



WASHOE COUNTY

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STAFF REPORT

BOARD MEETING DATE: November 17, 2020

DATE: October 28, 2020

TO: Board of County Commissioners

FROM: Roger Pelham, MPA, Senior Planner, Planning and Building Division,
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THROUGH: Mojra Hauenstein, Architect, AICP Planner, LEED AP, Director of
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SUBJECT: Public Hearing: Appeal of the denial, by the Washoe County Board of Adjustment of Variance Case Number WPVAR20-0004 (Merritt Rear Yard Setback Reduction) which sought approval of a variance to allow the reduction of the required rear yard setback from 20 feet to 9 feet, 9 inches, to facilitate the construction of a new detached garage on a parcel of land with an existing single-family residence. This constitutes a reduction of 10 feet, 3 inches.

The proposed project is located at 2152 Tanager Court, at the northern terminus of Tanager Court, approximately 400 feet north of its intersection with Wagtail Drive.

The Board may affirm, reverse, or modify the decision of the Board of Adjustment. In doing so, the Board may directly grant all or part of the variance request. (Commission District 4.)

SUMMARY

The appellants, Jamey and Jennifer Merritt applied for a variance to allow the reduction of the required rear yard setback from 20 feet to 9 feet, 9 inches, to facilitate the construction of a new detached garage. The proposed variance application was denied by the Board of Adjustment (BOA). The appellants are appealing the BOA's decision and asking the Board of County Commissioners to approve the appeal and overturn the BOA's decision to deny the variance request.

Washoe County Strategic Objective supported by this item: Stewardship of our Community

PREVIOUS ACTION

On October 1, 2020, the Washoe County Board of Adjustment (BOA) held a duly-noticed public hearing on Variance Case Number WPVAR20-0004 (Merritt Rear Yard

AGENDA ITEM # _____

Setback Reduction). The BOA denied that request, being unable to make the findings that:

1. Special Circumstances. Because of the special circumstances applicable to the property, including exceptional narrowness, shallowness or shape of the specific piece of property; exceptional topographic conditions; extraordinary and exceptional situation or condition of the property and/or location of surroundings; the strict application of the regulation results in exceptional and undue hardships upon the owner of the property;
2. No Detriment. The relief will not create a substantial detriment to the public good, substantially impair affected natural resources or impair the intent and purpose of the Development Code or applicable policies under which the variance is granted;

BACKGROUND

The applicant is appealing the decision, made by the Washoe County Board of Adjustment on October 1, 2020, which denied the requested variance for reduction of a rear-yard setback. The minutes of that meeting are included as an attachment to this report.

It is important to recognize that Nevada Revised Statutes (NRS 278.300) requires that variances be granted only under particular circumstances. The applicant has the responsibility to demonstrate that the subject property exhibits one or more of the following characteristics to demonstrate a hardship: 1) exceptional narrowness, shallowness, or shape of a specific piece of property; or 2) by reason of exceptional topographic conditions; or 3) other extraordinary and exceptional situation or condition of the piece of property. If such a finding of fact **can** first be made, then the Board must also show that the strict application of the regulation would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardships upon, the owner of the property.

The Board of Adjustment found that this parcel of land does not demonstrate such circumstances.

The Board of Adjustment found that the parcel of land is larger, wider and deeper than the minimum requirements for the Medium Density Suburban (MDS) regulatory zone. The subject property has a common shape, and it is essentially flat.

Staff offered the applicant possible design changes that would not require a variance. Options include:

- 1) Reducing the depth of the garage by approximately 10 feet, or
- 2) Relocating the garage approximately 10 feet further south (while maintaining the required internal setbacks between buildings in accordance with Building and Fire code), or
- 3) Relocating the garage further to the northwest on the subject site, or
- 4) Reducing the height of the proposed structure to 12 feet at the mid-point of the roof.

Each of these four options would allow the construction of a garage within the requirements of the development code, without the need for a variance.

Should approval be granted by the Board, conditions of approval are provided that require appropriate plans and documentation be provided to all relevant County agencies. Compliance with all generally-applicable code provisions would be required.

The proposed project was presented by the applicant's representative at the regularly scheduled Spanish Springs Citizen Advisory Board (CAB) meeting on September 2, 2020. The CAB unanimously recommended approval of the request. The CAB expressed that the wide drainage facility to the rear of the subject site is a unique circumstance applicable to this property. It is the opinion of staff that the drainage facility, as it is not located on the subject site, does not create a unique hardship.

FISCAL IMPACT

No fiscal impact.

POSSIBLE OPTIONS

Planning staff is bringing forward the decision of the Board of Adjustment to the Board of County Commissioners. The decision of the Board of Adjustment is the denial of Variance Case Number WPVAR20-0004 (Merritt Rear Yard Setback Reduction), being unable to make the required findings of fact (#1 and #2, as shown on page 2 of this report).

POSSIBLE MOTIONS

Should the Board agree with the decision of the BOA on Variance Case Number WPVAR20-0004 (Merritt Rear Yard Setback Reduction) a possible motion would be:

“Move that, after giving reasoned consideration to the information contained in the staff report and information received during the public hearing, the Board of County Commissioners affirm the decision of the Board of Adjustment, and deny Variance Case Number WPVAR20-0004 (Merritt Rear Yard Setback Reduction) for Jamey and Jennifer Merritt, being unable to make all five findings in accordance with Washoe County Code Section 110.804.25, including:

1. Special Circumstances. Because of the special circumstances applicable to the property, including exceptional narrowness, shallowness or shape of the specific piece of property; exceptional topographic conditions; extraordinary and exceptional situation or condition of the property and/or location of surroundings; the strict application of the regulation results in exceptional and undue hardships upon the owner of the property;
2. No Detriment. The relief will not create a substantial detriment to the public good, substantially impair affected natural resources or impair the intent and purpose of the Development Code or applicable policies under which the variance is granted;
3. No Special Privileges. The granting of the variance will not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and the identical regulatory zone in which the property is situated;
4. Use Authorized. The variance will not authorize a use or activity which is not otherwise expressly authorized by the regulation governing the parcel of property;

5. Effect on a Military Installation. Issuance of the permit will not have a detrimental effect on the location, purpose or mission of the military installation.”

Should the Board disagree with the decision of the BOA on Variance Case Number WPVAR20-0004 (Merritt Rear Yard Setback Reduction) for Jamey and Jennifer Merritt a possible motion would be:

“Move that, after giving reasoned consideration to the information contained in the staff report and information received during the public hearing, the Board of County Commissioners reverse the decision of the Board of Adjustment, and approve Variance Case Number WPVAR20-0004 (Merritt Rear Yard Setback Reduction) for Jamey and Jennifer Merritt, with conditions included at Attachment D to the staff report, being able to make all five findings in accordance with Washoe County Code Section 110.804.25, including:

(please indicate the special circumstances applicable to the property)

1. Special Circumstances. Because of the special circumstances applicable to the property, including exceptional narrowness, shallowness or shape of the specific piece of property; exceptional topographic conditions; extraordinary and exceptional situation or condition of the property and/or location of surroundings; the strict application of the regulation results in exceptional and undue hardships upon the owner of the property;
2. No Detriment. The relief will not create a substantial detriment to the public good, substantially impair affected natural resources or impair the intent and purpose of the Development Code or applicable policies under which the variance is granted;
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Attachments:

A: BOA Action Order for WPVAR20-0004

B: BOA Staff Report for WPVAR20-0004

C: BOA [draft] minutes of 10/1/2020

D: Possible Conditions of Approval for WPVAR20-0004

E: Appeal Application

cc:

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