



City of Valdez

ALASKA

Community Development Department

Harris Variance– Proposed Findings

VMC 17.12.100 (A) Purpose. The variance and administrative adjustments procedures are established to allow applicants to seek deviations and modifications from certain requirements of VMC Title 17 to overcome unique site impediments and area conditions. Deviations or waivers to the City's development standards may be specifically necessary to accommodate infill projects, adaptive use activities, and redevelopment projects in established areas of the City where existing site and area conditions may limit an applicant's ability to fully comply with City requirements. Variances are intended to allow applicants to seek regulatory relief through a public hearing process, whereas administrative adjustments are intended to allow applicants to seek minor regulatory relief through an administrative process.

Date: September 25, 2024

File: Variance 24-02

To: Planning & Zoning Commission

From: Nicole Chase, Planner

General Information

Property Owner: John L. Harris Living Trust

Street Address: 360 Hanagita Street

Legal Description: Lot 7A Harris North Mineral Creek Subdivision (plat 2022-3)

Zoning District: Moderate Density Residential (R1)

Existing Land Use: Detached residence and accessory buildings

Access: Hanagita Street

Property Size: 17,534 square feet (plat 2022-3)

Adjacent Land Use(s): Residential, Community Recreation Center, Vacant

Description

John Harris has applied for a variance to construct a 28' x 32' personal garage structure that would encroach 5' within the required 15-foot rear setback.

Additionally, accessory buildings are not permitted to exceed the height of the primary structure on the lot per VMC 17.80.220 (D) (4). The proposed accessory structure is 19' 10" tall, and the existing primary structure (detached dwelling unit) is 19' 1" tall.

The request is for a 5' encroachment into the rear setback for this accessory building and for a variance to the specific use standard that states that accessory buildings cannot exceed the primary building in height.

VMC 17.12.100 (D) contains four provisions that must be met in order for the Commission to grant approval of a variance. In reviewing the application, staff determined all criteria but the exceptional physical characteristics of the lot were met.

VMC 17.12.100 (I)

The Planning and Zoning Commission shall conduct a public hearing to review the variance application, review the staff report, hear staff, applicant, and public testimony, discuss the proposal, and take action on the application. The Commission may approve, approve with conditions, or deny the application.

Findings

1. Procedure.

- a) On August 27, 2024, the Community Development Department received the variance application for the subject property.
- b) Community Development staff reviewed the application and accompanying information against the application requirements of 17.12.100 (E) and determined that the application was complete.
- c) A public hearing was scheduled to consider this application for September 25, 2024.
- d) Notice of the meeting was published in the Copper River Record on September 12 and September 19, 2024, in accordance with VMC 17.12.160.
- e) Notice of the hearing was also published in KVAK's e-blast newspaper on September 9, 2024, and September 16, 2024, in accordance with VMC 17.12.160.
- f) Notice of the meeting was also posted on the City of Valdez website on September 6, 2024, in accordance with VMC 17.12.160.
- g) Notice of the hearing was mailed on September 6, 2024, to the 36 property owners within 300 feet of the subject property, in accordance with VMC 17.12.160.

2. VMC 17.12.100 (D)(1) – Criterion 1: There are exceptional physical characteristics or conditions pertaining to the property which may affect intended land use or development thereon which do not generally apply to other properties in the same zoning district.

The subject property is located within the Moderate- Density Residential district (R1). Per VMC table 17.16.060-1, the minimum setback requirements in the R1 district are as follows: 20' in the front, 10' in the side, and 15' in the rear. VMC 17.080.020 defines the front lot line as the following:

“Lot—Front lot line” means the lot line adjacent to a public street. In the case of a corner lot, the front line shall be the shorter of the street lot lines. In the case of a triangular lot located on a curved street, the front lot line shall be the chord line of the curve measured from the points where property intersects the right-of-way”

“Lot—Rear lot line” means the lot line opposite and most distant from the front lot line, and in the case of a triangular, irregular or other odd-shaped lot, the line not less than ten feet in length, within the lot, and at the maximum distance from the front lot line.”

