

## STAFF REPORT

<b>Application:</b>	Variance request related to additions to an existing home in an R-1 district. Variance approvals requested include side yard setback closer than allowed, front yard setback closer than allowed, garage sidewalls and garage height higher than allowed, and impervious surface area greater than is allowed by ordinance.
<b>Property Owner:</b>	Cody and Kori Bosek
<b>Agenda Item:</b>	5(a)

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### Background Information:

- **Proposal:** The applicants are proposing to construct additions to their existing home including a mud room, deck, garage, and larger driveway. The additions to the home are intended to meet the family's needs for additional space as described in the application. The plans as proposed would require a number of variances to the zoning ordinance.

The existing one-stall attached garage is proposed to be removed and replaced with a two-stall garage. The driveway into the garage is to be expanded to accommodate the extra parking stall. The Boseks also propose to add a mud room and a new deck on the backside of the home as shown in the plans and diagrams included with the variance application.

Staff suggests that each of the following variances from the Bosek application as described below be reviewed individually.

1. The requested side yard setback with the garage addition of 0 ft (6 ft required).
2. The requested front yard setback from 4<sup>th</sup> Avenue SE with the new garage of 27 ft (30 ft required).
3. The height of the garage sidewalls, proposed to be 16 ft (9 ft is the maximum by ordinance).
4. The height of the garage doors requested to 14 ft (8 ft is the maximum).
5. Variance due to the added impervious coverage from the structural additions and the added driveway. The total impervious area is estimated to be 25.6 percent of the lot size (25 percent required in an area subject to shoreland regulations).

The side yard setback from the existing garage to the west property line is about 16 feet. The plans for the garage proposed would place it at the property line.

The proposed garage setback of 27 ft from the street right-of-way while less than the required 30 ft by ordinance does match the current nonconforming front yard setback of the home with the existing porch.

According to the applicant, the sidewalls of the proposed new garage and the height of the garage door are planned to be elevated beyond the requirements as indicated to provide access to the planned higher elevation of the mud room, five feet above ground level. By ordinance, the sidewall height for a garage is restricted to 9 ft and garage door to 8 feet.

The amount of impervious area has been estimated by staff based on the added square feet with the structural and driveway additions. The home is within 1000 square feet of lake shoreland, therefore the 25 percent maximum within the shoreland area applies in this case. The impervious area with the additions exceeds the maximum allowable 25 percent by about 125 square feet.

With the proposed home additions, each of the requests as described in the application will require City Commission review and approval for a variance.

- **Location:**
  - Property address: 180 4th Avenue SE
  - Sec/Twp/Range: 12-125-35
  - Parcel number(s): 21-0738-000
- **Zoning:** R-1 Urban Residential
- **Lot size:** Approx. 19,980 sq ft (0.46 acres) according to GIS estimate.
  - Existing Impervious Coverage: About 3,074 sq ft (15.4%)
  - Proposed Impervious Coverage: About 5,120 sq ft (25.6%)
- **Septic System Status:** The property is served by city sewer and water.
- **Natural Features:**
  - Floodplain: The existing and proposed structures are not within an identified floodplain.
  - Bluff/Steep Slopes: The lot does not contain a bluff.
  - Wetlands/Water Features: There is a small creek along the rear property line which will collect water runoff.

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**Staff Comments:**

- 1) For applicable statutes from the Glenwood Land Use Ordinance, see Appendix A.
- 2) In order to grant a variance, the City needs to find that a property owner has met the criteria established in the City Code and/or State Law. In making its decision, the City will need to state its “findings of fact” indicating why those criteria have been met or not met and as such, why the variance request should be approved or denied.
- 3) While other nearby home properties may not conform to the ordinance, this is not necessarily a justification for a variance in this case. The primary questions, in Staff’s opinion, that need to be addressed in this request, are:
  - a) If the proposed garage or other additions were not permitted because they do not meet the ordinance requirements, would the applicants lose reasonable use of their property?
  - b) Is it reasonable to allow the proposed size, height and siting of the structures or modify the proposal to better conform to the requirements of the ordinance?
- 4) In granting a variance, state statute 462.357, Subd. 1e (i) states that “In evaluating all variances, zoning and building permit applications, or conditional use requests, the zoning authority shall require the property owner to address, when appropriate, storm water runoff management, reducing impervious surfaces, increasing setback, restoration of wetlands, vegetative buffers, sewage treatment and water supply capabilities, and other conservation-designed actions.”

