

**DEPARTMENT OF PLANNING AND BUILDING
STAFF REPORT
TO CITY OF LAKE FOREST PARK HEARING EXAMINER**

The following review by the City of Lake Forest Park Planning Department is based on information contained in the application and supplemental correspondence, information in the file, comments and letters received on-site investigation, applicable scientific reports, applicable codes, development standards, adopted plans, and other information on file with the City.

SUMMARY INFORMATION

City File No: 2015-VAR-0003

Hearing Date: October 4, 2016, 1:30 pm

Requested Action: Request for a variance from Lake Forest Park Municipal Code 18.22.060(A), front yard setbacks, 18.22.060(B), side yard setbacks, and 18.50.060(B), accessory structures and buildings

Applicant: Thomas Grava and Sandra Kropp, represented by Burke deBriere
15348 Beach Dr NE
Lake Forest Park, WA 98155

Site Location: 15348 Beach Dr NE, Lake Forest Park, WA 98155
Tax Parcel No. 674479-1280

Comprehensive Plan Designation: Single-Family Residential, High (Exhibit 3)

Zoning Classification: RS-7,200 Single-Family Residential, High. (Exhibit 4)

APPLICABLE CODES AND REGULATIONS FOR THE BEGIS VARIANCE

(This list may not be completely exhaustive.)

1. **LFPMP 18.22.060 (A)** – Requires a setback of 20 feet from the front property line.
2. **LFPMP 18.22.060 (B)** – Requires a combined setback of 15 feet from the side property line, with no less than 5 feet on either side.
3. **LFPMP 18.50.060(B)** – Requires accessory structures to be placed only in the rear yard.
4. **LFPMP 18.50.080** – Establishes the maximum impervious area for the RS7.2 zone.
5. **LFPMP 18.70.010** – Establishes the decision criteria for a variance.
6. **LFPMP 16.26.030** – Establishes the authority of the Hearing Examiner to issue quasi-judicial decisions for variance applications (Type I application).
7. **LFPMP 16.26.110 (D)** – Establishes the decision of the Hearing Examiner on a Type I application as the final decision of the city.
8. **LFPMP 16.26.040, .050, .080, .090, .100, and .110(C)** – Establishes the process and public notification requirements associated with Type I applications.

BACKGROUND INFORMATION:

Description of the proposal:

Thomas Grava and Sandra Kropp filed an application on November 13, 2015 (Exhibit 2). The proposal calls for an addition to an existing non-conforming detached garage. The garage is non-conforming because the existing structure encroaches within both front and side building setbacks. The structure also encroaches the King County right-of-way for the Burke-Gilman Trail (KC ROW). Further, the garage is also considered existing non-conforming because detached accessory structures are only allowed in the rear yard of a property.

The existing garage was built in 1941, prior to City annexation in 1994 (Exhibit 12). The existing garage extends approximately 3 feet into the King County right-of-way, and the remaining structure encroaches into the front and side yard setbacks. The existing structure is 17' x 25', and the 25-foot dimension is parallel with the front property line. The Permittees have proposed to build a new garage structure measuring 24' x 25', with the 25-foot dimension, again, parallel with the front property line. None of the proposed garage footprint would be in the King County right-of-way (KC ROW). The Permittees have requested a variance to rebuild the garage within the front and side yards.

The proposal would add a total of 175 square feet to the existing 425 square-foot garage and equal a total of 600 square feet (Exhibit 5 & 6). The impervious area calculation of the existing garage encroachment shall not include the 3-foot portion of the garage that exists within the KC ROW, which equals 75 square feet (Exhibit 2). Therefore, the existing impervious area calculation of the garage is 350 square feet. The proposed addition would exist entirely within the subject property. The total impervious area for this proposal would increase from the existing 350 square feet to 600 square feet for the proposed garage.

The existing lot is non-conforming in regards to maximum impervious surface area. For RS-7.2 zones, a maximum of 45% impervious surface is allowed. The current impervious surface on the lot is 51%. The proposed structure would bring the total impervious area to a total of 56%. The Permittees have requested a variance from the maximum allowable impervious surface area.

The applicant has also requested a variance request to allow the proposed detached garage to be constructed in the front yard. Detached accessory structures are allowed in the rear yard only, according to LFPMC 18.50.060(B). If the proposed structure were to be attached to the existing house, then this specific portion of the variance request would not be necessary because it would be considered an addition to the existing primary structure.

