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**From:** Jerry Bohnsack <[jbohnsack@cityofbreezypointmn.us](mailto:jbohnsack@cityofbreezypointmn.us)>

**Sent:** Tuesday, April 15, 2025 12:04 PM

**To:** Joseph J. Langel <[jjl@ratwiklaw.com](mailto:jjl@ratwiklaw.com)>

**Subject:** Lot split 10200612

Good Morning Joe

Breezy Point resident Gary Peterson 7602 Blackhawk Circle owns consolidated lots 8 & 9 Block 4 Whitebirch #4. The property currently hosts his principle structure ( house) , a detached garage , & a guest house/garage. The guest house/ garage is located approximately 75 feet +- from the house. Part of the house straddles the original lot line between the 2 lots.

The guest house/garage is 1020 square feet ( 30x34). Zoning of the property is R 1.

Mr. Peterson would like to split the property into 2 parcels . one parcel would contain the house & detached garage, the other would contain the guest house/garage.

Concerns R I Zoning 153.031

If a lot split was approved the guest house/garage would then be considered as the principal structure, 153.031 B 3

Dwelling must be 26 feet or wider must have foundation of 1296 sq feet or 975 sq feet with a minimum of 22x22 attached garage. Today the guest/house is considered a permitted structure (conforming),if lot is split, would it be considered a non- conforming structure?

Would this be considered a new subdivision, with larger lot size requirements? ( existing subdivisions 40,00 sq ft—new subdivisions 2.5 acres). Consolidated lots 104787 sq ft -2.4 acres.

Q should the city approve a lot split with these concerns?

Your guidance is greatly appreciated.

Jerry.

Jerry

**From:** Joseph J. Langel <jjl@ratwiklaw.com>  
**Sent:** Thursday, April 24, 2025 2:54 PM  
**To:** Jerry Bohnsack <jbohnsack@cityofbreezypointmn.us>  
**Subject:** RE: Lot split 10200612

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Hi Jerry,

This makes for an odd scenario under the City's existing zoning and subdivision ordinances.

Mr. Peterson owns two lots platted in 1978 that are consolidated for zoning purposes but which have never been formally re-platted. Now he wants to divide the consolidated lot using a line that does not correspond to the original lot lines because the house sits on that original line.

First, we need to figure out what lot standards apply. It's not clear how the performance standards for R-1 work under section 153.031(G) in terms of lot size. New subdivisions have to be 2.5 acres, that much is clear, but you state that "existing" subdivisions have to be 40,000 sq. ft. An existing subdivision lot is whatever size it was when it was platted, so when does this "existing" standard apply? When an existing lot is changed in some fashion? I don't know how City interprets this language.

If it is interpreted to apply to existing lots that are being changed in some fashion, then this might work as a replat of the original lots 8 and 9. Basically, the line will be redrawn to meet the square footage, lot width, building setback and other requirements. It would be tight to the existing house, but it looks like it might work. He would need to get a survey.

It does not appear that section 152.50 (lot line adjustments and consolidations) applies here because he's not creating a larger parcel.

It would require an actual re-plat, not a metes and bounds subdivision.

If done this way, the new parcel will have a non-conforming structure, which will then be subject to the rules for such structures.

Let me know if you have any questions.

Joe



Ratwik, Roszak & Maloney, P.A.

**Joseph J. Langel**

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Good Morning

I do not think that we have dealt with a request like this. The 40,000 square foot minimum is specified in the Lot size Dimension Chart 153.045 40,000 for existing subdivisions & 2.5 acres for new subdivisions.

The guest/house garage on the new parcel does not meet the minimum size for dwelling as per 153.031 B 3.

Rendering it a non-conforming structure?

The concern might be that this would create a way (lot split) to get a storage structure on a parcel without a primary structure.

Thoughts?

Jerry

**From:** Joseph J. Langel <jjl@ratwiklaw.com>

**Sent:** Monday, April 28, 2025 12:10 PM

**To:** Jerry Bohnsack <jbohnsack@cityofbreezypointmn.us>

**Subject:** RE: Lot split 10200612

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Jerry,

How has the 40,000 sq. ft. requirement in 153.031(G) been interpreted? See my original e-mail.

Also, I don't see an accessory structure without a principal here... isn't it a guest house/garage on the proposed new parcel?

Joe



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**From:** Jerry Bohnsack <jbohnsack@cityofbreezypointmn.us>

**Sent:** Monday, April 28, 2025 8:58 AM

**To:** Joseph J. Langel <jjl@ratwiklaw.com>

**Subject:** RE: Lot split 10200612

Thanks Joe

I am sure that the council would like a recommendation from you.

I think the concern is the creation of a non-conforming structure & a future way to circumvent accessory structures without principal structure.

## Jerry Bohnsack

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**From:** Joseph J. Langel <jjl@ratwiklaw.com>  
**Sent:** Tuesday, April 29, 2025 4:04 PM  
**To:** Jerry Bohnsack  
**Subject:** RE: Lot split 10200612

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Jerry,

My guess is that the 40,000 sq. ft. minimum is for modifying existing subdivisions, like the one at issue here. So any reconfigured lots have to be at least that size. I think this owner can satisfy that criteria. He can likely satisfy the lot width, building setback and other requirements as well, subject to proof via survey.

The existing building is a sticky issue. It's conforming now but non-conforming following the subdivision given its size. On the other hand, it is a permitted use (house – primary structure). The question, then, is whether a subdivision can be denied because it causes a conforming accessory structure to become a nonconforming principal structure. I see nothing in the subdivision ordinance that addresses this issue. And I understand the concern about allowing such subdivisions when there's a garage or shed at issue, so a subdivision would give rise to a structure that is not permitted.

Should the City be so inclined, an argument could be made that the City should not be creating nonconforming structures. It's one thing to allow structures that became nonconforming when the code was adopted; that occurred through no fault of the property owner and logically they should be allowed to continue to use them, subject to state and local restrictions. Here, the nonconformity does not exist and will only occur because of the direct result of the owner's desire to subdivide. It's contrary to general land use principles to create nonconformities for no reason other than a property owner's profit incentive. We can draft a resolution with that reasoning if an application is submitted. Perhaps he will not pursue it if told that it will likely be denied.

Joe

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**From:** Jerry Bohnsack <jbohnsack@cityofbreezypointmn.us>  
**Sent:** Tuesday, April 29, 2025 1:12 PM  
**To:** Joseph J. Langel <jjl@ratwiklaw.com>  
**Subject:** RE: Lot split 10200612