



Legislation Details (With Text)

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On agenda: 10/30/2017 **Final action:**

Title: Hold a public hearing and consider approval of a variance from Denton Development Code Section 35.5.2.3, General Regulations, relating to the minimum front and side yard setbacks on approximately 0.18 acre. The variance requested is for the construction of a solar panel support structure which would encroach into the minimum 20-foot front yard setback and minimum 6-foot side yard setback. The subject property is generally located on the north side of Hummingbird Lane, approximately 540 feet west of Cardinal Drive. (ZBA17-0002, Solar Panel Support Structure, Julie Wyatt).

Sponsors: City Council

Indexes:

Code sections:

Attachments: 1. Exhibit 1 - Site Location Map, 2. Exhibit 2 - Zoning Map, 3. Exhibit 3 - Project Narrative, 4. Exhibit 4 - Notification Map

Date	Ver.	Action By	Action	Result
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Planning Report

ZBA17-0002 / Solar Panel Support Structure

City Council District 2

Zoning Board of Adjustment

October 30, 2017

REQUEST:

Hold a public hearing and consider approval of a variance from Denton Development Code Section 35.5.2.3, General Regulations, relating to the minimum front and side yard setbacks on approximately 0.18 acre. The variance requested is for the construction of a solar panel support structure which would encroach into the minimum 20-foot front yard setback and minimum 6-foot side yard setback. The subject property is generally located on the north side of Hummingbird Lane, approximately 540 feet west of Cardinal Drive. (ZBA17-0002, Solar Panel Support Structure, Julie Wyatt).

OWNER AND APPLICANT:

Sharon and Bill Barnhill

BACKGROUND:

The applicant is requesting a variance from the minimum front and side yard setbacks in order to construct an addition to an existing single-family dwelling. The subject property is zoned Neighborhood Residential 4 (NR-4) District, which per Section 35.5.2.3 of the Denton Development Code (DDC), requires a minimum 20-foot front yard setback and a minimum 6-foot side yard setback. The proposed addition is intended to support solar panels for use by the dwelling unit.

The existing single-family dwelling is constructed with a front-entry garage and is set back 26.2 feet from the

front property line and 7.3 feet from the side property line. The proposed solar panel structure would be constructed over the existing driveway, extending 25 feet in front of the dwelling unit, encroaching approximately 18.8 feet into the 20-foot front setback. It would also extend approximately 7 feet to the side, encroaching into the 6-foot minimum setback. According to the applicant's narrative, due to existing tree canopy coverage, the proposed location for the addition is necessary to provide adequate sunlight for the solar panels to be most effective.

In order to construct the solar panel support structure, the applicant is requesting a variance from Subchapter 5 of the DDC, specifically Section 35.5.2.3, as it relates to the minimum front yard and side yard setbacks. The variance request is to encroach approximately 18.8 feet into the 20-foot front yard setback and almost 6 feet into the 6-foot side yard setback.

SITE DATA:

The approximately 0.18 acre site is located at 3329 Hummingbird Lane, 540 feet west of Cardinal Drive. It is developed with an existing single-family dwelling and several accessory structures. The back and side yards are shaded with trees. The subject property is situated in an established neighborhood of single-family homes with front-entry garages.

CONSIDERATIONS:

1. The applicant is proposing to construct a structure to support solar panels which would extend approximately 25 feet in front, and 7 feet to the side, of an existing single-family dwelling. The solar panel support structure would encroach into the front and side yard setbacks; thus requiring a variance from DDC Section 35.5.2.3. However, it should be noted that the International Residential Code (IRC) prohibits construction of a structure within two feet of any property line. Thus, if the variance request is approved, the structure must be set back a minimum of two feet from either the front or side property line.
2. Section 35.3.6.B.2 of the DDC states that the Board of Adjustment can grant a variance from the minimum front yard setback where literal enforcement of the regulations will result in an unnecessary hardship and where the variance is necessary to develop a specific parcel of land, which because of site's shape, size or topography differs from other parcels in the same district, and that it cannot be developed in a manner commensurate with the development allowed for the other parcels. A variance shall not be granted to relieve a self-created or personal hardship or to relieve a purely financial hardship. In granting any variance, the board may designate conditions, which, in its opinion, will secure substantially the purpose and intent of the Development Code. A variance shall only be granted upon a finding that:
 - a) *Special circumstances or conditions apply to the parcel for which the variance is sought, which circumstances or conditions are peculiar to such parcel and do not apply generally to other parcels in the same district or neighborhood and that said circumstances or conditions are such that the strict application of the provisions of this ordinance would deprive the applicant of the reasonable use of such parcel;*

The subject property is situated within an established neighborhood with a traditional suburban character which conforms to NR-4 District. The lot's size, shape, and required setbacks are similar to surrounding lots. Although the site includes trees which shade a large portion of the lot, this is not a unique feature of the property, as residential lots within established neighborhoods often have mature trees which shade the house and lawn. Therefore, the subject property does not have special circumstances or conditions that do not apply generally to other

parcels in the neighborhood.

While the installation of solar panels can be valuable improvements to residential properties for both the individual homeowner and the environment, the inability to install solar panels in an optimal location does not deprive the homeowner from the reasonable use of his or her home.

- b) The granting of the variance will not be detrimental to the public welfare or injurious to other property or improvements in the district or neighborhood in which the parcel is located;*

The proposed variance to encroach into the front and side yard setbacks could affect nearby properties. The intent of minimum yard setbacks is to create visually uniform neighborhoods with clearly defined front and side yards. If approved, the solar panel support structure would extend outward from the existing structure, disrupting the continuity of the street and reducing the uniform character of the established neighborhood. Furthermore, the encroachment into the side yard could create visual and drainage impacts for the adjacent property owner by placing a large structure near the shared property line.

- c) The granting of the variance is necessary for the reasonable use of the parcel and that the variance granted is the minimum variance that will accomplish this purpose; and*

Since the primary single-family residential structure complies with the minimum yard setbacks, the granting of the variance to encroach into the setback is not necessary for the reasonable use of the property.

- d) The literal enforcement and strict application of the provisions of this ordinance will result in an unnecessary hardship inconsistent with the general provisions and intent of this ordinance and that in granting such variance the spirit of the ordinance will be preserved and substantial justice done.*

The proposed encroachment is not required in order to occupy the existing single-family residential structure. Therefore, enforcement of the 20-foot front yard and 6-foot side yard setbacks does not pose an unnecessary hardship.

STAFF RECOMMENDATION:

Staff recommends denial of the variance request to encroach into the front and side yard setbacks as it does not meet the criteria for approval in DDC Section 35.3.6.B.2.

OPTIONS:

1. Approval as submitted.
2. Approval subject to conditions.
3. Deny.
4. Postpone consideration.
4. Table item.

PUBLIC NOTIFICATION:

To comply with the public hearing notice requirements, 35 notices were sent to property owners within 200 feet of the subject property, 109 courtesy notices were sent to physical addresses within 500 feet of the subject property, a notice was published in the Denton Record Chronicle, and signs were placed on the property.

PROJECT TIMELINE:

Application Received:	August 8, 2017
1st Submittal Sent to DRC Members:	August 11, 2017
Comments Released to Applicant:	August 25, 2017
Business Days under DRC Review:	11
Business Days out to Applicant:	0
Total Business Days:	11

EXHIBITS:

- Site Location Map
- Zoning Map
- Project Narrative
- Notification Map

Respectfully submitted:
Ron Menguita, AICP
Long Range Planning Administrator

Prepared by:
Julie Wyatt
Senior Planner