All portions of this proposal are outside of required shoreline setbacks. Because this lot is in excess of 100' in length, the required standard setback from the shoreline is 50 feet.

Site Characteristics:

The subject property is situated west to east from Beach Drive NE to Lake Washington. The right-of-way abutting this property is called Beach Drive NE, though it is technically not a right-of-way managed by the City of Lake Forest Park. Rather, it is integral to the right-of-way that is managed by King County and inclusive of the Burke Gilman trail. Access from the subject

property to the City right-of-way is granted through the eastern edge of a neighboring property, at 3865 NE 155th Street.

LFPMC 18.08.410 defines lot area as the horizontal surface of the lot *excluding those areas covered by water*. According to the King County Assessor, the total area of the subject parcel equals 16,600 square feet (Exhibit 12). The upland area of the property as submitted for this proposal shows it to be approximately 7,477 square feet in area and slightly more than 100 feet in lot depth, from the front property lot line to the Ordinary High Water Mark (OHWM) of Lake Washington.

The subject site is currently developed with a 2,300 square-foot single-family residence including the finished portion of the basement and a partial second floor. The footprint of the structure includes 1,120 square feet of livable area on the first floor, along with a first-floor porch equalling 410 square feet, according to King County Assessors (Exhibit 12). The site is relatively flat. The elevation gain, westward, across the property is less than 15 feet.

Adjacent Land Use Characteristics:

The subject property is located at 15348 Beach Dr NE in a neighborhood that is bordered to the east by Lake Washington, and to the west with Beach Dr NE and the Burke Gilman Trail. The subject property is among only three lots that share this stub of Beach Dr NE within KC ROW. Properties in the vicinity are similarly developed with a mix of old and new single-family residences.

The 40' wide property directly to the north of the subject property is owned by the City of Lake Forest Park, and is a remnant right-of-way end to NE 155th Street. Aerial images show that the City property has been encroached with a shed, belonging to the Permittee.

Project Review Timeline and SEPA:

The original application proposed to rebuild the garage in the existing footprint, though the permission given from King County was for reconstruction of the roof, only. The Permittee's representative, Burke deBriere, submitted revised materials on August 6, 2016. The application was determined to be complete on August 9.

A Notice of Application was published and posted on August 30, 2016 (Exhibit 10). The notice included a comment period which ends with the close of public hearing on October 4, 2016. The City determined that the proposal is exempt under the State Environmental Policy Act (SEPA) per WAC 197-11-800(2) (f). A statement of exemption from SEPA was issued on December 10, 2015 (Exhibit 11). A Notice of Hearing was published and posted on September 26, 2016 (Exhibit 10).

CRITERIA ANALYSIS

The following is excerpted from the Lake Forest Park Municipal Code. The applicant has the burden of meeting all the criteria for an approval.

A variance is the means by which an adjustment is made in the application of the specific regulations of this title to a particular piece of property. Variances shall be granted only in cases where the particular property, because of special circumstances applicable to the property, is

deprived of privileges commonly enjoyed by other properties in the same vicinity and zone and where the variance will remedy the disparity in privilege, or to accommodate a solar energy system. Before a variance shall be granted, the following requirements shall be met:

- 1. The variance shall not constitute a grant of special privilege inconsistent with the limitation upon uses of other properties in the vicinity and zone in which the property on behalf of which the application was filed is located; and*
- 2. That such variance is necessary, because of special circumstances relating to the size, shape, topography, location or surroundings of the subject property, to provide it with use rights and privileges permitted to other properties in the vicinity and in the zone in which the subject property is located; and*
- 3. Granting of such variance will not be materially detrimental to the public welfare or injurious to the property or improvements in the vicinity and zone in which the subject property is situated; and*
- 4. There are special circumstances applicable to a particular lot or tract, such as size, shape, topography, surroundings, trees, ground cover or other physical conditions, installation of a solar energy system or the location or orientation of a building for purposes of gaining or providing solar access; and*
- 5. The granting of the variance will not alter the character of the land, nor impair the appropriate use or development of adjacent property; and*
- 6. The granting of the variance will not conflict with the general purposes and objectives of the comprehensive plan and other requirements of this title; and*
- 7. In determining whether to approve an application for a variance, the hearing examiner shall consider the applicant's record regarding meeting the terms, conditions and limitations of other permits previously issued including building permits, conditional uses or variances; and*
- 8. All variances shall meet any other terms, conditions or limitations of the Lake Forest Park Municipal Code, if any, applicable to the specific action including LFPMC Title 16, Environmental Protection; Title 17, Subdivisions; and Title 18, Zoning.*

