

**CITY OF CRAIG
PLANNING COMMISSION**

Staff Report
October 12, 2023

Applicant: Daniel Nelson

Requested Action: Variance to allow a structure to encroach up to 8 ft into the 10' side-yard setback

Location: Lot F-2, Tract F, USS 2327 (440 Hamilton Drive)

Lot Size: 15,887 SF

Zoning: High-Density Residential

Surrounding Uses: North: High-Density Residential
West: Marine Industrial & ROW
South: High-Density Residential
East: High-Density Residential

Analysis

Daniel Nelson owns the property located at Lot F-2, Tract F, USS 2327. The property currently contains a two-story garage and single-family residential structure as well as a new structure that is intended to be used as a greenhouse. The new greenhouse is 22' x 10' and encroaches up to 8' into 10' the property setback on the north side of the lot. The structure was built without a building permit and the setback issue became apparent during review after Mr. Nelson was contacted regarding the requirement for a building permit for a structure that size. Mr. Nelson stated that he was unaware that a greenhouse would require a building permit.

The greenhouse location violates section 18.05.003.D 5a of the Craig Municipal Code which establishes exterior setbacks as: "Ten feet from all lot lines."

Options to remedy the issue are to move the structure out of the setback, remove the structure entirely, or have a variance approved allowing the structure to encroach up to 8' into the 10' setback.

This variance was previously reviewed by the Planning Commission and tabled August 24th. The Commission was split with Commissioner McDonald particularly concerned about a previous variance that was approved for Curtis Brown's greenhouse on Lot 2A-2-A, USS 3857. Variances should be issued in a consistent, fair manner and in keeping with the Craig Municipal Code, Title 18.

Both owners requested a variance for a greenhouse and both variances list some aesthetic hardship: lost family space/uprooted landscaping on the part of Daniel Nelson and

blocked view/requirement for sunlight for a greenhouse in the case of Curtis Brown. In both cases a home previously exists on the lot in question.

The differences between the two variance include the following:

- Usable lot size: Daniel Nelson has a tiered lot with two large, relatively flat spaces in front of his home. The entire lot has fill. In the case of Curtis Brown, the lot is unusually shaped with only part of the lot filled. The lot is directly on the water with a fair portion of the lot occupying tidelands. Both lots appear to have had other locations to put the greenhouse where it would not have encroached into the setback. Curtis Brown did end up moving his planned greenhouse location so it was only 3.5' into the setback rather than the original requested 5'.
- Greenhouse Size/Nature: Daniel Nelson's greenhouse is a 22'x10' greenhouse constructed on skids and constructed with timbers. It is large, heavy and would require excavation and heavy equipment to move. Curtis Brown's greenhouse is a 8' x 16' (previously listed as 8'x10') light-weight structure that was required to have a concrete slab upon which it was affixed to prevent windthrow. During the Planning Commission meeting of 5/13/2023 Brian Templin noted that usually a greenhouse that could be easily lifted/disassembled and moved manually, without machinery would not be considered for a building permit or be required to have a variance. The factor of wind and the requirement for an affixed slab were what made the greenhouse in question a structure in 2013.
- Side-yard setback encroachment: Daniel Nelson's greenhouse encroaches up to 8' into the side-yard setback. Curtis Brown's greenhouse encroaches up to 3.5' (previously requested 5').
- Applicant's role causing the requirement for a variance: Daniel Nelson's greenhouse is already partially erected and was set up without a building permit leading to the issue of setback encroachment as well as difficulty moving the structure. Curtis Brown had requested a variance prior to construction/erecting his greenhouse; the circumstance of the lot and the wind affected the nature of the structure which lead to the variance requirement.
- Other factors: Daniel Nelson's primary reason for requesting the variance/location in the setback is that he does not want the greenhouse occupying other open/landscaped space and that some excavation would need to take place. Nelson also notes moving the existing structure would be difficult as it is incomplete and fragile. Curtis Brown's primary reason for requesting the variance/location in the setback was due to wind requiring the attached foundation that turned what may have debatably been a non-structure into a structure as well as the need for sun exposure for the greenhouse to be effective.

Criteria Analysis

Section 18.06.003 of the Craig Land Development Code lists the seven specific criteria

that must be met before a variance may be granted. Daniel Nelson was informed of these criteria prior to requesting a variance.

Criteria 1: There are exceptional physical circumstances or conditions applicable to the property or to its intended use or development which make the variance necessary. The property appears to contain adequate room to relocate a 22' x 10' greenhouse without encroaching into the side yard setback. The lot does not appear to be unusually shaped, small, or particularly steep (it is tiered). The lot is nearly double the minimum 8,000 sqft required for a modern, residential lot. Mr. Nelson feels that the lot is steep and would require excessive site preparation to relocate the greenhouse. The planning commission should discuss whether or not the lot presents exceptional physical circumstances.

