

**CITY OF SUMNER
COMMUNITY DEVELOPMENT DEPARTMENT**

EXHIBIT # 1

STAFF REPORT TO THE HEARING EXAMINER

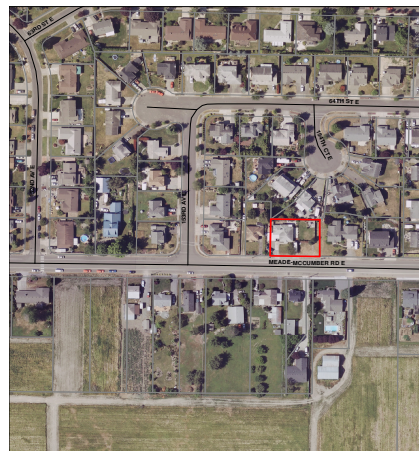
Project No:	PLN2010-00007
Property Owner:	Peter and Jamie Voiles
Project Location:	15319 Meade-McCumber Road East
Date of Hearing:	April 26, 2010 @ 3:30PM
Components:	Setback Variance Request
Staff Representative:	Eric Mendenhall, Associate Planner
Description:	Request to reduce the rear yard setback from 30' to 13'
Recommendation:	Deny

ATTACHMENTS:

1. Application letter responding to the variance criteria
2. Zoning Code Interpretation
3. Orthophoto with setbacks
4. Site plan

1. BACKGROUND

a. Site Location



b. Proposal Description

The proposal is to reduce the rear yard setback on the north side of the property from 30' to 13' to accommodate a 663 square foot addition to the existing 1,422 square foot single-family residence.

c. Vicinity Description

The site is located in a Low Density Residential 8,500 (LDR-8.5) zone on Meade-McCumber Road East. The site currently has a 1,422 square foot single-family residence, built in 1946 and updated in 1975 per Pierce County Assessor records. The uses in the vicinity are single-family residential zoned uses in all directions.

The proposal is in the vicinity of the following land uses:

- * North: Single-family residential.
- * East: Single-family residential.
- * South: Single-family residential.
- * West: Single-family residential.

2. ENVIRONMENTAL REVIEW

a. State Environmental Policy Act (SEPA) Review

SEPA is exempt for this type of development (WAC 197-11-800)

3. PHYSICAL FEATURES

a. Topography and Hydrology

The site is flat. There is not a designated shoreline as defined by the Sumner Shoreline Master Program within 200 feet of the site. There are no hydric soils or wetlands as defined by the National Wetlands Inventory or the 1990 Sumner Wetlands Inventory as contained in the Sumner Comprehensive Plan Final Environmental Impact Statement.

b. Social Features

Access to the site would be provided by a private driveway directly off of Meade-McCumber Road East. Municipal water, storm sewer and sanitary sewer service are available from the City of Sumner.

4. NOTICE

The proposed variance request is classified as a Type IV decision in accordance with SMC 18.56.030(G).

a. Notice of Application

The Notice of Application was posted on site, posted at Sumner City Hall, and published in the official city newspaper, *Tacoma News Tribune*, on 4/16/2010 in accordance with SMC 18.56.075.

b. Notice of Hearing

The Notice of Hearing was published in the official city newspaper, *Tacoma News Tribune*, on 4/16/2010 and posted on site, posted at Sumner City Hall, and mailed to all property owners within 500 feet of the proposal on 4/16/2010 in accordance with a Class "D" notice per SMC 18.56.070 (B)(4).

5. COMPREHENSIVE PLAN

The site is designated Low Density Residential 2. This designation provides for primarily single-family dwellings in areas with current or planned access to City facilities and services. At the higher end of the density range (LDR-2), (7 du/acre +) public transit can more easily be supported. Low density residential uses provide a transition from rural residential to higher density uses. Primary uses include detached single-family residential dwellings, private garages, and other accessory buildings. Secondary allowed uses include attached single-family units, accessory units ("mother-in-law units"), adult family homes, public and private educational facilities, utilities subject to compatibility criteria, and churches and religious institutions.

The following are policy statements in the Sumner Comprehensive Plan that support this proposal.

a. Land Use Sub-Element

1. Provide for orderly development within the Sumner community.
 - 1.1 Ensure that appropriate transitions so that more intensive uses do not adversely impact adjacent uses.
 - 1.1.1 Maintain the design guidelines and ordinances to achieve compatible and attractive new residential, commercial, and industrial uses.
 - 1.7 Ensure new development is consistent with the policies of this Plan through implementation or regulations, programs, and project specific review.

b. Community Character Element

- 1.7 Preserve the single-family residential scale and historic character of existing streetscapes through various means such as floor area ratio and setback requirements.

c. Housing Element

1. Encourage the maintenance and preservation of existing housing stock and residential neighborhoods.
 - 1.1 Encourage private reinvestment in older residential neighborhoods and private rehabilitation of housing, such as temporarily waiving permit fees, completing public works projects, etc.

