



STAFF REPORT

Board of Adjustment

CASE #AV-1743-17

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|-------------------|--|----------------------|---|---------------|--------------|
| BOA Date: | July 11, 2017 | Case Planner: | Robin Kerns | Phone: | 303.289.3693 |
| Location: | Council Chambers At 7887 E. 60 th Avenue In Commerce City | | | | |
| Applicant: | Charles Wagner | Owner: | KAMO LLC | | |
| Address: | 6620 E. 56th. Ave. Commerce City, CO 80022 | Address: | 6620 E. 56th. Ave. Commerce City, CO 80022 | | |

Case Summary

| | |
|-------------------------------|--|
| Request: | A variance for the reduction in the side and rear setback requirements. |
| Project Description: | The applicant is requesting a 13 ft. reduction to the 20 ft. side setback requirement (to the west), and a 20 ft. reduction in the 25 ft. rear setback requirement (to the south), to accommodate 2 new additions of 1,050 sq.ft. and 450 sq.ft. |
| Issues/Concerns: | - Neighborhood Compatibility |
| Key Approval Criteria: | - Variance Approval Criteria (LDC Section 21-3222) |
| Staff Recommendation: | Approval |
| Current Zone District: | I-2 (Medium Intensity Industrial District) |
| Comp Plan Designation: | Industrial/Distribution |

Attachments for Review: *Checked if applicable to case.*

- | | |
|--|---|
| <input checked="" type="checkbox"/> Applicant's Narrative Summary | <input checked="" type="checkbox"/> Vicinity Map |
| <input checked="" type="checkbox"/> Development Review Team Recommendation | <input type="checkbox"/> Neighborhood Meeting Notes |
| <input checked="" type="checkbox"/> Site Plan | <input type="checkbox"/> |
| <input type="checkbox"/> | <input type="checkbox"/> |

Background Information

Site Information

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|-------------------------------|--|
| Site Size: | 18,378 sq.ft. |
| Current Conditions: | Developed |
| Existing Right-of-Way: | E. 56th Ave. & Niagara St. |
| Neighborhood: | South Rose Hill |
| Existing Buildings: | Main Building, large storage building, small storage building |
| Buildings to Remain? | <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No (Storage shed to be replaced.) |
| Site in Floodplain? | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No |

Surrounding Properties

| | Existing Land Use | Occupant | Zoning |
|--------------|--------------------------|----------------------------------|---------------|
| North | Residential | Private Residence | R-2 |
| South | Industrial | Outdoor Storage | I-2 |
| East | Public/Utility | South Adams County Water & Sewer | PUBLIC |
| West | Residential | Private Residence | I-2 |

Case History

The subject property was zoned Industrial 2 (I-2) as part of the original incorporation of Commerce City in 1952. Over time, the property has been used as both a residence and a business, and is currently only used for business activities. To accommodate business growth overtime, a series of Variances for building related setbacks, a Use-by-Permit for Night Watchman's Quarters, and a Minor Modification for sign location have been approved. Conditions associated with these variances have been related to site improvements such as screen fencing, landscaping and paving.

| Case | Date | Request | Action |
|-------------|---------------|--|---------------------------------|
| A-1229-96 | Jan. 2, 1996 | 20 ft. reduction in the 25 ft. rear setback requirement (to the south) for garage extension & storage structure. | Approval with Conditions |
| A-1229-98 | Sept. 1, 1998 | Amend conditions of approval | Approval with Conditions |
| AU-1290-96 | March 5, 1996 | Use-by-permit for Night Watchmans Quarters | Approval with Conditions |
| A-1453-00 | March 7, 2000 | 7 ft. reduction in the 25 ft. side on street requirement (to the east) for storage structure | Approval with Conditions |
| MM-002-09 | Oct. 1, 2009 | 1.5 ft. reduction in the 10 ft. sign setback req. | Approval with Conditions |

Applicant's Request

For the subject property located at 6620 E. 56th Avenue, the applicant is requesting a 13 ft. reduction to the 20 ft. side setback requirement (to the west), and a 20 ft. reduction in the 25 ft. rear setback requirement (to the south), to allow them to remove an existing 260 sq.ft. storage shed and build a new 1,050 sq.ft. addition to the west of the existing main building. This addition would allow for additional office area and storage. The proposed reduction in to the rear setback would also allow them to build a 450 sq.ft. shop addition to the east of the main building, connecting to an existing shed that was previously approved for a rear and side (to the east) setback variance. The overall purpose of these additions is to accommodate current business growth.

