
**Board of Adjustment
February 10, 2025
Staff Report**

Application Summary –

A request by Eric Cooper (agent), on behalf of Tate Henry Cooper (owner), seeking relief from the provisions of Sec. 29-4, Table 4.1-5 and Sec. 29-4.3(g)(1) of the Unified Development Code relating to the placement and extension of a “shared” driveway between 210 and 300 Edgewood Avenue and the location of existing and future vehicle parking in proximity to a property line. If relief is granted, the existing “shared” driveway would be considered lawfully compliant in its current location and authorized to be extended approximately 84-feet eastward within 5-feet of the existing shared property line. Additionally, if relief is granted parking within 6-feet of a lot improved with a single- or two-family use would be authorized. This request is being considered concurrently with Case # 339-2025 which seeks similar relief be granted upon property addressed as 210 Edgewood Avenue, to the north, so as to allow a building permit to be issued for a future UDC code-compliant detached garage.

Site Characteristics

The subject lot is a 50 x 164-foot R-1 (Single-family Dwelling) lot that was created in October 1922 as part of the Park Hill Addition No. 3 subdivision (Lot 122). The lot is improved with a detached single-family dwelling and shares a driveway with the adjacent property to the north at 210 Edgewood Avenue (Lot 121) of Park Hill Addition No. 3. An easement over the existing 11.5-foot x 80-foot shared driveway was recorded in May 1991 to ensure access rights to each adjacent property owner were formally established. 6.5-feet of the shared driveway extends onto Lot 122 (the subject lot) and 5-feet extends onto Lot 121 (210 Edgewood) from the shared property line of the parcels. The dwellings constructed on each lot are approximately 25-feet apart from one another.

To ensure UDC regulatory compliance with the provisions relating to driveway placement and parking is secured for both 210 and 300 Edgewood Avenue a concurrent requested seeking relief from similar code provisions has been submitted specifically for 210 Edgewood Avenue. This request (Case # 339-2025) appears under separate cover on the Board’s February 10, 2026 agenda. While integrally related, the Board must take action on each case separately.

Not unlike most development along Edgewood, neither dwelling presently has a garage along its street frontage to support on-site/off-street parking. Many dwellings along Edgewood share driveway access and in some instances have detached garages that are either fully within the individual lot or were built across a shared lot line. This application has been submitted given the owner of 210 Edgewood Avenue is seeking to constructed a detached garage in their rear yard which necessitates an extension of the existing “shared” driveway between the parcels. Without relief from the two UDC provisions being granted to both parcels, the owner of 210 Edgewood would be unable to secure a building permit for the detached garage given code-compliant access with respect to the necessary driveway cannot be obtained.

The relief sought for the subject lot would legalize the current existing “shared” driveway location to remain within 5-feet of the shared lot line of 210 and 300 Edgewood and permit a future 84-foot easterly driveway extension along the northern boundary of the subject lot. Additionally, relief is sought to allow vehicle parking within 6-feet of a lot being improved with a single- or two-family use (i.e. 210 Edgewood). The restrictions from which relief are sought were adopted in 2017 in efforts to facilitate “Neighborhood Protection Standards” with the intent to address the impacts created by driveway placement and vehicle parking upon lots undergoing redevelopment. Prior to 2017, there were no

standards restricting driveway or parking placement on a lot; however, there were requirements that mandated driveway “flares” be no closer than 5-feet from adjacent property lines. It should be noted that the current improvements are considered legally non-conforming and that this application has only be submitted to accommodate the needs of the adjacent property owner which were triggered by their desire to construct a new accessory structure on their lot which required extension of the existing “shared” driveway.

If relief is granted, the existing “shared” driveway and any future eastward extension of the driveway within 5-feet of the shared property line as well as parking within 6-feet of a lot improved with a single- or two-family use would be authorized. These authorizations will “run with the land” in perpetuity. While the applicant has not indicated any intent to constructed an on-site parking area or an accessory structure, approval of the requested relief would allow a permit to be issued for such construction without further regulatory relief being triggered provided all other standards of the UDC were met.

