



PLANNING COMMISSION REGULAR SESSION AGENDA
Monday, June 10, 2024 - 7:00 PM
Council Chambers, 169 SW Coast Hwy, Newport, Oregon 97365

All public meetings of the City of Newport will be held in the City Council Chambers of the Newport City Hall, 169 SW Coast Highway, Newport. The meeting location is accessible to persons with disabilities. A request for an interpreter, or for other accommodations, should be made at least 48 hours in advance of the meeting to Erik Glover, City Recorder at 541.574.0613, or e.glover@newportoregon.gov.

All meetings are live-streamed at <https://newportoregon.gov>, and broadcast on Charter Channel 190. Anyone wishing to provide written public comment should send the comment to publiccomment@newportoregon.gov. Public comment must be received four hours prior to a scheduled meeting. For example, if a meeting is to be held at 3:00 P.M., the deadline to submit written comment is 11:00 A.M. If a meeting is scheduled to occur before noon, the written comment must be submitted by 5:00 P.M. the previous day. To provide virtual public comment during a city meeting, a request must be made to the meeting staff at least 24 hours prior to the start of the meeting. This provision applies only to public comment and presenters outside the area and/or unable to physically attend an in person meeting.

The agenda may be amended during the meeting to add or delete items, change the order of agenda items, or discuss any other business deemed necessary at the time of the meeting.

1. CALL TO ORDER AND ROLL CALL

Commission Members: Bill Branigan, Bob Berman, Jim Hanselman, Gary East, Braulio Escobar, and John Updike.

2. APPROVAL OF MINUTES

2.A Approval of the Planning Commission Work Session Meeting Minutes of May 13, 2024.

[Draft PC Work Session Minutes 05-13-2024](#)

[05-13-24 PC Work Session Meeting Video Link](#)

2.B Approval of the Planning Commission Regular Session Meeting Minutes of May 13, 2024.

[Draft PC Reg Session Minutes 05-13-2024](#)

[05-13-24 PC Regular Session Meeting Video Link](#)

3. CITIZENS/PUBLIC COMMENT

A Public Comment form is available immediately inside the Council Chambers. Anyone who would like to address the Planning Commission on any matter not on the agenda will be given the opportunity after submitting a form. Each speaker should limit comments to three minutes. The normal disposition of these items will be at the next scheduled Planning Commission meeting.

4. ACTION ITEMS

4.A File No. 2-VAR-24: Final Order and Findings of Fact for the Variance to Allow the Construction of an Addition to an Existing Single-family Dwelling With a 5-foot Setback.

[Final Order and Findings of Fact](#)

5. PUBLIC HEARINGS

6. NEW BUSINESS

7. UNFINISHED BUSINESS

8. DIRECTOR COMMENTS

9. ADJOURNMENT

**City of Newport
Draft Planning Commission Work Session Minutes
May 13, 2024**

LOCATION: CITY COUNCIL CHAMBERS, NEWPORT CITY HALL, 169 SW COAST HIGHWAY, NEWPORT
Time Start: 6:00 P.M. Time End: 6:53 P.M.

ATTENDANCE LOG/ROLLCALL

COMMISSIONER/ ADVISORY MEMBER	STAFF
Chair Bill Branigan	Derrick Tokos, Community Development Director
Commissioner Bob Berman	Sherri Marineau, Community Development Dept.
Commissioner Jim Hanselman	
Commissioner Gary East	
Commissioner Braulio Escobar (absent, excused)	PUBLIC MEMBERS PRESENT
Commissioner John Updike	Meg Reed (by video)
Citizen Advisory Member Dustin Capri (absent, excused)	Annie Merrill (by video)
Citizen Advisory Member Greg Sutton (absent)	Mark Arnold

