

**COLUMBIA CITY PLANNING COMMISSION
PUBLIC HEARINGS / REGULAR SESSION
VIA "ZOOM MEETING"
NOVEMBER 16, 2021 - 6:30 P.M.**

PLANNING

COMMISSIONERS:

Kelly Niles, Chair
Barbara Gordon, Vice-Chair*
Coralee Aho
Doug Calkins
Dana Marble
Bill Amos

*Denotes Commissioner absent

STAFF:

Lauren Scott, City Planner
Helen Johnson, Planning Administrative Assistant

OTHERS:

John Alioth Jr., applicant
Kenneth Lee, applicant
John Knight, 1700 First Street
Ray Clift, 3005 Seventh Street
Marshall Simmons & Rhonda Ferguson, 515 Skookum Court

MEETING TO ORDER:

Chair Kelly called the meeting to order at 6:32 p.m.

APPROVAL OF MINUTES:

None.

CITIZEN INPUT AND REQUESTS:

None.

PUBLIC HEARING:

CHAIR KELLY CLOSED THE REGULAR SESSION AND OPENED THE PUBLIC HEARING.

Chair Kelly stated the hearing this evening is quasi-judicial, the applicant is Kenneth Lee requesting approval from the Planning Commission for a variance to setback standards to enlarge an unpermitted existing carport cover at 100 K Street.

Conflicts of Interest, Bias or Ex-parte Contacts:

Chair Kelly asked if anyone had anything to declare. None were declared.

Staff report:

Lauren stated this applicant is requesting a variance to setback standards to enlarge an unpermitted existing carport cover that was constructed by previous property owners. The existing cover directly abuts the side property line and the applicant is requesting to extend the cover 19' x 18' where the side setback requirement is 8'.

Lauren continued to review the staff report mentioning the applicant's responses to the variance criteria and the referral to and response from the Building Official. She stated staff is recommending denial as the applicant has not demonstrated all of the applicable conditions needed for a variance. Lauren said specifically the criteria of a hardship arising due to unique physical condition of the land. She outlined the different options available for the Planning Commissioners regarding the application, simply put they can deny, continue, keep the record open or approve.

Chair Kelly commented specifically about the statement in the staff report that says in order to meet criteria an applicant must demonstrate a hardship arises from features unique to the land itself and not from other created circumstances and this criteria has not been met. Lauren confirmed that is correct and the reason for staff's recommendation of denial.

Applicant presentation:

Kenneth Lee, stated that if you looked at the history of the property the carport was already once there and it was removed along the way. He stated the purpose is to provide cover for his car and projection for outdoor items. He confirmed, as mentioned in the staff report, there is nowhere else on the lot to provide a carport and there is no garage. Kenneth confirmed no views would be affected. He was asking what else he could do in order to obtain approval.

Input in favor:

John Knight, 1700 First Street, stated there was a carport there for many years that he thought was grandfathered. He said it did get removed at sometime between ownerships. He went on to say the property is unique in that it has three street-side setbacks: First Street, K Street and the alley. There is no way to fit a carport on the property and the property is better with a carport. John stated it makes sense to have a carport there as there has always been one and he doesn't see any other way for the property owner to accommodate his needs. He also said he didn't feel the property owner's needs are unusual for the area. He mentioned a variance had been allowed at Second Street and K Street a few years back and another one allowed on First Street south of his property, which might have been a street vacation. John stated the location of the carport wouldn't interfere with anybody; not the alley, not emergency vehicles and he is not apposed and recommends approval. John said he has talked to the neighbors to the south of him and they think it is ridiculous that there is even a question about it.

Input in opposition:

None.

Written materials submitted:

None.

Staff comment:

Lauren stated the variance criteria are in the code and the burden of proof is on the applicant to demonstrate that those criteria have been met.

CHAIR KELLY CLOSED THE PUBLIC HEARING AND RECONVENED THE REGULAR SESSION.

Commissioner Dana stated he knows the property well and it is close to him. He stated he doesn't see any harm in it. He also said it would improve the looks and the value of the property.

Commissioner Doug also stated he had seen a carport there in the past and it wasn't in very good shape and that's probably why they took it off. He questioned how code would require it to be built and that it might be better to have the home extended rather than throwing a carport on the end, in his opinion. Commissioner Doug stated structures on the property behind it go all the way out to the alley as well. He stated there are already houses in the setbacks.

Commissioner Bill stated there are a couple of concepts to consider, one is that you don't extend a problem if it's already there, typically you let those erode away and then get them into compliance moving forward. He stated one of the other rules that can be followed is the aligning with adjacent properties. Commissioner Bill stated that if the neighbor's front setback is 5' instead of 20' you can do the same because you are holding to the character. He also said we want to be careful, because carports are not always left as carport, just like fences don't always remain fences. He said in this case a brick fence became a carport and then there is a storage shed, things can evolve. He questioned if there might be any egress requirements on that side of the home if there is a bedroom. Commissioner Bill stated it's important to know the responsibility of knowing what you can do with a property before you buy it. He also comment that a precedence would be set and could come up in the future. Another comment Commissioner Bill made was that once something is removed, it isn't always easy to put back especially when it comes to compliance with land use.

