

Date of Meeting: September 1, 2016
Subject: Kappa Delta Sorority
Project Name: Variance to allow reduced front yard setbacks for an accessory structure
Location: 220 S Cleveland St

BACKGROUND

The applicant recently commenced construction of an open roof style arbor structure at the sorority house. The structure is large enough that a building permit was required for the construction, however, no building permit application was submitted. The work was discovered by an inspector, who issued a Stop Work Order. The roof structure of the arbor was removed leaving only the patio and columns in order to not be considered a structure.

The applicant would like to reattach the roof structure to the arbor. However, the arbor is located less than a foot from the front property line on 3rd Ave. The applicant seeks a variance to permit the accessory structure to be located within the front yard setback.

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. 23-140. - RMI (Multi-Family Intermediate) District.

- (d) Bulk regulations. Bulk regulation requirements in the RMI district 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: 50 feet.
 - (2) Setbacks. The following are the minimum required setbacks in the RMI district:
 - 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;

The property has reasonable economic use with or without the arbor. The hardship appears to be self-imposed, as the arbor could be located further to the north outside the setback, although this would require the removal of an existing garden and sidewalk.

The arbor is located on the south side of the building, being exposed to sunlight for longer periods of time. Exposure to sunlight is likely not a hardship, as the property has a patio on the east side which would be shaded during the hottest part of the day. Additionally, a shade tree was removed from the yard to make room for the patio and arbor.

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

Staff cannot identify any conditions peculiar to the property itself. The property is flat, square, and similarly sized to adjacent properties. However, most properties in the area are very developed, with little available property to add accessory structures. No properties in the vicinity have constructed accessory structures in the front yard setbacks.

- (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

The arbor would need to be modified so the eaves do not project into the right-of-way of 3rd Ave at a minimum. The placement of the arbor does not cause a sight distance issue at the intersection. Relief could impair the intent of the ordinance, as the intent of the front yard setback applying to accessory structures is to promote orderly development, prevent obstructions, and maintain separation from the streets.

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

The relief is the minimum necessary for the arbor to be located where the applicant would like it to be located. However, no evidence has been presented to explain why any distance less than the proposed encroachment is not the minimum relief necessary. The arbor could be modified to be less wide or located further to the north.

MINIMUM RELIEF NECESSARY

The applicant seeks to locate the arbor less than a foot from the property line. No survey of the property has been provided to verify the setback distance. The Board may wish to table the request until the information can be provided.

RECOMMENDATION

After reviewing the four (4) criteria as indicated above, staff finds that the applicant has met no criteria. Staff would recommend that the Board further review items 1 through 4 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: August 26, 2016
Attachments: Area Map, Site Plan, Letter of Request
Map Designation: NW