

Wheatland County

Request for Decision

Municipal Planning Commission

December 8, 2020



Report prepared by: Suzanne Hayes

DP 2020-135

File Number:	DP 2020-135	Division:	2
Proposal:	Two Variance Requests – Existing Shed and Existing Lean-To		
Location:	Within the Multi-Lot Subdivision on the northwest shore of Eagle Lake		
Legal Description:	Plan 2487 JK, Block 1, Lot 70, SW-5-24-24-4		
Title Area:	7500 ft ²		
Existing Land Use:	Residential (Eagle Lake Restricted Residential EL-RR)		
Proposed Parcels:	N/A		

Report

The applicant had a Real Property Report completed on September 2, 2020 which identified that a shed adjacent to lot 69 on the northeast side of the property does not meet the required setback for an accessory building of 0.91 m (3.0 ft) to the side yard property line. The shed is located 0.09 m (0.30 ft) from the property line with the eaves encroaching over the line by 0.04 m (0.13 ft). A Real Property Report was on file for the adjacent neighbor on this side indicating the distance from the neighbors dwelling to the property line between the two lots to be 3.30 m (10.83 ft). This neighbor has submitted a letter in support of the variance on this side.

The Real Property Report also indicates that the existing lean-to addition adjacent to lot 71 does not meet the 1.22 m (4.0 ft) setback for a principle building. The lean-to addition and concrete pad are encroaching onto Lot 71 (the neighboring property on the southwest side) by 0.08 m (0.26 ft) with the eaves encroaching 0.17 m (0.56 ft). The lean-to accommodates the water well which is situated against the southwest wall of the structure. A Real Property Report was on file for the adjacent neighbor on this side indicating the distance from the neighbors dwelling to the property line between the two lots to be 2.96 m (9.71 ft).

The shed and lean-to have been on the property approximately 12 years.

Recommendation from Administration

THAT Municipal Planning Commission approve DP 2020-135 for two variances; one for an existing shed and one for an existing lean-to addition:

1. This Development Permit is issued solely for the purpose of an existing shed and lean-to addition both requiring a variance – Defined as a Variance for an Accessory Buildings and a Variance for an Addition to the Dwelling, Single Detached.
2. The variance has been granted allowing the existing 2.47 m x 4.92 m shed to be located 0.09 m (0.30 ft) from the northeast side yard property line (adjacent to lot 69).
3. The variance has been granted for the lean-to addition to be located 0.08 m (0.26 ft) over the southwest side yard property line (adjacent to lot 71) with the condition that Landowner provide

documentation confirming an Encroachment Agreement has been entered into with the adjacent landowner on the southwest side (Lot 71) allowing the existing lean-to addition to remain in the current location.

4. Development shall proceed according to Eagle Lake Restricted Residential (EL-RR) requirements and the applicant must comply with all applicable provisions of the Wheatland County Land Use Bylaw.
5. No permanent development shall occur on or over any utility right of way or easement.

Policy Analysis

9.18 Eagle Lake Restricted Residential District (EL-RR)

Minimum Area Required	Existing lot size as indicated on Plan 2487JK.
Front Yard Setback Requirements	a. 7.62 m (25.00 ft) lake side lots with lake frontage.
Side Yard	1. Principle Buildings: a. street side of a corner site: 3.05 m (10.0 ft) b. all other side yards: 1.22 m (4.00 ft) c. one unobstructed side yard: 3.05 m (10.0 ft)
	2. Accessory Buildings: a. street side of a corner site: 3.05 m (10.00 ft) b. all other side yards: 0.91 m (3.00 ft) c. one unobstructed side yard: 3.05 m (10.0 ft)
Rear Yard	1. Principle Buildings: a. 6.10 m (20.0 ft)
	2. Accessory Buildings: a. 0.91 m (3.0 ft)
Between buildings/structures	1.52 m (5.0 ft)
Minimum Floor Area Requirements	Dwelling, Single Detached: 55.74 m ² (600.0 ft ²)
Maximum Height Requirements	a. Principal Buildings: 5.49 m (18.0 ft)
	b. Accessory Buildings: 5.49 m (18.0 ft)

7.4 Additions

- 7.4.1 Unless otherwise stated in this bylaw and where a structure is attached to the principal building by shared features such as but not limited to siding, walls, roofs, and/or foundation it shall be considered to be part of the principal building.

4.3 Variances

4.3.1 Upon receipt of an application for any development for which a variance exceeds 10 % of any numerical rules and regulations of this Bylaw, the Development Officer shall refer the application to the Municipal Planning Commission for a decision.

4.3.2 The Development Authority may approve a Development Permit even though the proposed development does not comply with this Bylaw or is a non-conforming building if, in the opinion of the Development Authority:

a) The proposed development would not:

- i. Unduly interfere with the amenities of the neighborhood; or
- ii. Materially interfere with or affect the use, enjoyment, or value of neighboring parcels of land; and
- iii. The proposed development conforms with a similar use prescribed for that land or building in this Bylaw.

Considerations:

- The dwelling on the northeast side (lot 69) is a significant distance away from the property line (3.30 m). If each structure met the required minimum setback (1.22 m + 0.91 m), the distance between the two structures would be 2.13 m. Because the dwelling was built with a much larger setback than required, the distance between the two buildings is greater than it would have been if each had met the minimum.
- The same applies to the opposite side with the lean-to adjacent to the southwest side (lot 71). The dwelling is a significant distance away from the property line (2.96 m). With the 0.26 m encroachment onto lot 71 the distance between the two structures is 2.70 m. If each structure met the required minimum setback (1.22 m + 1.22 m), the distance between the two structures would be 2.44 m. Because the dwelling was built with a much larger setback than required, the distance between the two buildings is greater than it would have been if each had met the minimum.
- Approval of the variance does not grant approval that the encroachment onto the neighboring property is permitted by the landowner of lot 71.
- The applicant has stated that lot 71 is under foreclosure with TD bank, however land titles does not show a title change yet.

Technical Review

- The Property is accessed via a private driveway off a cul-de-sac (Eagle Lake Place).
- The residence uses a septic tank and private water well housed within the lean-to shed.

Circulation Comments

AGENCY CIRCULATION	
Not performed	
INTERNAL CIRCULATION	
Internal File Review	<p>Deputy Regional Fire Chief – Looking at the photos and report there does appear to be a good separation gap between side of the lean- to and the structure on the neighbor’s property. With that said being that it is basically right against the property line this would increase the chance of an exposure fire to the adjacent property.</p> <p>Regarding the shed on the other side in relation to any structures I would have the same concern.</p> <p>Planner: Question regarding having the neighbor enter into an encroachment agreement.</p>
NEIGHBOUR CIRCULATION	
To adjacent neighbors + 1	<p>No Concerns.</p> <p>The neighbors on the north east side (lot 69) submitted a letter in support of the application stating they had no issue with the shed that shares their boundary line.</p>

Response Options

Option 1: THAT MPC accepts/approves the recommendation as proposed.

Option 2: THAT MPC does not accept/approve the recommendation as proposed.

Option 3: THAT MPC accepts/approves an alternate recommendation of MPC's choosing.

Follow-up Action / Communications

Follow up with the applicant on MPC's decision.


Report Approval Details

Document Title:	DP 2020-135.docx
Attachments:	- Appendices for Report DP 2020-135.docx
Final Approval Date:	Nov 27, 2020

This report and all of its attachments were approved and signed as outlined below:



Sherry Baers



Matthew Boscarol