

By: Planning
Public Hearing: 06/13/23
Adopted: 06/13/23

**WASILLA PLANNING COMMISSION
RESOLUTION SERIAL NO. 23-09AM**

A RESOLUTION OF THE WASILLA PLANNING COMMISSION APPROVING TWO VARIANCES (VARIANCE NO. V23-01) TO THE MINIMUM 10 FOOT SIDE YARD SETBACK. VARIANCE REQUEST #1 IS FOR A VARIANCE OF 5.8 FEET TO THE REQUIRED 10-FOOT SIDE YARD SETBACK (EAST LOT LINE) TO PERMIT A 4.2-FOOT SIDE YARD SETBACK FOR AN EXISTING MOBILE HOME AND VARIANCE REQUEST #2 IS FOR A VARIANCE OF 4.7 FEET TO THE REQUIRED 10-FOOT SIDE YARD SETBACK (EAST LOT LINE) TO PERMIT A 5.3-FOOT SIDE YARD SETBACK FOR AN EXISTING DETACHED GARAGE LOCATED ON LOT 9, BLOCK 1, KOHRING SUBDIVISION.

WHEREAS, Wesley Steenhoven, RE/MAX Dynamic of the Valley, agent for Kohring Family Trust submitted an application for two variances on May 14, 2023, along with supporting documentation and application fee; and

WHEREAS, notice of the application was mailed to all property owners within a 1,200' 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 June 4, 2023; 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, that the Wasilla City Planning Commission, after due consideration of 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

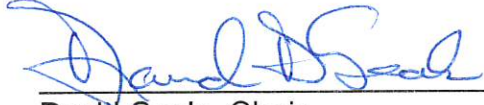
WHEREAS, the Wasilla Planning Commission adopted Findings of Fact, attached as Exhibit A, summarizing the basic facts and reasoning of the Commission regarding the requested variance; and

NOW THEREFORE BE IT RESOLVED that the Wasilla Planning Commission hereby approves the requested side yard setback variances with the Findings of Fact attached as Exhibit A and incorporated herein, with the following condition:

1. Variance #23-01, as approved, only applies to the setback requirements for the two existing structures. If any change, relocation, or modification is made to either of the existing structures, the property owner would need to apply for a new variance or build to today's Code.

ADOPTED by the Wasilla Planning Commission on June 13, 2023.

APPROVED:

 6/21/23
David Seals, Chair Date

ATTEST:


Tina Crawford, City Planner

VOTE: Passed Unanimously

EXHIBIT A
Wasilla Planning Commission Resolution 23-09AM
FINDINGS OF FACT –Variance Approval Criteria

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.

Staff Finding: A complete application was submitted to the Planning Department on May 14, 2023.

16.28.110(B) ***All variances require a public hearing by the commission. The notice, comment period and hearing procedures shall be the same as those for a conditional use in WMC 16.16.040.***

Staff 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. Public notice was mailed May 18, 2023 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. Hearing procedure follows the requirements outlined in 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;

Staff Finding: The conditions of this variance do not apply generally to other properties in the vicinity since the majority of the buildings in the area are centered on the lot and meet the setbacks.

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;

Staff Finding:

The mobile home was placed on the lot in 1978 and the garage was permitted and built in 1996. The City did not have planning authority at that time the mobile home was installed and there are no records of any approved permits, variances, or waivers for this site in our files. The MSB setbacks adopted in 1972 are the same as the setbacks in the current city code. These setbacks were also in place at the time the garage permit was approved and the permit application indicated that the garage would be constructed in compliance with the required 10-foot side yard setback.

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;

Staff Finding:

Without approval of a variance, the property cannot be sold with lender financing since the building is not "grandfathered" nor does it comply with the current setbacks.

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

Staff Finding:

The mobile home and garage were constructed by a previous family owner who is deceased. The current owners are seeking to correct the setback issue to allow sale of the property.

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

Staff Finding:

The variance is not sought to relieve a pecuniary (financial) hardship or inconvenience. Without any variance, future sales of the property will continue to have difficulties.

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;

Staff Finding:

The variance request is the minimum necessary to permit reasonable use of the existing commercial building.

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

Staff Finding: The mobile home is legal nonconforming use and the residential garage as an accessory use is permitted in the RR zoning district.

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

Staff 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

Staff Finding: The variance will not be detrimental to public health or welfare. The single-family residential home on the adjoining lot to the east is 25.3 feet from the lot line, which allows adequate light, air, and separation between structures.

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

Staff Finding: The requested variance will not significantly adversely affect other properties in the area since the mobile home and residential garage have been in place since 1978/1996 with no impact on surrounding properties. Also, the property owner that constructed the new residential single-family home on Lot 8 was aware of the setback issues when they purchased the lot and built the home.