

Legislation Text

File #: ID 21-0474, **Version:** 1

Gary Newman Variance Request - Side Yard Setback - 2021 Olwien Street

Summary:

Gary Newman has made a request for a variance on the West Eight (8') Feet of Lot Eight (8) and the East Sixty-Two (62') of Lot 9, Block 2 of East Acres Addition, also known as 2021 Olwien Street. The request is for a three-foot setback for an accessory structure. The required setback for an accessory structure is five-feet.

An existing detached garage was built on the lot in 1990. At the time, only three feet was required for a side or rear yard setback for detached accessory structures. The applicant has already begun building the proposed shed with the currently finished portion lining up with the garage along the side setback. The applicant is seeking a three-foot side yard setback to keep the shed lined up with the garage.

Findings of Fact:

(1) Due to special conditions, a literal enforcement of the provisions of the ordinance will result in unnecessary hardship, and the variance shall not violate the spirit of the ordinance and substantial justice may be achieved as a result of variance.

Finding: Enforcing the provisions of the chapter will not result in an unnecessary hardship. Encroaching into the required side yard setback violates the spirit of the ordinance by crowding the property line.

However, justice could be achieved by the result of the variance if it allows the shed to match the existing garage's setback, which was legally built with a three-foot side yard setback at the time.

(2) Unique circumstances apply to the property which do not apply to other properties in the same vicinity or district.

Finding: The property is not unique in a way that would impact side or rear yard setback standards. All other properties in the vicinity and district must abide by the same standards.

(3) The variance is necessary for the preservation of a property right that is substantially the same as that possessed by owners of other property in the same district.

Finding: The same rule applies to other property owners in the district. The property owner can build a shed on the property, however, five-foot setbacks now apply as opposed to three-feet which applied at the time of the existing detached garage.

(4) The variance requested is the minimum variance which would alleviate the hardship.

Finding: Since the shed is currently being built to a three-foot setback, this would be the minimum variance needed to alleviate a perceived hardship.

(5) Reasonable use of the property is not permitted under the terms of this chapter.

Finding: Reasonable use of the property is permitted.

Recommendation:

Staff recommends approval.

Attachments:

Notice

Application

Aerial Map

Site Plan