AGENDA ITEM	ACTIONS
WORK SESSION MEETING	
CALL TO ORDER AND ROLL CALL	
a. Roll Call	None.
INITIAL REVIEW OF DRAFT ZONING AMENDMENTS TO IMPLEMENT THE UPDATED YAQUINA BAY ESTUARY MANAGEMENT PLAN.	
a. Staff report	Mr. Tokos provided an overview of the draft set of amendments to the Yaquina Bay and Estuary section of the Newport Comprehensive Plan.
b. Discussion on amendments	The Commission held discussions on newly added definitions; establishment and intent of the zone districts; estuary uses table; estuarine use standards; dredging schedules and regulations; impact assessments; supplemental estuary conditional use standards; dredge material disposal standards; management unit specialty policies; procedural requirements; and the estuary zoning map. Tokos acknowledged the public comments received by Annie Merrill from the Oregon Shores Conservation Collation. He noted the Estuary Plan was addressed in Goal 16 for shorelands but there weren't resources to update Goal 17 at that time. Berman requested that the shoreland maps be updated and he volunteered to help with the update. Updike thought a resiliency grant could help with funding. Tokos explained that these grants were staff intensive and the city needed to be

<p>c. Commission feedback</p>	<p>consciences on the time it would take. Berman questioned if the city could revisit the Estuary Plan in five years. Tokos clarified that this was something to be done when there was cause to review, not just for the sake of revising.</p> <p>Branigan pointed out that the statement in Section 14.04.070(B), concerning how disposal sites should be well constructed, was vague and needed to be revised.</p> <p>The Commission was in general agreement with the general structure of the Plan. Tokos reported he would work with the stakeholders to fill in details and address comments received to date. Branigan wanted the Port to offer their thoughts on the plan.</p> <p>Annie Merrill spoke to the Commission and asked for clarification on how resource capability tests were conducted and how adverse impacts were proven. Tokos would provide further information and clarity on this at another meeting. Merrill questioned what would warrant a need for future updates to the plan, and asked if building more resiliency to climate change in the Estuary Management Plan would warrant this. Tokos explained there would be other estuary plans and climate resiliency that would be worked on. If the climate resiliency proved to be insufficient, and a better model was developed, they would then want to take a look at moving forward with an amendment.</p>
<p>IMPLEMENTATION OF ADJUSTMENT PROVISIONS OF GOVERNOR'S HOUSING BILL.</p>	<p>Mr. Tokos provided an overview of the implementation of adjustment provisions of the Governor's Housing Bill. He reviewed an email sent to Carrie Connelly requesting legal assistance related to the implementation of SB 1537.</p>
<p>NEXT STEPS WITH THE CITY CENTER REVITALIZATION PLANNING PROCESS.</p>	<p>Mr. Tokos reported that the first kick off meeting would happen around May 31st.</p>
<p>PLANNING COMMISSION WORK PROGRAM UPDATE.</p>	<p>None.</p>

Submitted by: _____

Sherry Marineau, Executive Assistant

05-13-2024 - Planning Commission Work Session Meeting Video Link:

https://thecityofnewport.granicus.com/player/clip/1258?view_id=2&redirect=true

**City of Newport
Draft Planning Commission Regular Session Minutes
May 13, 2024**

LOCATION: CITY COUNCIL CHAMBERS, NEWPORT CITY HALL 169 SW COAST HIGHWAY NEWPORT	
Time Start: 7:00 P.M.	Time End: 7:36 P.M.

ATTENDANCE LOG/ROLLCALL

COMMISSIONER/ ADVISORY MEMBER	STAFF
Chair Bill Branigan	Derrick Tokos, Community Development Director
Commissioner Bob Berman	Sherrri Marineau, Community Development Dept.
Commissioner Jim Hanselman	
Commissioner Gary East	PUBLIC MEMBERS PRESENT
Commissioner Braulio Escobar	Todd and Paula Haglund
Commissioner John Updike	

