

## **STAFF REPORT**

**Date:** October 1, 2025

**To:** Zoning Board of Adjustment

**From:** Lily Sutton, Planner

**Subject:** **Public Hearing:** Consideration of a Variance Request to Allow a Second Story Addition Above an Existing Detached Garage to Encroach Approximately Three Feet Into the Required Six-Foot, Six Inch Side Yard Setback and Approximately Five Inches Into the Required Five-Foot Rear Yard Setback, Located at 2510 Sir Tristram Lane, Legally Described as Castle Hills, Phase 1, Section A, Block A, Lot 18; Zoned Planned Development-Town Estate (PD-TE), as Requested by Ken Scialo, the Property Owner. (Case No. 25-09-1-ZBOA).

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### **BACKGROUND:**

The applicant desires to add a second story to an existing garage for an accessory dwelling unit. The existing single-family home and detached garage are located at 2510 Sir Tristram Lane. The property is within the Primary Subdistrict of the Castle Hills Planned Development District, with a base zoning of Towne Estate (TE) District. According to the Denton County appraisal district, the home as well as a detached garage were built in 1999, before the annexation of Castle Hills into the City of Lewisville. The existing detached garage encroaches into the six-foot six-inch (6.5) foot side setback and the five (5) foot rear setback. The detached garage is considered a legal non-conforming structure.

This second-story addition would serve as a mother-in-law suite, providing a living space for a family member. The property owner applied for a building permit to construct the addition. In order to proceed with the permitting process as designed, a variance for the increased encroachment into the side and rear setback from the Zoning Board of Adjustment (ZBOA) is required.

### **ANALYSIS:**

The ZBOA may approve a variance request for specific cases where granting a variance from the terms of the Zoning Ordinance will not be contrary to the public interest and, due to special conditions, a literal enforcement of the Ordinance will result in unnecessary hardship, and so that the spirit of the Ordinance is observed and substantial justice is done. The variance requested is:

- a.) to allow the second-story addition to the detached garage to encroach approximately three (3) feet into the 6.5-foot side setback and 5 inches into the 5-foot rear setback.

Staff finds the request is consistent with the criteria for approval set forth in Section IV.1.5 of the Unified Development Code as discussed below:

- A. There are special conditions arising from the physical surroundings, shape, topography, or other physical features affecting the land subject to the variance application, and a literal enforcement of this UDC would result in an unnecessary hardship, and a variance would observe the spirit of this UDC and achieve substantial justice.

*The existing garage and home were built in 1999, prior to the establishment of the Castle Hills Planned Development. The previously built garage already encroaches into the side and rear yard setback, and a second floor cannot be added by right. This factor is unique to the existing improvements, and a variance would observe the spirit of the UDC and the Castle Hills Planned Development*

- B. A literal application of the UDC requirements would result in an unnecessary hardship upon or for the applicant, as distinguished from a mere economic impact, an inconvenience, frustration of objectives in developing the land, not permitting the highest and best use for the land, or depriving the applicant of the reasonable and beneficial use of the land. In determining if there is an unnecessary hardship for a variance the Board may consider:

1. If the financial cost of compliance is greater than 50 percent of the appraised value of the structure as shown on the most recent appraisal roll certified by the County;
2. If compliance would result in a loss to the lot on which the structure is located of at least 25 percent of the area on which development may physically occur;
3. If compliance would result in the structure not being in compliance with a requirement of a municipal ordinance, building code, or other requirement;
4. If compliance would result in the unreasonable encroachment on an adjacent property or easement; or
5. If the municipality considers the structure to be a nonconforming structure.

*The property was annexed to the City of Lewisville with the garage encroachment. Per Section V.1.5 of the Unified Development Code it is deemed a legal nonconforming structure. Legal nonconforming structures may be expanded provided the expansion does not cause the structure to be more nonconforming. The owner is seeking to add an additional 809 square feet above the existing 578 square feet garage. The improvements include a one-bedroom dwelling unit with a covered porch along the northern façade. The proposed improvements comply with all other requirements for accessory buildings within the Castle Hills Planned Development District, as well as the UDC. The applicant has also received a letter of approval from the Castle Hills Residential Architectural Review Committee. This variance is requested to build over the existing legal nonconforming garage footprint.*

- C. The circumstances causing the unnecessary hardship do not similarly affect all or most properties in the vicinity of or similarly classified as the applicant's land;

*The circumstances regarding the existing garage encroachment into the setbacks do not affect most properties in the vicinity. Several other properties have second floors above the detached garage in this section of Castle Hills. In addition, in the nearby Estate Town Home (ETH) base zoning district the Castle Hills ordinance specifically states that accessory buildings require only a 3-foot side yard and rear yard setback.*

- D. The variance is necessary for the preservation and enjoyment of a substantial property right of the applicant.

*The applicant has the right, based on the current zoning, to build servant's quarters or similar use on the property. A two-story accessory structure is also permitted.*

- E. Granting the variance shall not be detrimental to public health, safety or welfare, or injurious to other property within the vicinity;

*Granting the variance will not be detrimental to public health, safety or welfare, or injury to other property within the vicinity. The applicant has received a letter of support from the property owner to the west. The property to the rear is separated by an alley. Given the distance from the rear property and the support by the neighbor to the west, this encroachment will not negatively impact any neighboring property.*

- F. Granting the variance shall not have the effect of preventing the orderly use and enjoyment of other land within the area in accordance with the provisions of this UDC, or adversely affect the rights of owners or residents of surrounding property;

*Granting the variance will not have the effect of preventing the orderly use and enjoyment of other land within the area in accordance with the provisions of this UDC or adversely affect the rights of owners or residents of surrounding property. The second-floor addition has been designed to have the majority of the windows facing east to their pool and north to their driveway. One window faces south and another faces west.*

- G. The unnecessary hardship suffered by the applicant is not caused wholly or in substantial part by the applicant;

*The existing detached garage was built at the same time as the primary dwelling in 1999, the property owner bought the property in 2009, and the existing encroachment is caused in no part by any decisions by the homeowner.*

- H. The application for a variance is not based exclusively on the applicant's desire for increased financial gain from the property or to reduce an existing financial hardship;

*The purpose of the application is to allow the property owner to provide a living space for a relative in close proximity. There is no intent to rent or lease the accessory dwelling unit to a non-related tenant at this time. In the future, it could be leased. Currently, the Castle Hills HOA prohibits short-term rentals.*

- I. The degree of variance requested is the minimum amount necessary to alleviate the unnecessary hardship of the applicant; and

*The 3 feet into the 6.5-foot side setback and 5 inches into the 5-foot rear setback variances are the minimum necessary based on the required setbacks and existing garage location. Based on the configuration of the existing walls, this variance is the minimum needed to construct vertically.*

- J. The variance does not authorize a use other than those permitted in the zoning district for which the variance is sought.

*This variance does not authorize any other use. An accessory dwelling unit is an allowed use within the Planned Development Towne Estate (PD-TE) zoning district.*

**RECOMMENDATION:** That the Zoning Board of Adjustment approve the requested variance as presented.