



To: Board of Adjustment
From: City Staff
Date: October 19, 2021
Re: Case #21030: 415 S. Adams St. Side-Yard Setback and 8% lot coverage variance.

GENERAL INFORMATION

Applicant/Property Owner: Matt Meiron
415 S. Adams St. Raymore, MO 64083

Requested Action: Variance to reduce side-yard setback(s) along north property line and to exceed 8% allowance for accessory structures in all districts except "RE" and "RR".

Property Location: 415 S. Adams St.- Town of Raymore Lots 1 and 2 Blk 18

2021 Aerial Photograph:



Site Photographs:



View looking East



View looking East from S. Adams Dr.



View Looking North from W. Elm St.



View looking West from East property line



View looking South from North Property Line



Another View looking South from North Property Line

Existing Zoning: "R-1" Single Family and "OT" Original Town District

Existing Surrounding Uses: **North:** Residential
 South: Residential
 East: Residential
 West: Residential

Total Lot Size: 0.276 Acres

Growth Management Plan: The Future Land Use Plan Map contained in the Growth Management Plan identifies this area as appropriate for low density residential development.

Major Street Plan: The Major Thoroughfare Plan Map contained in the Growth Management Plan classifies S. Adams St, W. Elm St, and W. Plum St. as local roads

Advertisement: September 30, 2021 **Journal Newspaper**

Public Hearing: October 19, 2021 Board of Adjustment meeting

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

PROPOSAL

The applicant is requesting a variance to the Raymore Unified Development Code (UDC) *Section 420.050 Accessory Uses and Structures* to allow for the reduction of the minimum side-yard setback from five feet (5') to two feet (2'). The variance also exceeds the allowance for total gross area of all accessory structures in all districts except "RE" and "RR" shall not exceed 8% of the lot coverage. The lot size as mentioned above is 0.276 Acres which is 12,023 square feet. 8% would allow for 962 square feet for accessory structures. The existing accessory structure is 900 square feet and the applicant wants to construct an additional section measuring 10' x 29.8' or 298 square feet. With this requested variance 9.96% of the lot would be covered.

VARIANCE REQUIREMENTS AND STANDARDS

1. The following section of the Unified Development Code is applicable to this application:

Section 470.060 Zoning Variances

A. Authority and Applicability

The zoning variance procedures of this section authorize the Board of Adjustment to approve, in specific cases, variances from specific zoning standards of this Code that will not be contrary to public interest and where, owing to special conditions, a literal enforcement of zoning standards would result in unnecessary hardship. In approving variances where there are practical difficulties or unnecessary hardship, the Board may vary or modify the application of any provisions of such ordinance relating to construction or alteration of use of land if it determines the public safety and welfare will be secured and substantial justice will be done.

B. Prohibited Variances

The Board of Adjustment may grant variances from all requirements of this Code except:

1. Any provision in Chapter 435: Signs;
2. The requirements for public improvements contained within Chapter 445;
3. any provision in Chapter 460, Flood Protection; and
4. any provision in Chapter 455, Natural Resource Protection.

C. Applications

An application for a variance may be obtained from the Development Services Director. The application must be completed in its entirety in accordance with Section 470.010C and filed with the Development Services Director so that a public hearing date can be established in accordance with Section 470.010E.

D. Procedure

1. Board of Adjustment Public Hearing

All proposed variance applications must be submitted to the Board of Adjustment. The Board of Adjustment will hold a public hearing on the application in accordance with Section 470.010E. The public hearing must be held at the next regular meeting of the Board of Adjustment for which the application may be scheduled given public notice deadlines, unless the applicant has consented to an extension of this time period. The Development Services Director or other appointed official as designated by the Planning and Zoning Commission must prepare a written summary of the proceedings, and give notice of the hearing as provided in Section 470.010E.

2. Board of Adjustment Action

Upon conclusion of the public hearing, the Board of Adjustment must approve, approve with conditions or disapprove the requested variance. A concurring vote of at least four members of the Board of Adjustment is required to approve any variance request.

E. Findings of Fact

A request for a variance may be granted upon a finding of the Board that all of the following conditions have been met. The Board will make a determination on each condition, and the findings will be entered into the record.

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, applicant, or their agent, employee or contractor.

