

## AGENDA 15-05V2

**SUBJECT:** Conduct a Public Hearing to Consider/Discuss/Act on the Request by Donald and Jennifer Spak for a Variance to the Minimum Side Yard at Corner Setback for the Property Located at 316 N. Waddill. This item was tabled from the July 22, 2015 BOA Meeting. A variance to the rear yard was granted.

**MEETING DATE:** August 26, 2015

**DEPARTMENT:** Development Services-Building Inspections

**CONTACT:** Rick Herzberger, Chief Building Official

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**ZONING:** RS-60

**EXISTING CONDITIONS:** Double frontage requires a side yard setback of 25'.

**VARIANCES REQUESTED:**

ORDINANCE REQUIREMENTS	REQUESTED DIMENSIONS	VARIANCE FROM ORDINANCE
25' Side Yard Setback at Corner	15'	10'

**APPLICANT'S BASIS FOR VARIANCE:**

The variance is needed to provide a circle drive and porte cochere for off street parking. Due to the double frontage, a 25' side yard at the corner setback is required by the Zoning Ordinance.

**PUBLIC SUPPORT/OPPOSITION FOR REQUEST:**

To date, no letters of support and no letters of opposition have been submitted.

**BOARD AUTHORITY:**

The Board has authority to authorize a variance from the terms of the Zoning Ordinance as will not be contrary to the public interest if the literal enforcement of the Zoning Ordinance would result in unnecessary hardship due to special conditions unique to the property so that the spirit of the Zoning Ordinance is observed and substantial justice done. The Zoning Ordinance provides additional requirement for "yard variances" and "building or structure variances" that must also be met by an applicant seeking a variance in addition to the requirements set out hereinabove.

In addition to the general requirements set forth above the following requirements must also be met for a variance of the type identified below:

**Yard Requirements** The Board has the authority to permit a variance in the yard requirements of any district where there are unusual and practical difficulties or unnecessary hardships in the carrying out of these provisions due to an irregular shape of the lot, topographical or other conditions.

**SUPPORTING MATERIALS:**

Variance Application  
Property Locator Map

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**Action:      APPROVED                      DENIED                      TABLED**



15-05

### CITY OF MCKINNEY BOARD OF ADJUSTMENT APPLICATION

**Type of Request:**

Variance  Special Exception  Appeal

FILLING FEE \$50.00

RECEIPT DATE 6-30-15

**Property Location:**  
 316 N. WADDILL ST. MCKINNEY TX 75069  
 Address City State Zip  
 3 7 WADDILL ADDITION  
 Lot Number Block Subdivision Name

**Owner's Information:**  
 DONALD & JENNIFER SPAK (972) 529-0257  
 Owner's Name Phone Number  
 316 N. WADDILL ST. MCKINNEY TX 75069  
 Address City State Zip  
 Owner is giving DONALD SPAK authority to represent him/her at the meeting.  
 Applicant's Name  
 DONALD & JENNIFER SPAK  
 Owner's Printed Name Owner's Signature

**Applicant's Information:**  
 DONALD SPAK (972) 529-0257  
 Name Company Name Phone Number  
 316 N. WADDILL ST. MCKINNEY TX 75069  
 Address City State Zip

Seeking an appeal from Chapter 41, McKinney Zoning Ordinance, Section No. \_\_\_\_\_

Please list the type of variance(s) requested:

	Ordinance Requirements	Requested Dimensions	Variance From Ordinance
Lot Size			
Lot Width			
Lot Depth			
Side Yard			
Side Yard			
Side @ Corner	<del>15 FT</del> 25' @	10 FT	<del>5 FT</del> 15' @
Front Yard			
Rear Yard	10 FT	(EXISTING 3 FT) 3 FT	7 FT Approved
Driveway			
Other			

\*Not applicable in ETJ



SPAK 316 N. WADDILL ST

In order to make a finding of hardship and to grant a variance, the Board of Adjustment must determine that all of the following conditions are met. State how your request meets these conditions. Please note that the stated hardship shall not be financial or self-created.