Relief Sought and Purpose

The applicant is seeking relief form the UDC’s provisions that restrict a driveway to be located within 5-feet of an adjacent property line and the restriction that parking cannot be closer than 6-feet to a lot improved with a single- or two-family use. The subject lot shares an 11.5-foot x 80-foot “shared” driveway straddling its northern property line with the adjacent lot (210 Edgewood) that has existed for over 100 years. An easement over the existing “shared” driveway establishing access/parking rights between the owners was formally recorded in 1991.

At this time, the applicant desires the ability to extend their portion (6.5-feet) of the existing “shared” driveway eastward approximately 84-feet (the remaining depth of the subject lot) to their eastern property line as well as be allowed to park within 6-feet of the adjacent lot which is improved with a single-family use. Additionally, this application has been submitted in efforts to assist the adjacent property owner at 210 Edgewood to obtain regulatory compliance such that a building permit for a detached garage in their rear yard can be issued. To obtain such compliance, the existing “shared” driveway must be extended over the shared property line between the adjacent lots. Given the “shared” nature of the existing driveway and inability to obtain full regulatory compliance on either lot individually, both the applicant and adjacent property owner must be granted relief from the UDC restrictions concurrently.

The subject lot, given its platted lot width (50-feet), location of the existing dwelling, and grade-related issues moving eastward on the lot present practical limitations on the applicant’s ability to install a code-compliant driveway serving his rear yard. Approval of the requested relief would legalize the present location of the existing “shared” driveway, authorize its future extension eastward 84-feet, and address the reality that parking within the existing and extended driveway will occur within 6-feet of an adjacent lot improved with a single- or two-family use. Such actions would not result in improvements considered inconsistent with the existing built environment, but would rather address existing regulatory non-compliance not created by the applicant and assist the adjacent property owner at 210 Edgewood in their endeavor to construct a detached garage in their rear yard. Furthermore, approval of the requested relief would address possible parking deficiencies between the subject lot and its neighbor to the north as well as address possible on-street parking concerns within the overall neighborhood.

Variance Analysis –

Summary and Impacts –

The applicant is seeking relief from the following requirements of the Unified Development Code:

Exceptions and Encroachments - Section 29-4.1(c)(2), Table 4.1-5 [Yard Area]

Location and Use of Parking Facilities - Section 29-4.3(g)(1) [Parking Design Standards]

The applicant is seeking relief to legalize the location of an existing “shared” driveway and its future extension approximately 84-foot eastward along the northern property line of the subject lot. Such actions would result in the existing “shared” driveway and any future existing thereof being within 5-feet of a property line. Additionally, the applicant is seeking relief to be permitted to have parking within 6-feet of an adjacent lot improved with a single- or two-family use.

The adjacent lot to the north, 210 Edgewood Avenue, has submitted an application (Case # 339-2025) for Board consideration for the same relief in advance of securing a building permit to construct a detached garage in their rear yard. Given the “shared” nature of the existing driveway, both the applicant and adjacent property owner must secure approval of the requested relief prior to the owner of 210 Edgewood being able obtain a building permit.

The provisions regulating the placement of driveways with respect to property lines and the proximity of vehicle parking between lots improved with single- and two-family uses were adopted as part of the 2017 UDC and were tied to broader objectives of implementing “Neighborhood Protection Standards”. Prior to 2017, there were no specific standards governed driveway placement adjacent to property lines or parking on lots improved with particular land uses; however, driveway flares and/or wings were required to be located no closer than 5-feet to a property line.

If the requested relief is granted, the 100-year old existing “shared” driveway would become legally compliant and the applicant would be permitted the ability to install a new driveway extension on the subject lot approximately 84-feet eastward from its current terminus within 5-feet of the property line. At this time, there has been no indication that the existing “shared” driveway is to be fully extended along the northern property line of the subject lot or that there is any pending application to build an accessory structure in the subject lot’s rear yard. However, given the proposed construction on the adjacent lot and the need to obtain concurrent relief, staff believes the request is reasonable and would not impact the surrounding built environment. Rather, granting the requested relief would address the existing non-conformance with current regulatory standards and afford a legal path for future improvements to both properties.

