



STAFF REPORT

DATE: 8/26/19

REGULAR

ITEM#: 4 – PUBLIC HEARING

MOTION

TO: Planning Commission
FROM: Ben Prchal, City Planner
AGENDA ITEM: Variance Requests - 9447 Stillwater Blvd.
REVIEWED BY: Ken Roberts, Planning Director

BACKGROUND:

The City has received variance requests from applicant Todd Alguire for the property located at 9447 Stillwater Blvd. The request of the applicant is for a variance from the City Code requirement of not allowing an accessory building closer to the front lot line than the principle building. Staff met with the resident and discussed with them the constraints of the site. The initially proposed location would have required two variances, one for the front lot line and the second for the setback to the OHWL of Freidrich pond. These conversations lead the applicant to shift the shed so that only a variance would be required from the front lot line. Beyond this the applicant is also seeking a variance for the height of the structure.

ISSUE BEFORE COMMISSION:

The Commission is being asked to hold a public hearing, review, and make a recommendation(s) on the requested variances.

REVIEW/ANALYSIS:

<i>PID</i>	15.029.21.34.0007
<i>Existing Land Use/Zoning:</i>	Single-family zone as Rural Single Family.
<i>Surrounding Land Use/ Zoning:</i>	Single family homes zoned as Rural Single Family.
<i>History:</i>	There are not substantial records for the property in the City Files.
<i>Deadline for Action:</i>	Application Complete – 7/27/2019 60 Day Deadline – 9/25/2019 Extension Letter Mailed – N/A 120 Day Deadline – N/A
<i>Applicable Regulations:</i>	<ul style="list-style-type: none"> • Article V - Zoning Administration and Enforcement • Article XVIII – Shoreland Management Overlay District • Article XI – Rural Districts

PROPOSED VARIANCES

Variance Requests. The applicant is requesting to build an accessory building closer to the front lot line than the principle structure. The City Code addresses accessory building and currently proposed design would also exceed the maximum allowed height of 22 ft. Accessory structures are limited to 22 ft. or the principle structure, whichever is more restrictive. The needed variances are outlined in the tables and an in-depth explanation is provided below the tables.

Standard	Required	Proposed
Setback from the Front Property Line.	30 ft. Or The Principle Structure	342.1 ft. Closer to the Front lot line than the home.
Structure Height	22 ft.	25 ft.

Standards Met. The following table outlines the standards that are met on the property.

Standard	Required	Proposed
Allowed Structure Size (6.6 Acres)	2,000 sqft. Or Footprint of the Principle Structure	1,600 sqft.
Structure setback from OHWL of Recreational Development (RD) Lake	150 feet (66.5 average)	150.5 feet
Drainfield setback from occupied structure	20 feet	25 feet
Side yard setback	10 feet	42 feet
Front yard setback	30 feet	342.1 feet
Rear Yard setback	40 feet	61 feet

Reason for Variance Requests

The applicant is requesting the variance for the structure to be located closer to the front lot line because of the geographic features of the lot and location of the home leaves very limited space behind the home. Furthermore, the applicant is also requesting a variance from the structure height requirement. The applicant would like to build a two story shed and has met the requirement that the structure cannot be taller than the principle structure but the code places a second limiting factor, stating that accessory buildings also cannot be taller than 22 ft. The applicable sections of code will be outlined below.

APPLICABLE CODE

154.40 Accessory Structures, Rural Districts:

When reviewing the criteria for an accessory structure Staff will go to a few different sections of the City Code. However, the applicant is only needing a variance for two items, both listed in 154.406.

Height:

The important point here is that the applicant has designed the shed so that it would not exceed the height of the principle structure. With the home being 29½ ft. in height the accessory structure was designed at 29 ft. in height. However, the code also reads that accessory buildings cannot exceed 22 ft. in height. The current design exceeds the maximum height allowance by 7 ft. Because of this, a variance is being sought for the proposed height of the accessory structure.

154.406 Accessory Structures, Rural Districts.) C.

Structure Height, Rural Districts. No accessory building shall exceed twenty-two (22) feet in height or the height of the principal structure, with the exception of agricultural buildings, as defined in §154.213.

