

Board of Zoning Adjustment

Staff Report

January 9, 2022



Case No:	22-VARIANCE-0136
Project Name:	Whiteheath Lane Addition
Location:	412 Whiteheath Lane
Owner/Applicant:	Daniel Knapp
Representative:	Ted Bernstein
Jurisdiction:	City of Douglass Hills
Council District:	18 – Marilyn Parker
Case Manager:	Amy Brooks, Planner I

REQUESTS:

Variance from City of Douglass Hills Land Development Code table 5.4.2.C.1 to allow a structure to encroach into the required street side yard setback.

Location	Requirement	Request	Variance
Infill Street Side Yard Setback	30 ft	16 ft.	14 ft.

CASE SUMMARY/BACKGROUND

The subject property is zoned R-4 Single-family residential in the Neighborhood Form District located within the City of Douglass Hills. The applicant is proposing to construct a new one-story addition onto the front and side of the principal structure. The addition on the northern side of the home, running parallel to Wenlock Court, will encroach into the required street side yard setback.

Section 5.4.2.C.1 of the Douglass Hills Land Development Code states that the minimum street side yard setback shall be that of the nearest principal residential structure which is 30 ft. However, part of the current structure was already built 2 feet into this required street side yard setback thus reducing the dimensional request for that portion of the subject site.

STAFF FINDING

Staff finds that the requested variance for the street side yard setback has been adequately justified based on staff's analysis contained in the standard of review.

Based upon the information in the staff report, and the testimony and evidence provided at the public hearing, the Board of Zoning Adjustment must determine if the proposal meets the standards for granting a variance established in the City of Douglass Hills Land Development Code section 5.4.2.C.1 to allow a structure to encroach into street side yard setback as determined by infill standards.

TECHNICAL REVIEW

No technical review was undertaken.

INTERESTED PARTY COMMENTS

Staff received two opposition comments; they are attached to the agenda item.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR VARIANCE FROM SECTION 5.4.2.C.1 (Street Side Setback Variance)

- (a) The requested variance will not adversely affect the public health, safety or welfare.

STAFF: The requested variance will not adversely affect the public health, safety or welfare, because the proposed structure must be constructed to comply with all applicable building regulations and the Land Development Code, except where relief is requested. In addition, the proposed addition will not impact vision clearance for vehicular traffic maneuvering along Whiteheath Avenue or Wenlock Court.

- (b) The requested variance will not alter the essential character of the general vicinity.

STAFF: The requested variance will not alter the essential character of the general vicinity as there are seemingly other additions to primary structures that encroach into the street side yard setback in the neighborhood. There are principal structures that range in distance from 17 feet to 21 feet away from the street side property line along Whiteheath and Gatehouse Lanes which is consistent with the applicant's request.

- (c) The requested variance will not cause a hazard or nuisance to the public.

STAFF: The requested variance will not cause a hazard or nuisance to the public because the encroaching portion of the structure will have to follow all building codes, including fire codes.

- (d) The requested variance will not allow an unreasonable circumvention of the zoning regulations.

STAFF: The requested variance will not allow an unreasonable circumvention of the zoning regulations. As the required setback on this site is determined by infill development standards, which are intended to preserve the basic feel of the streetscape by requiring new development to complement existing construction, this request seems compatible with the established pattern of setbacks within surrounding neighborhood.

ADDITIONAL CONSIDERATIONS:

1. The requested variance arises from special circumstances which do not generally apply to land in the general vicinity or the same zone.

STAFF: The requested variance does not arise from special circumstances which do generally apply to land in the general vicinity or the same zone as the property is similar in size and shape to other properties in the subdivision.

2. The strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or create an unnecessary hardship on the applicant.

STAFF: The strict application of the provisions of the regulation would not create an unnecessary hardship on the applicant as the location of the street side yard addition could be altered or designed in such a manner to lessen the impact on adjoining properties.

3. The circumstances are not the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought.

STAFF: The circumstances are not the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought as the applicant is requesting the variance and has not begun construction.

NOTIFICATION

Date	Purpose of Notice	Recipients
11/21/2022	Hearing before BOZA	1 st tier adjoining property owners Registered Neighborhood Groups in Council District 18
11/22/2022	Hearing before BOZA	Notice posted on property

ATTACHMENTS

1. Zoning Map
2. Aerial Photograph
3. Site Plan
4. Elevations
5. Site Photos

1. Zoning Map



2. Aerial Photograph



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4. Elevations



6. Site Photos



The front of the subject property.



Left of the subject property.

o the



Property to the right at corner of



Across the street from subject property.



Looking westward along Whiteheath Avenue



The location of the requested street side yard variance

7. Condition of Approval

1) A minor subdivision plat releasing a portion of the building limit line(s) shall be approved by Planning & Design Services and recorded with the Jefferson County Clerk's Office prior to the issuance of building permits.