

CITY OF WEST DES MOINES BOARD OF ADJUSTMENT STAFF REPORT COMMUNICATION

Meeting Date: June 1, 2022

ITEM: 290 SE Browns Woods Court – Zoning Exception for the Reduction of Street Side Yard Setback to accommodate Detached Garage – Ted and Jennifer Hill – VAR-005540-2022

REQUESTED ACTION: Zoning Exception for Reduction of Street Side Yard Setback

Applicant's Request: The applicant, Ted Hill, and property owner, Jennifer Hill, are seeking approval of a Zoning Exception to reduce the 20' street side yard setback required for corner lots to accommodate a detached garage. If approved, the exception would allow for a reduction in the street side yard setback from 20' to 15'. The proposed structure will have garage doors facing north so no access onto the west street, SE Browns Woods Court, is proposed. The structure will be accessed by a driveway that wraps around the existing home and connects to the existing pavement.

History: According to the Polk County Assessor website, the home on the property was constructed in 1974. On March 27, 1988, the subject property was annexed into the City of West Des Moines as part of the South Raccoon River Annexation. When the subject property and surrounding neighborhood was annexed into the city, the property owners at the time wanted to maintain the rural character, requesting their property be zoned Residential Estate (RE), even though the majority of the lots in the annexed area did not meet the bulk regulations for RE zoning. Other properties in the area have similar detached garages but were built prior to being annexed into the City. Therefore, they are legally nonconforming structures, but the proposed detached garage is consistent in terms of location and placement with the properties in the immediate area.

City Council Subcommittee: This item was not presented to the Development and Planning City Council Subcommittee as they do not have authority over variance and zoning exception requests.

Staff Review and Comment: Staff would summarize the following key points of interest:

- **City Code Requirement:** The currently adopted zoning code requires structures on corner lots to provide a 20' setback in a street side yard condition. In the fall of 2019, the city code was amended to define "Street Side Yard" for residential properties (AO-004537-2019). The intent of this code amendment was to allow for reduced setbacks for corner lots where the corner lot directly backs the rear yard of another corner lot. Limiting this Street Side Yard condition to a back-to-back lot layout will allow the smaller setback to be applied to a street frontage that will be consistent in the dwelling orientation and setback, providing a cohesive street presence. It is important to note that in this application there is not abutting rear yards. However, the subject property to the south is the Veterans Parkway Memorial. Given that the memorial property will have no structures, there is not a concern with additional dwellings being built facing SE Browns Woodss Court resulting in a different setback (50' vs. 20') along the street. With that, staff is comfortable applying the street side yard designation in this situation. The Street Side Yard is still fronting a public

street, thus the maximum exception request allowed will follow the requirements for a front yard (25%).

- ***Conditions of Approval:*** To prevent any future issues relating to vehicle-pedestrian conflicts along SE Browns Woods Court since the reduced setback will not provide sufficient space for a vehicle to park in the driveway without encroaching into the right of way and blocking the future sidewalk, staff suggests a condition of approval prohibiting direct vehicle access for the garage onto SE Browns Woods Court.
- ***Variance vs Zoning Exception:*** A zoning exception is similar to a variance in that it is a relaxation of the applicable zoning requirement; however, a variance requires the applicant show there is an “unnecessary hardship,” while an applicant must only show there is a “practical difficulty” for a zoning exception request. Practical difficulties as they relate to consideration of the request may be shown by special circumstances which apply to the property such that the terms of Title 9 cannot be satisfied.

Zoning Exception Findings: The Zoning Exception process is not permission to evade zoning regulations just because a property owner wants an improvement. To grant the zoning exception, all of the following standards and criteria must be met, or conditions and limitations, as the Board deems necessary, imposed to allow it to make said findings.

1. Without the requested exception, strict compliance with the ordinance prevents improvement of the property in a manner which is reasonable, customary, and consistent with other properties in the area.
2. Without the requested exception, strict compliance with the ordinance results in a practical difficulty. An “practical difficulty” may be shown by:
 - a. Significant or unjustified expense in light of the scope of the project; or
 - b. Destruction or demolition of significant and attractive features of the property, or similar reasons; or
 - c. Unique physical attributes of the subject property such as exceptional narrowness, shallowness, size, shape, mature & desirable vegetation, natural features such as streams, creek, and ponds, or topographical conditions of the subject property that restrict placement of the intended improvement; or
 - d. Orientation or interior configuration of the existing structure which impacts the logical function of the intended improvement unless additional modifications are made to the existing layout or use of the existing structure.
3. The requested exception is the minimum necessary to achieve the purpose of the request.
4. The requested exception will not have a negative impact on the character or context of the neighborhood.
5. The requested exception will not be detrimental to the public health, safety or general welfare.
6. The requested exception does not authorize or expand a use or activity not otherwise expressly authorized by the regulations within the zoning district in which the property is located.

