

EAST BETHEL PLANNING COMMISSION MEETING
OCTOBER 22, 2024

MEMBERS PRESENT: Chair Sharon Johnson, Kory Jorgensen, Tanner Balfany, and Brian Downie.
MEMBERS ABSENT: Gabriel Hanschen, Glenn Terry, and Diana Saenger

ALSO PRESENT: Aaron Berg, Community Development Director
Jim Smith, City Council Liaison

1.0 Call to Order

Chair Johnson called the Planning Commission regular meeting to order at 7:00 pm.

2.0 Adopt Agenda

Commissioner Balfany moved and Commissioner Jorgensen seconded to adopt the agenda as presented. Johnson asked any discussion? To the motion, all in favor say aye. **All in favor.** Johnson asked any opposed? That motion passes. **Motion passes unanimously.**

3.0 Updates

Council Liaison Smith updated the Commission on recent Council actions.

Balfany asked if Council cares about the Code that is set when making decisions so he can better advise in the decisions within the Commission. Council Liaison Smith noted that they do care about the Code, but it is just dependent on the situation. Balfany discussed that when they disregard the Code in certain situations it sets a precedent for future situations of that type. Council Liaison Smith explained that Council does a lot of research on each case to fully determine whether each case should pass or not. Balfany noted several problems with Council disregarding Code in these situations.

4.0 Approve September 24, 2024 meeting minutes

Downie requested a correction on page 1, line 6 to change: 'Corey Jorgensen' to 'Kory Jorgensen.'
Downie requested a correction on page 1, line 41 to change: 'and one the cul-de-sac' to 'and on the cul-de-sac.'
Downie requested a correction on page 1, line 47 to change: 'constructing a build' to 'constructing a building.'
Balfany requested a correction on page 3, line 102 to amend: 'he is not against this, but would like them to just be cautious.' to 'He noted that he is not against this if there is a proper way to issue it, but would just like them to be cautious.'

Commissioner Downie moved and Commissioner Jorgensen seconded to adopt the September 24, 2024 regular meeting minutes as revised. Johnson asked any discussion? To the motion, all in favor say aye. **All in favor.** Johnson asked any opposed? That motion passes. **Motion passes unanimously.**

5.0A Public Hearing – Variance – Placement nearer Front Lot Line than Primary Structure – 18260 Fillmore St NE – Brigitt Pastwa

Berg reviewed Staff's report stating this property is located in the Oakridge Acres Development and within a Single Family R1 Residential Zoning District. The applicant's property is nearly 3 acres in size; however, over 1 acre of the rear yard is wetlands/lowlands, a platted drainage and utility easement as well as an easement for overhead utility lines. The property owner is requesting a variance for the placement of a detached accessory structure closer to the street than the primary structure due to Drainage and Utility Easements in addition to the septic placement on the property.

Berg stated Zoning Code Appendix A. General Regulations – Section 14-2.F states "No accessory building or detached private garage shall be located nearer the front lot line than the principal building except when the lot is three acres or greater and the existing principal building is located a minimum of

200 feet from the lot line. Then the accessory building or detached private garage may be located closer to the front lot line than the principal dwelling, but not closer than 50 percent of the principal dwelling's setback. This property is 2.94 acres, with the primary structure set back approximately 90 feet from the front lot line. This request does not meet the criteria set forth to allow the structure to be placed closer to the road, so a variance would be required for the placement of a detached accessory structure.

Berg noted that consideration of a variance requires the Planning Commission to consider a three-factor test for practical difficulties. The first factor, a test of reasonableness, means that the landowner would like to use the property in a practical way but cannot do so under the rules of the ordinance. It does not mean that the land cannot be put to any reasonable use whatsoever without the variance. For example, if the variance application is for a building too close to a lot line or does not meet the required setback, the focus of the first factor is whether the request to place a building there is reasonable. In this case the property owner is requesting to build the detached accessory structure in which she may keep lawn equipment and general storage. This use is listed as an accessory use approved in the Single Family Residential Zoning District.

