

## Board of Adjustment

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### Staff Report

**CASE NUMBER:** BA15-041 (PLN2015-00326)  
**LOCATION/ADDRESS:** 235 N 22<sup>nd</sup> Place #522  
**COUNCIL DISTRICT:** Council District 2  
**STAFF PLANNER:** Lisa Davis, Planner II  
**OWNER/APPLICANT:** Larry Burns

**REQUEST:** *Requesting a Variance to allow the reduction in the required number of covered parking spaces in the RM-3-PAD zoning district.*

#### SUMMARY OF APPLICANT'S REQUEST

The applicant is requesting a variance to allow a reduction in the required two covered parking spaces for an existing home. The existing attached two-car garage includes a storage area that is currently being used in one of the parking spaces. The applicant would like to install a bathroom on the main floor of the home. At this time all bathrooms are located on the second floor of the home.

#### STAFF RECOMMENDATION

Staff recommends **approval** of case BA15-041, *conditioned upon the following:*

- 1. Compliance with the site plan and floor plan submitted, except as modified by the conditions listed below.*
- 2. Compliance with all requirements of the Development Services Division with regard to the issuance of building permits.*
- 3. One covered parking space within the existing garage must be maintained.*

#### SITE CONTEXT

**CASE SITE:** Existing single residence – Zoned RM-3-PAD  
**NORTH:** Existing mini-storage facility single residence – Zoned LC  
**EAST:** Existing single residence – Zoned RM-3-PAD  
**SOUTH:** Existing single residence – Zoned RM-3-PAD  
**WEST:** Existing single residence – Zoned RM-3-PAD

#### STAFF ANALYSIS

The 1,400 square feet (SF) two-story townhouse was constructed on the 2,187 SF lot in the late 1980's. Stratford Place was developed with private streets and front yards maintained by the Homeowners Association. The variance request would allow for the required two covered parking spaces acknowledged in the two-car garage to be reduced to one space. The proposal is to modify the existing home to allow for construction of a main floor bathroom that will encroach into the garage. The applicant purchased the existing townhouse approximately 17 years ago with all bathrooms located on the second floor. As stated in the justification statement dated July 17, 2015, since purchasing the home it has become more difficult for the residents of the home to get to the bathrooms on the second floor. Further it would create a hardship to have to sell the home and move. The proposed bathroom would encroach into the existing storage area of the garage that existed when the house was purchased. By allowing for the reduction in required parking spaces it would not change the conditions that have been established for a minimum of 17 years.

The applicant has provided a letter from the Eastbrook/Stratford Homeowners Association indicating that architectural approval is not required for this proposed change. It further states that there are no parking restrictions in the neighborhood. This development is quite different than most, as the property in front of the garage in addition to the private streets is maintained by the Homeowners Association. As the letter indicates the Homeowners Association is not concerned with the loss of the parking spaces in the garage and has no concerns with parking in the driveway.

As justification for the requested variance, the applicant has noted: 1) that the applicant purchased the townhouse over 17 years ago with the storage area in the garage limiting the number of parking spaces to one space; 2) This is one of the few homes that does not have a bathroom on the main floor of the house; This is the only place in the home the bathroom can be added; 3) Strict compliance of the code would limit them from being able to construct the main floor bathroom and this would deprive them of needed improvements for quality of life to remain in their existing home; 4) the majority of homes in the development have a bathroom on the main floor; 5) the residents of the home have disabilities that make it difficult to get to the second floor bathrooms; 6) approval of the requested variances will not grant special privileges.

As proposed, the reduction of covered parking spaces in the existing garage requires the granting of a variance. The Board of Adjustment must find the following items are present to approve a variance:

- a) There are special conditions that apply to the land or building.*
- b) The special condition was pre-existing and not created by the property owner.*
- c) That strict compliance with the Code would deprive the property of privileges enjoyed by other properties in the same zoning district.*
- d) The variance would not constitute a special privilege unavailable to other properties in the vicinity and zoning district of the subject property.*

The two-story home was built in the 1980's with no bathroom on the main floor. The design of the home and the construction of the home occurred prior to the applicant purchasing the home, therefore were pre-existing and not created by the current property owner. Strict compliance with current two-car garage would deprive the property owner of the ability construct a bathroom on the main floor of the existing home. This would create an undue hardship as the owner would lose the ability to effectively modify the existing structure in order to improve quality of life for the current owners. Staff believes this variance will not constitute special privileges unavailable to other properties in the vicinity.

#### **FINDINGS**

1. The existing home was constructed in 1988 with a no bathrooms on the first floor of the townhouse.
2. The existing two-story home is approximately 1,400 SF in area on a 2,187 SF lot.
3. The applicant has owned the home for approximately 17 years and did not construct the townhouse.
4. The storage area created in the garage has been in place for more than 17 years.
5. Strict compliance with the number of required parking spaces would limit the current townhouse owner with needed modification of the house to include a bathroom on the main floor.
6. The request does not involve an expansion or intensification of the home.
7. The Eastbrook/Stratford Homeowners Association provided a letter dated July 28, 2015 indicating that there are no restrictions regarding parking of vehicles in the driveway of the townhouses.
8. The driveway area for all townhouses is maintained by the Eastbrook/Stratford Homeowners Association.

## **ORDINANCE REQUIREMENTS**

Zoning Ordinance, Parking Spaces Required (summarized from Sec. 11-32-3)

**D. Covered Spaces. Covered parking spaces shall be provided as follows:**

1. Single-residences shall provide a minimum of 2 covered parking spaces per unit.

Zoning Ordinance, Variance Required Findings Section 11-80-3:

A variance shall not be granted unless the Zoning Administrator, when acting as a Hearing Officer, or Board of Adjustment shall find upon sufficient evidence make a determination:

1. There are special circumstances applicable to the property, including its size, shape, topography, location, or surroundings, and
2. That such special circumstances are pre-existing, and not created by the property owner or appellant; and
3. The strict application of the zoning Ordinance will deprive such property of privileges enjoyed by other property of the same classification in the same zoning district; and
4. Any variance granted will assure that the adjustment authorized shall not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and zone in which such property is located.