



Variance Report

Case #AV25-0002

Board of Adjustment Date: June 10, 2025

General Information

Project Name	16764 East 105 th Avenue Covered Patio Variance
Location	16764 East 105 th Avenue
Site Size	0.18 acres
Current Zoning	Planned Unit Development (PUD) – Amendment #1 of the Buffalo Hills Ranch PUD Zone Document (Reunion PUD)
Applicant	Troy & Kimberly Clark
Case Planner	Nathan Chavez

Request

Kimberley Clark, the property owner of 16764 East 105th Avenue, is requesting a variance to reduce the 20-foot Rear Yard setback within the Reunion PUD in conjunction with [Sec. 21-4200\(3\). – Setbacks](#), to an 11-foot Rear Yard setback, a 9-ft. minimum reduction for a patio cover.

Background and Case History

The structure was originally erected in 2020 without a building permit. Upon discovery of this unpermitted structure by Code Enforcement, via routine patrols through the City, the property owner submitted for a building permit. During the building permit review process, Planning staff discovered the structure does not adhere to the 20-ft. rear yard setback standard. The applicant is requesting the variance so that the constructed patio cover may remain. The property is located at the southwest corner of East 105th Avenue and Olathe Way in a residential neighborhood. It is surrounded by other residential properties to the south and west, as well as, across East 105th Avenue and Olathe Way.

Project Analysis

Overall Analysis

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. In addition, the applicant submitted for a Building Permit to finalize the structure, which has existed for around five years, the Building Division has no comments on the existing structure. The proposed variance was reviewed by all relevant Development Review Team agencies, including: Commerce City Planning, Engineering, Building, Economic Development, & Energy, Equity, and the Environment (E3), the South Adams County Water and Sanitation District (SACWSD), and South Adams County Fire Department (SACFD). At this time, there are no

outstanding concerns from any of the aforementioned referral agencies related to this variance request.

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 11-ft. variance, a 9-ft. reduction, is needed for the property owner to shelter their rear yard patio from sunlight and rain. The patio does meet the accessory use setbacks. The patio cover is allowed within single-family residential neighborhoods; however, the irregular layout of the site, non-parallel placement of the home, and existence of [Sec. 21-4200\(3\). – Setbacks](#) creates a configuration where the patio cover requires a variance in order to be built where the home's rear door and patio exist. *Therefore, it can be found that this application **meets criteria (i).***

- ii. **The hardship is not self-imposed;**

Analysis: The subject property is an irregularly shaped corner lot with the residence placed in such a way that it only parallels one lot line, meaning sections of the house are much closer to property lines than others which constitutes a hardship. This has resulted in the patio cover being closer to the rear property line than is typical. *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: There are large plantings along Olathe Way screening the view of the patio cover, as well as, fencing and some landscaping between the subject site and neighbors to the south and west. *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 patio cover could have been smaller and still provide effective use of the patio. *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 Reunion PUD, a patio cover is allowed for this land use. The granting of a variance will allow for the already constructed patio cover, which is typically found within a single-family detached home neighborhood, in a configuration closer to the property line than the PUD setbacks allow for. *Therefore, it can be found that this application **meets criteria (ii)**.*

Staff Recommendation

Planning staff has found that the application does meet all the approval criteria found within [Sec. 21-3222\(3\)](#) of the Land Development Code, and therefore Planning staff recommends the Board of Adjustment approve case AV25-0002.

Considerations for Discussion

1. The variance is for a 9-foot rear yard setback reduction, from 20-feet to 11-feet.
2. Review of the requested variance for the patio cover revealed limited impacts to surrounding properties.
3. The structure has existed for around 5 years, with no recorded negative impacts or complaints.
4. The structure matches the existing home in design, color, materials, and aesthetic.