Building projections or features on accessory structures that are not agricultural buildings, as defined in §154.213, such as chimneys, cupolas, and similar decorations that do not exceed twenty-five (25) feet in height are permitted in rural districts.

154.213 Accessory Buildings and Structures, Generally.) B. Definitions.

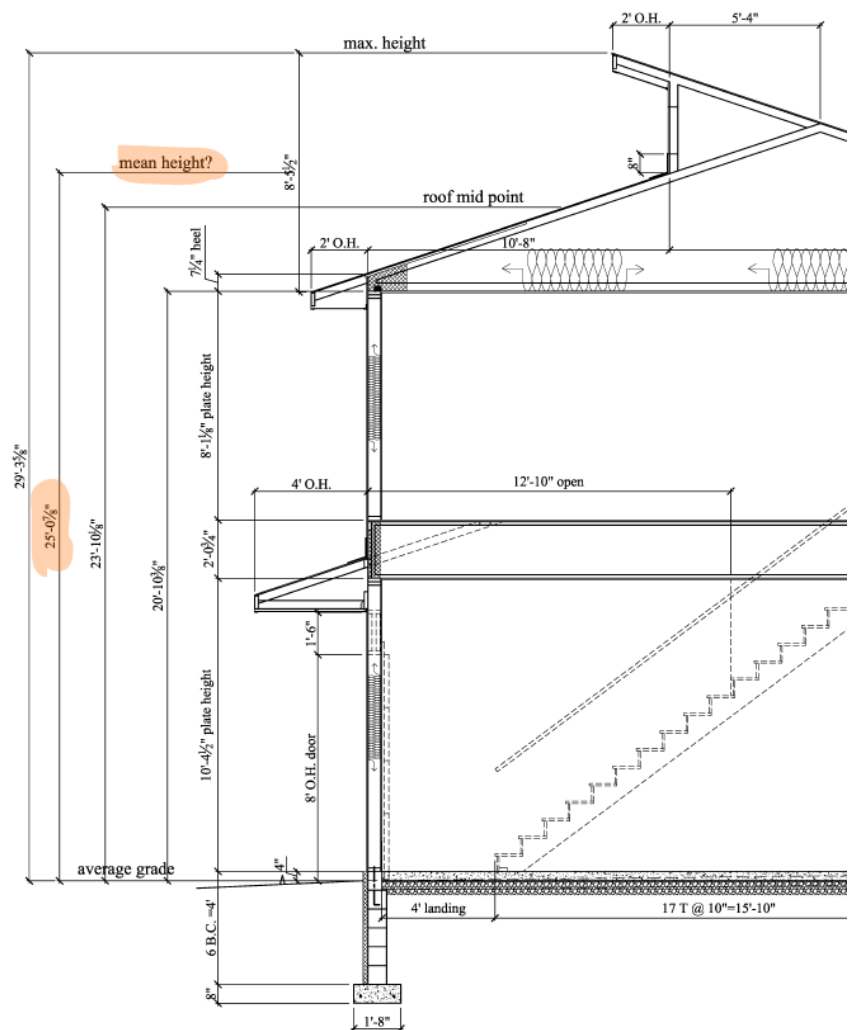
Agricultural Building. An accessory building means a structure that is on agricultural land as determined by the governing assessor of the City under section 273.13, subdivision 23 and meets all other requirements of State Statute 362B.103. A Minnesota Pollution Control Agency permit may be required.

BUILDING HEIGHT. The vertical distance from the average of the highest and lowest point of grade for that portion of the lot covered by building to the highest point of the roof for flat roofs; to the roof deck line of mansard roofs; and to the mean height between eaves and highest ridge for gable, hip, and gambrel roofs.

When reviewing accessory building requests Staff has uses the “Building Height” definition as the standard for determining the height of structures. The diagram to the right lists out the different measure points that are listed out in the definition. If the height variance is denied for the applicant, there would be the option to seek out Washington County and consult with them on having the property reclassified as outlined in section 154.213. If that were to happen Staff does not necessarily see why the applicant would be restricted to the 22 ft. height requirement.