Berg reviewed the second factor is that the landowner's problem is due to circumstances unique to the property and not caused by the landowner. The uniqueness generally relates to the physical characteristics of the particular piece of property, that is, to the land and not personal characteristics or preferences of the landowner. When considering the variance for a building to encroach or intrude into a setback, the focus of this factor is whether there is anything physically unique about the particular piece of property, such as sloping topography or other natural features like wetlands or trees. He noted in this case This property is unique in that it is divided in half by an 80-foot wide overhead power line utility easement, which is located behind the primary residence. The rear yard contains a .75 acre wetland/ lowland platted drainage and utility easement which covers multiple properties in the development. There are also topographical challenges limiting the placement of the newly proposed detached accessory structure. This lot is wooded with a ten foot change in elevation, from the front lot line to utility easement line. The SSTS or the septic drain field location is located directly south of the primary residence in the area in line with or behind the front foundation line of the primary residence.

Berg stated that the third factor is that a variance would not alter the essential character of the neighborhood. This factor is used to consider whether the resulting structure will be out of scale, out of place, or otherwise inconsistent with the surrounding area. For example, when thinking about the variance for an encroachment into a setback, the focus is how the particular building will look closer to a lot line and if that fits in with the character of the area. He discussed in this case the proposed structure will replace a temporary tarp building which does not meet City Code. The proposed detached accessory structure will not encroach on other required setbacks. The construction of a new detached accessory structure will provide an enclosed structure in which the property owner can store personal property and screening of items from all adjacent properties as is required by Code. Standing tree growth between the proposed detached accessory structure and the front property line will aid in screening it from view from the public roadway.

Berg displayed an aerial view of the property. He also displayed the septic design.

Berg recommended that the Planning Commission hold a public hearing and recommend approval to the City Council for a variance for the placement of a detached accessory structure nearer to the front lot line than the primary structure with conditions as written in the Resolution.

Johnson opened the public hearing at 7:19 p.m.

Brigitt Pastwa noted that she appreciated Berg coming out to her property to help her figure out another solution for her problem. She stated that there is really nothing else she can do in this situation.

Johnson closed the public hearing at 7:20 p.m.

Downie stated that looking at the maps there does not appear to be a lot of space for a detached structure to be added. He noted that this seems to be a very subtle and reasonable place for this project to go on property. He asked if this design would require a slab in construction. Berg explained that the actual design is up to the property owner and they can make the decision to add a slab if they would like or another type of design.

Balfany asked if the property has a secondary spot for a drain field. Berg noted that the house was constructed prior to the requirement of a secondary drain field location.

Johnson stated that she also sees this a reasonable solution.

Jorgensen asked how the driveway will be accessed on the property. Berg noted that since this is an R1 District they are only allowed one driveway entrance. He explained that they will have to enter their driveway and make a left turn.

Commissioner Downie moved and Commissioner Balfany seconded a resolution recommending granting a variance for the placement of a structure nearer to the front property line than the principal structure for the construction of a residential detached accessory structure on property located at 18260 Fillmore Street Northeast. Johnson asked any discussion? To the motion, all in favor say aye. **All in favor.** Johnson asked any opposed? That motion passes. **Motion passes unanimously.**

This item goes before City Council on November 13, 2024.

5.0B Public Hearing – Variance – Variance – Sidewall Height – 4806 239TH Ave NE – Jason Flagstad

Berg reviewed Staff's report stating on September 25, 2024 the City received a variance application from Mr. Flagstad who wishes to build a 36' x 60' detached accessory building at his property located at 4806 239th Avenue Northeast. Mr. Flagstad's property is 4.66 acres in size and is located in a Rural Residential Zoning District of the City. Zoning Code would allow Flagstad an accessory building as large as 2,850 sq. ft. in size. The proposed detached accessory building falls below the maximum building size requirement for a detached accessory structure, however Flagstad would like to increase the sidewall height to from 14 feet to 16 feet in order to get his camper/ motorhome inside and therefore is requesting a two foot variance.