Potential Motions

Approval

*I move that the Board of Adjustment enter a finding that the requested **variance**, for the property located at **16764 East 105th Avenue** contained in case **AV25-0002**, 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 **16764 East 105th Avenue** contained in case **AV25-0002**, 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 **16764 East 105th Avenue** contained in case **AV25-0002**, 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 with Proposed Location



Aerial from March 3, 2025

Figure 3. Site Plan

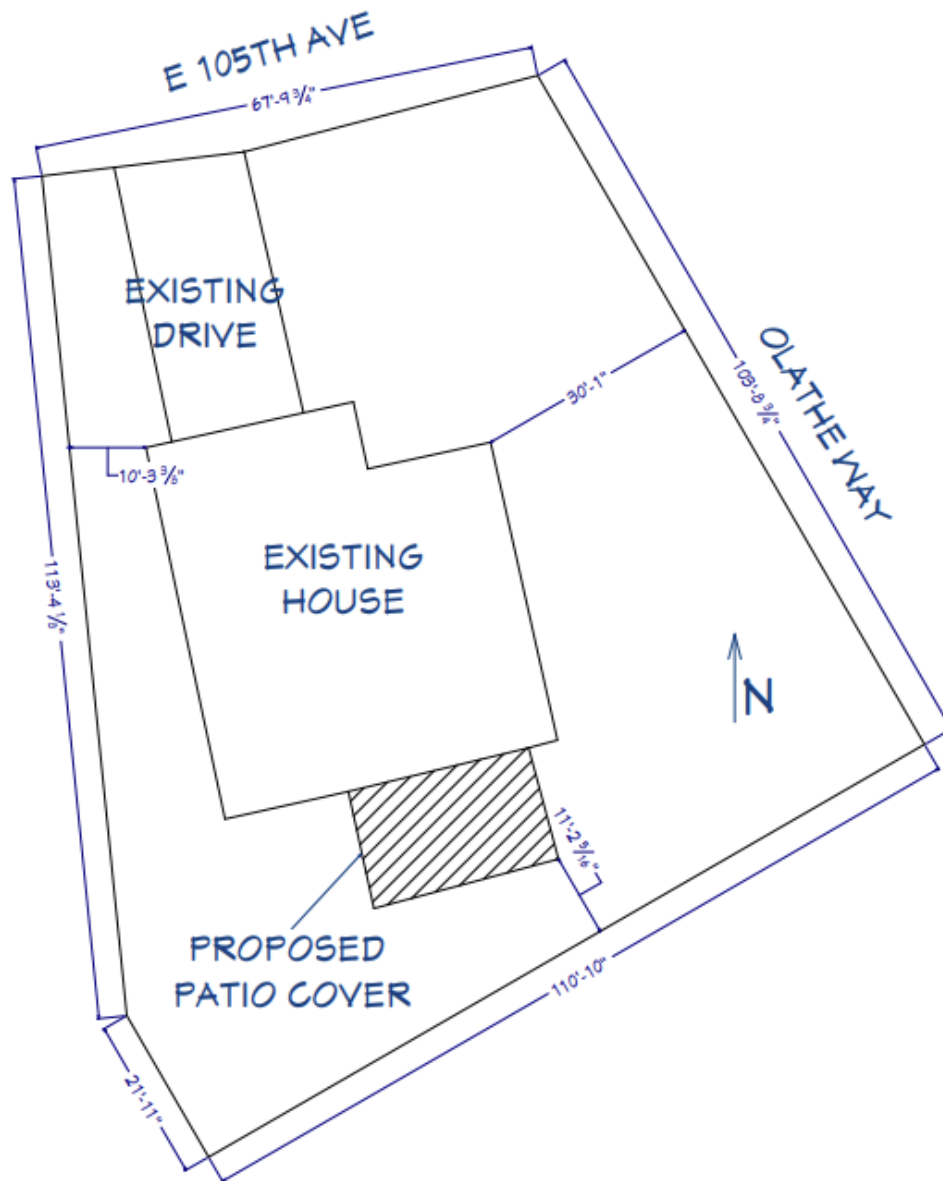


Figure 4. Existing Covered Patio



Photo of the existing covered patio facing west, taken on May 7, 2025

Figure 5. Existing Covered Patio



Photo of the existing covered patio facing north, taken on May 7, 2025

Figure 6. Existing Covered Patio



Photo of the existing covered patio facing east, taken on May 7, 2025