Development Review Team Analysis

Site Analysis & Request

The subject property located at 6620 E. 56th Avenue is approximately 18,378 sq.ft. according to assessor records. The site is generally flat with an entrance from E. 56th Ave. which serves as the public parking area and access to the vehicle yard, and from Niagara St. which serves as access for work trucks and equipment to the vehicle yard. Along the western property line is a solid 8 foot tall masonry wall. The fence along the south property line is 6 foot chain-link, and along the north and east sides is chain-link with plastic inserts creating a screen effect. Also according assessor records, the main building was built in 1949, with a new storage garage added in 1998. Staff notes that both of these buildings are single story. The assessor record does not account for the existing 260 sq.ft. storage shed (also single story) to the west of the main building. The applicant is requesting a 13 ft. reduction to the 20 ft. side setback requirement (to the west), and a 20 ft. reduction in the 25 ft. rear setback requirement (to the south), to allow them to build a new 1,050 sq.ft. addition to the west of the existing main building. The proposed reduction in to the rear setback would also allow them to build a 450 sq.ft. shop addition to the east of the main building, connecting to an existing shed that was previously approved for a rear and side (to the east) setback variance.

Adjacent Property Analysis

The properties that are immediately adjacent to the west and south of the subject property are zoned Industrial 2 (I-2). The property directly west is residential in use, and is buffered from the subject property by a solid 8 foot tall masonry wall. The property directly south is a vacant property that has been historically used for outdoor storage, and is currently used as such. To the east, across Niagara St. is a large water tank owned and operated by South Adams County Water & Sewer Department. The future land use of these 3 lots is Industrial Distribution. To the north, across E. 56th Avenue which is a 70 foot wide right-of-way, is a single family dwelling that has a future land use designation of Mixed-Use.

Existing & Proposed Development

The subject property is zoned Industrial 2 (I-2). In this zoning district, the requirements are as follows on the table below. There are already structures, both new and old, which extend into the required setbacks to the same depth as what is being proposed.

| | LDC I-2 Requirements | Project Data – Exist. & Proposed |
|---|----------------------------|--|
| Min. Lot Area | 50,000 sq.ft. | 18,378 sq.ft. existing |
| Front Yard Setback | 20 ft. min. / 100 ft. max. | 53 ft. approx. existing |
| Min. Side Yard Setback (Interior Lot line) | 20 ft. min. | 7 ft. (to west) proposed (to replace existing 260 sq.ft. shed, no previous variance) |
| Min. Side Yard Setback (Corner Lot Line) | 20 ft. min. | 18 ft. (to east) existing |
| Min. Rear Yard Setback | 25 ft. min. | 5 ft. (to south) proposed (this setback for the existing buildings approved via A-1229-96) |

The subject property is proposing to develop in a manner that is consistent with the properties history. The main commercial building was constructed in 1949, and a garage addition and large storage structure were added in 1998 with BOA approval for reduced setbacks. So overall, this created a development pattern that pushes buildings to the sides of the lot, while leaving space for vehicle access and parking in the properties' middle & front. If the property were to be completely re-developed today, the building(s) would be along E. 56th Ave and Niagara St., while putting parking and storage on the sides and rear. In 2008, the property was purchased by the current owner KAMO LLC. The current owner was not responsible for the existing development pattern of construction on the subject site, or any of the subsequent additions and building development.

The proposed additions will be adjacent to the neighboring properties to the west and south. If kept to a single story like the existing development, the new construction along the south and west property lines will not create much more of a visual impact than already exists today. The site to the south is vacant and used for outdoor storage. The site to the west has been developed for residential use, but there is a solid 8 ft. masonry wall between the 2 lots.

| Criteria Met? | Sec. 21-3222. Variances | Rationale |
|-------------------------------------|---|---|
| <input checked="" type="checkbox"/> | The physical character of the property, including dimensions, topography or other extraordinary situation or condition of the property, create a situation where the strict enforcement of the standards in this land development code will deprive the property of privileges generally enjoyed by property of the same classification in the same zoning district (hardship); | The subject property is less than half the size of an expected I-2 property, which implies that it is a small lot given the zoning and allowed uses which are industrial by zoning. In addition, the site is using existing building infrastructure which was originally developed in 1949. |
| <input checked="" type="checkbox"/> | The hardship is not self imposed; | The main commercial building was constructed in 1949, and a garage addition and large storage structure were added in 1998 with BOA approval for reduced set backs. The property was purchased by KAMO LLC in 2008. As the owner was not directly responsible for the construction of the property, and subsequent additions and building, the hardship is not self-imposed. |
| <input checked="" type="checkbox"/> | The variance will not be of substantial detriment to adjacent property; | The proposed additions will be adjacent to the neighboring properties to the west and south. The development along the south and west property lines will not create much more of a visual impact than already exists today. The site to the south is vacant and used for outdoor storage. The site to the west has been developed for residential use, but there is a solid 8 ft. masonry wall between. In general, the proposed development will not be detrimental to the adjacent properties. |

