



# City and Borough of Sitka

100 Lincoln Street • Sitka, Alaska 99835

*Coast Guard City, USA*

## **Planning and Community Development Department**

### **AGENDA ITEM**

Case No: VAR 20-09  
Proposal: Reduce front setback from 14' to 1'  
Reduce rear setback from 8' to 0'  
Applicant: Todd and Julie White  
Owner: Todd and Julie White  
Location: 3407 Halibut Point Road  
Legal: Lot 10, Subdivision of Lot 1A, USS 2752  
Zone: R-1MH single-family, duplex, and manufactured home zoning district  
Size: 7,223 square feet  
Parcel ID: 2-5604-005  
Existing Use: Residential  
Adjacent Use: Single-family and duplex housing  
Utilities: Existing  
Access: Halibut Point Road

### **KEY POINTS AND CONCERNS**

- Lot is slightly above standards for minimum lot size in the zoning district, but is challenging to build on given the lack of depth on the lot
- Rationale for setbacks may not be applicable to property lines abutting tidelands
- Difference between platted right-of-way and developed right of way is substantial

### **RECOMMENDATION**

Staff recommends that the Planning Commission approve the zoning variance for the front and rear setback reductions.

## **BACKGROUND/PROJECT DESCRIPTION**

Project location is on a 7,223 square foot lot in a developed, residential neighborhood. The lot has a single-family home on it currently that is in disrepair – current structure will be demolished and a new home and ADU built. For information on the ADU, please see case file CUP 20-13. While wide (~190' wide), the lot lacks depth to support the placement of new structures without variances. It is for this reason that front and rear setback reductions are requested.

Halibut Point Road is platted to be 45' from the centerline of the road to the front property line of the property in question. The front property line is approximately 28' from the edge of the pavement. It is not uncommon in this area to see houses built right up to the front property line. As-built of the current structure and neighboring property are provided.

The applicants would like to keep the house as close to the front property line as possible to enable equipment access to the rear of the lot in case work on the rock seawall becomes necessary. The applicants would also like to be able to have back decks for enjoyment of the waterfrontage.

The applicants also have an active application with the Planning Department to adjust the northern boundary line of their property to shift it approximately 11 feet north. This will alleviate the need for a variance on this side of the property, as the structure will be 5' from the new property line. Finalizing the boundary line adjustment via recording of the plat is a condition of approval prior to Planning Department approval of the foundation permit.

Setbacks to tidelands are a grey area of the zoning code. Though there is a footnote to table 22.20-1 Development Standards, footnote 12, that states "*No setbacks are required from property lines of adjacent filled, intertidal, or submerged tidelands,*" this footnote is only referenced in the WD and GPIIP zones. However, the rationale behind it would seem to apply in this case. Setbacks are in place to ensure open space, distance/buffer from neighboring properties, and fire separation. These factors are not as applicable/appropriate when applied to property lines abutting tidelands.

## **ANALYSIS**

### *Setback requirements*

The Sitka General Code requires 14 foot front setbacks, 5/9 foot side setbacks, 8 foot rear setbacks, and maximum of 50% lot coverage in the R-1 MH zone<sup>1</sup>.

### **22.20.040 Yards and setbacks.**

**A. Projections into Required Yards. Where yards are required as setbacks, they shall be open and unobstructed by any structure or portion of a structure from thirty inches above the general ground level of the graded lot upward.**

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<sup>1</sup> SGC Table 22.20-1

Alaska Statute 29.40.040(b)(3) states that a variance may not be granted solely to relieve financial hardship or inconvenience. A required finding for variances involving major structures or expansions in the Sitka General Code echoes this statement by stating that there must be "...special circumstances to the intended use that do not apply generally to the other properties. Special circumstances may include the shape of the parcel, topography of the lot, the size or dimensions of the parcels, the orientation or placement of existing structures, or other circumstances that are outside the control of the property owner". In this case, the dimensions of the lot, primarily the lack of depth, and location in relation to tidelands can be viewed as justifications for granting a variance.