Commissioner Dana asked if we could require him to remove the existing structure that was built out of compliance and rebuilt something that complies with current standards. Lauren spoke to say the concern from staff is not necessarily the existing unpermitted structure, it's the extension of the unpermitted structure and it's not complying with the setbacks.

Commissioner Coralee also expressed concern about setting precedence.

Chair Kelly wanted Commissioners to focus on the request being to extend a pre-existing unpermitted problem and how approval good create future problems.

Commissioner Dana asked what we as a City could do to help this guy along. Chair Kelly stated the Planning Commission's job is to approve or deny, we are not here to solve the problem.

Commissioner Bill gave an example of why variances exist, stating if someone's property had a rock cliff, we might allow someone to move his house closer to another property line. He has never seen a variance encompass the entire setback.

IT WAS MOVED (COMMISSIONER DANA) AND SECONDED (COMMISSIONER CORALEE) TO CLOSE THE PUBLIC HEARING AND KEEP THE RECORD OPEN FOR THE RECEIPT OF ADDITIONAL WRITTEN TESTIMONY UNTIL A SPECIFIC DATE AND TIME. CARRIED UNANIMOUSLY.

Commissioner Bill stated the date and time was not set. Commissioners discussed dates and times.

IT WAS MOVED (COMMISSIONER BILL) AND SECONDED (COMMISSIONER DANA) TO KEEP THE RECORD OPEN UNTIL 5:00 P.M. ON TUESDAY, NOVEMBER 23, 2021 TO RECEIVE ADDITIONAL INFORMATION AND THE DELIBERATION AND DECISION WOULD BE AT TO THE NEXT SCHEDULED MEETING ON DECEMBER 21, 2021. MOTION CARRIED UNANIMOUSLY.

CHAIR KELLY CLOSED THE REGULAR SESSION AND OPENED THE PUBLIC HEARING.

Chair Kelly stated the second hearing this evening is quasi-judicial, the applicant is John Alioth Jr. requesting approval from the Planning Commission for a variance to street side and rear setback standards in order to erect a cover for an existing koi pond at 430 Skookum Court.

Conflicts of Interest, Bias or Ex-parte Contacts:

Chair Kelly asked if anyone had anything to declare. None were declared.

Staff report:

Lauren stated this applicant is requesting a variance to both street side and rear setback standards in the R-1 zone to erect a structure to cover an existing koi pond. She stated the applicant is requesting a .08" street side setback where a 10' setback is required and a .04" rear setback where 8' is currently required.

Lauren continued to review the staff report mentioning the applicant's responses to the variance criteria and the referral to and response from the City Administrator and Building Official. She also mentioned from the staff report the proposed structure would partially occupy the City right-of-way and would require City Council approval under a separate process.

Lauren stated staff is recognizing the presence of the tree is a nuisance, but are recommending denial due to the need for a variance for the proposed cover arising from the ponds location to property lines. She went on to say in order to meet variance criteria an application must demonstrate a hardship arises from features unique to the land itself and not from other created circumstances. She stated same as the last application, there are four different options available for the Planning Commissioners.

Applicant presentation:

John Alioth, stated the tree causing the issue is from the neighbor and in the last storm five branches broke off and went into his yard. He stated the branches are 20 to 30 feet in the air and someone could have been badly injured. He talked about the tarp they are currently using to protect the pond is connected to the roof of his house and when the wind picks up it pulls on his roof. John stated one of his koi fish is valued at \$4000 and he has a total of six koi. He stated they are not inexpensive fish and he would hate to see an eagle come by and take one and there goes \$2000 of his money right out the window. John said he has had to replace the tarp, poles, posts and even some of the fence several times over the last few years because of the winds and snow and that all can get expensive as well. He stated being able to put up this canopy would alleviate a lot of the problems they are consistently having.

Input in favor:

Rhonda Fergerson, 515 Skookum Court, stated she had seen the structure they had put up to protect the koi pond and it looked very nice and added a lot to the aesthetic value of the area. She said she has been in their backyard and they really want the cover to enjoy their backyard out of the sun and to avoid the needles and sap from the tree. Rhonda stated the pond would only occupy part of what the cover would be covering. She said it is very nice and likes the way it looks.

Marshall Simmons, also from 515 Skookum Court, spoke up to say the pond is only 8' x 18' the cover is primarily for the enjoyment of their backyard and the tree does cause a lot of issues.

Rhonda continued by saying Tom and Johnny are super good neighbors and they keep their yard looking very nice and the structure is very classy and looks good. She stated she is sure they would not let it get in disrepair and it would not be detrimental to anyone around here. Rhonda said they had a bar-b-que and invited all the neighbors and everyone was commenting that it was an awesome idea and no one had a problem with it.

Marshall Simmons, spoke again to say it is not a permanent structure, like Johnny said they were able to take it down in about 4 hours. He said it is not unsightly by any means and it is well within their backyard, in fact he said he didn't really even notice it unless he was looking for it. He doesn't see any issues and why it is a problem.

