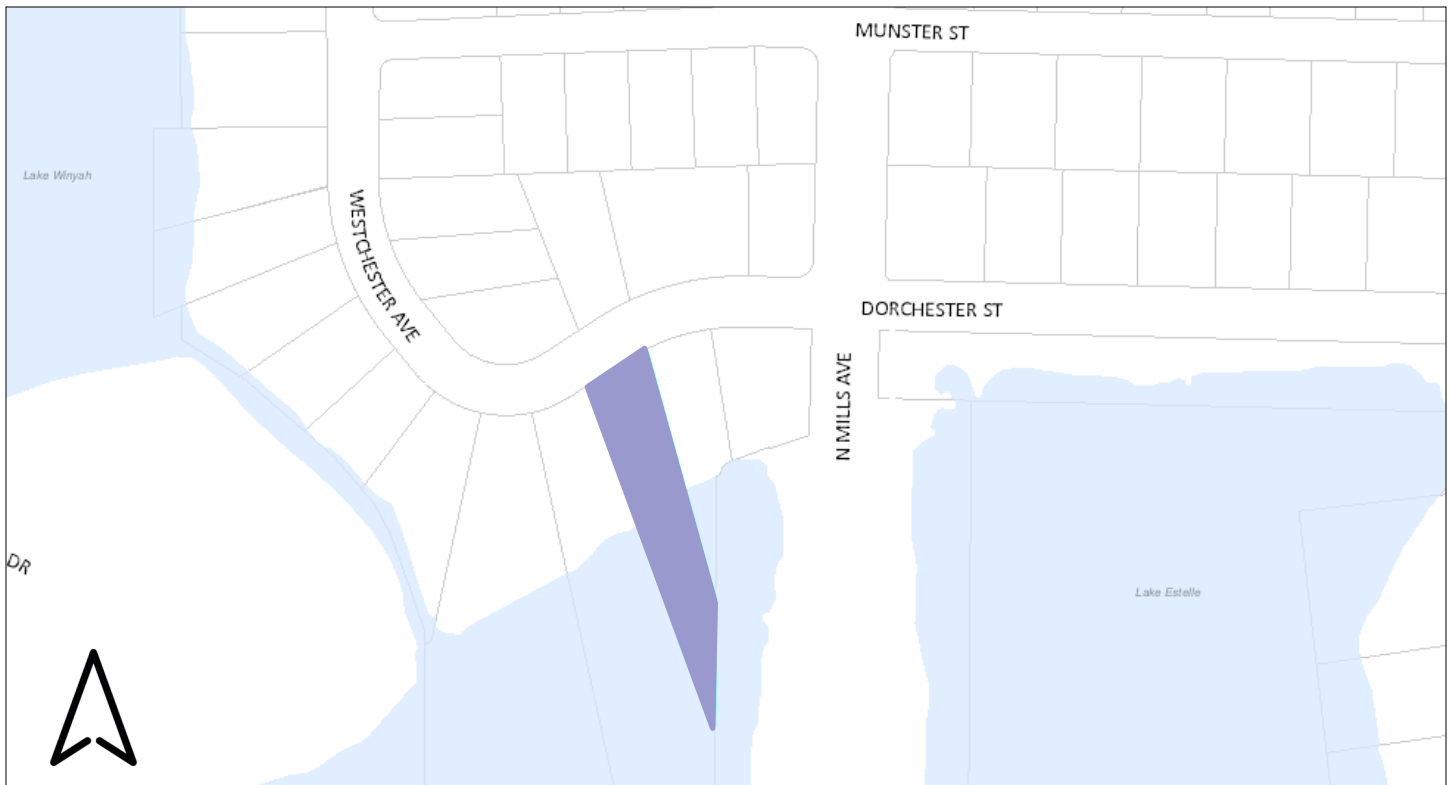



1114 DORCHESTER ST. - GENERATOR



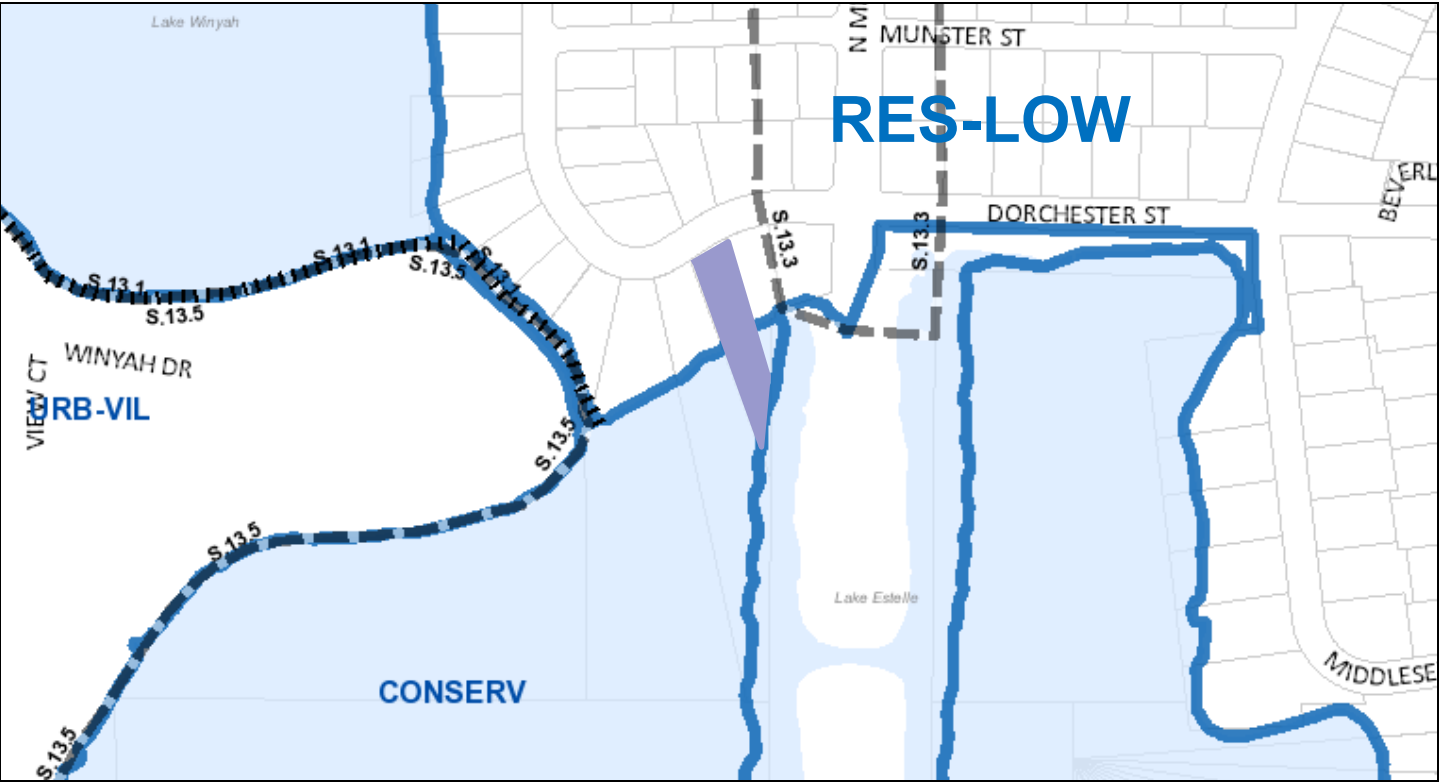
Location Map

 Subject Site

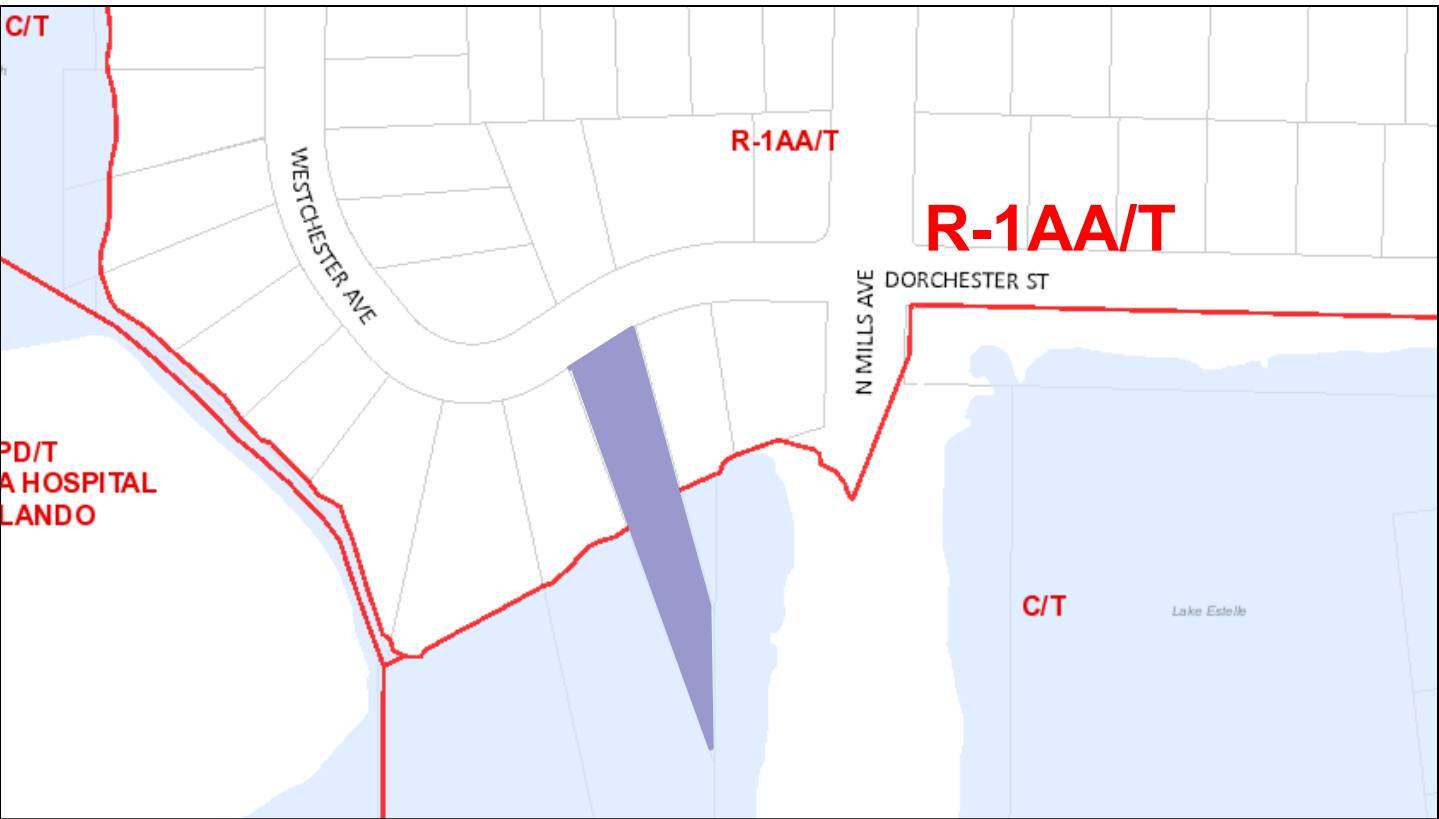
SUMMARY

<p>Owner Charles and Carolyn Newman</p> <p>Applicant Judith Armstrong Brite Electric Air Conditioning and Heating</p> <p>Project Planner TeNeika Neasman</p> <p>Updated: October 21, 2020</p>	<p>Property Location: 1114 Dorchester St. (south of Dorchester St., between Westchester Ave. and N Mills Ave.)(±0.53 acres, District 3) Parcel ID: 13-22-29-4700-03-120 020)</p> <p>Applicant's Request: The subject site is being developed with a single family home currently under construction. The applicant is requesting the following zoning variances to allow a generator (mechanical equipment) to be located on the site:</p> <p>(A) Zoning variance of 5 ft. to allow a 5 ft. setback from the front façade of the principal structure, where 10 ft. is required (per Sec. 58.984)</p>	<p>(B) Zoning variance of 1 ft. to allow a 4 ft. side yard setback, where a 5 ft. setback is required (per Sec. 58.984).</p> <p>Staff's Recommendation: Approval of the requested variances, subject to the conditions in this report.</p> <p>Public Comment Courtesy notices were mailed to property owners within 300 ft. of the subject property the week of October 12, 2020. As of the published date of this report, staff has received no comments for this request.</p>
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Future Land Use Map



