



Littleton *Colorado* **Staff Report**

Meeting Date: September 16, 2021

Planner: Elizabeth Kay Marchetti, AICP

3 APPLICATION SUMMARY:

Case Number: VAR21-0008

Application Type: Variance

Location: 5566 S. Elmwood St.

Applicant: Mrs. Rita Sullivan

Owners: Mrs. Rita Sullivan and Mr. Thomas Sullivan

Zoning District: R-3 Residential Single-Family District

Applicant Request: A variance to the side lot setback and to the rear lot setback. It would result in an eleven (11) foot encroachment into the twenty (20) foot rear lot setback and a 5.61-foot encroachment into the ten (10) foot south side lot setback.

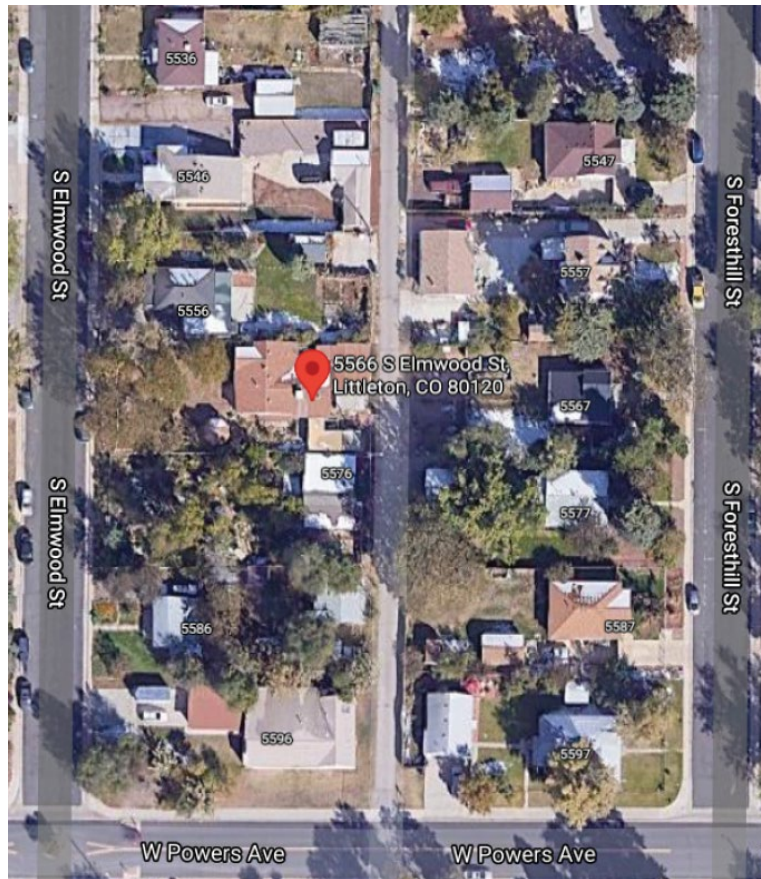
PROCESS:

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 criteria stated in LCC section 10-11-1(B) have been met.

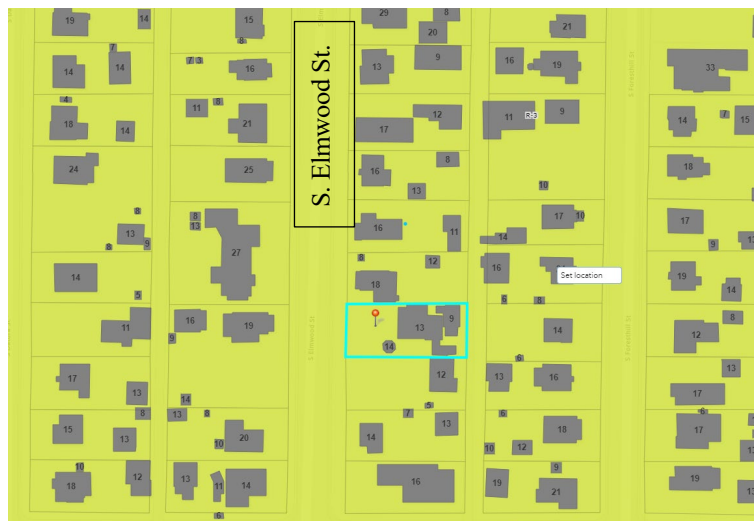
LOCATION:

The site is located at 5566 S. Elmwood St. in the Stark Brothers Woodlawn Addition subdivision, see the aerial and zone maps on the following page.