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**Findings of Fact:** The following findings of fact are presented by Staff for consideration by the Board of Adjustment:

- 1) **Variances shall only be permitted when they are in harmony with the general purposes and intent of the official control.**

The general purposes and intent of setbacks are to allow for space between buildings, utility easements and to prevent encroachments of structures onto adjacent properties or towards public road rights-of-way. The intent of restrictions on the height of garage sidewalls is to provide a common structural standard appropriate to the zoning. The intent of the impervious surface limit is to protect water quality by allowing space for water to infiltrate into the ground or be filtered through vegetation, to ensure that rainwater is not directed toward the street or adjacent properties.

Findings Supporting Approval

The front yard setback of the garage does place the home with the existing porch setback closer to the right-of-way along 4th Avenue. The front yard setback variances will not impact the road right-of-way or road maintenance. The variances to the side yard setback and the sidewall/garage door height are not inconsistent with similar allowances made for other properties. Aside from the additions to the structure as described, the outside appearance of the home will remain the same. Allowing for these variances would appear to be in harmony with the intent of the ordinance.

Findings Supporting Denial

A structure with a setback zero feet from the neighbor's property line is in danger of encroaching on that property, does not leave room for maintaining the outside and is not in harmony with the purpose of the setback ordinance. The applicants could achieve their desire for a 2-car garage with a smaller footprint that meets or comes closer to meeting the requirements of the ordinance regarding setbacks and not exceed impervious limits.

**2) Variances shall only be permitted when they are consistent with the comprehensive plan.**

The City's 1979 Comprehensive Plan does not address situations relating to the variance issues presented in this application.

**3) The property owner proposes to use the property in a reasonable manner not permitted by an official control.**

Findings Supporting Approval

The applicants plans to build a larger garage and other home additions as proposed are reasonable and common improvements made to residential properties.

Findings Supporting Denial

The additions to the property could be achieved and meet the requirements of the ordinance with a new structural design and a smaller footprint.

**4) The plight of the landowner is due to circumstances unique to the property not created by the landowner.**

Findings Supporting Approval

The need for the variances is due to the current layout of the home and property. The owners in making these additions are providing the necessary space to reasonably meet the housing and storage demands of a large family.

Findings Supporting Denial

The owners have chosen the design that was presented with their application and could modify the design to better fit the requirements of the ordinance.

5) **The variance, if granted, will not alter the essential character of the locality.**

Findings Supporting Approval

The improvements to the home as proposed will remain in harmony with the overall residential character of the neighborhood.

Findings Supporting Denial

The improvements from the design submitted are not consistent with the community standards for this R-1 neighborhood and may encourage others to seek similar exceptions to the zoning ordinance.

6) **Economic considerations alone do not constitute practical difficulties.**

Findings Supporting Approval

The need for the variances is not driven by economic factors, rather to meet reasonable needs for expanding the home.

Findings Supporting Denial

None

7) **No variance may be granted that would allow any use that is not allowed in the zoning district in which the subject property is located.**

Findings Supporting Approval

The proposed use identified is a permitted residential use in the zoning district where the applicant's property is located.

Findings Supporting Denial

None

## Appendix A

### Applicable Statutes and Ordinances

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Minnesota Statutes

**462.357 (2016) OFFICIAL CONTROLS: ZONING ORDINANCE.**

**Subd. 6. Appeals and adjustments.**

Appeals to the board of appeals and adjustments may be taken by any affected person upon compliance with any reasonable conditions imposed by the zoning ordinance. The board of appeals and adjustments has the following powers with respect to the zoning ordinance:

(1) To hear and decide appeals where it is alleged that there is an error in any order, requirement, decision, or determination made by an administrative officer in the enforcement of the zoning ordinance.

