



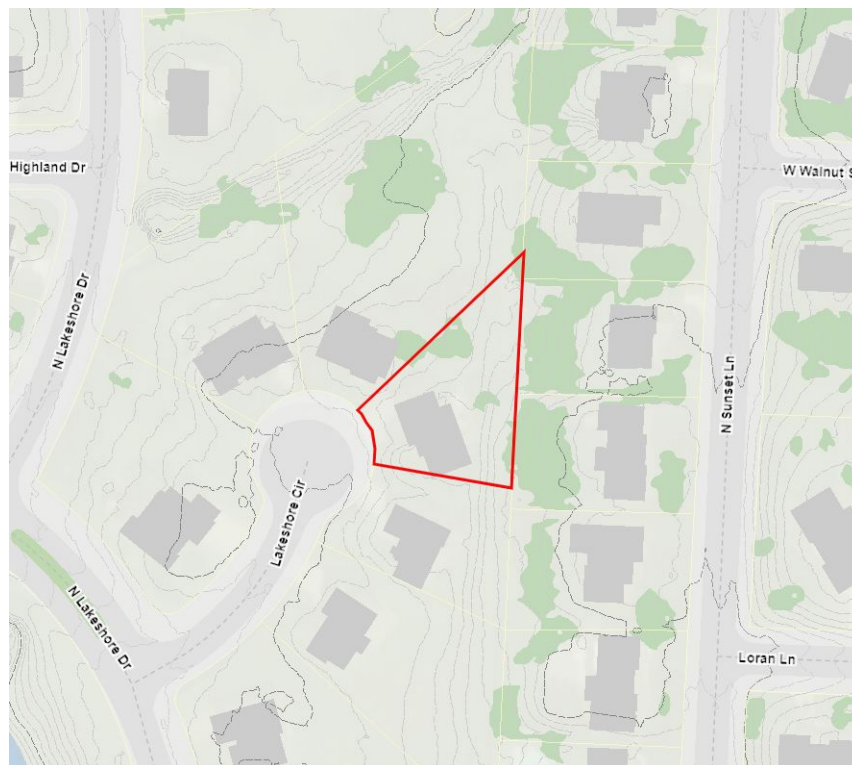
To: Board of Adjustment
From: Katie Jardieu, City Planner
Date: December 1, 2020
Re: **Case #20027 - Smith Variance - 701 Lakeshore Circle Setback Variance**

