



Staff Report

Meeting Date: June 20, 2019

Planner: Karl Onsager, Planner I

APPLICATION SUMMARY:

Case Number: VAR19-0006

Application Type: Variance

Location: 5521 S. Nevada St.
(west side of S. Nevada St., between W. Powers Ave. and W. Berry Ave.)

Applicant: Tyler Hardy

Owner: Tyler Hardy

Zone District: R-5 Residential Multiple-Family District

Applicant Request: Three related variances: 1) a variance to requirements for the maximum number of principal structures to allow two single-family detached principal structures on a single lot of record; 2) a variance to the rear yard setback requirement from 20 feet to eight feet; and 3) a variance to the south side yard setback requirement from ten feet to four feet. In the event the three requests are denied, a variance to the driveway requirement for an accessory detached garage from 20 feet to 8 feet.

PROCESS:

Section 10-11-1(B) of the Littleton City Code (LCC) gives the Board of Adjustment (BOA) authority to grant variances where “due to exceptional and extraordinary circumstances, literal enforcement of the provisions of this Title will result in unnecessary hardship.” No variance can be approved unless the Board finds that all of the criteria stated in LCC section 10-11-1(B) have been met.

LOCATION:

The site is located at 5521 S. Nevada St. in the original Littleton Subdivision, see the aerial map on the following page.

5521 S. Nevada St. Aerial Map**BACKGROUND:**

The applicant requests three related variances in order remove an existing garage and allow a new “carriage house” building on the property. A carriage house is a small house (complete with kitchen, sanitation, and living space) on top of a detached garage. There are approximately a dozen carriage houses located in the downtown area which were built prior to adoption of zoning codes for Littleton. These existing carriage houses are considered “legal nonconforming structures” because the LCC does not allow more than one single-family house on each lot.

In order to plan and build a carriage house on his property, the applicant requires approval of variances to the following provisions of the LCC: 1) subsection 10-4-1(B)1 requiring no more than one single-family principal structure per lot; 2) subsection 10-2-12(C)4.(b) requiring a rear setback of 20 feet; and 3) subsection 10-2-12(C)4.(c) requiring a south side setback of ten feet.

These three variance requests are interrelated to place the building the applicant wants where he wants it to be. The variance requests should be reviewed as a group and staff would not recommend granting one independently of the others. The variance requests are reflected on Exhibit A to the resolution.

In the event of denial of the three variance requests, the applicant would like to proceed with constructing a detached garage without an additional dwelling unit. The detached garage without the dwelling unit would be an accessory structure and subject to the accessory structure setback of 10 feet. However, LCC subsection 10-4-4(C)4 requires detached garages to be at least 20 feet from an alley when the garage door faces the alley in order to provide a driveway to the garage, which may have been intended to provide additional parking and / or provide easier turning movements. Additional staff analysis has been included when consideration for the driveway reduction differs from the garage with dwelling unit analysis. The request for the reduction in driveway requirement for the detached garage without the dwelling unit is reflected on Exhibit B to the resolution.

APPLICATION DETAILS:

The applicant seeks to replace the deteriorating garage in the rear yard with a carriage house and requests approval of a variance to allow two single-family structures on the lot (the existing house and the carriage house). In order to place the carriage house in a “traditional” location for carriage houses, the applicant requests approval of two variances to reduce the rear setback from 20 feet to eight feet and reduce the south side setback from ten feet to four feet. The applicant included the following reasoning for the variance requests in his application:

