

STAFF REPORT

Date: 5/18/24
To: City of Lacey Hearings Examiner
From: City of Lacey Community & Economic Development Department
Subject: #23-0316 Setback Variance

I. GENERAL INFORMATION

- A. Site Owner: Kamela J. James

- B. Authorized Representative:
SCJ Alliance Consulting Services / Dan Penrose
8730 Tallon Ln NE, Suite 200
Lacey, WA 98516

II. DESCRIPTION OF PROPOSAL

SCJ Alliance on behalf of Kamela James proposes a non-project action for a front yard setback reduction variance from 16 feet to 5 feet for the property at 6417 Shady Lane SE, Lacey, WA 98503 with the intent to construct an approximately 750sf accessory building. If approval of the setback variance is given, a project application for a building permit will be submitted to develop an accessory structure outside of the access easement that exists on the driveway and as far as reasonably possible from the shoreline.

The site is located at 6417 Shady Lane SE, Lacey, WA 98503. The parcel number is 32400003500 and is located in section 22, township 18, range 1W.

III. LEGAL DESCRIPTION OF SUBJECT PARCEL

Section 22 Township 18 Range 1W Quarter SE SW Plat ATCHINSON KEMPER
LT 35 Document 011/041

IV. SITE PLAN INFORMATION

Project Size: Anticipated ~750sf accessory structure to run through permitting process upon approval of setback variance. No project is being proposed for permitting with this application.

Number of Lots: 1
 Lot Size: 0.31 acres lot.

Water: City of Lacey
 Sewer: City of Lacey
 Power/Natural Gas: Puget Sound Energy

Site Characteristics: The site is a narrow, residential lot along Hicks Lake. The property shares an easement for ingress and egress with the adjacent parcel to the SW, which created a shared driveway. The site is split zoned between Low-Density Residential at the top of site closest to the ROW and Shoreline residential for the remaining majority of the site.

Surrounding Land Uses: Low Density Residential / Shoreline Residential (N, W, S, E)

Access: Shady Ln SE, Lacey, WA

Zoning: Low Density / Shoreline Residential

V. ENVIRONMENTAL EVALUATION

Pursuant to WAC 197-11-355, the City of Lacey is used the Optional DNS process. The Optional Process enabled the comment periods for the environmental review and notice of application to be integrated. There was only one (1) comment with regarding the environmental evaluation that can be found in Exhibit #8. The Determination of Nonsignificance (DNS) was issued on 3/27/2024. The DNS had a 14-day appeal period, which ended on 4/10/24. The City received no appeals. The DNS is attached and made a part of this report (Exhibit #6).

VI. APPLICABLE MUNICIPAL CODE STANDARDS

The following table depicts the applicable sections of the Lacey Municipal Code and if the project complies with the standards or if the project complies with the standards once staff conditions are imposed.

Applicable Municipal Code Sections
LMC 16.13 Low Density Residential
LMC 16.90 Variances

VII. NOTIFICATION

The application for setback variance was received on 11/01/23, and was deemed complete pursuant to RCW 36.70B.070 on 2/5/2024. The comment period for the Notice of Complete Application had a 14-day comment period that ended on 2/21/2024. A notice was published in The Olympian and the site was posted with the notice of complete application on the subject parcel. These notices are attached to this report as Exhibit #6. The City received agency comments and no public comments. These comments are attached to this report as Exhibit #8.

Written notice of the public hearing was sent to all property owners within 300 feet of the site on 5/17/2024, and notice was published in The Olympian on 5/17/2024, at least 10 days prior to the public hearing. Notice was posted on-site on 5/17/2024.

VIII. COMMUNITY & ECONOMIC DEVELOPMENT DEPARTMENT ANALYSIS

In review of this proposal staff evaluated the application materials in light of the applicable zoning code standards of LMC 16.13 (Low Density Residential) as well as the variance criteria found in LMC 16.90 (Variances).

