



ZONING BOARD OF ADJUSTMENT MEMORANDUM

FROM: Planning & Zoning Department **DATE:** June 24, 2021

SUBJECT: BA 2021-02 Public hearing and consideration of a request from Jim Fentress for a variance from Section 118-313 (lot and area requirements) and Section 118-718 (accessory buildings and structures) of the North Richland Hills zoning ordinance at 7905 Irish Drive, being 0.21 acres described as Lot 2, Block 1, Irish Meadows Section 1 Addition.

PRESENTER: Clayton Husband, Principal Planner

SUMMARY

Jim Fentress is requesting approval of a variance to the lot and area requirements and accessory buildings and structures standards to allow a carport addition to the house. The property is located at 7905 Irish Drive.

BACKGROUND INFORMATION

The property is located on the north side of Irish Drive, between Mockingbird Lane and Ulster Drive. The property is zoned R-3 (Single-Family Residential) and is developed with a single-family residence constructed in 1979. The 9,142-square-foot lot is part of the Irish Meadows subdivision, which was platted in 1977. The lot is rectangular in shape, being approximately 73 feet wide and 130 feet deep. The property is owned by the applicant, James (Jim) Fentress, and is occupied by a family member.

In September 2020, the City received a complaint about construction work taking place on the property. The work included construction of a cover over a driveway and patio on the northwest side of the house. The covered area extends along the side property line from the front of the house to the rear property line, and wraps behind an existing detached garage behind the house. An inspection of the property determined that a permit had not been issued for the construction. As a result, a stop work order was issued on the work on October 3, 2020.

Prior to the issuance of the stop work order, the chief building official and the occupant discussed the zoning and building standards that apply to the property. An email summarizing the conversation was sent to the occupant on September 29, 2020, which included a list of known zoning and building code violations. A copy of the email is attached.

On October 5, 2020, a code compliance case was opened and an initial notice of violation letter was mailed to the owner and occupant. Additional notices were mailed on October 19, 2020, and January 4 and January 15, 2021. Copies of the notices are attached.

Since a permit application was not submitted and the property was not brought back into compliance by the required deadlines, a probable cause affidavit was submitted to the municipal court. Following a court hearing on March 17, 2021, the owner was given 14 days to submit a building permit application. The permit application was submitted on April 5, 2021.

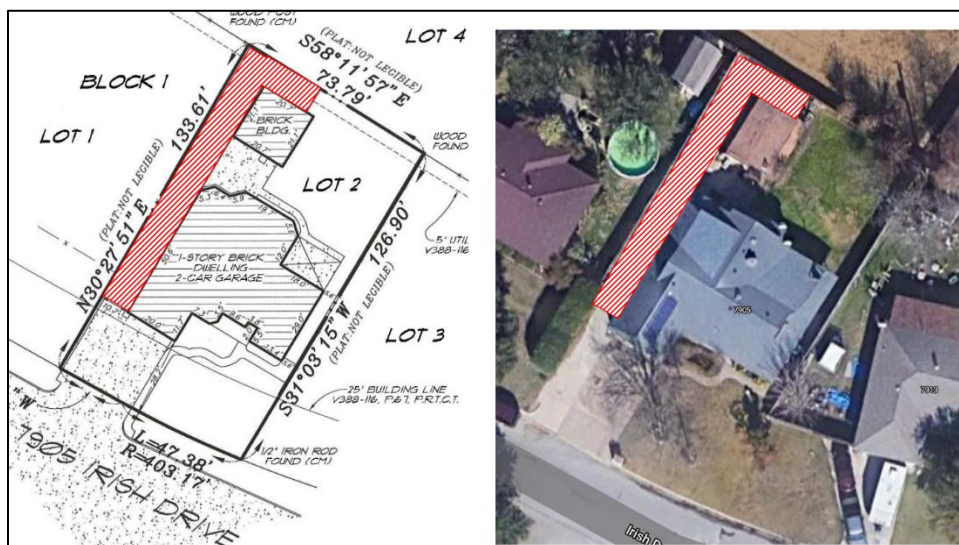
After the building permit application was reviewed, a plan review report was provided to the applicant on April 20, 2021. A copy of the report is attached, which identifies where the construction does not comply with certain zoning regulations and building code standards. The applicant was advised that the design must be adjusted to comply with the applicable code requirements. Rather than adjust the design, the applicant has submitted an application for variance on May 18, 2021.

