

Zoning Board of Adjustment

December 14, 2021

Item A:

Public Hearing – carport at 5744 Popken Dr

Hearing instructions to all parties

by Will Pruitt, City Attorney

Conditions Required for Variance:

B. Conditions Required for Variance. Conditions Required for Variance. No variance shall be granted without providing public notice and holding a public hearing on the variance request in accordance with [Section 14.2.24](#) of this Chapter and the Board shall make findings:

1. That there are special circumstances or conditions affecting the land involved such that the strict application of the provisions of this Chapter would deprive the applicant of the reasonable use of his/her land;
2. The circumstances or conditions are not economic hardships created by the property owner;
3. That the variance is necessary for the preservation and enjoyment of a substantial property right of the applicant;
4. That the granting of the variance will not be detrimental to the public health, safety or welfare, or injurious to other property within the area; and
5. That the granting of the variance will not have an adverse effect on surrounding properties, preventing the use and enjoyment of other land within the area in accordance with the provisions of this Chapter. Such findings of the Board, together with the specific facts upon which such findings are based, shall be incorporated into the official minutes of the Board meeting at which such variance is granted. Variances may be granted only when in harmony with the general purpose and intent of this Chapter so that the public health, safety and welfare may be secured and that substantial justice may be done.

Findings of Undue Hardship:

- C. **Findings of Undue Hardship.** In order to grant a variance, the Board must make findings that an undue hardship exists, using the following criteria:
1. That literal enforcement of the controls will create an unnecessary hardship or practical difficulty in the development of the affected property;
 2. That the situation causing the hardship or difficulty is neither self-imposed nor generally affecting all or most properties in the same zoning district;
 3. That the relief sought will not injure the permitted use of adjacent conforming property; and
 4. That the granting of a variance will be in harmony with the spirit and purpose of the Ordinance.
- D. A variance shall not be granted to relieve a self-created or personal hardship, nor shall it be based solely upon economic gain or loss, nor shall it permit any person the privilege of developing a parcel of land not permitted by this Chapter on other parcels of land in the particular zoning district. No variance may be granted which results in undue hardship upon another parcel of land.
- E. The Board shall have no authority to change any provisions of this Ordinance and its jurisdiction is limited to hardship and borderline cases which may arise from time to time. The Board may not change the district designation of any land either to a more restrictive or less restrictive zone.

Swearing in and presentation by all parties:

Brandy Barrett, City Administrator/City Secretary

Brad Turner, Property Owner

City Ordinances:

F. No off-street parking space shall be located either in whole or in part, in a public street or sidewalk, parkway, alley or other public right-of-way. Maneuvering areas located adjacent to a public street shall be computed from the curb line of the street. Sidewalk areas shall be a minimum of four feet wide and shall be permanently designated. All sidewalks shall be located on public property.

G. No off-street parking or loading space shall be located, either in whole or in part, within any fire lane required by ordinance of the City or within aisles, driveways, or maneuvering areas necessary to provide reasonable access to any parking space, except in SF-A, SF-B, SF-C, and SF-R Districts.

H. No required off-street parking or loading space shall be used for sales, nonvehicular storage, repair or service activities.

I. Lighting facilities, if provided, shall be so arranged as to be reflected away from property zoned or used for residential purposes.

J. Carpports.

Reason for Denial

1. Carports are generally prohibited within single-family developments with the exception of any single-family building or structure which was completed prior to the date of adoption of this Chapter by the City Council of the City of Westworth Village.

