

By: Planning
Public Hearing: 10/10/17
Adopted: 10/10/17

**WASILLA PLANNING COMMISSION
RESOLUTION SERIAL NO. 17-22**

**A RESOLUTION OF THE WASILLA PLANNING COMMISSION DENYING AN
ELEVATED SETBACK AMNESTY REQUEST TO ALLOW AN EXISTING 16.3' X 12.2'
GREENHOUSE TO REMAIN LOCATED SIX FEET FROM THE SIDE LOT LINE ON
LOT 13, BLOCK 1, SNIDER SUBDIVISION.**

WHEREAS, Patricia Fleming, owner, submitted an application for a setback amnesty to allow an existing greenhouse to remain six feet from the side lot line instead of the minimum 10-foot side yard setback; and

WHEREAS, notice of the application was mailed to all adjoining property owners as required by §16.16.040(A)(2) of the Wasilla Municipal Code; and

WHEREAS, an objection was received by the adjoining property owner; and

WHEREAS, WMC 16.12.040 allows the City Planner to elevate any setback amnesty to the Planning Commission if it is determined that approval could have negative impacts on or conflict with existing land uses nearby; and

WHEREAS, the setback amnesty was elevated to the Planning Commission and an additional notice of the application was mailed to the adjoining property owners; and

WHEREAS, a notice of the Planning Commission public hearing was published in the Frontiersman on October 1, 2017; and

WHEREAS, the Wasilla Planning Commission conducted a public hearing on October 10, 2017 regarding the setback amnesty 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 denies this application with the Findings of Fact, attached as Exhibit A and incorporated herein.

ADOPTED by the Wasilla Planning Commission on October 10, 2017.

APPROVED:


Brian Mayer, Vice-Chair 10/16/17
Date

ATTEST:

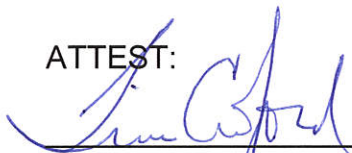

Tina Crawford, AICP, City Planner

EXHIBIT A
Wasilla Planning Commission Resolution 17-22
FINDINGS OF FACT – Section 16.24.030(D) – Setback and Height

D. Amnesty for certain setback violations under rules for nonconforming structures are as follows:

1. Any part of a structure that encroaches into a setback required under this title will be treated as a legal, nonconforming structure under Chapter 16.28; provided, that the encroachment is registered with the planning department under this subsection. An encroachment will be registered for this purpose if the city planner finds, in response to an application under subsection (D)(2) of this section, that the encroachment meets the following conditions:

a. The encroachment was constructed before March 24, 2003;

Finding: Based on Matanuska-Susitna tax records and a site plan submitted for a detached garage in 1994, the greenhouse was constructed prior to March 24, 2003.

b. As of March 24, 2003, the encroachment conformed to applicable plat notes of record; and

Finding: There were no plat notes regarding building setbacks.

c. A certified combination dwelling inspector, building inspector, plans examiner, or licensed architect certifies in writing to the city planner that the encroachment either conforms to the requirements of the State of Alaska Fire and Life Safety Regulations (13 AAC 50-13 AAC 55) or, if the encroachment is part of a residential structure containing less than four dwelling units, the encroachment conforms to nationally recognized building code setback requirements.

Finding: An email was received from the Matanuska-Susitna Borough Fire Code Official stating that there are no fire safety issues with the greenhouse.

2. The record owner of property that contains a nonconforming setback encroachment may apply to the city planner for registration of the encroachment under this subsection. The application shall be on a form provided by the city planner, and shall be accompanied by the required application fee and the following documentation:

a. An as-built survey of the property that is the subject of the application, prepared and stamped by a land surveyor registered in the state of Alaska, which shows the location and dimensions of all structures

on the property at the date of application, and the distances between structures and between the structures and the lot lines of the property;

b. A statement under oath of the owner of the property or another person with the necessary personal knowledge, and supporting documentation, demonstrating that the encroachment as shown on the as-built survey was constructed before March 24, 2003;

c. A copy of each plat note that applies to the property; and

d. The certification described in subsection (D)(1)(c) of this section.

Finding: The applicant submitted the items above on July 25, 2017.

3. Upon receiving a complete application under subsection (D)(2) of this subsection, the city planner shall within five business days mail notice of the application to each record owner of any property that immediately adjoins the property on which the encroachment is located, requesting written comment on the application within ten (10) calendar days of the date of the notice. Within twenty (20) business days after the conclusion of the comment period, the city planner shall issue a written decision whether the encroachment meets the standards for registration under this subsection. The city planner may impose such conditions on the registration as the city planner determines are appropriate to protect the general welfare. A registration under this subsection shall describe the type and dimensions of the encroachment, and shall include a copy of the as-built survey that was submitted with the application for registration.

Finding: Public notices were mailed to the adjoining property owners on August 10, 2017. A written objection was received from the adjoining property owner stating that the greenhouse should be relocated to meet the minimum 10-foot side yard setback. They also stated that the greenhouse is in need of repair and detracts from their property value.

4. A decision of the city planner under this subsection is subject to appeal to the planning commission as provided in Chapter 16.34, Appeals to the Planning Commission. The city planner may elevate a decision under this subsection to the planning commission under the standards for elevating a use permit decision under Section 16.12.040.

Finding: The City Planner elevated the request to the Planning Commission for consideration since a written objection was received from the adjoining property owner adjacent to the greenhouse.