The applicant requests a variance from the standards for:

- Front yard setback requirement (LFPMC 18.22.060 A)
- Side yard setback requirement (LFPMC 18.22.060 B)
- Maximum impervious surface area (LFPMC 18.22.080)
- Accessory structures may only be placed in rear yards (18.50.060 B)

Criterion 1: *The variance shall not constitute a grant of special privilege inconsistent with the limitation upon uses of other properties in the vicinity and zone in which the property on behalf of which the application was filed is located.*

This is not a use variance request and approval for this variance will not create a use different from those in the neighborhood. This is a single-family property surrounded by other single-family properties. Therefore, this variance request does not seek special privilege inconsistent with the limitation upon uses of other properties in the vicinity and none in which the property on behalf of which the application was filed is located (Exhibit 2).

This criterion is met.

Criterion 2: *That such variance is necessary, because of special circumstances relating to the size, shape, topography, location or surroundings of the subject property, to provide it with use rights and privileges permitted to other properties in the vicinity and in the zone in which the subject property is located.*

Because of special circumstances relating to the size, location, and surroundings of the property, this variance is necessary in order to construct a garage that is equivalent to other existing lakefront garages which are also RS 7.2 zoned lots.

Due to setbacks from the OHWM of the lake, a detached garage may not be placed in the rear yard. Given the unique context of the existing driveway adjacent to the public multi-use Burke Gilman trail, the Permittee has asserted that an ability to turn vehicles around within the site is important for trail-user safety.

The Permittees have established with photos and maps that the setbacks established for this existing garage when it was constructed 76 years ago are similar to detached garages found at 14714 Edgewater Lane NE and at 15308 Beach Drive NE, where garages have been permitted to be built for two cars, within the front and side yard setbacks (Exhibit 7).

The Permittees have provided an aerial image from King County imap showing properties surrounding the subject property. Further, they have circled nearby properties with impervious areas which appear to exceed the 45% maximum allowable ratio (Exhibit 8). The exhibit demonstrates that other properties in the vicinity and in the zone in which the subject property is located have been permitted the same privileges that are being requested with this variance application.

This criterion is met.

Criterion 3: *Granting of such variance will not be materially detrimental to the public welfare or injurious to the property or improvements in the vicinity and zone in which the subject property is situated.*

The proposed new garage will not be materially detrimental to the public welfare or injurious to the property and will maintain the same general appearance as the other residences along Beach Drive NE. A rockery retaining wall currently exists integral to the garage structure which establishes the eastern shoulder of the KC Burke Gilman trail. A new retaining wall must be built in combination with the proposed new garage (Exhibit 2). This will allow for a fenced-off additional three feet in shoulder area for the KC Burke Gilman trail.

This criterion is met.

Criterion 4: *There are special circumstances applicable to a particular lot or tract, such as size, shape, topography, surroundings, trees, ground-cover or other physical conditions, installation of a solar energy system or the location or orientation of a building for purposes of gaining or providing solar access.*

No solar energy system is proposed for this lot.

This criterion is met.

Criterion 5: *The granting of the variance will not alter the character of the land, nor impair the appropriate use or development of adjacent property.*

The proposal is generally similar in character to other houses in the surrounding area. There is no indication that the proposed house would impair the use or development of adjacent properties.

The Permittee has submitted evidence that the two other lots that share this stub of Beach Dr NE have attached garages that encroach their front yard setbacks, as do many other properties on another stub of Beach Dr NE, to the south (Exhibit 8).

The Permittee has requested a variance to allow for an increase in impervious area rather than proposing a reduction in the amount of existing impervious areas, such as the driveway. If the proposal showed no net increase to the existing non-conforming ratio of 51% impervious surface, then this specific variance request would not be required. The Permittee explained within the application materials that the extent of the existing driveway is necessary to enable vehicular turn-around access on site rather than within the shared ROW, particularly considering proximity to the adjacent Burke Gilman crossing (Exhibit 2).

