



# AGENDA

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**The Columbia Board of Zoning Appeals will meet on Thursday, July 14th, 2022 at 9:00 a.m. in the Council Chambers on the basement level of City Hall, 700 N. Garden Street to consider the following:**

1. Roll Call
2. Approval Of Minutes

Documents:

[BZA\\_20220609 MINUTES DRAFT.DOCX](#)

3. New Business

- 3.I. 22-0184 - 1128 Pretender Way Variance

Request from Randall Shaw for a variance from the driveway setback required under Section 10.2.12.1.C for a property located at [1128 PRETENDER WAY](#).

Documents:

[22-0184\\_APP\\_0621.PDF](#)  
[22-0184\\_PLOTPLAN\\_0621.PDF](#)  
[22-0184\\_VARIANCE RESPONSES\\_0621.PDF](#)  
[22-0184\\_ZONEMAP\\_0621.JPG](#)  
[22-0184\\_VARIANCE\\_STAFF REPORT.PDF](#)

- 3.II. 22-0185 - 1144 Pretender Way Variance

Request from Randall Shaw for a variance from the driveway setback required under Section 10.2.12.1.C for a property located at [1144 PRETENDER WAY](#).

Documents:

[22-0185\\_APP\\_0621.PDF](#)  
[22-0185\\_VARIANCE RESPONSES\\_0621.PDF](#)  
[22-0185\\_PLOTPLAN\\_0621.PDF](#)  
[22-0185\\_ZONEMAP\\_0621.JPG](#)  
[22-0185\\_VARIANCE\\_STAFF REPORT.PDF](#)

4. Other Business

5. Adjourn

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Anyone requesting accommodations due to disabilities should contact the City's ADA Coordinator at 931-560-1570 prior to the meeting.

The [2022 meeting schedule](#) can be found on the City of Columbia Board of Zoning Appeals [webpage](#).

For other questions, please contact the [Department of Development Services](#) at 931-560-1560.

**City of Columbia**  
BOARD OF ZONING APPEALS  
June 9, 2022

**CALL TO ORDER:**

Chairman Jimmy Dugger called the June meeting of the Board of Zoning Appeals for the City of Columbia to order at 9:00 a.m. The meeting was held in the Council Chambers at City Hall.

**ROLL CALL:**

All present and included the following:

Present were: Mr. Jimmy Campbell  
Mr. Jimmy Dugger  
Mr. George Vrailas  
Ms. Kristi Martin

Other attendees: Mr. Austin Brass, City Planner  
Mr. Kevin McCarthy, Planning Associate II  
Ms. Melissa Sanders, Planning Associate I  
Mrs. Sandra Richardson, Secretary

**APPROVAL OF MINUTES:**

Mr. Dugger stated that the Board has approval of the minutes with a modification. Mr. McCarthy stated that Mr. Vrailas brought it to staff's attention that he would like to add specific wording to use in the motion he made at the last meeting on the conditional use of 808 Walker Street. He stated that he would read the suggested correction. Mr. Vrailas stated, "that we have a responsibility to our community and since the church and NA have been designated areas for many years it would be very hard for NA to find another location and it was not in the best interest of NA to have alcohol served across the street." For this reason, Mr. Vrailas made a motion to deny. Mr. Vrailas moved to accept the amended minutes. Ms. Martin stated that she recused herself from the business of that meeting, and she asked for guidance for the appropriateness of her approval on this motion. Mr. Dugger stated that she was here but she did not vote, or make comments. Mr. Dugger stated that the motion was made and properly seconded. Motion to approve the amended minutes passed four to zero.

***The applicant for the first case is on the way the Board will have the second request first.***

**Ms. Martin stated that she was informed by some of the ones that attended the last meeting that it was difficult for those in the audience to hear the Board, she asked**

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that everyone be mindful of that. Mr. Dugger asked everyone to make sure all microphones were on.

**AGENDA ITEM #3**

**Case #22-0095**

**Request from Keith Anderson on behalf of Smith Douglas Homes for Conditional Use approval to establish a sales office at 2004 Sierra Court in a Medium-High Density Residential (R-6) Zone.**

**Staff Review:**

Mr. McCarthy presented the details of the staff report. This request is to allow a model home sales office within a residential zoning district. Staff recommend approval.

**Discussion and Motion:**

Mr. Keith Anderson, Smith Douglas Homes, was present to answer questions. Mr. Campbell moved for approval, and Mr. Vrailas seconded. Motion to approve passed four to zero.

**AGENDA ITEM #4**

**Case #22-0132**

**Request from Montrae Osborne on behalf of Hannaway Street Church of God for Conditional Use approval to expand a Religious Facility located at 507 Hannaway Street by more than 20% in a medium-High Density Residential (R-6) Zone.**

**Staff Review:**

Mr. McCarthy presented the details of the staff report. He stated that this is a different situation, because this is an existing religious institution that has been in existence. In the Ordinance when someone expand a religious facility by more than twenty percent it requires a Conditional Use approval. The church proposes to demolish the existing building, and build a new facility on the same site. It is substantially larger than the existing facility. That is why this is before the Board today. All the adjacent properties are residential. South of this is another church. Parking is separated there are two pieces of properties. Staff is recommending approval subject to some conditions mostly related to parking, and safely moving people between parking and the building, and recommends that the applicant record the land use restriction agreement and some other document that encombers the property on the south side of the road to make sure it is always available parking for the principal use, and meeting all required codes.

