



CITY OF TONTITOWN PLANNING OFFICE

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Meeting: **May 28, 2019**
Project: **Slyter Variance**
Planner: Courtney McNair

PLANNING BOARD/ BOARD OF ZONING ADJUSTMENTS ACTION:

This project was approved unanimously by members present with recommended conditions. Four (4) members were present, one (1) was absent.

CONDITIONS OF APPROVAL:

1. The shop must be constructed generally as presented.
2. A miscellaneous permit is required prior to construction of the shop building.

AGENDA ITEM

A

VARIANCE REQUEST

2378 E. Brush Creek
Parcel #: 830-37891-530

SUMMARY: Request for a variance to allow a personal shop building to be placed within the side and rear setbacks required on this property.

CURRENT ZONING: RE-Residential Estates

PROPOSED USE: Single-family residential-personal shop

CITY WARD: 2-Arthur Penzo and Larry Ardemagni

INFRASTRUCTURE SERVICE AREAS (not a guarantee of service availability):

Water: Washington Water Authority

Sewer: Septic

Road Access: Brush Creek Road

Electric: Ozarks Electric

Cable: Cox Communications

Phone: ATT

Natural Gas: Black Hills Energy

School District: Springdale

PROJECT SYNOPSIS:

The owner and applicant for this project is Jackie Slyter. He is requesting a variance to the side and rear setbacks on this lot in order to build a personal shop building for parking an RV. There is a significant amount of floodplain on the front portion of this property, and his septic lines are also in the front of the residence.

The rear setback on this property is 30 feet, and the side setback is 15 feet currently. Residential Estates zoning now requires 30 feet from the side, but a previously approved survey shows only a 15-foot side

setback. The applicant is requesting to place the shop 10 feet from the rear, and 10 feet from the side property line.

153.080 AGRICULTURE AND RESIDENTIAL DISTRICTS; GENERAL DESCRIPTION.

(N) *Minimum dimension requirements.*

Zoning Districts	A	RE	R-1	R-2	R-3	R-3L	R-MF	R-MH
Front setback (all uses)	30 feet	30 feet	30 feet	30 feet	30 feet	30 feet	20 feet	20 feet
Side setback (all uses)	30 feet	30 feet	20 feet	10 feet	7 feet	15 feet	10 feet	10 feet
Street side setback (all uses)	30 feet	30 feet	25 feet	25 feet	25 feet	25 feet	20 feet	20 feet
Rear setback (all uses)	30 feet	30 feet	25 feet	25 feet	25 feet	25 feet	25 feet	25 feet

153.262 POWERS AND DUTIES. (as relating to variance requests)

(B) To authorize upon appeal, in specific cases, such variance from the terms of this zoning chapter as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of these regulations would result in unnecessary hardship that would deprive the owner of any reasonable use of the land or building involved. A variance from the terms of these zoning regulations, shall not be granted by the Board of Zoning Adjustment unless and until:

(1) The applicant demonstrates that special conditions and circumstances exist which are peculiar to the land, structure or building involved and which are not applicable to other lands, structures or buildings in the same district; that literal interpretation of the provisions of these regulations would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of these regulations; that special conditions and circumstances do not result from the actions of the applicant; and that granting the variance requested will not confer on the applicant any special privilege that is denied by the zoning regulations to other lands, structures, or buildings in the same district.

STAFF ANALYSIS: The layout of the lot and the significant amount of floodplain is unique to this property. It is clear that the existing home was situated as to avoid encroachment on the setback.

(2) No nonconforming use of neighboring lands, structures, or buildings in the same district, and no permitted or nonconforming use of lands, structures, or buildings in other districts shall be considered grounds for the issuance of a variance.

STAFF ANALYSIS: The existing use is residential.

(3) The Board of Zoning Adjustment shall further make a finding that the reasons set forth in the application justify the granting of the variance, and that the variance is the minimum variance that will make possible the reasonable use of land, building, or structure.

STAFF ANALYSIS: The applicant is asking to allow a slight encroachment into the setbacks. They are not asking to place the structure on the property line, only to allow it to encroach within 10 feet of the back and east side property line. This is to allow for adequate spacing between the proposed shop and the existing

residence.

(4) The Board of Zoning Adjustment shall further make a finding that the granting of the variance will be in harmony with the general purpose and intent of these zoning regulations, and will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

STAFF ANALYSIS: The shop will still be set off of the property line 10 feet from the rear and side. This meets fire code, and will not be injurious or detrimental to the public welfare.

(5) In granting any variance, the Board of Zoning Adjustment may prescribe appropriate conditions and safeguards that it deems necessary or desirable. Violations of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of these regulations.

STAFF ANALYSIS: The shop must be constructed as generally presented.

(6) Under no circumstances shall the Board of Zoning Adjustment grant a variance to allow a use not permissible under the terms of these zoning regulations in the district involved, or any use expressly, or by implication, prohibited by the terms of these regulations in said district.

STAFF ANALYSIS: Residential uses and accessory uses are allowed by right in RE.

TECHNICAL INFORMATION:

Utilities:

Water: Washington Water Authority- "WWA has no objection to the reduction in rear and side setbacks"

Electric: Ozarks Electric-standard comments were submitted

Septic: This residence has an existing system and the proposed shop is sited so that it will not be detrimental to this system.

Cable: Cox Communications-No comments.

Phone: AT&T-No comments.

Natural Gas: Black Hills Energy-No concerns were submitted for the requested variance.

Streets:

This property accesses Brush Creek Road. No additional drives are being proposed.

Fire:

No concerns were submitted for the requested variance.

Police:

The Police Chief has no concerns for the requested variance.

STAFF ANALYSIS: The impact of this variance request will be minimal to the surrounding area, existing utilities, and streets and fire.

NEIGHBOR COMMENTS: All neighboring properties within 200 feet of the property boundary were notified by

certified mail of this project. Staff has received one "in favor" comment.

STAFF RECOMMENDATION: Staff finds the requested variance is to correct a unique hardship not caused by actions of the applicant.

Therefore, staff recommends approval of the Slyter Variance Request to allow a personal shop building to be constructed within 10 feet of the rear and side property lines of this parcel.

CONDITIONS RECOMMENDED FOR APPROVAL:

3. The shop must be constructed generally as presented.
4. A miscellaneous permit is required prior to construction of the shop building.