

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

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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:** 2018-VAR-0001

**Hearing Date:** August 15, 2018 at 3:30pm

**Requested Action:** Request for a variance from Lake Forest Park Municipal Code (LFPMC) 18.50.060 (B) to allow construction of a detached accessory structure (boat garage/storage) in the side yard.

**Applicant:** Bob Bracht  
16522 37<sup>th</sup> Ave. NE  
Lake Forest Park, WA 98155

**Site Location:** 16522 37<sup>th</sup> Ave. NE, Lake Forest Park, WA 98155  
Tax Parcel No. 102604-9071

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

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

**Recommendation:** **Approval with Conditions**

**APPLICABLE CODES AND REGULATIONS FOR THE BRACHT VARIANCE**

(This list may not be exhaustive.)

Lake Forest Park Municipal Code Sections Directly Applicable to the Proposal:

1. **LFPMC 18.08.430** – Establishes the definition of lot lines.
2. **LFPMC 18.50.060 (B)** – Requires accessory buildings to be placed in a rear yard.
3. **LFPMC 18.70.010** – Establishes the decision criteria for a variance.
4. **LFPMC 16.26.030** – Establishes the authority of the Hearing Examiner to issue quasi-judicial decisions for variance applications (Type I application).
5. **LFPMC 16.26.110 (D)** – Establishes the decision of the Hearing Examiner on a Type I application as the final decision of the city.
6. **LFPMC 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:**

Bob Bracht (Applicant/Permittee) filed a complete application on May 25, 2018. The Applicant requests a variance from Lake Forest Park Municipal Code (LFPMC) 18.50.060 (B) to allow construction of a detached accessory structure (boat garage/storage) in the side yard.

**Site Characteristics:**

The subject property is rectangular in shape and located at 16522 37<sup>th</sup> Ave. NE at the end of a shared private driveway off of 37<sup>th</sup> Ave. NE that serves a total of three homes. The site is situated northwest to southeast and measures approximately 200 feet along the northern and southern property lines and 70 feet along the eastern and western property lines. The property slopes downward from the northwest to the southeast, with a total elevation change of approximately 25 feet across the site.

Due to the nature of the property lines and the location of the shared private driveway, the northern property line is technically their front property line according to the LFPMC 18.08.430 (A) definition of front lot line.

The existing single family residence was built in 1955 and consists of 2,480 square feet of finished living space with a 1,040 square-foot unfinished basement and a 400 square-foot attached garage. The backyard also has a 1,323 square-foot patio and a 240 square-foot deck.

Prior to applying for a variance, the Applicant was first contacted by the City due to the Applicant starting a 918 square-foot clearing and grading project without prior permit approval from the City (Exhibit 2.6-2.7). The 918 square-foot area that was cleared can be seen in plan view in Exhibit 5.3 and aerially in Exhibit 9.1.

No sensitive areas are present on the property.

**Adjacent Land Use Characteristics:**

The site is located at 16522 37<sup>th</sup> Ave. NE and is surrounded by single family residences on all sides. The major arterial Bothell Way NE is approximately 400 feet southeast of the eastern property line. No sensitive areas are present within 250 feet of the property.

The neighbor at 16524 37<sup>th</sup> Ave. NE, located directly to the northeast of the subject property, has a detached garage that was built in 1962 which is located in the side/front yard (Exhibit 2.10, Exhibit 9.1-9.3). This neighbor's garage is approximately 5 feet from the front property line (and is therefore an existing non-conforming accessory structure).

The neighbor at 3744 NE 165<sup>th</sup> Street, located roughly 230 feet to the southeast of the subject property, also has a detached garage that was built in 1952 which is located in the front yard (Exhibit 9.4-9.6). This neighbor's garage is roughly 10-15 feet from the front property line (and is therefore an existing non-conforming accessory structure).

The neighbor at 16546 37<sup>th</sup> Ave. NE, approximately 250 feet north of the subject property, also has a detached carport that was built in 1952 which is located in the side/front yard (Exhibit 9.7-

9.9). This neighbor's carport is roughly 10-12 feet from the front property line (and is therefore an existing non-conforming accessory structure).