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**Discussion and Motion:**

Mr. Osborne was present to answer questions. Discussion included the board can approve the utilization of the space, but cannot approve the zoning, approving the specifics, regulations of religious institutions can be different, land use and intensity, changes come back, crosswalk, crossing guards, apply with conditions, new zoning Ordinance affect, parking, driveway, deed restriction, and off street parking. Ms. Martin expressed a concern with the requirement, the Board shall craft conditions of approval to protect pedestrians and motorists and ensure safe use of Hannaway Street. Specifically, the Board may require that the applicant use crossing guards before and after worship service and other large gatherings. She asked how this would be enforced. Mr. McCarthy stated that would be there if there is ever an issue staff would have that as a condition of approval. Staff would not monitor. Ms. Martin stated that she would rather not have something stating that the Commission is going to require this if it is not going to be something that is going to be monitored. As a Board member she would forgo that. She also stated that if the board provide for condition of approval and say that it is going to be one of the matters then she would prefer to leave that out. Mr. Osborne stated that everything was ok. Mr. Dugger asked how the commission was going to modify the request. The Board confirmed that the statement would be left out of the motion. Mr. Chet Rhodes, Rhodes Engineering stated that crossing guards shouldn't be there. The base zoning stays the same, it is residential use, and the church has been there forever. Mr. McCarthy stated coincidental the new Zoning Ordinance is about to change in the City, but all RS-6 zones, that are zoned properly will convert to CD3. Mr. Rhodes stated that he doesn't want to have any issues afterward with the building setbacks. Mr. Campbell asked if the Zoning Code passes tonight which codes will the applicant go by. Mr. McCarthy stated that they will be under the new one. Further discussion including site plan conforming and setbacks. Mr. McCarthy stated that the request today is a conditional use. It is about the land use. Mr. Campbell stated if the City approves the code tonight Mr. Rhodes better check his setbacks. He also stated that he felt that he needed to understand what is going on because he is caught right in the middle of a rezoning process. Ms. Martin asked what will be the recourse if the setbacks of today are not appropriate in the new code. Mr. McCarthy stated that he brought up the new code, because he just wanted the Board to be aware that the site plan that is here may not be what is actually constructed because the bulk standards applied at the time are likely to change. This request before the Board today is about the use of the land of a religious institution, if there was a hardship later on they could request a variance. Further discussion included the applicant would go first to Mr. Brass, and that could be done with the right to change up to twenty percent, zoning change, grandfathering in, and notifications. Mr. Brass stated

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that the proposed site plan does not affect this Board. Once the new zoning passes it will be a CD-3, the CD-3 does have set back from the current zoning. Further discussion included two lots required for parking, changing the motion by dropping number five off. Ms. Patricia Gill, 805 South Water Street, expressed concerns with them taking the alley, the design of the church blocking her. Additional discussion included access to her property, a letter sent to Mr. Brass with her concerns, right-of-way, old alley, looking at the property deed, discuss with Mr. Rhodes, this is not the board that makes the decision, site plan review, details, notification of the meeting, easement, reviews, alleys cannot be blocked, two changes to make, recommended motion with the exception of number 5, and the lot across the street to be tied to this going in line with the deed, tying the property by deed, The recommended staff motion minus number five, the deed has been recorded. Mr. Dugger stated that the recommended motion is on the staff report minus number five. He read number five it states, "That the applicant utilizes crossing guards before and after worship service and other large gatherings, or otherwise provide for safe and orderly movement between the buildings and the off-site parking area." This is to be removed to amend the motion. Mr. Campbell moved to accept the motion with Ms. Martin seconding. Mr. McCarthy stated Ms. Martin's concern about the enforcement, there are a lot of things in the Zoning Ordinance, a lot of things in Public Administration that sit out there and exist and they aren't actively monitored, but they provide a tool for enforcement. Having something like this allows staff to work with the property owner to correct the situation. If there is no binding approval there is not a lot staff can do about it. It becomes a police matter. Mr. McCarthy stated this is for informational purposes. Ms. Martin stated that she is comfortable leaving it out. Discussion included accepting the motion. Mr. Campbell moved to accept the motion with Ms. Martin seconding. Motion to approve without number five passed four to zero.

**OTHER BUSINESS:**

Mr. McCarthy discussed education. Staff has been communicating with the Tennessee Department of Transportation. The plan is to do three, two hour sessions. Day and times were discussed. Additional discussion included the addition of a new member.

**ADJOURNMENT:**

Mr. Dugger adjourned the meeting. The meeting adjourned at 9:47 a.m.

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Board of Zoning Appeals, Chairman  
Jimmy Dugger

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Date

BOARD OF ZONING APPEALS APPLICATION	
<i>COLUMBIA, TENNESSEE</i>	
SUBDIVISION: <i>Elan</i>	LOT: <i>28</i>
LOT ADDRESS: <i>1128 Pretender Way Columbia TN 38401</i>	
ZONING: <i>R-10</i>	LAND USE: <i>Residential</i>
LOT SQUARE FOOTAGE: <i>17,100</i>	LOT ACREAGE: <i>1/2 Acre</i>
BUILDING SQUARE FOOTAGE: <i>5370</i>	
ESTABLISHED/EXISTING SETBACKS: FRONT: <i>30</i> ft.      SIDE: <i>10</i> ft.      REAR: <i>30</i> ft.	
OTHER INFORMATION: <i>requesting 1' driveway set back</i>	

**TYPE OF REQUEST**

*COMPLETE APPLICABLE REQUEST FOR BOARD TO CONSIDER*

APPEAL OF ADMINISTRATIVE DECISION
Indicate the decision/interpretation under appeal, including the City Official with Title and Department, and the applicable section(s) of the <i>Zoning Ordinance</i> in question.
APPEAL OF:
ZONING ORDINANCE SECTION:
CITY OFFICIAL WITH TITLE AND DEPARTMENT:

## APPEAL OF ADMINISTRATIVE DECISION

1. If requesting a **Setback Variance**, indicate below which yard the setback variance is located within and **provide an exact measure of the distance of the new setback in feet.**
2. If requesting a **Sign Variance**, indicate below which type of sign the variance is for and **provide the permitted signage, in addition to the requested amount of signage.**
3. If requesting a **Variance** of any other provision of the *Zoning Ordinance*, provide a detailed **explanation below in "Other Variance Request."**

<b>SETBACK VARIANCE</b> <i>Check applicable yard</i>	<input type="checkbox"/> FRONT YARD <input checked="" type="checkbox"/> SIDE YARD <i>Driveway</i> <input type="checkbox"/> REAR YARD	REQUESTED SETBACK (ft): <div style="font-size: 1.5em; text-align: center;"><i>1' driveway</i></div>
<b>SIGN VARIANCE</b> <i>Check applicable sign</i>	<input type="checkbox"/> FREESTANDING SIGN <input type="checkbox"/> WALL SIGN <input type="checkbox"/> GASOLINE PUMP SIGN <input type="checkbox"/> OTHER SIGN	PERMITTED SIGNAGE (ft or ft²): <hr/> REQUESTED SIGNAGE (ft or ft²):
<b>OTHER VARIANCE REQUEST</b>	ZONING ORDINANCE SECTION: <hr/> REASON FOR REQUEST:	

## CONDITIONAL USE PERMIT

If requesting a **Conditional Use Permit**, indicate the requested use.

REQUESTED USE (*be detailed*):

DOES THE REQUESTED USE HAVE REQUIRED PARKING?