With respect to the requested relief to allow parking within 6-feet of a lot improved with a single- or two-family use, staff finds that approval of this request would acknowledge and legalize an already existing condition on the subject lot. Parking within 6-feet of the shared property line of the subject lot and that to the north has always existed and both lots are improved with single-family homes. The standard from which relief is sought was non-existent prior to the 2017 and the mere fact that both the applicant and the adjacent property owner are submitting similar applications for relief with respect to this provision is an indication that neither have concerns about having parking being allowed in such close proximity to each other’s dwellings. Moving parking further from the shared property line serves no useful purpose and would result in improvements uncharacteristic of the surrounding built environment.

The subject lot was platted as 50-feet wide in 1922 and improved with a home approximately 30-feet wide that is centered on the lot. The lot was platted in accordance to then minimum lot frontage standards and is 10-feet narrower than contemporary lots within the R-1 zoning district. Given the width of the lot, width of the home, and the topography of the lot sloping to the east, placement of a setback compliant driveway with sufficient width to access the rear of the subject lot not straddling the shared property line and within the required 5-foot setback is not possible from either the northern or southern property lines without relief. Furthermore, compliance with the restriction that vehicle parking cannot be within 6-feet of a lot improved with a single- or two-family uses is also not possible.

The attached applicant correspondence addresses the “variance” criteria in full. The graphics contained within this correspondence are the same as those provide with Case # 339-2025 given the integral nature of the requests. While Case # 339-2025 has a number of more unique lot-specific impediments than the subject property, staff finds that if approval of the requested relief were granted there would be mutual benefits secured for both the subject lot and the adjacent property to the north as well as the city. These benefits would include elimination of non-compliance with current regulatory restrictions, that ability to facilitate better utilization of land within the city’s urban core, and the opportunity to address potential on-street parking as well as safety issues relating to sight line restrictions along Edgewood Avenue which is classified as a “bike-boulevard”.

Compliance with Variance Criteria -

Staff has reviewed the “General Criteria” for the approval of a variance as articulated in sec. 29-6.4(d)(3)(i)(A-E) of the UDC. In relation to these criteria, staff finds that:

- A. The request for relief has been filed to address two 2017 UDC created provisions that require new driveway placement to be located no closer than 5-feet to an existing property line and restrict parking within 6-feet of a lot improved with a single- or two-family uses. The adoption of these standards did not consider the impacts that would be created upon previous platted and improved narrow and deep lots that do not conform to more contemporary lot frontage or area requirements and share an existing driveway. The difficulty and hardship created by the two 2017 UDC provisions was not an action of the applicant, but rather that of the city in its effort to address neighborhood impacts generated as a part of lot redevelopment.

It is readily apparent that the subject lot is not significantly different in its shape or area from the majority of lots along Edgewood; however, the subject lot is different from the majority of lots improved within the city post-1957 which were required to have a minimum lot frontage of 60-feet. Furthermore, denial of the requested relief would preclude the applicant from making future improvements considered consistent with those permitted on adjacent lots simply as a result of the timing that the improvements were sought to be made. Finally, denial of the applicant’s request for relief would thwart the ability of the adjacent property to the north to make improvements to their lot as well.

If granted, the relief sought would maximizes the applicant’s use of subject lot’s rear yard and that of the adjacent property to the north with the least disruption to the existing neighborhood character via the extension of a 100-year old “shared” driveway eastward approximately 84-feet straddling the common property line. Approval of the requested relief will provide opportunity to address possible parking deficiencies on the subject lot and the lot to the north as well as will likely reduce the possible needs for on-street parking along Edgewood which is classified as a “bike boulevard”.

Furthermore, as explained and shown within the applicant’s attached correspondence and graphics, there are topographical as well as other “practical difficulties” in achieving compliance with the 2017 UDC provisions. The topography of lot generally slopes to the northeast corner to an existing

stormwater inlet box; however, it also slopes from the middle back of the lot towards the drainage easement with the highpoint of the lot being near the east end of the existing driveway. Granting the requested relief and allowing the shared driveway to be extended eastward to the eastern property line would allow for the existing drainage conditions to be improved by having runoff redirected away from the dwelling toward the northeast corner of the lot and the stormwater inlet box.

