

Staff Report

Subject: Variance (Fifth District)
Author: Katie Dunnigan, Zoning Manager
Department: Development Services
Meeting Date: April 04, 2023

Item Description: **Wesley Neurath** requests a **variance** from section 3.3.2(A), which restricts placement of secondary buildings on property before a primary structure is in place. Located on Nellie Road, zoned **AR-2. Map#461 Parcel#27C**

Summary Recommendation

Staff has reviewed the application, and recommends **denial** of the request **variance** from section 3.3.2(A), to waive the restriction on placement of secondary buildings on property before a primary structure is in place.

Executive Summary/Background

- Pursuant to Appendix C-Zoning Ordinance, Article VII-Planning Board, Section 7.1.8, variances may only be granted if the following findings are made:

That there are unique physical circumstances or conditions, including irregularity, narrowness, or shallowness, of lot size or shape, or exceptional topographical or other physical conditions peculiar to the particular property, and that the unnecessary hardship is due to such conditions, and not to circumstances or conditions generally created by the provisions of the zoning ordinance in the neighborhood or district in which the property is located; and

That because of such physical circumstances or conditions, there is no possibility that the property can be developed in strict conformity with the provisions of the zoning ordinance, and that the authorization of a variance is therefore necessary to enable the reasonable use of the property.

- Accessory or secondary buildings are permitted on a lot prior to construction of a primary structure only in AR-1, when the property is at least 5 acres and not in a platted subdivision.
- There are no environmental or topographical conditions that require placement of a structure on this site, rather than the homesite.
- The accessory building can be placed on the applicant's homesite at 161 Nellie Road (461-27A), or the parcel can be recombined with the applicant's homesite.
- This parcel accesses Nellie road via an access easement. The parent parcel was rezoned and subdivided, and a variance to the private road limitation on lot numbers was approved, on March 1, 2022. Approval of the rezoning to AR-2, and variance from private road lot number restrictions, was conditional on meeting AR-2 zoning district requirements.
- At the March 14, 2023 Planning Board meeting, Mr. Brad Smith made a motion for approval, with conditions:
 1. The accessory structure shall meet the setback requirements for a principal structure.
 2. A wetlands delineation performed by a certified wetlands specialist must be submitted, and show precise distance from the wetlands to the proposed structure, prior to review of the permit application.
 3. The accessory structure may not be used for any type of commercial operation, except as provided for in section 3.15A and 3.15B.
- The motion was seconded by Mr. Alan Zipperer, and carried unanimously.

Alternatives

1. Approve the request for a **variance** from section 3.3.2(A), with the following conditions:

1. The accessory structure shall meet the setback requirements for a principal structure.
2. A wetlands delineation performed by a certified wetlands specialist must be submitted, and show precise distance from the wetlands to the proposed structure, prior to review of the permit application.
3. The accessory structure may not be used for any type of commercial operation, except as provided for in section 3.15A and 3.15B.

2. Deny the request for a **variance** from section 3.3.2(A).

Recommended Alternative: 2

Department Review: Development Services

Attachments:

1. Variance application
2. Ownership certificate/authorization

Other Alternatives: 1

FUNDING: N/A

3. Site Plan
4. Aerial photograph
5. Deed