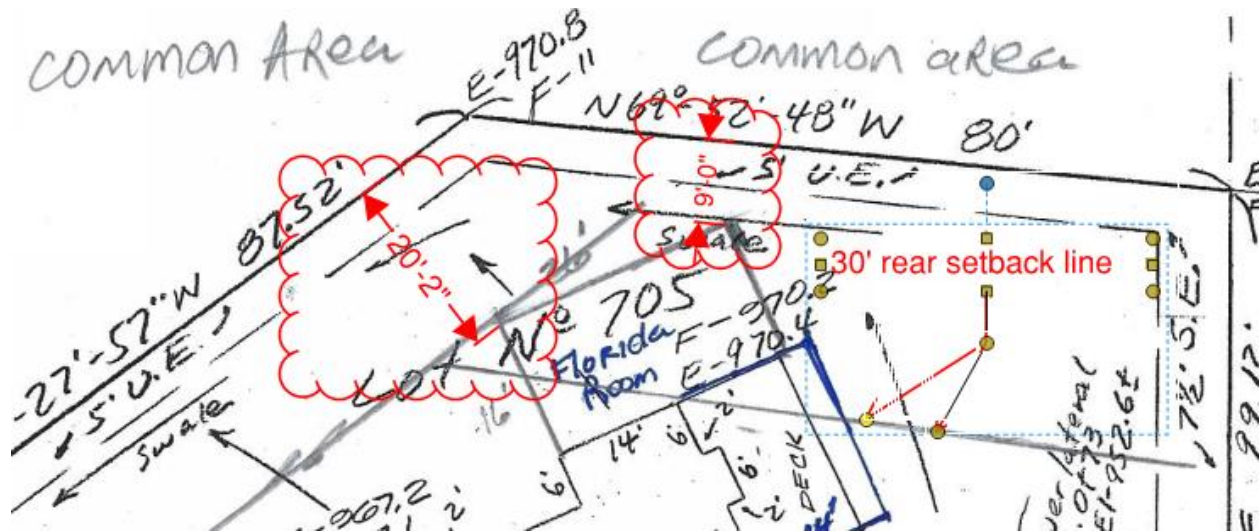
Criteria #1 – Whether practical difficulties exist that would make it impossible to carry out the strict letter of the Ordinance.

It is not impossible to carry out the strict letter of the ordinance with any type of addition, however the location and size of an addition would be severely restricted in terms of size and location. For example, the existing decks off the northeast corner of the house do not comply with current setbacks requirements. The applicant proposes the existing circular deck that has existed for at least 20 years with a 16' deep x 26' deep addition. But for a variance, this is not possible at this location.

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 21' variance and a 10' variance to the 30' rear yard setback, measured from the northeast and northwest property lines, respectively.



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 a variance will not substantially change the character of the neighborhood or be a substantial detriment to adjoining properties. The encroachment is toward common area and Raintree Lake. While there is an adjacent residence in the direction of the encroachment from the northeast property line, the existing residence in that direction is approximately 60' away

across a common area tract. The typical back yard separation between principal structures in the R-1 zoning district is 60', so the requested variance to the rear yard setback still maintains the separation typical to what is found in single-family subdivisions.

The existing circular-type deck on the site of the proposed addition currently maintains a 16' rear yard setback from the nearest property line. The existing deck does not meet current setback requirements. Said deck has existed since at least 2001.

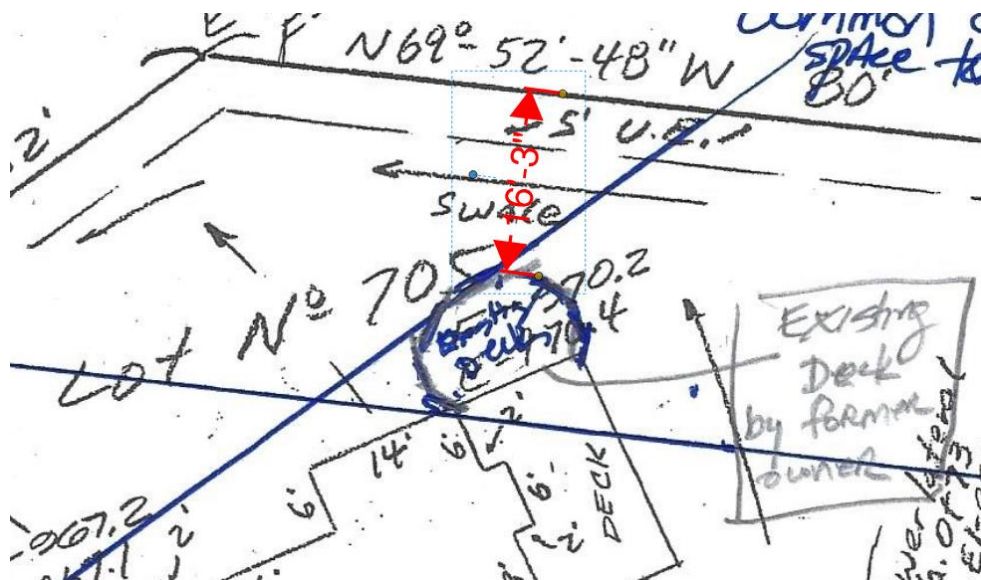


Figure 2 - Existing location of circular-type deck.

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 possibly relocating the addition, but the existing house layout makes the proposed location the most logical and functional place for the addition. As previously mentioned, two decks are already located in the area of the proposed improvement. Both decks do not comply with current minimum rear yard setback requirements and have existed for at least 21 years with seemingly no negative impact on the area.

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 is in part attributed to existing lot conditions resulting from the reduced buildable area due to the property being a cul-de-sac lot. The fact that the side property lines of unequal length radiate from the bulb at an angle, rather than running straight back when compared to a typical rectilinear lot, also contributes to the shallower nature of the buildable area.

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 unusual or unique conditions associated with the property and the requested setback variance are the reduced buildable envelope created by the lot being on a cul-de-sac bulb and the presence of common area and Raintree Lake to the north and west that buffers the requested setback encroachment. Additionally, two existing deck structures on the property (one of which

will be replaced by the proposed addition) do not meet current setback requirements and have existing for at least 21 years without seemingly any negative impacts.

Attachments:

1. Copies of plot plans showing proposed room addition and showing existing site conditions.
2. Location Map