At this point Staff does not believe the request to have a structure taller than what is allowed meets the criteria for variance approval. However, the last sentence in section 154.406 does allow structures to exceed the 22 ft. height requirement with specifically listed items. If the Commission believes that the upper roof/window qualifies as a decorative attachment this could put the applicant in a more favorable position. If this is determined to be

the case then the highest point would be measured at a lower position which would bring all the other measurements down. Then the projection would have to be reduced down to 25 ft. Staff does believe there would be grounds to make this determination as the applicant has added this window to match the design of the home, constituting a “similar decoration.”



Setback:

As previously noted accessory buildings cannot be located closer to the front property line than the principle structure. Geographic constraints coupled with the location of the home would make construction in the side or rear yard difficult. There is also a shared driveway for the property addressed as 9495 Stillwater Blvd. This driveway is on the east side of the home, placing a structure on the east side of the lot would drastically impede the function of the driveway.

154.406 Accessory Structures, Rural Districts.) D. Structure Location, Rural Districts. No detached garages or other accessory buildings shall be located nearer the front lot line than the principal building on that lot.

**AGENCY REVIEW**

There have not been any comments submitted from other agencies or departments.

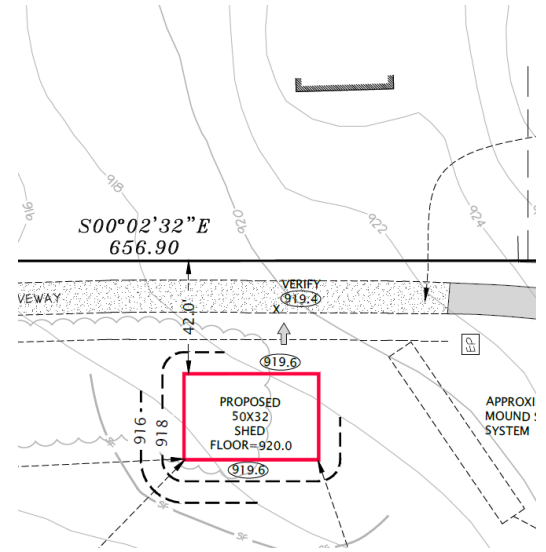
RECOMMENDED FINDINGS

An applicant must establish and demonstrate compliance with the variance criteria set forth in Lake Elmo City Code Section 154.017 before an exception or modification to city code requirements can be granted. These criteria are listed below, along with comments from Staff regarding applicability of these criteria to the applicant's request.

- 1) **Practical Difficulties.** A variance to the provision of this chapter may be granted by the Board of Adjustment upon the application by the owner of the affected property where the strict enforcement of this chapter would cause practical difficulties because of circumstances unique to the individual property under consideration and then only when it is demonstrated that such actions will be in keeping with the spirit and intent of this chapter. Definition of practical difficulties - "Practical difficulties" as used in connection with the granting of a variance, means that the property owner proposes to use the property in a reasonable manner not permitted by an official control.

FINDINGS:

- **Variance for Height of Structure:** *The applicant has attempted to design the structure in a way that would mimic the design of the home. Although the building exceeds the 22 foot height requirement the structure was designed to be visually pleasing by matching the principle structure. Because the resemblance is similar to the principle building the request does appear to be reasonable.*
- **Variance for Accessory Building Setback:** *The request does appear to be reasonable because any other location meeting the code requirements would not be possible. The 150 setback requirement from the lake would make placement behind the home on the west side impossible and placing the structure on the east side of the home would interfere with the shared driveway to the home south of the property (9495 Stillwater Blvd.). The applicant would be hard pressed to locate a building site that would not require a single variance. Because of this Staff believes this criteria is met.*



- 2) **Unique Circumstances.** The plight of the landowner is due to circumstances unique to the property not created by the landowner.