**Project Review Timeline and SEPA:**

A summary of the Project Review Timeline can be found in Exhibit 8.

The applicant originally turned in materials on April 23, 2018, but the application was considered incomplete without a geotechnical report on the appropriateness of permeable pavers for the site. The geotechnical report (Exhibit 6) was submitted and the application was determined to be complete on May 25, 2018 in accordance with 16.26.040 (B)(1).

Notice of Application was combined with a SEPA determination of exemption, which was published, posted, and mailed on June 14, 2018 (Exhibit 7.1-7.7). The notice included a 14-day comment period. The City determined that the proposal is exempt under the State Environmental Policy Act (SEPA) per WAC 197-11-800(6) (e). A statement of exemption from SEPA was issued on June 12, 2018 (Exhibit 7.4).

Notice of Hearing was published, posted, and mailed on August 1, 2018 (Exhibit 7.8-7.10).

**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.*

**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 privileges 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.*

The house was constructed in 1955 in a manner that would lead one to believe that the front lot line was on the western property line. The property was annexed into the City in 1994. There is no evidence in County records that it was non-conforming regarding zoning requirements of that time.

Vehicular access is on the northern property line. According to LFPMC 18.08.430(A), the front lot line means “that lot line at which vehicular access is off of a public right-of-way, private street, access easement or tract.” This means that the front and rear yard setbacks (20 and 15 feet respectively) must be taken out of the shallowest dimension (70 feet) of the lot when considering the potential for any new development.

LFPMC 18.08.690 states that a yard means “those open spaces on a lot other than a court, that are unoccupied and unobstructed by buildings, except as otherwise provided in this title.”

LFPMC 18.08.720 states that rear yard means “that yard adjacent to the rear lot line and which is measured across the full width of the lot.”

The City interprets these statutes in conjunction with LFPMC 18.50.060(B) which states that “accessory buildings may only be placed in a rear yard” to mean that accessory structures must be completely behind the rear building line of the main structure to be in compliance.

Other properties with a similar configuration in the area have been developed with a detached garage in a similar situation. The Applicant provided an example which can be found in Exhibit 2.10 and Exhibit 9.1-9.3. The City also identified an example roughly 230 feet away that can be found in Exhibit 9.4-9.6.

Because of special circumstances created by the City adopting different criteria for determining the front lot line and shape of the subject property, this variance is necessary in order to have rights and privileges permitted to other properties in the vicinity and construct a detached garage on the property.

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 construction and location of the proposed accessory structure will not be materially detrimental to the public welfare or injurious to nearby properties and will maintain the same general appearance as the other residences along 37<sup>th</sup> Ave. NE and other nearby streets. The Applicant asserts that this proposal will not be materially detrimental to the public welfare (Exhibit 2.7).

In terms of impervious surface requirements for the RS 7.2 zone, the Applicant has demonstrated that the subject property, prior to any work being done, was existing non-conforming in that impervious surfaces measured more than the maximum 45% allowed (Exhibit 2.11-2.18, Exhibit 5.1). However, the Applicant has demonstrated that the proposed construction will decrease overall impervious surfaces and can therefore be approved administratively (Exhibit 2.11-2.18, Exhibit 5.2-5.3).

There are two trees on the neighbor's property at 3718 NE 165<sup>th</sup> Street located directly southeast of the proposed accessory structure. The critical root zones of these trees will likely be impacted by the structure. There are also trees present at the neighbor's property at 16520 37<sup>th</sup> Ave. NE located directly northwest of the proposed accessory structure. The critical root zones of these trees may be impacted by the construction of the structure.

The City Planning Department will require that, upon submitting plans and the necessary building permit applications, the Applicant will also submit an arborist report and tree permit application that will provide tree protection measures necessary to ensure retention of these neighbors' trees.

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 not applicable.

