

Criteria:

1. Exceptional or extraordinary circumstances or conditions *are/are not* applicable to the development of the site that do not apply generally to sites in the same zoning district.
2. Granting the application *is/is not* necessary for the preservation and enjoyment of a substantial property right of the applicant, and to prevent unreasonable property loss or unnecessary hardship.
3. Granting the application *will/will not* be detrimental or injurious to property or improvements in the vicinity of the development site, or to the public health, safety, or general welfare.

PICTURES



258 North Forest Avenue Front View



258 North Forest Avenue driveway view



258 North Forest Avenue front view

Recommended Action:

Approval. Paragon Investors, Inc. is requesting a variance for the property located at 258 North Forest Avenue that would allow for an unenclosed carport built 3 feet from property line. The property is zoned R-4 (Single Family Residential), and all of the surrounding parcels are also zoned R-4 (Single Family Residential).

The property is located in an older part of the city where it is not uncommon to find homes and structures that do not comply with more contemporary setback requirements. As defined in Section 708.4 (H) Bulk and Area Regulations, of the Marietta Zoning Ordinance, the side setback typically is 10 feet. In addition, Section 710.14 (A) allows for open, unenclosed projections to encroach into a required setback no more than 50% of that established by the zoning district. Under these regulations, the carport could be constructed within 5 feet of the property line without the need of a variance. However, in continuing the line of the wall of the existing house, the applicant has built the structure 3 feet from the side property line.

The building permit application form that was approved by Planning & Zoning Staff for renovations to 258 North Forest Avenue did not mention the addition of a carport. No site plan was reviewed since it appeared that all of the renovations were to be on the interior of the house, except for one area in the back that was being replaced on the existing footprint. However, after Staff was notified that a carport was being built, it was apparent that the required 5 ft. side yard building setback for an open, unenclosed carport had not been met. At that time, Code Enforcement sent the applicant a notice regarding the setback issue, and informed him that he would have to request a variance from the regulations.

The building permit identifies the size of the house as 2,213 square feet, and the new carport is 400 square feet, which makes the building coverage 2,613 square feet or 25 percent of the 10,500 square foot lot. By adding the driveway area of approximately 1,200 square feet, the overall impervious surface area is 3,813 square feet or 36 percent of the lot. The total impervious area of the lot is actually less than it was before renovation because the swimming pool in the back yard – which is also considered an impervious surface – has been removed.

There has been concern expressed by residents regarding drainage issues on this property, and specifically how neighboring properties have been or will be affected. However, the carport is located over an existing driveway; and even though the driveway has been widened – and it has been widened toward the interior of the lot – the additional area would have had little impact on the drainage of the property. In addition, engineers from the Department of Public Works have inspected the property and have determined that the construction is not significant enough to require the detailed studies that have been requested, and would not generate a significant amount of additional runoff.



The Board has considered many requests for setback variances, both for main structure and detached accessory structures, including the following:

Case #	Date	Address	Variance
V2003-04 Approved	2/24/03	185 Nancy Street	Variance to reduce the side yard setback from 10 feet to 2 feet. (<i>Attached garage</i>)
V2009-10 Approved	5/18/09	176 Stewart Ave	Variance to reduce the side yard setback from 10 feet to 3.9 feet. (<i>Main house</i>)
V2009-24 Approved	11/30/09	90 Stewart Ave	Variance to reduce side setback from 10 ft. to approximately 3 ft. (<i>Main house</i>) Variance to reduce side building setback from 10 ft. to 0.6 ft. (<i>Main house</i>)
V2010-16 Approved	7/26/10	257 Hunt St	Variance to reduce the rear and side setbacks for an accessory structure from 10' to 0'. (<i>Shed</i>)
V2013-04 Approved	1/28/13	548 Church St	Variance to reduce the major side setback from 25 ft. - 10 in. (<i>Attached garage</i>)

While the circumstances that have led to the need for a variance are unfortunate, this situation is primarily due to miscommunication between the applicant and City Staff at the time that the building permit was submitted for review. However, the facts are that the carport is located over an existing – but widened – driveway, and the area where driveway was added is to the interior of the lot; and the carport does not encroach upon the neighboring property any closer than the existing house. Since the location of the carport is appropriate given the location of the existing house on this property, *Staff recommends approval of the requested variance.*