AGENDA ITEM	ACTIONS
REGULAR MEETING	
CALL TO ORDER AND ROLL CALL	
a. Roll Call	None.
APPROVAL OF THE MINUTES	
a. Meeting minutes of Regular Session Meeting on April 22, 2024	Motion by Berman, seconded by Updike, to approve the work session meeting minutes of April 22, 2024 with minor correction. Motion carried unanimously in a voice vote.
CITIZEN/PUBLIC COMMENT	None.
ACTION ITEMS	
File No. 1-VAR-24: Final Order and Findings of Fact for the Harbor Freight Sign Variance.	Motion by Berman, seconded by East, to approve File No. 1-VAR-24: Final Order and Findings of Fact for the Harbor Freight Sign Variance. Motion carried unanimously in a voice vote.
PUBLIC HEARING	
File No. 2-VAR-24: Variance to Allow the Construction of an Addition to an Existing Single-family Dwelling With a 5-foot Setback.	
a. PUBLIC HEARING OPEN	7:06 p.m. Berman reported a site visit.

<p>b. STAFF REPORT - DERRICK TOKOS</p> <p>c. PUBLIC COMMENT</p> <p>d. PUBLIC HEARING CLOSED</p> <p>e. COMMISSION DECISION</p>	<p>Tokos reviewed the staff report.</p> <p>Applicants Todd and Paula Haglund (Newport) stated they agreed with the staff report and asked that the 5-foot setback be granted. Berman asked if the variance would make it easier for them to stay in their home. Haglund confirmed it would allow them to stay in place and allow them to live on one level of the home. Berman thought this was a good reason to prove there was a hardship.</p> <p>Hanselman asked if the applicants were okay with the conditions that were suggested on the staff report. Haglund stated he was. Hanselman agreed that mobility was a hardship for people when they aged.</p> <p>None.</p> <p>7:21 p.m.</p> <p>Updike thought it was a unique circumstance and a hardship. He didn't have a problem with proposal. East agreed with Updike and stated he didn't have a problem with the addition. Berman agreed. Hanselman was in support of the request. Branigan identified with needing living quarters on one level and was in support of the request.</p> <p>Motion was made by Berman, seconded by East, to approve File No. 2-VAR-24 with conditions. Motion carried unanimously in a voice vote.</p> <p>June 10th will be the Final Order and Findings. Work through the building permit process while we wait.</p>
<p>UNFINISHED BUSINESS</p>	<p>Tokos gave an update on the Bayfront parking program implementation. He reported on the number of transactions to date; service problems; issues with Text to Park advance pay; requests for more signs; sign heights; assisting the public to purchase permits; enforcement warnings; fielding calls from the public who didn't like the parking program; the average stay of vehicles; and the public's frustration that permits didn't guarantee parking spaces.</p>

Submitted by: _____

Sherri Marineau, Executive Assistant

05-13-2024 - Planning Commission Regular Session Meeting Video Link:

https://thecityofnewport.granicus.com/player/clip/1259?view_id=2&redirect=true

**BEFORE THE PLANNING COMMISSION
OF THE CITY OF NEWPORT,
COUNTY OF LINCOLN, STATE OF OREGON**

**IN THE MATTER OF PLANNING COMMISSION)
FILE NO. 2-VAR-24, APPLICATION FOR A) FINAL
VARIANCE, AS SUBMITTED BY TODD AND) ORDER
PAULA HAGLUND)**

ORDER APPROVING A VARIANCE pursuant to Chapter 14.11.010/“Required Yards” of the Newport Municipal Code to allow construction of an addition to an existing single-family dwelling with a 5-foot setback. This constitutes a 5 foot variance (50% deviation) from the 10 foot rear yard setback. The property is identified as 5259 NW Rocky Way; Lincoln County Assessor's Map 10-11-29-BD, Tax Lot -04601 (Lots 1 and 12, and the easterly one-half of Lots 2 and 11, Block 46, Agate Beach No. 2). It is approximately 0.3 acres in size per County assessment records.