Zoning Map



Project Analysis

Project Description

The subject property is currently under construction and being developed with a 5,686 sq. ft. 2-story single family residence. The applicant is proposing to install a generator on the west side of the property. The applicant is requesting the following zoning variances to allow a generator (mechanical equipment) to be located on the site:

- a. Zoning variance of 5 ft. to allow a 5 ft. setback from the front façade of the principal structure, where 10 ft. is required (per Sec. 58.984).
- b. Zoning variance of 1 ft. to allow a 4 ft. side yard setback, where a 5 ft. setback is required (per Sec. 58.984).

Table 1—Project Context

	Future Land Use	Zoning	Surrounding Use
North	RES-LOW	R-1AA/T	Single Family Homes
East	RES-LOW	R-1AA/T	Single Family Homes
South	CONSERV	C/T	Lake Estelle
West	RES-LOW	R-1AA/T	Single Family Homes

Previous Actions:

1990: Property was platted as part of the Kline Subdivision

2017: The property was purchased by the current owners

2019: The single family residence was demolished

2020: Construction for the new single family residence began

Project Context

The property is zoned R-1AA/T (One Residential in the Traditional City overlay district) and C/T (Conservation in the Traditional City overlay district), and is designated as Residential Low Intensity and Conservation on the City's Future Land Use map.

Intent of the District

The R-1AA zoning district is “intended to conserve the general character of established one family neighborhoods, and to provide for new areas of low and moderate density one family development.”

The C zoning district is “intended to conserve passive parks, recreational areas, open space, flood plains, and unique environmental features. Also, this district shall act to protect the natural resources of the City of Orlando, environmentally sensitive lands along stream and lake shores, and areas subject to erosion. Finally, the district shall restrict the development of lands upon which a more intensive development would be environmentally detrimental to adjacent or nearby lands.”

The Traditional City overlay district is intended to “establish urban design standards to perpetuate the positive design elements and the residential and commercial development patterns found within the Traditional City.

The traditional City shall be defined by recognizable geographic boundaries of subdivisions platted prior to World War II in which there is a concentration of the positive design elements as defined in Urban Design Goal 1.”

Development Standards:

The property meets the R-1AA/T zoning requirements of mean lot area (10,000 sq. ft.) and depth (110 ft.), however it does not meet the minimum width (85 ft.) requirement. The site is 127.8 ft. deep, 58.3 ft. wide, and 23,017 sq. ft. lot area.

Any new construction shall meet current LDC requirements. The applicant is requesting the above mentioned variances to allow the proposed generator to encroach into the west side yard. The lot is non-conforming because it does not meet the minimum width requirement.

Section 58.984 states:

Mechanical equipment for residential units shall:

- (a) Be located no less than ten (10) feet behind the plane of the principal facade of the principal structure;**
- (b) Not be located between the facade of the principal structure served by the mechanical equipment and any street;*
- (c) Not be located between the facade of an accessory structure served by the mechanical equipment and the street nearest to the accessory structure;*
- (d) Not be located less than 15 feet from the rear lot line;*
- (e) Not be located less than five (5) feet from an side lot line; and**
- (f) Be located no less than 20 feet from the normal high water elevation of any waterbody or any wetland.*

The applicant is requesting zoning variances from the 5 ft. side lot line and the 10 ft. principal front façade setbacks.

