



CITY OF NEHALEM

35900 8th Street - P.O. Box 143
Nehalem, OR 97131
Tel. (503) 368-5627
Fax (503) 368-4175

NEHALEM PLANNING COMMISSION MEETING WEDNESDAY, August 21, 2019 - 6:00 p.m.

**CALL TO ORDER:
PLEDGE OF ALLEGIANCE
ROLL CALL:
GUESTS:**

APPROVAL OF MINUTES: July 18, 2019 Planning Commission Minutes

OLD BUSINESS:

1. Symank Variance has been appealed to the City Council

NEW BUSINESS:

1. **Articles III, IV, & V**
Review suggested Articles III, IV & V

**ANY OTHER BUSINESS
PUBLIC COMMENTS**

ADJOURNMENT

The meeting location is accessible to persons with disabilities. A request for an interpreter for the hearing impaired or for other accommodations for persons with disabilities should be made at least 48 hours prior to the meeting. Please contact City Hall at 503-368-5627 to make a request for an interpreter or other accommodations for persons with disabilities.

**NEHALEM PLANNING COMMISSION
PLANNING MINUTES
REGULAR MEETING
JULY 18, 2019**

Vice-Chair Lease called the Planning Commission Meeting to order at 6:04 p.m.

**PLANNING COMMISSION
MEMBERS PRESENT:**

Janet Lease, Vice-Chair
Lance Stockton, Commissioner
Mary Jo Anderson, Commissioner
Julie Chick, Commissioner

EXCUSED:

John Coopersmith, Chair

STAFF PRESENT:

Dale Shafer, City Manager
Melissa Thompson-Kiefer, Asst. City Mgr. /Recorder
John Morgan, Planning Consultant
David Mattison, Planning Consultant

VISITORS:

Mary Lynn Morgan
Stan Symank
Lori Symank
Maureen Walczak (and infant)
Karin Walczak
Lane deMoll
Phil & Blake Chick
Justin Bailie (arrived 6:09 p.m.)
Officer John Garcia, Manzanita Police Department

Vice-Chair Lease led those present in the Pledge of Allegiance.

Vice-Chair Lease announced public wi-fi access information.

MINUTES

The Commission reviewed the minutes of the June 26, 2019 Planning Commission meeting. Commissioner Chick said she was not present for the meeting and recused herself from voting. Commissioner Anderson **MOVED** to approve the minutes from the June 26, 2019 meeting as presented. Commissioner **SECONDED** the motion. **MOTION APPROVED 3-0 (Yes: Lease, Stockton, and Anderson; Abstain: Chick; No: None).**

OLD BUSINESS

DRAFT COMPREHENSIVE PLAN REVIEW INCLUDING DLCD (DEPARTMENT OF LAND CONSERVATION & DEVELOPMENT) ADDITIONS

The Commission reviewed the updates made to the draft of the Comprehensive Plan including additions by DLCD staff addressing climate change and natural hazards. There was brief discussion regarding the policy referencing herbicides. There was a public comment suggesting a grammatical change on page 11, and comments regarding the references to the Watershed Council and greenhouse gases. City Manager Shafer answered clarifying questions. There was a Commissioner comment suggesting a long-term plan to avoid logging for income revenue. City Manager Shafer shared that the city has forest management plan, the city has only cut 12 times since the 1940's, and there are over 250 acres will never be logged. She added that the city has limited revenue streams. Planning Consultant John Morgan noted that the land is selectively logged with re-planting. There was public comment asking if it was possible to have conversations about ideas for other forms of revenue. City Manager Shafer said she would be happy to hear any ideas. There was public comment suggesting clarifying wording identifying Alder Creek Farm on page 33. The Commission agreed. There was public comment regarding a reference to emergency access and evacuation, and it was suggested that B Street was an important emergency access route. There was public comment that Goal 7, Policy 9, which encourages development on the least steep portions of a site, encourages building in an area that is likely to be impacted by water and geo-hazards. There was public comment requesting that the city uphold current state laws regarding steep property and avoid conjecture.