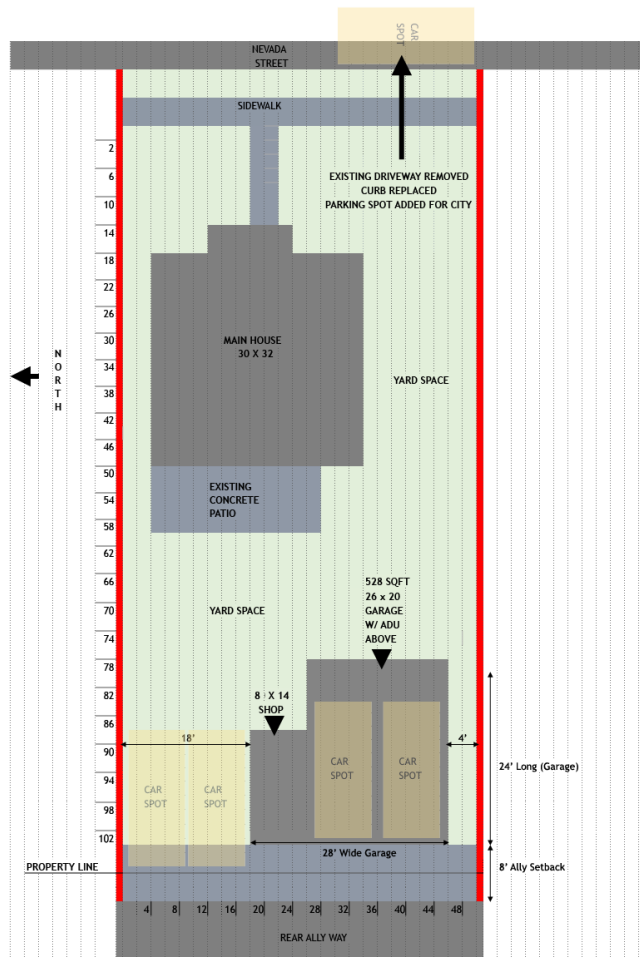
- **ADU Zoning**
 - Accessory Dwelling Unit code in the City of Littleton is not only antiquated but holding back the city from beneficial development that their neighboring cities are currently participating in.
 - Current code in combination with density initiatives promotes the removal of single-family homes in the City of Littleton, which is a common complaint amongst residents who feel the character of the neighborhood is deteriorating rapidly.
 - Contextually, my proposed plan differs in no way from a duplex or triplex that developers have built and are building, beyond the fact that it is two structures rather than one. If a hallway connected these structures no discussion would be required.
 - ADU's add considerable increase to property values and are a phenomenal vehicle for residents to leverage equity to produce income streams while increasing density and keeping single family home and community character.
- **Setback Requirements**
 - My lot does not meet minimum lot size requirements for R-5 zoning
 - **Square Footage**
 - Minimum: 6,000sqft
 - Actual: 4,876sqft
 - **Minimum Lot Width**
 - Minimum: 60ft

- Actual: 46ft
- **Open Space**
 - Minimum: 25% of lot
 - Actual:
 - Open Space Today: **28%**
- **Parking**
 - Minimum: 2 spots per dwelling
 - Actual: 1 in practice
- Of the 10 properties located within one block of me with garage access from the street of ally way, only 3 conform to a 20' setback (two of which are high end new build duplex's without backyards).

○ 5501 S Nevada St.	SFH	Street Access	8.5 ft
○ 5500 S Curtice St.	SFH	Street Access	8.5 ft
○ 5510 S Curtice St.	SFH	Alley Access	20 ft *
○ 5530 S Curtice St.	Duplex	Alley Access	20 ft **
○ 5512 S Nevada St.	Duplex	Alley Access	20 ft **
○ 5540 S Curtice St.	SFH	Alley Access	5 ft
○ 5570 S Curtice St.	SFH	Alley Access	15 ft
○ 5590 S Curtice St.	SFH	Alley Access	10 ft
○ 5611 S Nevada St.	Slot Home	Alley Access	10 ft
○ 5631 S Nevada St.	Slot Home	Alley Access	10 ft

 - * **only 1 car garage**
 - ** **no back yard**

5521 S. Nevada St. Proposed Site Plan



The following images show renderings of proposed garage with the second story dwelling unit.

View from the north-west



View from the north



View from the west/alley

**CRITERIA & STAFF ANALYSIS:**

The following is an assessment of the application under the criteria for approval contained in LCC section 10-11-1(B):

- 1. That the variance will not authorize the operation of a use other than those uses specifically listed as primary permitted uses for the zone district in which the affected property is located.**

Applicant Response: No. Property will remain a residential use.

