



To: Plan Commission

From: Ron Mentzer, Interim Community and Economic Development Director
Zoe Gates, Administrative Clerk

Date: August 8, 2024

Re: Scott McFedries Variances for 1940 Sybil Drive

Project Details

Project	Scott McFedries
Request	Multiple Variances
Location	1940 Sybil Drive

Site Details

Lot Size:	0.201 acres
Existing Zoning	R-1

Land Use Summary

Subject Parcel	Land Use	Comp Plan	Zoning
Subject Parcel	Single Family Residential	Single Family Residential	R1
North	Single Family Residential	Single Family Residential	R1
South	Single Family Residential	Single Family Residential	R1
East	Single Family Residential	Single Family Residential	R1
West	Single Family Residential	Single Family Residential	R1

Attachments

- Exhibit A – 1940 Sybil Drive Accessory Structure and Lot Coverage Analysis (8 1 2024)
- Application for Development for 1940 Sybil Dr.
- Plat of Survey of 1940 Sybil Dr.
- Letter from the Applicant dated 06/30/24
- Seven photographs of the existing property from the Applicant
- Letter from Carlos Torres dated 07/02/24

Project Summary

Property owner Scott McFedries (the “Applicant”) is seeking approval of numerous setback and lot coverage variances to sections 8.3-5, 8.3-6 a., 8.3-9.2 b., and 6.6-1 B of the Zoning Ordinance for a variety of accessory structures he has constructed on his property at 1940 Sybil Dr. without City permits. The requested variations are enumerated in the document labeled “1940 Sybil Drive Accessory Structure and Lot Coverage Analysis (8 1 2024)” and attached to this Staff Report as Exhibit A.

Analysis

In consideration of the request, the key points of discussion and details are as follows:

1. The Applicant acknowledges that all accessory structure construction work associated with the current variation requests was performed without permits and the recent replacement of the pool and surrounding patio was also begun without a permit.
2. As part of his variation application package, the Applicant submitted the letter with a hand written date of June 30, 2024, to (i) explain his variation requests and (ii) outline his desire to reinstall his brick paver patio around his new pool but willingness to eliminate it if required to significantly reduce the degree of lot coverage variation required. Exhibit A documents the Applicant’s requested lot coverage variation with and without this patio.
3. City Engineer Wiedeman and Building Commissioner Seeman have inspected the property and determined that the various accessory structure encroachments on the public utility and drainage easement along the east (rear) property line are not currently affecting water drainage and the underground electrical lines as marked by JULIE are at least 5’ from the edge of the pool as is required by ordinance.
4. While the city does **not** have the authority to approve an accessory structure encroachment onto another property, the property owner to the north has given written permission for the applicant’s existing decks to encroach onto his property (see 7.2.2024 letter from Carlos Torres included in the supporting application documents for this case).

5. There are some similarities between this variation application and the zoning variations the Plan Commission recommended approval of on March 14, 2024, and the City Council approved in April 2024 with Ordinance 1977. The variations approved under Ordinance 1977 allowed a very large shed the owner of 2001 Noonan constructed without a permit in a utility and drainage easement and within the required rear and side yard setbacks to remain in the original illegal location it was constructed at. The City's approval of variation Ordinance 1977 was conditioned on:
 - a. "The applicant acknowledges this accessory structure is located in a stormwater and public utility easement and that the installation of the accessory structure at this location is at his own risk."
 - b. "If the City or another authorized utility company needs to access, maintain, install, or repair any utilities within the easement area, it is understood that the accessory structure may be impacted and may be required to be moved. Any and all restoration costs of work done in the easement area shall be solely the responsibility of the Owner and not the responsibility of the City or the utility company".

Staff recommends any PC recommendation to approve variations that would allow accessory structures to remain or be reinstalled in the utility easement include similar conditions along with a condition that requires the Applicant to obtain building permits for all accessory structures that will be allowed to remain on the property.

Section 12.6-2 of the Zoning Ordinance states the Plan Commission shall recommend, and the City Council shall grant a variation only when it shall have been determined, and recorded in writing, that all of the following standards are complied with:

1. That the property in question cannot yield a reasonable return if permitted to be used only under the conditions allowed by the regulations in that zone;
2. That the plight of the owner is due to unique circumstances; and
3. That the variation, if granted, will not alter the essential character of the locality.

For the purpose of supplementing the above standards, the Plan Commission, in making the determination, whenever there are particular hardships, shall also take into consideration the extent to which the following facts, favorable to the applicant, have been established by the evidence:

1. That the particular physical surroundings, shape, or topographical condition of the specific property involved would result in a particular hardship upon the owner, as distinguished from a mere inconvenience, if the strict letter of the regulations were carried out.
2. The conditions upon which the petition for a variation is based are unique to the property owner for which the variation is sought and are not applicable, generally, to the other property within the same zoning classification.
3. That the alleged difficulty or hardship is caused by the Ordinance and has not been created by any person presently having an interest in the property.

4. That the proposed variation will not impair an adequate supply of light and air to adjacent property or substantially increase congestion in the public streets or increase the danger of fire, or endanger the public safety, or substantially diminish or impair property values within the adjacent neighborhood.
5. That the variation does not permit a use otherwise excluded from the particular zone except for uses authorized by the Plan Commission, subject to the approval of the City Council, as "similar and compatible uses."
6. That the variation granted is the minimum adjustment necessary for the reasonable use of the land.
7. That the granting of any variation is in harmony with the general purposes and intent of the Zoning Ordinance, and will not be injurious to the neighborhood, be detrimental to the public welfare, alter the essential character of the locality, or be in conflict with the Comprehensive Plan for development of the City.
8. That, for reasons fully set forth in the recommendations of the Plan Commission, and the report of the City Council, the aforesaid circumstances or conditions are such that the strict application of the provisions of the Zoning Ordinance would deprive the applicant of any reasonable use of his land. Mere loss in value shall not justify a variation; there must be a deprivation of beneficial use of land.

In addition, the City Council, upon the recommendations of the Plan Commission, may impose such conditions and restrictions upon the premises benefited by a variation as may be necessary to comply with the standards established in this Section to reduce or minimize the effect of such variation upon other property in the neighborhood, and to better carry out the general intent of this Ordinance.

Please contact Ron Mentzer at 815-741-5107 or rmentzer@cityofcresthill.com with any questions or concerns.