#### *Potential Impacts*

The construction of the home structure would be an improvement to the property and the neighborhood, as it is currently under-utilized. The granting of the variance does not increase traffic, density, or other impacts beyond the residential use that was intended for the lot. Further, there is an adequate distance between the property line and Halibut Point Road such that cars could enter and exit the property with sufficient visibility. There is no adjacent property owner to be impacted by building up to a property line abutting tidelands. Therefore, staff believes potential adverse impacts to neighborhood harmony and public health and safety are minimal, and the proposal is consistent with the character of the neighborhood.

#### *Comprehensive Plan Guidance*

This proposal is consistent with one of the housing actions in the Sitka Comprehensive Plan 2030; H2.4 "encourage housing stock rehabilitation". The proposal makes practical use of an existing residential lot within the developed roads and utility system of the city, makes use of a foundation in place, and allows the applicant to build a fit-for-purpose home and ADU to meet the multi-generational needs of their family. This also furthers the goal of encouraging and promoting ADUs as stated in H1.1a of the plan. The lot in its current use/state offers little use or utility for the property owners— construction on the lot is a good use of existing, buildable land in a residential zone.

#### **RECOMMENDATION**

Staff recommends approval of the rear setback reduction. The rationale for setbacks (open space, buffering to neighbors, and fire separation), is not as appropriate or compelling for property lines abutting tidelands.

Staff also recommends approval of the front setback reduction. This structure placement is common for the area and still maintains substantial distance between the drivable surface of the road and the front of the structure.

## **ATTACHMENTS**

- Attachment A: Aerial
- Attachment B: Site and Parking Plan
- Attachment C: ADU Elevation & Floor Plan
- Attachment D: Primary Home Elevation & Floor Plan
- Attachment E: Current Plat
- Attachment F: Proposed BLA Plat
- Attachment G: ROW Survey
- Attachment H: As-builts
- Attachment I: Photos
- Attachment J: Applicant Materials

## **MOTIONS TO APPROVE THE ZONING VARIANCE**

- 1) **I move to approve the zoning variance for reductions in the front and rear setbacks at 3407 Halibut Point Road in the R-1MH single-family, duplex, and manufactured home district subject to the attached conditions of approval. The property is also known as Lot 10, Subdivision of Lot 1A, USS 2752. The request is filed by Todd and Julie White. The owners of record are Todd and Julie White.**

### Conditions of Approval:

- a. The front (east) setback will be decreased from 14 feet to no less than 1 foot.
  - b. The rear (west) setback will be decreased from 8 feet to 0 feet.
  - c. The new plat for the boundary line adjustment shall be recorded with the State of Alaska's Office of the Recorder prior to Planning Department approval of the foundation permit.
  - d. Building plans shall remain consistent with the narrative and plans provided by the applicant for this request. Any major changes (as determined by staff) to the plan will require additional Planning Commission review.
  - e. Substantial construction progress must be made on the project within one year of the date of the variance approval or the approval becomes void. In the event it can be documented that other substantial progress has been made, a one-year extension may be granted by the Planning Director if a request is filed within eleven months of the initial approval.
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- 2) **I move to adopt and approve the required findings for variances involving major structures of expansions.** Before any variance is granted, it shall be shown<sup>2</sup>:
    - a. That there are special circumstances to the intended use that do not apply generally to the other properties. Special circumstances may include the shape of the parcel, topography of the lot, the size or dimensions of the parcels, the orientation or placement of existing structures, or other circumstances that are outside the control of the property owner;

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<sup>2</sup> Section 22.30.160(D)(1)—Required Findings for Major Variances

- b. The variance is necessary for the preservation and enjoyment of a substantial property right or use possessed by other properties but are denied to this parcel; such uses may include the placement of garages or the expansion of structures that are commonly constructed on other parcels in the vicinity;
- c. That the granting of such a variance will not be materially detrimental to the public welfare or injurious to the property, nearby parcels or public infrastructure
- d. That the granting of such a variance will not adversely affect the Comprehensive Plan.