



## NOTICE OF DECISION RE: GR2018-091

March 1, 2018

JoAnne Bullard  
Fairbanks Home Source  
815 2<sup>nd</sup> Avenue  
Fairbanks, AK 99701

Property Description: Lot 09, Block 02, Lemeta Subdivision  
Property Address: 14 Harriet Avenue  
PAN: 0080730  
Issue: Request for affirmative recognition of legal nonconforming structure status (grandfather rights) for an existing residence with attached garage with a front-yard setback of 3 feet +/- instead of the required 20 feet and a north side-yard setback of 4 feet +/- instead of the required 5 feet in the Two-Family Residential (TF) zone

Determination: **NON-Affirmed (denied)** for front-yard setback and north side-yard setback

On March 1, 2018 the Fairbanks North Star Borough Department of Community Planning **NON-AFFIRMED (denied)** your request for affirmative recognition of legal nonconforming structure status (grandfather rights) for an existing residence with attached garage with a front-yard setback of 3 feet +/- instead of the required 20 feet and a north side-yard setback of 4 feet +/- instead of the required 5 feet in the Two-Family Residential (TF) zone. The Fairbanks North Star Borough Department of Community Planning adopted the following Findings of Fact in support of this determination:

1. The subject parcel contains an existing residence with attached garage in the Two-Family Residential (TF) zone. The referenced residence with attached garage doesn't comply with TF zone because it has a front-yard setback of 3 feet +/- instead of the required 20 feet and a north side-yard setback of 4 feet +/- instead of the required five feet (**Exhibit 1**).
2. The subject property was created as Lot 09, Block 02 with the recording of the plat #48-110341 for Lemeta Subdivision on October 13, 1948 (**Exhibit 2**). The property lines have not been altered since the lot was originally created in 1948.
3. The subject property was zoned Unrestricted Use (UU) with the adoption of Ordinance No. 67-34 on March 28, 1968 (**Exhibit 3**). There were no required setbacks for the UU zone.
4. Lemeta Subdivision was annexed into the City of Fairbanks on August 1, 1969 (**Exhibit 4**).
5. The subject parcel was zoned General Residential (R2) with the adoption of Ordinance No. 70-4 on August 13, 1970 (**Exhibit 5**). The R2 zone established a minimum required front yard setback of 20 feet and an interior yard setback of 15 feet, "except that building is permitted up to one interior lot line or each of two intersecting interior lot lines if under common ownership and simultaneous development" (**Exhibit 3**).

6. The FNSB Assessor records show the subject building (residence) was constructed in 1975 with an attached garage addition to the west side of the building in 1979 (**Exhibit 6**). The front-yard setback requirement was 20 feet and the north side-yard setback was 15 feet because there were no lot lines under common ownership (**Exhibit 3**). The residence did not meet either setback at the time of construction or addition.
7. A FNSB zoning permit (2375) was issued for an attached garage addition on the subject property on July 27, 1976 (**Exhibit 7**). It appears Zoning Permit 2375 did not review or approve the existing residential structure. The attached garage addition was not built 10 feet from the north side-yard setback as approved and shown on the plot plan submitted with the permit application. There are no FNSB zoning permits for the residence, 14' X 16' shed, or the wood shed.
8. The R2 zone was altered with the adoption of Ordinance No. 82-2 on February 25, 1982 to state "*the minimum interior yard is five feet from rear lot line and a minimum of five feet from one side yard lot line, provided that the combined side yard setbacks total twenty feet*" (**Exhibit 8**). The north side-yard setback of 4 feet +/- and the south side-yard setback of 16 feet +/- totaled 20 feet. However, the minimum side-yard setback was five feet on one side, not four feet as constructed.
9. The R2 zone was altered with the adoption of Ordinance No. 82-36 on April 8, 1982 (**Exhibit 9**). The required side-yard setback became five feet at that time, without exemptions or exceptions to the five feet. The north side-yard setback did not meet the five feet requirement.
10. The subject property was rezoned from R2 to Two-Family Residential (TF) with the adoption of Ordinance No. 88-010, effective on April 25, 1988 (**Exhibit 10**). The minimum required front-yard setback remained 20 feet and the side-yard setbacks remained five feet. The front-yard setback and north side-yard setback did not meet these requirements.

**Because the existing residence with attached garage with a front-yard setback of 3 feet +/- was constructed in 1975 and north side-yard setback of 4 feet +/- was constructed in 1979 after zoning setbacks came into effect on the subject property with the establishment of the R2 zone on August 13, 1970, the subject structure on Lot 09, Block 02, Lemeta Subdivision does not have an affirmative recognition of legal non-conforming structure status (grandfather rights) for the front-yard setback and north side-yard setback in the Two-Family Residential (TF) 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,



for D. Christine Nelson, AICP  
Community Planning Director

DCN/nd