5566 S. Elmwood St. Aerial Map

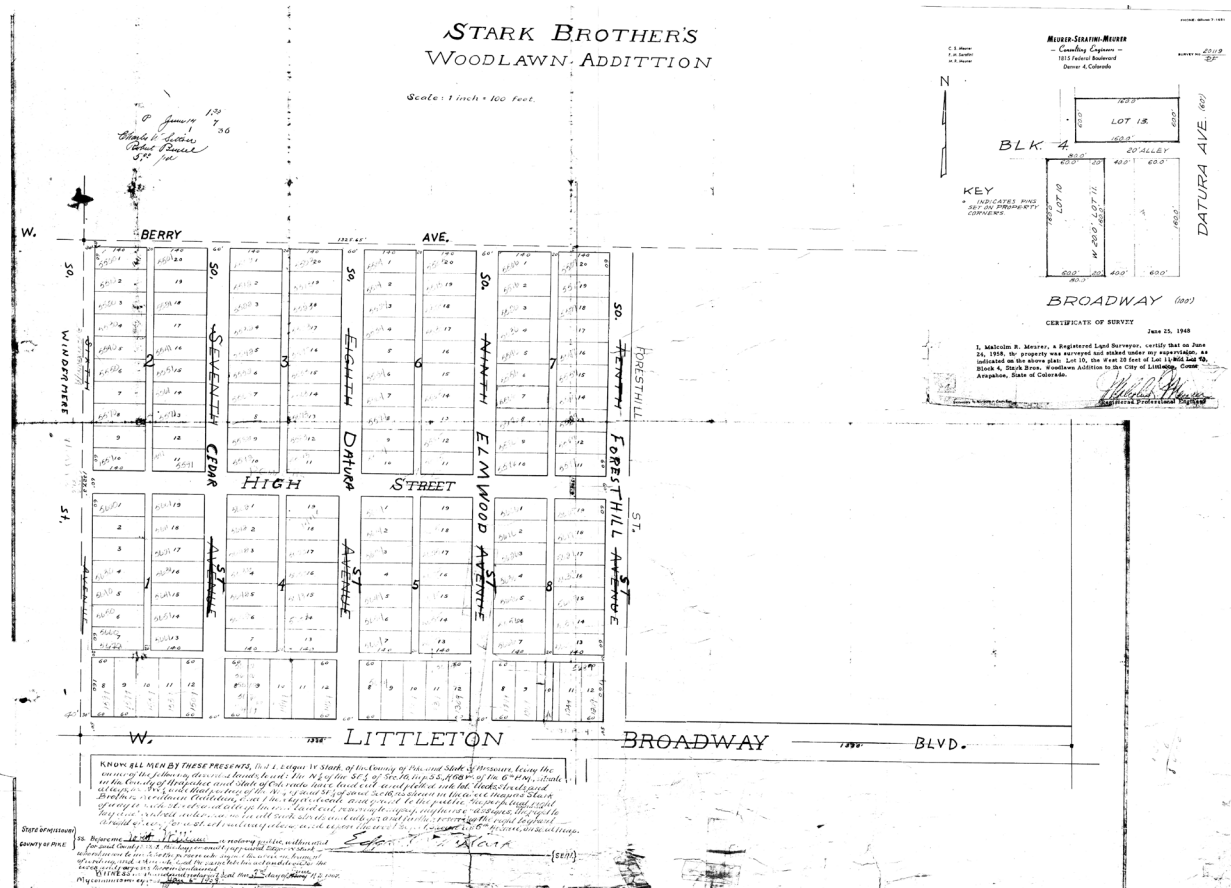


5566 S. Elmwood St. Zoning Map – R-3 Single Family Residential



BACKGROUND:

The applicant's lot was originally platted in 1907 as Lot 7 of Block 7 of the Stark Brother's Woodlawn Addition subdivision. The original lots were each 60 feet wide by 140 feet long and served by both streets and alleys. The subject property was zoned R-3 in 1960 with a 65-foot minimum lot width requirement; this is five foot wider than the lot.



The Arapahoe County Assessors records state that the one-bedroom, 1200 square foot, single family home was constructed in 1942, years before the R-3 zoning standards were put in place. The house, unlike most of the other homes on either side of South Elmwood Street, was set very far back from the front lot line. The current setback of the home is 67.9' and created an enormous front yard compared to nearly all other front yards.

The floorplan of the home established the living room and the bedroom at the west end of the house; the bedroom is entered through a door in the North wall of the living room. Heading east through the house is the dining room and to the left (North) of it is the galley kitchen. The one bathroom is located on the north wall of the home at the east end. The sewer line connects to the house from the alley. Gas meters and sprinkler systems are situated on the west wall of the building outside the living room.

