

STAFF REPORT

Meeting Date: April 20, 2021

Report Date: March 17, 2021

Subject: Request for variance from the required front ~~and rear~~ yard setback as allowed in the Bonner Springs Zoning Regulations.

File Number: BZA-147-21

GENERAL INFORMATION

Applicant: Phillip and Jessie Blackwell

Address: 241 Allcutt Avenue
Bonner Springs KS 66012

STAFF ANALYSIS

Site Characteristics

Location: 241 Allcutt Avenue
Area of Property: 7335.181 square feet; .168 acres
Zoning: R-1A; Residential Special District
Future Land Use Map: Low Density Residential

Adjacent Property:

	ZONING	USE
North:	R-1A	Residential Special District
South:	R-1A	Residential Special District
East:	R-1A	Residential Special District
West:	R-1A	Residential Special District



Narrative/Background-Garage rear yard setback

The property in question was platted in 1885 as part of the original town of Bonner Springs. Since this time it appears as though lots within the plat have been subdivided or split; staff could find no record of these replats or splits. The applicants request for a rear yard setback variance is caused by the subdivision of one or more adjoining lots.

As indicated in the above image, an adjoining lot located off of East Spring Avenue cuts into the northeast corner of the lot in question. This in turn is where the applicants’ problems arise; the applicant’s intent is to construct a rear porch on the home that will allow closer access to the detached garage. The applicant’s intent is to align the newly constructed garage with the current driveway. The ‘notch’ created by the parcel on Spring Avenue creates the need for the variance request.

In the homeowner’s statement provided to staff, they speak of an old cinder block garage they had removed due to structural instability and now they wish to replace it with a new structure. The new structure will be in approximately the same location. The request is to allow for approximately three (3) feet of the new garage to lie directly on or within close proximity to the

indicated property line at the portion taken for the adjacent lot. (See included survey) Current accessory building setback requirements are five (5’).

Conformance with the Zoning Ordinance

Article XXVI states: *When deemed necessary by the Board of Zoning Appeals, the Board may authorize in specific cases a variance from the specific terms of these regulations which will not be contrary to the public interest and where, owing to special conditions, a literal enforcement of the provisions of these regulations will, in an individual case, result in unnecessary hardship, and provided the spirit of these regulations shall be observed, public safety and welfare secured, and substantial justice done. Such variances shall not permit any use not permitted by the zoning regulations in such district. (Revised, Ordinance No. 1630)*

A variance may be granted in each case, upon finding by the board that all of the following conditions have been met:

- 1. That the variance requested arises from such condition which is unique to the property in question and which is not ordinarily found in the same zoning district; and is not created by an action or actions of the property owner or the applicant.**

The requested variance arises from the distinct shape of the lot and is unique to the property in question. During research conducted by staff, the original plat did not indicate lots fronting East Spring Avenue, sometime in the past one lot appears to have been carved out of existing lots, staff could not locate a plat or replat of the original. It is a lot facing Spring Avenue that created this unique lot layout.

- 2. The granting of the variance request will or will not adversely affect the rights of the adjacent property owners or residents.**

Granting the variance, in staffs’ opinion will not harm any of the surrounding homeowners or property owners. The applicants’ intent is to utilize the portion of the garage that lies upon the property line as part of a privacy fence they plan to install in the future. The setback encroachment, if approved will maintain the fire separation distances between structures allowed by the building code.

- 3. That the strict application of the provisions of the Zoning Ordinance of which variance is requested will constitute unnecessary hardship upon the property owner represented in the application.**

Staff finds that a hardship may result from the denial of this variance request. With the unique design of the lot in question, adherence to the regulations would force the garage structure to be constructed further behind the home making the existing driveway non-functional or closer to the home making the garage door difficult to access. The requested encroachment is minimal and allows for fire separation between properties.

- 4. That the variance desired will not adversely affect the public health, safety, morals, order, convenience, prosperity, the general welfare or the harmonious development of the city.**

Granting the variance will not adversely affect the health, safety, morals or general welfare of the public in any way. The location of the property is an older area of Bonner Springs that was initially platted as fifty (50’) foot wide lots, leaving little space for improvements. The requested

variance should have little to no impact on the public health, safety, morals, convenience, prosperity, the general welfare or the harmonious development of the city.

5. That granting of the variance desired will not be opposed to the general spirit and intent of the Zoning Ordinance.

Granting the variance for the requested rear yard setback should not be opposed to the general spirit of the Zoning Ordinance. The Zoning Ordinance requires open space between houses, these open spaces allow not only for separation of dwellings for privacy reasons but also allows for emergency personnel access if needed. The majority of the proposed garage maintains the required setback.

In the event that this variance is granted the intent of the Zoning Ordinance shall not be affected.

Conformance with the Future Land Development Plan:

The Future Development Plan identifies this area as “Low Density Residential”. This property is typical of other lots in the area and is in conformance with the density shown on the Future Development Plan.

Traffic Impact:

The proposed variance request will have no impact on the current street network.

Drainage Impact:

The proposed variance request will have no impact on drainage.

STAFF RECOMMENDATION-GARAGE REAR YARD VARIANCE

Staff recommends the requested variance for a rear yard setback encroachment be allowed. The encroachment into the rear yard setback shall be as indicated upon the submitted and included plot plan.

This in turn would reduce the rear yard setback to zero (0') feet for approximately three (3') feet of the northeast corner of the garage.

BOARD OPTIONS

- 1. Approve the variance request, with or without conditions/changes.**
- 2. Deny the variance request**
- 3. Continue the Public Hearing to another date, date, time, and/or place**