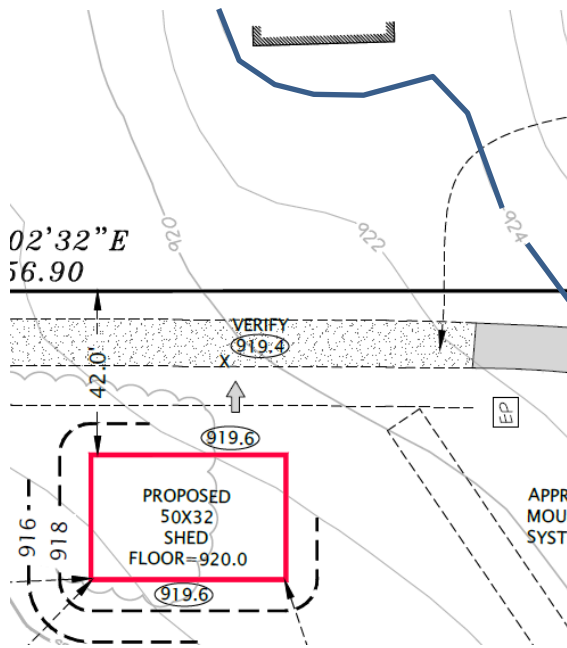
FINDINGS:

- **Variance for Height of Structure:** *Staff has had difficulty determining the unique circumstance that would warrant approval of the structures height. The property is not currently used for agricultural purposes, beyond personal enjoyment. Geographically the build site is relatively flat so there is not a conflict when measuring the height of the building. Staff does not believe this criteria is met.*
- **Variance for Accessory Building Setback:** *The current structure was built prior to the current owner so there is no way the applicant would have been able to suggest a different building location for the principle structure to avoid the need for this variance. Beyond limited space in the rear of the home Friedrich Pond requires a 150 ft. buffer which is impossible to meet if the structure were to be placed in the rear yard. Furthermore, the structure would severely impede the function of the driveway if the shed were located on the east side of the home. Staff believes this criteria is met.*

- 3) **Character of Locality.** The proposed variance will not alter the essential character of the locality in which the property in question is located.

FINDINGS:

- **Variance for Height of Structure:** *Although the structure may be measurably taller than some of the neighboring homes, according to the survey the foundation would be about 4 feet lower than the neighboring homes foundation. Staff believes this criteria is met.*
- **Variance for Accessory Building Setback:** *Although the structure would be located in front of the home, the proposed building location would not change the character of the local area. Staff believes this criteria is met.*



- 4) **Adjacent Properties and Traffic.** The proposed variance will not impair an adequate supply of light and air to properties adjacent to the property in question or substantially increase the congestion of the public streets or substantially diminish or impair property values within the neighborhood.

FINDINGS.

- **Variance for Height of Structure:** *The structure would not be of such a height that it would begin to shade neighboring properties or structures, nor would it impair air flow. Furthermore, the height would not cause an increase of traffic or congestion of traffic.*
- **Variance for Accessory Building Setback:** *The location of the structure would not shade the neighboring properties or structures, nor would it impair air flow. Furthermore, the location would not cause an increase of traffic or congestion of traffic.*

RECOMMENDED CONDITIONS

1. That the Applicant obtain all applicable permits including but not limited to a City building permit including a grading, erosion control, and storm water management plan approved by the City Engineer.
2. That the Applicant must reduce the height of the building to 22 ft. unless the property is reclassified to Agricultural. If reclassified, the applicant can increase the structures height to 25 ft.
3. If approved this variance approval is valid for 1 year and would expire on XXX. (date set after council approval)
4. One of the other smaller accessory buildings noted on the survey must be removed prior to the issuance of a building permit of the new accessory structure.

FISCAL IMPACT:

The proposed variance is not expected to have fiscal impact to the City.

OPTIONS:

The Commission may:

- Recommend approval of the proposed variances, subject to recommended findings and conditions of approval.

- Amend the recommended findings and conditions and recommend approval of the variances, subject to the newly outlined findings and conditions of approval.
- Move to recommend denial of all variances, citing findings for denial.

RECOMMENDATION:

Staff recommends that the Planning Commission recommend approval with the following motion:

“Move to recommend approval of the request from Todd Alguire for a variance from the following standards: structure setback from the front property line and the proposed location in front of the principle structure, subject to recommended conditions of approval.”

ATTACHMENTS:

- 1) Narrative
- 2) Survey and Building Plans
- 3) Additional Pictures