

FNSB ADMINISTRATIVE HEARING
October 3, 2019 10:30 AM
ACTION MEMO

APPLICATIONS

Preliminary Applications

1. Quick Plats

a. RP007-20 Aurora Subdivision 1st Addition A request by Stutzmann Engineering Associates, Inc, on behalf of The Heirs and Devisees of John W. Wilson, to replat Lot 2, Block 35, First Addition to Revision "A" of the Aurora Subdivision, a property consisting of approximately 11,900 square feet, by vacating the public utility easement along the eastern boundary of the lot. No lot lines will be affected by this plat. The property is located within the NE¼ NW¼ Section 4, T1S, R1W FM, on Esquire Avenue. **(Staff Contact: Daniel Welch)**

Audio Track 1

CONDITIONS OF APPROVAL:

1. GVEA and GHU shall have a maximum of 30 calendar days to review and comment on the final plat.
2. ACS and GCI shall have a maximum of 10 calendar days to review and comment on the final plat.
3. A plat note shall be added to the final plat stating "Any new or modification to an existing driveway onto Esquire Avenue will require a driveway permit from the City of Fairbanks."

FINDINGS OF FACT:

- a. The purpose of the replat is to vacate a 10-foot wide Public Utility Easement.
- b. The replat does not alter any lot lines.
- c. FNSBC 17.52.050 exempts this platting application from the design and public improvements requirements of Title 17 because:
- d. Lot 2, Block 35, First Addition to the Revision A of the Aurora Subdivision was legally created with the recording of Plat No. 61-8816-A FRD.
- e. The request does not increase the number of lots.
- f. The request does not create a new violation of the design and public improvement requirements of Title 17.
- g. The request does not increase the non-conformity of any lot under this or any other FNSB title.
- h. The affected utility agencies have no objections to vacation of a portion of the Public Utility Easement.
- i. The lots rely on roads maintained by the City of Fairbanks.
- j. This plat request does not deny legal and physical access to any lot or tract.
- k. This plat does not vacate a public road, trail, public area or any easements

other than public utility easement.

- l. This plat does not alter a dedicated street or right-of-way or require dedication.
- m. This plat request does not require road construction or improvement.
- n. This plat request does not require a variance from a subdivision regulation.
- o. With the three conditions recommended by staff, this subdivision request meets the applicable requirements of Title 17.

APPROVED

Appeal of this decision must be made in writing within ten (10) working days of the decision. Request an appeal form from the Community Planning Department at 459-1260 or 907 Terminal Street, Fairbanks, AK 99701.

-
- b. RP008-20 Metro Industrial Air Park, 5th Addition** A request by 3-TIER ALASKA, LLC, on behalf of Arctic Drilling, Inc, to replat Tract A, Metro Industrial Air Park, 5th Addition, a property of approximately 4.054 acres, into four lots of approximately 1.01 acres each. The property is located within the NE¼ SE¼ Section 21, T1S, R1W FM, on Frank Avenue and Bonita Street. **(Staff Contact: Daniel Welch)**

Audio Track 2

CONDITIONS OF APPROVAL:

- 1. GVEA shall have a maximum of 30 calendar days to review and comment on the final plat.
- 2. ACS and GCI shall have a maximum of 10 calendar days to review and comment on the final plat.
- 3. A note shall be placed on the final plat which states "Lots created by this plat may not be further subdivided until such time as legal and constructed road access meeting FNSB Title 17 standards is available to the boundary of the lot proposed to be resubdivided."
- 4. The benchmark requirements of benchmark requirements of FNSBC 17.52.040(D)(18)(a) shall be included on the final plat.
- 5. Note 5 shall be changed on the final plat to state "...determined to be located, in whole or in part..." and shall be reviewed by the FNSB Flood Plain Administrator.
- 6. Proposed Note 4 regarding driveway permits shall be removed.
- 7. The vicinity map shall correctly label all streets. Street names on the final plat shall be reviewed and approved by FNSB Addressing staff.

FINDINGS OF FACT:

- 1) Frank Avenue and Bonita Street are Local 2 Roads.
- 2) Frank Avenue and Bonita Street are not within a road service area.
- 3) The request relies on FNSBC 17.56.020.G, a road construction exemption for

Frank Avenue and Bonita Street.

