



City and Borough of Sitka

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Coast Guard City, USA

Planning and Community Development Department

AGENDA ITEM

Case No: VAR 21-10
Proposal: Reduce rear setback from 8' to 0'
Applicant: John Hardwick and Ral West
Owner: John T. Hardwick Revocable Living Trust and Ral West Revocable Living Trust
Location: 1401 Halibut Point Road
Legal: Lot 2, Borhauer Subdivision
Zone: R-1 Single-Family and Duplex Residential District
Size: 29,900 square feet
Parcel ID: 1-5761-000
Existing Use: Vacant
Adjacent Use: Single-family and duplex
Utilities: Existing
Access: Halibut Point Road

KEY POINTS AND CONCERNS

- Lot is large at 29,900 square feet, but the presence of wetlands and current grading of the site limit appropriate placement of a home
- The proposal is for the placement of a duplex (single-family home with attached apartment)

RECOMMENDATION

Staff recommends that the Planning Commission approve the zoning variance for a rear setback reduction from 8' to 0'.

BACKGROUND/PROJECT DESCRIPTION

Project location is on an 29,900 square foot undeveloped lot in a residential area along Halibut Point Road. The proposal is to allow for placement of a two-story duplex with a total living area of approximately 5,000 square feet. Granting the request would facilitate the placement of the structure and allow the applicants to take advantage of their waterfrontage. It is for this reason that a rear setback reduction from 8' to 0' is requested. The site plan shows the structure is oriented to optimize views afforded by the waterfront location while maintaining side setbacks and that only the southern corner of the structure is set to 0' from the property line while the northwestern corner is about 4.5' from the rear property line. The property is buffered by vegetation, serving to mitigate effects of setback reduction.

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 GPIP 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 8-foot rear setbacks in the R-1 zone¹.

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

¹ SGC Table 22.20-1

placement of garages or the expansion of structures that are commonly constructed on other parcels in the vicinity”. In this case, the presence of wetlands on the lot, as it restricts access and buildable area for an appropriate and common use, can be viewed as justifications for granting a variance.

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. 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 land use and future growth actions in the Sitka Comprehensive Plan 2030; LU 8.2 “Amend development standards to promote affordable development including increasing height, decreasing minimum lot size and width, establishing lot and structure maximums in specific zones, and reducing parking requirements as appropriate”.

RECOMMENDATION

Staff recommends approval of the rear setback reduction. This proposal allows for the enjoyment of the property’s waterfront location with minimal impact to surrounding uses. Vegetation and topography mitigate potential for visual impacts to neighboring uses.

ATTACHMENTS

- Attachment A: Aerial
- Attachment B: Site Plan
- Attachment C: Wetlands Map
- Attachment D: Elevation
- Attachment E: Floor Plan
- Attachment F: Current Plat
- Attachment G: Photos
- Attachment H: Applicant Materials

MOTIONS TO APPROVE THE ZONING VARIANCE

- 1) I move to approve the zoning variance for reductions in the rear setback at 1401 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 2, Borhauer Subdivision. The request is filed by John Hardwick and Ral West. The owners of record are John T. Hardwick Revocable Living Trust and Ral West Revocable Living Trust.**

Conditions of Approval:

- a. The rear (west) 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 shown²:

- 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.

² Section 22.30.160(D)(1)—Required Findings for Major Variances