



City of Laramie

Planning Division
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**LARAMIE PLANNING COMMISSION
(SITTING AS THE LARAMIE BOARD OF ADJUSTMENT)
February 22, 2021
STAFF REPORT**

FILE: VAR-21-01: 1729 Steele St. – Accessory Building Setback
REQUEST: A variance request from LMC Table 15.12-2 for R1 District
LOCATION: 1729 Steele Street
APPLICANT(S): Robert Berger
OWNER: Robert Berger
PURPOSE: To allow a property located within the R1 Zoning District to not have a setback of 3 feet as required under LMC Table 15.12-2 for an accessory building.
CURRENT ZONING: R1 (Single Family) District
PREPARED BY: Matthew Cox, Associate Planner

STAFF RECOMMENDED MOTION:

Move to **deny** the requested variance from Laramie Municipal Code Table 15.12-2, that would allow the applicant to keep an already constructed accessory building at a 0 foot setback at the rear of the lot, located at 1729 Steele Street, zoned R1, based on findings of fact and conclusions of law and subject to the recommend conditions.

APPLICABLE CODE SECTIONS

15.12 – Dimensional Standards
15.06.060.D - Variances

Authority for consideration and granting of variances is found in LMC §15.06.060.D [Variances]. The variance process is intended to provide limited relief from the requirements of this code in those cases where strict application of a particular requirement will create a practical difficulty or unnecessary hardship prohibiting the use of land in a manner otherwise allowed under this code. It is not intended that variances be granted merely to remove inconveniences or financial burdens that the requirements of this code may impose on property owners in general. Rather, it is intended to provide relief where the requirements of this code render the land difficult or impossible to use because of some unique physical attribute of the property itself or some other factor unique to the property for which the variance is requested. State and/or federal laws or requirements may not be varied by the city.

BACKGROUND/DISCUSSION:General Information

The applicant has constructed a garage at the rear of his property with the entrance facing the alleyway. The applicant believed that he was 3 feet off of his property line, but when the building inspector arrived to inspect the project, the building inspector informed the applicant and contractor that the accessory building was not setback 3 feet as required by code, but instead was essentially constructed on the property line.

Months before the above noted building inspection, the applicant called planning staff regarding setback regulations. Staff informed the applicant that it must be setback 3 feet and based off of this information, the applicant staked (or marked) where the garage would need to be constructed. When viewed by Staff during an on-site visit, Staff assumed that the applicant knew where his property line boundary was. Staff indicated during this on-site meeting that the location would be okay, as long as the building met the required 3 feet setback from the property line.

Based on this information the applicant continued with project, the contractor submitted a building permit showing that the garage would be setback 3 feet from the property line. The building department approved the submitted building permit based on the submitted materials (Attached). Once the structure was completed, with walls and foundation finalized, the contractor called for a final inspection. Upon arriving the Building Inspector noted that the contractor had not called for the property inspections and had missed the required footings (foundation) inspection. Staff notes, that if the correct inspections were called upon by the contractor, the setback violation would have been able to be remedied before any concrete was poured or the structure was constructed, but the contractor only called for an inspection once the full structure had been built, making it costly to remove and/or adjust to the required 3 foot setback, thus the reason for the variance.

The Building and Planning Department staff met with the contractor and applicant multiple times after this mistake was found and described the options that could be taken to move forward from here. The selected a Variance as their preferred option instead of remedying the mistake.

The applicant has provided evidence as to why he believes that the property line was at the location he perceived. There are plats, photos, a cover letter and public comments attached to this staff report.

DEPARTMENT REVIEW:

The application was routed to other City departments for review and comment per standard procedure. Based upon the applicant's submitted information, the planning department only has comments surrounding the setback infringement and all other departments have comments only warning the applicant of certain situations and explaining the situation. No matter the outcome of the Variance the applicant will be required to comply with all Building Code Requirements, including all necessary permits needed for the construction/remodel of the property.

