

**PLANNING AND ZONING COMMISSION
STAFF REPORT**



September 17, 2015

Planning Variance case no. PV 15-08: 2915 Missouri Avenue – David Cantey

CASE DESCRIPTION: a 2-foot variance from the minimum 7.5-foot side building setback generally required on residential lots to allow the proposed construction of an open carport that is planned to extend within 5.5 feet from the southeast side property line

LOCATION: 2915 Missouri Avenue, located at the east corner of Missouri Avenue and Russell Drive.

LEGAL DESCRIPTION: Lot 8 in Block 24 of Phase 2 of the Lynndale Acres Subdivision

ZONING: Residential District – 5000 (RD-5)

EXISTING LAND USE: Single-Family residential

PROPERTY OWNER: David Cantey

APPLICANT: same as owner

STAFF CONTACT: Matthew Hilgemeier, Staff Planner

SUMMARY RECOMMENDATION: Staff recommends **approving** the requested variance.

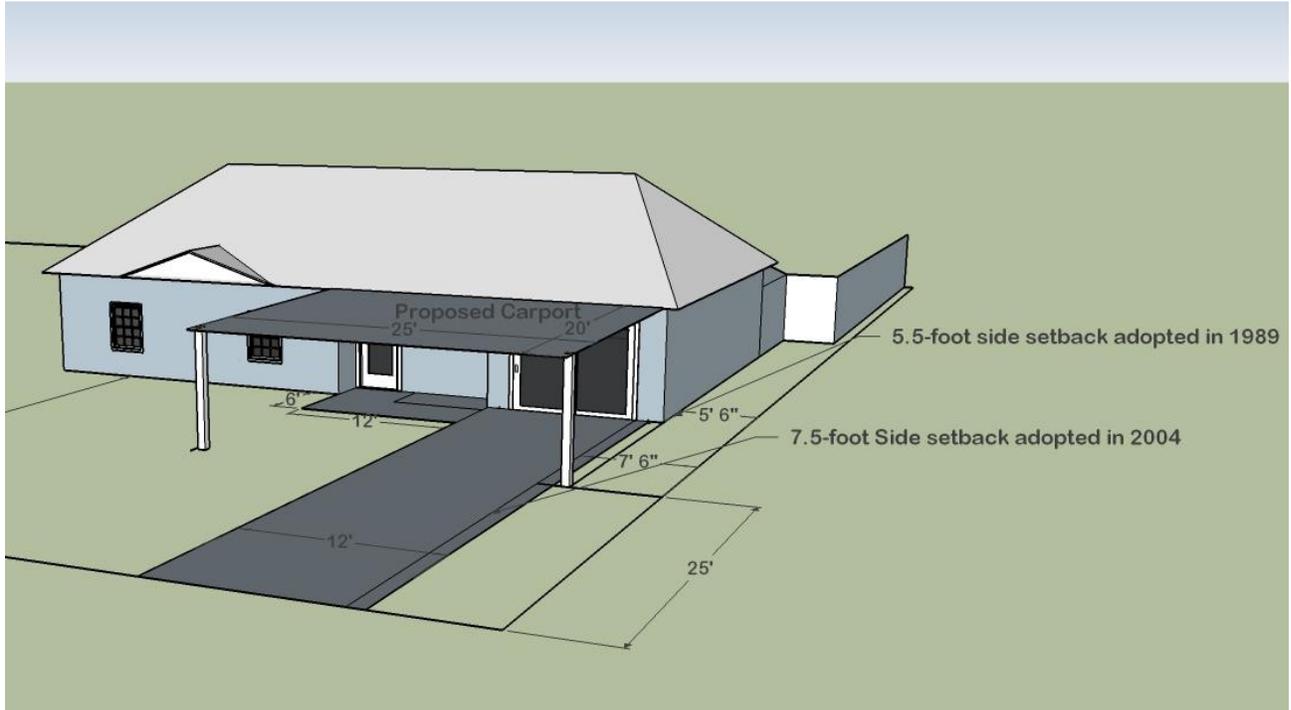


BACKGROUND:

The applicant/property owner, David Cantey, is requesting a 5-foot variance to the 7.5-foot side setback requirement for the property located at 2915 Missouri Avenue in order to be allowed to build an open carport that would be located 2-feet from the eastern property line. The subject property is located on the northeast corner of Missouri Avenue and Russell Drive, is currently zoned Residential District-5000 (RD-5), and has been such since the City of Bryan adopted zoning regulations in 1989. The subject property currently contains one single-family residential structure that was built in 1981 and is located approximately 5-feet from the southeast property line. It is important to note that in 1989, when the City of Bryan adopted zoning regulations, side building setbacks were established at 5-foot from shared property lines. Therefore at the time of adoption of the zoning ordinance, the residential structure on the lot was in compliance with the adopted setback standards. In 2004, the City of Bryan amended the residential lot standards and setback requirements to require a 7.5-foot side setback. At that time the existing residential structure was then, and still is considered a legally non-conforming structure.

Mr. Cantey wishes to install a 20-foot by 25-foot (500 square feet) open, unenclosed carport structure which will be located in front of the existing residential structure on his property; however, this would cause the carport structure to encroach 2-feet into the required 7.5-foot side setback. Mr. Cantey prefers to place the proposed carport structure so that southern edge of the structure is in line with the southern edge of the existing residential structure. This proposed location will provide him with the best coverage for his automobiles and would not require him to extend his existing concrete driveway to the northwest to provide a paved parking area which is required by City of Bryan Ordinances. If Mr. Cantey is required to place the structure so that it does not encroach into the 7.5-foot side setback, he would also have to extend his concrete driveway to the north so that he is providing a paved surface to park his automobiles. Therefore, Mr. Cantey is requesting a variance to allow a reduction of 2-feet to the 7.5-foot side setback required by Section 62-161 of the City of Bryan Code of Ordinances to allow him to place an open carport within 5 feet of the southeastern shared property line.

PROPOSED STRUCTURE WITH EXISTING SETBACKS



ANALYSIS:

The Planning and Zoning Commission may authorize a variance from minimum building setback standards stipulated in the Land and Site Development Ordinance. No variance shall be granted unless the Planning and Zoning Commission finds that all of the following criteria are met:

1. That the granting of the variance will not be detrimental to the public health, safety or welfare, or materially injurious to properties or improvements in the area (an area encompassing approximately a 200-foot radius);

As stated above, the applicant wishes to place the proposed carport in a location so that the southern edge of the carport is in line with the established edge of the residential structure which was built in 1981. (See Area of Encroachment Graphic below). When originally constructed, the structure was in compliance with the then established 5-foot minimum building setback standard. In 2004 the City amended the setback requirements from a 5-foot requirement to a 7.5-foot requirement. Staff contends that granting the proposed encroachment of 2 feet into the 7.5-foot side setback would not be detrimental to the public health, safety or welfare, or materially injurious to properties or improvements in the area due to the fact that the proposed location of the carport does not exacerbate an existing condition since the existing residential structures has been located in a non-compliant location since 2004. There have been no issues of complaints from neighboring property owners in the vicinity, which also have structures that were built with a 5-foot side setback.

AREA OF ENCROACHMENT



2. That the granting of the variance will not be detrimental to the public health, safety or welfare, or materially injurious to properties abutting the subject property;

Given the same reasons stated above, Staff contends that if granted, a 2-foot encroachment into the 7.5-foot side setback on the subject property would not be detrimental to the public health, safety or welfare, or materially injurious to properties or improvements to properties abutting the subject property.

3. That the hardships and difficulties imposed upon the owner/applicant are greater than the benefits to be derived by the general public through compliance with the requirements of this chapter.

The hardships and difficulties imposed upon the owner to comply with the ordinance at this time will be greater than the benefits derived by the public were the ordinance strictly enforced. In this particular case, staff believes approving the requested variance is believed to have the most likely long-range benefit, balancing both public and private purposes.

RECOMMENDATION:

Staff recommends **approving** the requested variance to Section 62-161 of the City of Bryan, Land and Site Development Ordinance to allow a 2 foot reduction to 7.5-foot side street setback for the property located 2915 Missouri Avenue, Lot 8 in Block 24 of Phase 2 of the Lynndale Acres Subdivision.