Staff Analysis:

Single-family detached uses are allowed in the zoning district, and the applicant is not planning any additional uses which are not permitted in the district. In staff's opinion, the proposed variances are consistent with this criterion.

- 2. That the variance will not alter the essential character of the neighborhood or zone in which the property is located or substantially or permanently impair the allowed use or development of adjacent property.**

Applicant Response: No. The purpose of the project is to retain the character of the property. Contextually, my proposed plan differs in no way from a duplex or triplex that developers have built and are building, beyond the fact that it is two structures rather than one. If a hallway connected these structures no discussion would be required.

Staff Analysis:

Staff appreciates the applicant's motives and reasoning for the proposed variances, however, the proposed variance would be better addressed as a citywide code change rather than on a lot-by-lot basis through the variance process. Although there may be several existing carriage houses in the older parts of Littleton, the question of whether two houses can be allowed on a single lot has potential wide-ranging effects on the character of the city and all its neighborhoods. In staff's opinion, carriage houses may be appropriate in the downtown area or other areas of the city, but there is nothing to indicate that this particular lot has a special circumstance which would warrant such variances.

The proposed variances to the setbacks are directly related to the additional house on the property. Granting a variance to the setback rules to accommodate a second house on the property could also alter the character of the neighborhood. Principal structures are allowed a height of 30 feet in the R-5 zone where a detached garage is limited to 18 feet. The higher structure may warrant a greater rear setback to maintain consistency with the surrounding character. In staff's opinion, the proposed variances are not consistent with this criterion.

Alternative garage analysis: There are other detached garages that are closer to the alley than 20 feet. Therefore, a reduction in driveway requirement would not undermine the surrounding character. Further, the maximum height for a detached garage without the dwelling unit is 18 feet; therefore, reducing the driveway requirement would not have the same impact on character as reducing the rear setback for a potential 30 foot high building. The setback for an accessory structure from the alley is 10 feet, therefore a reduction in driveway requirement 10 feet may be more appropriate. In staff's opinion, the proposed alternative variance is consistent with this criterion.

- 3. That the variance is the minimum that will afford relief and is the least possible modification to the provision in question.**

Applicant Response: Setbacks put garage into house, no yard/privacy. Request to allow residents in two structures. Alternative solution is cost-prohibitive tear down of SFH into duplex. A setback variance allows for a yard and privacy. The ADU itself is allowed, requesting ability to provide living for new residents.

Staff Analysis:

From the site plan provided, it may be possible for the applicant to add on to the existing house to make two units without need for any variances. If the object is to have two houses on this property, then it is staff's opinion that the proposed variances are not consistent with this criterion.

The modified site plan shown on this page illustrates how a similar sized addition may be possible. It should be noted that the proposed site configuration does not take into account structural modifications, consistency with downtown design standards, potential building and fire code requirements (for instance, fire rated party walls), or more complicated construction for moving doors, windows, etc. Regardless, staff's analysis indicates that attachment to the existing primary structure remains an option; therefore, it is questionable if a second single-family detached structure is the minimum that will afford relief.

