

By: Mark Whisenhunt  
Introduced: August 16, 2021  
Public Hearing: October 18, 2021  
Action: Failed

**MATANUSKA-SUSITNA BOROUGH**  
**PLANNING COMMISSION RESOLUTION NO. 21-23**

A RESOLUTION OF THE MATANUSKA-SUSITNA BOROUGH PLANNING COMMISSION APPROVING A VARIANCE TO MSB 17.55.020 FOR THE CONSTRUCTION OF A DWELLING TO BE PLACED APPROXIMATELY 38.1 FEET FROM THE SHORELINE OF FINGER LAKE ON GOVERNMENT LOT 5, WITHIN TOWNSHIP 18 NORTH, RANGE 1 EAST, SECTION 34, SEWARD MERIDIAN, TAX ID# 18N01E34B002 (NO SITE ADDRESS), PALMER RECORDING DISTRICT, ALASKA.

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WHEREAS, an application has been submitted for a variance to MSB 17.55.020, requesting to construct a dwelling approximately 38.1 feet from the shoreline of Finger Lake on Government Lot 5, within Township 18 North, Range 1 East, Section 34, Seward Meridian, Tax ID# 18N01E34B002 (No Site Address); and

WHEREAS, in order to grant a variance, the Planning Commission must find that each requirement of 17.65.020(A) has been met; and

WHEREAS, the subject parcel is approximately .93 acres in size; and

WHEREAS, the subject parcel is an island within Finger Lake; and

WHEREAS, the 75-foot setback requirement of MSB 17.55.020 encompasses the property in its entirety. As a result, there is no legal buildable area on the property; and

WHEREAS, according to the application material, the footprint of the proposed dwelling is approximately 24.1' X 32.1' in size;

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WHEREAS, according to the application material, the proposed dwelling would have 774 square feet of living space on the main floor and a 294 square foot loft, for a combined total of 1,068 square feet; and

WHEREAS, according to an as-built survey prepared by Richard Wentworth, PLS dated May 27, 2021, at its closest point, the structure is set back approximately 38.1 feet from the ordinary high water mark of Finger Lake; and

WHEREAS, there are 178 lake front parcels on Finger Lake. Those parcels range in size from .07 acres to 47.25 acres. However, most parcels are between .46 and 1.5 acres in size; and

WHEREAS, one hundred six parcels of the one hundred seventy eight lake front parcels have dwellings that appear to meet the 75-foot setback requirement; and

WHEREAS, the average dwelling size for lake front parcels on Finger Lake is approximately 3,011 square feet; and

WHEREAS, ninety-three parcels of the one hundred seventy eight lake front parcels have multistory dwellings; and

WHEREAS, in 2005, the Matanuska-Susitna Borough Assembly adopted voluntary best management practices (BMP) for development around waterbodies; and

WHEREAS, the applicant is not proposing a typical subsurface sewage disposal system; and

WHEREAS, according to the application material, the applicant will use a composting toilet to manage sewage; and

WHEREAS, according to the application material, the applicant will have a civil engineer design a graywater system and obtain Alaska Department of Environmental Conservation approval prior to installing; and

WHEREAS, the Matanuska-Susitna Borough does not have a setback requirement for graywater systems; and

WHEREAS, an earthen berm is located to the northeast and northwest of the proposed dwelling. The berm is intended to stop water runoff from the structure from going to the nearest shoreline to the north. Minimizing water runoff assists in preserving surface water quality; and

WHEREAS, the nearest shoreline to the south is approximately 60.8 feet from the proposed dwelling; and

WHEREAS, according to the application material, more than 70% of the property will remain undeveloped with its natural (current) vegetation; and

WHEREAS, according to the application material, there will be approximately 981 square feet (one dwelling and two sheds) of impermeable surface, which is approximately 2.4% of the island;

WHEREAS, according to the application material, no landscaping or lawn is proposed; and

WHEREAS, according to the application material, the proposed development will not be adding sand beaches or fill material to the lakeshore; and

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

WHEREAS, Goal 7 of the Core Area Comprehensive Plan (2007 Update) states: Protect and conserve the natural resources that support the well-being of residents and the region's tourism and recreation economy; and

WHEREAS, Policy 7-A of the Core Area Comprehensive Plan (2007 Update) states: Protect groundwater supplies and quality; and

WHEREAS, Policy 7-B of the Core Area Comprehensive Plan (2007 Update) states: Protect surface water quality; and

WHEREAS, Goal (LU-1) of the Matanuska-Susitna Borough Comprehensive Plan (2005 Update) states: Protect and enhance the public safety, health, and welfare of Borough residents; and

WHEREAS, Policy LU1-1 of the Matanuska-Susitna Borough Comprehensive Plan (2005 Update) states: Provide for consistent, compatible, effective, and efficient development within the Borough; and

WHEREAS, Goal (LU-2) of the Matanuska-Susitna Borough Comprehensive Plan (2005 Update) states: Protect residential neighborhoods and associated property values; and

WHEREAS, Policy LU2-1 of the Matanuska-Susitna Borough Comprehensive Plan (2005 Update) states: Develop and implement regulations that protect residential development by separating incompatible uses, while encouraging uses that support such residential uses including office, commercial and other mixed-use developments that are shown to have positive cumulative impacts to the neighborhood; and

WHEREAS, the subject parcel is within the Core Planning Area; and

WHEREAS, Residential structures are allowed within the Core Planning Area; and

WHEREAS, no information pertaining to pecuniary hardship or inconvenience was discovered by staff in their analysis of the proposed dwelling; and

WHEREAS, the Planning Commission has reviewed this application with respect to standards set forth in MSB 17.65; and

WHEREAS, the Planning Commission conducted a public hearing on October 4, 2021 on this matter.

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 21-23:

1. An island completely encumbered with the 75-foot setback requirement, leaving no buildable area, is an unusual condition (MSB 17.65.020(A)(1)).
2. The strict application of the provisions of this title would deprive the applicants of rights commonly enjoyed by others as the average dwelling size on Finger Lake is approximately 3,011 square feet. A dwelling 1,068 square feet in size is a reasonable use of the property (MSB 17.75.020(A)(2)).
3. Granting the variance will not be injurious to nearby property, nor harmful to the public welfare (MSB 17.65.020(A)(3)).
4. The proposed variance is consistent with the applicable comprehensive plans and does meet the intent of MSB 17.65 (MSB 17.65.020(A)(4)).
5. Granting a variance will be no more than is necessary to permit a reasonable use of the property (MSB 17.65.030(A)(1)).
6. The person seeking the variance did not cause the need for the variance (MSB 17.65.030(A)(1)).
7. The variance will not allow a land use in a district in which that use is prohibited, as residential structures are allowed on this site (MSB 17.65.030(A)(2)).

8. The variance is not solely being sought to relieve pecuniary hardship or inconvenience (MSB 17.65.030 (A) (3)).

NOW, THEREFORE, BE IT FURTHER RESOLVED, that the Matanuska-Susitna Borough Planning Commission hereby approves the setback variance to construct a 24.1' X 32.1' dwelling at Government Lot 5, within Township 18 North, Range 1 East, Section 34, Seward Meridian, Tax ID# 18N01E34B002 (No Site Address), as referenced in the application material.

ADOPTED by the Matanuska-Susitna Borough Planning Commission this 18 day of October, 2021.

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COLLEEN VAGUE, Chair

ATTEST

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KAROL RIESE, Planning Clerk

(SEAL)

YES:

NO: