



## STAFF REPORT

## BOARD OF ZONING APPEALS

Zoom Webinar (VIRTUAL)

Thursday, March 18, 2021

6:30 P.M.

## 1. VARIANCE (Case 2021-07V)

Applicant: Tony Hudson, JS Brown and Company  
 Location: 595 Retreat Ln N  
 Zoning: (PR) Planned Residential District  
 Request: Review and approval of a variance to reduce the required side yard setback for a detached garage addition. The request is to reduce the 25' required side yard setback by 5.2'.

Aerial Site Image: <https://goo.gl/maps/jFwdMCXv24sdUcdF6>

## Property Overview:

This property is located in the Retreat Subdivision of Powell, which is zoned Planned Residence District. The property is a rectangular parcel located on the south side of Retreat Ln with 170 feet of street frontage.

## Proposal Overview

The applicant is proposing a 22' by 24' two-car detached garage. The exterior of the garage is designed to match with the existing home's brick exterior, rakes, soffits, windows, and garage door. Per the approved Development Plan for the Retreat, the side yard setback is 25 feet. The detached garage is proposed to encroach into this setback by 5.2' along the west property line, leaving a 19.8' setback with the approval of a variance.

## Ordinance Review

In accordance with the requirements of codified ordinance [1127.05\(a\)](#), the Board of Zoning Appeals may authorize upon appeal in specific cases such variance from the terms of this Zoning Ordinance as will not be contrary to the public interest where, owing to special conditions of the land and/or buildings that are unique to the property in question, and not self-created, a literal enforcement of the provisions of this Zoning Ordinance would result in deprivation of all beneficial use of the land.

## Staff Comments

The applicant's submission provided the following information in response to codified ordinance [1127.06 – Application Standards for Variances](#):

- (1) Whether the property in question will yield a reasonable return or whether there can be any beneficial use of the property  
**Applicant statement:** *The proposed addition will add value to the home and neighborhood.*  
**Standard met:** This property will still be useful as a single-family residential lot with the garage addition.
- (2) Whether the variance is substantial  
**Applicant statement:** *We are requesting a variance of 5.2' at the front of the addition and a 3.1' variance at the rear. With a 25' side yard setback we feel the overall encroachment will feel minimal due to the size of the lot and adjacent property (see attached letter from neighbor).*  
**Standard met:** This variance is not substantial.
- (3) Whether the character of the neighborhood would be adversely affected or whether adjoining properties would suffer an adverse impact as a result of the variance  
**Applicant statement:** *This proposed addition will not adversely impact the neighborhood and will increase the property value.*  
**Standard met:** Accessory structures, such as detached garages, are permitted in both the Retreat Development Text, as well as the Planned Residence District code. Many other

property owners in the neighborhood have made improvements to include accessory structures. The neighbor directly to the west has also provided a letter in support of the addition.

- (4) Whether the variance would adversely affect the delivery of governmental services (e.g., water, sewer, garbage)  
**Applicant statement:** *There will be no impact to these services.*  
**Standard met:** Delivery of governmental services will not be affected.
- (5) Whether the property owner purchased the property with knowledge of the zoning restriction  
**Applicant statement:** *The homeowners were not aware of a 25' side yard setback requirement.*  
**Standard met:** The applicant has stated the property owners were not aware of the side yard setback restrictions.
- (6) Whether the property owner's predicament feasibly can be obviated through some method other than a variance  
**Applicant statement:** *Not without impacting removal of trees and landscaping in rear yard and impacting the sunroom view of the rear yard.*  
**Standard not met:** The property at 595 Retreat Ln N is large enough to build a detached garage in another location, which would not require a variance. However, the applicant has provided multiple reasons as to why this location is preferred.
- (7) Whether the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting the variance  
**Applicant statement:** *Yes, the HOA in the Retreat is supportive of the proposed two car garage design, we have support from the adjacent neighbor and with the size of the lots the impact will not be noticeable. The location of our proposed garage addition sits in line with the rear of the house and creates an auto court feel and aesthetically enhances the street elevation.*  
**Standard met:** This request does not go against the spirit and intent of the zoning code.

The Retreat Homeowners Association provided the applicant a letter stating that the proposed, "garage addition meets the guidelines of the development text." Although, final approval of the garage ultimately rests on the Board of Zoning Appeals with the approval or disapproval of the variance request.

#### Staff Recommendation

Staff recommends approval of the variance to decrease the west side yard setback from 25 feet to 19.8 feet.