***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 single-family houses in the surrounding area. The neighbor at 16524 37<sup>th</sup> Ave. NE, located directly to the northeast of the subject property, has a detached garage that was built in 1962 which is located in the side/front yard (Exhibit 2.10, Exhibit 9.1-9.3). This neighbor's garage is approximately 5 feet from the front property line (and is therefore an existing non-conforming accessory structure).

The neighbor at 3744 NE 165<sup>th</sup> Street, located roughly 230 feet to the southeast of the subject property, also has a detached garage that was built in 1952 which is located in the front yard (Exhibit 9.4-9.6). This neighbor's garage is roughly 10-15 feet from the front property line (and is therefore an existing non-conforming accessory structure).

The neighbor at 16546 37<sup>th</sup> Ave. NE, approximately 250 feet north of the subject property, also has a detached carport that was built in 1952 which is located in the side/front yard (Exhibit 9.7-9.9). This neighbor's carport is roughly 10-12 feet from the front property line (and is therefore an existing non-conforming accessory structure).

There is no indication that the proposed accessory structure would impair the use or development of adjacent properties. The applicant has stated that the "granted variance will not alter the character of the land." (Exhibit 2.7).

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.***

Policies under Goal LU—4 (Residential Neighborhoods – Promote the quality, character, and function of residential neighborhoods) of the Lake Forest Park Comprehensive Plan are some of the more relevant regarding this proposal. All the policies included under Goal LU—4 are listed below.

Policy LU—4.1: Reflect natural constraints, surrounding development, and proximity to services and facilities in establishing residential densities.

Policy LU—4.2: Provide flexibility for innovative design options in order to preserve significant natural features, to provide transitions between different types of uses, or to meet other community objectives.

Policy LU—4.3: Identify underused land and encourage infill development that is compatible with the scale and character of surrounding development.

Policy LU—4.4: Encourage higher-intensity multifamily development in areas nearest to transportation facilities, commercial services, open space, and other amenities.

Policy LU—4.5: Encourage a compatible mix of residential densities in the city’s neighborhoods.

The proposal does not appear to be in conflict with any of these specific policies nor 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, prior to applying for a variance, the Applicant admits that he started a 918 square-foot clearing and grading project without prior permit approval from the City (Exhibit 2.6-2.7). The 918 square-foot area that was cleared can be seen in plan view in Exhibit 5.3 and aerially in Exhibit 9.1. The applicant applied for an after-the-fact clearing and grading permit on August 31<sup>st</sup>, 2017.

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 proposed accessory structure would have to be 15 feet or less in height to comply with 18.50.060(E). The Applicant has stated that “it is [their] intent to meet all conditions once the variance is approved.” (Exhibit 2.7).

Since the total lot size is 13,605 square feet, the proposed accessory structure could have the proposed area of 900 square feet and still be in compliance with 18.50.060(A). Exhibit 5.2 shows that the proposed accessory structure will be more than 10 feet from the principal residence in order to comply with 18.50.060(C). Exhibit 5.2 also shows that the proposed accessory structure will be no closer than 5 feet from the rear lot line in order to comply with 18.50.060(D).

This criterion is met.

**PUBLIC COMMENT**

At the time of preparation for the staff report, the City has not received any comments.

**DISCUSSION 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 with similar dimensions were developed in the manner the applicant wishes to develop prior to the City’s zoning having jurisdiction.

The Planning Department recommends the conditional approval of the request for variance, 2018-VAR-0001, as depicted in Exhibit 5.2 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 a major tree permit and provide an arborist report stating construction conditions necessary to protect nearby neighbors' trees located at 3718 NE 165<sup>th</sup> Street and 16520 37<sup>th</sup> Ave. NE.
3. The Permittee must apply for and receive all necessary permits from the Department of Planning and Building prior to commencing work on the addition.

Submitted: \_\_\_\_\_ Date: \_\_\_\_\_

Lauren Hoerr,  
Assistant Planner

For information about this proposal or questions about this staff report, please contact Lauren Hoerr at Lake Forest Park City Hall, 17425 Ballinger Way NE, (206) 957-2837 or e-mail lhoerr@cityofflp.com.