Berg stated that Mr. Flagstad met with City Staff and was advised that the current detached accessory structure regulations increased the sidewall height to 14 feet and that the City has not granted a variance for sidewall heights higher than 14 feet and previous applicants have utilized vaulted trusses in order to achieve higher overhead door heights. Flagstad wants the extra height to afford him the opportunity to place two taller overhead doors on the front of the detached accessory building. Staff verbally denied Mr. Flagstad's original building permit request, but did tell him that he had the option to apply for a variance.

Berg noted that between 2014 and 2020 the Planning Commission and City Council reviewed and made multiple revisions to detached accessory regulations including sidewall heights. Raising sidewall heights for detached accessory buildings from 10 feet and 12 feet to 14 feet in all residential districts of the City. City Staff are unable to locate the approval of any variances for detached accessory structure sidewall height after the 2020 increase to 14 feet.

Berg stated that to hear requests for variances from the literal provisions of the ordinance in instances where their strict enforcement would cause practical difficulties because of circumstances unique to the individual property under consideration, and to grant such variances only when it is demonstrated that such actions will be in keeping with the spirit and intent of the ordinance. Practical difficulties, as used in connection with the granting of a variance, means that the property owner proposes to use the

property in a reasonable manner not permitted by an official control; the plight of the landowner is due to circumstances unique to the property not created by the landowner; and the variance, if granted, will not alter the essential character of the locality. Economic considerations alone do not constitute practical difficulties.

Berg reported that the consideration of a variance requires the Planning Commission to consider a three-factor test for practical difficulties. He noted the first factor, a test of reasonableness, means that the landowner would like to use the property in a practical way but cannot do so under the rules of the ordinance. It does not mean that the land cannot be put to any reasonable use whatsoever without the variance. He reviewed the second factor is that the landowner's problem is due to circumstances unique to the property and not caused by the landowner. The uniqueness generally relates to the physical characteristics of the particular piece of property, that is, to the land and not personal characteristics or preferences of the landowner. He stated that the third factor is that a variance would not alter the essential character of the neighborhood. This factor is used to consider whether the resulting structure will be out of scale, out of place, or otherwise inconsistent with the surrounding area.

Berg mentioned in this case it is the opinion of City Staff that this particular request does not meet the standards under the practical difficulties test.

Berg recommended that the Planning Commission should review the material, hold a public hearing and make a recommendation to approve or deny this application to the City Council.

Johnson opened the public hearing at 7:29 p.m.

Jason Flagstad explained that he has a camper that requires a 14 foot door, he noted that you cannot put a 14 foot door in a 14 foot sidewall, so he needs to have a taller sidewall in order to put in the door.

Johnson asked if he had considered a vaulted ceiling. Flagstad explained that if he did that the camper would sit in the middle of the building and this would waste a lot of space. Johnson also asked if he has considered other ways to be in compliance with the Code. Flagstad noted that this is the only way he can do it.

Downie asked if he had considered a smaller camper. Flagstad explained that this is one of the smaller campers available. Downie also asked if he will be needing a driveway to this. Flagstad stated no that it will only be used for storage.

Johnson closed the public hearing at 7:33 p.m.

Jorgensen discussed that he understands his frustration, but there are other solutions available.

Downie noted that he is having trouble with the logistics of a building of that size not being able to house a lot of stuff. He noted that solutions can be made to get access to other parts of the structure if the camper is put in the middle. He does not believe there are grounds to pass the variance.

Johnson discussed that she is having trouble saying yes to this variance. She noted that there seems to be other solutions available.

Commissioner Downie moved and Commissioner Jorgensen seconded recommending denial of a variance to the standard detached accessory structure maximum sidewall height of 14 feet to 16 feet on property located at 4806 239th Avenue Northeast. Johnson asked any discussion? To the motion, all in favor say aye. **All in favor.** Johnson asked any opposed? That motion passes. **Motion passes unanimously.**

This item goes before City Council on November 13, 2024.

6.0 Adjournment

Commissioner Jorgensen moved and Commissioner Downie seconded to adjourn at 7:40 pm.
Johnson asked any discussion? To the motion, all in favor say aye. **All in favor.** Johnson asked any
opposed? That motion passes. **Motion passes unanimously.**

Submitted by:

Sylvia Rokosz

TimeSaver Off Site Secretarial, Inc.