



Legislation Details (With Text)

**File #:** 22-0585B      **Version:** 1

**Type:** Ordinance      **Status:** Passed

**File created:** 5/25/2022      **In control:** City Council

**On agenda:** 6/7/2022      **Final action:** 6/7/2022

**Title:** Option A: Concur with the Planning and Zoning Commission and the petitioner and pass the ordinance approving a variance to Section 6-6A-7 for the property located at 410 E 8th Avenue - PZC 22-1-027; or Option B: Concur with staff and deny the variance - PZC 22-1-027

**Sponsors:**

**Indexes:**

**Code sections:**

**Attachments:** 1. Ordinance - concur with PZC, 2. Exhibit A - Legal Description, 3. Exhibit B - Plat of Survey, 4. Exhibit C - Site Plan, 5. Exhibit D - Response to Standards, 6. Variance Petition, 7. Location Map, 8. Public Comment

| Date     | Ver. | Action By    | Action            | Result |
|----------|------|--------------|-------------------|--------|
| 6/7/2022 | 1    | City Council | passed as amended | Pass   |

**CITY COUNCIL AGENDA ITEM**

**ACTION REQUESTED:**

**Option A:** Concur with the Planning and Zoning Commission and the petitioner and pass the ordinance approving a variance to Section 6-6A-7 for the property located at 410 E 8<sup>th</sup> Avenue - PZC 22-1-027; or **Option B:** Concur with staff and deny the variance - PZC 22-1-027

**DEPARTMENT:** Transportation, Engineering and Development

**SUBMITTED BY:** Gabrielle Mattingly, Community Planner

**BOARD/COMMISSION REVIEW:**

The Planning and Zoning Commission (PZC) considered PZC 22-1-027 on May 18, 2022 and provided a positive recommendation on the request (approved 7,0). Staff does not concur with this recommendation for the reasons noted below.

**BACKGROUND:**

The subject property is located at the southeast corner of Loomis Street and 8th Avenue. It is zoned R1A and is approximately 14,224 square feet in size. The petitioner plans to construct a new, single-family home at the property with a driveway that will be accessed off Loomis Street. The petitioner is requesting approval of a variance from Section 6-6A-7 (R1A Yard Requirements) to reduce the required corner side yard setback from 30 feet to 15 feet.

**DISCUSSION:**

Single-family detached dwellings in the R1A zoning district have the following setback requirements which are applicable to the subject property:

|                                   |   |
|-----------------------------------|---|
| <b>Front yard setback</b>         | 30'                                     |
| <b>Corner side yard setback</b>   | 30'                                     |
| <b>Interior side yard setback</b> | 8'                                      |
| <b>Rear yard setback</b>          | 25% of the lot depth, not to exceed 30' |

The Zoning Regulations provide corner lot property owners with flexibility on the selection of the front yard and the corner yard. Per the Code, the property owner may determine which street side shall be considered the front yard and which street side shall be the corner yard. The applicant has indicated that the yard adjacent to the 8<sup>th</sup> Avenue is the corner yard, requiring this yard to have a 30 feet setback. The petitioner is requesting approval of a variance to decrease the required setback from 30 feet to 15 feet, as illustrated on the attached site plan.

*Findings of Fact*

The petitioner’s responses to the Standards for Granting a Variance can be found in the attachments. Staff is not in support of variance request and does not concur with the responses to the standards submitted by the petitioner for the reasons noted below:

- **Surrounding zoning.** The properties located along 8<sup>th</sup> Avenue to the east and west of the subject property are also zoned R1A and are subject to the same setback requirements. Permitting a home which does not comply with the R1A setbacks will create an inconsistent street wall along southside of 8<sup>th</sup> Avenue.
- **Lot shape.** The R1A zoning district has a minimum lot size requirement of 10,000 square feet and a minimum lot width of 70’. The subject property’s lot size is 14,224 square feet and the lot width is 83.62’. The lot size and lot widths exceed the minimum requirements for the R1A zoning district. The variance request is not driven by the existing shape of the lot.
- **Placement on lot.** The proposed interior side yard setback greatly exceeds the minimum requirement. The proposed home will be placed 15’ from the property line abutting 8<sup>th</sup> Avenue and approximately 22’ from the interior property line (southern lot line). The minimum required interior side yard setback for the home is 8’. If the proposed home was placed closer to the southern property line, at the minimum 8’ setback, the home would be in compliance setback requirements as front porches are permitted to encroach 5’ into the corner side yard setback. Shifting the placement of the home on the lot would eliminate the need for a variance.
- **New construction.** The proposed home constitutes a new development built from the ground up, and staff does not believe that there are any hardships which would justify new construction which does not meet the required setbacks.

*Proposed driveway and sidewalk*

The drafted site plan was reviewed by the Transportation, Engineering and Development Business Group for initial feedback. Engineering staff noted that the driveway is required to comply with the City’s regulations and the applicant will be required to install sidewalk along 8<sup>th</sup> Avenue. The applicant was notified of these regulations and has confirmed the proposal will be in compliance. Formal review of these details will be conducted upon submittal of a building permit.

**Planning and Zoning Commission**

The Planning and Zoning Commission held a public hearing for PZC 22-1-027 on May 18, 2022. Written comments were received voicing support and opposition to the request. The opposing

comment stated that the request should not be approved as it would place the home too close to the sidewalk and the street and found that there is significant space on the lot to accommodate a large home. The submitted public comments can be found in the attachments. No members of the public spoke on the request during the meeting.

The PZC asked about the zoning of the surrounding homes and the reasoning for the request. Russ Whitaker, Rosanova and Whitaker, Ltd, attorney for the petitioner, stated that the request is being made to provide additional separation from the existing home located on the property directly south of the subject property. Commissioner Robbins and Vice Chairman Losurdo voiced support for the request. The PZC provided a positive recommendation on the request (approved 7,0).

**FISCAL IMPACT:**

N/A