

TO: Planning Commission
FROM: Peter Gansen, Planning & Zoning Administrator
RE: Staff Report for V-24-010
DATE: September 10, 2024 Regular Meeting



Variance Application V-24-010
Applicant: B&C CONSTRUCTION LLC
Property Address: ASPEN LANE
Legal Description: LOT 82 & 83, FOURTH ADDITION TO BREEZY POINT ESTATES
Parcel ID: 10210849
Zoned: R-3 Unsewered 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 minimum non-conforming lot size requirement of 16,000 SQFT to approximately 15,314 SQFT to construct a residential dwelling.

Summary of the property

This property was platted\subdivided in 1963 as the 4th addition to Breezy Point Estates prior to land use ordinance adoption and minimum lot size requirements.

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 with minimum residential structure sizes and the proposed project appears to meet both these standards.

This property did have a prior variance approval for a similar structure. The applicant did not act on the approved variance within the allocated time frame and therefore nullified the prior variance.

Sunset clauses on variance are common language in ordinances. It provides a mechanism that allows communities the opportunity to review prior variance request if they are not acted up on in timely fashion.

For example: if a prior Commission granted a variance for something that does not meet today's standards the Commission does retain the power not allow the variance request based on today's circumstances. For example if someone wanted to enact a variance that was approved in 1989 would be the same thing be approved by todays standards.

Considering the length of time between the prior variance application, staff recommends the Commission consider approval of this request as the project appears to meet all other development criteria as it did in the prior variance.

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 lot would be considered undevelopable due to lot size.

- (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 structure's location is conforming, and the dimensions meet residential structure size requirements.

- (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 prosed 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 develop the property. See findings 1-5.

The following are recommended conditions.

- 1) **None.**