

City of Bandon

PLANNING COMMISSION AGENDA DOCUMENTATION

DATE: December 16, 2021

FINDINGS: Variance and Plan Review for 2608 Caryl Court (28S-15W-36CB/TL 3200) – Variance to the Bandon Municipal Code provision 3.750(2) in place in 1989 which required a building line to begin at a property width of 60 feet and was recorded on the Beach View Estates Subdivision Plat and request to construct a single-family dwelling in the Controlled Development 1 (“CD-1”) Zone - #21-074 David Stokes & Sheri McGrath

ITEM NO: 4.1

SUBMITTED BY:



Dana Nichols, Planning Manager

**BEFORE THE PLANNING COMMISSION
CITY OF BANDON, OREGON
DECEMBER 16, 2021**

IN THE MATTER OF PLANNING ACTION #21-074, A REQUEST
FOR A VARIANCE TO FORMER ZONING CODE 3.750(2)
ON PROPERTY ZONED CONTROLLED DEVELOPMENT 1
IN BANDON, OREGON

) **FINDINGS,
) CONCLUSIONS
) & ORDERS**

OWNER: DAVID STOKES
APPLICANT: DAVID STOKES

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RECITALS:

- 1) Tax lot 3200 of Map 28S-15W-36CB is located in at the corner of Caryll Court and Beach Loop Drive in the Beach View Estates subdivision and is zoned CD-1 (Controlled Development 1).
- 2) The lot is a through lot with no secondary access abutting Beach Loop Drive.
- 3) The applicant is requested approval of a variance to a code criterion in place at the time the subdivision was platted (3.750(2)) that required a minimum lot width at the building line of 60-feet and a plan review to construct a new single-family dwelling, which is outright permitted in the Controlled Development 1 Zone, but which required a plan review process for approval.
- 4) A Planning Permit Application for a Plan Review was submitted to the City on June 14th, 2021 and deemed incomplete on July 14th, 2021. The applicant was advised to submit an application for a Variance because the proposed plan did not meet the standards of the plat. Revised materials were submitted, and the application deemed complete on September 15th, 2021. Notice of Public Hearing was mailed on October 6th, 2021, for the August 28th, 2021, meeting of the City of Bandon Planning Commission.
- 5) Staff prepared a report and presentation for the public hearing that outlined the applicable substantive criteria for the Planning Commission to consider. This included the following chapters of the Bandon Municipal Code: 16.36 Adjustments & Variances and 17.20 Controlled Development 1 Zone.
- 6) The Planning Commission, following proper public notice, held a public hearing on October 28th, 2021, at which time the public was invited to comment and exhibits were presented.

- 7) The final plat for Beach View Estates is a legally recorded document that had a listed condition of approval that required conformance with Bandon's 1989 Zoning Ordinance, which required building lines be shown on the final approved plat. These building lines were drawn based on the code in place at the time, which is more restrictive than the current code.
- 8) Staff suggested several items for the Planning Commission to consider, including whether or not a Variance was the appropriate tool to use for the request and how opposition from the neighbors might affect the decision.
- 9) The Applicant's Representative, Sheri McGrath, presented the application on behalf of David Stokes, owner, providing an overview the request and an explanation of why home construction would be difficult given the other standards listed in the subdivision's Covenants, Conditions, and Restrictions (CC&Rs). McGrath also provided a history of the other variances granted to neighboring properties within the same subdivision.
- 10) After discussion, the Planning Commission requested that Staff provide additional information about the legality of the variance process for this request.
- 11) Commissioner Landucci moved to continue the Hearing to November 18th, 2021 at 7:00 PM. The Motion was seconded by Commissioner Jurkowski and the approved unanimously.
- 12) Between the Hearings, David Stokes sent a request to Staff to withdraw the Plan Review request, limiting the following hearing to the proposed Variance.
- 13) The Planning Commission, following proper public notice, held a continued public hearing on November 18th, 2021, at which time the public was invited to comment and exhibits were presented.
- 14) Staff prepared a memorandum regarding the process through which the Planning Commission can legally modify subdivisions. LUBA has determined in previous cases that a city can modify a subdivision condition provided there is a local code provision that allows it. Bandon Municipal Code Table 16.04.020 allows for a modification to approval provided the same review procedures are followed as the original decision. Subdivisions are generally a Type II process, so the Type III process allowed for additional public outreach and comment.

- 15) Upon closure of the hearing, the Planning Commission discussed how to phrase the conditions of approval before unanimously voting to approve the request for a Variance. The discussion yielded that the new building line would be in line with surrounding properties, which is 75 feet from the rear lot line.

Now, therefore, the Planning Commission of the City of Bandon finds and concludes as follows:

SECTION 1. EXHIBITS

For the purposes of reference to these Findings, the attached index of exhibits, data, and testimony will be used.

- Application and revised materials for 21-074
- Noticing affidavit
- Staff Report dated October 28th, 2021
- Staff addendum dated November 18th, 2021

SECTION 2. CONCLUSORY FINDINGS

2.1 The Planning Commission finds that it has received all information necessary to make a decision based on the staff reports, public hearing testimony, and the exhibits contained within the whole record.

2.2 The Planning Commission finds that the proposal for a Variance to a code provision in place at the time the Beach View Estates Subdivision was platted (3.750(2)) and amend the building line to be 75 feet from the rear property line in the Beach View Estates Subdivision on property zoned Controlled Development 1 met the applicable criteria as described in BMC 16.36 and 17.20.

SECTION 3. DECISION

3.1 With regard to Application 21-074, a request for approval of a Variance to a code provision in place at the time the Beach View Estates Subdivision was platted (3.750(2)) and amend the building line to be 75 feet from the rear property line, the Planning Commission finds that the application meets all the criteria found in BMC 16.36 and 17.20.

The Planning Commission voted to approve the request for a Variance with the following conditions:

1. All future and proposed development shall be built no further than 75 feet from the rear property line.

2. The applicant shall file with the County Recorder and County Surveyor a note on the plat that the property has been granted a variance to the existing plat provision.

Based on the record of the Public Hearing on this matter, the City of Bandon Planning Commission concludes that the decision to **APPROVE** the request for approval of a Variance to a code provision in place at the time the Beach View Estates Subdivision was platted (3.750(2)) and amend the building line to be 75 feet from the rear property line is supported by evidence contained within the whole record.

Paul Fisher, *Chair*
City of Bandon

Date