

CITY OF CASCADE LOCKS  
PLANNING COMMISSION ORDER  
VARIANCE 07-01 – WINDSONG TERRACE LLC

APPLICATION

The variance requested is to reduce various setback requirements for lots within the Windsong Terrace Subdivision. Since the specific variance requested by the applicant varies between lots the requests will be described in detail in the analysis section. It is important to note that none of the variances requested effect the 20-foot setback requirement for garages.

APPLICANT

Gunnar Harb

OWNER

Windsong Terrace L.L.C.

LOCATION

Windsong Terrace Subdivision Cascade Locks, Oregon – Lots 11, 12, 13, 14, 15, 16, 36, 37, 39, 40

COMPREHENSIVE PLAN DESIGNATION

Residential (R)

ZONING DESIGNATION

Low Density Residential (LDR)

EXISTING LAND USE

All of the properties involved in this request are currently vacant.

SURROUNDING LAND USE

The parcels are in a large single family subdivision which has just begun to develop. The subdivision borders other single family areas including the Shahala subdivision which is also currently under development.

GENERAL BACKGROUND

The lots involved in this application were created only a few years ago. The final plat for the subdivision of these lots was approved by the City in July 2006. Since then the

ownership of the property has changed hands. The current owner has begun to build homes on several lots in the subdivision but has been unable to find a building design which is feasible on the lots which are the subject of the variance requested.

## PROPOSED VARIANCES – FINDINGS

Since the exact nature of the setback variances requested differs from lot to lot, the variances were divided into similar groups for the purpose of analysis. Each similar group was individually weighed against the variance approval criteria found in 8-6.160.050 Variance Approval Criteria. These are quoted below along with a discussion of the proposed variances:

### **Group 1: Windsong Terrace Lots 11, 12, 13, 14, and 15.**

Request: To reduce the front and rear yard setbacks from 15 ft to 5 ft.

Background: In 2006 the City approved the subject lots to be smaller the minimum lot size of 6,500. This earlier variance was allowed because of an error by the previous owner in calculating the amount of right of way that would be dedicated on the back of the subject lots. At the time this earlier decision was made the owner had hoped that some type of zero lot line duplexes would be possible on the site but due to the offset nature of the lots along with the extremely small size of the lots the owner has not been able to come up with a duplex plan which fits into lots.

Analysis and Findings:

#### 8-6.160.050 Approval Criteria

A variance application shall only be approved or approved with conditions when the approval authority finds that of all of the following criteria have been satisfied:

A. The proposed variance will equally or better meet the purpose of the regulation being modified and any associated policies of the comprehensive plan;

The purpose of the LDR zone is to provide land for housing opportunities for individual households. The zone implements the Comprehensive Plan policies and regulations that are intended to create, maintain, and promote single family residential neighborhoods. The lots are not surrounded by existing homes and the setbacks will provide for single family homes to be developed within the zone they were meant for. As such the variance meets the purpose of the LDR zoning being modified.

B. There are special circumstances, such as peculiar lot size or shape, topographic constraints or limitations caused by existing development, over which the applicant has no control, and which are not applicable to other properties in the same zoning district;

There are special circumstances as the applicant purchased this development site based on erroneous assumptions by the prior developer which had been concurred in

by the City. The smaller lots were the result of a City imposed condition of approval that, upon application, caused the lots to be smaller than originally designed.

C. The use proposed is a permitted or conditional use as allowed in the applicable zoning district, and the standards of this title will be maintained to the greatest extent that is reasonably possible while permitting some economic use of the land;

The use of the property is not proposed to be varied and the requested change maintains the standards of the zoning code to the greatest extent possible while permitting some economic use of the land.

D. Existing physical and natural systems, such as but not limited to transportation facilities, utilities and sensitive lands, will not be adversely affected any more than would occur if the use or structure were developed in accordance with the provisions of this title; and

There will be no adverse impacts.

E. The hardship is not self-imposed and the variance requested is the minimum variance which would alleviate the hardship.

The hardship is not self imposed as the applicant acquired the site and the approved site plan and only later discovered a mistake had been made that caused the lots to be shortened by 30 feet. The request is the minimum variance that can done while still alleviating the hardship.

**Group 2: Windsong Terrace Lot 37.**

Request: To reduce the front yard setbacks from 15 ft to 5 ft and to reduce the rear yard setbacks from 15 ft to 10 ft.

