



# City and Borough of Sitka

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*Coast Guard City, USA*

## **Planning and Community Development Department**

### **AGENDA ITEM**

Case No: VAR 21-06  
Proposal: Reduce rear setback from 8' to 0'  
Applicant: David and Mary Levesque  
Owner: David and Mary Levesque  
Location: 1421 Halibut Point Road  
Legal: Lot 1B of a Minor Subdivision of Lot 1 of Hager Subdivision  
Zone: R-1 Single-Family/Duplex District  
Size: 6,574 square feet  
Parcel ID: 1-5764-000  
Existing Use: Residential  
Adjacent Use: Single-family and duplex housing  
Utilities: Existing  
Access: Halibut Point Road and easement

### **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 uneven terrain
- Access is granted via an easement through 1419 Halibut Point Road, however a grade change from easement to building site limits access to the property
- Rationale for setbacks may not be applicable to property lines abutting tidelands

### **RECOMMENDATION**

Staff recommends that the Planning Commission approve the zoning variance for the rear setback reduction.

## **BACKGROUND/PROJECT DESCRIPTION**

Project location is on a 6,574 square foot lot in a developed, residential neighborhood. The proposal would facilitate the placement of a single-family home with a mother-in law suite, attached garage, and a waterfront deck on the rear of the property. The property is accessed by an easement along 1419 Halibut Point Road, however a steep grade change from the easement to the building site impacts the accessibility of the site. Granting of this request allows for the placement of the home to be further from the front property line, which would increase site accessibility and allow for a deck at the back of the home for the enjoyment of the property's waterfront location. It is for this reason that rear setback reduction is requested.

Setbacks to tidelands are treated differently in certain zoning districts per 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 when applied to property lines abutting tidelands in this case.

## **ANALYSIS**

### *Setback requirements*

The Sitka General Code requires 14-foot front setbacks, 5/9 foot side setbacks, 8 foot rear setbacks in the R-1 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.**

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". Further, the Sitka General Code determines the granting of a variance appropriate as it allows 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". In this case, the topography of the lot, as it restricts access and buildable area for an appropriate and common use, can be viewed as justifications for granting a variance.

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

### *Potential Impacts*

The granting of the variance does not increase traffic, density, or other impacts beyond the residential use that was intended for the lot. There is no adjacent property owner to be impacted by building up to a property line abutting tideland. Further, allowing this setback variance allows the front of the structure and the garage to be placed further back from the front property line, improving the safety and visibility of vehicular ingress/egress from the lot. 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”.

## **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. Granting of this variance also facilitates access of the lot from a platted access easement by allowing placement of the structure farther from the front property line.

## **ATTACHMENTS**

- Attachment A: Aerial
- Attachment B: Site Plan
- Attachment C: Elevation Sketch
- Attachment D: Floor Plan
- Attachment E: Plat
- Attachment F: Photos
- Attachment G: 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 1421 Halibut Point Road in the R-1 single-family and duplex residential district subject to the attached conditions of approval. The property is also known as Lot 1B, of a Minor Subdivision of Lot 1 of Hager Subdivision. The request is filed by David and Mary Levesque. The owners of record are David and Mary Levesque.**

### **Conditions of Approval:**

- a. The rear setback will be decreased from 8 feet to no less than 0 foot.
- b. 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.
- c. 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.

- 2) I move to adopt and approve the required findings for variances involving major structures or expansions as listed in the staff report.**

### **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, the 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;
- 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.

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