Variance Report
Case #AV25-0003

Board of Adjustment Date: September 9, 2025

General Information

Project Name	5741 East 65th Way Attached Carport Variance
Location	5741 East 65th Way
Site Size	0.21 acres
Current Zoning	R-1 (Single-Family Detached Residential)
Applicant	Hugo Rodriquez – general contractor
Property Owner	Eleonor & George Bland
Case Planner	Nathan Chavez

Request

The property owners, Eleonor & George Bland, are requesting a variance to reduce the 5-foot attached carport Side Yard setback to a 3-foot Side Yard setback, a 2-foot reduction for a proposed attached carport (Figure 4).

Background and Case History

The residence was originally constructed in 1955, and the existing garage was constructed shortly thereafter between 1956 and 1963. The Blands purchased the property in 1968. The owners are now seeking approval for an attached carport (Figure 3) to protect their motor vehicles from inclement weather. An attached carport is allowed per Sec. 21-5400. – Accessory Uses and Accessory Structure Table of the Land Development Code (LDC). During the building permit review process for a proposed attached carport (RADD25-00036), planning staff discovered the proposed structure does not adhere to the 5-foot side yard setback standard for attached carports. The applicant is now requesting a variance so that they may build the proposed carport within 3 feet of the property line. The property is located along East 65th Way in a residential neighborhood. It is surrounded by other residential properties on all sides with Central Elementary School and the Deck Superstore nearby.

Project Analysis

Overall Analysis

There are two few factors to take into consideration when reviewing and analyzing the proposed variance, which when combined constitute a hardship. The first factor to consider is when the home and garage were built - the mid-1950s. During this time, shortly after the founding of Commerce City, the Commerce City zoning code required a 3-foot side yard setback for residential accessory structures. Now the accessory structure side yard setbacks is 5 feet,

meaning there is a two foot disconnect from where structures were allowed to be built previously and today's standards. Specifically, full compliance with the Land Development Code's 5-foot setback would place the carport's support beam 2 feet into the driveway (Figure 4), blocking access into the garage and the ability of drivers to exit and enter vehicles, as well as, a strange visual appearance of the proposed structure that does not fully match the layout of the garage. Because of these two factors, City staff found that a hardship exists due to the built environment of the property; standards from 70 years ago and how the current Land Development Code interact. In addition, through the review process, City staff determined that the variance request will meet all other City standards and should not cause any undue negative impacts on surrounding properties. The applicant submitted for a Building Permit to finalize the structure, and the South Adams County Fire Department, Commerce City Building Division, Planning Division, and Engineering Review Division will review this permit to ensure it meets applicable codes and standards.

Lastly, the proposed variance was reviewed by all relevant Development Review Team agencies, including the South Adams County Water and Sanitation District (SACWSD), South Adams County Fire Department (SACFD), City of Commerce City Planning Division, Engineering Review Division, Building Division, Economic Development, and Geographic Information Systems Division with no comments. Reviews were sent to other agencies which were unable to comment. At this time, there are no outstanding concerns related to this variance request.

Public Comment

City staff received four written statements from the public regarding the variance. All four written comments are in favor of the proposed variance.

Variance Approval Criteria

A decision for this case must be based on the following criteria from Sec. 21-3222(3) of the Land Development Code. An application for a variance may be approved if:

(a) All of the following criteria are met:

i. 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);

Analysis: The proposed 2-foot variance reduction request is needed for the property owner to protect their vehicles from inclement weather while also allowing for adequate clearance to access the garage. Strict application of the Land Development Code would mean the structural support for the carport is located two feet further into the driveway and blocking access into the garage and the ability of drivers to exit and enter vehicles. The construction of the home and garage occurred in the mid-1950s; and coupled with the current Land Development Code standards for accessory uses, the property owners are unable to enjoy the privileges of their property, an R-1 (Single-Family Detached Residential) zoned property which allows for attached carports. *Therefore, it can be found that this application* ***meets criteria (i)****.*

ii. The hardship is not self-imposed;

Analysis: When the property owners purchased the property in 1968 the existing garage and home were built to the allowable setbacks which was 3 feet for accessory structures. The juxtaposition of the garage and house on the lot prior to the establishment of the setback in the current Land Development Code is creating the hardship. *Therefore, it can be found that this application* ***meets criteria (ii)****.*

iii. The variance will not be of substantial detriment to adjacent property; and

Analysis: Through the review process, review agencies found that there are no adverse effects in allowing a carport within 3 feet of the property line. Because the proposed carport is more than 2 feet from the property line a firewall is not required. Lastly, a garage exists on the site that is already 3 feet within the property line. *Therefore, it can be found that this application* ***meets criteria (iii)****.*

(b) One of the following criteria is met:

i. The variance granted is the minimum needed for the reasonable use of the land, building, or structure; or

Analysis: The owners could store their vehicles in their garage and have reasonable use of the buildings on their property. *Therefore, it can be found that this application* ***does not meet criteria (i)****.*

ii. The character of the district will not be changed by the granting of the variance.

Analysis: Per the Land Development Code Sec. 21-5400. – Accessory Uses and Accessory Structure Table, an attached carport is allowed within the R-1 (Single-Family Attached Residential District) zone and carports are typically found in the surrounding neighborhood. The granting of a variance will allow for the construction of an attached carport, in a configuration closer to the property line than the LDC setbacks allow for, which will not change the character of the neighborhood. *Therefore, it can be found that this application* ***meets criteria (ii)****.*

Staff Recommendation

Planning staff has found that the application meets the approval criteria found within Sec. 21-3222(3) of the Land Development Code, and therefore the Planning Division recommends the Board of Adjustment approve case AV25-0003.

