



NOTICE OF DECISION RE: GR2018-088

February 16, 2018

Josh and Tara Murray
1333 Manna Way
North Pole, AK 99705

Property Description: Lot 3, Block C, Murray Highlands Subdivision
Property Address: 149 Concord Avenue
PAN: 0143090
Issue: Request for affirmative recognition of legal nonconforming structure status (grandfather rights) for an existing detached garage with a nonconforming east side-yard setback of approximately 14+/- feet instead of the required 25 feet in Rural Estate 2 (RE-2) zone

Determination: **Not Affirmed (denied)** for the existing detached garage

After a public administrative hearing on February 15, 2018, the Fairbanks North Star Borough (FNSB) Administrative Hearing Officer **DID NOT AFFIRM (denied)** your request for affirmative recognition of grandfather rights for an existing detached garage with a nonconforming east side-yard setback of approximately 14+/- feet instead of the required 25 feet in Rural Estate 2 (RE-2) zone. The Administrative Hearing Officer adopted the staff report and the following Findings of Fact in support of this decision:

1. The subject parcel contains an existing detached garage in the Rural Estate 2 (RE-2) zone. The referenced detached garage doesn't comply with the RE-2 zone because it has an east side-yard setback of 14 feet +/- instead of the required 25 feet.
2. Zoning on the subject property (previously TL2501, T1N-R1W) was first established on March 28, 1968 as Unrestricted Use (UU) with the adoption of Ordinance No. 67-34. There were no setback requirements for UU zoning.
3. On September 27, 1973, the south half of the subject parcel was zoned General Agriculture (GA) with the adoption of Ordinance No. 73-42 and the north half of the lot remained zoned UU. The GA zone established a minimum east side-yard setback requirement of 50 feet. The east side-yard setback for the north half of the property remained zero feet.
4. On December 4, 1975, the south half of the subject parcel was rezoned from GA to Rural Estate (RE) with the adoption of Ordinance No. 75-45 and the north half of the lot remained zoned UU. The east side-yard setback for the south half of the property decreased to 35 feet and the north half side-yard setback remained zero feet.
5. The subject property was created as Lot 03, Block C with the recording of the plat for 'Murray Highlands' on May 19, 1976. The east property line has not been altered since it was originally created in 1976.

6. FNSB Assessor records reflect that the property was vacant during a June 1979 site inspection and that a new residence was present during a January 23, 1980 site inspection.
7. FNSB Assessor records reflect that a detached garage was noted and "picked up" during a January 18, 1983 site inspection.
8. An addition to the west side of the detached garage is estimated by FNSB Assessor records to have been constructed in 1990.
9. The majority of the building was constructed in the southern portion of the property zoned RE. The side-yard setback requirement for the south half of the property was 35 feet at that time. The east side-yard setback of the detached garage did not comply with the RE requirement when it was constructed in 1983.
10. Effective on April 25, 1988, the south half of the subject parcel was rezoned from RE to Rural Estate 2 (RE-2) and the north half of the property was rezoned from UU to General Use-1 (GU-1) with the adoption of Ordinance No. 88-010. The side-yard setback requirement for the RE-2 zoned southern portion of the property was reduced to 25 feet and the GU-1 northern portion remained zero feet. The east side-yard setback of the detached garage still did not comply with the RE-2 requirements.
11. On April 24, 2014, the north half of the subject parcel was rezoned from GU-1 to RE-2 with the adoption of Ordinance No. 2014-21. The east side-yard setback for the entire property became 25 feet. The east side-yard setback of the detached garage still did not comply with the RE-2 requirements.

CONCLUSION

Because the detached garage was constructed in 1983 after a minimum side-yard setback of 35 feet was established on December 4, 1975 and has not become conforming at any time since construction, the FNSB does not affirm legal non-conforming structure status (grandfather rights) as it pertains to the east side-yard setback of 14 feet +/- in the Rural Estates 2 (RE-2) zone under Chapter 18.108, Nonconforming (Grandfathered) Uses and Lots.

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.

Sincerely,



D. Christine Nelson, AICP
FNSB Administrative Hearing Officer

DCN/sw

CC: Mandi and Carl Goddard, 607 Old Steese Hwy, Suite B Box 238, Fairbanks, AK 99701