- 4) The plat is applicable to use the road construction exemption of FNSBC 17.56.020.G because:
 - a. The plat is creating five or fewer lots. The plat is creating three lots.
 - b. The roadway is located completely outside of the replat boundary and within the legal right-of-way established by Plat No. 2009-91.
- 5) The proposed subdivision is located within Flood Zone AE.
- 6) FNSBC 17.52.040(D)(18)(a) requires "...that benchmarks be placed within the subdivision as primary monuments and be stamped and noted on the plat with the North American Vertical Datum of 1988 (NAVD88) elevation determined to National Geodetic Survey third order vertical standards. The monumentation shall be placed so that no lot within Flood Zone A or AE is more than 1,000 feet from a benchmark."
- 7) The Base Flood Elevation (BFE) requirements of FNSBC 17.52.040(D)(18)(b) have been met.
- 8) This plat request does not deny legal and physical access to any lot or tract.
- 9) This plat does not vacate a public road, trail, public area or any easements.
- 10) This plat does not alter a dedicated street or right-of-way or require dedication.
- 11) This plat request does not require road construction or improvement because of FNSBC 17.56.020.G.
- 12) This plat request does not require a variance from a subdivision regulation.
- 13) With the seven conditions recommended by staff, this subdivision request meets the applicable requirements of Title 17.

APPROVED

Appeal of this decision must be made in writing within ten (10) working days of the decision. Request an appeal form from the Community Planning Department at 459-1260 or 907 Terminal Street, Fairbanks, AK 99701.

2. Grandfather Rights

- a. **GR2020-026:** A request by Eugene Cramer for affirmative recognition of legal nonconforming structure status (grandfather rights) for an existing single-family residence with a nonconforming crawlspace in the Rural Residential zone with Groundwater Damage Protection overlay (RR/GWP) for Lot 09, Block 3, Athletic Park Subdivision (Located at 3530 Mandeville Loop). **(Staff Contact: Kristina Heredia)**

Audio Track 3

FINDINGS OF FACT

1. Title 18 was amended by Ordinance No. 94-088 establishing a GWP overlay zone to prohibit construction of buildings or structures below the natural elevation of ground surface, effective February 10, 1995 (FNSBC 18.48.070). At that time, the overlay was not applied to any properties.
2. FNSB Assessor's records indicate the single-family structure was constructed in 1997. Since the GWP overlay zone's territory had not yet been determined, the structure was built in conformance with the zoning regulations in placed at the time.
3. FNSB Assessor Brad Acord stated that crawlspaces are not valued separately as an element of the structure for assessing purposes and are therefore not specifically notated on field cards.
4. There is no evidence or indication that the unfinished basement foundation was not constructed as part of the original house construction in 1997.
5. Ordinance No. 95-055 applied the GWP overlay zone to the subject property effective September 17th, 1999. At this time, the structure became non-conforming.
6. Ordinance No. 2005-21, effective March 25, 2005, added the definitions of basements and crawlspaces to Title 18 and allowed crawlspaces of four feet in height or less, provided that "crawlspaces shall not be used for mechanical and electrical equipment or storage purposes of any kind below the surface of the natural elevation of the exterior ground surface" (FNSBC 18.92.070).
7. The subject structure has an unfinished basement with wall height of more than 4 feet, not a crawlspace as defined by FNSBC 18.04.010.

AFFIRMED (APPROVED)

This decision does not grant or provide any variances or exceptions to any other Fairbanks North Star Borough or state regulations, building codes, ordinances or statutes.

The issuance of this notice is an administrative decision and is appealable within fifteen (15) days from the date of this notice to the Fairbanks North Star Borough Planning Commission. An appeal application may be filed with the Community Planning Department office.

Further information can be obtained from FNSB Community Planning at 459-1260 or 907 Terminal Street, Fairbanks, AK 99701.

b. GR2020-031: A request by Lawrence Baker for affirmative recognition of legal nonconforming structure status (grandfather rights) for an existing single-family residence with a nonconforming south side-yard setback of 4.6 feet +/- instead of the required 5 feet in the Two Family (TF) zoning district for Lot 05, Block 140,

Weeks Field Subdivision (Located at 1040 Pedro Street). **(Staff Contact: Kristina Heredia)**