Background: The subject lots are corner lots which require a 10 ft side yard setback on the street side along with the usual 5 ft side yard setback on the none street side and 15 ft setbacks for the front and rear yard.

Analysis and Findings:

8-6.160.050 Approval Criteria

A variance application shall only be approved or approved with conditions when the approval authority finds that of all of the following criteria have been satisfied:

A. The proposed variance will equally or better meet the purpose of the regulation being modified and any associated policies of the comprehensive plan;

The purpose of the LDR zone is to provide land for housing opportunities for individual households. The zone implements the Comprehensive Plan policies and regulations that are intended to create, maintain, and promote single family residential

neighborhoods. The lot is not surrounded by existing homes and the setbacks will provide for single family homes to be developed within the zone they were meant for. As such the variance meets the purpose of the LDR zoning being modified.

B. There are special circumstances, such as peculiar lot size or shape, topographic constraints or limitations caused by existing development, over which the applicant has no control, and which are not applicable to other properties in the same zoning district;

The particular lot has a peculiar shape that results in a building envelope that is difficult to design a livable house within because of its shallow depth.

C. The use proposed is a permitted or conditional use as allowed in the applicable zoning district, and the standards of this title will be maintained to the greatest extent that is reasonably possible while permitting some economic use of the land;

The use of the property is not proposed to be varied and the requested change maintains the standards of the zoning code to the greatest extent possible while permitting some economic use of the land.

D. Existing physical and natural systems, such as but not limited to transportation facilities, utilities and sensitive lands, will not be adversely affected any more than would occur if the use or structure were developed in accordance with the provisions of this title; and

There will be no adverse impacts.

E. The hardship is not self-imposed and the variance requested is the minimum variance which would alleviate the hardship.

The applicant acquired this lot as part of the larger subdivision and had no control over its design. The proposed setbacks create a much more livable situation. They represent the minimum change that can be made to improve the buildability of the lot.

**Group 3: Windsong Terrace Lots 39 and 40.**

Request: To reduce the front yard setbacks from 15 ft to 5 ft.

Background: The back areas of these lots include a significant drop of around 20 ft in elevation change. This topography makes it extremely difficult on build on the back approximately half of the lot.

Analysis and Findings:

**8-6.160.050 Approval Criteria**

A variance application shall only be approved or approved with conditions when the approval authority finds that of all of the following criteria have been satisfied:

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A. The proposed variance will equally or better meet the purpose of the regulation being modified and any associated policies of the comprehensive plan;

The purpose of the LDR zone is to provide land for housing opportunities for individual households. The zone implements the Comprehensive Plan policies and regulations that are intended to create, maintain, and promote single family residential neighborhoods. Due to the inability to build on the back half of the lots, a reduction of their front yard setbacks would not increase their effective buildable area above what would be normally allowed for comparably sized and zoned lots. Additionally, the lots are not surrounded by existing homes and the setback reduction is requested for the only the front yard. These factors mean the variance should equally meet the purpose of the setback regulation being modified.

B. There are special circumstances, such as peculiar lot size or shape, topographic constraints or limitations caused by existing development, over which the applicant has no control, and which are not applicable to other properties in the same zoning district;

The dramatic slope on the back side of the lot is a special circumstance over which the applicant has no control, and which is not applicable to other properties in the same zoning district.

C. The use proposed is a permitted or conditional use as allowed in the applicable zoning district, and the standards of this title will be maintained to the greatest extent that is reasonably possible while permitting some economic use of the land;

The use of the property is not proposed to be varied and the single setback requested maintains the standards of the zoning code to the greatest extent possible while permitting some economic use of the land.

D. Existing physical and natural systems, such as but not limited to transportation facilities, utilities and sensitive lands, will not be adversely affected any more than would occur if the use or structure were developed in accordance with the provisions of this title; and

There will be no adverse impacts.

E. The hardship is not self-imposed and the variance requested is the minimum variance which would alleviate the hardship.

The topography of the lot is not a self imposed hardship and the reduction of the setback is the minimum variance which would alleviate the hardship.

**DECISION:**

The Planning Commission APPROVES Variance 07-01 subject to the following conditions:

City of Cascade Locks – Planning Commission Order

1. Development of the property shall substantially conform to the representations made in the application and the discussion within this decision document.

Passed by the Planning Commission June 14, 2007

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Joanne Wittenberg, Chair