WHEREAS:

- 1.) The Planning Commission has duly accepted the application filed consistent with the Newport Zoning Ordinance (No. 1308, as amended); and
- 2.) The Planning Commission has duly held a public hearing on the request, with a public hearing a matter of record of the Planning Commission on May 13, 2024; and
- 3.) At the public hearing on said application, the Planning Commission received testimony and evidence, including testimony and evidence from the applicant, public, and Community Development Department staff; and
- 4.) At the conclusion of said public hearing, after consideration and discussion, the Newport Planning Commission, upon a motion duly seconded, **APPROVED** the request for the variance.

THEREFORE, LET IT BE RESOLVED by the City of Newport Planning Commission that the attached findings of fact and conclusions (Exhibit "A") support the approval of the variance as requested by the applicant with the following condition(s):

- 1. Approval of this land use permit is based on the submitted written narrative and plans listed as Attachments to this report. No work shall occur under this permit other than that which is specified

within these documents. It shall be the responsibility of the property owner to comply with these documents and the limitations of approval described herein.

2. The property owner is responsible for staking the west property line and 5-foot setback line, and such stakes shall be kept in place until footing inspections have been performed.
3. Pursuant to NMC 14.52.140/"Expiration and Extension of Decision," this approval shall be void after 24 months unless all necessary building permits have been issued. An extension may be granted by the Community Development Director as provided in this section provided it is sought prior to expiration of the approval period.

BASED UPON THE ABOVE, the Planning Commission determines that the request for a variance is in conformance with the provisions of the Comprehensive Plan and the Zoning Ordinance of the City of Newport.

Accepted and approved this 10th day of June, 2024.

Bill Branigan, Chair
Newport Planning Commission

Attest:

Derrick I. Tokos, AICP
Community Development Director

EXHIBIT "A"

Case File No. 2-VAR-24

FINDINGS OF FACT

1. Todd and Paula Haglund submitted a request on April 16, 2024, for approval of a variance to Sections 14.11.010/"Required Yards" of the Newport Municipal Code to allow construction of an addition to an existing single-family dwelling with a 5-foot setback. This constitutes a 5 foot variance (50% deviation) from the 10 foot rear yard setback.
2. The property subject to the variance application is identified as 5259 NW Rocky Way; Lincoln County Assessor's Map 10-11-29-BD, Tax Lot -04601 (Lots 1 and 12, and the easterly one-half of Lots 2 and 11, Block 46, Agate Beach No. 2). It is approximately 0.36 acres in size per County assessment records.
3. Staff reports the following facts in connection with the application:
 - a. Plan Designation: Low Density Residential.
 - b. Zone Designation: R-2/"Medium Density Single-Family Residential."
 - c. Surrounding Land Uses and Zoning: Surrounding uses consist of low density, single family residential home sites in all directions.
 - d. Topography: The property is moderate to steeply sloped, dropping in elevation as the property extends south and east from NW 54th Street.
 - e. Existing Structures: A single family dwelling constructed in 1980.
 - f. Utilities: All are available to the property.
 - g. Past Land Use Actions: None.
4. Upon acceptance of the application, the Community Development (Planning) Department mailed notice of the proposed action on April 22, 2024, to property owners within 200 feet required to receive such notice by the Newport Zoning Ordinance, and to various City departments and other agencies. The notice referenced the criteria by which the application was to be assessed. The notice required that written comments on the application be submitted by 3:00 p.m., May 13, 2024. Comments could also be submitted during the course of the public hearing. The notice was also published in the Lincoln County Leader on May 1, 2024. No comments were received.
5. A public hearing on the application was held on May 13, 2024. At the hearing, the Planning Commission received the staff report and oral testimony from the applicant. There was no testimony from proponents or opponents of the application. The minutes of the May 13, 2024 hearing are hereby incorporated by reference into the findings. The Planning Staff Report and attachments are hereby incorporated by reference into the findings. The Planning Staff Report attachments included the following:

Attachment "A" – Land use application form
 Attachment "B" – County property report and assessment map
 Attachment "C" – Application narrative
 Attachment "D" – Applicant's surveyed site plan