HOURS OF OPERATION:

**\*FOLD ALL SUBMITTALS LARGER THAN 8½"x11"**

**APPLICANT**

NAME	Randall Shaw	PHONE	931-381-3881
ADDRESS	PO Box 8081, Columbia 38402	EMAIL	deb@shawhomebuilders.com

**PROPERTY OWNER**

NAME	Randall Shaw	PHONE	931-381-3881
ADDRESS	PO Box 8081 Columbia 38402	EMAIL	deb@shawhomebuilders.com

*In filling out this application, I attest that (1) I am familiar with the rules, regulations, and procedures of the City of Columbia & (2) all information contained herein is accurate & true to the best of my knowledge.*

Randall Shaw  
APPLICANT NAME

  
APPLICANT SIGNATURE

6-21-22  
DATE

Randall Shaw  
PROPERTY OWNER NAME

  
PROPERTY OWNER SIGNATURE

6-21-22  
DATE

**STAFF USE ONLY**

DOCKET NO.		FEE PAID	
RECEIPT NO.		REQUESTED AGENDA	
DATE NOTICES SENT TO ADJACENT PROPERTY OWNERS			
DATE OF PUBLIC NOTICES IN DAILY HERALD			
BOARD ACTION			

**Minimum Building Setbacks**

Front Yard - 30 feet

Rear Yard - 30 feet

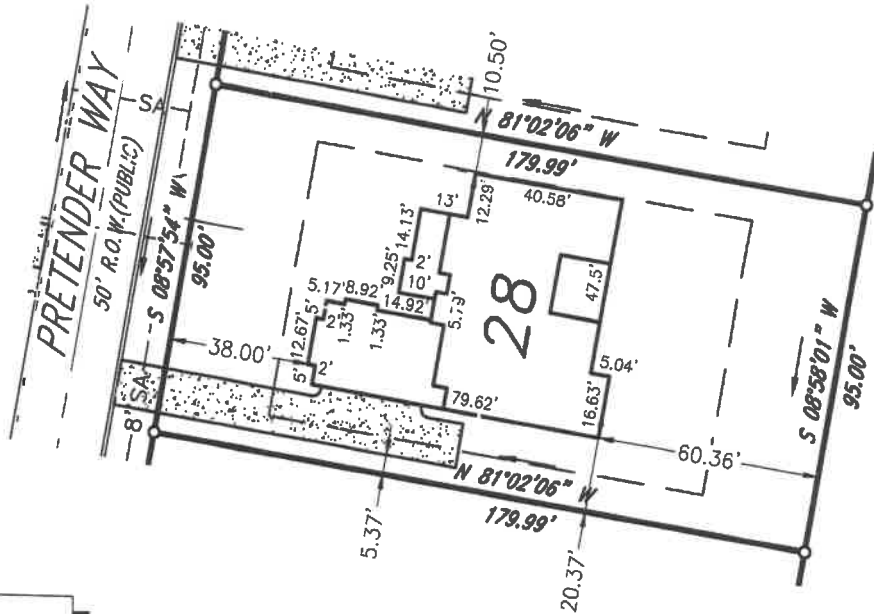
Side Yard - 11 feet

\*\*\*Per plat of record

Owner - Shaw Enterprises, LLC

Deed Book R1800, Page 1387

Plat Book P22, Page 310



1. This survey was done under the authority of TCA 62-18-126 and is not a survey as defined under 0820-3-.07
2. No property corners were set or reset as part of this survey.
3. Bearing are based on plat of record .
4. Contractor to verify all dimensions prior to construction of house.



1"=50'  
Plan Scale

TAX MAP 75L, GRP "D", Parcel 23.00



CIVIL ENGINEERING SURVEYING PLANNING  
2488 Nashville Hwy  
COLUMBIA, TN 38401  
PHONE: (931) 388-2329

SEAL



CLIENT:

Shaw Enterprises  
113 Nashville Highway  
Columbia, TN 38401

PROJECT:

Plot Plan - Lot 28  
Elan Subdivision, Phase 2  
1128 Pretender Way  
Columbia, TN 38401

REVISION:

DATE:

DRAWN BY: EB

SCALE: 1" = 50'

SHEET: 1 OF 1

PROJECT NO: 18571-1

DATE: 11-16-2021

**REQUIREMENTS FOR A VARIANCE**  
*Section 3.15.10 of the City of Columbia Zoning Ordinance*

The Board of Zoning Appeals shall not grant a variance unless it makes a finding, based on the evidence presented, that all of the following seven criteria are sufficiency and fully satisfied.

*The BZA cannot, by law, consider financial or personal matters  
in the justification of any of the seven criteria.*

Please demonstrate how your request satisfied each of the following:  
*(You may use this sheet or attach separate pages)*

1. That by reason of exceptional narrowness, shallowness, or shape of a particular piece of property at the time of enactment of this ordinance, or by reason of exceptional topographic conditions or other exceptional and extraordinary situation or condition of such piece of property, the strict application of any regulation contained within this ordinance would result in peculiar and exceptional practical difficulties to or exceptional or undue hardship upon the owner of such property.

*This home has a side load garage for the owner to safely enter/exit the garage the driveway and turnaround need to be extended to the property line*

2. That the variance is the minimum variance that will relieve such difficulties or hardship and thereby make possible the reasonable use of the land, building, or structure.

*This request will provide adequate space to maneuver a vehicle in and out of the garage & not hinder the easement.*

3. That the variance will not authorize activities in a zone district other than those permitted by this ordinance.

*This will remain a private drive for soul use of the home owner*

4. That financial returns alone shall not be considered as a basis for granting a variance.

No financial advantage  
Safe use of garage is  
only issue

5. That the granting of the variance will not be detrimental to the public welfare, injurious to other property or improvements in the area in which the subject property is located, or a substantial impairment to the intent and purpose of the general provisions of this Zoning Ordinance.

NO

6. That the proposed variance will not impair an adequate supply of light and air to the adjacent property, or substantially increase the congestion in the public streets, or increase the danger of fire, or endanger the public safety.

None

7. That the alleged difficulty or hardship has not been knowingly and intentionally created by any person having an interest in the property after the effective date of this ordinance.

