



1. **ROLL CALL**

The Board of Zoning Appeals meeting was called to order at 5:30 p.m. with the following members present: Jon Richardson (2/2), Terry Bisbee (2/2), Janet Hamilton (2/2), Valerie Roberts-Ropp (1/2), Jackson Swearer (2/2), Brock Wells (2/2), and Todd Carr (2/2). Darryl Peterson (1/2) was absent.

Staff present were: Ryan Hvitlök, Director of Planning & Development; Amy Allison, Senior Planner; and Charlene Mosier, Planning Technician.

2. **APPROVAL OF MINUTES**

The minutes of the May 28, 2019 meeting were approved on a motion by Bisbee, seconded by Richardson, passed unanimously.

3. **CORRESPONDENCE & STAFF REPORTS**

The documents and staff reports were accepted into the official record on a motion by Swearer, seconded by Hamilton, passed unanimously.

4. **PUBLIC HEARING**

a. ZV19-000001 – Request for a variance from the platted building setback of the Forest Park Subdivision.

Request for a variance from the 20-foot platted building setback along Jefferson Street.

Carr asked if there were any outside contacts or conflicts of interest; there were none.

Allison provided the staff presentation. She showed a site plan, map, and explained the request. The property is a corner lot with a 20-foot platted setback on the side street front yard. The applicant would like to locate a 20x20 foot carport within the platted setback. The proposal meets the requirements of the zoning regulations. Photos of the existing detached garage and property were also shown. The adjacent houses on Jefferson Street are approximately 11 feet from the property line. The proposed carport would extend beyond the existing wooden fence and be attached to the existing detached garage.

Allison reviewed the findings of fact required for variance request:

ANALYSIS OF FINDINGS OF FACT REQUIRED FOR VARIANCE REQUESTS:

Finding	Analysis	Met Not Met
<p>1. The request for a variance must arise from a condition which is unique to the property in question, is not commonly found on other parcels in the same zone or district and is not created by an action or actions of the property owner or applicant.</p>	<p>The property is one of 79 parcels platted in the Forest Park Addition to the City of Hutchinson. Each property has a platted setback, either 50 ft. or 20 ft., on side or front yards. The property in question is a corner lot, so a 50-foot platted setback is required on the front yard and a 20-foot setback on the side street front yard. However, that is not unique with 12 other lots having the exact same restrictions placed on the property as well. The request is arising from the property owner due to the preferred location of the carport within 7.4 feet (un-surveyed) of the platted setback.</p>	<p><input type="checkbox"/> Not met</p>
<p>2. Granting of the variance must not adversely affect the rights of adjacent property owners or residents.</p>	<p>The location of the proposed carport would not adversely affect the rights of the adjacent property owners based on staff's analysis. The City approved zoning setback for this zoning district is 12.5 feet, which the carport would be able to meet. In addition, the two houses built to the north of the property were both built within the 20 -foot platted setback (approximately 11 feet from property line) so any sight lines or front yards have been established with less than 20 feet, as required by the plat.</p>	<p><input checked="" type="checkbox"/> Met</p>
<p>3. Strict application of the regulations must cause an unnecessary hardship for the property owner. The variance must not merely serve as a convenience to the applicant but must alleviate some demonstrable or unusual hardship or difficulty.</p>	<p>The applicant could conform to regulations if the proposed carport were of smaller size. There is additional space to locate a smaller carport to the side of the existing detached garage. The approval of this variance is a convenience to the applicant.</p>	<p><input type="checkbox"/> Not met</p>
<p>4. Granting of the variance must not adversely affect the public health, safety, morals, order, convenience, prosperity, or general welfare.</p>	<p>Permitting construction of the proposed carport would not adversely affect the public health, safety, morals, order, convenience or prosperity. The proposed carport placement would contradict the platted setback or order of the subdivision but since other structures were built within the setbacks, no visual harmony would be disrupted with the construction of the carport.</p>	<p><input checked="" type="checkbox"/> Met</p>
<p>5. Granting of the variance must not be contrary to the general spirit and intent of the Zoning Regulations.</p>	<p>Due to the proposed carport meeting §27-411.B. Zoning Setbacks for Accessory Structures in the R-4 zoning district, granting the variance would not be contrary to the general spirit or intent of the Zoning Regulations. However, Staff does not believe a variance can be requested to change a platted setback, due to the setback being established through the platting process. To amend a plat, the applicant will need to replat their property.</p>	<p><input type="checkbox"/> Not met</p>

(Wells arrived).

One comment was received in favor from a surrounding property owner. Discussion ensued about plats and possible future changes. Plats are a separate document to enforce separately from the zoning regulations. This variance is specific to this property and not a precedent for other similar properties because variances do not set precedent.

Carr asked the applicant to address the Board.