1. The request variance is in harmony with the general purposed and intent of the ordinance, as amended, and continues to protect surrounding properties from any negative impacts because:

SEE ATTACHED FOR ALL QUESTIONS

2. The special or unique condition(s) of restricted area, shape, topography or physical features that exist on the subject parcel of land, which are not applicable to other parcels of land in the same zoning district, and which cause unusual and practical difficulty or unnecessary hardship in compliance with the provisions sought here to be varied are:

3. The hardship sought to be avoided is NOT the result of (a) the applicant's own actions (self-imposed or self-created) and (b) economic or financial hardship because:

4. The provisions of the ordinance, and its amendments, that are sought to be varied deprive the applicant of the following rights to use his property that are commonly enjoyed by other properties in the same zoning district which comply with these ordinance provisions:

Items Submitted: Completed application and fee  Plot/Site Plan or Survey drawn to scale

I hereby certify that the above statements are true and correct to the best of my knowledge.

Applicant's Signature

STATE OF TEXAS
COUNTY OF

Subscribed and sworn to before me this day of 20

Notary Public

(seal)

My Commission expires:

## VARIANCE REQUEST FOR ACCESSORY STRUCTURE (GARAGE)

Request:

### **REQUESTED VARIANCE "A"**

We are requesting a 3 ft. back yard setback line for the construction of a 500 sq. ft. two-car garage. Specifically, we are seeking relief from sec **146-133 (3) a**, that requires a 10ft rear setback if no alley or easement exists. The current existing structure was originally constructed using the same 3 ft. setback that we are requesting.

### **REQUESTED VARIANCE "B"**

We are requesting a 10 ft. side @ corner setback for the construction of a covered parking ("porte-cochere"). We are seeking relief from sec **146-129 (3) a.**, requiring a 15ft side @ corner setback because the house is located on a corner lot. The intent is to provide off street covered parking and to eliminate the public safety issue created at this intersection by parking either on Waddill or Lamar.

- 1. The request variance is in harmony with the general purpose and intent of the ordinance, as amended, and continues to protect surrounding properties from any negative impacts because:***

### **REQUESTED VARIANCE "A"** ✓

The variance would not have any negative impact on the surrounding properties. (See attached approval email from Brian Masters. His property is adjacent to the rear setback). The existing structure (see attached plat showing the current 3ft setback) is unsafe, nonfunctional and out of code. The structure and the immediate area adjacent to it is a haven for rats, pooling water and mosquitos. The proposed garage would actually enhance the area and remove the garage from the sightline of our back neighbor, on the east, and would have no impact change for our neighbor to the south.

### **REQUESTED VARIANCE "B"**

The variance would not have any negative impact on the surrounding properties. (See attached approval email from Brian Masters, the closest neighbor.) If the variance is approved it will eliminate an extremely dangerous and public safety hazard at the intersection of Waddill and Lamar. The variance will have a direct positive impact on the safety of residents and children in the area as well as drivers that navigate through these congested side streets.

- 2. The special or unique condition(s) of restricted area, shape, topography or physical features that exist on the subject parcel of land, which are not applicable to other parcels of land in the same zoning district, and which cause unusual and practical difficulty or unnecessary hardship in compliance with the provisions sought here to be varied are:***

### **REQUESTED VARIANCE "A"**

Due to the historic configuration of the lot and the original placement of the house in 1950, it is impossible to construct a two-car garage that would comply with the code requiring two covered or enclosed parking areas. As you can see by attachment "A1", the construction of the garage according to current setback requirements would make it impossible to enter one of the units and would place the garage less than 4ft from the primary residence. This would render the garage nonfunctional. By maintaining the current 3ft back setback lines, as shown in attachment "A2", the garage becomes fully functional.

The homes in the Historic District are by nature different from the rest of the City. The very nature of the District is a variance by itself from the modern codes and regulations that govern all new development and homes in McKinney. While we always strive to comply with the City codes, we are even more compelled to comply with the historic demands of the district and the lot. It's sometimes impossible to retrofit historic homes to comply with codes developed for Stonebridge or Craig Ranch.

### **REQUESTED VARIANCE "B"**

Apart from HWY 5, Waddill Street is perhaps one of the busiest N/S Streets in the Historic District. Due to the amount of traffic and excessive speed of many drivers, parking on Waddill can be deadly, for both the parkers and drivers passing through. It is a dangerous safety hazard. Likewise, Lamar Street is extremely narrow. When a vehicle is parked on the street, only one vehicle lane remains open for transit. Out of necessity, the vehicles at 316 N Waddill are often forced to park on Lamar, adjacent to the north side of the building. If a vehicle is parked on Lamar anywhere near the intersection of Lamar and Waddill, an immediate chokepoint and potential blind spot is created for vehicles traveling through that intersection. For current relief, the previous owners of the 316 N Waddell home parked on a "skirt" from an abandoned driveway that was removed years ago. In essence, parking on the driveways "skirt" is essentially the same as parking in the front yard with the exception that there is a small area of concrete rather than grass. Parking in such a fashion also blocks pedestrian traffic on that side of the street.