NO

Case #22-0185  
1128 Pretender Way





**CITY OF COLUMBIA TENNESSEE  
BOARD OF ZONING APPEALS  
STAFF REPORT**

CONTACT INFORMATION

Kevin C. McCarthy, AICP, Planning Associate II, [kmccarthy@columbiatn.com](mailto:kmccarthy@columbiatn.com) 931-560-1531

DOCKET/CASE/APPLICATION NUMBER

**22-0184**

APPLICANT/ PROPERTY OWNER

**Randal Shaw/ Shaw Enterprises LLC**

PUBLIC HEARING DATE

**N/A**

PROPERTY ADDRESS/LOCATION

**1128 Pretender Way/ Elan Phase II  
Subdivision Lot 28**

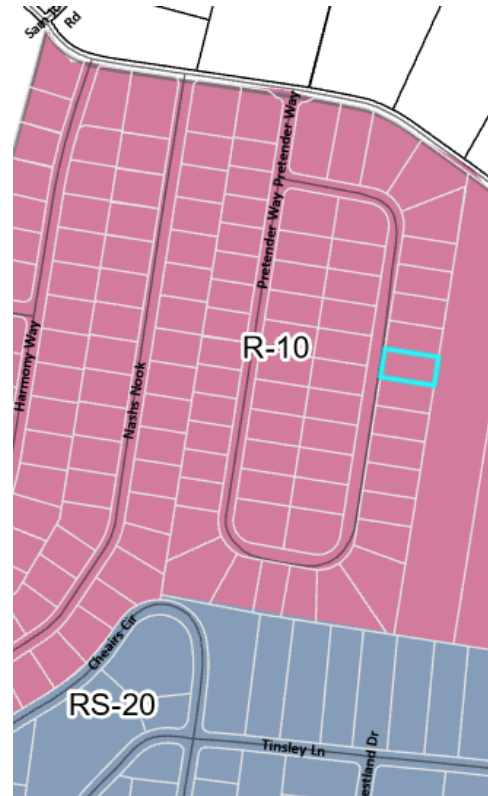
**REQUEST: Variance from Minimum Setback (Pool in Street Yard Setback)**

The applicant requests a variance from the strict application of the City of Columbia Zoning Ordinance. Specifically, the applicant requests a reduced driveway separation.

The Zoning Ordinance mandates that residential driveways shall not be located within five feet of a side or rear lot line (Section 10.2.12). This standard is also included in the proposed zoning code under consideration by the City Council (Section 4.3.12.E)

The applicant asks that the Board of Zoning Appeals determine from the evidence presented in the application that a hardship exists due to unusual lot conditions. The applicant further asks the Board to find that the requested variance is the minimum relief from the hardship and that all other criteria for granting a variance under Section 3.15.10 of the Ordinance have been met.

It is physically possible to utilize lot 28 either without a variance, or with a lesser variance. The physical limitations which do exist result from the applicant's design choices. Staff recommends that the Board deny the applicant's request.



EXISTING ZONING	EXISTING LAND USE	SURROUNDING ZONING & LAND USE	SITE IMPROVEMENTS	Historic District
R-10 Single Family Residential	Single Family Residence (Under Construction)	R-10/ Single-Family Residential	Single Family Home	N/A

### **DEVELOPMENT STATUS & HISTORY:**

- On January 13, 2021 the Planning Commission approved a Final Plat for Phase 2 of the Elan Subdivision. The subject property was created as lot 28 with its current dimensions. The Final Plat depicts lots which conform to the Ordinance (Section 6.3.8). Several, including the subject lot, have nearly identical dimensions, 95' wide by 180' deep.
- Throughout 2021 and 2022 the applicant applied for building permits. The plot plans provided with the applications depicted homes and driveways which conform to the standards of the Ordinance.
- On November 16, 2021, the applicant applied for a building permit to construct a home on lot 28 (1128 Pretender Way).
  - City Planner Austin Brass reviewed the permit for conformity with the Zoning Ordinance including the 5 foot driveway separation on November 18, 2021.
  - The site plan depicted a separation between the driveway and the lot line; the distance was noted as 5.37 feet. Mr. Brass approved the permit application.
  - On May 6, 2022, Mr. Brass inspected the property and observed that the driveway had been placed too close to the property line.
- More than 30 homes across the two phases of Elan have been completed without variance. Many of them feature side-loaded garages. Many of them have lot dimensions which are identical to the subject property.

### **REVIEW & ASSESSMENT:**

#### 10.2.12 PARKING FACILITY DESIGN STANDARDS

##### 1. Minimum Driveway Separation

- b. For residential uses (excluding multifamily), driveways for residential uses shall not be located within five feet of a side or rear lot line unless a shared driveway is used.

#### 3.15.10 REQUIREMENTS FOR VARIANCE

##### A. Standards:

The Board shall not grant a variance unless it makes findings based upon evidence presented to it as follows:

1. That by reason of exceptional narrowness, shallowness, or shape of a particular piece of property at the time of enactment of this ordinance, or by reason of exceptional topographic conditions or other exceptional and extraordinary situation or condition of such piece of property, the strict application of any regulation contained within this ordinance would result in peculiar and exceptional practical difficulties to or exceptional or undue hardship upon the owner of such property.
2. That the variance is the minimum variance that will relieve such difficulties or hardship and thereby make possible the reasonable use of the land, building, or structure.
3. That the variance will not authorize activities in a zone district other than those permitted by this ordinance.
4. That financial returns alone shall not be considered as a basis for granting a variance.



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BOARD OF ZONING APPEALS  
STAFF REPORT

5. That the granting of the variance will not be detrimental to the public welfare, injurious to other property or improvements in the area in which the subject property is located, or a substantial impairment to the intent and purpose of the general provisions of this Zoning Ordinance.
6. That the purposed variance will not impair an adequate supply of light and air to the adjacent property, or substantially increase the congestion in the public streets, or increase the danger of fire, or endanger the public safety.
7. That the alleged difficulty or hardship has not been knowingly and intentionally created by any person having an interest in the property after the effective date of this ordinance.

### STAFF ANALYSIS

Staff has reviewed this variance request in relation to Section 3.15.10 and finds the following:

1. The applicant states that the driveway width is insufficient to provide safe turning radius to enter and exit the garage. According to the applicant, strict application of Section 10.2.12 of the Ordinance would result in exceptional practical difficulties or undue hardship because of the orientation of the home and the dimensions of lot 28.

The side-loaded garage is not a feature of the lot. The lot is newly created and conforms to the dimensional standards of the Ordinance. Other properties throughout the subdivision, including lots controlled by the applicant, have similar dimensions. The owners of those properties are able to utilize their property without variance. It is possible, though potentially inconvenient for the future resident of the home, to safely enter and exit the garage utilizing a driveway that is set back 5 feet from the property line.