GENERAL INFORMATION

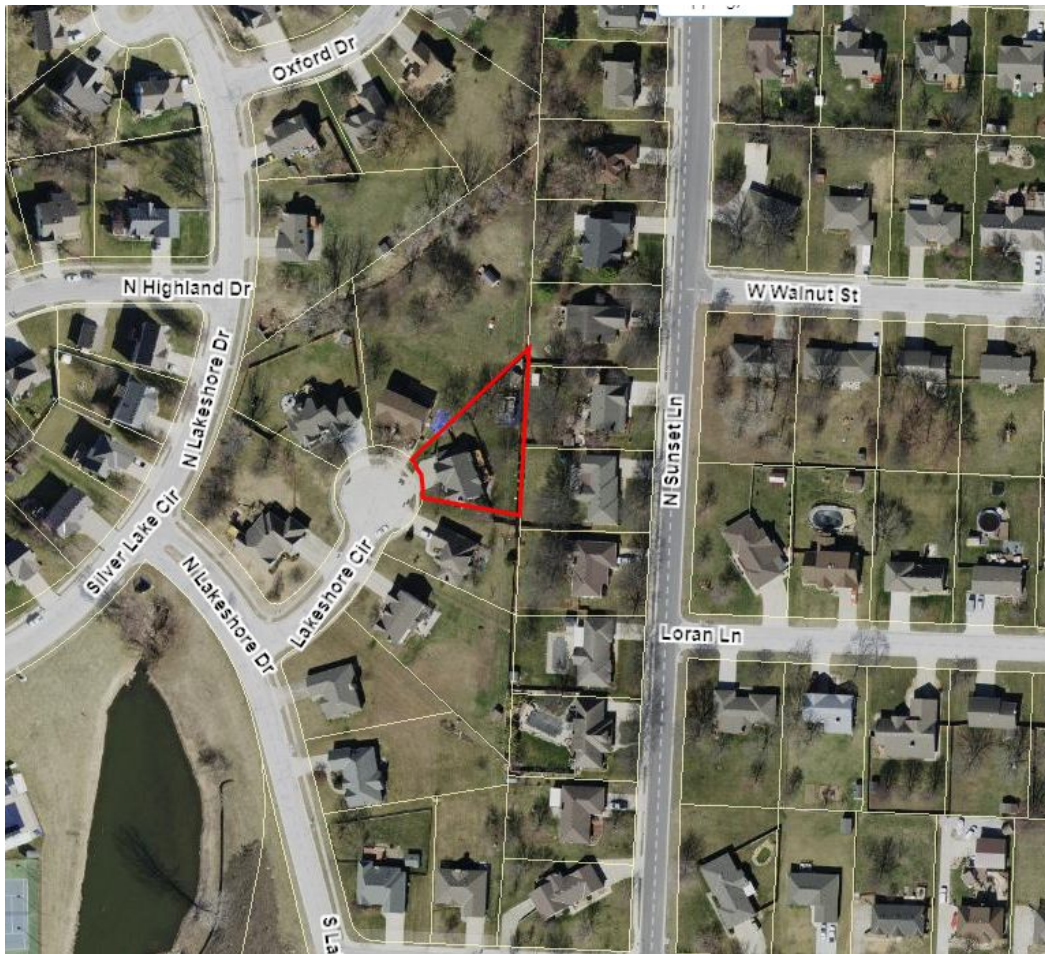
**Applicant/
Property Owner:** R & S Smith Building Services % Steve Smith
Ryan & Stefanie Berry
701 Lakeshore Circle
Raymore, MO 64083

Requested Action: Granting of a variance to allow a two story addition to encroach two (2) feet into the required side yard setback.

Property Location: 701 Lakeshore Circle



2020 Aerial Photograph:



Existing Zoning: R1 - Single Family Residential

Existing Surrounding Uses:

North:	Single Family Residential
South:	Single Family Residential
East:	Single Family Residential
West:	Single Family Residential

Total Tract Size: .24 acres

Growth Management Plan: The Future Land Use Plan Map contained within the 2013 Growth Management Plan designates this property as appropriate for low-density residential development.

Major Street Plan: The Major Thoroughfare Plan has Lakeshore Circle classified as a local road.

Advertisement: November 12, 2020 Journal Newspaper

Public Hearing: December 1, 2020 Board of Adjustment

Items of Record: **Exhibit 1. Mailed Notices to Adjoining Property Owners**
Exhibit 2. Notice of Publication
Exhibit 3. Unified Development Code
Exhibit 4. Application
Exhibit 5. Growth Management Plan
Exhibit 6. Staff Report
Exhibit 7. Applicant's Personal Statement

PROPOSAL

The applicant is seeking a two (2) foot variance to the ten (10) foot side yard setback requirement in order to add a two story addition to the existing house.

VARIANCE REQUIREMENTS

City Ordinance Requirements: In order for the applicant to accomplish the aforementioned action, they must first meet the provisions of the Unified Development Code. Chapter 470 of the Unified Development Code outlines the requirements and actions that need to be taken in order to be granted a variance, specifically Section 470.060.

PREVIOUS ACTIONS ON OR NEAR THE PROPERTY

1. On August 9, 2004, 704 Lakeshore Circle received a variance to encroach 3.8 feet into the east side yard setback in order to build a third car garage.
2. On August 11, 2003, 701 W. Maple Street received a variance to encroach on the thirty (30) foot front yard setback for a garage addition.

STAFF COMMENTS

1. The established side yard setback for Lakeshore Place subdivision is ten (10) feet.
2. The proposed two story addition is for the expansion of the master bathroom and underlying first floor living area.

