

By: S. Swanger-Jensen
Introduced: October 9, 2017
Public Hearing: October 23, 2017
Action: Approved

**MATANUSKA-SUSITNA BOROUGH
PLANNING COMMISSION RESOLUTION NO. 17-49**

A RESOLUTION OF THE MATANUSKA-SUSITNA BOROUGH PLANNING COMMISSION APPROVING A VARIANCE TO THE WATERBODY SETBACK AND RIGHT-OF-WAY SETBACK FOR AN EXISTING CABIN ON LOT B6, FRIDAY HOMESTEAD MASTER PLAN; PALMER RECORDING DISTRICT; WITHIN TOWNSHIP 19 NORTH, RANGE 4 WEST, SECTION 1, SEWARD MERIDIAN.

WHEREAS, an application for a variance from the setback requirement of MSB 17.55.010(A) and 17.55.020(A) has been received to allow a cabin to be located within 37.1-feet from the high water mark of Willow Creek, 2.1-feet from W. Willow Fishhook Road for Lot B6, Friday Homestead Master Plan; within Township 19 North, Range 4 West, Section 1, Seward Meridian; and

WHEREAS, the Planning Commission conducted a public hearing on October 23, 2017 on this matter; and

WHEREAS, the Planning Commission reviewed the application, associated materials, and the staff report containing findings of fact and conclusions of law; and

WHEREAS, the existing cabin is situated on a small piece of land on the east boundary line of the subject parcel with a shoreline setback of 37.1-feet from the meander line of Willow Creek and 2.1-feet from W. Willow Fishhook Road located outside of the FEMA designated flood hazard area; and

WHEREAS, the subject parcel is elongated with the majority of the parcel located within a designated flood hazard area. FEMA has identified this flood hazard area as FIRM 6093, AE Zone, which means there is a greater than one percent chance in any given year that part of the platted area will be inundated by the base flood event; and

WHEREAS, based on the Borough's preliminary flood data, over 80 percent of the subject parcel is impacted by a regulatory floodway; and

WHEREAS, all portions of the parcel which are located outside of the floodway boundary are impacted by the 75-foot waterbody setback; and

WHEREAS, a comparison of 2011 and 2017 aerial imagery demonstrates that the meandering channel of Willow Creek has eroded the banks and shifted sediment deposits during that timeframe; and

WHEREAS, the applicant/owner occupies the existing cabin year-round cabin; and

WHEREAS, the subject structure is 760 square feet; and

WHEREAS, the subject structure is one-story in the front and two-stories in the back; and

WHEREAS, within Friday Homestead Master Plan and Friday Homestead Subdivision, 18 properties are developed with a structure or structures and are being enjoyed in a common use; and

WHEREAS, the structures in the surrounding area are primarily residential or recreational cabins; and

WHEREAS, the surrounding structures are a mix of single and two-story structures ranging from 168 to 1,708 square feet with an average of 850 square feet; and

WHEREAS, the subject structure is approximately 80-feet from the edge of W. Willow Fishhook Road; and

WHEREAS, there is a steep, treed embankment separating the structure from the road; and

WHEREAS, the structure is built outside of the special flood hazard area; and

WHEREAS, the bankline adjacent to the existing cabin has not eroded significantly since 2004; and

WHEREAS, the bankline adjacent to the existing cabin is on a straight stretch of the river, reducing the potential for erosion; and

WHEREAS, MSB 17.65 Variances was adopted to grant relief to property owners whose lots are impacted by topographic constraints and existing land use regulations thereby making the lot undevelopable; and

WHEREAS, the Willow Area Community Comprehensive Plan (2013) is intended as a guide for reducing losses, both human and economic, due to natural disasters; and

WHEREAS, the Matanuska-Susitna Borough Comprehensive Development Plan (update 2005) four related goals are as follows: (1) Protect and enhance the public safety, health, and welfare of Borough residents, (2) Protect and enhance the Borough's natural resources including watersheds, groundwater supplies, and air quality, (3) Protect natural systems and features from the potentially negative impacts of human activities, including, but not limited to, land development, and (4) Manage the natural and built environments to achieve minimal loss of the functions and values of all drainage basins; and, where possible, enhance and restore functions, values, and features. Retain lakes, ponds, wetlands, streams, and rivers and their corridors substantially in their natural condition; and