The Board's finding on this criterion may have significant implications. Staff urges caution in evaluation of whether the orientation of the garage creates a hardship. The required driveway separation may seem insignificant in this case; staff understands that it may create inconvenience for the future resident of this particular home. However, the inconvenience is ultimately the result of the applicant's design choice. The proposed Zoning Code currently under consideration by City Council encourages side-loaded and rear-loaded garages, as well as garages located on secondary facades. Staff is concerned that a finding of hardship in this case will encourage builders to use the variance process as a shortcut to avoid designing homes which conform to all of the standards of the new Zoning Code.

The massing and orientation of the home is a design choice, not a feature of the lot. The subject lot could have accommodated a design that left a more generous turnaround, thereby providing more comfortable maneuvering in and out of a side-loaded garage.

2. The applicant states that the requested variance – an 80% reduction of the standard – is the minimum variance that will relieve the hardship and make possible the reasonable use of the land.

No deviation from the standard would be necessary if the applicant had designed the home with sufficient space to maneuver out of the garage. The applicant requests an 80% reduction in the required spacing, from 5 feet to 1 foot. The applicant has not explained how that number was calculated or shown that 80% is the minimum deviation necessary



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BOARD OF ZONING APPEALS  
STAFF REPORT

to relieve the claimed hardship. Even if the Board determines that this is an extraordinary situation that prevents strict application of the standard, a lesser variance may alleviate the claimed hardship. For example, if an administrative adjustment of 20% (1 foot) could provide sufficient room to maneuver, a variance of 4 feet would be inappropriate.

3. Staff concurs with the applicant that single family residences and associated driveways are permitted in an R-10 zone and the requested variance would not authorize activities other than those permitted by the Ordinance.
4. Financial returns are not the basis of the applicant's request.
5. The applicant states that the requested variance is not injurious to other properties and the public welfare.

The requested variance, reducing the driveway separation by 4 feet, is unlikely to have an injurious impact on other properties or any obvious harm to the public welfare. However, as stated above, staff is concerned that adjusting standards to relieve self-created hardships related to garage orientation may undermine important features of the proposed zoning code. It is physically possible to design a home with a side-loaded garage on lot 28 without a variance. The limited space to maneuver in and out of the garage results from the applicant's design choices.

Granting the requested variance would impair the intent and purpose of the general provisions of this Zoning Ordinance. Section 1.7 of the Ordinance states the intent to "protect and maintain the stability of residential" areas, and "to promote the orderly and beneficial development of such areas." The Elan Phase II Final Plat was approved by the Planning Commission at a publically noticed meeting after undergoing technical review for conformance with the current Zoning Ordinance. This process protects the interests of the public and provides predictability regarding the appearance and character of the new neighborhood (i.e. orderly and beneficial development). The applicant was aware of the dimensions of the lot and the limitations imposed by the Ordinance when choosing the massing of the home and orientation of the garage.

6. The proposed variance will not impair an adequate supply of light and air to the adjacent property, substantially increase congestion in public streets, increase the danger of fire, or endanger the public safety.
7. The claimed hardship is the result of the applicant's design choices.

**RECOMMENDATION:**

**Deny**

**Recommended Motion:**

Move to deny the requested variance having found that the seven variance criteria listed at Section 3.15.10 of the City of Columbia Zoning Ordinance have not been sufficiently and fully satisfied.

**Alternative Motions:**

**Alternative Motion [Approve]:**

Move to find that all seven variance criteria listed at Section 3.15.10 of the City of Columbia Zoning Ordinance have been sufficiently and fully satisfied and grant the requested variance.

**Alternative Motion [Approve Subject to Conditions]:**

Move to find that all seven variance criteria listed at Section 3.15.10 of the City of Columbia Zoning Ordinance have been sufficiently and fully satisfied and grant the requested variance subject to the following conditions: *[list conditions of approval]*.

**Alternative Motion [Defer]:**

Move to find that there is insufficient information to make a decision, continue the hearing, and request that the [applicant/staff] provide: [list additional information] for review at a future meeting.

BOARD OF ZONING APPEALS APPLICATION			
COLUMBIA, TENNESSEE			
SUBDIVISION: Elan		LOT: 32	
LOT ADDRESS: 1144 Pretender Way Columbia TN 38401			
ZONING: R-10	LAND USE: Residential	LOT ACREAGE: 1/8 Acre	
LOT SQUARE FOOTAGE: 17,100		BUILDING SQUARE FOOTAGE: 3327	
ESTABLISHED/EXISTING SETBACKS:			
FRONT: 30 ft.		SIDE: 10 ft.	REAR: 30 ft.
OTHER INFORMATION: Requesting 1' driveway set back			

**TYPE OF REQUEST**

COMPLETE APPLICABLE REQUEST FOR BOARD TO CONSIDER

APPEAL OF ADMINISTRATIVE DECISION
Indicate the decision/interpretation under appeal, including the City Official with Title and Department, and the applicable section(s) of the <i>Zoning Ordinance</i> in question.
APPEAL OF:
ZONING ORDINANCE SECTION:
CITY OFFICIAL WITH TITLE AND DEPARTMENT:

## APPEAL OF ADMINISTRATIVE DECISION

1. If requesting a **Setback Variance**, indicate below which yard the setback variance is located within and **provide an exact measure of the distance of the new setback in feet.**
2. If requesting a **Sign Variance**, indicate below which type of sign the variance is for and provide the **permitted signage, in addition to the requested amount of signage.**
3. If requesting a **Variance** of any other provision of the *Zoning Ordinance*, provide a detailed **explanation below in "Other Variance Request."**

<b>SETBACK VARIANCE</b> <i>Check applicable yard</i>	<input type="checkbox"/> FRONT YARD <input checked="" type="checkbox"/> SIDE YARD <i>Driveway</i> <input type="checkbox"/> REAR YARD	REQUESTED SETBACK (ft): <div style="font-size: 1.5em; text-align: center;"><i>1' driveway</i></div>
<b>SIGN VARIANCE</b> <i>Check applicable sign</i>	<input type="checkbox"/> FREESTANDING SIGN <input type="checkbox"/> WALL SIGN <input type="checkbox"/> GASOLINE PUMP SIGN <input type="checkbox"/> OTHER SIGN	PERMITTED SIGNAGE (ft or ft <sup>2</sup> ): <hr/> REQUESTED SIGNAGE (ft or ft <sup>2</sup> ):
<b>OTHER VARIANCE REQUEST</b>	ZONING ORDINANCE SECTION: <hr/> REASON FOR REQUEST: <hr/>	

## CONDITIONAL USE PERMIT

If requesting a **Conditional Use Permit**, indicate the requested use.