NEW BUSINESS

PUBLIC HEARING: A Quasi-Judicial Land Use Hearing on an application from Stanton Symank requesting a variance to reduce the required side yard adjacent to a street setback from 15 feet to 6 feet, and a variance to reduce the required front yard setback from 20 feet to approximately 10 feet. The property in question is 3N10W27CA08000 and is zoned RM.

At 6:34 p.m., Vice-Chair Lease opened the public hearing.

DECLARATION OF POTENTIAL CONFLICT OF INTEREST

Commissioner Anderson declared a potential conflict of interest, explaining that she owns property within 200 feet of the subject property. She stated that it may impact her financially, and she can make a fair and impartial decision.

There were no ex-parte communication or personal bias to declare and were no objections to the ability of a Commissioner to make a fair decision.

Vice-Chair Lease described the hearing process and performed the required statements for the hearing.

STAFF REPORT

Planning Consultant John Morgan presented the staff report, read the applicable substantive criteria for making a decision to grant a variance, and read the findings of fact. The staff report concluded that the proposed variances met the standards necessary for approval and should be approved. (A copy of the staff report is attached to and made a part of these minutes as Attachment A.)

City Manager Shafer read a statement recommending conditions for approval. (A copy of the statement is attached to and made a part of these minutes as Attachment B.)

There were Commissioner questions regarding parking. Mr. Morgan said that with new construction, parking plans would be submitted with a building permit application and would have to meet code requirements for parking. He said the applicant could address whether there was adequate space for parking.

APPLICANT PRESENTATION

Mr. Symank presented the Commission with a copy of a property lot survey, a copy of the letter from his application, and four drawings showing the existing structure placement, allowable placement, improved line of sight and proposed new home. Mr. Symank read a portion of the letter from his application, noting that the existing non-conforming cabin on the property is over 100 years old. He explained the proposed new structure and requested setback variances.

Mr. Symank said that he felt the proposed condition of a 6-month schedule was a fast pace. He stated he just signed a contract for a new job that will take 4 months. Mr. Morgan asked Mr. Symank how quickly he thought he could complete the construction. Mr. Symank noted that the lot is steep, and he did not want to cause any problems for the neighbor above him. He explained that he needed a Geotech, a survey, and time to draw plans and get them approved. There was discussion with City Manager Shafer regarding estimated time to get building plans approved. Mr. Symank noted that he did not want to start the project in winter due to the steep slope. City Manager Shafer asked if he could complete the demolition of the existing structure in 60 days and complete the new structure in one year. Mr. Symank said that was not unreasonable. There was a Commissioner comment that they would not grant the variance without timeline conditions.

Mr. Symank said that he believed the existing structure was built before the property lines were established. City Manager Shafer explained that the existing structure was grandfathered in, but a new structure must meet setbacks or would require a variance.

Mr. Symank asked if the variance was granted, if it could be transferred to a new property owner. A Commissioner noted that Mr. Symank's application indicated that he intended to build a home on property and keep it in his family, not sell it. Mrs. Symank said it would be a vacation home. After further discussion, Mr. Morgan noted that generally a variance stays with the land. There was additional discussion regarding concern that the property has been neglected for years.

In response to a Commissioner question about adequate parking, Mr. Symank explained there is an apron off 8th Street that leads into a driveway for parking. He noted it was currently covered in blackberries. There was discussion regarding years of overgrowth on the property.

TESTIMONY IN FAVOR

None

TESTIMONY OPPOSED

Vice-Chair Lease read a letter received from Robert Drake in opposition to granting the variances because Mr. Symank has neglected his property for over 20 years.

APPLICANT REBUTTAL

Mrs. Symank said they have not owned the property for 20 years. Mr. Symank estimated that they have owned the property for about 12 years. Mr. Symank said that the notice mailed to the community indicated that he was requesting a variance on 3 sides of the property. He said that as Mr. Morgan indicated, the request was for a variance on only 2 sides of the property.