WHEREAS, the Matanuska-Susitna Borough Comprehensive Development Plan (update 2005) five related policies are as follows: (1) Provide for consistent, compatible, effective, and efficient development within the Borough, (2) Identify, monitor, protect, and enhance the quantity and quality of the Borough's watersheds, groundwater aquifers, and clean air resources, (3) Manage activities affecting air, vegetation, water, and the land to maintain or improve environmental quality, to preserve fish and wildlife habitat, to prevent degradation or loss of natural features and functions, and to minimize risks to life and property, (4) Use a watershed-based approach, apply best available science

in formulating regulations, incentives, and programs to maintain and, to the degree possible, improve the quality of the Borough's water resources, and (5) When appropriate, utilize Borough adopted "Best Management Practices" when managing watershed impacts; and

WHEREAS, the applicants seeking the variance did not own the subject parcel at the time the cabin was constructed in 1994 but acquired ownership through a Warranty Deed in August of 2001, at the time of purchase the subject parcel had a shoreline setback violation in accordance with MSB 17.55.020; and

WHEREAS, the applicants seeking the variance did not create the impacts of Willow Creek, special flood hazard areas, or the location of W. Willow Fishhook Road in relation to the subject parcel; and

WHEREAS, the property is unable to accommodate a structure that meets the setbacks requirements of MSB 17.55 while staying out of the regulatory floodway; and

WHEREAS, the subject parcel is unable to accommodate a structure without requiring a variance under MSB 17.65 since the parcel does not have a legal buildable area; and

WHEREAS, residential and recreational structures are allowed uses in this area; and

WHEREAS, the subject parcel is not in a Special Land Use District; and

WHEREAS, the variance is sought to enable the applicant to have use of the property as others in the surrounding area commonly enjoy; and

WHEREAS, the property does not have sufficient buildable area to accommodate a reasonable use and a variance is the only viable remedy.

NOW, THEREFORE, BE IT RESOLVED, that the Matanuska-Susitna Borough Planning Commission hereby adopts the aforementioned findings of fact and makes the following conclusions of law supporting approval of Planning Commission Resolution 17-49:

1. There are unusual conditions or circumstances applicable to this property for which the variance is sought. The subject parcel is impacted by a flood hazard area and floodway covering the majority of the parcel, and is impacted by a right-of-way resulting in no buildable area outside of the 75-foot waterbody setbacks (MSB 17.65.020(A)(1)).
2. Strict application of this chapter would deprive the applicant of a use commonly enjoyed by others in the surrounding area (MSB 17.65.020(A)(2)).
3. Granting the variance will not be injurious to nearby property or harmful to the public welfare, as the existing cabin does not pose a risk to the traveling public, does not affect the flood conveyance of Willow

Creek, and has not recently been subject to significant erosion (MSB 17.65.020(A)(3)).

4. The granting of the variance will be in harmony with the objectives of this title, the Willow Area Community Comprehensive Plan and Matanuska Susitna Borough Comprehensive Development Plan (MSB 17.65.020(A)(4)).
5. Deviation from MSB 17.55 is necessary to permit reasonable use of the subject property due to the unusual impacts of the floodway and floodplain and a right-of-way as the existing cabin could not have been built in any other location on the subject parcel (MSB 17.65.020(A)(5)).
6. The person seeking the variance did not cause the existing setback violations (MSB 17.65.030(A)(1)).
7. The variance, if granted, will not permit a land use within a district in which a specific use is prohibited (MSB 17.65.030(A)(2)).
8. The variance is not being sought solely to relieve pecuniary hardship or inconvenience (MSB 17.65.030(A)(3)).

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ADOPTED by the Matanuska-Susitna Borough Planning Commission
this 23rd day of October, 2017.



COLLEEN VAGUE, Chair

ATTEST



MARY BRODIGAN, Planning Clerk

(SEAL)



YES: *Vague, Anderson, Healy, Christro, Elder, and*
NO: *Rauchenstein*