

201 E.



CITY OF TONTITOWN PLANNING OFFICE

Henri de Tonti Blvd.
479-361-2700
planning@tontitownar.gov

Meeting: August 22, 2023
Project: Bozarth Variance
Planner: Mark Latham

BOZARTH VARIANCE

PH 4, BOZA 1

764 Malbec Rd.

SUMMARY: The applicant is requesting a rear setback variance of 6 feet and 10 inches to construct a swimming pool. Section 153.262 (B)

CURRENT ZONING: R-3, Residential, single family

CITY WARD: 2- Daniel Montez, Larry Ardemagni

FLOODPLAIN: No

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

- Water:** Tontitown Water
- Electric:** Ozarks Electric
- Sewer/Septic:** Tontitown Sewer
- Phone:** AT and T
- Natural Gas:** Source Gas
- Cable:** Cox Communications
- School District:** Springdale

PROJECT SYNOPSIS:

The applicant is requesting a rear setback variance to construct a swimming pool. The variance requested is 6 feet, 10 inches.

TECHNICAL INFORMATION:

Utilities:

- Water:** Tontitown Water
- Electric:** Ozarks Electric
- Sewer/Septic:** Tontitown Sewer
- Phone:** AT and T
- Natural Gas:** Source Gas - No comments were received from BHE.
- Cable:** Cox Communications- No comments were received from Cox.

VARIANCE REQUEST:

Section 153.262 Powers and Duties:

*(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.

Applicant's Letter:

The situation of the house upon the lot limits the homeowner's ability to add a swimming pool without a rear setback variance. The distance between the rear property line and backyard patio is 42 feet. The setback encroaches over 50% of the backyard usable space.

Staff's Response: The request does demonstrate a special condition based on the 25 foot utility easement in the rear of the property,

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.

Staff's Response: It may be difficult to construct the size of the pool the applicant has selected since there is a 25-foot utility easement in the rea.

that special conditions and circumstances do not result from the actions of the applicant.

Staff's Response: The applicant describes they had input in the location of the home that they purchased but do have a choice of what size pool they purchase.

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's Response: Granting this variance will not prevent the orderly subdivision or development of other land in the area.

- (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's Response: There are no nonconforming uses in the surrounding area.

- (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's Response: The applicant has made no efforts to reduce the variance required.

- (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's Response: Granting this variance will not be injurious to the neighborhood or otherwise 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's Response: No additional conditions are recommended currently.

- (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.*

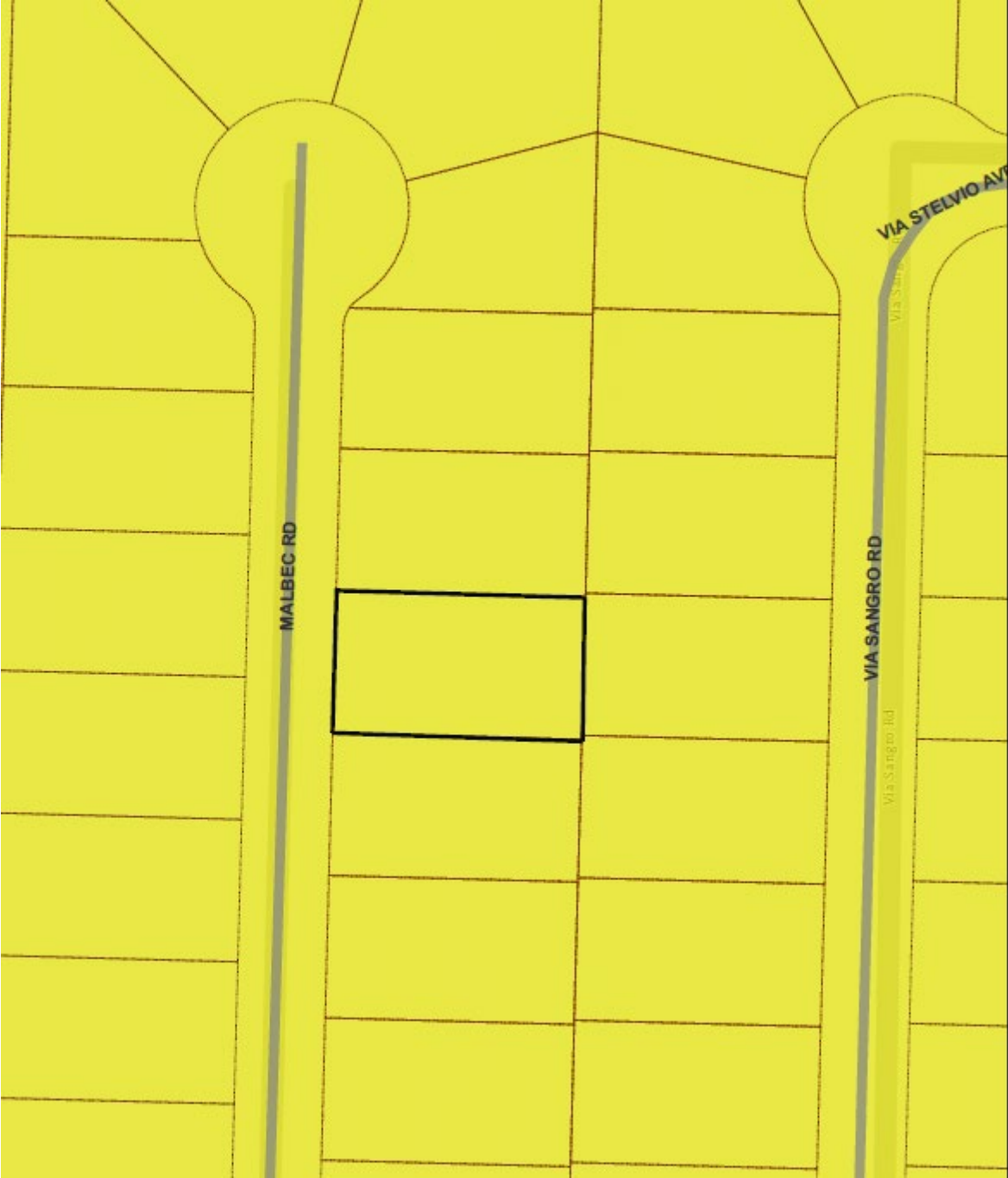
Staff's Response: Granting this request will not allow a use that is not permissible by code.

STAFF RECOMMENDATION:

Staff recommends a minimum of a 5-foot rear setback instead of the 6 feet 10 inches the applicant is requesting based on the 20 foot utility easement.

	R-3
Category Names	Single Family Residential - 14,520 square foot minimum lot size 1/3 acre
Density	3 units/acre
Minimum Lot Size	9600 sf
Triplex, Quadplex	NP
Lot width min	80'
Lot depth min	120'
Setbacks for 1 and 2 story structures	
Front Setback	30'
Side Setback	7'
Street side setback	25'
Rear setback	25'

Site location:

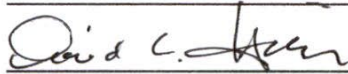


NOTICE OF INTENT TO REZONE

764 Malbec Rd Tontitown, AR 72762

I/we have no objections to the rezoning.

I/we object to the rezoning because:


Signature

Signature

OPTIONAL: email/phone number

This form can be mailed to:
City of Tontitown Planning Department
P.O. Box 305
Tontitown, AR 72770.

This form can be hand-delivered to:
City of Tontitown Planning Department
235 E. Henri de Tonti Blvd
Tontitown, AR 72762.

Or emailed to:
planning@tontitownar.gov