Lot 7A Harris North Mineral Creek Subdivision is a corner lot. As such, the legal rear lot line for this property is the property boundary between Lot 6, Block 4 Mineral Creek Subdivision and Lot 7A Harris North Mineral Creek Subdivision. Lot 7A Harris North Mineral Creek Subdivision is a replat of two lots that were originally platted for development. The applicant states *“The lot is a combined one from two lots creating a back end where there would have been a side. When I combined the two lots, it created a new set of setback rules.”*

The property is subject to a different minimum setback requirement for the setback that might be traditionally thought of as the side setback because it is a corner lot. Driveway access to the property is from Hanagita Street, which means that if the property were *not* a corner lot, the setback subject to this variance request would be considered a side yard setback, and the applicant would only be required to meet a 10’ minimum. While this is a different standard than the properties in R1 that are not corner lots, all other corner lots in the municipality are also subject to this standard. Because of this, staff feels that this fact does not rise to standard of an exceptional physical characteristic of the property that does not generally apply to other properties in the same zoning district.

3. 17.12.100 (D)(2) - Criterion 2: The strict application of the provisions of VMC Title 17 would result in practical difficulties or unnecessary hardship to the applicant.

John Harris has applied for a variance to construct a 28’ x 32’ personal garage structure that would encroach 5’ within the required 15-foot rear yard setback.

Additionally, accessory buildings are not permitted to exceed the height of the primary structure on the lot per VMC 17.80.220 (D) (4). The proposed accessory structure is 19’ 10” tall, and the existing primary structure (detached dwelling unit) is 19’ 1” tall.

The request is for a 5’ encroachment into the rear yard setback for this accessory building and for a variance to the specific use standards that states that accessory buildings cannot exceed the primary building in height.

The strict application of the provisions of this title would result in practical difficulties and unnecessary hardship because the applicant would be unable to construct an accessory storage building for their loader. The applicant states there is not enough room on the lot to accommodate the structure in another location, or in such a way that will prevent encroachment into the rear setback.

The applicant states *“I am trying to build a storage shed for my loader and I need it to be 32’ long otherwise my loader will not fit...if I am required to have a 15’ setback, the building would set too far into my circular driveway to properly access the loader.”* Not granting the variance to the requirement of accessory structures to be shorter than primary structures would result in practical difficulties to the applicant because the height of the proposed structure is designed to store the applicant’s loader.

4. 17.12.100 (D)(3)- Criterion 3: The granting of the variance or administrative adjustment will not result in material damage or prejudice to other properties in the vicinity nor be detrimental to the public health, safety, or welfare.

There is no evidence in the record to indicate that the granting of the variance will be detrimental to the public health, safety, or welfare or result in material damage to other properties in the vicinity. The roof of the proposed structure is designed to shed snow towards the public right-of-way on Hanagita Street, not towards the neighboring property. There is a 21' foot setback from the edge of the proposed structure and the side property line on Hanagita Street. Staff feels this is enough room to mediate any concerns about snow shed into the right-of-way. Additionally, the pitch of the roof is very low such that any shedding will be likely be gradual.

Allowing a variance to the accessory structure being taller than the primary structure by 9" will not materially damage any other properties in the vicinity nor be detrimental to public health, safety, or welfare, neither will allowing a 5' encroachment into the rear setback.

5. 17.12.100 (D)(4) – Criterion 4: The variance or the exception will not be contrary to the objectives of the comprehensive plan.

In reviewing the goals and objectives of the comprehensive plan, staff has not found evidence that the granting this variance request will be contrary to the comprehensive plan.

Staff Recommendation

Staff recommends that Variance 24-02 not be approved by the Planning & Zoning Commission because while three of the four required criterion are met by the applicant, there are no exceptional physical characteristics of the property that do not generally apply to other properties in the same zoning district, except for the fact that the property is a corner lot.