
**Board of Adjustment
November 18, 2025
Staff Report**

Application Summary –

A request of David Borgelt (owner) seeking a variance from the setback provisions of Sec. 29-4, Table 4.1-5 of the Unified Development Code relating to the placement and extension of a driveway on property addressed 210 Edgewood Avenue. If approved, a new driveway extension, no greater than 25-feet in length and located within 5-feet of property line would be authorized so access to the rear yard of 210 Edgewood Avenue is secured and a building permit to a proposed future detached garage in the rear yard of 210 Edgewood Avenue can be issued.

Site Characteristics

The subject site is a 50 x 164-foot R-1 (Single-family Dwelling) lot that was created in October 1925 as part of the Park Hill Addition No. 3 subdivision (Lot 121). The lot is improved with a detached single-family dwelling and shares a driveway with the adjacent property to the south at 300 Edgewood Avenue (Lot 122) of Park Hill Addition No. 3. An easement over the existing 11.5 x 80-foot shared driveway was recorded in May 1991 to ensure the access rights to each adjacent property owner was formally established. 5-feet of the shared driveway extends onto Lot 121 (the subject site) and 6.5-feet extends onto Lot 122 (300 Edgewood) from the shared property line of the parcels. The dwellings constructed on each lot are approximately 25-feet apart from one another.

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 such that the applicant can obtain relief from the 2017 UDC provision that requires new driveways to be placed no closer than 5-feet to a property line. If relief is granted, the applicant intends to extend the existing shared driveway no greater than 25-feet to the east so as to access a future fully compliant detached garage within in the rear yard of the subject site.

It is worth noting that the property to the north of the subject site has been improved in a similar manner as well as several properties along the western frontage of Edgewood. These improvements occurred prior to adoption of the UDC in 2017 and implementation of the current regulatory standards. If relief is granted the improvements to be constructed would result in conditions no different than what already exists within the surrounding neighborhood.

Relief Sought and Purpose

The applicant is seeking relief from the UDC's provisions that restrict a driveway to be located within 5-feet of an adjacent property line. The subject site shares an 11.5 x 80-foot driveway straddling its southern property line with the adjacent lot that has existed for over 100 years and was formally placed in a recorded easement in 1991. The applicant is seeking relief to allow the easement to be extended along the shared property line 25-feet eastward such that access to rear yard of 210 Edgewood can be secured and a permit for the construction of a fully, code-compliant detached garage may be issued.

Given the width of the subject lot, the location of the dwelling and its associated improvements, and grade-related issues moving eastward there are practical limitations on the applicant's ability to install a code-compliant driveway serving his rear yard. Approval of the requested relief would permit the

extension of a currently legally non-conforming driveway, no greater than 25-feet, and permit the issuance of a permit for the construction of a detached garage on the applicant's property. Such action would not result in improvements viewed as inconsistent with the existing built environment and will create an opportunity to resolve possible parking deficiencies between the subject lot and its neighbor to the south as well as address possible on-street parking concerns within the overall neighborhood.

Variance Analysis –

Summary and Impacts –

The applicant is seeking a variance from the following regulatory requirements of the Unified Development Code:

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

The applicant is seeking relief to permit a new driveway to be placed within 5-feet of an existing property line. The relief is sought in advance of the applicant seeking issuance of a building permit for a fully code-compliant detached garage within the rear yard of 210 Edgewood Avenue. The provision regulating the placement of driveways with respect to property lines was created as part of the 2017 UDC and was tied to the broader objectives of creating "Neighborhood Protection Standards". Prior to 2017 no specific standards governed driveway placement adjacent to property lines; 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 existing 100-year old shared driveway will be allowed to be extended 25-feet eastward to an approximate depth of 105-feet from the Edgewood Avenue street frontage before entering the rear yard of subject site. Such improvement, per the applicant's attached correspondence, is supported by the neighbor to the south and will afford the opportunity to install the desired detached garage in the rear yard of 210 Edgewood no different than the property immediately to the north and properties to the west of Edgewood.

The subject lot was platted in 1925 as a 50-foot wide lot 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 other features extending from the home, placement of a setback compliant driveway of sufficient width to access the rear of the subject lot is not possible from either the northern or southern property lines without relief.

The attached applicant correspondence addresses the "variance" criteria in full. The attached supporting graphics provide greater illustrative details as to the "hardships" impacting the site. If the requested relief is granted, such relief would "run with the land" in perpetuity and allow the existing 11.5-foot wide driveway easement to be extended a maximum of 25-feet along both sides of the shared property line between the subject site (210 Edgewood) and the property to the south (300 Edgewood).

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 requested variance has been filed to address a 2017 UDC created provision that requires new driveway placement to be located no closer than 5-feet to an existing property line. The adoption of this standard 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. The difficulty and hardship created by the 2017 UDC provision 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 Avenue; 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 improvements considered consistent with those permitted on adjacent lots simply as a result of the timing that the improvements were sought to be made. The applicant desires to upgrade his property in a manner that minimizes disruption to the existing neighborhood character and utilizes an under-utilized rear yard by extending a 100-year old shared driveway 25-feet eastward. The proposed improvements will provide opportunity to address possible parking deficiencies on the subject lot and the lot to the south and will reduce the possible need for on-street parking along Edgewood Avenue 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 provision. The topography of lot generally slopes to the southeast corner of the lot to an existing stormwater inlet box; however, it also slopes from the southern boundary (i.e. the driveway) to the north toward the dwelling with the highpoint of the lot being near the east end of the driveway easement. Granting the requested relief and extending the driveway would allow for the existing drainage conditions to be improved such that runoff would be redirected to flow away from the dwelling, down the extended driveway toward the southeast corner of the lot and the stormwater inlet box.

Additional "practical difficulties" observed from a site visit and shown on the attached applicant graphics are the presence of several structural improvements extending southward from the home that would be required to be removed such that the proposed driveway could be shifted closer to the dwelling. However, even if these structural elements were removed it would not fully resolve the need for a variance given the available distance from the structure to the property line is insufficient to allow for a usable driveway to be installed.

- 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.
- 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, the improvement sought by the applicant will enhance the value of the home on subject lot as well as potentially create opportunities to better utilize now under-utilized space. The proposed improvement of the rear yard with a detached garage is not inconsistent with other adjacent lots within the neighborhood.
- D. Approval of the requested variance would be the least change necessary to reduce the required driveway setback from the adjacent property line and permit construction of the desired detached garage in the rear yard of the subject lot. The other available options to address the issue at hand

would be to seek a rezoning of the property to a PD (Planned Development) and request a “design exception” from the setback standard or request a text change to the Code to revise the provision for all similarly impacted lots. Either option is viewed as being 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” site induced hardships similar to the one presented within this application.

- E. Approval of the requested variance is not perceived as harming the public health, safety, or welfare. In fact, approval the variance 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 variance being injurious to adjacent property or improvements within area, the variance would result in very similar improvements that can be seen 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 driveway extension shall begin at the eastern end of the recorded 1991 easement and not be greater than 25-feet in total length; and**
- 2. The driveway extension shall be 11.5-feet in width and allowed to extend 5-feet to the north and 6.5-feet to the south of the common property line between 210 and 300 Edgewood Avenue; and**
- 3. A new easement document shall be prepared by the applicant within 60 days of the Board’s action and recorded following execution by the applicant and property owner(s) of 300 Edgewood Avenue with the Boone County Recorder of Deeds memorializing the terms and rights conferred to each party with respect to the extended driveway.**

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.