



MAYOR AND COUNCIL COMMUNICATION

DATE: 10/4/2016

CONSENT

ITEM #:

AGENDA ITEM: Horning Lot Size Variance – Krause’s Addition, Lot 9

SUBMITTED BY: Emily Becker, City Planner

THROUGH: Kristina Handt, City Administrator

REVIEWED BY: Stephen Wensman, Planning Director

BACKGROUND:

The subject property, located near the intersection of Jane Road and Jamaca Avenue, was granted a variance from the minimum lot size requirements by Resolution 2014-22 in April of 2014. This Resolution also granted a variance from Section 154.017 of the Zoning Code, which states that any variance granted by the City “shall expire if work does not commence within 12 months of the date of the granting of the variance.” Rather than 12 months, the Council approved variance expires if work does not commence within five years of the date of the granting of the variance.. The applicant, Suzanne Horning, has requested the variance be granted in perpetuity as she wishes to convey the property to her children as an inheritance, but keep the property as open space until then.

ISSUE BEFORE COUNCIL:

The Council is respectfully requested to consider, as part of tonight’s consent agenda, the request for a variance for the subject property from the minimum lot size requirements and time period for which a variance is valid.

PROPOSAL DETAILS/ANALYSIS:

Requirements:

- The property is located in the RS – Rural Single Family zoning district, which requires a minimum lot size of 1.5 acres.
- Section 154.080 of the Zoning Code states that an existing lot of record may be used for single-family detached dwelling purposes, provided the area and lot width are within 60% of the minimum requirements of the Code.
- Therefore, in order for a an existing lot of record of record to be used for single-family detached dwelling purposes in the RS zoning district, such a lot must be at least 0.9 acres.
- The subject lot is 0.785 acres, which is smaller by 0.115 acres than minimum requirements for it to be used for a single-family detached dwelling purposes. The subject lot meets the lot width requirements.

Subject Property:

- The lot was platted in 1963 as part of Krause's Addition.
- The subject property, along with 8991 Jane Road (across the street, occupied by the applicant), has been under common ownership since 1979. The applicant bought the subject property when it was considered a buildable lot; has been under the impression since this time it was a buildable lot; and has paid taxes for a buildable lot for more than 25 years.
- The property has been granted two variances – one in 1985 and one in 2014.
- The subject lot is currently used as open space/recreation with a tennis court. No home has ever been constructed on this property.
- The most recent variance was granted for a period of five years, after which it expires, as it was believed that five years was a "reasonable" time period within which construction could commence.
- The variance will expire in about two and a half years. The applicant would like to continue using the property as open space/recreation until conveying it to her children as an inheritance. In the mean time, she does not want to have to continually renew the variance nor does she want her children go through the process in the future until they decide to build. As such, the applicant has requested the variance be granted in perpetuity.

Planning and Zoning Issues:

- The City Attorney has verified that a variance may be granted in perpetuity because variances, by nature, run with the land.
- A variance cannot be amended, so a new variance, by a new Resolution, must be granted in order to be valid.
- There are no plans to develop the lot, therefore, it may be reasonable to waive the requirement of continual re-application unless a change is made that would rezone, re-guide, or put forth more restrictive regulations in the zoning district in which this property is located.
- Any construction on the lot will need to comply with setbacks, impervious surface restrictions, and shoreland district requirements.
- A drainage easement should be provided, as approved by the Engineer, to protect drainage areas in the west and northwest area of the lot which will inhibit construction. Staff has met with the applicant to ensure there is an understanding of requirements that will need to be met before construction may begin.
- The subject parcel is large enough to meet the City's minimum requirement of 20,000 square feet for a primary and secondary septic system site, depending on home design and location. The applicant has provided a septic system analysis documenting that a system compliant with Washington County regulations may be constructed on the property.
- Surrounding, riparian lots are similar in size to the subject parcel, ranging from 0.26 acres to 1.9 acres. Each lot within 1000 feet have homes built upon them.
- The applicant would like to use the property as open space until conveying the property to her children who may construct a single-family dwelling in the future. The Rural Single Family zoning district permits both of these uses.
- Staff has found that there are approximately 190 vacant, existing lots of record that do meet minimum requirements to be used as single-family detached dwellings. Only 9% of these lots are more than 0.7 acres in size.

Required Findings:

- The attached resolution details recommended findings.

Conditions:

- The conditions of the previously granted variance mostly pertain to requirements for obtaining a building permit. These conditions have all been added to the proposed new Resolution approving the subject variance. The new Resolution deems the variance valid into perpetuity unless there are changes to the subject property's guided use or zoning. The last condition listed still needs to be verified by the Finance Director, as it has not yet been determined if there are unpaid 2012 Jane Road project assessments. The recommended conditions of approval are detailed in the attached Resolution.

FISCAL IMPACT:

The proposed variance is not expected to create significant fiscal impact. The site has been assessed as a buildable lot for over 25 years.

PLANNING COMMISSION/PUBLIC HEARING:

A public hearing was held on the proposed variance at the September 12, 2016 Planning Commission meeting. The meeting minutes are attached to this report. At the meeting, the applicant's son and daughter spoke on behalf of the applicant. Nobody from the public spoke during the public hearing, however, staff received one comment prior to the meeting from a resident concerned that the variance will set a precedent allowing other smaller lots to become buildable. The Planning Commission recommended approval (7-0) with one added condition.

OPTIONS:

The Council may:

- Approve the variance request.
- Deny the variance request.

RECOMMENDATION:

Staff respectfully requests that the Council approve, as recommended by the Planning Commission and as part of tonight's consent agenda, the request made by Suzanne Horning for a variance from the City's minimum lot size requirements and time period within which construction must commence after a variance is granted, subject to conditions of approval. If removed from the consent agenda, the approval may be made with the motion:

“Move to approve Resolution 2016-__ approving a variance from the minimum lot size requirements in the RS – Rural Single Family Residential zoning district and from the maximum time of one year for which a variance is valid for Lot 9, Krause's Addition, subject to the conditions of approval.”

ATTACHMENTS:

- Resolution 2016-

- Variance application and materials
- Planning Commission meeting minutes (9/12/16)
- 2014 Variance Request Materials and City Council and Planning Commission Meeting Minutes