- 3. *The hardship sought to be avoided is NOT the result of (a) the applicant's own actions (self-imposed or self-created) and (b) economic or financial hardship because:***

### **REQUESTED VARIANCE "A"**

The full motivation is to comply with the requirement for two covered or enclosed parking areas while replacing negative factors that directly effect neighbors and the neighborhood by building a garage that will not only comply with City codes but will be an enhancement to the community.

**REQUESTED VARIANCE "B"**

Our motivation is to eliminate an extremely dangerous situation by constructing a circular drive with covered parking that will allow vehicles to park off the street without blocking traffic or sight lines. The drive and porte-cochere will be attractive and will enhance the neighborhood and community. It's important to note that the footprint of the house will not be altered by the variance, only a portion of the porte-cochere. Trying to accommodate the 15ft side setback line makes the ability to achieve the concept, in a safe manner, very difficult and would create some residual problems as well. (see attachment "B1") The additional 5ft variance would enhance both the function and aesthetic appeal of the dive and porte-cochere. (see attachment "B2") The variance will improve safety and be a positive addition for the neighborhood at the same time.

4. ***The provisions of the ordinance, and its amendments, that are sought to be varied deprive the applicant of the following rights to use his property that are commonly enjoyed by other properties in the same zoning district which comply with these ordinance provisions:***

**REQUESTED VARIANCE "A"**

The current setback restrictions prohibit the construction and use of a two vehicle enclosed parking area as required by code.

**REQUESTED VARIANCE "B"**

The current setback restrictions prohibit the proper construction and use of a circular drive with covered parking.

***Summary:***

We have lived in the Historic district for over twelve years and have made every effort to not only comply with codes and Historic District requirements but have done everything in our power to be responsible stewards and enhance the area through the renovation, maintenance and aesthetic appeal of our previous home at 501 Board St. I am sure that those we have worked with, like Guy Giersch will attest to our motivation and commitment to McKinney and especially the Historic District.

We appreciate your consideration.

***We feel that our variance application satisfies the following requirements:***

*Variances. In the case of a required site plan approval, a variance to the provisions of this section, save and except subsection 143-132(3)e, may be allowed by the planning and zoning commission and/or the city council, unless otherwise specified herein, depending on which body has the final approval authority as indicated in section 146-45(a)(2), or additional provisions required, as a part of such site plan approval. The*

*applicant shall prove that the variance from the zoning regulations is warranted under the circumstances presented. A variance may be granted if the planning and zoning commission and/or city council finds that:*

*a.*

*Unique circumstances exist on the property that make application of specific items in this section unduly burdensome on the applicant;*

*b.*

*The variance will have no adverse impact on current or future development;*

*c.*

*The variance is in keeping with the spirit of the zoning regulations, and will have a minimal impact, if any, on the surrounding land uses;*

*d.*

*The variance will have no adverse impact on the public health, safety and general welfare.*

*A financial hardship shall not be considered a basis for the granting of a variance.*

***We feel that our variance request complies with the follow:***

*Sec. 146-133. - Accessory buildings and uses.*

*(a)*

*Area regulations. The following area regulations shall be observed for all accessory buildings or accessory structures in all residential, multiple family, or mobile home districts:*

*(1)*

*Front yard. Attached accessory buildings or structures shall have the same front yard as that of the main building.*

*(2)*

*Side yard.*

*a.*

*There shall be a side yard for any detached accessory building of not less than three feet from any side lot line when such detached accessory building is located in the rear of the lot (the rear of a line connecting the midpoints on the two opposite side lot lines of any lot, tract or plot), and when the detached accessory building is a minimum distance of ten feet from the main structure.*

*b.*

*When a detached accessory building is located in front of the line connecting the two midpoints of the opposite side lot lines as herein described, or is closer than ten feet from the main structure, such accessory building shall observe the same side yard as specified for the main building.*

*c.*

*If an accessory structure is adjacent to a side street, the side yard for the accessory structure must be a minimum of 15 feet from the side property line.*