This criterion is met.

Criterion 6: *The granting of the variance will not conflict with the general purposes and objectives of the comprehensive plan and other requirements of this title.*

Goal LU-3 Compatibility with Natural Environment. Promote design and development that respects and preserves the natural environment. Policy LU-3.4 Identify and preserve scenic vistas and water access as development occurs.

The proposed garage is designed in a manner that preserves the views and access of existing neighboring lakefront homes. The proposed addition does not preserve views of neighboring near-lake homes, though it also does not maximize the potential harm to those views.

The proposal does not appear to be in conflict with the general purposes and objectives of the Comprehensive Plan.

This criterion is met.

Criterion 7: *In determining whether to approve an application for a variance, the hearing examiner shall consider the applicant's record regarding meeting the terms, conditions and limitations of other permits previously issued including building permits, conditional uses or variances.*

According to the information on file with the City of Lake Forest Park, the Permittee had acquired permits to improve their dock in 1995 with a Substantial Shoreline Development approval. The Permittee has met the terms, conditions, and limitations of permits related to this activity. The Permittee applied for a building permit in 2011 to add the second story to his house. Other associated permits were required with the construction of the addition, including plumbing and mechanical permits. The City Building Official was satisfied with the Permittees' actions and he approved their final inspection on September 12, 2011.

This criterion is met.

Criterion 8: *All variances shall meet any other terms, conditions or limitations of the Lake Forest Park Municipal Code, if any, applicable to the specific action including LFPMC Title 16, Environmental Protection; Title 17, Subdivisions; and Title 18, Zoning.*

The applicant will be required to comply with all of the terms and regulations of the LFPMC, except as allowed by this variance.

This criterion is met, subject to compliance with recommended conditions.

PUBLIC COMMENT

At the time of preparation for the staff report, no comments were received by the public.

DISCUSSION

Regarding Criterion 3, the Burke Gilman trail is also used for emergency vehicles such as fire trucks and ambulances. Therefore, the public welfare may be improved with fewer encroachments into the KC ROW for emergency needs and vision sightlines. This information may not have not been available to the Permittee.

Through discussion with the applicant it has been discovered that a shed was placed on the City property adjacent to the subject property, to the north. Though a permit is not required to place a shed, placement must adhere to those regulations found in LFPMC 18.50.060, and a property owner must gain City approval to place a structure on City property. The Permittee has not included with the application narrative, nor drawings, what the plans for this structure may be in relation to this variance request. The City's interest is for the structure to be removed as a condition of approval for any part of this request that earns approval.

Regarding LFPMC 18.22.060 (B), which requires no less than a five foot side yard setback, certain building methods are required for any structure closer than five feet which require a structure to have the appropriate fireproof ability for this proximity to a property line. This is inherent with City-adopted International Building Code standards.

Lastly, the Permittees have stated that the proposal is for a one-story garage, though this information is not expressly included with the proposed site plan. Staff suggests gaining oral testimony to affirm this intention.

CONCLUSIONS AND RECOMMENDATION

The City Planning Department concludes that the proposed application is consistent with the criteria for a variance as proposed. This variance does not constitute a special privilege inconsistent with lots in surrounding areas because surrounding lots also have the same constraints and several have been the subject of similar variance requests.

The Planning Department recommends the conditional approval of the request for variance, 2015-VAR-0003, for the above described reasons with the following conditions:

1. All plans comply with the City's adopted standards for development and construction, including, storm water mitigation, erosion control, zoning, and building.

2. The Permittee must apply for and receive Right-of-Way permits for all oversized vehicles that must remain parked on the public street.
3. The Permittee is responsible for informing King County of the demolition and construction proposed. If necessary, the Permittee is also responsible for pursuing and receiving permission from King County for demolition activity and for fill necessary for the retaining wall construction.
4. The Permittee must apply for and receive all necessary permits from the Department of Planning and Building prior to commencing work on the addition.
5. The Permittee must remove the existing shed which has been placed on City property, adjacent to the subject property, to the north.

Submitted:

 Date: 9/27/2016

Andrea Flower,
Principal Planner

For information about this proposal or questions about this staff report, please Andrea Flower at Lake Forest Park City Hall, 17425 Ballinger Way NE, (206) 957-2832 or e-mail aflower@cityoflfp.com.

Parties of Record:

None.