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Unfinished Business: November 15, 2021
Action: Approved

**MATANUSKA-SUSITNA BOROUGH
PLANNING COMMISSION RESOLUTION NO. 21-29**

A RESOLUTION OF THE MATANUSKA-SUSITNA BOROUGH PLANNING COMMISSION
ADOPTING FINDINGS OF FACT AND CONCLUSIONS OF LAW TO SUPPORT DENIAL
OF RESOLUTION PC 21-23.

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 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 18, 2021 on this matter; and

WHEREAS, approval of a wastewater disposal system would
require multiple waivers from ADEC; and

WHEREAS, the property was advertised for sale as a 'camping
spot' with a note to contact the MSB for 'possible variance for
building'; and

WHEREAS, the applicant knew, or reasonably should have known,
that a variance was required prior to beginning construction; and

WHEREAS, the ADEC includes graywater in its definition of 'domestic wastewater' in 18 AAC 72.990; and

WHEREAS, the ADEC requires a 100 foot separation distance between waste water collection, treatment, or disposal systems and the mean annual high water level of a lake in 18 AAC 72.020; and

WHEREAS, the ADEC requires a 50 foot horizontal setback from slopes exceeding 25%; and

WHEREAS, the Matanuska-Susitna Borough has a 100 foot setback requirement for sewage disposal systems and the ordinary high water mark; and

WHEREAS, Recreational camping is allowed within the Core Planning Area; and

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

WHEREAS, construction of the proposed structure is proposed to avoid the inconvenience of temporary shelter while recreating on the property.

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 21-29:

1. An island completely encumbered with the 75-foot setback requirement, leaving no buildable area, is not an unusual condition (MSB 17.65.020(A)(1)).
2. The strict application of the provisions of this title would not deprive the applicants of rights commonly enjoyed by others as the property is suitable for recreation without permanent structures. Non-permanent occupation of the property using temporary shelter such as tents is a reasonable use of the property (MSB 17.75.020(A)(2)).
3. Granting the variance will be injurious to nearby property, waterbodies, and harmful to the public welfare (MSB 17.65.020(A)(3)).
4. The proposed variance is not consistent with the applicable comprehensive plans and does meet the intent of MSB 17.65 (MSB 17.65.020(A)(4)).

NOW, THEREFORE, BE IT FURTHER RESOLVED, that the Matanuska-Susitna Borough Planning Commission hereby denies 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 15th day of November, 2021.


COLLEEN VAGUE, Chair

ATTEST


KAROL RIESE, Planning Clerk

(SEAL)

YES: (5) Commissioner Glashan, Chesbro, Anderson, Allen, and Vague

NO: (0)