

BOARD OF ZONING APPEALS STAFF REPORT

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TYPE OF APPLICATION: Major Variance **FILE #**16-056641
APPLICANT: Amy Her
HEARING DATE: August 15, 2016
LOCATION: 360 WHEELLOCK PARKWAY EAST
LEGAL DESCRIPTION: Dawsons Fifth Addition Subj To Pkwy & Vac Idaho Ave
Accruing Ex Wly 49 7/10 Ft Lots 4 Thru Lot 7 Blk 2
PLANNING DISTRICT: 5
PRESENT ZONING: R3
ZONING CODE REFERENCE: 63.501 (b) (2)
REPORT DATE: July 26, 2016 **BY:** Jerome Benner II
DEADLINE FOR ACTION: September 5, 2016
DATE RECEIVED: July 8, 2016

- A. **PURPOSE:** A variance in conjunction with the Wheelock Ground Round Project in order to allow the curb cut to remain for access to the existing front yard parking.
- B. **SITE AND AREA CONDITIONS:** This is a 75 by 160-foot lot with a legal nonconforming duplex located on a corner of Wheelock Parkway East and Edgemont. There is on-street parking along the side street on Edgemont and off-street parking located in the rear yard of the property.
- Surrounding Land Use:** The surrounding land uses are predominately single family dwellings with some multi-family dwellings to the south and east of the subject property.
- C. **BACKGROUND:** The existing house previously had an attached garage that was accessed from Wheelock Parkway East but was converted into additional living space prior to the applicant purchasing the home in 2007. In conjunction with the Wheelock Ground Round Project scheduled this year, this property was determined to have a nonconforming parking space in the front yard. The applicant is requesting a variance in order to allow the curb cut to remain for access to the existing front yard parking.
- D. **FINDINGS:**

1. *The variance is in harmony with the general purposes and intent of the zoning code.*

This variance request is in keeping with the Guidelines for Variance Requests to Allow Parking within a required yard adopted on February 6, 2012, by the Board of Zoning Appeals as follows:

- a) *If the parking space is already there, the parking space has been in existence and used continuously for the past ten (10) years.*

The driveway at one time led to an attached garage located in the front yard of the property. When the garage was converted into additional living space, the driveway remained and has been in use since 1985 according to aerial photographs. The existing surface of the driveway is concrete. This finding is met.

- b) *The applicant can demonstrate hardship in that there is no feasible alternative location for the parking space. For the purpose of this condition hardship shall include: a disability by a resident of the property that qualifies for a State Handicap Parking Permit, topography that makes rear yard parking impossible, the lack of alley access to the property, or insufficient lot size to provide off-street parking in a non-required yard.*

The applicant states that the garage was already converted into additional living space prior to her purchasing the home in 2007. She also states in order to convert the garage back into living space, it would require significant reconstruction of her home. There is also no alley access to the property, however, there is an existing gravel parking pad located in the rear of the property that is accessed from Edgemont Street. The driveway has the capacity to store four (4) vehicles in a stacked position. This would be a reasonable alternative to the parking in the front yard. This finding is not met.

- c) *The applicant submits a petition signed by 2/3 of property owners within 100 feet of the property along either side of the subject property and from property across the street stating that they have no objection to the parking.*

The applicant was required to obtain three (3) signatures and they received 11. The applicant has submitted a sufficient number of signatures. This finding is met.

- d) *The parking space is paved or the applicant agrees to pave the space within 120 days.*

It was observed from a site visit that the parking space is paved. This finding is met.

2. *The variance is consistent with the comprehensive plan.*

The applicant's request would allow the homeowner and other residents to park on the property, limiting the need to park on the street. This is consistent with a goal of the Comprehensive Plan to provide off-street parking in order to lessen congestion on public streets. This finding is met.

3. *The applicant has established that there are practical difficulties in complying with the provision that the property owner proposes to use the property in a reasonable manner not permitted by the provision. Economic considerations alone do not constitute practical difficulties.*

This building is a legal non-conforming duplex. It requires three off-street parking spaces and the parking in front allows for at least three off-street parking spaces. However, the parking located in the rear of the property that is accessed from Edgemont Street can provide parking for four (4) vehicles in a stacked position. There is enough room to enlarge the existing parking to accommodate a third space that would not require the vehicles to be stacked, and meet the parking requirement for a duplex. This finding is not met.

4. *The plight of the landowner is due to circumstances unique to the property not created by the landowner.*

The garage was converted into additional living space prior to the current owner purchasing the house in 2007. This circumstance was not created by the current landowner. This finding is met.

5. *The variance will not permit any use that is not allowed in the zoning district where the affected land is located.*

The proposed variance would not permit any use that is not allowed in the zoning code. This finding is met.

6. *The variance will not alter the essential character of the surrounding area.*

There are five (5) other properties within the surrounding area that also have existing parking in the front yard. However, these properties have driveways leading to garages in the front. Parking in a driveway that leads to a legal parking is allowed under the zoning code. The applicant's property would be the only one located on a corner lot that has front yard parking. This finding is not met.

E. **DISTRICT COUNCIL RECOMMENDATION:** Staff has not received a recommendation from District 5.

F. **CORRESPONDENCE:** Staff has not received any correspondence.

G. STAFF RECOMMENDATION: Based on findings 1(b) (c), 3 & 6, staff recommends denial of the requested variance.