



Report to:  
**Stillwater  
Board of  
Adjustment** PZ-17-2229

**ISSUED BY THE DEVELOPMENT SERVICES DEPARTMENT STILLWATER,  
OKLAHOMA**

**Date of Meeting:** October 5, 2017  
**Subject:** Outer Banks, LLC  
**Project Name:** Variance  
**Location:** 1005 S Duncan Street

### **BACKGROUND**

The property contains two structures, a single family home and a garage with an apartment above, both were built approximately 1940, prior to zoning districts and bulk standards. The garage structure is in disrepair with the roof collapsing. The house was occupied until the end of 2016 or early 2017.

The RT, Residential Two-Family, district is the duplex district which allows two attached dwelling units on an individual lot, however individual detached dwelling units are not allowed in the RT district unless the property is subdivided to create a separate lot for each dwelling unit. The requested RTM district allows detached single-family structures with a specific use permit (SUP). At their meeting on September 18, 2017, the City Council approved a request to change the zoning from RT to RTM, Residential Two-Family and Multi-Family. The applicant plans to demolish the existing non-conforming structures and build two detached dwelling units on the same footprint as the existing structures.

The code requires the five foot side yard setback due to the required 10 foot separation of structures. If the structures are closer than 10 feet, the applicant will have to install firewall protection. Currently the house on the subject property and the adjacent house to the south are separated by 4 feet.

The northwest corner of the main dwelling unit extends slightly into the right-of-way. To build on the same footprint, a right-of-way agreement between the applicant and the City of Stillwater must be approved through the City Council.

The applicant is requesting a variance to reduce the front, side and rear setback requirements as follows:

- Front setback from 20 feet to 0 feet
- South side setback from 5 feet to 2.9 feet
- North side setback from 8 feet to 1.4 feet
- Rear setback from 20 feet to 12 feet

### **CODE APPLICATION**

#### **Sec. 23-243. - Changes to nonconformities.**

- (a) *Enlargement.* Except as specifically provided in this chapter, no person may engage in any activity that causes an increase in the extent of any existing nonconformity. In particular, it

shall be unlawful to increase nonconformity with respect to density restrictions, dimensional requirements such as setbacks, and other requirements such as parking.

- (b) *Repair and alteration.* Minor repairs and routine maintenance of property where legally nonconforming situations exist are permitted and encouraged. A legally nonconforming structure may be maintained, repaired or remodeled, provided that such alteration complies with the bulk standards of the applicable district.
- (c) ***Damage or destruction.*** In the event that any legally nonconforming structure is damaged or destroyed by any means to the extent of more than 50 percent of its current assessed value, such structure shall not be restored unless it shall thereafter conform to all regulations in the district in which it is located. When a structure is damaged to the extent of 50 percent or less of its current assessed value, the structure may be restored provided that such restoration is actually begun within one year after the date of such damage, is diligently pursued to completion, and any portion of the structure greater than the portion damaged or destroyed complies with the bulk standards of the applicable district.
- (d) *Restoration.* Whenever the legally nonconforming use of any structure is halted because of the damage, destruction or demolition of the structure by an act of nature or by fire, the structure involved may be reconstructed or repaired in conformance with the regulations set forth herein and the legally nonconforming use resumed, provided that such nonconforming use is not extended beyond the scope and area of its operation as it existed prior to such damage, destruction or demolition. The nonconforming use shall resume within one year of the date of damage, destruction or demolition to the structure in which the use existed.
- (e) *Moving.* A legally nonconforming structure shall not be moved in whole or in part for any distance to any other location on the same or any other lot unless every portion of said structure is made to conform to all regulations of the district in which it is located after being so moved.
- (f) *Change in use.* A legally nonconforming use may be changed as permitted by right in the same district, except as may be limited by the applicable building codes.

**Sec. 23-139. - RTM Two-Family and Multi-Family District.**

- (a) *Permitted uses.* The following uses are permitted in the RTM Two-Family and Multi-Family District:
  - (1) Boarding house/rooming house.
  - (2) Churches and religious institutions.
  - (3) Multiple-family with a maximum gross density of 20 units per acre.
  - (4) Townhome.
  - (5) Two-family (duplex).
- (b) *Specific use permit.* The following uses are permitted by specific use permit in the RTM district:
  - (1) Child and adult care services.
  - (2) Conventional single family.
  - (3) Educational institutions.
  - (4) Health care and social assistance.
- (c) *Lot size requirements.* The lot size requirements in the RTM district are as follows:
  - (1) Minimum lot area: 20,000 square feet.
  - (2) Minimum lot width: 100 feet.
  - (3) Minimum lot depth: 130 feet.
- (d) *Bulk regulations.* Bulk regulation requirements in the RTM 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: 35 feet.
  - (2) **Setbacks.** The following are the minimum required setbacks in the RTM 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.**
  - b. **Minimum side yard:**
    1. **Residential structures: Five feet.**
    2. **All other uses: 15 feet.**
  - c. **Minimum rear yard: 20 feet.**
- (3) Maximum lot coverage: 40 percent.
- (e) **Exceptions. The following are the exceptions in the RTM district.**
- (1) **For all structures, the minimum side yard for this district shall be increased an additional three feet for each adjacent story above the first story.**

### **CRITERIA FOR APPROVAL**

The Board of Adjustment must find that each of the following four criteria have been met based on evidence and testimony received from the applicant and during the public hearing. Such approval may be granted in whole, in part, or with reasonable modifications and conditions.

- (1) The application of the ordinance to the particular piece of property would create an unnecessary hardship;
- (2) Such conditions are peculiar to the particular piece of property involved;
- (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
- (4) The variance, if granted, would be the minimum necessary to alleviate the unnecessary hardship.

### **ALTERNATIVES**

The Board of Adjustment has the following alternatives of action:

1. Find that each of the criteria for approval of the request is met. The Board will explain how each criteria is met in order to approve the variance(s).
2. Find that each of the criteria for approval of the request is met by imposing modifications or conditions to ensure that the criteria are met. The Board will explain how the criteria is met to grant partial, conditional, or modified approval of the variance(s).
3. Find that one or more of the criteria for approval of the request are not met and deny the request.
4. Table the discussion to a certain date to allow for additional information to be presented.

**Prepared by:** Patty Evans, Planner II  
**Date of Preparation:** September 22, 2017  
**Attachments:** Area Zoning Map, Survey, Applicant's Variance Responses  
**Map Designation:** SW