3. A similar encroachment of approximately four (4) feet was allowed for the home at 704 Lakeshore Circle. This requested encroachment is for two (2) feet which would not significantly affect the neighbor.
4. A concurring vote of four (4) members of the Board shall be necessary to decide in favor of the applicant.

STAFF PROPOSED FINDINGS OF FACT

Section 470.060 of the Unified Development Code directs the Board of Adjustment concerning their actions in dealing with a variance request. Specifically, Section 470.060(E) directs the Board of Adjustment to make determinations on eight specific conditions and the findings entered into the public record. The eight conditions and Staff's recommendation concerning each condition are as follows:

1. **The variance requested arises from such condition which is unique to the property in question and which is not ordinarily found in the same zone or district; and is not created by an action or actions of the property owner and applicant or their agent, employee or contractor.**

The need for the variance does not arise from a unique condition to the property, however the lot is considerably less deep than other lots on this street. This lot has a depth of only 111 feet of which 50 feet are required setbacks in the front and rear. The next smallest lot has a depth of 160 feet.

2. **The strict application of the provisions of the Unified Development Code of which the variance is requested will constitute an unnecessary hardship or practical difficulty upon the property owner represented in the application and that such unnecessary hardships or practical difficulties are not generally applicable to other property in the same district.**

An unnecessary hardship arises when the physical characteristics of a property, coupled with imposed governmental regulations, preclude a property owner from any reasonable use of their land.

While the applicant does not have an unnecessary hardship in regards to the property, due to the current house layout and depth of the lot, reconfiguring the addition is not feasible or practical. Likewise, a similar variance was approved for another house on this street previously.

3. **The granting of the permit for the variance will not adversely affect the rights of adjacent property owners or residents.**

The granting of the variance will not adversely affect the rights of adjacent property owners. The neighbor to which the addition encroaches two feet

received notice of the variance application and has not contacted the department. It is staff's opinion that two foot encroachment is minimal due to the angle of the side property line.

- 4. The granting of the variance will not result in advantages or special privileges to the applicant or property owner that this code denies to other land, structures or uses in the same district.**

The granting of the variance will not result in advantages over other property owners as other property owners in the area have been granted similar variances to the side yard setback.

- 5. Whether the requested variance is the minimum variance necessary to provide relief.**

The requested variance would allow the applicant to construct a two story addition to the house. The minimum encroachment is limited to two (2) feet.

- 6. The variance desired will not adversely affect the public health, safety, morals, order, convenience, prosperity, or general welfare.**

Setback requirements are in place to provide adequate separation between homes for the purposes of health and safety. The variance allows the applicant to move closer to the side property line, but does not encroach more than the side yard setback required for other subdivisions set at seven and one-half (7.5) feet.

- 7. The granting of the variance desired will not be opposed to the relevant purposes and intents of this Unified Development Code.**

Relevant purposes and intents of the UDC include the promotion of health, safety, and general welfare and the protection of property values through the regulation of density and mass of structures.

The construction of the addition will not adversely affect the character of the neighborhood or the adjacent properties. The granting of the requested variance will not be opposed to said purposes and intents of the UDC.

- 8. The variance will result in substantial justice being done, considering both the public benefits intended to be secured by this code and the individual hardships or practical difficulties that will be suffered if the variance request is denied.**

As stated above, the requested variance is not contradictory to the purpose and intent of the Code, and will not adversely affect the public health, safety or

welfare. Thus, granting the variance would be a just application of the Code.

Staff finds that the existing setback requirements create an undue practical difficulty to the applicant. Granting the variance is necessary to relieve the applicant of substantial hardship or difficulty.

STAFF RECOMMENDATION

City staff supports the applicant's request for a two (2) foot variance to the ten (10) foot side yard setback requirement, establishing a new side yard setback requirement of eight (8) feet.

Staff recommends the Board of Adjustment accept the staff proposed findings of fact and approve case #20027 as requested.