

**Zoning Board of Appeals  
December 7, 2022 Regular Meeting**

**STAFF REPORT**

**Subject: ZBA 22-2031; 1301 Lutz Avenue**

**Summary:**

Mike Kirchner AIA, representing property owners, is requesting a 64 square foot variance from Section 5.16.6 (2)(D) Accessory Uses and Structures in order to construct a new detached garage that will exceed the maximum allowable 35% coverage in the rear setback area. The new garage is permitted to occupy 375 square feet of rear setback and the proposed garage will occupy 438 square feet (41%). The property is zoned R1C, Single-Family Dwelling District.

**Background:**

The subject property is located at the intersection of Crest Avenue, Soule Boulevard and Lutz Avenue. The home was constructed in 1941 and is approximately 1,534 square feet in size. The existing detached garage is nonconforming as it does not meet the three foot setback on the west side of the lot, and it exceeds the 35% allowable rear setback area to be occupied with a structure. The garage is accessed by a private easement from West Madison Street.

**Description:**

The owners are seeking to demolish the existing nonconforming garage and replace with a 573 square foot garage that will comply with the setbacks. The new garage will be two-stories with solar panels on the roof. The new garage will be smaller than the existing garage and will have less impervious coverage in the rear setback area.

**Standards for Approval- Variance**

The Zoning Board of Appeals has all the power granted by State law and by Section 5.29.12, Application of the Variance Power from the UDC. The following criteria shall apply:

- (a). *That the practical difficulties are exceptional and peculiar to the property of the person requesting the variance and result from conditions which do not exist generally throughout the City.***

Applicant states the practical difficulties exist for the following reasons: 1. Site access - Our lot is a pie shape and narrows at the back. It is next to impossible to get equipment into the backyard or up the front of our property due to a hill. The only practical way to replace the foundation is to use the alley as access, tear the current structure down and position equipment on the existing garage pad to replace the foundation. Multiple contractors have told us this. 2. Shape of Property - the pie shape of our property creates a much smaller back of lot 30' square footage, thus making the square footage % of our garage seem larger. If the lot was a standard rectangle, it wouldn't be an issue. 3. Sloped backyard - We cannot push the structure into our backyard anymore than the proposed plan due to the

slope of the yard. The pictures should make this clear but a site visit to the property would validate the difficulty that site access and constraints present.

- (b). That the practical difficulties will result from a failure to grant the variance, include substantially more than mere inconvenience, inability to attain a higher financial return, or both.**

These difficulties are more than just mere inconvenience. If we were to build to code, we would need to take over a large portion of our backyard which would be taking usable green space that we enjoy. Furthermore, the practicality of getting equipment that far into our property is almost impossible due to the hill and prohibitively expensive.

- (c). That allowing the variance will result in substantial justice being done, considering the public benefits intended to be secured by this Chapter, the individual hardships that will be suffered by a failure of the Board to grant a variance, and the rights of others whose property would be affected by the allowance of the variance.**

Granting the variance should not have a negative impact on any neighboring properties. Our proposed structure has a smaller footprint than our current garage and also creates more room in the alley. Additionally, proper setbacks are being adhered to.

- (d). That the conditions and circumstances on which the variance request is based shall not be a self-imposed hardship or practical difficulty.**

The significant foundation cracks are not self-imposed. The condition has deteriorated significantly over the last two years because of two reasons: 1) Neighbors excavated part of their backyard to repair a patio and the equipment tracked a lot of clay into the alley, raising the grade and creating a drainage pattern straight into our garage. 2) We have experienced increased and severe rain events the last couple of years due to climate change. The garage suffers from significant drainage into the garage and also freeze/thaw events that create the cracks and make them wider.

As stated above, both the shape of our property and the hill including a sloping backyard and a significant hill in the front of our house make simply repairing our current foundation impossible without tearing the current structure down. Pushing the structure further into the backyard is not possible, thus requiring more occupied space in rear yard buildable area.

- (e). A variance approved shall be the minimum variance that will make possible a reasonable use of the land or structure.**

Applicants are requesting a 6% variance (63.5 sf) of what is allowed in the buildable rear yard space.

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Respectfully submitted,

A handwritten signature in blue ink, appearing to read "Jon Barrett". The signature is stylized with large loops and a cursive font.

**Jon Barrett**  
**Zoning Coordinator**