REQUESTED USE (be detailed):

DOES THE REQUESTED USE HAVE REQUIRED PARKING?

HOURS OF OPERATION:

**\*FOLD ALL SUBMITTALS LARGER THAN 8½"x11"**

**APPLICANT**

<b>NAME</b>	Randall Shaw	<b>PHONE</b>	931-381-3881
<b>ADDRESS</b>	PO Box 8081, Columbia 38402	<b>EMAIL</b>	deb@shawhomebuilders.com

**PROPERTY OWNER**

<b>NAME</b>	Randall Shaw	<b>PHONE</b>	931-381-3881
<b>ADDRESS</b>	PO Box 8081 Columbia 38402	<b>EMAIL</b>	deb@shawhomebuilders.com

In filling out this application, I attest that (1) I am familiar with the rules, regulations, and procedures of the City of Columbia & (2) all information contained herein is accurate & true to the best of my knowledge.

Randall Shaw  
APPLICANT NAME

  
APPLICANT SIGNATURE

6-21-22  
DATE

Randall Shaw  
PROPERTY OWNER NAME

  
PROPERTY OWNER SIGNATURE

6-21-22  
DATE

**STAFF USE ONLY**

<b>DOCKET NO.</b>		<b>FEE PAID</b>	
<b>RECEIPT NO.</b>		<b>REQUESTED AGENDA</b>	
<b>DATE NOTICES SENT TO ADJACENT PROPERTY OWNERS</b>			
<b>DATE OF PUBLIC NOTICES IN DAILY HERALD</b>			
<b>BOARD ACTION</b>			

REQUIREMENTS FOR A VARIANCE  
Section 3.15.10 of the City of Columbia Zoning Ordinance

The Board of Zoning Appeals shall not grant a variance unless it makes a finding, based on the evidence presented, that all of the following seven criteria are sufficiency and fully satisfied.

*The BZA cannot, by law, consider financial or personal matters in the justification of any of the seven criteria.*

Please demonstrate how your request satisfied each of the following:  
(You may use this sheet or attach separate pages)

1. That by reason of exceptional narrowness, shallowness, or shape of a particular piece of property at the time of enactment of this ordinance, or by reason of exceptional topographic conditions or other exceptional and extraordinary situation or condition of such piece of property, the strict application of any regulation contained within this ordinance would result in peculiar and exceptional practical difficulties to or exceptional or undue hardship upon the owner of such property.

This home has a side load garage for the owner to safely enter/exit the garage the driveway and turnaround need to be extended to the property line

2. That the variance is the minimum variance that will relieve such difficulties or hardship and thereby make possible the reasonable use of the land, building, or structure.

This request will provide adequate space to maneuver a vehicle in and out of the garage & not hinder the easement.

3. That the variance will not authorize activities in a zone district other than those permitted by this ordinance.

This will remain a private drive for soul use of the home owner

4. That financial returns alone shall not be considered as a basis for granting a variance.

No financial advantage  
safe use of garage is  
only issue

5. That the granting of the variance will not be detrimental to the public welfare, injurious to other property or improvements in the area in which the subject property is located, or a substantial impairment to the intent and purpose of the general provisions of this Zoning Ordinance.

NO

6. That the proposed variance will not impair an adequate supply of light and air to the adjacent property, or substantially increase the congestion in the public streets, or increase the danger of fire, or endanger the public safety.

none

7. That the alleged difficulty or hardship has not been knowingly and intentionally created by any person having an interest in the property after the effective date of this ordinance.

NO

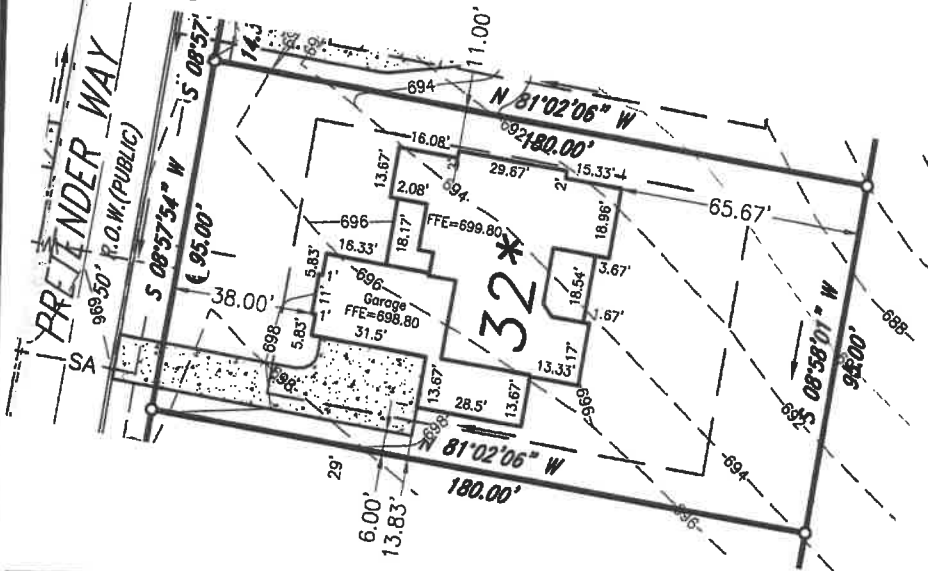
**Minimum Building Setbacks**

- Front Yard - 30 feet
- Rear Yard - 30 feet
- Side Yard - 10 feet



\*\*\*Per plat of record

Owner - Shaw Enterprises, LLC  
 Deed Book R1800, Page 1387  
 Plat Book P22, Page 310



1. This survey was done under the authority of TCA 62-18-126 and is not a survey as defined under 0820-3-.07
2. No property corners were set or reset as part of this survey.
3. Bearing are based on plat of record .
4. Contractor to verify all dimensions prior to construction of house.

**GRADING NOTES**

1. All grading and drainage work as shown on this plan shall be constructed to direct water away from the structures and shall be completed in strict accordance with the requirements and specifications of the local governing agency.
2. It is the contractor's responsibility to avoid damage to all existing utilities to remain during construction. If damage does occur, full repair shall be accomplished as per the current specifications for such work.
3. Contractor is responsible for securing written approval from adjoining owner for off-site grading work that may result from construction activities.
4. All deleterious material shall be removed from fill and disposed of off-site by the contractor.
5. Construct a "Builders Swale" along the property line to direct water away from structures on adjoining properties.
6. No driveways are to be greater than a 13% slope.
7. Driveway entrances are to be constructed to keep the flow of water in the gutter within the road.