It shall be the responsibility of the applicant to prove to the satisfaction of the Board that the above findings can be made. The applicant’s findings to grant the variance and staff’s findings, are included herein for the Board’s consideration in making their decision.

Property Owner & Applicant: Ted and Jennifer Hill
 290 SE Browns Woods Court
 West Des Moines, IA 50265

Lead Staff Member: Bryce Johnson

Approval Meeting Date:

Board of Adjustment	June 1, 2022
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Staff Report Reviews:

<input checked="" type="checkbox"/> Development Coordinator (or) <input type="checkbox"/> Director <input type="checkbox"/> Legal Department
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Publications (if applicable)

Published In:	Des Moines Register Community Section
Date(s) Published	5/18/22
Date(s) of Mailed Notices	5/18/22

Council Subcommittee Review (if applicable)

Subcommittee	Development & Planning
Date Reviewed	N/A
Recommendation	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Split <input checked="" type="checkbox"/> No Discussion

Subject Property



RESOLUTION BOA-2022-08

**A RESOLUTION OF THE BOARD OF ADJUSTMENT OF THE CITY OF WEST DES MOINES,
(APPROVING / DENYING) THE ZONING EXCEPTION REQUEST (VAR-005540-2022) FOR
REDUCTION OF THE STREET SIDE YARD SETBACK FROM 20' TO 15' FOR THAT
PROPERTY LOCATED AT 290 SE BROWNS WOODS COURT**

WHEREAS, pursuant to the provisions of Title 9, Chapter 1 et seq, of the West Des Moines Municipal Code, the property owners, Ted and Jennifer Hill, have requested approval of a Zoning Exception from Title 9, Zoning, Chapter 7 (Setback and Bulk Density Regulations), Section 4 (Setback and Bulk Density Regulations), Table 7.2, of 5 feet (5') of the required twenty-feet (20') street side yard setback to construct a detached garage that is located on the property located at 290 SE Browns Woods Court and legally described as:

**LOT 5, ABILD HEIGHTS AN OFFICIAL PLAT
NOW WITHIN AND FORMING A PART OF THE
CITY OF WEST DES MOINES, POLK COUNTY, IOWA**

WHEREAS, studies and investigations were made, and staff reports, and recommendations were submitted which is made a part of this record and herein incorporated by reference; and

WHEREAS, on June 1, 2022, the Board of Adjustment held a duly noticed public hearing to consider the application for a Zoning Exception (VAR-5540-2022).

WHEREAS, based upon a review of the submitted zoning exception request, the Board of Adjustment finds (**In Favor of Applicant's Findings, In Favor of Staff Findings, or in Favor of the Board's Findings**) _____ as attached at Exhibit B;

NOW, THEREFORE, THE BOARD OF ADJUSTMENT OF THE CITY OF WEST DES MOINES DOES RESOLVE AS FOLLOWS:

SECTION 1. A Zoning Exception Request (VAR-5540-2022), to allow a reduction of the street side yard setback from twenty-feet (20') to fifteen-feet (15') is (**approved / denied**).

PASSED AND ADOPTED on June 1, 2022.

Michele Stevens, Chair

ATTEST:

Recording Secretary

I HEREBY CERTIFY that the foregoing resolution was duly adopted by the Board of Adjustment for the City of West Des Moines, Iowa, at a regular meeting held on June 1, 2022, by the following vote:

AYES:

NAYS:

ABSTAIN:

ABSENT:

ATTEST:

Recording Secretary

Exhibit A
Conditions of Approval

1. Direct vehicle access for the garage onto SE Browns Woods Court is prohibited.

Exhibit B
Board of Adjustment Findings

Applicant's Findings

A variance shall only be granted if all of the following findings are made; or if conditions and limitations, as the Board deems necessary, are imposed to allow it to make said findings. **It shall be the responsibility of the applicant to prove to the satisfaction of the Board that the following findings can be made:**

1. Without the requested exception, strict compliance with the ordinance prevents improvement of the property in a manner which is reasonable, customary, and consistent with other properties in the area.

APPLICANT RESPONSE: *The 20' street side yard setback is intended to maintain the street context when corner lots have abutting rear yards. However, the strict compliance of the zoning code prevents the proposed improvement in an unreasonable manner because the property behind the house is the Veterans Memorial, where no home will be built.*

2. Without the requested exception, strict compliance with the ordinance results in a practical difficulty. An "practical difficulty" may be shown by:

- a. Significant or unjustified expense in light of the scope of the project; or
- b. Destruction or demolition of significant and attractive features of the property, or similar reasons; or
- c. Unique physical attributes of the subject property such as exceptional narrowness, shallowness, size, shape, mature & desirable vegetation, natural features such as streams, creek, and ponds, or topographical conditions of the subject property that restrict placement of the intended improvement; or
- d. Orientation or interior configuration of the existing structure which impacts the logical function of the intended improvement unless additional modifications are made to the existing layout or use of the existing structure.