Criteria 2: The strict application of the provisions of this title would result in practical difficulties or unnecessary hardship. Mr. Nelson states that the greenhouse must be placed in its current position so as to not take up family outdoor usable space. Nelson claims moving the structure would be an unnecessary hardship. This lot is significantly larger than the standard 8,000 sqft residential lot. The planning commission should discuss if the removal of family space is significant enough on this lot to constitute a practical difficulty or unnecessary hardship for the applicant or if it is more of an inconvenience as covered in Criteria 7.

Criteria 3: Granting the variance will not result in physical damage or prejudice to other properties in the vicinity nor be detrimental to the public health, safety or welfare. The 10' property setbacks are enforced to ensure ease of firefighter access and limit the spread of fire across property boundaries. The encroachment is also severe with nearly 80 percent of the structure occupying the 10' setback and may affect the proximity of non-structures permitted on the neighbor's side within the setback (i.e. fences). The planning commission should discuss if a permanent structure located 8' into the property line will have long-term affects on any future developer of the adjacent lot or affect fire response/spread to either property.

Criteria 4: Granting the variance is consistent with the objectives of the comprehensive plan. The proposed use, zoning and location are consistent with the Craig Comprehensive Plan. Greenhouses are allowed within residentially zoned areas and are consistent with objectives of the comprehensive plan. This criteria appears to be met on the face of the application.

Criteria 5: The special conditions that require the variance are not caused by the person seeking the variance. The encroaching structure was erected by the applicant without a building permit. The applicant built the structure within the 10' setback against Craig Municipal Code as a result. The planning commission should discuss if there is any physical circumstance that would have prevented the structure from being erected elsewhere outside of the setback.

Criteria 6: The variance will not permit a land use in a zone in which that use is prohibited. The proposed use and construction is allowed in the zone that the property is

located in. Greenhouses/accessory buildings are allowed uses on high-density residential properties. This condition is met on the basis of the application.

Criteria 7: The variance is not sought solely to relieve monetary hardship or inconvenience. The applicant's primary listed hardship is inconvenience of relocating or removing the structure as well as the impact moving the structure would have on outdoor family space and existing landscaping. The planning commission should discuss if the applicant has considered alternatives to the variance to meet the code since the last meeting, even if they cause monetary hardship or inconvenience.

Recommendation

On its face, the variance application does not appear to meet Criteria 1, 2, 3, 5, or 7. The planning commission should discuss each criteria and determine what criteria are or aren't met. Previously, the Planning Commission was split on each contested criteria during the August meeting, much of it primarily hung on a previous precedent. Due to the options available for relocating the greenhouse, the lack of significant physical circumstance that would prevent relocating the greenhouse, and that the applicant initiated the construction without a building permit which further sets a problematic precedent, I do not recommend the variance be approved.

**CITY OF CRAIG
PLANNING COMMISSION
RESOLUTION 620-23-PC**

APPROVING A REQUEST BY DANIEL NELSON FOR A VARIANCE TO
RETAIN A STRUCTURE 8' INTO THE 10' PROPERTY SETBACK.

WHEREAS, the Planning Commission held a public hearing on October 12, 2023; and,

WHEREAS, public notice was given in accordance with Section 18.06 of the Craig Land
Development Code; and,

WHEREAS, the Planning Commission finds that the criteria as shown in Section
18.06.003 of the Craig Land Development Code are met.

NOW, THEREFORE, BE IT RESOLVED the Craig planning commission approves the
request for a variance to allow the encroachment of a 10'x22' greenhouse up to 8' into the
10' property setback.

Resolution Approved this 12th day of October, 2023.

Chairman Sharilyn Zellhuber

Samantha Wilson, City Planner

**CITY OF CRAIG
PLANNING COMMISSION
RESOLUTION 620-23-PC**

DISAPPROVING A REQUEST BY DANIEL NELSON FOR A VARIANCE TO RETAIN A STRUCTURE 8' INTO THE 10' PROPERTY SETBACK.

WHEREAS, the Planning Commission held a public hearing on October 12, 2023; and,

WHEREAS, public notice was given in accordance with Section 18.06 of the Craig Land Development Code; and,

WHEREAS, the Planning Commission finds that the criteria as shown in Section 18.06.003 of the Craig Land Development Code are not met.

NOW, THEREFORE, BE IT RESOLVED the Craig planning commission disapproves the request for a variance to allow the encroachment of a 10'x22' greenhouse up to 8' into the 10' property setback.

Resolution Approved this 12th day of October, 2023.

Chairman Sharilyn Zellhuber

Samantha Wilson, City Planner