



ZBOA Agenda Item # 2

MAY 7, 2019

Variance Request by Rich Foster

File #: APP-2019-02

Rich Foster is requesting a variance to LDR Section 214 Table 2 as it relates to the minimum front yard setbacks for M-2 zoned properties. The subject properties consists of a total of 0.49 acres located at 213, 215, and 217 Smith Avenue and are zoned M-2. The properties contain single family residences. The owner is proposing to subdivide 215 and 217 Smith Avenue from the main salvage yard parcel (addressed as 1308 S. Patterson St.) Note that 213 Smith Avenue is already an existing individual parcel which the applicant proposes to move the existing rear parcel line to the northwest.

The applicant submitted a plat to place two houses on separate parcels and adjust the property line on the third. After reviewing the plat, it was learned that the three single family residences did not meet current M-2 front yard setbacks, hence the variance request. The houses extend substantially into the front yard setback. 217 Smith Avenue is 17.04 feet from the front parcel line, with 215 Smith Avenue being 12.58 feet from the front parcel line, and 213 Smith Avenue being 13.52 feet from the front parcel line, rather than the required 50 feet from the front parcel line. Therefore, the applicant is asking for a variance of 32.96 feet for 217 Smith Ave, a variance of 37.42 feet for 215 Smith Ave., and a variance of 36.48 feet for 213 Smith Ave.

Additionally, there is an accessory structure located at 217 Smith Ave. that does not meet the setback requirements for accessory structures. They are required to be at least 10 feet from side and rear property lines; this structure is 2.26 feet from the rear property line. The applicant is applying for an administrative variance for the accessory structure to be 6 feet from the proposed rear property line to bring it into conformance.

The property is zoned M-2, which is heavy duty industrial. Heavy industrial zones often have more restrictive setbacks due to more intense uses, requiring buildings to be further from the road than residential and commercial zonings. If these properties were rezoned to R-6, the front yard setback would be 20 feet. These houses were built prior to today's LDR. Additionally, the LDR has a nonconforming clause that allows reconstruction if the structure is damaged up to 60% (as determined by the Director) of its fair market value immediately prior to its damage, it may be reconstructed to its prior nonconforming characteristics. Granting variances is another step towards conformance.

Variances are intended to give relief in situations beyond design's control. The applicant is asking for larger variances when considering M-2 front yard setbacks, but the request is more reasonable when compared to those setbacks for residentially zoned property. Staff is supportive of granting the front yard variances as presented, with the condition that they be for these single family residences only.

Staff Recommendation: Find consistent with the Variance Review Criteria and **approve** the variance requests with the condition that the approval is for these single family residences only.