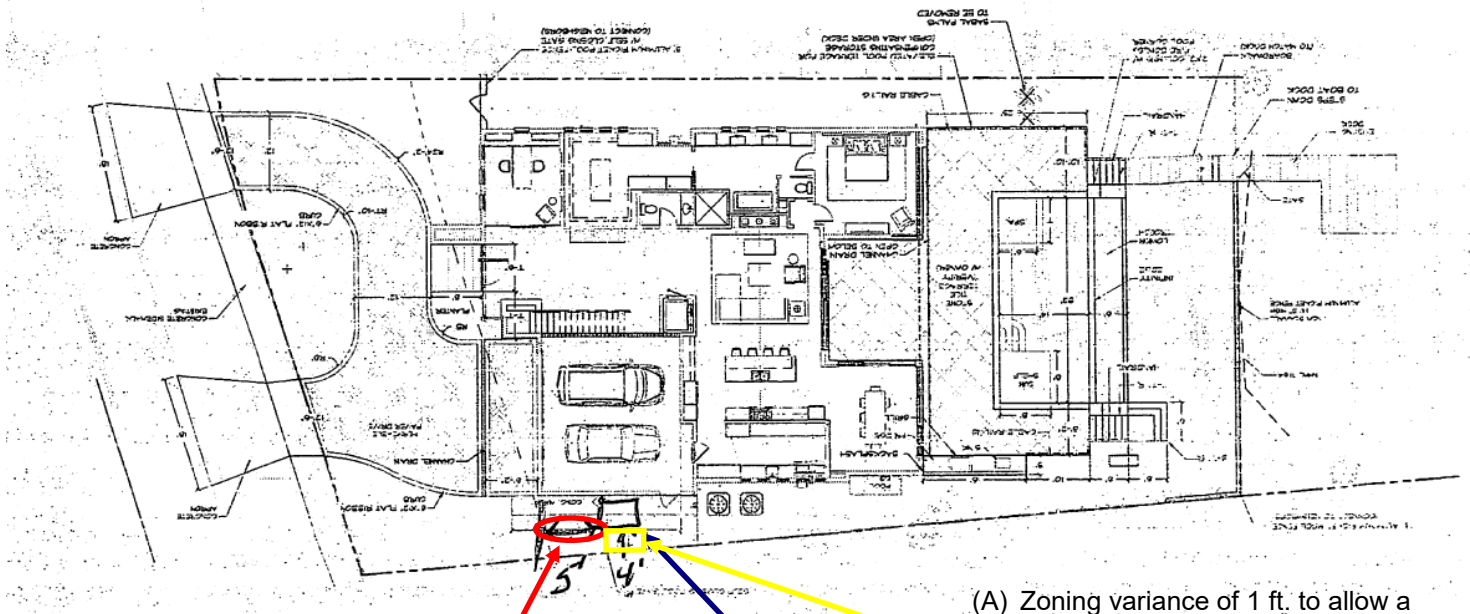
Analysis

The applicant is proposing to install a generator 4 ft. from the west property line and 5 ft. from the front façade of the principal structure. The property is 58.3 ft. wide or 26.7 ft. less than the minimum requirement for single family development in the R-1AA zoning district. The 26.7 ft. difference, 7.5 ft. setback requirements, and the pie shape of the lot all create a limited buildable footprint for development of the site.

The reduced width and lot shape create a hardship which meets the six criteria for variance approval. Staff recommends approval of the requests, subject to the conditions in this staff report.



Survey/ Site Plan



(A) Zoning variance of 1 ft. to allow a 4 ft. side yard setback, where a 5 ft. setback is required (per Sec. 58.984).

(A) Zoning variance of 5 ft. to allow a 5 ft. setback from the front façade of the principal structure, where 10 ft. is required (per Sec. 58.984)

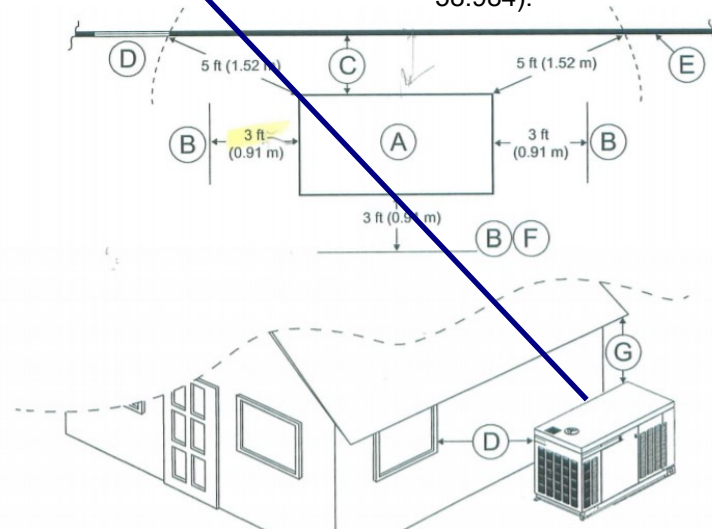


Figure 3-1. Installation Clearances

Findings

Requested Variances:

- A. Zoning variance of 5 ft. to allow a 5 ft. setback from the front façade of the principal structure, where 10 ft. is required (per Sec. 58.984)
- B. Zoning variance of 1 ft. to allow a 4 ft. side yard setback, where a 5 ft. setback is required (per Sec. 58.984).