Additionally, approval of the relief to allow parking within 6-feet of the adjacent lot on the existing driveway addresses the reality that the driveway is already used for parking and regardless of the request at hand would continue to be used for such activities. It is worth noting, that if not for the adjacent owner's desire to construct a new detached garage in the rear yard of 210 Edgewood Avenue the existing lot conditions could remain in perpetuity as they are considered legally non-conforming lot features.

- B. A detached garage is a permissible "accessory use" within the R-1 zoning district. Approval of the requested relief would not result in modifying the definition of this use or any other definition applicable to improvements permitted on the lot. Approval of the requested relief sought within Case # 339-2025 is required to ensure both the subject lot and adjacent property meet current regulatory standards. Denial of any aspect of relief sought for the subject lot would negate the applicant's ability to access the rear yard of 210 Edgewood Avenue.
- C. The Comprehensive Plan does not specifically address the issue of setbacks within residential development; however, does address the issue of creating "Livable and Sustainable Neighborhoods". Approval of the requested relief would not alter the character of the existing built environment, but would rather provide an opportunity to create a more "livable" neighborhood by pulling on-street parking into the lot and eliminating possible conflicts between the applicant and adjacent property owner with respect to parking and access to their respective rear yards. Furthermore, future improvements upon the subject lot allowed by the granting of relief would likely enhance the value of the home as well as create opportunities to better utilize now under-utilized space. Any future improvements within the subject lot's rear yard would likely not be inconsistent with other adjacent lots within the neighborhood.
- D. Approval of the requested relief would be the least change necessary to permit potential future improvements on the subject lot and would ensure that improvements pre-dating the 2017 UDC standards would be deemed regulatorily compliant. Additionally, granting the requested relief would ensure that any expansion of the existing lot features can be pursued legally and were properly authorized in accordance with the city's code standards. Finally, approval of the requested relief would permit future improvements that enhance the value of the subject lot that are not inconsistent with adjacent development.

The other available options that could be pursued to address the relief needed to permit future improvements upon the subject lot would be to seek a rezoning of the property to a PD (Planned Development) and request a "design exception" from the setback standards or request a text change to the Code to revise the provisions for which relief is sought such that any similarly impacted lots would receive equal treatment in the future. Either option is considered more significant than necessary given the uncertain outcomes that could result and the time necessary to prepare and process the requests. The variance process is intended to address "unique" lot induced hardships similar to the ones presented within this application. Staff is evaluating if a more comprehensive revision to the UDC is needed to address similar situations in the future; however, such evaluation is not complete.

- E. Approval of the requested relief is not perceived as harming the public health, safety, or welfare. In fact, approval the relief to both standards will likely positively impact safety and welfare by reducing on-street parking demands and creating more safe conditions for users of the bike-boulevard given the additional on-site vehicle parking options created. As for approval of the relief being injurious to adjacent property or improvements within area, approval of both requests would result in very similar improvements being possible on the subject lot as those presently existing on adjacent properties.

Recommendation Action –

If the Board finds that compelling testimony has been given, a recommendation supportive of the requested relief would be appropriate subject to the following conditions:

- 1. The approximate 80-feet of the existing “shared” driveway serving both 210 and 300 Edgewood Avenue as described in Book 823, Page 557 of the Boone County Records shall become regulatorily compliant and any future extension of said driveway along the northern property line of 300 Edgewood Avenue may be lawfully located within 5-feet of the property line; and**
- 2. The applicant shall be granted relief from and permitted to establish on-site vehicle parking within 6-feet of the northern property line of 300 Edgewood Avenue only.**

Conversely, if the Board does not believe compelling testimony has been provided a recommendation of denial would be appropriate.

In either instance, **for the purposes of establishing a “complete” public record**, Board justification supporting the variance or denial of the variance in accordance with the criteria defined in sec. 29-6.4(d)(3)(i)(A-E) shall be stated within the public record prior to a final decision being rendered.