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

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**Application Summary –**

A request by Caleb Colbert (attorney), on behalf of Central Missouri Community Action, a Missouri non-profit corporation (owner), requesting a 16-foot variance in the required 25-foot corner side yard setback applicable to R-2 zoned property as required by Sec. 29-4.1(a), Table 4.1-1 of the Unified Development Code (UDC). The variance is sought to permit the construction of 510 square foot accessory dwelling unit (ADU) on the property which would be accessed from Garth Avenue and is considered to be located in the rear yard of 2 Fourth Avenue, the subject lot. Approval of the requested relief would result in a minimum 9-foot corner side yard setback being established for all future lot improvements on 2 Fourth Avenue.

*Site Characteristics*

The subject lot meets the definition of “Lot, substandard” as defined in the UDC and conforms to the minimum dimensional standards for such lots as enumerated in Sec. 29-4.1(b)(8) of UDC. The proposed construction of the desired ADU is a “by-right” permitted use in the R-2 district on lots as small as 3,000 square feet in area pursuant to the ADU “use-specific standards” provided in Sec. 29-3.3(gg) of the UDC.

Given the proposed ADU will be located in the rear yard of the subject site, setbacks applied to future construction would result in Fourth Avenue being the front, Garth Avenue being the corner side yard, the eastern property line between 2 and 4 Fourth Avenue being a side yard, and the property line opposite Fourth Avenue, abutting an unopened alley, being the rear yard. The placement of the proposed ADU as depicted in the attached “2 Fourth Avenue Exhibit” shows regulatory compliance with the required setbacks as established by the UDC presuming the requested 16-foot variance is approved.

The existing single-family home on the property is approximately 5.5-feet from the western property line and is considered legally non-conforming. The front of the future ADU, as shown on the submitted Exhibit, would be approximately 4.5-feet further east than the existing home. Should the existing single-family dwelling be removed voluntarily, replacement construction would be required to comply with the 9-foot corner side yard setback. If the structure is lost by an “act of God” or natural disaster, per the non-conforming standards of the UDC the existing single-family structure could be replaced in its same location if the existing foundation were used.

*Relief Sought and Purpose*

The applicant is seeking relief from the UDC provision that requires any newly constructed structure to comply with the dimensional standards contained with Sec. 29-4.1(a), Table 4.1-1 which stipulates that a minimum 25-foot corner side yard setback is applicable to a lot zoned R-2. The requirement to have a 25-foot corner side yard setback was adopted as part of comprehensive revisions to Chapter 29 [Zoning] of the City Code (now known as the UDC) in March 2017. Prior to these revisions, the corner side yard setback was one-half the required front yard which in most instances resulted in a 12.5-foot corner side yard setback for all residentially zoned property.

The enhanced setback was adopted as part of an effort to create uniform setbacks along both the primary frontage of a lot and the side-street frontage of a corner lot. Additionally, the enhanced setback

was adopted as a means of reducing possible encroachments into future right of way expansion in situations where substandard right of way existed adjacent to a lot and no platting action was triggered allowing for acquisition of additional right of way prior to issuance of permits for lot redevelopment or additional site feature construction.

In this specific instance, the enhanced corner side yard setback eliminates activation of the subject lot's rear yard with an otherwise permissible ADU. The original ADU provisions were adopted as part of the City's zoning regulations in 2015; however, at that time the minimum lot area necessary to allow construction of an ADU was 5,000 square feet. In April 2024, the minimum lot area to allow permit issuance of an ADU on an R-2 zoned lot determined to be a legal "substandard" lot was reduced to 3,000 square feet. Given this revision, the applicant is seeking relief from the current applicable corner side yard setback for the subject lot.

If the relief is granted, it would permit the activation of the rear yard of the subject lot and would result in an opportunity for the applicant to create an additional rental housing unit that meets the housing production objectives of the 2024 Boone County and City of Columbia Housing Study. The location of the subject lot is within an area believed well positioned to support additional housing unit construction, is zoned to accommodate such construction as a "by-right" use, and will be subject to the bulk/dimensional standards established within the ADU "use-specific standards".

ADU construction is viewed as an alternative to traditional "full-scale" single-family detached housing that often is not attainable for community residents. Its integration into the existing built environment offers opportunity to create housing style and income diversity where such construction can be accommodated. These effects are supported by the broader goals and objectives of the City's Comprehensive Plan and are considered aligned with the goals and objectives of 2024 Boone County and City of Columbia Housing Study.