DELIBERATION & DECISION

There being no further testimony, discussion, request for continuance or request to hold the record open, Vice-Chair Lease closed the record and public hearing at 7:07 p.m. The applicant waived the opportunity to submit final written argument after the close of the record.

Commissioner Chick **MOVED** to approve the application of Stanton and Lori Symank for variances to setback requirements and adopt the findings of fact in the staff report as justification for the variance, with the following conditions:

- a) That the existing non-conforming residence be removed within 60 days of approval of the variance, which is September 18, 2019;
- b) The new structure is to be completed within one year, which is July 18, 2020, or a new application must be submitted.

Commissioner Stockton **SECONDED** the motion. **MOTION APPROVED 3-0 (Yes: Chick Stockton, and Anderson; No: None).**

A Commissioner asked what would happen if the timeline to remove the non-conforming structure was not met. City Manager Shafer explained the variance would be voided and the City would pay to remove the structure and place a lien on the property.

Mr. Morgan explained that a final order would be mailed to the Symanks.

OTHER BUSINESS

The Commission discussed and tentatively scheduled the next meeting for August 21, 2019.

PUBLIC COMMENT

None

ADJOURNMENT

There being no further business, Vice-Chair Lease adjourned the meeting at 7:16 p.m.

APPROVED: _____
Janet Lease, Planning Commission Vice-Chair

ATTEST: _____
Melissa Thompson-Kiefer, Assistant City Manager/Recorder

DRAFT

CITY OF NEHALEM PLANNING COMMISSION
STAFF REPORT

VARIANCE CASE 19-03

APPLICANT: Stanton and Lori Symank
 OWNER: Stanton and Lori Symank
 LOCATION: 35795 8th Street; Nehalem, Oregon
 ZONING: RM – Medium Density Residential
 LAND USE: House

INTRODUCTION

This is an application of Stanton and Lori Symank to allow a variance to reduce the required side yard adjacent to a street setback from 15 feet to 6 feet, and a variance to reduce the required front yard setback from 20 feet to approximately 10 feet.

The purpose of the variance is to allow construction of a new house replacing an old cabin on the property. The cabin violates the current setback standards as it abuts the street right of way on its side yard therefore not having any setback, and it intrudes into the right-of-way on its front side, therefore not having any front yard setback. The property is small and irregularly shaped.

The applicant cites the variance as necessary to allow reasonable construction on the property. The “building envelope” created by the current setback standards would only allow a structure 37 feet deep and 10.86 feet wide. The desired house is 40 feet deep and 20 feet wide.

The proposed house is substantially more in compliance with the setback standards than the current cabin. It also would not intrude into the right-of-way. The applicant states if the variances are not approved, the existing cabin will be remodeled which perpetuates the existing setback violations.

CRITERIA

The criteria for a variance are found in the Nehalem Zoning Ordinance in Section 17.020. That section reads:

1. *No variance shall be granted by the Planning Commission unless it can be shown that ALL of the following conditions exist:*

- a. *Exceptional or extraordinary circumstances apply to the property and result from lot size and shape, topography or other circumstances over which the owners of the property have no control.*
- b. *The variance is necessary for the preservation of a property right of applicant substantially the same as owners of other property in the same zone or vicinity possess.*
- c. *The variance would not be materially detrimental to the purposes of the Ordinance, the Comprehensive Plan, or to property in the same zone or vicinity in which the property is located or otherwise conflict with the objectives of any City policy.*
- d. *The variance request is the minimum variance which would alleviate the hardship.*

FINDINGS OF FACT

Based on the available information, Staff makes the following findings of fact:

CRITERIA a: Exceptional or extraordinary circumstances apply to the property and result from lot size and shape, topography or other circumstances over which the owners of the property have no control.

FINDING: The existing building was built before setback requirements were established and is substantially out of compliance with current setback standards. The placement of a new house with reasonable dimensions is only allowed by granting the variances due to the unusual size and shape of the lot. The criterion is met.

CRITERIA b: The variance is necessary for the preservation of a property right of applicant substantially the same as owners of other property in the same zone or vicinity possess.