Staff Recommendation: Approval of the variances , based on the finding that said variances meet the standards for approval of a variance, subject to the conditions below:

Land Development

1. Development shall be in strict conformance with all conditions and the site plans and elevations found in this report, subject to any modification by the Board of Zoning Adjustment (BZA) and/or City Council. Minor modifications to the approved variance may be approved by the Zoning Official. Major modifications, as determined by the Zoning official , shall require additional review by the BZA.
2. All applicable City, County, State or Federal permits must be obtained before commencing development.
3. As provided by subsection 166.033(5), Florida Statutes, issuance of a development permit by a municipality does not in any way create any right on the part of an applicant to obtain a permit from a state or federal agency and does not create any liability on the part of the municipality for issuance of the permit if the applicant fails to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes actions that result in a violation of state or federal law. In accordance with subsection 166.033(5), Florida Statutes, it is hereby made a condition of this permit that all other applicable state or federal permits be obtained before commencement of the development.
4. Expiration of the Zoning Variance. A Building permit for the work requiring the zoning variance must be received within one year of the zoning variance approval. If the building permit is not received within the year, then the zoning variance is no longer valid and a new variance must be requested (applied for).
5. Administrative Extension of the Zoning Variance. The Zoning Official may extend a zoning variance by up to six (6) months. The holder of the zoning variance must request such an extension by application for a Zoning Official determination at least 30 days, but not more than 90 days, before the expiration of the zoning variance.

Note to Applicant: *The proposed variance only addresses the Land Development Code standards expressly represented in this staff report and any relief to such standards as approved. The relief granted through the variance is restricted to the subject property as noted in the staff report and is not transferable to any other parcels of land.*

The next step in this variance request in City Council consideration of the Board of Zoning Adjustment's recommended action (provided it is not appealed) at an upcoming City Council meeting. Possible City Council approval of this variance does not constitute final approval to carry out the development proposed in this application. The applicant shall comply with all other applicable requirements of the Land Development Code, including any additional review requirements, and shall receive all necessary permits before initiating development. Please contact the Permitting Services Division of the City of Orlando to inquire about your next steps toward receiving a building permit.

Site Photos

Image of the proposed generator location.



Image of the front façade of the west side of the single family home.

