



CITY OF TONTITOWN PLANNING OFFICE

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Meeting: **April 27, 2021**
Project: **2501 S. Barrington Rd**
Setback Variance Request
Planner: Anthony Apple

AGENDA ITEM

3

VARIANCE REQUEST

2501 S. Barrington Rd
Parcel #: 830-38322-000

SUMMARY: Request to vary from the required 20-ft side setback in a R-1 zoned district for the construction of an accessory building.

CURRENT ZONING: R-1 – Single-Family Residential (one lot per acre)

PROPOSED USE: R-1 – Single-Family Residential (one lot per acre)

CITY WARD: 3 – Don Doudna and Tim Burress

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

Water: Washington Water Authority

Sewer: Septic

Road Access: Direct access to S. Barrington Rd

Electric: Ozarks Electric

Cable: Cox Communications

Phone: AT&T

Natural Gas: Black Hills Energy

School District: Springdale

PROJECT SYNOPSIS:

The project site is located at 2501 S. Barrington Rd. See attached Vicinity Map, Figure 1. The project site is located within an R-1 Single-Family Residential (one lot per acre) zoning district. The side setbacks for residential properties in an R-1 district is 20 feet. This variance request is to vary from the required 20-ft side setback to 3 feet for the construction of a new accessory building. The purpose of the accessory building is to accommodate the sheltering of passenger vehicles, yard equipment and provide personal storage space. Due to the lot size and the location of the existing residence; existing private utilities; existing public utilities; existing mature trees; and site topography, there is only one location for the desired accessory building to be constructed. This location is along the north property line. See attached Site Plan, Figure 2. See attached Site Photographs Figures 3 through 5.

153.262 POWERS AND DUTIES

The Board of Zoning Adjustment shall have all the powers and duties prescribed by law and by these regulations, which are more particularly described as follows:

(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: Per City code, the required side setback for the R-1 zoning district is 20 feet. Due to the lot size and location of the existing residence; existing private utilities; existing public utilities; existing mature trees; and site topography, there is only one location for the desired accessory building to be constructed. This location is along the north property line. All the existing conditions are special, peculiar to this property and not a result of the land owner. Literal interpretation of these regulations would deprive the landowner the right by code of an accessory building of the desired size. Granting this variance would not afford the landowner a special privilege that would be denied to any other landowner in the same zoning district with similar site conditions.

(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 site conditions are sufficient grounds to approve the variance request.

(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 granting of this variance will make possible for the safe construction of the desired accessory building and make possible the reasonable use of the land for the accessory building.

(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: Granting of this variance request will be in general harmony with the zoning regulations since a setback is being adhered to. Granting of this variance will not be injurious to the neighboring property since the neighboring property is not developed.

(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 granting of this variance will be upheld by the Building Inspection to ensure the accessory building is not constructed closer to the property line than approved in the variance.

(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: Per the Code 153.140, accessory buildings are permitted in all residential zones. The accessory building will conform to the location, size and height requirements set forth in Code 153.141.

TECHNICAL INFORMATION:

Utilities:

Water: The property is serviced by Washington Water Authority

Electric: Ozarks Electric – No concerns were submitted for the requested variance. General comments were provided relative to damage and extensions of existing facilities to the property will be at the owner’s expense. Any easements required for the extensions will be obtained by the developer before work begins.

Sewer: The property is on a septic system

Cable: Cox Communications – “Any damage to or relocation needed of Cox facilities will be done at the builders expense.”

Phone: AT&T - No concerns were submitted for the requested variance

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

Streets:

This property has direct access to S. Barrington Rd.

Fire:

No concerns were submitted for the requested variance.

Police:

The Police Chief has no concerns for the requested variance.

STAFF ANALYSIS: Due to the undeveloped condition of the neighboring property to the north and the general surrounding lot sizes are in excess of 2 acres, the impact of this variance request will be negligible 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, additionally, a sign was placed on the property. One comment was received stating that they had no objections to the variance request.