When the applicant bought the home there was a gazebo in the front yard and a detached garage

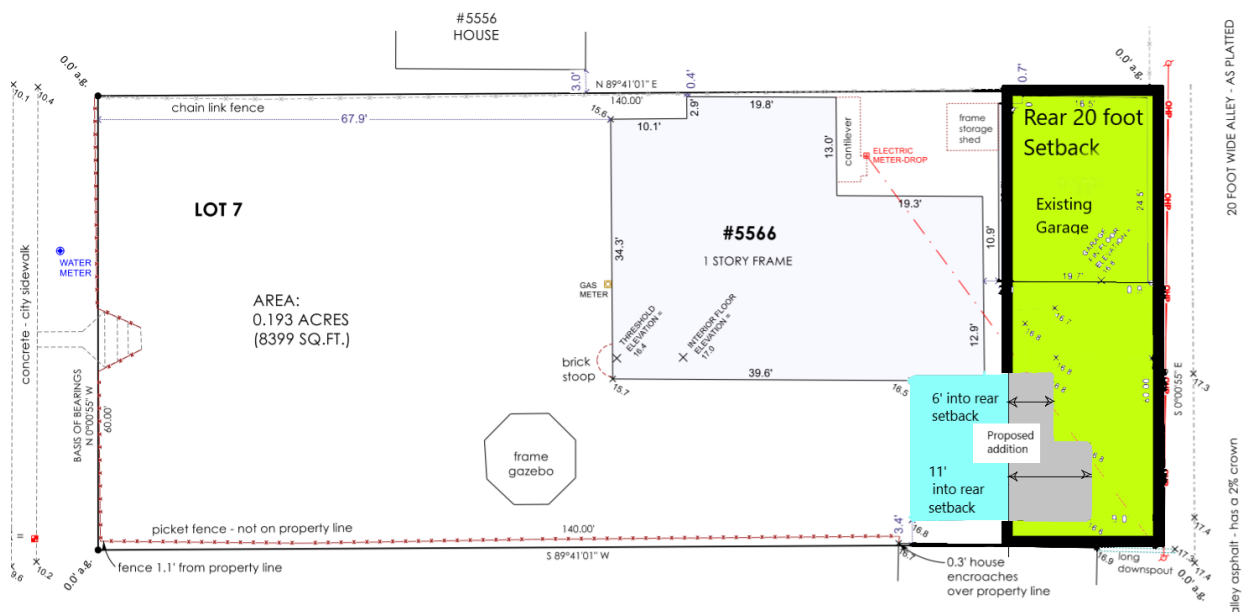
located at the rear lot line with access to the alley. These two structures are in areas that the City Code prohibits today. The applicant uses both structures and has no plans to demolish either of them.

When the applicant purchased the property there was also a 625 square foot, covered rear patio, which was in disrepair. The patio encroached into both the rear and side lot setbacks to nearly the same extent that the applicants are requesting a variance for today. The proposed building addition is only 383 square feet.

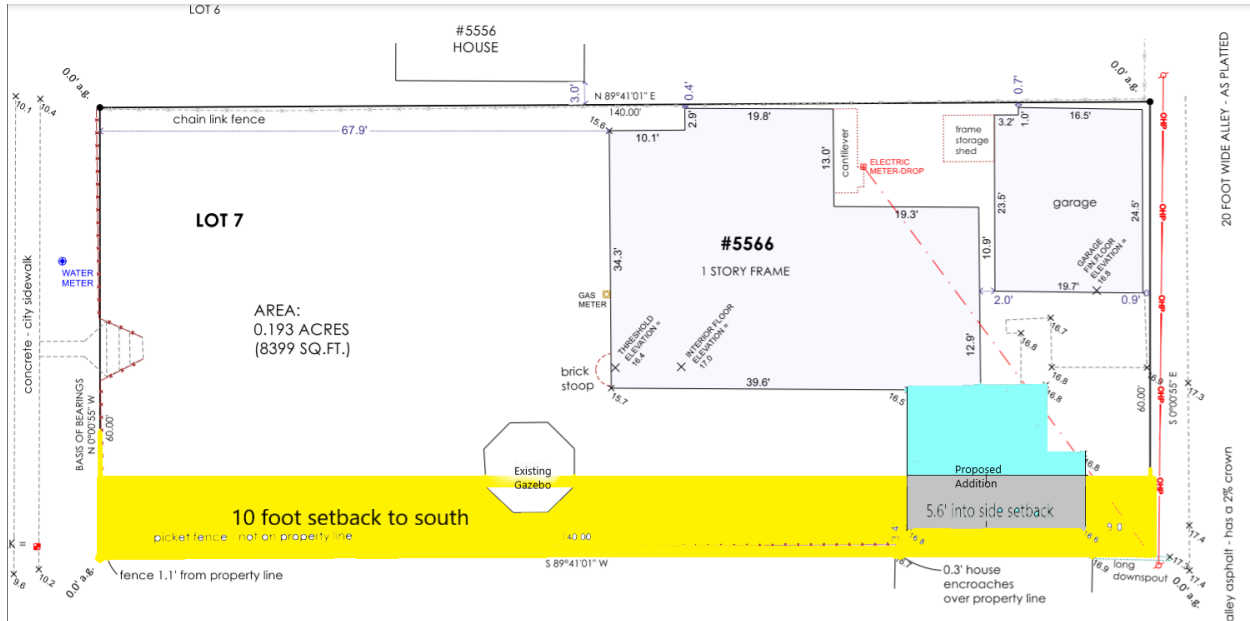
APPLICATION DETAILS:

The applicant requests a variance from the south side lot line and rear lot line setbacks to allow for the construction of second bedroom with a bathroom. The applicant engaged the services of an untrustworthy contractor who explained to them that he could proceed with building their on-bedroom and one bathroom addition without a building permit.