*(3)*

*Rear yard.*

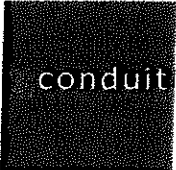
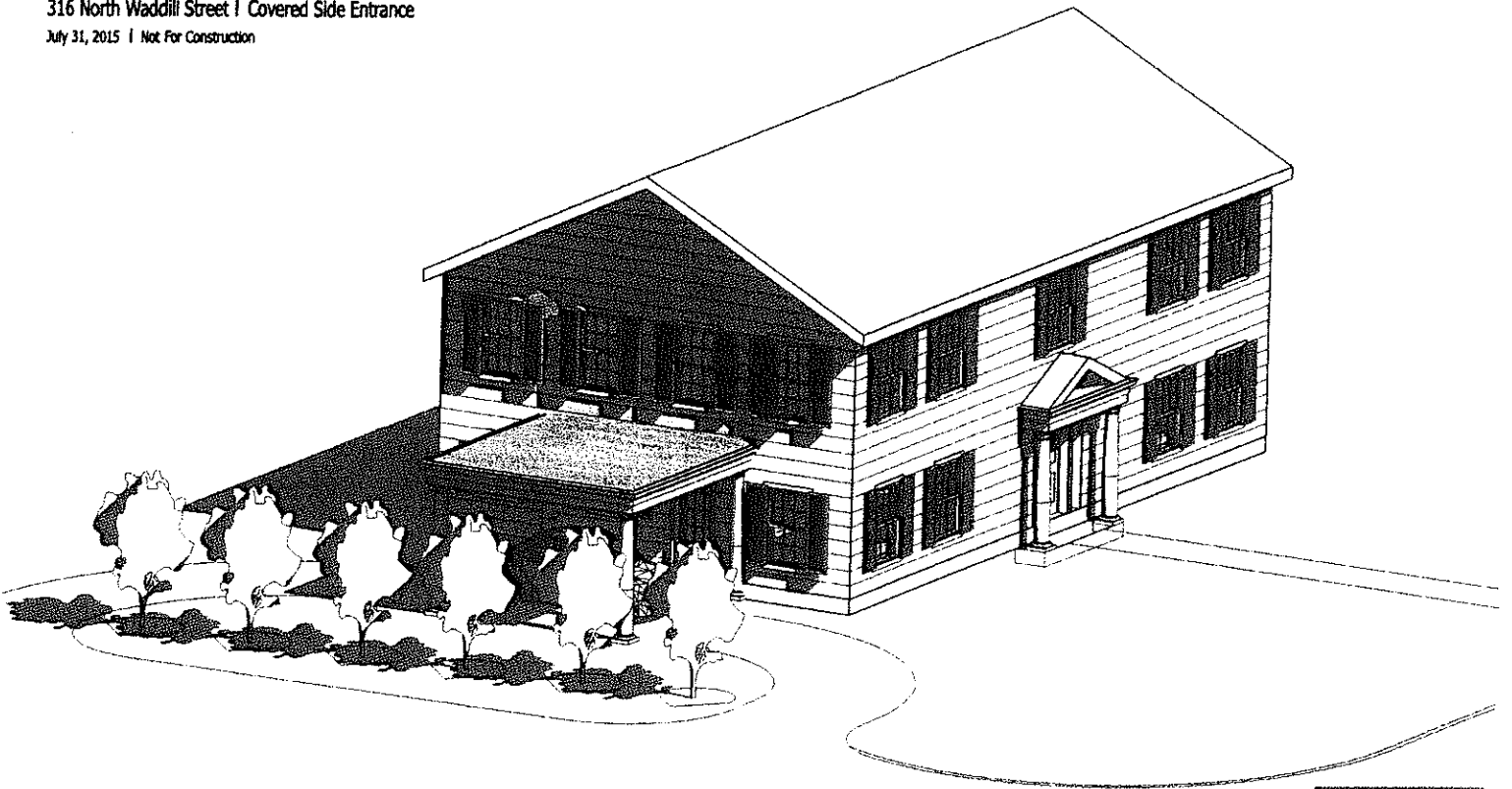
*a.*



*There shall be a rear yard for accessory buildings not less than three feet from any lot line, alley line, or easement line, except that if no alley exists, the rear yard shall not be less than ten feet as measured from the rear lot line. Where apartments are permitted, the main building and all accessory buildings shall not cover more than 50 percent of the rear of the lot (that portion of the lot lying to the rear of a line erected adjoining the midpoint of one side lot line with the midpoint of the opposite side lot line).*

316 North Waddill Street | Covered Side Entrance

July 31, 2015 | Not For Construction



Proposed design