## **Variance Analysis –**

### Summary and Impacts –

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

### **Dimensional Summary Table - Section 29-4.1(a)(1), Table 4.1-1 [Dimensional Standards for Residential Districts]**

The applicant is seeking relief to reduce the required corner side yard setback for the R-2 zoning district as applied to 2 Fourth Avenue. The applicant is seeking approval of a 16-foot variance in the required corner side yard setback (i.e. the Garth Avenue frontage) such that all future new construction on the subject lot would be required to comply with a 9-foot corner side yard. As previously noted, the existing single-family home and subject lot are considered legally non-conforming. The requested reduction in the required corner side yard setback would permit the ADU shown within the attached "2 Fourth Avenue Exhibit" to be constructed in the rear yard of the subject lot. Such construction is a permissible use within the R-2 district and is otherwise fully compliant with the zoning requirements applied to ADU construction as enumerated in Sec. 29-3.3(gg) of the UDC. The applicant's attached correspondence has provided calculations that illustrate the 510 square foot ADU is less than 75% of the area of the single-family home occupying the lot which conforms to the ADU "use-specific standard" limitations.

The applicant's correspondence indicates that a secondary "variance" is sought to allow driveway access from the Garth Avenue frontage from the Director of Community Development. This request is considered an "administrative authorization" from the UDC subdivision regulations that restrict private residential driveways from arterial or collector roadways unless there is no other practicable alternative

for lot access. The Director of Community Development and the City Traffic Engineer have reviewed the applicant's request and find that such access is supported subject to issuance of applicable driveway encroachment permits. In arriving at their conclusions, the following factors were considered:

1. Improvement of the unopened 15-foot alley to the south of this site is not possible given a structure is located in the platted alley right of way at Grand Avenue; and
2. Existing/anticipated traffic volume and speed along Garth Avenue at this location do not rise to the level of concern with respect to public safety; and
3. No roadway widening of Garth Avenue is anticipated in the future given existing built conditions; and
4. The location of other residential driveways to the north of the subject lot along Garth Avenue presently exist and have not create public safety related issues.

The attached applicant correspondence addresses the "variance" criteria in full and the attached "2 Fourth Avenue Exhibit" illustrates how the proposed ADU would be situated on the subject lot. Approval of the 16-foot variance would be considered a privilege extended to the applicant with respect to the subject lot; however, is being driven by the regulatory changes to corner side yard setbacks approved in 2017 without specific consideration being given to how such changes would impact legal substandard lots located at street corners.

The relief sought, had the corner side yard setback not changed in 2017, would potentially have been avoided if minor adjustments to the proposed ADU footprint were made. Given the hardship created by the regulatory change and the interest of promoting ADU construction to address housing needs within the community on deep under-utilized rear yards, this request would appear to be reasonable. Corner lot redevelopment or improvement with ADU's given the current regulatory standards is significantly constrained. Staff is aware of this impediment and it is being evaluated in the context of ADU regulations presently by the Planning Commission and is also being considered as a more inclusive UDC text change that would apply to lots within all zoning districts and use types. However, the timing of these changes unknown. As such, consideration of this request by the Board is presently the only available efficient option to address the challenges in meeting the present needs of the applicant.

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 the 2017 UDC provision that doubled the required corner side yard setback applicable to all newly construction improvements on existing legal and legal substandard corner lots. When adopted, consideration was not given to how impactful the new corner side yard setback would be to redevelopment or the addition of otherwise permissible construction. As stated in the applicant's correspondence:

"Application of the 25-foot side yard setback on this corner lot significantly limits the buildable area and creates an unnecessary hardship that is not generally applicable to other properties in the area. Due to the lot's dimensions the ADU cannot be reasonably located on the site without relief from the corner lot street side setback standard."

Staff would agree with the applicant's statement. The subject lot was created by survey from the original 73-foot wide lot that was shown on the 1904 Guitar's Subdivision and Park Addition plat. The subject lot is not characteristic of the other corner lots along Fourth Avenue within the same block bounded by Garth and Grand Avenues. In fact, when looking at other corner lots to the

southwest and north, the subject lot is anywhere between 8.5-feet to 14.5-feet narrower than those nearby lots.

