



BOARD OF ZONING APPEALS

Village Green Municipal Building, Council Chambers
47 Hall Street
Thursday, July 1, 2021
6:30 P.M.

1. VARIANCE (Case 2021-27V)

Applicant: 3 Pillar Homes
Location: 67 Grace Drive South
Zoning: Downtown Business District (DB)
Request: Review and approval of a variance to increase the maximum front yard setback from 25 feet to approximately 81 feet, and reduce the northern side yard setback from 25 feet to approximately 20 feet for a new single-family residence.

Aerial Site Image: <https://goo.gl/maps/Vsy4zpJzD5UNPtX4A>

Property Overview

This submittal is for a new residential project on a ±0.965 acre parcel fronting Grace Drive South, immediately south of the Sharp Street Residence District. The site has a frontage of 127.08 feet and a depth of 361.70 feet. The property also contains a floodway zone for Bartholomew Run on the western half of the property.

67 Grace Drive South is zoned Downtown Business District (DB). According to Code Section [11.43.16.2\(g\)\(6\)](#) “where this district abuts a residential zone, side and rear yard spaces adjoining the residential zone shall be the same as for that residential zone”. This property is adjacent to the Residence District to the north. The required setbacks are:

- front = minimum of 20', maximum of 25';
- north side = 25';
- south side = 5';
- rear = 5'.

This proposal has previously been reviewed by the Historic Downtown Advisory Commission (HDAC) for consistency with the Powell Architectural Guidelines. The proposal was approved for a Certificate of Appropriateness on June 17, 2021 with a condition that if the Board of Zoning Appeals does not grant a variance to the setback requirements, the applicant must go back to the Historic Downtown Advisory Commission for approval of an updated design.

Proposal Overview

The applicant is proposing a new ±3,148-square-foot single-family residence. The home is proposed to be two stories, with a height of 31'-6.5". The applicant is requesting two variances:

- 1) To increase the required maximum front yard setback from 25 feet to approximately 81 feet, and
- 2) To decrease a required north side yard setback from 25 feet to to approximately 20 feet.

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 property's benefit and return will not be negatively affected by the variance. The proposed setback will add value to the property by providing additional privacy and safety for the property's homeowner. The setback will not have any impact on the quality of materials used during the building process of the new single-family dwelling.
Standard Met. Staff agrees with the applicant's assessment.

- (2) Whether the variance is substantial

Applicant statement: The impact of the requested setback is unsubstantial. The new single-family dwelling will still be visible from the street and meet all HDAC standards. We believe the proposed setback to be unsubstantial in relation to the size of the lot.

Standard Met: Staff agrees with the applicant's assessment. Although the property is zoned in the Downtown Business District, it is located on the edge of the zoning district, slightly removed from the downtown commercial core and the intended use is residential.

- (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: The character of the neighborhood and adjoining properties will be unaffected by the variance. The new single-family dwelling will still adhere to HDAC approval which will ensure the design and materials meet the standards set forth by the City of Powell.

Standard Met: Staff agrees with the applicant's assessment. The adjacent parcels to the east and west are vacant and their development will not be hindered by the variances. The property to the west is the Powell Cemetery, and Bartholomew Run will separate the proposed residence and the cemetery, along with 215.36 feet of rear yard. The residential parcels to the north on Sharp Street will not be affected by the variance. The rear yards of the Sharp Street properties have large setbacks and are heavily wooded to provide screening to the proposed home.

- (4) Whether the variance would adversely affect the delivery of governmental services (e.g., water, sewer, garbage)

Applicant statement: The variance will have no adverse impact of the delivery of governmental services.

Standard Met: Staff agrees with the applicant's assessment.

- (5) Whether the property owner purchased the property with knowledge of the zoning restriction

Applicant statement: The property owner purchased the property with knowledge of the zoning restrictions. However, since this is a transitioning property on the outskirts of the downtown, we are hopeful for leniency due to the minimal overall impact of the requested variance.

Standard Met: Staff agrees with the applicant's assessment.

- (6) Whether the property owner's predicament feasibly can be obviated through some method other than a variance

Applicant statement: The property owner's predicament feasibly cannot be obviated through some method other than a variance due to the nature of this variance. The only method which would allow for the same result is a variance granted by the Board of Zoning Appeals.

Standard Not Met: Staff recognizes that a single-family residential home can be built on this lot and meet the Downtown Business District requirements without a variance. However, staff understands the property owner's request for an increased front yard setback to provide more privacy and safety with a larger buffer from Grace Drive. With the larger front

yard setback, the decreased side yard setback is necessary to avoid building within the Bartholomew Run floodway zone.

- (7) Whether the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting the variance

Applicant statement: The spirit and intent behind the zoning requirement would be observed and substantial justice would be done by granting the variance. The new single-family dwelling will still maintain desirable street presence while also upholding the building standards and requirements set forth by the HDAC and the City of Powell.

Standard Met: Staff agrees with the applicant's assessment.

Staff Recommendation

The applicant is requesting two variances, which will require the Board to make two motions. Staff recommends approval of both variance requests at 67 Grace Drive South:

- 1) Approval of a variance request to increase the required maximum front yard setback from 25 feet to approximately 81 feet, and
- 2) Approval of a variance request to decrease a required north side yard setback from 25 feet to 20 feet.