



## Legislation Details (With Text)

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**On agenda:** 9/16/2021  
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**Title:** BoA Resolution 03-2021: Approving a variance for side lot and rear lot setbacks for property located at 5566 South Elmwood Street, Littleton, CO 80120

**Sponsors:**

**Indexes:**

**Code sections:**

**Attachments:** 1. 1. BoA Resolution No. 03-2021, 2. 2. Application, 3. 3. Staff Report, 4. 4. Presentation\_BoA Res. 03-2021

Date	Ver.	Action By	Action	Result
9/16/2021	1	Board of Adjustment		

Agenda Date: 9/16/2021

**Subject:**

BoA Resolution 03-2021: Approving a variance for side lot and rear lot setbacks for property located at 5566 South Elmwood Street, Littleton, CO 80120

Prepared by: Elizabeth Kay Marchetti, Senior Planner

### PURPOSE:

This item is before the board of adjustment because the applicant is requesting an 11-foot variance from required 20-foot rear lot setback and a 5.61-foot variance from the required 10-foot south side lot setback at 5566 S Elmwood Street, Littleton, CO 80120

### PRESENTATIONS:

**Staff Presenter:** Elizabeth Kay Marchetti, AICP  
**Additional Presenter:** Thomas E. Sullivan, property owner

### SUMMARY:

The applicant hired a contractor for the purpose of constructing an addition to her one-bedroom home. The 383 square foot addition would create a second bedroom and bathroom and would replace the 621.5 square foot covered patio that stood in its place for years. The covered patio was in disrepair and encroached into the side lot and rear lot setbacks.

The contractor began work without a building permit and when the city was made aware of this, the city issued a stop work order. The addition was largely built out and the applicant fired the contractor.

The applicant then sought out the professional opinion of a structural engineer to analyze a variety of issues with the building addition. According to the engineer, the structure does not require complete demolition,

although there is a lengthy list of needed fixes.

The applicant has stopped all work while pursuing this variance request and has committed to all future work happening under a building permit and complying with the city's building code and all fire safety codes.

The hardship was not created by the owner or an owner's agent. The hardship was created by:

1. the original subdivision which produced a narrower lot than is the current R-3 standard; and
2. the sixty-seven and nine tenths foot (67.9') setback of the home on the lot which created a twenty (20) foot deep backyard; and
3. the combination of a 1940s-era floorplan of the one-bedroom home and the fact that the sewer system connects to the alley, makes a livable bedroom and bathroom addition impractical anywhere other than the current location; and
4. the current code which requires a twenty (20) foot rear lot and ten (10) foot side lot setback, which results in almost no useable space for a reasonable addition to the home.

### **PRIOR ACTIONS OR DISCUSSIONS:**

12/10/20: City issued a "stop work" order on the construction of the building addition, which was happening without a building permit.

2/25/21: Applicant attended pre-application meeting to discuss variance application.

6/11/21: Applicant submitted application for variance allowing rear lot and side lot setback encroachments.

### **ANALYSIS:**

#### Staff Analysis

In staff's opinion, the applicant's variance request:

- Does not allow uses other than those permitted in the R-3 zone district; and
- Does not alter the character of the essential character of neighborhood or zone district and does not substantially or permanently impair the allowed use or development of adjacent property; and
- The requested variance is the minimum that will afford relief and is the least possible modification to the setback requirements; and
- The variance will not adversely affect the public health, safety, and welfare; and
- The hardship was not created by the owner, occupant, or agent of the owner; nor was the hardship suffered as a result of a violation of any provision of this Code.

Approval of the applicant's variance request helps maintain the neighborhood character by allowing the owner to adapt the home to contemporary living patterns. Allowing adaptation of existing, older homes preserves the neighborhood's aesthetic and dis-incentives the demolition of older homes and the building of new, bigger homes.

#### Council Goal, Objective, and/or Guiding Principle

N/A

#### Fiscal Impacts

N/A

#### Alternatives

The Board could deny the resolution and the applicant would need to deconstruct the building addition. The applicant could then do one of three things:

1. She could attempt to redesign the building addition, though it is not clear that space exists within the required setbacks for a second bedroom and bathroom. If a redesign is feasible, she could then apply for a building permit and construct the redesigned addition; or
2. The applicant may conclude that a redesign isn't feasible given the allowed space and she would need to apply for a building permit to remove addition and return the structure to its original condition.
3. The applicant could decide to demolish the 1942 home and build a new, bigger home in its place.

**STAFF RECOMMENDATION:**

Based on staff's analysis, it appears the proposed variance complies with the approval criteria in Littleton City Code section 10-11-1(B) as detailed in the staff report. Therefore, staff recommends approval of BoA Resolution 03-2021

**PROPOSED MOTION:**

I move to approve BoA Resolution 03-2021 approving a variance for side lot and rear lot setbacks for property located at 5566 South Elmwood Street, Littleton, CO 80120.

**REFERENCES:**

*City Code Section 10-11: Board of Adjustment -*

<https://online.encodeplus.com/regs/littleton-co-cc/doc-viewer.aspx#secid-2278>  
<<https://online.encodeplus.com/regs/littleton-co-cc/doc-viewer.aspx>>

*City Code Section 10-2-8: R-3 Residential Single-Family District -*

<https://online.encodeplus.com/regs/littleton-co-cc/doc-viewer.aspx#secid-2138>  
<<https://online.encodeplus.com/regs/littleton-co-cc/doc-viewer.aspx>>