Furthermore, the hardship that is impacting the subject lot was not created by the applicant, but rather a UDC code revision in 2017. This revision did not fully consider the unique ramifications that doubling the corner side yard setback would have upon existing developed substandard lots that would seek to make otherwise lawful improvements at some point in the future. The impacts of the UDC setback change are not unique to just the desired ADU construction, but further limit any possible expansion of the primary dwelling on the lot as well. As such, regardless of what type of construction would be sought, the applicant would need to seek relief from the enhanced setback standards.

- B. Construction of the desired ADU on the subject lot is a permissible “accessory use” within the R-2 zoning district subject to regulatory compliance with “use-specific standards”. 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 would however, establish a corner side yard setback greater than the setback presented applied to the primary dwelling for all future site improvements (including a voluntary reconstruction of the existing primary dwelling) and creates an opportunity to maximize number of dwelling units allowed on the lot by the UDC. The scale of the additional development will be subordinate to the primary dwelling and affords a future resident the ability to live in a detached single-family dwelling, albeit smaller, but not inconsistent with the surrounding development in the neighborhood.
- C. The Comprehensive Plan does not specifically address the issue of corner side yard setbacks within residential development; however, does address the issue of creating “Livable and Sustainable Neighborhoods”. The zoning of the subject lot is R-2 which permits one- and two-family dwellings. An ADU is permitted and is viewed as a viable alternative to a “full-scale” single-family residence when it is placed on a lot already improved with a single dwelling. ADU’s support the goals and objectives of the Comprehensive Plan in that their inclusion in a neighborhood adds to the diversity of housing options at varying income levels to meet the needs of community residents. It is important to note that subject lot is adjacent to multi-family housing along its southern boundary operated by the CHA and smaller footprint housing, similar to that proposed, exists to the east of the multi-family fronting Grand Avenue which is also operated by CHA.

Approval of the requested variance would not only support the goals and objectives of the Comprehensive Plan, but would also address the need for more attainable housing for community residents as identified in the 2024 Boone County and City of Columbia Housing Study. Corner lots present unique opportunities to strategically add housing units to the community that are not disproportional-sized with the respect to the surrounding development or otherwise have the potential to overwhelm possible parking issues along the primary roadway frontage to which the principal dwelling is located. Given the built-in bulk/dimensional standard limitations for ADU construction, integrating this style of housing in existing neighborhoods is seen as an appropriate action on corner lots; however, the limitation of the current regulations makes the granting of relief to accomplish this objective a necessity.

- D. Approval of the requested relief would be the least change necessary to permit the potential future construct of the desired ADU in the rear yard of the subject lot. Additionally, granting the requested relief would ensure that any future voluntary reconstruction of the existing principal dwelling would be legally possible at a greater setback than is presently in placed. Finally, approval of the requested relief would permit future improvements that addressed desired community objectives to meet housing needs in a manner that maximizes the existing under-utilized rear yard of the property without negatively compromising community character.

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.

PD rezoning is considered more significant than necessary given the uncertain outcomes that could result and the time necessary to prepare and process the request. As noted, staff and the Planning Commission are presently reviewing possible UDC text revisions specifically applicable to ADU construction as well as more generally that would be applicable to all corner lots within any zoning district improved with any type of use. The variance process is intended to address “unique” lot induced hardships similar to that presented within this application.

- E. Approval of the requested relief is not perceived as harming the public health, safety, or welfare. As for approval of the relief being injurious to adjacent property or improvements within the area, approval of request would result an outcome no more intense than the uses presently to south and further to the southeast off of Grand Avenue.

**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 applicant be granted a 16-foot variance in the required corner side yard setback as applied to property addressed as 2 Fourth Avenue such that a minimum 9-foot corner side yard setback shall be applied to any new construction from the Garth Avenue frontage; and**
- 2. Any reconstruction of the existing principal dwelling located upon 2 Fourth Avenue following a “voluntary” demolition shall adhere to a minimum 9-foot corner side yard setback from the Garth Avenue frontage; and**
- 3. Future construction of the proposed ADU shall be in substantial compliance with location shown on the “2 Fourth Avenue Exhibit” as prepared by A Civil Group and attached to this request.**

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.