



REQUEST FOR COUNCIL ACTION

MEETING DATE: March 7, 2022
PREPARED BY: Jesse Corrow, Associate Planner
AGENDA ITEM: 7479 Fernbrook Lane North variance

PREVIOUS ACTIONS:

At their meeting of Monday, February 28, 2022, the Planning Commission voted on four separate motions for the variance request at 7479 Fernbrook Lane North. A motion to recommend the shed remain in its current location failed 6-0, a motion to recommend the color of the shed remain gray in color passed 4-2, and motions to recommend the shed exceed the height and size requirements resulted in no recommendation on 3-3 votes.

Requested Action: Variance

Zoning: R-2, Single Family Residential District

Adjacent Land

Use and Zoning:

North: R-2, Single-Family Residential District
East: R-2 PUD, Single-Family Residential District-Planned Unit Development
South: R-2, Single-Family Residential District
West: Fish Lake

Applicant:	Michael Ball
Completed application received:	January 19, 2022
60 day review deadline:	March 20, 2022
Additional 60 day review deadline:	May 19, 2022
Address:	7479 Fernbrook Lane North

RECOMMENDED COUNCIL ACTION:

Motion to direct the City Attorney to draft a Resolution approving the variance for shed color for the 7479 Fernbrook Lane North variance subject to the applicant addressing to the satisfaction of the city any remaining applicable comments contained in the memorandum from the Community & Economic Development Department dated February 22, 2022.

The Planning Commission provided no recommendation regarding the variance for the shed height. The City Council should direct the city attorney to draft a resolution either approving or denying the variance according to the Council’s wishes on this item.

The Planning Commission provided no recommendation regarding the variance for the shed size. The City Council should direct the city attorney to draft a resolution either approving or denying the variance according to the Council’s wishes on this item.

Motion to direct the City Attorney to draft a Resolution denying the 7479 Fernbrook Lane North variance for the shed to remain in its current location along with findings of fact.

The applicant shall acknowledge that Park Dedication requirements are based on staff review and recommendation to the Park and Recreation Board and their subsequent board action. Board meetings are held on the third Thursday of each month.

COMMENTS:

The applicant is requesting a variance to permit a recently constructed shed that encroaches into the 5-foot sideyard setback and is larger and taller than permitted within the shoreland setback area. The property located at 7479 Fernbrook Lane N. abuts Fish Lake and is in the shoreland overlay district.

City Code allows for a water oriented accessory structure to be placed within the 75-foot shoreland setback when certain conditions are met. The code specifies the structure shall not be greater than 10 feet in height and 100 square feet in area. Additionally, the structure shall at no point be closer than 25 feet to the ordinary high-water mark and shall conform with sideyard setbacks for that zoning district.

The lot meets the criteria to place a structure within the shoreland setback, however, the shed was constructed larger, taller and closer to the sideyard setback than is permitted by code. The differences between the constructed shed and the zoning requirements are below:

	Permitted by Code	Constructed Shed
Shed Color:	Subject to approval	Gray
Shed Height:	10’-0” maximum	10’-8”
Shed Size:	100 sq. ft. maximum	124 sq. ft.
Sideyard Setback	5-foot minimum	2.8 feet

Variance Language in City Code:

... In considering all requests for a variance, the Planning Commission and the City Council serving as the board of adjustments and appeals shall make findings of fact that the proposed action complies with the requirements of Minn. Stats. § 462.357 and any amendments thereto, which include, but are not limited to:

- a. Variances shall only be permitted when they are in harmony with the general purpose and intent of city code and consistent with the comprehensive plan.

- b. Variances may only be permitted when the applicant establishes that there are practical difficulties in complying with the zoning ordinance, meaning the property owner proposes to use the lot or parcel in a reasonable manner not permitted by the zoning code.
- c. The plight of the property owner must be due to circumstances that are unique to the lot or parcel and is not created by the property owner.
- d. The variances must not alter the essential character of the locality. Code describes “not altering the essential character as not doing the following:
 - a. Impair an adequate supply of light and air to adjacent property.
 - b. Unreasonably increase the congestion in the public streets.
 - c. Increase the danger of fire or endanger the public safety.
 - d. Unreasonably diminish or impair established property values within the neighborhood, the character of the neighborhood, or in any way be contrary to the intent of this chapter.

Staff Analysis

Shed Color:

The applicant is also requesting a variance for the screening requirement. Due to the lack of natural vegetation near the lake, the applicant is proposing to add boulders and perennials to break up the appearance of the shed. Staff agrees with these screening methods and feels painting the shed an earthen tone would be appropriate.

Shed Height and Size:

Staff feels the request relating to the increased height and size is in harmony with the general purpose and intent of city code and is consistent with the comprehensive plan. These increases are minimal and the applicant has expressed the accessory structure will store equipment necessary to maintain a neighborhood hockey rink on the lake, including an ATV used to resurface the ice. Staff acknowledges that certain recreational activities associated with the enjoyment of the lake may require additional space, and this may constitute a practical difficulty. This type of long and narrow lot is common on lakeshore properties and may offer some unique challenges for homeowners to accommodate their storage needs. City code allows for a water-oriented accessory structure to be placed in the same general location as the applicant’s shed, and the slightly larger and taller structure does not appear to affect the character of the neighborhood.

Shed Location:

While the request to increase the height and size of the shed seems reasonable, staff did not find justification to support the reduced sideyard setback. A 5-foot minimum setback along the side property line is a standard in all residential zoning districts and encroaching the setback goes against the intent of city code. There does not appear to be any unique circumstances or practical difficulties that would have restricted the applicant from constructing the shed in a compliant location – an additional 2.2 feet away from the property line.

Staff notes that the applicant inquired with the city prior to constructing the shed and staff provided him with the required size and setback information. Staff also responded to a complaint while the shed was under construction and informed the applicant that the location of the shed was in violation.

Impervious Surface:

The impervious surface limit of 30 percent (lot area) is exceeded on this property and the addition of the 124 sq. ft. shed obviously increases the coverage area. This type of legal-nonconformity is not uncommon on smaller lake lots and code allows for impervious increases if storm water mitigation methods are met. Engineering staff has provided an approved method to address the increase which is outlined in the attached memorandum.

Summary

Regardless of the variance outcome, city code allows for a water-oriented structure in the same general area that it was constructed. Staff is comfortable with the color of the shed and feels the request for a slightly taller and larger shed is reasonable as long as the screening and stormwater mitigation methods are met. Staff did not find any justification to support the decreased sideyard setback, especially since the zoning requirements were provided to the applicant before construction.

ATTACHMENTS:

- Attachment A: Narrative
- Attachment B: Location map
- Attachment C: Maps
- Attachment D: Pictures provided by applicant
- Attachment E: Public comment
- Attachment F: Memorandum