APPLICANT RESPONSE: *The 20' setback would require us to remove more green grass area and the existing garden upgrades in our backyard.*

3. The requested exception is the minimum necessary to achieve the purpose of the request.

APPLICANT RESPONSE: *Yes.*

4. The requested exception will not have a negative impact on the character or context of the neighborhood.

APPLICANT RESPONSE: *It will not have any negative impact. It will be located and look similar to other detached garages in our neighborhood.*

5. The requested exception will not be detrimental to the public health, safety or general welfare.

APPLICANT RESPONSE: *It will not be detrimental to the public health, safety, or general welfare.*

6. The requested exception does not authorize or expand a use or activity not otherwise expressly authorized by the regulations within the zoning district in which the property is located.

APPLICANT RESPONSE: *Yes.*

Staff's Findings

1. Without the requested exception, strict compliance with the ordinance prevents improvement of the property in a manner which is reasonable, customary, and consistent with other properties in the area.

STAFF RESPONSE: *Given that the subject property is a corner lot, and the lot area is less than the minimum required for the zoning district, the strict compliance with the ordinance reduces the amount of buildable area for an accessory structure. If the lot was not on a corner (i.e. interior lot) the side yard setback for the proposed garage would only be 5'*

2. Without the requested exception, strict compliance with the ordinance results in a practical difficulty. An "practical difficulty" may be shown by:
 - a. Significant or unjustified expense in light of the scope of the project; or
 - b. Destruction or demolition of significant and attractive features of the property, or similar reasons; or
 - c. Unique physical attributes of the subject property such as exceptional narrowness, shallowness, size, shape, mature & desirable vegetation, natural features such as streams, creek, and ponds, or topographical conditions of the subject property that restrict placement of the intended improvement; or
 - d. Orientation or interior configuration of the existing structure which impacts the logical function of the intended improvement unless additional modifications are made to the existing layout or use of the existing structure.

STAFF RESPONSE: *As noted by the applicant, the 20' setback would require the removal of existing site improvements such as landscaping features and greenspace.*

3. The requested exception is the minimum necessary to achieve the purpose of the request.

STAFF RESPONSE: *Staff believes the applicant's detached garage as drawn illustrates the minimum encroachment needed to provide sufficient angles for vehicles entering the proposed structure. If the garage was pushed further east in compliance with the 20' setback it would make maneuvering vehicles difficult when entering/exiting the proposed structure.*

4. The requested exception will not have a negative impact on the character or context of the neighborhood.

STAFF RESPONSE: *Staff believes the proposed detached garage will not have a substantial negative impact on the neighborhood*

5. The requested exception will not be detrimental to the public health, safety or general welfare.

STAFF RESPONSE: *The requested exception will not be detrimental to the public health, safety, or general welfare. It is important to note that the proposed garage doors will be facing north, which alleviates any potential pedestrian-vehicle conflicts if a sidewalk is built in the future along SE Browns Woods Drive.*

6. The requested exception does not authorize or expand a use or activity not otherwise expressly authorized by the regulations within the zoning district in which the property is located.

STAFF RESPONSE: *The site is developed with a single-family dwelling, which is an allowed use in the designated zoning district.*

290 SE Browns Woods Variance

Case Number: VAR-005540-2022

Site Address: 290 SE Browns Woods Court, WDM, IA

Legal Description: LOT 5 IN ABILD HEIGHTS, AN OFFICIAL PLAT, NOW INCLUDED IN AND FORMING A PART OF THE CITY OF WEST DES MOINES, POLK COUNTY, IOWA

Property Owner: Ted Hill, 290 SE Browns Woods Court, West Des Moines, IA 50265

Comprehensive Plan Designation: Low Density Res (LD)
Zoning District: Residential Estates (RE)

Minimum Yard Setbacks (detached accessory structure):
 Front Setback: 50-feet to north
 Rear Setback: 5-feet
 Side Setback: 5-feet interior; 20-feet to west

Existing Impervious Surface: 4,950-sq. ft.
Added Impervious Surface: 1,431-sq. ft.
Total New Impervious Surface: 6,381-sq. ft.

Lot Size (in square feet and acres): 18,754 sq. ft. (0.43 ac)

Project Summary:
 Extend existing driveway along west side of home to backyard to connect to proposed detached garage

Other Information (attach elevations/renderings, specs):

Full ROW width = 50'
 Half ROW width = 25'
 Street Pavement = 25'
 All Streets are PUBLIC

PLANS INCLUDED ARE FOR ILLUSTRATIVE PURPOSES ONLY – APPROVED PLANS ON FILE WITH THE CITY

● = Streetlights