Part way through the construction effort the city became aware of the work and, after a site inspection by a city inspector, issued a stop work order. The applicants ceased all work and fired the contractor. Shortly thereafter the applicants applied for a variance. Below is an image of a recent survey showing the current footprint of the building addition in relation to the rear twenty (20)-foot setback.



Below is an image of the current footprint of the building addition in relation to the ten (10)-foot south side setback.



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.

Staff Analysis: The property has operated as a single-family home since 1942. If approved, the variance request would allow the construction of a second bedroom and bathroom and the house will remain a single-family home.

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.

Staff Analysis: The Stark Brother's Woodlawn Addition subdivision is one of the older in the city and was platted in 1907 with lot dimensions of 60 feet by 140 feet. This is five (5) feet narrower than is required by the current zoning code. Although the lot is approximately 1,900 square feet larger than the current code requires, the placement of the home and detached garage on the lot leaves a very small portion of the lot for a logical addition of a second bedroom.

It is unlikely that modern zoning and lot development standards were in place at the time of the home's construction. Evidence of the potential lack of consistent lot development standards can be seen in the variety of setbacks in the lots immediately to the north and south of this site, which homes were built in 1912 and 1936, respectively. (Refer to the zoning map on page 2.) The lack of consistent zoning and lot development standards resulted in a back yard approximately twenty (20) feet in depth, nearly half of which was taken up by a detached garage. The twenty-foot setback requirement means that the applicant isn't allowed to construct any accessory structure in her backyard.

Further, the survey of the site shows the home to the south encroaching into the applicant's lot by three tenths (.3') of a foot. Conditions like this, with old lots not conforming to current lot size or width standards, accessory structures existing partially or entirely in setbacks, and structures encroaching into adjacent lots is quite common in all the city's older neighborhoods. Variation and non-conformity is the standard in these neighborhoods that pre-date the city's 1960 zoning code.

The proposed variance to allow the building addition to encroach into the rear lot and side lot setbacks will not result in the addition encroaching into an adjacent lot. It will not substantially or permanently impair the allowed use or development of adjacent properties or alter the essential character of the neighborhood or the zone district.

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

Staff Analysis: A structural engineer provided an analysis to the applicant of a list of items that would require either reconstruction or fixing so that the building addition can meet city building code standards. The analysis did not state that the entire structure would need to be demolished and rebuilt. The applicant would like to avoid demolition and is looking forward to the reconstruction and city inspection effort; the applicant commits to meeting all city building code requirements.

While demolition, redesign, and reconstruction is an option, a variance to the rear and side lot setbacks is the minimum that will afford relief and is the least possible modification to the setback requirements.

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

Staff Analysis: The addition will meet all building code and fire safety requirements. The applicant commits to building "fire rated" walls, per the building code, for those walls that are closer than ten (10) feet to any nearby structure.

The land around the building addition will be graded to ensure storm water is safely conveyed on the lot and doesn't drain onto a neighboring lot.

The side lot and rear lot encroachments will not adversely affect the public health, safety, and welfare.

- 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.**

Staff Analysis: The original subdivision was created in 1907, the existing home was built in 1942, and the lot has remained in its configuration since that time. Littleton annexed this property and the surrounding neighborhood in 1957. The current zoning and R-3 designation was adopted in 1960, eighteen years after the home was built.

The hardship due to the lot size, the extreme setback of the home on the lot, and detached garage placement were not created by the owner or agent of the owner. The hardship due to the 1940s-era floorplan of the home was not created by the owner or an agent of the owner. The hardship is not suffered as a result of a violation of the code because the subdivision and building of the one-bedroom home predates the modern zoning code.

PUBLIC NOTICE:

Notice of a public hearing was posted on the site and mailed via postcard to properties within 200 feet of the subject property in advance of the BOA meeting in compliance with the city's public notice requirements and variance operating standards.

STAFF RECOMMENDATION:

Staff finds the proposed variance request to allow a rear lot setback encroachment of eleven (11) feet and a south side lot setback encroachment of 5.61 feet meets the requirements of LCC section 10-11-1(B). Staff, therefore, recommends approval of the draft BOA Resolution 03-202.