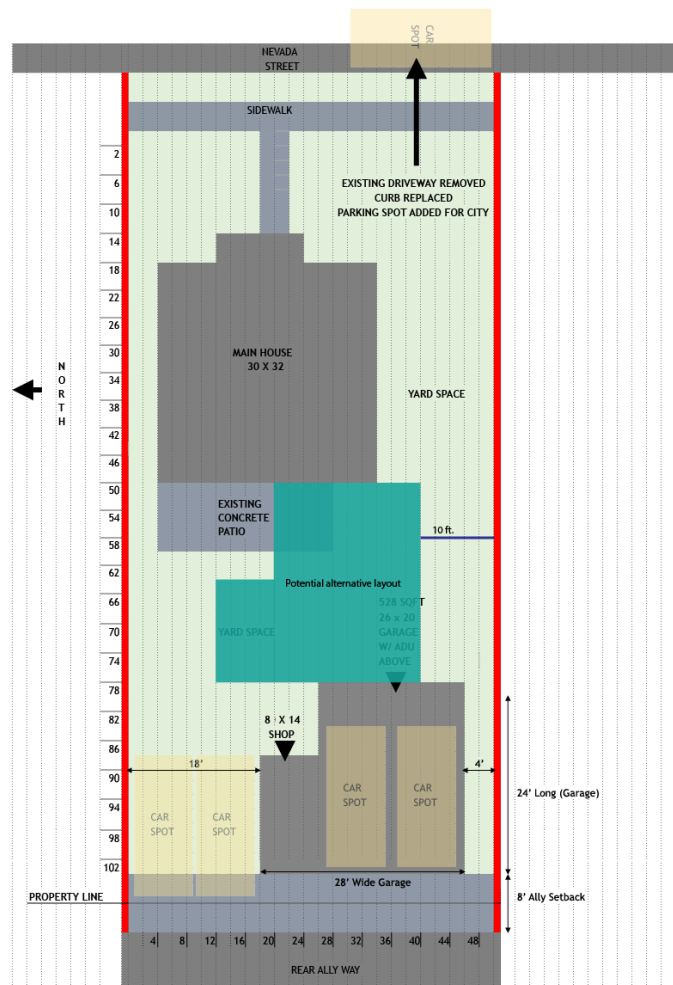
Alternative garage analysis: Applicant requests a reduction in the driveway requirement from 20 ft. to 8 ft. The reduction would have less impact on the lot. Additionally, the alley is estimated at 13 ft. wide, therefore, there appears to be adequate access to the garage with an 8 foot setback. The setback for an accessory structure from the alley is 10 feet, therefore a reduction in driveway requirement 10 feet may be more appropriate. Staff finds that some reduction in the driveway requirement is appropriate.

4. That the variance will not adversely affect the public health, safety and welfare.

Applicant Response: No.

Staff Analysis:

The addition of a dwelling unit to this individual property should not have adverse impacts to general health, safety, or welfare. In addition, if the board of adjustment grants the series of requested variances, building codes may reasonably assure the safety of the proposed carriage house and surrounding structures. In staff's opinion, the proposed variances are consistent with this criterion.



- 5. That the hardship, if any, under which the variance is sought, was not created by the owner, occupant or agent of the owner of the property in question; nor was it suffered as a result of a violation of any provision of this code.**

Applicant Response: No, the property was purchased and has remained unchanged since. The allowed high-density development next door has created new considerations that would previously not be required (privacy and ice-producing shade on drive).

Staff Analysis:

The applicant's desire to have two houses on a single lot and to place the carriage house in a "traditional" location for carriage houses is entirely created by the applicant and owner of the property. The property may reasonably be developed with the addition of a second dwelling unit as an addition to the existing home with no need for variances to the number of structures or setbacks. In staff's opinion, the proposed variances are not consistent with this criterion.

Alternative garage analysis: The applicant's lot was created and platted prior to the zoning code which set minimum lot sizes of 6,000 sq. ft. in the R-5 zone district. The lot size and configuration limits placement of the garage to meet the 20 ft. driveway requirement and was not created by the applicant. In staff's opinion, the proposed variances are consistent with this criterion.

PUBLIC NOTICE:

Notice of a public hearing was posted on the subject property and at city locations in advance of the BOA meeting in compliance with the city's public notice requirements.

STAFF RECOMMENDATION:

Although staff appreciates the applicant's goals, staff recommends denial of the proposed variances related to the detached garage with a dwelling unit reflected as Exhibit A to the resolution. Allowances for accessory dwelling units should be addressed through a code amendment for all citizens, not by variance for individual lot owners.

The proposed variance request for a reduction in the 20 foot driveway requirement for a detached accessory garage meets the requirements of LCC section 10-11-1(B). Staff further recommends the driveway requirement is reduced to 10 feet rather than eight feet as originally requested by the applicant to be consistent with the detached accessory structure setback from an alley. Staff, therefore, recommends approval of BOA Resolution 08-2019, approving the variance with Exhibit B.