FINDING: The setback variance is necessary to allow for constructing a new dwelling as its allowed for other property owners in the same zone, but which is not allowed in this case because of the unusual size and shape of the lot. The criterion is met.

CRITERIA c: The variance would not be materially detrimental to the purposes of the Ordinance, the Comprehensive Plan, or to property in the same zone or vicinity in which the property is located or otherwise conflict with the objectives of any City policy.

FINDING: The variance is not materially detrimental to the purposes of this Ordinance, the Comprehensive Plan, or other properties. It actually creates a structure on the

property substantially more in compliance with zoning standards than the existing structure which will be replaced.

CRITERIA d: The variance request is the minimum variance which would alleviate the hardship.

FINDING: The proposed structure is a reasonable size and has reasonable dimensions for construction of a contemporary small house. The criterion is met.

CONCLUSION

The proposed variances meet the standards necessary for approval and should be approved.

RECOMMENDATION:

It is recommended the Planning Commission APPROVE the application and adopt the findings of fact found within the staff report.

Suggested Motion: I move the Planning Commission approve the application of Stanton and Lori Symank for variances to setback requirements and adopt the findings of fact in the staff report as justification for the variances.



CITY OF NEHALEM

35900 8TH STREET · P.O. BOX 143

NEHALEM, OR 97131

PH. (503) 368-5627

FX. (503) 368-4175

July 16, 2019

RE: Stanton Symank Variance

If the Planning Commission decides to grant this application I would recommend that the following conditions be added to the approval.

- Existing Non-Conforming residence to be removed within 45 days of approval for the variance.
- New structure to be completed within 6 months of approval for the variance or a new application must be submitted.

I make these recommendations based on the past history of Mr. Symank' s continued neglect of the property in question.

Sincerely,

Dale Shafer
City Manager

Article III Plan Implementation.

Implementation

The Comprehensive Plan revision is only an initial step in implementing a planning process in Nehalem. Specific actions must be undertaken to realize the plan. The Comprehensive Plan sets forth goals, policies, proposals and recommendations to guide the physical development of the community. This section describes ways in which the Comprehensive Plan may be implemented.

The means by which community plans are implemented are many and varied.

Advice and consultation on the part of the Planning Commission, City staff and other City officials can be a very effective tool of implementation. In the course of conducting day-to-day business, individuals can be made aware of the importance of the comprehensive plan and a number of alternatives presented to guide development.

The city implements the Comprehensive Plan through regulatory controls such as zoning and subdivision ordinances, through the timely placement of public facilities and establishment of public programs.

Regulatory Controls

Zoning:

Zoning has been the cornerstone of plan effectuation. It is intended to implement the land use part of the Comprehensive Plan. Zoning divides the community into residential, commercial, industrial and other use types in conformance with the Comprehensive Plan, and is shown on the City Comprehensive Plan and Zoning Map.

State laws and some Oregon Supreme Court decisions have given better definition to the role of zoning and comprehensive plans. Oregon Law (ORS Chapter 197) not only requires cities and counties to adopt comprehensive plans, it also requires that their zoning ordinance conform to the comprehensive plan. This requirement is further amplified by the "Baker vs. City of Milwaukie" court decision. In this decision, the court ruled that in the event of a conflict between a City's zoning ordinance and comprehensive plan, the comprehensive plan shall be the guiding document. Therefore, when the City has adopted its comprehensive plan it must provide, within a reasonable time, amendments to its zoning ordinance to conform to the comprehensive plan. Furthermore, another court decision, "Fasano vs. Washington County", has ruled among other things that all zone changes must conform to the comprehensive plan. Thus, once the City has amended its zoning ordinance to conform to the adopted City Comprehensive Plan, any subsequent zone change in non-conformity with the Comprehensive Plan Map must first be preceded by a change to the City Comprehensive Plan. Changes to the City Comprehensive Plan should be based on special studies or other

factual information, which establish public, need and justify the particular change.