The applicant has requested to reduce their minimum front yard setback to five feet. According to Lacey Municipal Code (LMC) 16.13.050(A)(3) the standard front yard setback is sixteen feet and twenty feet for garages facing the street. LMC 16.13.050 does allow for unenclosed porches to project up to six feet into the front yard, provided the porches are at least forty-eight square feet in area with no dimension less than six feet. Additionally, LMC 16.13.050(D) states that accessory structures and accessory dwelling structures, both single and two-story, shall have a front yard setback of sixteen feet.

Since the request is not allowed within the LMC 16.13 the applicant has applied for a variance to the setback. Enforcing officers of the City of Lacey may grant a modification of up to ten percent from the front and rear setback requirements in residential zones provided the findings can be made as listed in LMC 16.90.005. The requested setback reduction is beyond the ten percent threshold and thus cannot be permitted administratively.

A land use hearings examiner shall not grant a variance unless the examiner makes the following findings:

A. The variance will not constitute a grant of special privilege inconsistent with the limitation upon uses of other properties in the vicinity and zone that the property, on behalf of which the application was filed, is located; and

Staff Response:

The applicant contends that a reduction in the front setback of the lot from the standard 16ft front yard to a 5ft setback would not grant a special privilege as there are six other properties around Hicks lake that have similarly sized detached structures within 16ft of the front property line in the low-density residential district (Exhibit #3).

Staff has reviewed the example properties listed in Exhibit #3 and has found that the structures identified by the applicant pre-date the municipal codes currently in effect. These are existing non-conforming structures and are therefore grandfathered. According to the assessor's website the data regarding the applicant's example sites are as follows and can additionally be found in Exhibit #7:

1. 6113 Shady Ln SE, Lacey. Parcel Number 32400000400.
 - a. 2-Story Home:1950
 - b. Cabin/Cottage:1957
 - c. Frame-Garage:1957
2. 6207 Shady Ln SE, Lacey. Parcel Number 32400001300.
 - a. Log home with attached garage: 1948
 - b. Rambler: 1971
3. 2321 Carpenter Rd SE, Lacey. Parcel Number 11822340901.
 - a. Rambler: 1956
 - b. Detached Garage: 1956
 - c. Utility Building: 1956
4. 2327 Carpenter Rd SE, Lacey. Parcel number 11822340900.
 - a. Rambler: 1996
 - b. Utility Building: 1956
5. 5803 Shady Ln SE, Lacey. Parcel Number 54100200600.
 - a. Rambler: 1961
6. 5709 Shady Ln SE, Lacey. Parcel Number 54100200500.
 - a. Rambler: 1961

The information above suggests that any development within the standard 16ft front setback at the subject parcels would have taken place before the City of Lacey was incorporated in 1966 and thus were developed outside of the City's development code. In the case of the site with the rambler that was built in 1971 it is not within the 16ft front yard setback and the same is true in the case of the rambler built in 1996.

Because there were no examples demonstrating that structures have been permitted within the 16-foot setback under current zoning standards, or through the variance process on Shady Lane staff finds that the intrusion into the front yard setback for use of an accessory structure would grant a special privilege.

B. That such variance is necessary, because of special circumstances relating to the size, shape, topography, location, or surroundings of the subject property, to provide it with use rights and privileges permitted to other properties in the vicinity and in the zone in which the subject property is located; and

Staff Response:

The applicant contends the physical space between the driveway easement and the front property line, and between the driveway easement and the existing structure leave a reduced amount of buildable land that does not provide adequate maneuvering room to safely park a car in the garage. Additionally, given the narrowness of the lot, a detached garage waterward of the existing house is not feasible because there is no way to access that portion of the property with a personal vehicle.

Staff concurs that the easement would be a special circumstance in conjunction with the narrow nature of the lot. Staff also concurs that it would be infeasible to construct a detached accessory structure for the purpose of private passenger vehicle waterward of the primary structure of the property due to slope and zoning restrictions. It should be noted that the applicant does currently have an attached two-car garage for vehicle storage.