- Attachment "E" – Aerial map with zoning designation
- Attachment "F" – Photographs of the existing residence and property
- Attachment "G" – 1979 building permit application materials
- Attachment "H" – Public hearing notice

6. The variance request will allow construction of an addition to an existing single-family dwelling with a 5-foot setback. This constitutes a 5 foot variance (50% deviation) from the 10 foot rear yard setback. Pursuant to Section 14.33.030(C), Approval Authority, of the Newport Municipal Code, applications seeking more than a 40% deviation from a numerical standard shall satisfy criteria for a variance as determined by the Planning Commission following a public hearing.

7. NMC 14.11.010 stipulates that a building, or portion thereof, hereafter erected shall not intrude into the required yard listed in Table "A" of NMC 14.13.020 for the zone indicated. As illustrated on the zoning map (Attachment "E"), the property is within an R-2 zone district. Table "A" indicates that within the R-2 zone, buildings must be setback a minimum distance of 15-feet from front lot lines, 5-feet from side lot lines, and 10-feet from rear lot lines. Per the City's definition of lot lines, listed in NMC 14.01.020, all sides of a lot adjacent to a street other than an alley are deemed front lot lines. Lots with at least two adjacent sides that abut streets are defined as corner lots. The City's definition for rear lot lines specifies that all corner lots must have at least a 10-foot rear yard. A corner lot may have a 10-foot front setback if the setback from another front lot line is at least 20-feet.

When the above is taken in the aggregate, it means that the applicant's property has three front yards and a rear yard. The front yards face NW 54th Street to the north, NW Rocky Way to the east, and NW Hillside Drive to the south. The west lot line is the required rear yard with a 10-foot setback. The NW 54th Street and NW Rocky Way rights-of-way have developed roads that are used to access the property. NW Hillside Drive is an undeveloped street right-of-way.

The site plan from 1979 illustrates that the home was to be constructed such that it would face due south (Attachment "G"). The property owners survey; however, shows that it was constructed at an angle, facing the southwest (Attachment "D"). The existing dwelling is about 40-feet north of NW Hillside Drive, 114 feet south of NW 54th Street. The survey indicates that it is 5-feet from NW Rocky Way, which is less than the 10-foot minimum required for a front yard. Given that the residence was built in 1980, this setback from NW Rocky Way is permissible because all buildings within the City constructed prior to September 7, 1982 are considered to be lawful non-conforming structures if they do not meet current setback standards (NMC 14.32.020(A)).

The applicant notes in their narrative (Attachment "C") that this variance request is being made because they wish to construct an addition to the west side of the dwelling that would extend 5-feet into the rear yard. They point out that the purpose of the addition is to allow them to live on one level, so they can remain in the home as they age. They further point out that the neighbor most affected by the proposed addition, whose house sits directly to the west, has expressed support for their project.

8. Section 14.33.060 lists approval criteria for approval of variance application. Those criteria are as follows:

- a. That there is a circumstance or condition that applies to the property or to the intended use that does not apply generally to other property in the same vicinity or zoning district. The circumstance or condition may relate to: (a) The size, shape, natural features and topography

of the property; or (b) The location or size of existing physical improvements on the site; or (c) The nature of the use compared to surrounding uses; or (d) The zoning requirement would substantially restrict the use of the subject property to a greater degree than it restricts other properties in the vicinity or zoning district; or (e) A circumstance or condition that was not anticipated at the time the Code requirement was adopted. The list of examples in (a) through (e) above shall not limit the consideration of other circumstances or conditions in the application of these approval criteria.

