

To: Board of Adjustment
From: Katie Jardieu, City Planner
Date: May 18, 2021
Re: Case #21013 - South Town Storage Setback Variance

GENERAL INFORMATION

**Applicant/
Property Owner:** Bill Breit
4832 SW Leafwing Dr
Lee's Summit, MO 64082

Requested Action: Granting a variance to the ten-foot (10') building line on the west side of the property.

Property Location: Bush Industrial Park - Lot 3



Site Photograph(s):



View looking south at the property

Existing Zoning: M-1 Light Industrial Commercial District

Existing Surrounding Uses:

| | |
|---------------|-------------------------|
| North: | Industrial & Commercial |
| South: | Industrial |
| East: | Industrial & Commercial |
| West: | Industrial |

Total Tract Size: 4.5 acres

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

Major Street Plan: The Major Thoroughfare Plan has E Walnut Street classified as a major arterial street.

Advertisement: April 24, 2021 Journal Newspaper

Public Hearing: May 18, 2021 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 to eliminate the ten foot (10') building setback line on the west side of the property. The variance would allow the property owner to construct a wall along the western property line.

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 April 6, 2021, the Planning and Zoning Commission approved a two-phase site plan for South Town Storage.
2. In May 2018, Brightside Daycare received Planning and Zoning Commission approval for a site plan.
3. A variance was granted to the property to the South, also owned by Mr. Breit, for outside vehicle storage in April 2019. The variance allowed the lot to be subdivided if the owner chose to by reducing the lot width requirement from 100 feet down to 20 feet.

STAFF COMMENTS

1. The property is currently owned by the applicant with the intention to use it as a covered storage facility for recreational vehicles. The applicant currently owns the storage facility to the east.
2. The lot is bounded on the west side by additional mini-storage units and vehicle storage.

3. Notices of the variance request were mailed to eight (8) property owners that live within 185 feet of the subject property. No comments have been received.
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.**

While this particular lot is not unique in size or shape, it is unique in that it is a lot surrounded by already developed lots, two of which are similar storage facilities. There is not another undeveloped lot surrounded by developed industrial in this area, making a unique situation for pursuing development.

- 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.

The requested variance would not constitute unnecessary hardship or practical difficulty, however previous variances have been granted for storage units. With the existing storage facility to the west, allowing the reduction in the setback on the subject property eliminates what would be a 10-foot wide area between fences and walls of units that would be very difficult to maintain and would create a security issue for the facility.

- 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 lot to the west, where the wall would abutt the property, is also a storage facility and a case could be made that the wall will help alleviate a small grass strip that is unlikely to be maintained or mowed, as well as further delineate the property.

- 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 does not allow special privileges to the applicant or property owner as the other properties are already developed.

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

The requested variance would allow the applicant to construct a wall along the property line. The remaining approved site plan will still meet all other setback requirements.

- 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 lots for the purposes of health and safety. However, in this case, the separation will likely become overgrown and has a potential to pose a code enforcement issue if not maintained.

While the applicant is requesting to reduce the required setback(s), the request is not deemed to adversely affect public health, safety, morals, order, convenience, prosperity, or general welfare.

- 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 elimination of a side setback will not adversely affect the character of the neighborhood or the adjacent properties as there is also storage on the west side. 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 fair application of the Code.

Staff finds that the existing setback requirements have the potential to create maintenance issues, as well as security issues. Granting the variance is necessary to relieve the applicant of substantial hardship or difficulty, and would allow a wall to be constructed further separating two storage facilities from one another.

STAFF RECOMMENDATION

City staff supports the applicant's request to eliminate the west setback requirement of ten (10') feet. The property in question is an undeveloped lot surrounded by developed storage facilities.

Staff recommends the Board of Adjustment accept the staff proposed findings of fact and approve Case #21013 as requested.

BOARD OF ADJUSTMENT ACTION - 5/18/2021

The Board of Adjustment, at its May 18, 2021 meeting, voted 5-0 to accept the staff proposed findings of fact and approved Case #21013 as requested.