Ron Parks, Hutch Home Works, 725 W 2nd Avenue, explained he came to the city for information about this address. Based on that information, the owner purchased the carport. When he came in for the permit, the requirement for the platted setback was discovered. He said the proposed carport will have four posts and will be gray and white to blend in with the surrounding structures.

Carr asked the property owner for his comments. Lawrence Jenkins, 725 W 2nd Ave, said he has lived in the house seven years. The garage is small compared to current garage standards and it would be very difficult and expensive to enlarge it. He has paved the driveway with new concrete and determined the most reasonable option is to install a carport. He has been working for some time to get a carport installed. The applicant said he checked on enlarging the garage. It would cost \$4,000 to demolish and \$36,000 to build a new one and for him this was not a good financial option.

Carr asked for Staff to provide the recommendation. Allison said staff recommends denial as all factors are not met.

Bisbee said this garage is located behind the house and the carport will be attached to the garage. The carport would not extend in front of existing homes or look out of place. He would not like to see a carport extend in front of a house.

Hamilton said this neighborhood is nicely maintained. The comment received in favor was received from the owner who lives across the street from the subject property. Swearer said other houses are currently in the platted setback. Richardson said the homes next door set out further and the carport is open and would not affect the adjacent property line of sight. Carr said the structure would meet zoning regulations. The size of the existing garage does not meet the size of the standard vehicles of today. Without a carport the applicant cannot protect his vehicles and the garage would be difficult to enlarge.

The Planning Commission determined the following Findings of Fact:

EXHIBIT A: Findings of Fact

Finding	Analysis	Met Not Met
<p>1. The request for a variance must arise from a condition which is unique to the property in question, is not commonly found on other parcels in the same zone or district and is not created by an action or actions of the property owner or applicant.</p>	<p>This property is unique because adjacent properties were built in the platted setback and therefore the proposed structure is matching the designed environment already established by the houses next door.</p>	<p><input checked="" type="checkbox"/> Met</p>
<p>2. Granting of the variance must not adversely affect the rights of adjacent property owners or residents.</p>	<p>The location of the proposed carport would not adversely affect the rights of the adjacent property owners based on staff's analysis. The City approved zoning setback for this zoning district is 12.5 feet, which the carport would be able to meet. In addition, the two houses built to the north of the property were both built within the 20-foot platted setback (approximately 11 feet from property line) so any sight lines or front yards have been established with less than 20 feet, as required by the plat.</p>	<p><input checked="" type="checkbox"/> Met</p>
<p>3. Strict application of the regulations must cause an unnecessary hardship for the property owner. The variance must not merely serve as a convenience to the applicant but must alleviate some demonstrable or unusual hardship or difficulty.</p>	<p>The existing garage does not meet current vehicle standards in size. The property owner has a reasonable expectation to construct accessory structures to house his vehicle and the platted building setback infringes on that expectation.</p>	<p><input checked="" type="checkbox"/> Met</p>
<p>4. Granting of the variance must not adversely affect the public health, safety, morals, order, convenience, prosperity, or general welfare.</p>	<p>Permitting construction of the proposed carport would not adversely affect the public health, safety, morals, order, convenience or prosperity. The proposed carport placement would contradict the platted setback or order of the subdivision but since other structures were built within the setbacks, no visual harmony would be disrupted with the construction of the carport.</p>	<p><input checked="" type="checkbox"/> Met</p>
<p>5. Granting of the variance must not be contrary to the general spirit and intent of the Zoning Regulations.</p>	<p>Due to the proposed carport meeting §27-411.B. Zoning Setbacks for Accessory Structures in the R-4 zoning district, granting the variance would not be contrary to the general spirit or intent of the Zoning Regulations. Further this request would comply with the intent of the Zoning Regulations by keeping the order of the block.</p>	<p><input checked="" type="checkbox"/> Met</p>

Carr closed the public hearing and asked for a motion.

Motion by Richardson, seconded by Hamilton to approve variance request ZV19-000001 from the 20-foot platted building setback along the east property line at 300 W 17th Avenue based upon the above listed findings that the factors required are met. The motion passed with the following vote: Yes – Richardson, Hamilton, Bisbee, Swearer, Wells, Roberts-Ropp, Carr.

5. **UPCOMING CASES**

a. ZV19-000002 – Request for a variance from the 50-foot setback design requirement for a Hazardous Materials Manufacture and Storage Use.

6. **CITY COUNCIL UPDATE**

a. None.

7. **OPEN COMMENTS FROM THE AUDIENCE**

a. There were no comments from the audience.

8. **ADJOURNMENT** – The meeting adjourned at 6:10 p.m.

Respectfully Submitted,
Charlene Mosier
Planning Technician

Approved this 23rd day of July 2019

Attest:  _____