- b. That the circumstance or conditions above are not of the applicant's or present property owner's making and does not result solely from personal circumstances of the applicant or property owner. Personal circumstances include, but are not limited to, financial circumstances.
- c. That there is practical difficulty or unnecessary hardship to the property owner in the application of the dimensional standard.
- d. That authorization of the variance will not result in substantial adverse physical impacts to property in the vicinity or zoning district in which the property is located, or adversely affect the appropriate development of adjoining properties. Adverse physical impacts may include, but are not limited to, traffic beyond the carrying capacity of the street, unreasonable noise, dust, or loss of air quality. Geology is not a consideration because the Code contains a separate section addressing geologic limitations.
- e. That the variance will not interfere with the provision of or access to appropriate utilities, including sewer, water, storm drainage, streets, electricity, natural gas, telephone, or cable services, nor will it hinder fire access.
- f. That any impacts resulting from the variance are mitigated to the extent practical. That mitigation may include, but is not limited to, such considerations as provision for adequate light and privacy to adjoining properties, adequate access, and a design that addresses the site topography, significant vegetation, and drainage.

CONCLUSIONS

In order to grant the variance, the Planning Commission must review the application to determine whether or not it meets the criteria listed in Section 14.33.060. With regard to those criteria, the following conclusions can be made:

- a. *Criterion #1. That there is a circumstance or condition that applies to the property or to the intended use that does not apply generally to other property in the same vicinity or zoning district. (The circumstance or condition may relate to: (a) The size, shape, natural features and topography of the property; or (b) The location or size of existing physical improvements on the site; or (c) The nature of the use compared to surrounding uses; or (d) The zoning requirement would substantially restrict the use of the subject property to a greater degree than it restricts other properties in the vicinity or zoning district; or (e) A circumstance or condition that was not anticipated at the time the Code requirement was adopted. The list of examples in*

(a) through (e) above shall not limit the consideration of other circumstances or conditions in the application of these approval criteria.)

- i. To grant a variance the Commission must find that a circumstance or condition applies to the property or to the intended use that does not apply generally to other property in the same vicinity or zoning district and that the circumstance or condition prevents the owner from using the property in a manner comparable to how similarly-situated and zoned properties are used in the area.
 - ii. In their narrative, the applicant points out that their property is unique in that it is the only house on the hill served by NW Rocky Way that is bound by three streets. They further note that the shape, natural features, and topography of the lot dictate that the house be oriented in a north-south manner with the east property line along NW Rocky Way and the west property line serving more as side lot lines, as opposed to front and rear property lines. They support these statements with photographs of the property (Attachment "F").
 - iii. The enclosed aerial map (Attachment "E"), supports the applicant's points. Other residences on this south facing slope that are served by NW Rocky Way and NW 54th Street are oriented in a north south manner, as that aligns with the terrain. The map also illustrates that the applicant's property is the only one that fronts three streets. The residence on the property to the west is a little more than 8-feet from the property line that they share with the applicant. This is their side yard, meaning that they are only subject to a 5-foot setback, the same distance that the applicant is requesting with this variance. Therefore, granting this variance would not lead to an outcome where the requested addition would lead to a built form that is inconsistent with what is permissible on adjoining properties.
 - iv. It is highly unusual for a property to abut three streets. The reason for this, in this case, is that the applicant's property includes portions of four lots that were aggregated to create enough area to construct a home, given the severity of the slopes and need for a septic system when the residence was originally built (Attachment "G"). Other developed properties in the area are similarly sized.
 - v. For the reasons stated, the Commission finds that this criterion has been satisfied.
- b. *Criterion #2. That the circumstance or condition in Criterion #1 is not of the applicant's or present property owner's making and does not result solely from personal circumstances of the applicant or property owner. Personal circumstances include, but are not limited to, financial circumstances.*
- i. The street frontage and terrain considerations noted by the applicant are not of their own making. The Agate Beach No. 2 subdivision plat that created the lots and streets was platted in 1913. A prior owner constructed the existing residence as noted in the permit records (Attachment "G"). The applicant didn't acquire the property until 2014 (Attachment "B").

