

Memorandum

TO: City Council
FROM: Allison Eddins , Senior planner
DATE: December 15, 2025
SUBJECT: 3204 W. Owasso Blvd - Variance Requests - Melissa and Scott Duce
ITEM NUMBER: 10.a
SECTION: GENERAL BUSINESS

REQUESTED MOTION

The city council has two options to proceed:

Option 1

To affirm the denial of the variance requests to increase the allowed detached accessory building square footage from 440 square feet to 1000 square feet and the total allowed square footage to 1,675 square feet for accessory building space for the lot located at 3204 W. Owasso Blvd. The planning commission found that practical difficulty does not exist for either variance request.

Option 2

To grant the appeal and adopt Resolution No. 25-83 approving the variance requests to increase the allowed detached accessory building square footage from 440 to 1,000 square feet and the total allowed square footage for accessory building space to 1,672 square feet for the lot located at 3204 W. Owasso Blvd, subject to the following conditions:

1. The project must be completed in accordance with the plans submitted with the variance application. Any significant change to these plans, as determined by the community development department, will require review and approval by the planning commission.
2. The variance approval is subject to a five day appeal period.

This approval is based on the following findings of fact: (city council should make findings of practical difficulty)

1. Reasonable Manner
2. Unique Circumstance
3. Character of Neighborhood

INTRODUCTION

The homeowners/applicants, Melissa and Scott Duce, originally submitted residential design review and variance applications in November 2023. The residential design review was for the construction of a new one-story walk out with a 672 square foot attached garage at 3204 W. Owasso Blvd. The property has an existing 1,000 square foot detached garage that the applicants wanted to retain. In total, three variances were requested. The first variance was to decrease the front yard setback. The other two variances were to increase the allowed detached accessory building square footage and increase the total allowed square footage for accessory building space in order to retain the existing 1,000 square foot detached garage. The

applicants can by right retain 288 square feet of the garage or, with a conditional use permit, they can retain up to 440 square feet of the garage.

In December 2023, the planning commission approved the residential design review and the variance request to decrease the front yard setback, and denied the two variance request related to detached accessory building space as they could not find practical difficulty. The applicants appealed the variance denials. The city council heard the appeal request in January 2024 and upheld the planning commission's decision.

The applicants wanted to use the detached garage to store their personal belongings while their home was being demolished and the new home was being constructed. Staff agreed to let the garage remain in place as-is while construction was taking place with the condition that the garage be brought into compliance by June 15, 2025. The garage has not been brought into compliance. At the July 21, 2025 city council meeting, staff brought Resolution No. 25-51 for the abatement of the non-compliant garage. The city council approved a 60-day stay for the abatement pending a new variance application being submitted. The city council stated that the practical difficulty presented with the new variance applications should be substantially different than the practical difficulty that was presented with the original requests.

The applicants submitted the new variance requests in September 2025 and the requests were originally scheduled to be reviewed by the planning commission at the October 28, 2025 meeting. The applicants requested the variances to be tabled until the November meeting. At their November 25, 2025 meeting, the planning commission moved to deny the submitted variance requests, which passed in a 5-1 vote. The planning commission was unable to find that practical difficulty was present for the submitted requests, subsequently denying the variance.

DISCUSSION

Property Description

The subject property is a substandard riparian lot in the R1-Detached Residential District. The lot is 32,069 square feet, or 0.75 acres, with an average depth of 367.77 feet and a lot width of 75 feet, making the lot substandard for lot width. The lot's elevation slopes lakeward from a 942 foot elevation at the front lot line down to 888 feet at the Ordinary High Water line (OHW).

When the applicants purchased the property in 2019, the lot had an existing house that was constructed in 1913, an attached carport, a small shed and the 1,000 square foot garage that was reconstructed in 2000. The original detached garage dates to the 1950s and in 1970, the city approved the expansion of the garage with a variance. The lot also had a wooden retaining wall roughly 10 feet from the OHW and a second wooden retaining wall at the water's edge. The applicants worked with the Ramsey Washington Metro Watershed to restore the natural slope and stabilize the soil with rip rap, granite boulders and native vegetation.

Project Description

A new home with a 672 square foot attached garage was constructed in 2024. The applicants would like to retain the 1,000 square foot detached garage. This would exceed the allowed square footage for a detached accessory building and exceed the combined allowed square footage for all accessory buildings. In order to allow all 1,000 square feet of the detached garage to remain, the two variance requests would need to be approved.

Development Code Requirements

[Section 107-67 \(e\) \(5\)](#) states that lots between 1/2 and 1 acre can have a detached accessory building up to 240 square feet or up to 440 square feet with an approved conditional use permit. This section of code goes on to state that lots this size can have up to 1,200 square feet of total combined accessory building space or 90% of the dwelling unit foundation area, whichever is more restrictive.

