



To: Board of Adjustment

From: City Staff

Date: November 16, 2021

Re: Case #21035: 513 Regina Ct. Rear-Yard Setback.

GENERAL INFORMATION

Applicant/ Allen and Mary Blanton
Property Owner: 513 Regina Ct. Raymore, MO 64083

Requested Action: Variance to reduce Rear-Yard setback in "R-2" Single and Two-Family Residential District

Property Location: 513 Regina Ct.- Remington Village 1st Plat Lot 4A

2021 Aerial Photograph:



Site Photographs:



View looking east from Regina Court



View looking West



View looking South



View Looking North



Neighbor to the South with unpermitted uncovered deck

Existing Zoning: "R-2" Single and Two-Family Residential District

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

Total Lot Size: 0.115 Acres

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

Major Street Plan: The Major Thoroughfare Plan Map contained in the Growth Management Plan classifies Regina Ct and Granada Dr as local roads, and N Foxridge Dr is classified as a Major collector Street.

Advertisement: October 28, 2021 **Journal Newspaper**

Public Hearing: November 16, 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 405.030 Bulk and Dimensional Standards Table* to allow for the reduction of the minimum rear-yard setback from thirty feet (30') to twenty-one feet (21'). The request is to add a 10x10 sunroom to the back yard which would encroach in the rear-yard setback by nine (9) feet.

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 current R-2 zoning designation of the property was established on May 26, 1998.
2. The duplex was constructed in 2003.
3. A fence permit was issued for the property in 2017.

STAFF COMMENTS

1. Notices of the request were mailed to 22 adjoining property owners. No objections or concerns were received.
2. The question was raised from the applicant about the neighbor at 511 Regina Ct. having an uncovered deck and how they are able to have an uncovered deck but they are not able to have a sunroom. Porches and decks open on at least 3 sides, with no roof or cover, projecting a distance not more than 30% of the required yard dimension, are allowed to encroach into the rear yard setback area. The applicant is requesting to fully enclose and roof the sunroom, so the addition does not meet the code allowance for encroachment into the setback area. The sunroom is considered a full extension of the house, which must fully comply with the required setbacks.
3. No other residence on Regina Court has a covered deck or addition to the home that encroaches into the required setback area such as the one being proposed by the applicant.
4. On August 10, 2021 Building Official Jon Woerner reviewed a permit application for a 10x10 sunroom and denied the application due to the setback requirements as set forth by the Unified Development Code (UDC). Upon request of the property owner he was advised of the process for requesting a variance.

STAFF PROPOSED FINDINGS OF FACTS

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 not result from a condition that is unique to the property. The property is similar in shape and size as all of the other non cul-de-sac lots in the neighborhood.

- 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 adjacent property owners would not be allowed to build a structure such as this without approval from 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 result in advantages or special privileges to the applicant as no other property on Regina Court has a covered structure nor would be allowed to build one unless approval of a

variance from the Board of Adjustments is received.

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. The applicant house is approximately one foot (1') from the rear setback line.

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

The requested variance does adversely affect the public. The setback requirements are established in order to ensure orderly and consistent development occurs on property. There are no unique features of the property that differentiate the property from adjacent or nearby property. Allowing a variance and an encroachment into the setback as a matter of convenience for the property owner will set a precedent and render the code provision unnecessary.

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 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 and is not recommended as the public will receive no benefit to the allowance of a setback encroachment into the setback area for this property.

STAFF RECOMMENDATION

The property is located within the Remington Village subdivision. The subdivision was designed for orderly development of two-family structures

upon lots consistent and similar in shape and size. Most of the two-family dwellings were constructed to the rear yard setback requirement. Open decks are allowed by the UDC to encroach into the rear yard setback areas. Enclosed and roof covered structures must comply with the rear yard setback requirement. There is nothing unique about the property that would necessitate the need for the City to waive the setback requirements in this instance and grant a variance. Granting a variance would render the code provision unnecessary.

Staff recommends that the Board of Adjustment accept the staff proposed findings of fact and deny Case #21035: 513 Regina Ct. Rear-Yard Setback variance request.