- **Building Department:**
 - The contractor that was hired for the accessory building at this address applied for a building permit through Code administration, it was reviewed by myself (Lucas Whitt, Building Inspector) and approved. The site plan for the permit indicated that the structure was to be set back 3 feet from the back-property line. On the 18th of December of 2020, a framing inspection was called in. Upon inspection the building in question was set on the property line instead of the 3 feet that was permitted. With a new structure that involves a new footing or foundation, the first inspection that is done through code administration, is a footing inspection. This is not only to make sure that the footing is done to code but also to check for correct setbacks. Had this been called in first, it would have been caught early and the necessary steps would have been taken to correct it.
- **Solid Waste:**
 - If the applicant was to pave and encroachment into the alleyway, the city's truck may be too much weight and overtime could crush the paved area.
 - The applicant has not shown any interest of paving into the alleyway.
 - The property owner at 1730 Park Ave. will need to move their trash cart from directly in front of the garage in question. Currently the cart sits right in front of the garage entrance across the alley, he will need to move it to either side east or west end.
 - The neighbor at 1730 Park Ave. had provided a letter stating that he has no issue with moving his trash container (letter attached).
- **Engineering:**
 - The solid waste trucks can still fit in the alley at this location. However, if a concrete approach is built to this garage, it might get damaged by the solid waste truck because they don't have room to drive around it.
 - Addressed under solid waste comments
 - By constructing the garage closer than 3 feet setback, the garage will be more susceptible to damage if City utility division needs to replace or maintain the water and sewer in the alley.

FINDINGS OF FACT FOR VARIANCE:

Pursuant to LMC §15.06.060.D [Specific Review Procedures – Variances], the Board of Adjustment must find that all of the following criteria have been met in order to approve the variance:

- (a) **There are special circumstances or conditions, fully described in the board's findings, that are peculiar to the land or building for which the adjustment is sought and do not apply generally to land or buildings in the neighborhood, and have not resulted from any act of the applicant subsequent to the adoption of the code, such as irregularity, narrowness, or shallowness of lot, or exceptional topographical conditions.**

Staff Response: Staff does not recognize any special circumstances with the lot or the constructed garage. The lot is large enough to accommodate the required 3 foot setback.

- (b) The circumstances or conditions are such that the strict application of the provisions of the code would deprive the applicant of the reasonable use of such land or building.**

Staff Response: The code would not deprive the applicant the use of the land or building. Adequate space exists on the lot to move the garage to the appropriate 3 foot setback, or can remove three feet from the front of the building.

- (c) If applicable, the circumstances or conditions are such that the strict application of the provisions of the code would deprive the applicant of access to alternative forms of energy such as solar or wind power.**

Staff Response: Not applicable. No solar or wind power devices are being sought in this context and the variance being requested would not deprive the applicant of access to alternative forms of energy.

- (d) The granting of the adjustment is necessary for the reasonable use thereof and the adjustment as granted is the minimum adjustment that will accomplish this purpose;**

Staff Response: Staff believes that the granting of the adjustment and allowing the setback encroachment would not be the minimum adjustment for reasonable use of the accessory building. The accessory building can be moved 3 feet and meet the required 3 foot setback.

- (e) The granting of the variance is in harmony with the general purposes and intent of the code and will not be injurious to the neighborhood or otherwise detrimental to the public welfare;**

Staff Response: Staff believes that the variance is not in harmony with the general purpose of the code but is not detrimental to the surrounding neighborhood or public welfare. Code requires a 3 foot setback for R1 Zoned properties. As noted in public comments impacts do occur when buildings are located on a property line in some locations as noted by staff above.

- (f) The variance, if granted, will not alter the essential character of the neighborhood or district in which the property is located, nor substantially or permanently impair the appropriate use or development of adjacent property.**

Staff Response: If the variance is granted the essential character of the neighborhood would not be impaired and the use of the adjacent property would not be affected.

PUBLIC COMMENTS:

Legal notice was published in the Laramie Boomerang on February 6, 2021. Letters were sent to surrounding property owners within 300 feet of the subject property on February 5, 2021. Staff has received no inquiries as to what the applicant is asking for.

ALTERNATIVES:

1. Approve the variance as submitted by the applicant, based on findings of fact and conclusions of law.
2. Approve the variance subject to conditions, based on findings of fact and conclusions of law.
3. Deny the variance based on findings of denial (**Staff's Recommendation**).
4. Postpone the variance until issues identified during the meeting can be resolved.

CONCLUSION OF FINDINGS AND STAFF RECOMMENDATION/ BOARD OF ADJUSTMENT OPTIONS:

All the required findings, statutorily necessary for granting a variance as detailed in the staff report above, can not be made for the request to Municipal Code LMC § Table 15.06.060.O therefore:

Move to **deny** the requested variance from Laramie Municipal Code Table 15.12-2 that would allow the applicant to retain a garage that encroaches upon the rear setback, located at 1729 Steele Street, zoned R1, based on findings of fact and conclusions of law.

If the Board of Adjustment chooses to approve this variance, it must find favorable evidence for items **a, b, d,** and **e** in order to complete the findings of fact and conclusions of law requirement.

ATTACHMENTS:

1. Cover Letter and Drawings (14 pages)
2. Photos, prior and present (6 pages)
3. Alleyway neighbor letter (1 page)
4. Building Permit (2 pages)