Front façade of the home



<h2>Standards for Variance Approval</h2>	<p>Zoning variance of 5 ft. to allow a 5 ft. setback from the front façade of the principal structure, where 10 ft. is required (per Sec. 58.984)</p>
<p><i>Special Conditions and Circumstances</i></p> <p>Special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures or buildings in the same zoning district. Zoning violations or nonconformities on neighboring properties shall not constitute grounds for approval of any proposed Zoning Variance.</p>	<p><i>Meets Standard</i> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/></p> <p>The property was recently platted in 1990 and is located on a non-conforming lot. The principal structure is under construction with a limit development footprint due to the reduced width of the pie-shaped lot.</p>
<p><i>Not Self-Created</i></p> <p>The special conditions and circumstances do not result from actions of the applicant. A self-created hardship shall not justify a Zoning Variance; i.e., when the applicant himself by his own conduct creates the hardship which he alleges to exist, he is not entitled to relief.</p>	<p><i>Meets Standard</i> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/></p> <p>Special conditions and circumstances do not result from actions of the applicant. The applicant will provide screening and is investing in a generator which has a low noise level.</p>
<p><i>No Special Privilege Conferred</i></p> <p>Approval of the Zoning Variance requested shall not confer on the applicant any special privilege that is denied by this Chapter to other lands, buildings, or structures in the same zoning district.</p>	<p><i>Meets Standard</i> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/></p> <p>Approval of the variance to allow a reduced setback from the front façade of the principal structure for mechanical equipment will not confer a special privilege due to similar variance request for reduced principal structure setbacks in similar zoning district for non-conforming lots.</p>
<p><i>Deprivation of Rights</i></p> <p>Literal interpretation of the provisions contained in this Chapter would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of this Chapter and would work unnecessary and undue hardship on the applicant. Financial loss or business competition shall not constitute grounds for approval of any variance. Purchase of property with intent to develop in violation of the restrictions of this Chapter shall also not constitute grounds for approval.</p>	<p><i>Meets Standard</i> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/></p> <p>Literal interpretation of the Code would deprive the applicant of the rights commonly enjoyed by other properties under the same or similar zoning, in that the applicant cannot move the proposed generator without allowing the functional use of the mechanic to be impacted..</p>
<p><i>Minimum Possible Variance</i></p> <p>The Zoning Variance requested is the minimum variance that will make possible the reasonable use of the land, building or structure.</p>	<p><i>Meets Standard</i> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/></p> <p>The proposed variance is the smallest possible variance allowed in that it allows for a functional use of the generator with a minimum encroachment.</p>
<p><i>Purpose and Intent</i></p> <p>Approval of the Zoning Variance will be in harmony with the purpose and intent of this Chapter and such Zoning Variance will not be injurious to the neighborhood or otherwise detrimental to the public welfare.</p>	<p><i>Meets Standard</i> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/></p> <p>Approval of the requested variance would be in harmony with the purpose and intent of this Chapter and such Zoning Variance will not be injurious to the neighborhood or otherwise detrimental to the public welfare.</p>

<h2>Standards for Variance Approval</h2>	<p>Zoning variance of 1 ft. to allow a 4 ft. side yard setback, where a 5 ft. setback is required (per Sec. 58.984).</p>
<p><i>Special Conditions and Circumstances</i></p> <p>Special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures or buildings in the same zoning district. Zoning violations or nonconformities on neighboring properties shall not constitute grounds for approval of any proposed Zoning Variance.</p>	<p>Meets Standard Yes <input checked="" type="checkbox"/> No <input type="checkbox"/></p> <p>The property was recently platted in 1990 and is located on a non-conforming lot. The principal structure is under construction with a limit development footprint due to the reduced width of the pie-shaped lot.</p>
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<p><i>No Special Privilege Conferred</i></p> <p>Approval of the Zoning Variance requested shall not confer on the applicant any special privilege that is denied by this Chapter to other lands, buildings, or structures in the same zoning district.</p>	<p>Meets Standard Yes <input checked="" type="checkbox"/> No <input type="checkbox"/></p> <p>Approval of the variance to allow a reduced setback for mechanical equipment will not confer a special privilege due to similar variance request for reduced principal structure setbacks in similar zoning district for non-conforming lots.</p>
<p><i>Deprivation of Rights</i></p> <p>Literal interpretation of the provisions contained in this Chapter would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of this Chapter and would work unnecessary and undue hardship on the applicant. Financial loss or business competition shall not constitute grounds for approval of any variance. Purchase of property with intent to develop in violation of the restrictions of this Chapter shall also not constitute grounds for approval.</p>	<p>Meets Standard Yes <input checked="" type="checkbox"/> No <input type="checkbox"/></p> <p>Literal interpretation of the Code would deprive the applicant of the rights commonly enjoyed by other properties under the same or similar zoning, in that the applicant cannot move the proposed generator without allowing the functional use of the mechanic to be impacted..</p>
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Answers to Variance Questions



SPECIAL CONDITIONS AND/ OR CIRCUMSTANCES:

Limited space, the only location closest to the zoning requirements.

NOT SELF-CREATED:

City Limits, limitation of variance.

MINIMUM POSSIBLE VARIEANCE:

No, the lot and the size of the home leave no other options.

NO SPECIAL PRIVILEGE CONFERRED:

No.

DEPRIVATION OF RIGHTS:

Yes.

PURPOSE AND INTENT:

The approval would not affect adjacent properties. The builder (Farina & Sons) spoke with Mrs. Collins at 1112 Dorchester Street, the neighbor closest to the generator location. Mrs. Collins said the location of the generator would not affect her.