6. ZONING

The site is zoned Low Density Residential 8,500 (LDR-8.5). *The purpose of the LDR districts are to stabilize and preserve low density residential neighborhoods, to create a stable and satisfying environment for family life and to prevent intrusions by incompatible land uses (SMC 18.12.010).*

The proposal is to reduce the rear yard setback on the north side of the property from 30' to 13' to accommodate an addition to the master bedroom of the single-family residence in the LDR-8.5 zone.

7. DEPARTMENTAL COMMENTS

Comments have been solicited from the applicable City departments and integrated into this staff report.

8. REVIEW CRITERIA AND DISCUSSION

In accordance with chapter 18.56 SMC, a variance request requires a public hearing before the Hearing Examiner followed by written findings and a decision. The Hearing Examiner shall be guided by the following criteria in granting a variance request:

SMC 18.50.030. (Variance request for reduction in minimum rear yard setback requirements.)

- A. *The variance shall not constitute a grant of special privilege inconsistent with the limitation upon uses of other properties in the vicinity and in the zone in which the subject property is located; and*

Discussion: The adjacent parcels are zoned the same, LDR-8.5 and have the same required setbacks for any proposed addition. At the time the preliminary and final plat were approved the reduced setback for this lot was approved for the existing residence, thus creating the non-conformity. The neighboring homes have rear yard setbacks that range from 20 feet to 65 feet. The property in the request has the narrowest setback of the neighboring properties and an increased nonconformity would grant a special privilege to this lot that is not available to properties in the vicinity and zone.

- B. *Because of special circumstances relating to the size, shape, topography, location or surrounding of the subject property, which were not created by the owner or applicant, the strict application of the applicable land use regulations would deprive the property of rights and privileges enjoyed by other properties in the vicinity and in the zone in which the subject property is located; and*

Discussion: As previously stated the non-conformity was not created by the applicant, but was part of the platting process in 1992. The applicable land use regulations would not deprive the subject property of rights and privileges enjoyed by other properties in the vicinity and would not deprive the property of the same size of addition located within the required setbacks. There is approximately 2,832 square feet of area the addition could go if located in a different location on the subject property.

- C. *The granting of such variance will not be materially detrimental to the public welfare or injurious to the property or improvements in the vicinity and in the zone in which the subject property is situated; and*

Discussion: The proposal would increase an existing non-conformity. It is unclear to staff if allowing the increased non-conformity would be materially detrimental to the public welfare or injurious to the property or improvements in the vicinity and in the zone in which the subject property is situated.

- D. *The authorization of such variance will not adversely affect the implementation of the Sumner comprehensive plan and subsequent regulations; and*

Discussion: The approval of this variance will adversely affect the implementation of the Sumner Comprehensive Plan. As listed above the in section 5 the Land Use, Community Character, and Housing Elements of the Comprehensive Plan encourage implementing the regulated setbacks, preserving existing single-family residential scale and character. Per SMC 18.46.050(A) “Nonconforming structures,” no such structure may be enlarged or altered in a way which increases its degree of nonconformity. Alterations, additions or enlargements may be allowed as long as the work done does not extend further into any required yard or violate any other portion of this title. As proposed the addition would extend further into a required yard and therefore violate both chapters 18.46 and 18.12 SMC.

- E. *The literal interpretation and strict application of the applicable land use regulations would cause undue and unnecessary hardship; and*

Discussion: The existing structure is considered legally nonconforming; therefore, SMC 18.46.050 applies for any proposed additions or alterations to such structures. Per SMC 18.46.050(A) no such structure may be enlarged or altered in a way which increases its degree of nonconformity. Alterations, additions or enlargements may be allowed as long as the work done does not extend further into any required yard or violate any other portion of this title.

In 2001 the Community Development Director issued a Zoning Code Interpretation regarding this section of code that states, “A structure that is located in the required yard is nonconforming. Enlarging or expanding a nonconforming structure horizontally along the property line of the existing building would occupy a greater portion of the required yard.

Enlarging or expanding the structure vertically would ‘increase the degree of nonconformity’ because it would increase the area of structure located within the required yard. Therefore, if a structure intrudes into a required yard, it may not be enlarged within the required yard. In short, any additions, alterations or repairs to a nonconforming structure must comply with the provisions of this Title for new construction.”

Per the site plan provided by the applicant there is approximately 2,832 square feet of area the addition could go if located in a different location on the subject property. Therefore, there is no unnecessary hardship to provide additional square footage to the single-family residence.

F. The requested variance does not go beyond the minimum necessary to afford relief.

Discussion: The proposed request goes beyond the minimum necessary to afford relief as there is an existing single-family residence onsite, and the proposed request is not necessary to provide an addition to the single-family residence as there is unused buildable area onsite outside of the required rear yard.

9. STAFF RECOMMENDATION

Proposal PLN2010-00007 of a variance request to reduce the required rear yard setback standards per SMC 18.12 should be ***DENIED*** by the Sumner Hearing Examiner, based on the above analysis.