

TO: Planning Commission
FROM: Peter Gansen, Planning & Zoning Administrator
RE: Staff Report for V-24-009
DATE: August 14, 2024 Regular Meeting



Variance Application V-24-009
Applicant: Bonnie & Joseph Stroinski
Property Address: 30982 WOLF LN
Legal Description: LOTS 40 AND 41 FOURTEENTH ADDITION TO BREEZY POINT
Parcel ID: 10161523
Zoned: R-3 Original Neighborhood

- Applicant has filed the appropriate application.
- Applicant has paid the appropriate fee for the application.
- Public notice of the Hearing was published in the legal newspaper and all property owners within 350' were mailed a notice of hearing.
- Public notice was not given to the DNR, as the property is not in a shoreland overlay district.

Variance Request:

- Is requesting a variance from the required road right-of-way setback of 30ft setback to construct a 11.6ft x 13.9ft addition onto an existing non-conforming residence located 22.3ft from the road right-of-way.

Summary of the property

This property was platted\subdivided in 1964 as the 14th addition to Breezy Point Estates prior to land use ordinance adoption.

The property is in a residential neighborhood.

The adjacent neighbor's properties are similarly developed with single-family year-round residences.

The City has established structural setbacks from roads and associated right-of-way to keep travel corridors clear, promote safe travel, site lines at intersections and provide areas that do not have structures that could interfere with right of way maintenance and utilities etc.,

The proposed addition meets the right-of-way setback, however the existing structure does not and is therefore considered non-conforming and requires variance approval for any structural expansion.

This is common language in ordinances. It provides a mechanism that allows communities the opportunity to review additions to non-conforming buildings. If the structure is grossly non-conforming public safety hazard the community can disallow expansion.

On the other hand, some ordinances allow expansions without a variance to non-conforming buildings when setbacks can be met by the addition. This has proved to be problematic in cases where a city would not wish to allow or encourage an enlargement of a nonconforming use.

The Planning Commission should consider how approving this variance could affect the functional safety and maintenance of the right-of-way in this immediate area.

Staff see's no significant impact to the road right-of-way as the addition is meeting setbacks.

If the Commission applies the strict interpretation of Chapter 153 and the Codes of the City, the applicant would not be allowed to increase the size of the structure.

Due to the de minimis nature of the non-conformity and the addition meeting all setbacks staff recommends the Commission consider approval, based on the information presented at this time.

The following are recommended findings the Commission can adopt.

Notice of Decision and Findings of Fact

The Planning Commission shall consider the following in its decision and make written findings concerning the variance approval or denial.

- (1) The strict interpretation of the ordinance would be impractical because of circumstances relating to lot size, shape, topographic or other characteristics of the property not created by the land owner;

Yes, the structure was built non-conforming without anyone's knowledge.

- (2) The deviation from the ordinance with any attached conditions will still be in keeping with the spirit and intent of the ordinance;

Yes, the structures location is non-conforming, but the addition meets all setbacks.

- (3) The land use created by the variance is permitted in the zoning district where the property is located;

Yes, Seasonal/Year round residential use is allowed in the zoning district.

- (4) The variance will not alter the essential character of the locality;

Yes, the proposed request is residential similar to the adjacent neighbors and shares the same setback as the residence across the street.

- (5) The variance is not for economic reasons alone, but reasonable use of the property does not exist under the ordinance.

Yes, without the variance the landowner would not be allowed this addition. See findings 1-5.

The following are recommended conditions.

- 1) **None.**