



Agenda Item No.: 19.

AGENDA SUMMARY PAGE - PLANNING
PLANNING COMMISSION MEETING OF: NOVEMBER 27, 2018

DEPARTMENT: PLANNING

DIRECTOR: ROBERT SUMMERFIELD

☐ Consent ☒ Discussion

SUBJECT:

VAR-7461 - VARIANCE - PUBLIC HEARING - APPLICANT/OWNER: MICHAEL KENNALIE - For possible action on a request for a Variance TO ALLOW A ZERO-FOOT SIDE SETBACK WHERE THREE FEET IS REQUIRED AND A FOUR-FOOT SEPARATION FROM THE EXISTING BUILDING WHERE SIX FEET IS REQUIRED FOR AN EXISTING ACCESSORY STRUCTURE (CLASS II) [SHED] on 0.19 acres at 8200 Ashkum Avenue (APN 125-28-412-048), R-1 Neighborhood Family Residential Zone, Ward 6 (Fiore) [PRJ-74238]. Staff recommends DENIAL.

P.C.: FINAL ACTION (Unless Appealed Within 10 Days)

PROTESTS RECEIVED BEFORE:

Planning Commission Mtg.

5

City Council Meeting

0

APPROVALS RECEIVED BEFORE:

Planning Commission Mtg.

0

City Council Meeting

0

RECOMMENDATION:

Staff recommends DENIAL, if approved, subject to conditions:

BACKUP DOCUMENTATION:

1. Location and Aerial Maps
2. Conditions and Staff Report
3. Supporting Documentation
4. Photo(s)
5. Justification Letter
6. Submitted after Final Agenda Protest Postcards and Protest Documentation Not Vetted Comment Forms (15)

Motion made by LOUIS DE SALVIO to Deny

Passed For: 6; Against: 1; Abstain: 0; Did Not Vote: 0; Excused: 0

CHRISTINA ROUSH, DONNA TOUSSAINT, TRINITY HAVEN SCHLOTTMAN, SAM CHERRY, LOUIS DE SALVIO, BRENDA J. WILLIAMS; (Against-VICKI QUINN); (Abstain-None); (Did Not Vote-None); (Excused-None)

Minutes:

CHAIR CHERRY declared the Public Hearing open.

ERIN SCHWAB, Planner I, introduced herself and stated that she recently joined the case planning team and would be presenting at this meeting and in the future.

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MS. SCHWAB reported that the applicant is requesting a Variance to keep an existing shed located within the required side setback area. The existing shed is zero feet away from the side property line where five feet is required and four feet away from the main building where six feet is required. No evidence of a unique or extraordinary circumstance has been presented; therefore, staff recommended denial. Additional protest letters have been received since publication.

MICHAEL KENNALEY, applicant/owner, stated that they started to build a shed with a low-profile roof on the side of the house; he realized it was up against the block wall, but there was not another good location on the property to put it. The block wall has a one-and-one-half hour fire rating, and he was willing to put a one-hour fire-rated gypsum board on the interior of the shed. MR. KENNALEY indicated he had support letters from his surrounding neighbors. He explained tax records would be stored in the shed as his wife is a tax accountant, and she has to store tax records long-term due to Internal Revenue Service requirements.

KEN SLON stated that he is opposed to this project as it is not harmonious with the neighborhood, it is a fire hazard and does not comply with the community's CC&Rs (Covenants, Conditions and Restrictions). He said that the City's structure rules so there would be a fire break and opined that the shed poses a fire hazard when contents are stored in it. Additionally, he felt that the stored paper would attract bugs and rodents. There are storage centers for this purpose. MR. SLON stated that they had a fire in their complex last year. He thought that approval of this shed would set precedent for the community and for others to expand their homes to the walls. He stated that MR. KENNALEY indicated in a letter that the side yard was not accessible; however, MR. SLON said that he has the same layout, and he enters and exits his all the time. He thought that MR. KENNALEY should have gone to the homeowners association (HOA) for approval prior to building the shed on the property. MR. SLON also stated that MR. KENNALEY indicated that his garage is used as a hobby shop, but the CC&Rs state that the garage is to be used for parking vehicles.

FELICIA SLON requested that the Commission deny this application as the applicant built the shed on the side of the home where they are not usually located. The homeowner purchased the home in April, and the back and side yards were just dirt and rock. They have since added driveway cement rails for RV access and solar panels to the roof without approvals from the previous HOA or the Architectural Review Committee (ARC). She is a member of the ARC Committee, and when she saw the subject structure being framed she personally provided the homeowner with the ARC review and regulations paperwork, and she highlighted the information regarding sheds and informed them that they needed approval. MS. SLON was unaware if the previous HOA issued warnings or assessed fines. They now have a new HOA, and she was unsure if there was any communication between the homeowner and the new HOA. She expressed concern about the fire hazard as the applicant attached the shed to the block wall between his and his neighbor's homes. If the shed starts on fire, there is no setback and could possibly start the neighbor's house on fire. MS. SLON stated that there are some storage units in the community, and the applicant's back yard could accommodate the storage shed. She finished by saying that the homeowner has not followed the community rules, and approval of this

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application would set a precedent in the neighborhood.

MR. KENNALEY stated that he was also willing to add sprinklers to the shed. He added that he has been in construction for 45 years.

COMMISSIONER DE SALVIO asked why MR. KENNALEY built the structure without permits, and MR. KENNALEY replied that the shed was less than 200 square feet. COMMISSIONER DE SALVIO pointed out that there are still setback requirements. He asked if MR. KENNALEY had any information available to show that he requested approval from the ARC Committee and that his surrounding neighbors were in support. MR. KENNALEY replied that he did not. Further, COMMISSIONER DE SALVIO thought the space was very tight, and it would be difficult for firefighters to access. He was not in support as there were 15 people who were opposed, and MS. SLON stated that she sits on the ARC Committee and has never seen anything like this before her regarding this shed. COMMISSIONER DE SALVIO could not support this application if the residents did not support it.

CHAIR CHERRY declared the Public Hearing closed.