| Criteria Met? | Sec. 21-3222. Variances | Rationale |
|---------------|--|---|
| ☒ | The character of the district will not be changed by the granting of the variance. | The subject property and those adjacent are zoned Industrial 2, which coincides with the Future Land Use Plan. Therefore, it can be assumed that those adjacent properties will become or be continued to be used for Industrial uses. Furthermore, the proposed development is in locations that either already has buildings or similar location and scale, or is replacing existing development in a similar location. |

Comprehensive Planning Documents

The DRT recommendation for this case is supported by the following Comprehensive Planning Goals:

| Section | Goal | Description |
|------------------|---|---|
| Land Use | LU 4.2 | Historic City & Irondale Industrial Areas Strengthened: Promote & strengthen industry and jobs where they are currently located in the Historic City, particularly in: south of E. 56 th Avenue/Tiffany |
| Analysis: | The subject property is located south of E. 56 th Avenue and has been historically zoned Industrial. | |
| Section | Goal | Description |
| Land Use | LU 4a | FLUP as a Guide for Employment: Use the FLUP to guide industrial and employment land patterns. |
| Analysis: | The FLUP identifies the subject property for Industrial Distribution uses, which includes employment opportunities. The applicant states that the new development will allow the existing business to expand in the current location. | |
| Section | Goal | Description |
| Fiscal Stability | FS 2a | FLUP Consistency: Retain, support, and expand the community's industrial base by approving development that is consistent with the FLUP and the Economic Development Strategic Plan and modifying the LDC to reflect the FLUP. |
| Analysis: | The FLUP identifies the subject property for Industrial Distribution uses. The approval of this variance will allow the applicant to expand the existing business which will allow the city retain a local business. | |

Summary

KAMO LLC, the owner of the subject property located at 6620 E. 56th Avenue, is requesting approval of side and rear yard variances to setbacks to allow for expansion of the existing business. Given that the site was already developed in a fashion that pushes buildings to the side and rear property lines, and the height of the development is proposed to match the existing development, then this application seems a natural extension of the existing development pattern. Staff notes via previous conditions of approval, the site has upgraded its appearance, which includes landscaping.

Based on the information provided by the applicant as well as analysis of the Comprehensive Plan, the Land Development Code, and the Approval Criteria for Variances, the DRT recommends approval of the setback reductions, with the condition that the roofs of the new buildings be incorporated into the existing buildings rooflines and not exceed the existing building heights.

Development Review Team Recommendation

Based upon the analysis above, the Development Review Team believes that the application meets the criteria for a Variance set forth in the Land Development Code and recommends that the Board of Adjustment approve the request, subject to the following condition:

CONDITIONS:

- A. That the roofs of any new buildings be incorporated into the existing buildings rooflines and not exceed 1 story in design.

Recommended Motion

To recommend approval subject to condition(s):

I move that the Board of Adjustment find that upon satisfying the following conditions:

- A. That the roofs of any new buildings be incorporated into the existing buildings rooflines and not exceed 1 story in design.

The requested Variance for the property located at **6620 E. 56th Avenue** contained in case **AV-1743-17** meets the criteria of the Land Development Code and, based upon such finding, approve the Variance.

Alternative Motions

To recommend approval:

I move that the Board of Adjustment find that the requested Variance for the property located at **6620 E. 56th Avenue** contained in case **AV-1743-17** meets the criteria of the Land Development Code and, based upon such finding, approve the Variance.

To recommend approval subject to condition(s):

I move that the Board of Adjustment find that upon satisfying the following conditions:

Insert Condition(s)

the requested Variance for the property located at **6620 E. 56th Avenue** contained in case **AV-1743-17** meets the criteria of the Land Development Code and, based upon such finding, approve the Variance.

To recommend denial:

I move that the Board of Adjustment deny the requested Variance for the property located at **6620 E. 56th Avenue** contained in case **AV-1743-17** because it fails to meet the following criteria of the Land Development Code:

List the criteria not met