(2) To hear requests for variances from the requirements of the zoning ordinance including restrictions placed on nonconformities. Variances shall only be permitted when they are in harmony with the general purposes and intent of the ordinance and when the variances are consistent with the comprehensive plan. Variances may be granted when the applicant for the variance establishes that there are practical difficulties in complying with the zoning ordinance. "Practical difficulties," as used in connection with the granting of a variance, means that the property owner proposes to use the property in a reasonable manner not permitted by the zoning

ordinance; the plight of the landowner is due to circumstances unique to the property not created by the landowner; and the variance, if granted, will not alter the essential character of the locality. Economic considerations alone do not constitute practical difficulties. Practical difficulties include, but are not limited to, inadequate access to direct sunlight for solar energy systems. Variances shall be granted for earth sheltered construction as defined in section 216C.06, subdivision 14, when in harmony with the ordinance. The board of appeals and adjustments or the governing body as the case may be, may not permit as a variance any use that is not allowed under the zoning ordinance for property in the zone where the affected person's land is located. The board or governing body as the case may be, may permit as a variance the temporary use of a one family dwelling as a two family dwelling. The board or governing body as the case may be may impose conditions in the granting of variances. A condition must be directly related to and must bear a rough proportionality to the impact created by the variance.

**City of Glenwood Regulations**

**151.39 STORMWATER MANAGEMENT.**

The following general and specific standards shall apply.

(B) *Specific standards.*

- (1) Impervious surface coverage of lots must not exceed 25% of the lot area.

***LOT AND YARD REQUIREMENTS***

**153.050 GENERAL REQUIREMENTS.**

The minimum lot area, minimum width of lot, minimum depth of front yard, rear yard and minimum width of each side yard for each district shall be as shown in ' 153.051.

(A) Lots or parcels which abut on more than one street shall provide the required front yards along each street.

**153.051 LOT, YARD AND DENSITY REQUIREMENTS.**

	<i>Minimum Lot Sizes</i>		<i>Minimum Yard Setbacks (ft)</i>			<i>Minimum Site Area Per Unit (sq ft)</i>
	<i>Area (sq ft)</i>	<i>Width (ft)</i>	<i>Front</i>	<i>Rear</i>	<i>Side</i>	
<i>R-1 Suburban Residential</i>						
*Single-family dwellings	10,000	75	30	20	6	10,000
*Two-family dwellings	15,000	80	30	25	10	7,500
*Other uses	15,000	80	30	30	15	7,500
<i>R-2 Urban Residential</i>						

*Single-family dwellings	8,000	75	30	20	6	8,000
*Two-family dwellings	12,000	80	30	25	10	6,000
*Townhouses	5,000/unit	25/unit	30	30	15	5,000
*Multi-family dwellings	15,000	100	30	30	15	3,500
*Other uses	10,000	100	30	30	15	-

(1988 Code, ' 11.12-2)

**153.065 NONCONFORMING USES.**

The following provisions shall apply to all nonconforming uses:

(A) As of the effective date of this chapter a nonconforming use may be continued, but may not be extended, expanded or changed unless to a conforming use, except as permitted by the City Commission in accordance with the provisions of this chapter;

(B) Any nonconforming structures damaged by fire, flood, explosion or other casualty may be reconstructed for use as before if the reconstruction is performed within 12 months of the casualty, and if the restored structure has no greater coverage and contains no greater cubic content than before the casualty;

(C) In the event that any nonconforming use, conducted in a structure or otherwise, ceases, for whatever reason, for a period of one year, the nonconforming use shall not be resumed;

(D) Normal maintenance of a nonconforming structure is acceptable including structural repairs and maintenance; and

(E) Nonconforming structures already in place shall be allowed to be located, erected, constructed, moved, altered, converted or enlarged if the activity does not affect the current cause of nonconformity and the activity is otherwise in full compliance with all the provisions of this chapter and other applicable city code provisions.

(1988 Code, ' 11.50-1) (Ord. 106, passed 5-26-2010)

**153.066 ACCESSORY USES.**

The following provisions shall apply to accessory uses.

(D) In the R-1, R-2 and R-3 Districts:

(5) The sidewalls on any accessory structure or garage shall not exceed nine feet in height, allowing no larger than an eight-foot high garage door, nor shall any garage or accessory structure exceed the principal building in height. Sidewall height shall be measured from the inside finished floor elevation to the point at which the sidewall top plate adjoining the rafter;