The City Zoning Ordinance establishes uniform regulations within each zone as to use, maximum building height, lot size, setbacks and other similar requirements. The Zoning Ordinance also establishes the criteria and requirements for the City's overlay districts, site and general development, partitioning, signs, off-street parking and loading, conditional uses, special uses, non-conforming uses, and variances to the criteria.

Subdivision Ordinance and Streets Standards Ordinance:

The subdivision ordinance provides standards for the development of vacant land. It establishes minimum standards for street, block and lot size and lists improvements to be provided by the land developer. It enables the City to insure the provision of adequate rights-of-way, street improvements and water facilities. Close coordination between the City and Tillamook County is necessary to insure the extension of logical street and utility systems when subdivision occurs outside city limits.

Building Codes:

The Building codes are managed at the County level. Building construction codes establish minimum standards for new buildings, additions, rehabilitation and changes of use. These codes include fire and life safety, plumbing, mechanical, and electrical and are extensions of national or state uniform standards. These codes help to insure the safety and welfare of the public, but have little effect in preventing or reversing blight in built-up older neighborhoods.

Article IV City of Nehalem Community Growth Management Report

Urban Growth Management and Urban Service Area Policies and Implementation Guidelines

The unincorporated land within the Urban Growth Boundary requires a coordinated set of policies between the City and the County. These policies relate to zone management and urbanization.

Article V City of Nehalem Buildable Lands Inventory and Housing Needs Analysis

Buildable Lands Inventory Adoption.

The 2017 Buildable Lands Inventory is adopted and made a part of Article V, hereto.

Housing Needs Analysis Adoption.

The 2019 Housing Needs Analysis is adopted and also made a part of Article V, hereto.

In compliance with state land-use law, the City will regularly update this inventory of buildable land and housing needs no less than once every fifteen years and use it to both identify housing development opportunities and assess the ability to meet future housing needs within the City's Urban Growth Boundary.

Summary and Conclusion of the Buildable Lands Inventory Report

In summary of the 2017 Buildable Lands Inventory Report, the forecast population and the household size for Nehalem has been identified in the 2017 Report to reflect the number of households needed to accommodate growth over the next 18 years.

The forecast in the 2017 Report shows projected growth for the Nehalem UGB of 326 new residents, from a current population of 1,240 to a forecast population of 1,566. Using the average household size of 2.1 (based on Figure 14 in the 2017 Report), the 326 new residents will require 155 new housing units.

There is a total of 261 total buildable lots in the UGB. Those 261 buildable lots exceeds the required 155 buildable lots needed, meaning that there is enough land for residential development over the next 18 years. There may be enough land within the Nehalem Urban Growth Boundary (UGB) to accommodate 20 years of residential growth.

Therefore, there is no need to discuss any reason to consider UGB expansion at this time.

The goals, policies and strategies contained within the **2017** Buildable Lands Inventory, as adopted, shall replace any other goals, policies and strategies adopted in the past Buildable Lands Inventory.

Summary and Conclusion of the Housing Needs Analysis

In summary of 2019 Housing Needs Analysis, the household size and composition show that the household size in Nehalem, at 2.1 persons per household, is smaller than Tillamook County's average household size and the statewide average.

Nehalem's current housing stock is predominantly single-family detached housing, with a relatively low inventory of apartment, duplexes, tri- and quad-plexes, manufactured housing, and smaller single-family detached and attached housing.

Nehalem's official forecast and projections for population growth show that the City will grow by 326 new residents over the next 20 years. This new population will result in a need for 162 new dwelling units over the 20-year planning period.

New housing needed in Nehalem include:

- 130 new detached single-family homes needed;**
- 24 additional townhouses needed; and**
- 8 dwellings in multi-family structures needed.**

After reviewing the city's existing land base and zoning, the City will be able to accommodate all needed residential growth based on the projected population increases and housing needs.

The goals, policies and strategies contained within the 2019 Housing Needs Analysis, as adopted, shall replace the goals, policies and strategies relating to Housing Needs.