



Legislation Text

File #: 16-0064, **Version:** 1

ITEM TITLE:

(EXCEPT #16-01) Approval of Exception for Encroachment of Two Feet by an Existing House into the Western Side Yard Setback on Lot 9A, Block 7, Mineral Creek Subdivision. Applicant: Myrna Dahl.

SUBMITTED BY: Lisa Von Bargaen, Director

FISCAL NOTES:

Expenditure Required: N/A

Unencumbered Balance: N/A

Funding Source: N/A

RECOMMENDATION:

(EXCEPT #16-01) Approve Exception for Encroachment of Two Feet by an Existing House into the Western Side Yard Setback on Lot 9A, Block 7, Mineral Creek Subdivision.

SUMMARY STATEMENT:

The Commission held a public hearing on this item on July 27, 2016. One member of the public spoke in favor of the exception being granted. The remaining portion of this agenda statement remains unchanged from July 27th. The Findings & Conclusions for this item are attached.

The City produced an application for Myrna Dahl for an Exception for an existing house encroachment into the Western side yard setback for two feet on Lot 9A, Block 7, Mineral Creek Subdivision. The property is located at 107 Eklutna St. Staff researched the building file for the property and there was a building permit dated 8/8/66. A Certificate of Completion for the home was dated 8/22/67. A new garage permit was dated 7/30/68. The plot plan was approved 5/26/67. An as-built of the property was done 8/3/07 and there was no mention of the house encroachment into the western side yard setback. Staff noticed the encroachment on 6/28/16 when the owner came into the office to pull a permit to construct a shed. The house is only encroaching into the side yard setback and not someone else's property.

Valdez Municipal Code Section 17.06.050(2) outlines the standards for an exception as follows:

- a) There is adequate factual evidence to suggest that the building was erected in good faith and every intent of meeting the provisions of this title, and that the innocent error does not violate the spirit and intent of this title. **When the building permit was pulled in 1967 to construct the house the setbacks were smaller than our current setbacks, so the encroachment became grandfathered in. The remaining paperwork in the building file does not speak about the encroachment, nor were the current owners aware of this situation when they purchased the home and the as-built that was prepared in 2007 shows the house being 8 feet from the side yard property line on the Western side.**

- b) The granting of the exception will not result in material damage to other properties in the vicinity nor be detrimental to the public health, safety or welfare. **There is no damage resulting from this exception to the side yard setback. The encroachment is into the existing side yard setback and not the adjacent property. Granting the exception will “legalize” a non-compliant structure under the current setback distances allowed. Allowing the exception will ensure that the owners will not run into problems should they ever decide to sell the house and property.**
- c) The granting of the exception will not be contrary to the objectives of the comprehensive plan. **The exception is not contrary to the objectives of the Comprehensive Plan. Please see the relevant sections of the Comprehensive Plan listed below.**

Comprehensive Plan; Overall Goal

To create an atmosphere that will encourage stable economic development in Valdez while enhancing the quality of life. Improvements should be made to all elements that give the community its' character. This would include enhancing the economic productivity and diversification of the region to assure continued economic prosperity; providing for public safety and the economic welfare of the community when siting future industrial, commercial, residential, and public land uses; enhancing the scenic beauty, uniqueness and historic significance of the Valdez area; and opening up new land for residential, commercial, and industrial land.

Goal/Single-Family Residential Land Use: Provide safe, convenient, and attractive residential areas that protect and enhance property values while encouraging economies in necessary community expenditures for required community infrastructure and utilities.

Single-Family Residential Areas - The R-A (single-family residential) district is intended to include lands for urban development and which are provided with a full range of public utilities, including sewers, water, electricity and street drains or are intended to be provided with such utilities in the near future. This district is intended primarily for single-family dwellings, excluding mobile homes, at moderate densities. Structures and uses required to serve recreational, religious and other noncommercial needs of residential areas are allowed as permitted or conditional uses subject to restrictions intended to preserve the residential character of the R-A district.

Notices were mailed July 15, 2016 to property owners within a 300-foot radius and notice was published in the newspaper on July 13 and 20, 2015. Barring any complicating factors, action will be taken by the Commission at the first meeting in August 2016.