

Variance Justification:

In order to justify approval of any variance, the Board of Zoning Adjustment considers the following criteria. Please answer all of the following items. Use additional sheets if needed. A response of yes, no, or N/A is not acceptable.

1. Explain how the variance will not adversely affect the public health, safety or welfare.

There is no safety concern with the placement of a garage in this location. The rear property line is about 25 feet from the public sidewalk and almost 35 feet from the existing pavement of Poplar Level. There is also a grade change of over 6 feet and trees and vegetation which separate the two areas.

2. Explain how the variance will not alter the essential character of the general vicinity.

The back yards of the 6 houses on this cul de sac is Poplar Level Road. When platted in 1946, there was a 30 foot building limit line which no longer exist on the plat because of right of way taking. The LDC waiver is for a 25 foot street setback. In this case, there is over 35 feet to the existing pavement.

3. Explain how the variance will not cause a hazard or a nuisance to the public.

There is no hazard or nuisance to the public by the proposed garage. The adjacent landowner has agreed to its location. The right of way area immediately behind the garage is treed, has a grade change and then there is a busy 4 lane road with commercial buildings across the street.

4. Explain how the variance will not allow an unreasonable circumvention of the requirements of the zoning regulations.

The LDC regulation only requires a 5 foot set back normally for a rear yard garage. This is a double sided lot with two street frontages. There is no visual issue or need for the 25 foot setback because of the existing 35 feet of R/W with vegetation blocking the garage from view from Poplar Level.

Additional consideration:

1. Explain how the variance arises from special circumstances, which do not generally apply to land in the general vicinity (please specify/identify).

The special circumstance is an 80 year old plat and over 35 feet of existing undeveloped right of way which make the LDC street 25 foot setback unnecessary for this double facing lot. The manner in which this street and Poplar Level have developed do not necessitate this LDC visual setback.

2. Explain how the strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create unnecessary hardship.

The strict application of the provision denies the homeowner the ability to improve his property and build a new garage consistent with 2022 norms and consistent with the current LDC code.

3. Are the circumstances the result of actions of the applicant taken subsequent to the adoption of the regulation from which relief is sought?

No, it is a prospective request.

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