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.
3. The granting of the permit for the variance will not adversely affect the rights of adjacent property owners or residents.
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.
5. Whether the requested variance is the minimum variance necessary to provide relief.
6. The variance desired will not adversely affect the 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.
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.

A request for variance of use may be granted upon a finding of the Board that all of the following conditions have been met. The Board will make a determination on each condition, and the finding will be entered into the record.

- i. The strict application of the provisions of the Unified Development Code would constitute an unnecessary hardship upon the applicant or landowner.
- ii. Relief is necessary because of the unique character of the property.
- iii. The variance will not destroy the preservation of the Growth Management Plan.
- iv. Granting the variance will result in substantial justice for all.

F. Conditions of Approval

1. In making any decision varying or modifying any provisions of the Unified Development Code, the Board may impose such conditions, restrictions, terms, time limitations, landscaping, screening and other appropriate safeguards as needed to protect adjoining property.
2. The Board may require a performance bond to guarantee the installation of improvements such as parking lot surfacing, landscaping, etc. The amount of the bond will be based on a general estimate of cost for the improvements as determined by the Board and will be enforceable by, or payable to, the City Council in the sum equal to the cost of constructing the required improvements.

3. In lieu of the performance bond requirement, the Board may specify a time limit for the completion of such required improvements and in the event the improvements are not completed within the specified time, the Board may declare the granting of the application null and void after reconsideration.
4. Gutters must be installed to direct storm water in a manner that will not cause a nuisance to the property or to any adjoining property owners.
5. Height of the addition cannot exceed the primary structure height.

G. Appeal of Board's Decision

Any person or persons jointly or severally aggrieved by any decision of the Board, any neighborhood organization as defined in Section 32.105, RSMo. representing such person or persons, or any officer, department, board or bureau of the municipality may present to the Circuit Court of the County a petition, duly verified, setting forth that such decision is illegal, in whole or in part, specifying the grounds of the illegality. Such petition must be presented to the Court within 30 days after the filing of the decision in the office of the Board.

PREVIOUS ACTIONS ON OR NEAR THE PROPERTY

1. The house was built around 1937.
2. The detached garage was built in 2003.

STAFF COMMENTS

1. Notices of the request were mailed to 16 adjoining property owners. No objections or concerns were received. An email was received from Ronald and Deborah Reed in favor of the proposed project which reside at 107 W. Plum St.
2. If the application is denied the concrete patio that was constructed can remain to exist but the rest of the building materials will need to be removed.

BOARD OF ADJUSTMENT 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 requested variance does result from a condition that is unique to the property. Currently, the property in question does have a legal non-conforming accessory structure as it would not meet the City of Raymore's Unified Development Code. The East property line has an existing water line preventing it from being constructed. The south side has a fenced area for the applicant's animals to be housed. Finally, the west side is used for the parking of vehicles leaving the north side of the accessory structure the only possible location for expansion.

- 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. There does not appear to be a hardship that would necessitate a variance to be allowed.

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

Granting of the variance could adversely affect the rights of adjoining property owners as they would not be allowed to exceed the 8% coverage of their lots with accessory structures and would be held to a side and rear setback of five feet (5') unless approved by the Board of Adjustments.

- 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.**

Granting of the variance would not result in advantages or special privileges to the applicant. The requested setback reduction cannot be approved administratively as it exceeds the 10% allowance. The applicant's property does have a lower elevation than that of surrounding properties causing storm water to be directed toward the applicant's lot.

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

The requested variance is the minimum variance necessary to allow the property owner to provide relief from the existing setback standards.

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

The variance will not adversely affect the public health, safety, morals, order, convenience, prosperity or general welfare. The only property that could be affected by this proposed project is in favor of the project.

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 granting of the proposed 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.**

The requested variance is contrary to the purpose and intent of the Code but will not adversely affect the public health, safety or welfare. The requested setback reduction allows for some flexibility as Staff can only administratively allow for a 10% variance or six inches (6").

STAFF RECOMMENDATION

Staff fully supports the purposes and intents of the Unified Development Code. For this reason staff does not recommend approval for the requested variance.

Staff recommends that the Board of Adjustment accept the staff proposed findings of fact and deny Case #21030: 415 S. Adams St- Side-Yard Setback and 8% lot coverage allowance for accessory structures in all districts except "RE" and "RR" Variance.