

GENERAL INFORMATION

Applicant:	Dorpinghaus Construction Inc
Location:	8120 Colfax Ave S
Request:	A variance to reduce the side yard setback from 10 feet to 9.6 feet for an existing home and an addition.
Existing Land Use and Zoning:	Single Family; zoned Single-Family Residential (R-1)
Surrounding Land Use and Zoning:	North, South, East, West – Residential; zoned Single-Family Residential (R-1)
Comprehensive Plan Designation:	Low Density Residential

CHRONOLOGY

Hearing Examiner	12/04/2024	Public Hearing
City Council	12/18/2023	Consent Agenda

DEADLINE FOR AGENCY ACTION

Application Date:	11/08/2023
60 Days:	01/07/2024
Extension Letter Mailed:	No
120 Days:	03/07/2024
Applicable Deadline:	01/07/2024
Newspaper Notification:	Confirmed – (11/23/23 Sun Current – 10 day notice)
Direct Mail Notification:	Confirmed – (200 ft buffer – 10 day notice)

STAFF CONTACT

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PROPOSAL

The applicant is requesting a decreased side yard setback variance for an existing home and an addition to an existing single-family home located at 8120 Colfax Avenue South. The existing home has a side yard setback of 9.6 feet and was built in 1954. In June, the applicant submitted a building permit for a 549-square-foot addition to the back of the existing house with an approximately 9.6-foot setback. The building permit was approved in error and the applicant is requesting a variance to rectify the error.

ANALYSIS

The applicant submitted building expansion plans which included an as-built survey. The as-built survey depicted the original dwelling, and the addition provided a side yard of 9.6 feet. City Code requires a 10-foot side yard setback for structures with living space.

The existing house was constructed in 1954 and is currently non-conforming with respect to side yard setback.. City Code section 21.504(c)(2)(C) states that nonconforming structures “may expand only upon approval of a variance ... that allows the proposed level of nonconformity”. Therefore, a variance is required for the non-conformity to be expanded, even though the current house has had a side setback less than 10 feet for the last 69 years.

Staff believes removal and moving the original dwelling to comply with the City Code is an unreasonable request. The desire to extend the existing foundation at a 9.6-foot setback along the north side of the property is a reasonable request and meets the findings of fact for approving a setback variance. The dwelling size and appearance change would be minor and would not negatively impact the adjoining property. In addition, the reduced setback is adjacent to the neighboring garage which decreases any impact on the dwelling unit.

The proposed property meets the impervious surface coverage requirement. The property is allowed 3,583 square feet of impervious surface (35% lot coverage). The proposed 3,380 square feet of impervious surface (33.01% lot coverage) is complying. The pervious paver patio is not included in the calculations.

FINDINGS

Required Variance Findings – Section 2.85.04(g)(1)(A-F)

Zoning variances may only be approved when:

Required Finding	Finding Outcome/Discussion
(A) ... The variance is in harmony with the general purposes and intent of the ordinance.	Finding Made – The variance for a reduced side yard setback for an existing single-family home and new addition is in harmony with the general purposes and intent of the ordinance to improve the aging housing stock in the City.

(B) ... The variance is consistent with the Comprehensive Plan.	Finding Made – The variance for a reduced side yard setback for an existing single-family home and new addition is consistent with the Comprehensive Plan’s Low Density Residential designation.
(C) ... The applicant for the variance establishes that there are practical difficulties in complying with the zoning ordinance. Economic considerations alone do not constitute practical difficulties	Finding Made – The home in question already has a non-conforming side yard setback due to the City Code adoption in 1962. Compliance would require reconstruction of the dwelling.
(D) ... The property owner proposes to use the property in a reasonable manner not permitted by the zoning ordinance.	Finding Made - Reducing the side yard setback from 10 feet to 9.6 feet allows the property owner to use the single-family home and approximately 549 square foot addition, a reasonable use.
(E) ... The plight of the landowner is due to circumstances unique to the property not created by the landowner.	Finding Made – The house was built on the lot before the City was incorporated. The original building was constructed with the reduced setback and was not the result of actions by the owner.
(F) ... The variance if granted will not alter the essential character of the locality.	Finding Made - The variance will not alter the essential character of the locality as it is an already existing single-family home built in 1954 with the new addition slightly enlarging the home.

RECOMMENDATION

The Hearing Examiner and staff recommend approval using the following motion:

Motion by _____, seconded by _____, in Case #PL2023-189, to adopt Resolution No. 2023-_____, a resolution approving a variance to reduce the side yard setback from 10 feet to 9.6 feet for an existing home and an addition at 8120 Colfax Avenue South, subject to the conditions and Code requirements attached to the staff report.