

**Zoning Board of Appeals
September 27, 2023 Regular Meeting**

STAFF REPORT

Subject: ZBA 23-0021; 700 Pauline Boulevard

Summary: Don Thomas, property owner, is requesting variances of two inches from Section 5.16.6 (2)(D) Accessory Uses and Structures to allow an existing garage addition to be two feet ten inches from the side lot line and a 290 square foot variance from Section 5.16.6 (2) (D) to allow the attached garage addition to exceed the allowed 35% rear setback area with a structure. A third variance of ten feet is being requested from Table 5.17-1 Single-Family Dwelling District to allow an existing deck to encroach into the front setback. The variances would allow the garage addition to be used as an approved Accessory Dwelling Unit (ADU). The property is zoned R1D, Single-Family Dwelling District.

Background:

The subject property is located at the northeast corner of Pauline Boulevard and Fifth Street in the Allmendinger Heights neighborhood. The home was built in 1940 and is approximately 750 square feet in size.

Description:

The property received a Building permit on November 6, 1967, for a flat-roof addition to the existing detached garage for a workshop. The addition is approximately 468 square feet in area. The addition has been converted to habitable space that requires variances to make the addition conforming for setbacks and the allowable impervious area exceeding the 35% maximum in the rear yard.

The exterior deck serves as an amenity area to the proposed accessory dwelling unit and will not be altered. There are no proposed changes to the footprint of the structure.

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 Unified Development Code (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 response: "To our knowledge, the set-back variance of 2" at the north west corner of the existing structure built in 1967 and permitted by the Building Department (5.16.6 (2)(D), the 290 sf variance to allow the detached garage and portion of the deck that exceed the 35% allowable rear setback (5.16.6 (2)(D), and the variance to allow the existing deck to encroach into the front setback approximately 10 feet (Table 5.17-1) are totally unique to 700 Pauline Boulevard.

Additionally, the property is located on a corner lot.”

- (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.**

Applicant response: “Failure to grant the requested set-back variance of 2” at the north west corner of the existing structure built in 1967 and permitted by the Building Department (5.16.6 (2)(D), the 290 sf variance to allow the detached garage and portion of the deck that exceed the 35% allowable rear setback (5.16.6 (2)(D), and the variance to allow the existing deck to encroach into the front setback approximately 10 feet (Table 5.17-1) will reduce the allowable space of the accessory dwelling making the structure uninhabitable as affordable housing. Further, there would be no alternatives to correct these issues as it is an existing structure.”

- (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.**

Applicant response: “Approval of the requested set-back variance of 2” at the north west corner of the existing structure built in 1967 and permitted by the Building Department (5.16.6 (2)(D), the 290 sf variance to allow the detached garage and portion of the deck that exceed the 35% allowable rear setback (5.16.6 (2)(D), and the variance to allow the existing deck to encroach into the front setback approximately 10 feet (Table 5.17-1) will result in a public benefit as the structure, located near campus and the downtown area, will create additional affordable housing and support the City's interest in promoting such dwellings without requiring any new construction that would affect surrounding properties.”

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

Applicant response: “The set-back variance of 2” at the north west corner of the existing structure built in 1967 and permitted by the Building Department (5.16.6 (2)(D), the 290 sf variance to allow the detached garage and portion of the deck that exceed the 35% allowable rear setback (5.16.6 (2)(D), and the variance to allow the existing deck to encroach into the front setback approximately 10 feet (Table 5.17-1) relate to structures that were in place at the time the property was purchased. The need for the variances is an unnecessary hardship due to circumstances unique to the property with no alternatives as it is an existing structure.”

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

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Applicant response: "The requested variance of 2" at the north west corner of the existing structure built in 1967 and permitted by the Building Department (5.16.6 (2)(D), the 290 sf variance to allow the detached garage and portion of the deck that exceed the 35% allowable rear setback (5.16.6 (2)(D), and the variance to allow the existing deck to encroach into the front setback approximately 10 feet (Table 5.17-1) are the minimum required to allow the existing structure to be used as affordable housing."

Respectfully submitted,

A handwritten signature in blue ink, appearing to read "Jon Barrett". The signature is stylized with a large initial "J" and "B".

Jon Barrett- Zoning Coordinator