

By: Planning
Public Hearing: 04/13/17
Adopted: 04/13/17

**WASILLA PLANNING COMMISSION
RESOLUTION SERIAL NO. 17-05(AM)**

A RESOLUTION OF THE WASILLA PLANNING COMMISSION APPROVING A 12 FOOT VARIANCE FROM THE MINIMUM 25 FOOT REAR YARD SETBACK FOR AN EXISTING SINGLE-FAMILY HOME, LOCATED ON LOT 9, BLOCK 14, WASILLA ADDITION SUBDIVISION IN THE COMMERCIAL ZONING DISTRICT (VARIANCE NO. 17-01).

WHEREAS, Alina Rubeo, submitted an application for a variance on March 23, 2017, along with an as-built survey and application fee; and

WHEREAS, notice of the application was mailed to all property owners within a 1,200 feet radius and review agencies and the Planning Commission as required by §16.16.040(A)(2) of the Wasilla Municipal Code; and

WHEREAS, a notice of the Planning Commission public hearing was published in the Frontiersman on April 2, 2017; and

WHEREAS, the Wasilla Planning Commission conducted a public hearing on the requested variance taking into account the information submitted by the applicant, the information contained in the staff report, written and verbal testimony, the applicable provisions of the Wasilla Municipal Code and Comprehensive Plan, and other pertinent information brought before them; and

WHEREAS, the Wasilla Planning Commission adopted Findings of Fact, attached as Exhibit A, summarizing basic facts and reasoning of the Commission.

NOW, THEREFORE BE IT RESOLVED, that the Wasilla Planning Commission hereby approves this variance with the Findings of Fact, attached as Exhibit A and incorporated herein.

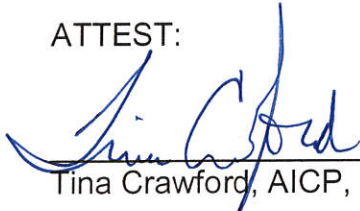
ADOPTED by the Wasilla Planning Commission on April 13, 2017.

APPROVED:



Jessica Dean, Chairman 4/13/17
Date

ATTEST:



Tina Crawford, AICP, City Planner

VOTE: Passed Unanimously

EXHIBIT A
Wasilla Planning Commission Resolution 07-05
FINDINGS OF FACT – 16.28.110

§16.28.110(A) Application.

An application for a variance must be submitted to the planner. The application must be accompanied by a site plan of the relevant part of the parcel or lot. The planner may require that the site plan be produced by a registered professional engineer or land surveyor. The site plan shall depict all information relevant to the variance request.

Finding: An application was submitted to the Planning Department on March 23, 2017.

§16.28.110(B) Variance requests must be heard by the commission. Notice, comment period and hearing procedures follow the format outlined in WMC16.16.040.

Finding: The public hearing was scheduled in a timely manner for the next available Planning Commission meeting and the hearing format is consistent with the requirements in WMC 16.16.040(E). Public notices were mailed on March 24, 2017 to all properties within a 1,200' radius, allowing for the proper number of days in which to comment in accordance with 16.16.040.

§16.28.110(C) Variance Standards

A variance may be granted only if:

1. The conditions upon which the variance application is based do not apply generally to properties in the district or vicinity other than the property for which the variance is sought;

Finding: All of the commercial and residential structures in the immediate area except for the subject property and one other lot were constructed prior to the adoption of city setback requirements in 1982. The effect is that the setback requirements the applicant seeks a variance from do not generally apply to the other properties in the vicinity.

2. Such conditions arise out of natural features inherent in the property such as shape or topographical conditions of the property or because of unusual physical surroundings or such conditions arise out of surrounding development or conditions;

Finding: The topographical features of the surrounding development have resulted in uniform construction of buildings within the setback. Those buildings were constructed prior to the adoption of the city setback requirements in 1982.

3. Because of such conditions the strict application to the property of the requirements of this chapter will result in an undue, substantial hardship to the owner of the property such that no reasonable use of the property could be made;

Finding: Without approval of a variance, the property cannot be sold with lender financing because it does not comply with current setback requirements. Without approval of a variance, the building on the subject property would need to be moved to become compliant with the city code, an action that is prohibitively expensive. The property is a residential property with a single family home. Without approval of the variance, the property cannot reasonably be used as a residential property because of the limitations on the ability to sell the property with financing or the prohibitively expensive requirement that the building be moved.

4. The special conditions that require the variance are not caused by the person seeking the variance, a predecessor in interest, or the agent of either; and

Finding: The applicant did not construct the building and acquired the property in its current condition with the current setback. The applicant was unaware of the setback issue at the time of acquisition.

5. The variance is not sought solely to relieve pecuniary hardship or inconvenience.

Finding: Without a variance, future sales of the building and property will be severely restricted as the property's current setback prohibits sales with lender financing. This restriction renders the property virtually unusable as a residence. Furthermore, the alternative of moving the building is prohibitively expensive and not a mere financial hardship or inconvenience.

§16.28.110(D) **If a property qualified for a variance under this section, the variance granted must meet the following conditions:**

1. The deviation from the requirement of this title that is permitted by variance may be no more than is necessary to permit a reasonable use of the lot;

Finding: The variance request is the minimum necessary to permit reasonable use of the existing single-family home.

2. The variance will not permit a land use that is prohibited by this title;

Finding: Single-family homes are a permitted use in the Commercial zoning district with an approved use permit. The appropriate use permit and notice was approved for the home (UP #09-04.)

3. The variance is in keeping with the spirit and intent of this chapter and the requirements from which relief is sought;

Finding: The variance is in keeping with the spirit and intent of the chapter.

4. The variance will not be detrimental to the public health, safety or welfare; and

Finding: The variance will not be detrimental to public health or welfare.

5. The variance will not significantly adversely affect other property.

Finding: The requested variance will not significantly adversely affect other properties in the area.