Variance Criteria

When considering a variance request, the commission must determine whether the ordinance causes the property owner practical difficulty and find that granting the variance is in keeping with the spirit and intent of the ordinance. Practical difficulty is defined as:

1. Reasonable Manner. The property owner proposes to use the property in a reasonable manner not permitted by the Shoreview Development Regulations.
2. Unique Circumstance. The plight of the property owner is due to circumstances unique to the property not created by the property owner.
3. Character of the Neighborhood. The variance, if granted, will not alter the essential character of the neighborhood.

Applicants' Statement

The applicant states that the construction of the new house was completed largely within the existing footprint of the 1913 home and carport. This was intentional to help ensure that the project was in compliance with [Section 115-150 \(2\)](#) that requires the existing topographical grade and elevation for new, expanded or reconstructed single-family residences to be maintained to the extent feasible.

The applicant states that other sections of the code were examined and taken into consideration when designing the home in 2023, including [Section 107-67 \(e\) \(5\)](#) which states that lots between 1/2 and 1 acre can have up to 1,200 square feet of total combined accessory building space or 90% of the dwelling unit foundation area, whichever is greater. In 2023, the published code included an error and the wording "*whichever is more restrictive*" was not included even though that language was adopted as part of the code. The applicant thought that constructing a 672 square foot attached garage and keeping the 1,000 square foot existing code was compliant with code since the total combined square footage would be 70% of the foundation area.

The applicant goes on to state that due to the lot's steep slope, the detached garage was constructed with a deep foundation in order to ensure the stability and longevity of the structure and that removing the structure could affect the overall stability of the slope, could worsen drainage issues and lead to increase runoff and erosion. The applicant has received a construction scope and cost for bringing the garage into compliance. Included in the scope are required footing and foundation work that will occur within the dripline of a 70 year old landmark oak tree. The applicant received an opinion from the owner of a tree company. In his opinion, any work within the dripline could damage the tree's roots leading to the instability and long-term decline of the tree.

The applicant states that the garage is an integral part of the property, structurally, aesthetically and financially and that a unique circumstance is present given the property's past history of land use approval necessary to construct the existing detached garage at its current size, the code text error that was present in 2023 and the impact that the removal of the garage may have on the landmark tree.

In addition to the narrative and supporting materials that were submitted with the variance requests, the applicant's attorney Mr. Patrick B. Steinhoff from Malkerson, Gunn, Martin LLP, submitted a letter on behalf of the applicant. That letter is provided as an attachment to this report. Also attached to the report is the City attorney's response to the letter from the applicant's attorney.

STAFF REVIEW

After reviewing the applicant's new application and supporting statements, staff still believes the applicant has not demonstrated that practical difficulty is present for the accessory building variances.

1. *Reasonable Manner. The property owner proposes to use the property in a reasonable manner not permitted by the Shoreview Development Regulations.* The applicant is proposing to use the property in a reasonable manner as single family residential with an attached and a detached garage, which is a permitted use.
2. *Unique Circumstances. The plight of the property owner is due to circumstances unique to the property not created by the property owner.* A pre-existing, nonconforming structure does not, in itself, constitute a unique circumstance. In this case, the nonconforming structure is a detached garage, which was permitted to remain in its existing condition and size. The need for variances arises only because the applicants elected to construct a new home with a 672-square-foot attached garage. Had the new home been built without an attached garage, the detached garage could have remained without the need for any variances. This was a decision made by the property owners.

Under the table in development code [Section 107-67](#) , up to 1,200 total square feet of accessory building space is allowed, which permits the applicants to retain 440 square feet of the detached garage with an approved conditional use permit. The applicants were aware of these regulations at the time the new home was constructed, based on discussions with staff as well as the denial of the same variance requests prior to construction.

3. *Character of Neighborhood. The variance, if granted, will not alter the essential character of the neighborhood.* The character of the neighborhood will not be altered. The detached garage has existed at this location since the 1950s and there are other detached garages along West Owasso Boulevard.

PUBLIC COMMENT

Property owners within 150 feet were notified of the applicants' requests for the planning commission meeting. Nine comments from neighbors all in favor of the variances have been received.

RECOMMENDATION

The city council should allow the applicants to present their appeal and then take formal action. Staff is recommending the council uphold the decision of the planning commission to deny the variance requests. However, two options are provided for consideration depending on the council's direction.

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ATTACHMENTS

[Location Map](#)

[Application Materials](#)

[Survey](#)

[Public Comments](#)

[Malkerson, Gunn & Martin, LLP letter](#)

[Memo from City Attorney](#)

[Resolution 25-83](#)