

By: Sandra Swanger-Jensen
Introduced: April 3, 2017
Public Hearing: April 17, 2017
Action: Approved

**MATANUSKA-SUSITNA BOROUGH
PLANNING COMMISSION RESOLUTION NO. 17-18**

A RESOLUTION OF THE MATANUSKA-SUSITNA BOROUGH PLANNING COMMISSION ADOPTING FINDINGS OF FACT AND CONCLUSION OF LAW TO SUPPORT DENIAL OF RESOLUTION 17-12; WITHIN TOWNSHIP 17 NORTH, RANGE 3 WEST, SECTION 29, SEWARD MERIDIAN.

WHEREAS, Resolution 17-12 was for approval of a setback variance from the setback requirement of MSB 17.55.020(A) to allow a two-story recreational cabin to be located 33.3 feet from the high water mark of Big Lake on Lot 10A, RSB of Big Lake Subdivision; 3862 South Peninsula Drive; within Township 17 North, Range 3 West, Section 29, Seward Meridian; and

WHEREAS, the Planning Commission conducted a public hearing on April 17, 2017, on this matter; and

NOW, THEREFORE, BE IT RESOLVED that the Matanuska-Susitna Borough Planning Commission denied the setback variance based on the findings of fact and conclusions of Law as follows:

1. The existing foundation/garage approved under the
2. Pre-Existing Legal Nonconforming Status For A Structure in 2012 provided the ability to build a new cabin within the same footprint with the same square footage as the original A-Frame.

3. The buildable area of the subject property was determined using ArcGIS 10.2.2 and an as-built survey overlay to identify the estimated buildable area, which is 2,483 square feet (55 feet Wide x 51 feet Deep).
4. A recreational cabin could be built on the lot in the buildable area without impacting neighboring wells or the subject property septic system.
5. The neighboring lot 10C has legal access from the
6. adjacent 20 foot wide public right-of-way without having to trespass across the subject property of Lot 10A.
7. If built in buildable area, a structure would not have impacted neighboring well and septic systems as shown on the as-built as they are all in place as well as the subject property well and septic system, meaning the buildable area is free of any well and septic impacts.
8. The power line runs across the buildable area, but could be requested from MEA to be relocated. The overhead electric line was buried underground in 2016 by MEA as a maintenance project at MEA's expense.
9. Staff conducted an analysis of 13 lots on the peninsula upon which the subject parcel is located. The analysis only looked at waterbody setbacks and did not consider side lot or right-of-way setbacks. Borough assessment

records and LiDAR-derived water break line and building footprint data were used for the analysis.

10. The analysis examined whether the other structures in the surrounding area currently and legally enjoy a similar use.
11. Of the 13 parcels analyzed, three of the residences are likely built in violation of waterbody setbacks and should not be considered as uses that are commonly enjoyed.
12. Six out of the ten of the remaining residences on the peninsula can be considered to commonly enjoy a similar use.
13. Four out of the ten residences are single story and are more similar in nature to the original structure on the subject property.
14. It is feasible to maintain a 75 foot setback without infringing on neighboring lots.
15. The subject lot is surrounded by privately owned properties with development. Staff conducted an analysis of 13 lots on the peninsula upon which the subject parcel is located. The analysis only looked at waterbody setbacks and did not consider side lot or right of way setbacks. Borough assessment records and LiDAR-derived

water break line and building footprint data were used for the analysis.

16. Under *Regulation and Enforcement of Issues* in strategy 6 of the Comprehensive Plan offers general suggestions to help achieve the land use goals, such as permitting and general enforcement of existing regulations.
17. Subject lot is found to not have an unusually small buildable area which cannot accommodate the existing recreational cabin outside of the shoreline setback from the high water mark without a variance.
18. The person seeking the variance constructed the cabin creating a violation of a shoreline setback to a water body.
19. The person seeking the variance voided the Pre-Existing Legal Nonconforming Status for A Structure by expanding the structure in violation of MSB 17.80.060(A).
20. Code Compliance opened a case file on February 5, 2016 and required construction of the house to cease. As the information in the application file represents, construction of the structure continued and was completed in 2016.
21. The lot can accommodate a residential/recreational home without having a variance.

22. There is adequate buildable area to which the existing cabin can be moved.
23. The power line which crosses the buildable area is not within a utility easement and could be requested to be moved to another location.
24. The subject parcel has Pre-Existing Legal Nonconforming Status for A Structure to be built in the same footprint and of the same size as the original A-frame cabin.
25. The subject property has adequate buildable area without any topographical constraints (MSB 17.65.020(A)(1)).
26. The strict application of this title would not deprive the applicant's rights commonly enjoyed by others as the subject lot has a buildable area to accommodate a recreational structure (MSB 17.65.020(A)(2)).
27. Granting the variance will not be injurious to nearby property or harmful to the public welfare (MSB 17.65.020(A)(3)).
28. Granting the variance will be in harmony with the objectives of this title and the Big Lake Comprehensive Plan (MSB 17.65.020(A)(4)).
29. The applicant has reasonable use of this property without deviating from the provisions of this this title.

30. The person seeking the variance caused the special condition that required a variance (MSB 17.65.030(A)(1)).

31. The variance, if granted, will not permit a land use within a district in which a specific is prohibited (MSB 17.65.030(A)(2)).

32. The variance is being sought to relieve pecuniary hardship or inconvenience (MSB 17.65.030(A)(3)).

ADOPTED by the Matanuska-Susitna Borough Planning Commission
this 17th day of April, 2017.

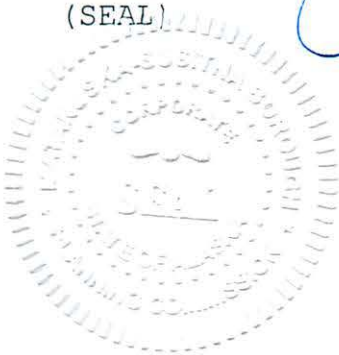


COLLEEN VAGUE, Chair

ATTEST



MARY BRODIGAN, Planning Clerk
(SEAL)



PASSED UNANIMOUSLY: Vague, Anderson, Healy, Chesbro, Elder,
Glashan, and Rauchenstein