**Additional Notes:**

- Erosion or sedimentation, or transport of other pollutants or forms of pollution, due to various land development activities must be controlled.
- The owner/operator should perform inspections to ensure that vegetation, erosion and sediment control measures and other protective measures identified in the site plan are kept in good and effective operating condition.
- No land disturbance activities, whether by private or public action, shall be performed in a manner that will negatively impact storm water quality whether by illicit discharge, flow restrictions, increased runoff, or by diminishing channel or floodplain storage capacity.
- Within any Waterway Natural areas (WNA), there shall be no clearing, grading, construction or disturbance of vegetation except as permitted by the Williamson County Engineering Department.
- Prior to the final inspection, all disturbed areas should be adequately stabilized. Where driveway culverts are required, culverts must be sized and headwalls must be installed according to the Columbia Subdivision Regulations.
- Refer to the approved SWPPP for information on stormwater controls.



1"=50'  
 Plan Scale

TAX MAP 75L, GRP "D", Parcel 27.00



CIVIL ENGINEERING SURVEYING PLANNING  
 2486 Nashville Hwy  
 COLUMBIA, TN 38401  
 PHONE: (931) 388-2320

SEAL



**CLIENT:**

Shaw Enterprises  
 113 Nashville Highway  
 Columbia, TN 38401

**PROJECT:**

Plot Plan - Lot 32  
 Elan Subdivision, Phase 2  
 1144 Pretender Way  
 Columbia, TN 38401

**REVISION:**

DATE:

DRAWN BY: EB

SCALE: 1" = 50'

SHEET: 1 OF 1

PROJECT NO: 16571-1

DATE: 12-22-2021

Case #22-0185  
1144 Pretender Way





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BOARD OF ZONING APPEALS  
STAFF REPORT**

CONTACT INFORMATION

Kevin C. McCarthy, AICP, Planning Associate II, [kmccarthy@columbiatn.com](mailto:kmccarthy@columbiatn.com) 931-560-1531

DOCKET/CASE/APPLICATION NUMBER

**22-0185**

APPLICANT/ PROPERTY OWNER

**Randal Shaw/ Shaw Enterprises LLC**

PUBLIC HEARING DATE

**N/A**

PROPERTY ADDRESS/LOCATION

**1144 Pretender Way/ Elan Phase II  
Subdivision Lot 32**

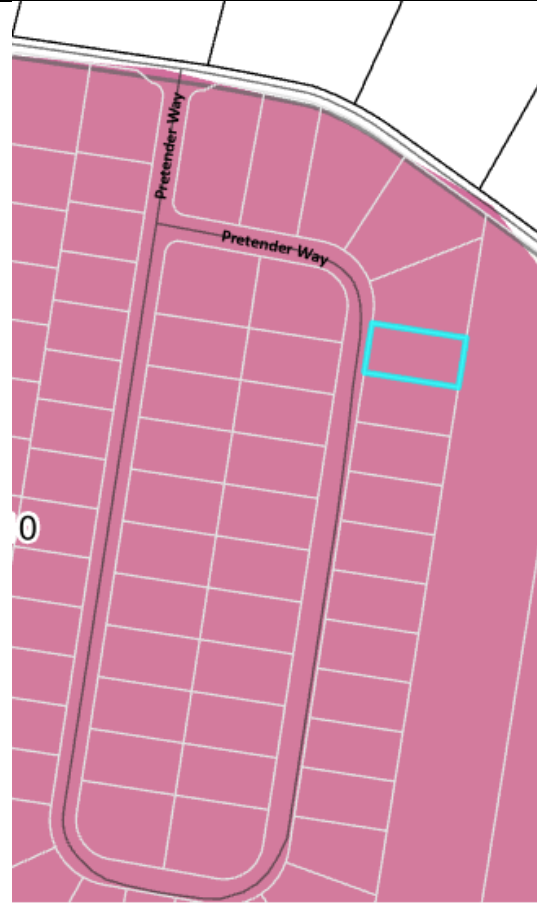
**REQUEST: Variance from Minimum Setback (Pool in Street Yard Setback)**

The applicant requests a variance from the strict application of the City of Columbia Zoning Ordinance. Specifically, the applicant requests a reduced driveway separation.

The Zoning Ordinance mandates that residential driveways shall not be located within five feet of a side or rear lot line (Section 10.2.12). This standard is also included in the proposed zoning code under consideration by the City Council (Section 4.3.12.E)

The applicant asks that the Board of Zoning Appeals determine from the evidence presented in the application that a hardship exists due to unusual lot conditions. The applicant further asks the Board to find that the requested variance is the minimum relief from the hardship and that all other criteria for granting a variance under Section 3.15.10 of the Ordinance have been met.

It is physically possible to utilize lot 32 either without a variance, or with a lesser variance. The physical limitations which do exist result from the applicant's design choices. Staff recommends that the Board deny the applicant's request.



EXISTING ZONING	EXISTING LAND USE	SURROUNDING ZONING & LAND USE	SITE IMPROVEMENTS	Historic District
R-10 Single Family Residential	Single Family Residence (Under Construction)	R-10/ Single-Family Residential	Single Family Home	N/A



### **DEVELOPMENT STATUS & HISTORY:**

- On January 13, 2021 the Planning Commission approved a Final Plat for Phase 2 of the Elan Subdivision. The subject property was created as lot 32 with its current dimensions. The Final Plat depicts lots which conform to the Ordinance (Section 6.3.8). Several, including the subject lot, have nearly identical dimensions, 95' wide by 180' deep.
- Throughout 2021 and 2022 the applicant applied for building permits. The plot plans provided with the applications depicted homes and driveways which conform to the standards of the Ordinance.
- On November 16, 2021, the applicant applied for a building permit to construct a home on lot 28 (1128 Pretender Way). That lot has identical dimensions to lot 32 and is the subject of an identical variance request.
  - City Planner Austin Brass reviewed the permit for conformity with the Zoning Ordinance including the 5 foot driveway separation on November 18, 2021.
  - The site plan depicted a separation between the driveway and the lot line; the distance was noted as 5.37 feet. Mr. Brass approved the permit application.
  - On May 6, 2022, Mr. Brass inspected the property and observed that the driveway had been placed too close to the property line.
- More than 30 homes across the two phases of Elan have been completed without variance. Many of them feature side-loaded garages. Many of them have lot dimensions which are identical to the subject property.