STAFF FINDINGS: *Per City Code 153.262, “a literal enforcement of the provisions of the regulations do result in unnecessary hardship that would deprive the owner of any reasonable use of the land or building involved.” Due to the existing site conditions that are peculiar to the site that include site topography, existing utility and residence location, mature trees and lot size, only one location on the project site can accommodate the desired accessory building. Granting this variance would not afford the landowner a special privilege. Granting of this variance will not be injurious to the northern neighboring property since it is not developed.*

STAFF RECOMMENDATIONS:

Staff recommends the approval of the variance request to vary from the required 20-foot side setback to 3-foot side setback along the north property line of parcel 830-38322-000.



Figure 1: Vicinity Map

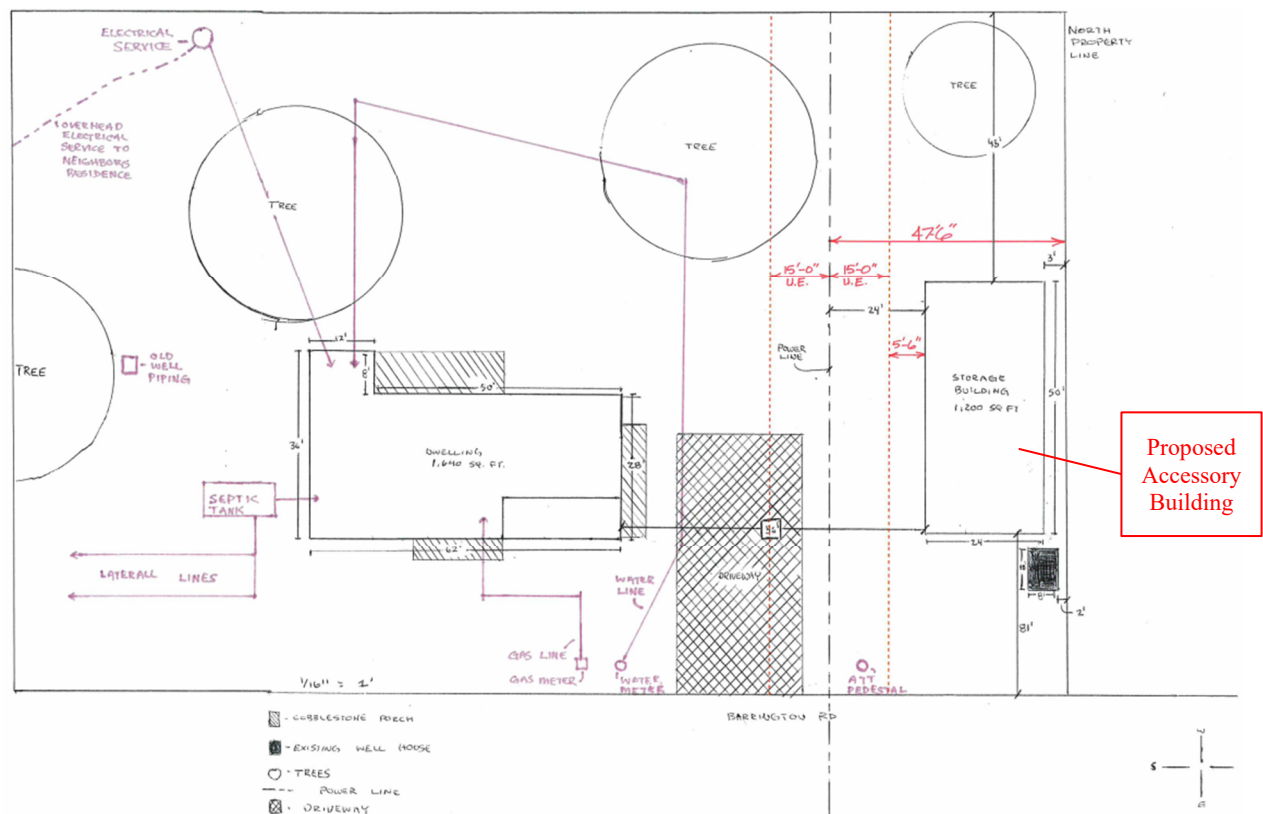


Figure 2: Site Plan



Figure 3: Site Photograph – Looking West from Northeast Corner of Site



Figure 4: Site Photograph – Looking North at Project Site



Figure 5: Site Photograph – Looking North at West Side of Existing Residence