Audio Track 4

FINDINGS OF FACT

1. Lot 05, Block 140, Weeks Field Subdivision contains one single-family residence. This residence does not comply with the SF-10 zone standards because it does not meet the south side-yard setback requirement of five (5) feet.
2. The subject property was zoned Restricted Residential (R1) with the adoption of City of Fairbanks Ordinance No. 477 on March 17, 1950. The R1 zone had a minimum side-yard setback requirement of 8 feet.
3. The original plat for this neighborhood, Weeks Field Subdivision, Plat No. 1954-148.508 was recorded in 1954.
4. City of Fairbanks Building Permit No. 1380 was issued on July 3, 1956 for a new residence on the subject property. The building permit stated that the depth of the side yards would be 8 feet.
5. The subject property was rezoned from Restricted Residential (R1) to Restricted Residential II (R1-II) with the adoption of Ordinance No. 70-18 on June 11, 1970. At this time a minimum interior (side) yard depth of 10 feet was implemented.
6. On April 19, 1988, Title 18 was amended by Ordinance No. 88-010, which changed the zoning districts and their setbacks. R1 became Single-Family Residential (SF-10) and the side yard setbacks were reduced to five feet.
7. Most of the property corner monuments for the lots in Block 140 of Weeks Field Subdivision can no longer be located.
8. Both the surveyor and a neighbor testified about the inability to find property corner monuments and the uncertainty of the accuracy of property lines in this neighborhood.
9. According to testimony by the surveyor, Frank Stallings, the August 2019 plot plan survey was completed to 1/10th +/- of a foot (1.2 inches) accuracy using first order controls of two street intersection monuments on 10th Street between Pedro & Gilmore, several hundred feet from the property. This level of accuracy meets industry standards.
10. The surveyor, Frank Stallings, testified that the City of Fairbanks has reset the street intersection monuments in this portion of the subdivision several times in the last 65 years and it is not certain how well the controls have been maintained.
11. The south side yard setback requirement is 5 feet (60 inches). According to the plot plan survey, the house is located 4.6 feet (55.2 inches) from the south lot

line; a deficiency of 4.8 inches.

12. The surveyor testified that the only way to achieve more accuracy of the location of property lines is to perform a re-survey of the entire block. He stated that a resurvey of the entire block would require that any discrepancy between the new survey and the original plat be apportioned amongst all the lots, not just assigned to the subject property.
13. There are multiple layers of potential margin of error in the survey accuracy of the location of lot lines on the subject property due to the age of the subdivision, missing monumentation, and the repeated resetting of the street intersection monuments. The methodology involved in a resurvey would not definitively resolve the margin of error for side yard distance due to the apportionment of any discrepancy in survey measurements.

AFFIRMED (APPROVED)

This decision does not grant or provide any variances or exceptions to any other Fairbanks North Star Borough or state regulations, building codes, ordinances or statutes.

The issuance of this notice is an administrative decision and is appealable within fifteen (15) days from the date of this notice to the Fairbanks North Star Borough Planning Commission. An appeal application may be filed with the Community Planning Department office.

Further information can be obtained from FNSB Community Planning at 459-1260 or 907 Terminal Street, Fairbanks, AK 99701.

c. GR2020-033: A request by Daniel Dowling for affirmative recognition of legal nonconforming use status (grandfather rights) for a single-family residence and a two-family residence in the Two Family (TF) zoning district for the property on Lot 01, Block 43, Fairbanks Townsite Subdivision (Located at 117 Third Avenue/309 & 311 Hall Street). **(Staff Contact: Kristina Heredia)**

Audio Track 5

FINDINGS OF FACT

1. Lot 01, Block 43, Fairbanks Townsite Subdivision contains one single-family residence and one two-family residence.
2. Lot 01, Block 43 was created with the recording of a plat for the Fairbanks Townsite Subdivision in 1922.
3. The single-family residence is shown as existing on a Sanborn Fire Map, dated July 1927.
4. The Town of Fairbanks adopted their Building and Zoning Code on February 28,

1949, and the property was zoned Residential.

5. The Town of Fairbanks amended their Building and Zoning Code in 1959 and the property was rezoned to General Residential.
6. Fairbanks North Star Borough (FNSB) adopted their zoning ordinance with the adoption of Ordinance No. 67-34 on March 28th, 1968. The subject parcel was continued to be zoned General Residential (R2).
7. The two-family residence is shown on the FNSB Assessor's field card with a photograph dated November 1979.
8. The subject property was rezoned from General Residential (R2) to Two-Family Residential (TF) when Ordinance No. 88-010 went into effect on April 25th, 1988.
9. Ordinance No. 88-010 contained a supplementary regulation which prohibited more than one principle use per lot in the TF zoning district.
10. Section 18.56.030.B.2 of Ordinance No. 88-010 stated that non-conforming uses can be discontinued for up to 36 months before they lose their non-conforming status.
11. The two-family residence appears to have been unoccupied from 1989-1991 due to fire damage, however this time period was less than 36 months.
12. The single-family residence appears to have been unoccupied since October 2017, however this time period is also less than 36 months.

AFFIRMED (APPROVED)

This decision does not grant or provide any variances or exceptions to any other Fairbanks North Star Borough or state regulations, building codes, ordinances or statutes.

The issuance of this notice is an administrative decision and is appealable within fifteen (15) days from the date of this notice to the Fairbanks North Star Borough Planning Commission. An appeal application may be filed with the Community Planning Department office.

Further information can be obtained from FNSB Community Planning at 459-1260 or 907 Terminal Street, Fairbanks, AK 99701.