2. Carports constructed under the exception allowed by [Section 14.4.1\(J\)\(1\)](#) shall be constructed as follows:

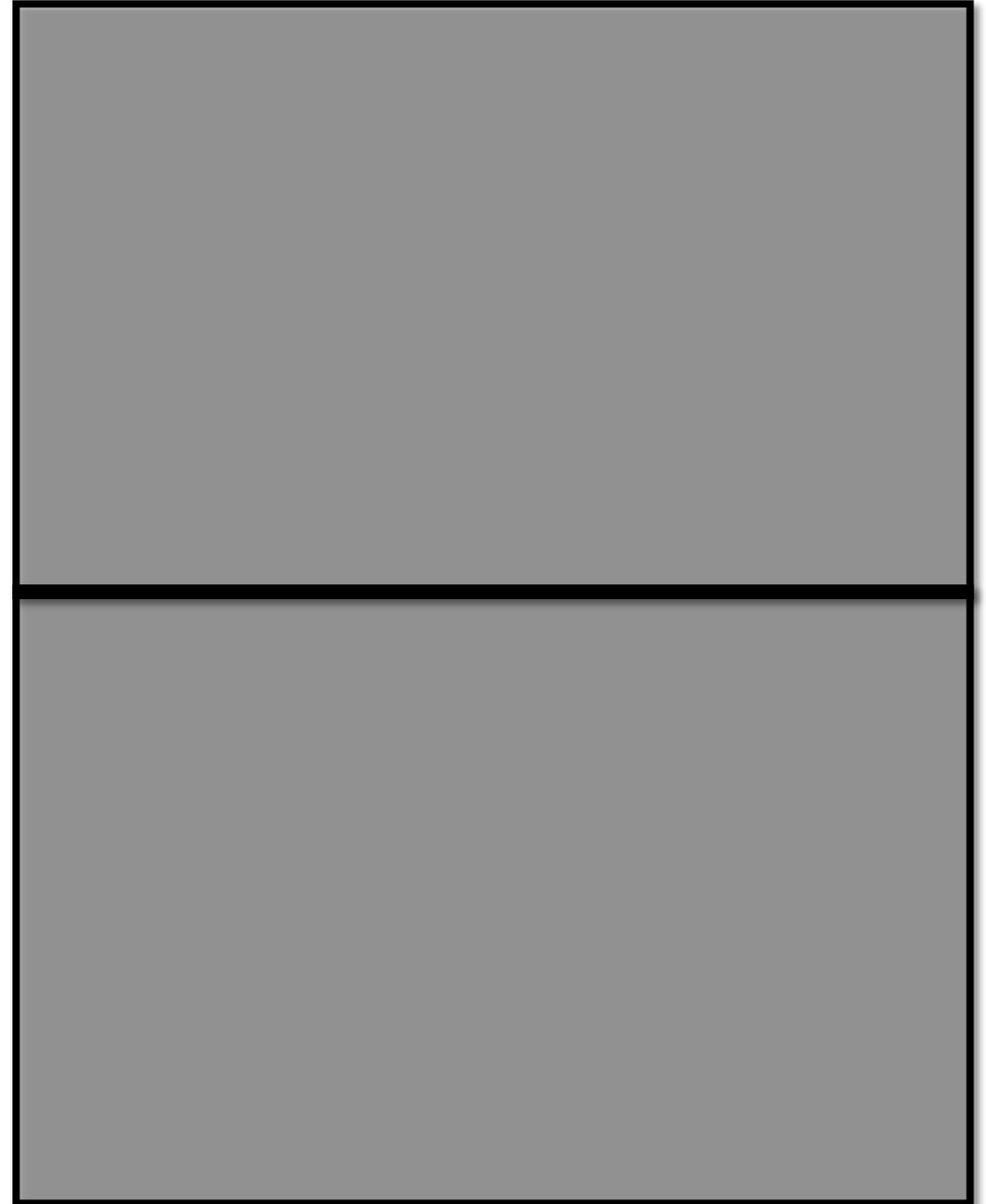
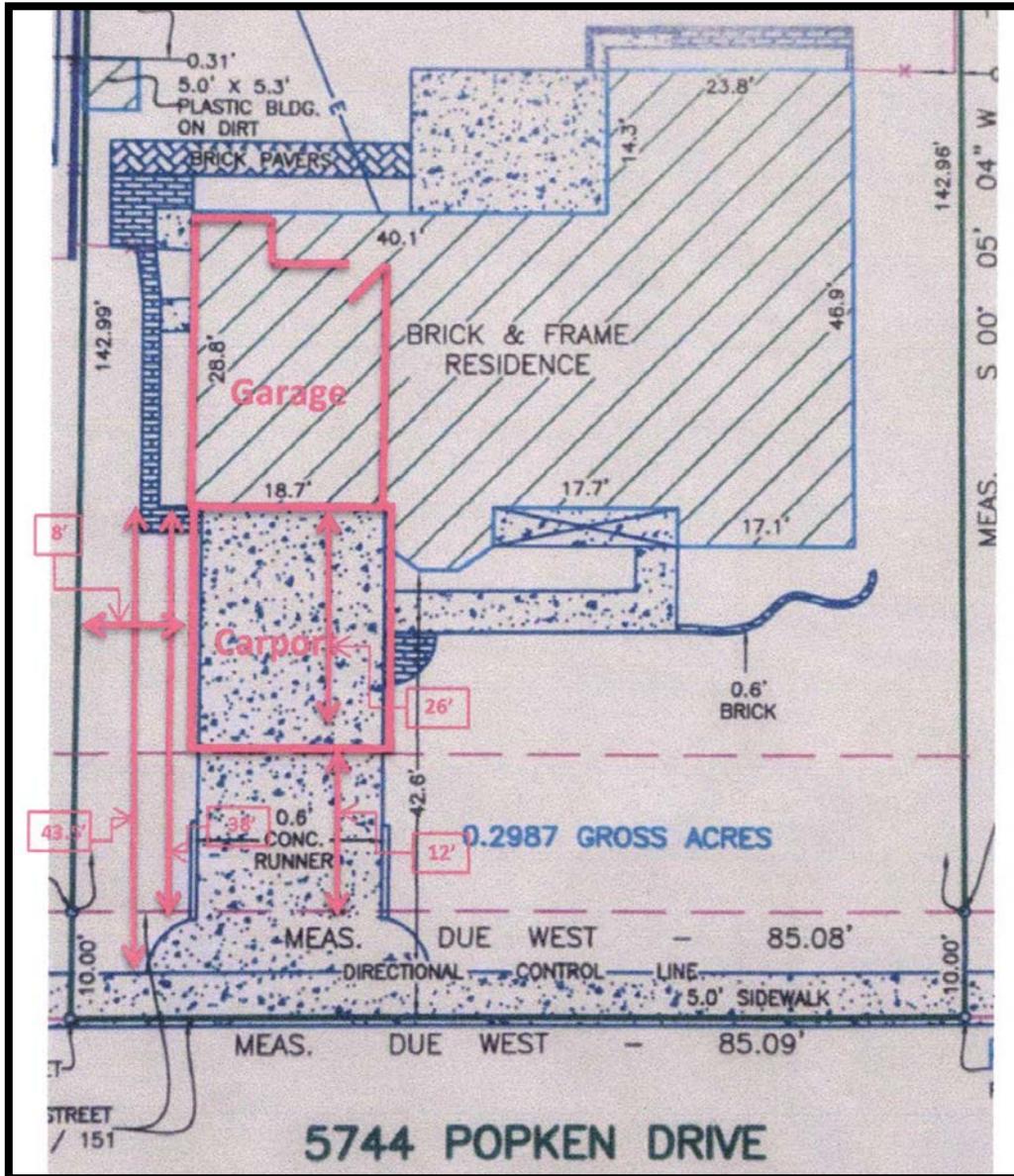
a) At least three (3) sides are open and;

