

Date of Meeting: March 3, 2016
Subject: Variance to allow a reduced front yard building setback for a carport
Project Name: 518 S Stallard St
Location: 518 S Stallard St

BACKGROUND

The applicant contracted to have a carport constructed at the subject property. The builder did not obtain a building permit prior to construction. The carport is now complete and is 19'9" by 16'4", about 320 sq. ft. in size. Such construction does require a building permit and is subject to the accessory building setback requirements. In the RSS, Residential Small-lot Single-family, district the required front setback for an accessory structure is 20 feet, however, the carport is located about 14'3" from the front property line. The request is to approve the 5'9" encroachment. Otherwise, the structure must be either relocated to comply with the setbacks or removed.

CODE APPLICATION

Sec. 23-97. - General structures and uses within residential districts.

- (b) Permitted accessory structures. Permitted accessory structures include, but are not necessarily limited to, the following:
 - (1) Yard accoutrements such as statuary, trellises, flagpoles, children's play facilities, dog houses, outdoor clothes lines, fences, and walls.
 - (2) Detached garages, **carports**, and storage buildings, provided that any storage of any equipment or materials is clearly in keeping with the principal use of the property.
- (d) Bulk standards. Accessory buildings and structures other than signs are subject to the following yard, lot coverage, and height regulations:
 - (1) ***Front yard. The minimum front yard requirement of the individual districts shall apply to all accessory buildings and structures unless otherwise indicated. Only fences and walls are permitted within the front yard, unless otherwise indicated.***
 - (2) Side yard. Side yards shall be a minimum of three feet.
 - (3) Rear yard. The minimum setback of three feet shall be provided for structures other than fences and walls.

Sec. 23-137. - RSS Small Lot Single-Family Residential District. Modified

- (d) Bulk regulations. Bulk regulation requirements in the RSS districts are as follows:
 - (1) The maximum structure height as measured from the finished floor elevation of the first floor to the highest point of the roof: 35 feet.
 - (2) Setbacks. The following are the minimum required setbacks:
 - a. **Minimum front yard:**
 - 1. **20 feet from all property boundaries abutting a right-of-way or road/access easement.**
 - 2. 10 feet from all property boundaries abutting an alley.

DISCUSSION/ANALYSIS/FINDINGS

City Code Section 23.23. Variances.

A variance from the terms, standards and criteria that pertain to an allowed use category within a zoning district as authorized by Chapter 23, Article 7 may be granted, in whole, in part, or upon reasonable conditions as provided in this Article, only upon a finding by the board of adjustment that:

- (1) The application of the ordinance to the particular piece of property would create an unnecessary hardship;

Staff cannot identify an unnecessary hardship related to the request. The property has reasonable economic use without the carport as a single-family house exists on the property. However, providing covered parking on the property is not possible without approval of the variance, as the house does not have a garage and there is not sufficient space on the property to provide vehicular access to the rear yard. The provision of an accessory building is generally not considered to be a hardship, as the property may still be used for the principal (residential) use.

The carport location within the front yard setback is self-imposed. The house is set back about 40 feet from the front property line. If the carport had been located closer to the house, or attached to the house, no variance would be needed.

The carport already being constructed should not be a consideration for the approval. Any hardship from the need to remove the structure is self-imposed, as a building permit should have been obtained prior to construction.

- (2) Such conditions are peculiar to the particular piece of property involved;

The property is unusual from most properties in that there is no garage and not sufficient area to provide covered parking in the front yard or access the rear yard. However, two other properties in the vicinity have the same characteristics of no garage and no way to provide covered parking in the front or rear of the property. Those properties do not have carports. Staff would contend that the placement of the house on the property is not a peculiar condition of the property, as there is no feature of the property itself that caused the house location to interfere with the desire to provide the covered parking.

- (3) Relief, if granted, would not cause substantial detriment to the public good, or impair the purposes and intent of the ordinance or the Comprehensive Plan; and

Relief could cause detriment to the public good and impair the intent of the ordinance as the setback requirements are intended to create orderly development, prevent obstructions, and maintain a residential appearance in the residential districts. Stillwater specifically does not permit carports within the front yard setbacks. Although the subject carport may be attractive, being wooden custom stick-built, the code does not differentiate between a wooden carport and metal one.

- (4) The variance, if granted, would be the minimum necessary to alleviate the unnecessary hardship.

Staff cannot identify an unnecessary hardship.

MINIMUM RELIEF NECESSARY

The minimum relief necessary to allow the carport to remain would be to approve the request to allow an encroachment of 5'9" into the front yard setback.

RECOMMENDATION

After reviewing the four (4) criteria as indicated above, staff finds that the applicant has met no items. Staff would recommend that the Board further review all items to determine, if in the Board's opinion, the information provided in the report and by way of testimony, allows the Board to make findings in the applicant(s) favor and grant the request.

Prepared by: Tom Coots, Planner I
Date of Preparation: February 26, 2016
Attachments: Area Map, Letter of Request, Variance Application, Site Plan
Map Designation: NE