The variance application and supporting materials are attached. The materials include a copy of the application explaining the reasoning for the variance request and other relevant documents. An analysis of the request and relevant codes is below.

ANALYSIS

The variance request is to standards contained in two sections of the zoning ordinance. These include the lot and area requirements of the R-3 (Single-Family Residential) zoning district contained in [Section 118-313](#), and the accessory building and structures standards contained in [Section 118-718](#).

The carport/covered driveway structure is built on the northwest side of the house. The structure is approximately 9.7 feet wide and 104 feet long, extending adjacent to the side property line to the rear property line. The structure also extends approximately 30 feet adjacent to the rear property line. The structure also encroaches into a platted five-foot utility easement along the rear property line. The structure covers approximately 1,112 square feet. The exhibit below shows the location of the structure on the lot.



Given its location on the property, the structure is not in compliance with the following zoning ordinance requirements related to building setbacks and accessory building standards. The table below provides a comparison of the relevant requirements and the existing condition on the property

STANDARD	REQUIREMENT	PROPERTY CONDITION
<u>Sec. 118-313</u> (6) Side building line	○ Six (6) feet	○ 0.9 feet (10.8 inches)
<u>Sec. 118-313</u> (7) Rear building line	○ Ten (10) feet	○ Zero feet
<u>Sec. 118-718(d)</u> (4) Side building line	○ Six (6) feet	○ 0.9 feet (10.8 inches)
<u>Sec. 118-718(d)</u> (5) Rear building line	○ Ten (10) feet	○ Zero feet
<u>Sec. 118-718(d)</u> (7) Maximum size	○ 360 square feet	○ 1,112 square feet
<u>Sec. 118-718(d)</u> (13) Pitch of roof	○ Minimum 4:12 on each side of ridge. Flat or nearly flat roofs are not permitted.	○ Less than 1:12 roof pitch

There are other code violations associated with the structure related to building code standards and utility easement encroachments. Some of these violations are noted in the plan review report. However, those violations cannot be addressed through action by the Zoning Board of Adjustment. In the event variances are approved for the structure, these violations would have to be addressed before a building permit could be issued. Denial of variances would ultimately require that all or portions of the structure be removed in order to achieve compliance with code standards.

FINDINGS FOR VARIANCE APPROVAL

[Section 118-86\(4\)](#) of the zoning ordinance authorizes the Zoning Board of Adjustment "...to authorize upon appeal, in specific cases, such variance from the terms of [the Zoning Ordinance] as will not be contrary to the public interest and where, because of special conditions, the enforcement of the [Zoning Ordinance] would result in an unnecessary hardship."

In exercising its powers to grant a variance, the board of adjustment must make specific findings and show in its minutes that:

- a. Literal enforcement of the controls will create an unnecessary hardship or practical difficulty in the development of the affected property.
- b. The situation causing the hardship or difficulty is neither self-imposed nor generally affecting all or most properties in the same zoning district.



- c. The relief sought will not injure the permitted use of adjacent conforming property.
- d. The granting of the variance will be in harmony with the spirit and purposes of these regulations.

OPTIONS FOR BOARD CONSIDERATION

The Zoning Board of Adjustment has the following options on this application.

- 1. Approve the variance as presented. This action would approve variances to the building line setbacks and accessory building standards for the structure. The structure would still be subject to other building code and property standards.
- 2. Approve the variance with conditions. This action would approve variances to the building line setbacks and accessory building standards for the structure, subject to the owner making modifications to its size, location, or design as directed by the Board.
- 3. Deny the variance. This action would require the structure to be built in compliance with building line setbacks and accessory building standards or removed from the property.