C. That the granting of such variance will not be materially detrimental to the public welfare or injurious to the property or improvements in the vicinity and zone in which the subject property is situated; and

Staff Response:

The applicant contends that the neighbor, Stan L. Bourgault, is agreeable to the proposal (Exhibit #3). The structure, proposed as a two-story detached shop/garage, would be in keeping with the existing legal documents on the property, and in harmony with the natural environment. The construction would not have any negative environmental impacts, and the variance would allow the shop to be located as far away from the lake as possible, so as to protect the natural shoreline. Due to the numerous other properties in the area with structures that are within 16 feet of the front property lines, the variance would not create a discordant environment, as the proposed location of the shop is not irregular within the neighborhood. The size of the structure would be consistent with those that exist around the lake within the low-density residential district (LD) zone, and comply with the design requirements of LMC 14.23.071 in the event that the building height exceeds 16 feet. Due to the existing concrete wall along the front property line, the proposed structure would be protected from vehicle traffic along the road.

Staff concurs that a reduction of the front yard setback from 16ft to 5ft with the intent to construct an accessory structure would not be materially detrimental to the public welfare or injurious to the property or improvements in the vicinity and zone in which the subject property is situated.

D. *That the special conditions and circumstances do not result from the actions of the applicant. (Ord. 1192 §199, 2002).*

Staff Response:

Upon reviewing the easement document attached to Exhibit #3, staff has found that it appears the driveway easement was created by the applicant and recorded on 6/20/23 at Thurston County, Washington. The grantor(s) and grantee(s) being Kamela James, the applicant, and Stan Bourgault the neighbor, to which the easement is shared. Staff does find however, that the narrow nature of the lot and shoreline constraints does not result from the actions of the applicant.

IV. HEARING EXAMINER AUTHORITY

The Hearings Examiner has the responsibility and authority to decide on variance permits. Pursuant to section 2.30.140 of the Lacey Municipal Code, the Examiner has the authority to render a decision on the application which may be to grant, deny, or grant with such conditions, limitations, modifications and restrictions as the Examiner finds necessary to make the application compatible with its environment, the comprehensive plan, other official policies and objectives and land use regulatory enactments.

X. SUMMARY OF STAFF ANALYSIS

Staff finds that the proposed Variance permit is not consistent with the City Zoning Code.

XI. STAFF RECOMMENDATIONS CONCERNING ACTION ON THE PROPOSED VARIANCE.

City staff recommends denying the Variance permit. The requirements of LMC 16.90.005(A) were not met, as there are no examples of structures permitted within the 16-foot setback under current zoning standards or through the variance process on Shady Lane. The intrusion into the front yard setback for the use of an accessory structure would grant a special privilege. Additionally, LMC 16.90.005(D) was not met because the driveway easement appears to have been created by the applicant and recorded on 6/20/23 at Thurston County, Washington. It also seems that not all alternatives, such as changing the location

of the easement to be a shared access, have been explored to mitigate the site's difficulties.

XII. FINDINGS OF FACT

This recommendation is supported by the following suggested findings of fact.

1. The City of Lacey accepted the above master application for review on 11/1/2023 and determined the application complete on 2/5/2024.
2. Access to the site is provided via Shady Ln SE.
3. The subject property is zoned Low Density Residential and Shoreline Residential by the City of Lacey Zoning Ordinance, which prescribes a front yard setback of 16ft.
4. Three (3) agency comment letter(s) were received. There were no comments that required conditions from staff.
5. Representatives from various city departments have reviewed the application materials to identify and address issues raised by the proposed development. These comments are contained in the official file, and have been included in the record as Exhibit 8.
6. The subject parcel is located at 6417 Shady Lane SE, Lacey, WA. Parcel number 32400003500.
7. An environmental review of the project was held on 2/5/2024. No significant adverse impacts to the environment were identified. Therefore, a Determination of Nonsignificance was issued in accordance with RCW 43.21C.
8. At the time of processing this application, adequate sanitary sewer and domestic water capacity are available. Actual guarantee of services is not secured until all applicable connection fees are paid.
9. This proposal, is not consistent with the City of Lacey Zoning Code, Title 16 of the LMC.
10. At the time of processing this application, adequate sanitary sewer and domestic water capacity are available. However, utility capacity is reduced as other parcels of property are connected to the services. Therefore, approval of this application does not guarantee the availability of utility services. Such assurance will not be given until all applicable connection fees are paid and accepted by the City."

11. This proposal, as conditioned, will not be detrimental to the public health, safety, and general welfare.