### **REVIEW & ASSESSMENT:**

#### 10.2.12 PARKING FACILITY DESIGN STANDARDS

##### 1. Minimum Driveway Separation

- b. For residential uses (excluding multifamily), driveways for residential uses shall not be located within five feet of a side or rear lot line unless a shared driveway is used.

#### 3.15.10 REQUIREMENTS FOR VARIANCE

##### A. Standards:

The Board shall not grant a variance unless it makes findings based upon evidence presented to it as follows:

1. That by reason of exceptional narrowness, shallowness, or shape of a particular piece of property at the time of enactment of this ordinance, or by reason of exceptional topographic conditions or other exceptional and extraordinary situation or condition of such piece of property, the strict application of any regulation contained within this ordinance would result in peculiar and exceptional practical difficulties to or exceptional or undue hardship upon the owner of such property.
2. That the variance is the minimum variance that will relieve such difficulties or hardship and thereby make possible the reasonable use of the land, building, or structure.
3. That the variance will not authorize activities in a zone district other than those permitted by this ordinance.



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4. That financial returns alone shall not be considered as a basis for granting a variance.
5. That the granting of the variance will not be detrimental to the public welfare, injurious to other property or improvements in the area in which the subject property is located, or a substantial impairment to the intent and purpose of the general provisions of this Zoning Ordinance.
6. That the purposed variance will not impair an adequate supply of light and air to the adjacent property, or substantially increase the congestion in the public streets, or increase the danger of fire, or endanger the public safety.
7. That the alleged difficulty or hardship has not been knowingly and intentionally created by any person having an interest in the property after the effective date of this ordinance.

#### STAFF ANALYSIS

Staff has reviewed this variance request in relation to Section 3.15.10 and finds the following:

1. The applicant states that the driveway width is insufficient to provide safe turning radius to enter and exit the garage. According to the applicant, strict application of Section 10.2.12 of the Ordinance would result in exceptional practical difficulties or undue hardship because of the orientation of the home and the dimensions of lot 32.

The side-loaded garage is not a feature of the lot. The lot is newly created and conforms to the dimensional standards of the Ordinance. Other properties throughout the subdivision, including lots controlled by the applicant, have similar dimensions. The owners of those properties are able to utilize their property without variance. It is possible, though potentially inconvenient for the future resident of the home, to safely enter and exit the garage utilizing a driveway that is set back 5 feet from the property line.

The Board's finding on this criterion may have significant implications. Staff urges caution in evaluation of whether the orientation of the garage creates a hardship. The required driveway separation may seem insignificant in this case; staff understands that it may create inconvenience for the future resident of this particular home. However, the inconvenience is ultimately the result of the applicant's design choice. The proposed Zoning Code currently under consideration by City Council encourages side-loaded and rear-loaded garages, as well as garages located on secondary facades. Staff is concerned that a finding of hardship in this case will encourage builders to use the variance process as a shortcut to avoid designing homes which conform to all of the standards of the new Zoning Code.

The massing and orientation of the home is a design choice, not a feature of the lot. The subject lot could have accommodated a design that left a more generous turnaround, thereby providing more comfortable maneuvering in and out of a side-loaded garage.

2. The applicant states that the requested variance – an 80% reduction of the standard – is the minimum variance that will relieve the hardship and make possible the reasonable use of the land.

No deviation from the standard would be necessary if the applicant had designed the home with sufficient space to maneuver out of the garage. The applicant requests an 80% reduction in the required spacing, from 5 feet to 1 foot. The applicant has not explained



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how that number was calculated or shown that 80% is the minimum deviation necessary to relieve the claimed hardship. Even if the Board determines that this is an extraordinary situation that prevents strict application of the standard, a lesser variance may alleviate the claimed hardship. For example, if an administrative adjustment of 20% (1 foot) could provide sufficient room to maneuver, a variance of 4 feet would be inappropriate.

3. Staff concurs with the applicant that single family residences and associated driveways are permitted in an R-10 zone and the requested variance would not authorize activities other than those permitted by the Ordinance.
4. Financial returns are not the basis of the applicant's request.
5. The applicant states that the requested variance is not injurious to other properties and the public welfare.

The requested variance, reducing the driveway separation by 4 feet, is unlikely to have an injurious impact on other properties or any obvious harm to the public welfare. However, as stated above, staff is concerned that adjusting standards to relieve self-created hardships related to garage orientation may undermine important features of the proposed zoning code. It is physically possible to design a home with a side-loaded garage on lot 32 without a variance. The limited space to maneuver in and out of the garage results from the applicant's design choices.

Granting the requested variance would impair the intent and purpose of the general provisions of this Zoning Ordinance. Section 1.7 of the Ordinance states the intent to "protect and maintain the stability of residential" areas, and "to promote the orderly and beneficial development of such areas." The Elan Phase II Final Plat was approved by the Planning Commission at a publically noticed meeting after undergoing technical review for conformance with the current Zoning Ordinance. This process protects the interests of the public and provides predictability regarding the appearance and character of the new neighborhood (i.e. orderly and beneficial development). The applicant was aware of the dimensions of the lot and the limitations imposed by the Ordinance when choosing the massing of the home and orientation of the garage.

6. The proposed variance will not impair an adequate supply of light and air to the adjacent property, substantially increase congestion in public streets, increase the danger of fire, or endanger the public safety.
7. The claimed hardship is the result of the applicant's design choices.

**RECOMMENDATION:**

**Deny**

**Recommended Motion:**

Move to deny the requested variance having found that the seven variance criteria listed at Section 3.15.10 of the City of Columbia Zoning Ordinance have not been sufficiently and fully satisfied.

**Alternative Motions:**

**Alternative Motion [Approve]:**

Move to find that all seven variance criteria listed at Section 3.15.10 of the City of Columbia Zoning Ordinance have been sufficiently and fully satisfied and grant the requested variance.

**Alternative Motion [Approve Subject to Conditions]:**

Move to find that all seven variance criteria listed at Section 3.15.10 of the City of Columbia Zoning Ordinance have been sufficiently and fully satisfied and grant the requested variance subject to the following conditions: *[list conditions of approval]*.

**Alternative Motion [Defer]:**

Move to find that there is insufficient information to make a decision, continue the hearing, and request that the [applicant/staff] provide: *[list additional information]* for review at a future meeting.