Considerations for Discussion

1. The variance is for a 2-foot accessory structure side yard setback reduction, from 5 feet to 3 feet.

2. Review of the requested variance for the patio cover revealed limited impacts to surrounding properties.
3. The structure will also be reviewed for more technical aspects during the building permit process.
4. The application meets the Variance approval criteria.
5. The application was reviewed by all relevant Development Review Team (DRT) agencies, and there are no outstanding comments or concerns.

Potential Motions

Approval

*I move that the Board of Adjustment enter a finding that the requested **variance,** for the property located at **5741 East 65th Way** contained in case **AV25-0003,** meets the criteria of the Land Development Code and based upon such finding, approve the **variance**.*

Approval with Conditions

*I move that the Board of Adjustment enter a finding that the requested **variance,** for the property located at **5741 East 65th Way** contained in case **AV25-0003,** meets the criteria of the Land Development Code and based upon such finding, approve the **variance** subject to the following conditions:*

[Insert Conditions]

Denial

*I move that the Board of Adjustment enter a finding that the requested **variance,** for the property located at **5741 East 65th Way** contained in case **AV25-0003,** fails to meet the criteria of the Land Development Code and based upon such finding, deny the **variance**.*

[Insert criteria not met]

Figure 1. Zoning Map

Figure 2. Aerial Map

Aerial form March 3, 2025

Figure 3. Site Plan

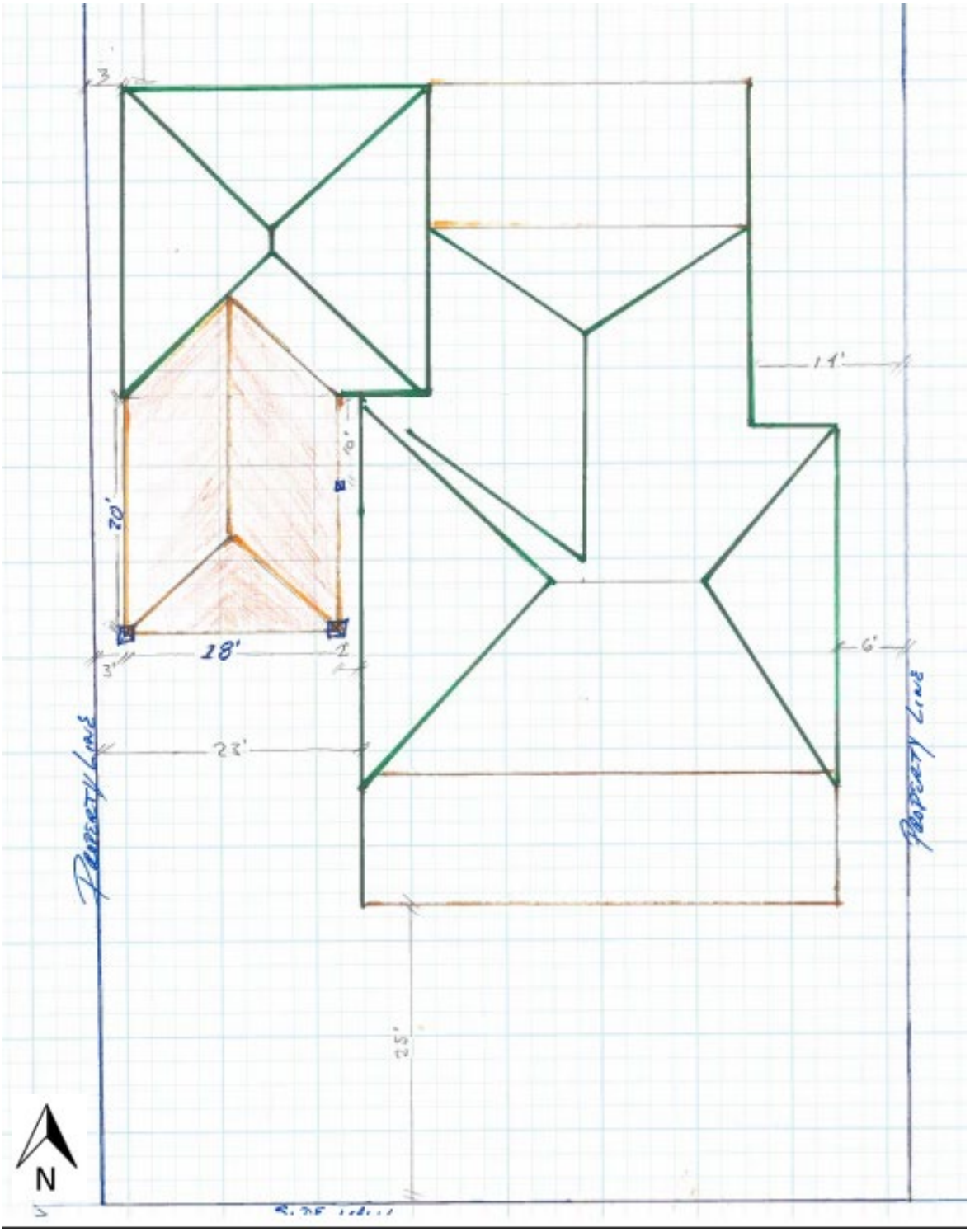

Figure 4. Aerial with Pole Locations

Figure 5. Existing Conditions

Photo of the residence facing north, taken on July 28, 2025