

STAFF REPORT

Date: December 11, 2024

To: Zoning Board of Adjustment

From: Grace Martin-Young, Planner

Subject: **Public Hearing:** Consideration of a Variance Request to Allow a Second Story Addition to an Existing Detached Garage to Encroach Approximately Seven Feet Into the Required 10-Foot Rear Yard Setback, Located at 1213 Holy Grail Drive, Legally Described as Castle Hills, Phase 1, Section A, Block A, Lot 1; Zoned Planned Development-Town Estate (PD-TE), as Requested by Dan Norfleet, the Property Owner. (Case No. 24-11-6-ZBOA)

BACKGROUND:

The applicant desires to add a second story to an existing garage for a mother-in-law suite. house located at 1213 Holy Grail Drive is located within the Primary Subdistrict of the Castle Hills Planned Development District and with a base zoning of Town Estate (TE) District. This residential subdivision was platted in 1998, and the plat for this property sets the required rear setback for this property at ten (10) feet. 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 a ten (10) by thirty (30) foot utility easement, as well as the ten (10) foot rear setback. The detached garage is considered a legal non-conforming structure.

The property owner has received approval to encroach into the easement from the relevant utility companies. The Castle Hills Architectural Review Committee approved the design on July 2, 2024. This second-story addition would serve as a mother-in-law suite and provide living space for his aging parents-in-law. The property owner has applied for a building permit and would need to receive a variance for the encroachment into the rear setback from the zoning board of adjustment to proceed in the permitting process.

ANALYSIS:

The Board 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 seven (7) feet into the required ten (10) 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 feature 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 lot is irregularly shaped, and the garage was built at an angle to the rear lot line. This geometry results in a triangle shape where the garage already encroaches into the rear yard setback and a second floor cannot be added by right. On the plat, certain lots backing to alley and gas line easement have a 10-foot rear yard setback, including this lot. However, the Planned Development TE District only requires a 5-foot rear yard setback. These factors are unique to the land 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. Nonconforming structures may be expanded provided the expansion does not cause the structure to be more nonconforming. 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 lot shape and exist garage being askew to the property line 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 the public health, safety or welfare, or injurious to other property within the vicinity;

Granting the variance will not be detrimental to the public health, safety or welfare, or injurious to other property within the vicinity. The area of encroachment does not directly adjoin any other residential properties and is adjoined by open green space and an unpaved right-of-way to the south and a trail and gas line easement to the rear. This encroachment will not negatively impact any neighboring properties, and the property owner has received support for this addition by the homeowners association.

- 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 windows face north to their pool and west to their driveway. One bathroom window faces south to the open space area. There are no windows facing east toward the trails and closest lots.

- 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, the property owner bought the property in 2022, and this 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 older relatives in close proximity.

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

The seven-foot variance is the minimum necessary based on the plat and existing garage locations.

- 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 uses.

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