Input in opposition:

Ray Clift, 3005 Seventh Street, stated he is not totally opposed to it, but he does have some concerns and questions. He stated one of his concerns as he walks by this house every day is if the fence along Fifth Street if it is in compliance as it is right now.

Helen answered that question to say that it is in the City's right-of-way and if this application is approved the applicant would be requesting approval from the City Council for placement of the fence and the structure in the City right-of-way. She stated it was her understanding that the structure as well would then be located in the right-of-way because it is located abutting the fence in the current location.

Ray stated that the way things are attached to that fence currently in his opinion are not done well. He also mentioned another concern of his is that the structure is pretty large and he wonders where all the water will drain to. He wondered if it would drain to the neighbors behind or exactly where it would drain.

John said it is all contained, he explained there is a barrier, that the pond itself has no water leakage at all. He said the only time there is run-off is when there is a lot of rain that comes in and it runs off towards the downside of the property.

Ray clarified that he is not concerned about the pond, his concern is about the proposed structure. John said that will runoff into his yard. Ray stated that was not what he had observed when the structure was up previously.

Ray continued by saying what he is hearing is there is a problem tree, the neighbor's tree hangs over onto the applicant's property and he stated he has the right to remedy that situation with or without the neighbor. He said he can trim the tree.

John said they do trim the tree, but the problem with trimming the tree only on one side is the weight of the tree starts to move one direction.

Ray stated to Chair Kelly that he is trying to address his concerns and not to negotiate with the applicant, the applicant will have a chance to reply to his concerns after his testimony. Chair Kelly asked Ray to continue. Ray summarized his concerns to be the tree, the water runoff and the fence. He also stated he doesn't agree with asking for permission after the fact.

Chair Kelly asked staff to address the three concerns Ray had. Lauren confirmed that a property owner does have the right to address limbs from trees that hang onto their property. She said the runoff issue is

typically addressed with the lot coverage requirements and as demonstrated on the site plan provided with this application the coverage requirements would not be exceeded by the proposed structure.

Helen stated the fence area that jets out away from the property towards Fifth Street is in the right-of-way, but the other area of the fence is on the property line. She stated she is unsure when the koi pond was placed and if it is in the right-of-way at all. Helen stated that the applicant thought his property ended at the edge of the sidewalk and was advised that it does not and would need to get City Council approval to keep the fence in its current location. She said this is not uncommon, it does happen. Helen said the other part of this situation would be the structure is also proposed in the right-of-way as well and possibly even the koi pond as it is outlined on the site plan.

John clarified that the koi pond was placed just inside the original location of the fence. He said they moved the fence out a couple of feet so that you can go around the koi pond.

Written materials submitted:

None.

Applicant rebuttal:

Chair Kelly let John know that now would be the time for him to address the concerns brought up by Ray.

John restated Ray's concern about the water runoff from the proposed structure will go mostly on his land. He stated he could always add gutters if needed to have the runoff go somewhere else to relieve the issue of the runoff.

Staff comment:

Nothing additional was stated by staff.

CHAIR KELLY CLOSED THE PUBLIC HEARING AND RECONVENED THE REGULAR SESSION.

Commissioner Bill asked staff if the Building Official would be involved with approval of the structure because he is distinctly concerned about things like anchorage and wind uplift. He said we have already understood that the tarps pulling yank on the roof, we don't want something that can go flying off across the landscape.

Helen stated that a structure of that size would require a building permit and in that process wind load, snow load and anchoring would be looked at. She also said there are some special considerations for those kind of prefabricated structures. She said there has been some information that has already been submitted that would then be forwarded onto the Building Official to review and approve. Helen recalled in the Building Officials comments there was a mention of fire barriers that could be required because there is not a setback from the property line. She is not sure exactly how those things would be accomplished, but they would definitely be part of his review.

Chair Kelly asked for clarification about the Building Official being hesitant to approve the permit for a structure is in the right-of-way.

Lauren answered to say the Building Official would not be able to approve a structure that is partially or fully located in an easement where placement of structures was restricted. Helen added that it would depend upon what is in the right-of-way and if the structure would interfere with those things.

Commissioner Doug asked what the easement on the applicant's site plan is for. Helen stated she was unsure about the easement on the site plan and that it can be determined to what it is if needed.

Commissioner Dana suggested denial until the fence was moved out of the right-of-way. Chair Kelly stated there are the four options as to how the Commission can go with this application.

Commissioner Bill stated that it would be a motion to deny and the applicant would come back if they would like. He also wanted to point out that this structure is not the minimum solution to the problem. Commissioner Bill said he works hard to work within setbacks. He says the rules are written and when we create our own problem and then we want the City to help us solve it, he thinks that is incorrect.

IT WAS MOVED (COMMISSIONER DANA) AND SECONDED (COMMISSIONER BILL) TO DENY THIE APPLICATION. MOTION CARRIED UNANIMOUSLY.

UNFINISHED BUSINESS:

None.

NEW BUSINESS:

None.

ADJOURNMENT:

Meeting adjourned at 7:38 p.m.

Kelly Niles
Planning Commission, Chair

Attest by:

Helen K Johnson
Planning Administrative Assistant