- ii. Considering the above, the Planning Commission finds that the unique configuration of the property, and terrain are not circumstances or conditions created by the applicant.
- c. *Criterion #3. That there is a practical difficulty or unnecessary hardship to the property owner in the application of the dimensional standard.*
- i. The applicant's photos show that the property to the west of the existing dwelling, where they wish to construct an addition, is at a similar grade as the existing structure. Other alternatives, such as building the addition to the south of the existing dwelling would require more earthwork given the terrain.
 - ii. The Planning Commission has historically viewed the application of dimensional standards, such as setbacks, in a manner that would force development on more steeply sloped terrain or close to a bluff/embankment, as creating a practical difficulty that justifies the granting of a variance.
 - iii. Given this information, the Planning Commission finds that applying a 10 foot rear yard setback creates a practical difficulty for the owner and that a 5 foot variance is sufficient to alleviate the practical difficulty.
- d. *Criterion #4. That authorization of the variance will not result in substantial adverse physical impacts to property in the vicinity or zoning district in which the property is located, or adversely affect the appropriate development of adjoining properties. Adverse physical impacts may include, but are not limited to, traffic beyond the carrying capacity of the street, unreasonable noise, dust, or loss of air quality. Geology is not a consideration because the Code contains a separate section addressing geologic limitations.*
- i. Since the applicant's site fronts three streets, the only adjoining developable property is to the west. There is a home on it, and as noted earlier, that residence is similarly oriented in a north south direction and is subject to a 5-yard setback from the shared property line. The applicant is asking that they be held to the same setback. An addition to a single family dwelling, as envisioned by the applicant, is permissible within the zone and is not expected to result in adverse physical impacts to property in the area.
 - ii. Based on the above, the Planning Commission finds that this criterion has been satisfied.
- e. *Criterion #5. That the variance will not interfere with the provision of or access to appropriate utilities, including sewer, water, storm drainage, streets, electricity, natural gas, telephone, or cable services, nor will it hinder fire access.*
- i. The existing residence has access to these services and, as noted by the applicant, the addition will not place additional demands on these services. They point out in their narrative (Attachment "C"), the purpose of the addition is to allow them to live on one level and remain in the home as they age. The demand on services will be the same (i.e. that of a single-family dwelling). The setback the applicant is requesting is what is typically applied to a side yard and should be sufficient for fire emergency responders.
 - ii. Given the above, the Planning Commission finds that this criterion has been satisfied.

- f. *Criterion #6. That any impacts resulting from the variance are mitigated to the extent practical. That mitigation may include, but is not limited to, such considerations as provision for adequate light and privacy to adjoining properties, adequate access, and a design that addresses the site topography, significant vegetation, and drainage.*
- i. This criterion is limited to impacts that can be directly tied to the variance, as opposed to other impacts that might be associated with site development. In this case, there does not appear to be any impacts attributed to the variance that require mitigation. If approved, the building line of the addition would be comparable to what has already been established for the property to the west, with both adhering to 5-foot setbacks. It will, however, be important that the applicant verify the location of the west property line before they initiate construction to ensure at the required setback is being met. This can be addressed with a condition of approval.
 - ii. Considering the above, the Commission finds that there are no impacts attributed to the variance that require mitigation.

OVERALL CONCLUSION

Based on the staff report, the application material, and other evidence and testimony in the record, the Planning Commission concludes that the above findings of fact and conclusions demonstrate that the applicant has demonstrated compliance with the criteria for granting a variance, and, therefore, the request is **APPROVED** with the following conditions of approval:

1. Approval of this land use permit is based on the submitted written narrative and plans listed as Attachments to this report. No work shall occur under this permit other than that which is specified within these documents. It shall be the responsibility of the property owner to comply with these documents and the limitations of approval described herein.
2. The property owner is responsible for staking the west property line and 5-foot setback line, and such stakes shall be kept in place until footing inspections have been performed.
3. Pursuant to NMC 14.52.140/"Expiration and Extension of Decision," this approval shall be void after 24 months unless all necessary building permits have been issued. An extension may be granted by the Community Development Director as provided in this section provided it is sought prior to expiration of the approval period.