b) All sides of any carport which is closer than twenty-five (25') feet to any right-of-way line of any public road, street or highway must be open, and;

c) The front of the carport overhang shall not be closer than twelve (12') feet to any right-of-way line of any public road, street, or highway.

3. Multifamily and nonresidential developments may construct carports as long as the enclosed number of parking spaces has been achieved and that no carport shall be constructed along the frontage of any public road, street or highway. Carports are to be installed behind the primary structure(s).

Request:

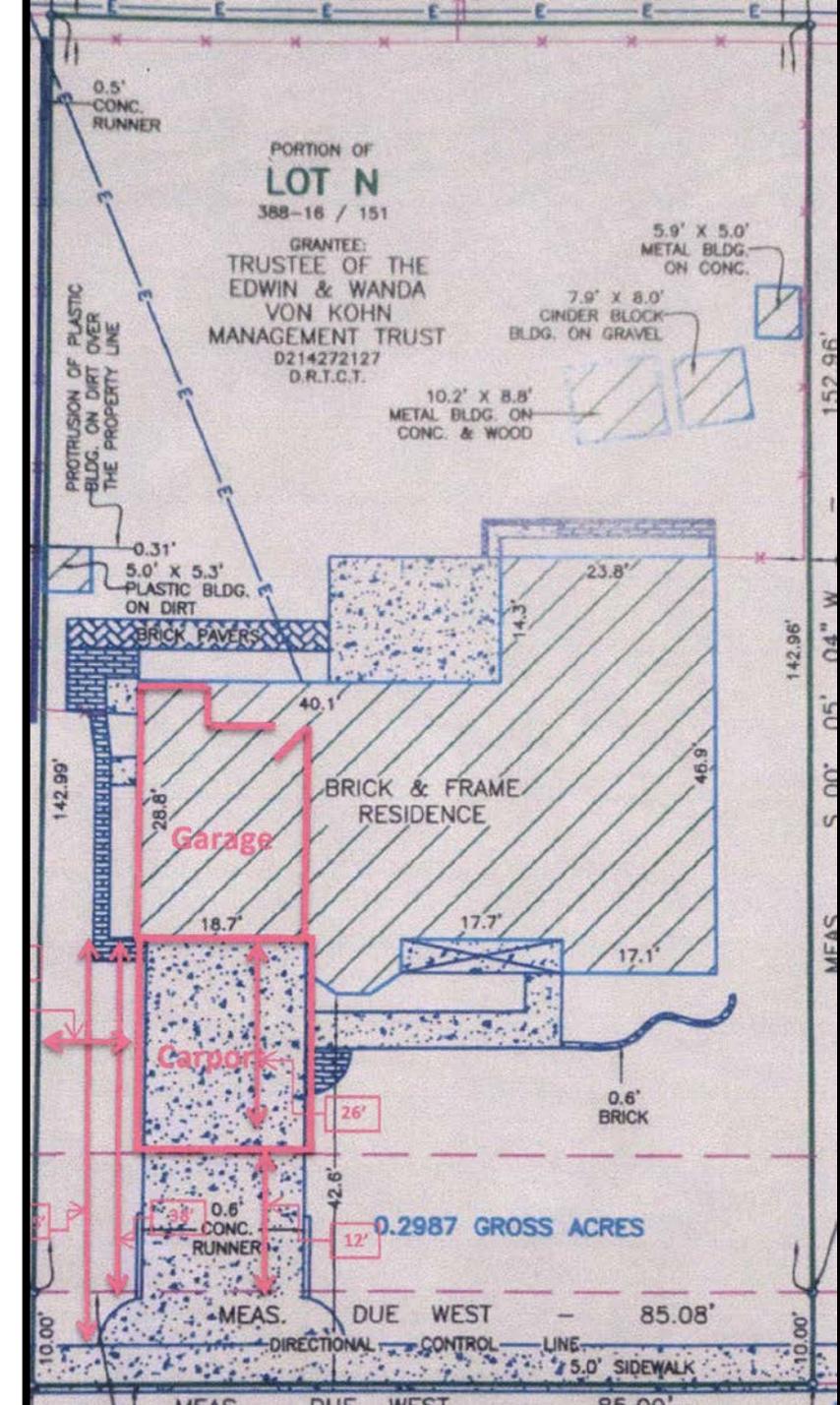


Reasons for Denial:

- Fails to comply with City Ordinances, carports are not allowed if they were not in place at the time the ordinance was written.
- Reasoning for enacting the ordinance:
 - Maintaining a minimum 4 off street parking spaces on each lot (two car driveways & two car garages)
 - Reduce outside storage and “garage type” work areas in the front yards, which would lower property values, increase rodent habitats and code violations
 - Reduce on-street parking and congestion on roads
 - Maintain easier access for emergency vehicles

Considerations:

- 1. The lot is large enough to build an addition onto the back of the house.**
 - a) Why did the applicant not submit a request build an addition?*
 - b) Will the applicant seek a permit to build an addition if this variance request is denied?*
- 2. This property can park four vehicles off-street without blocking the sidewalk; which is outside the normal city lot configuration.**
 - a) Do you currently use your garage for parking?*
 - b) Why add a carport if you already park your cars outside of the garage?*



Recommendation:

Deny the request, as an addition can be built onto the back of the structure, thereby correcting the stated hardship and need for a variance.

Approval option with the following stipulations:

- A. The garage conversion and carport must be permitted at the same time and the garage conversion must be completed before the carport can be installed.
- B. All work must be completed within one year of the issuance of the permit.
- C. All materials should match existing structure and look seamless (brick columns and roof line etc), it should look like it has always been a part of the home's construction; including the removal of the garage doors and installation of brick and matching window(s).
- D. Owner must agree to abide by city ordinances, including no outside storage or using the area as an outdoor workspace (vehicle maintenance, construction, etc)
- E. Owner must also agree to always keep the sidewalk unobstructed

Brad Turner
Property Owner









Board Discussion and Action

Recommendation:

Deny the request, as an addition can be built onto the back of the structure, thereby correcting the stated hardship and need for a variance.

Approval option with the following stipulations:

- A. The garage conversion and carport must be permitted at the same time and the garage conversion must be completed before the carport can be installed.
- B. All work must be completed within one year of the issuance of the permit.
- C. All materials should match existing structure and look seamless (brick columns and roof line etc), it should look like it has always been a part of the home's construction; including the removal of the garage doors and installation of brick and matching window(s).
- D. Owner must agree to abide by city ordinances, including no outside storage or using the area as an outdoor workspace (vehicle maintenance, construction, etc)
- E. Owner must also agree to always keep the sidewalk unobstructed

Adjourn