



City of Leavenworth
Staff Report – Variance

To: Leavenworth Hearing Examiner
From: Development Services
Date of Report: June 27, 2019
Permit #: VAR 2019-02
Property Address: 409 Evans Street
Leavenworth, WA 98826
Parcel #: 24-17-12-670-026

I. PROJECT INFORMATION

Request: The applicant is requesting a Variance, file number VAR 2019-02, to allow primary vehicular access and parking off of an alley, rather than the City street (as required by LMC 18.20.090, per LMC definition of “parking space, off-street”), for construction of a future single-family residence with attached garage. The applicant’s request is due to the narrow width of the lot, the desire to have a front yard and for aesthetics and consistency with the adjacent homes in the neighborhood.

Mailing Address (Owner): Joseph & Zandra Anzalone
PO Box 265
Leavenworth, WA 98826

Applicant/Contact: Rita Reed
42651 SE 102nd St
North Bend, WA 98045

Adjacent Land Uses:

North: Evans Street, 50’ City right-of-way, zoned Residential Low Density 6,000 (RL-6)
South: Alley, 15’ City right-of-way, zoned Residential Multifamily
East: Single-family residence, zoned Residential Low Density 6,000 (RL-6); primary access off alley.
West: Single-family residence, zoned Residential Low Density 6,000 (RL-6); corner lot with primary access off Whitman Street (secondary alley access).

II. NOTICING:

Application Submitted	June 5, 2019
Determination of Complete	June 10, 2019
Notice of Application Issued	June 12, 2019
SEPA Determination	Exempt per WAC 197-11-800 (6) (e)
Published Notice of Hearing	June 26, 2019
Notice of Hearing Issued	June 26, 2019

Staff report available	June 27, 2019
Hearing Date	July 11, 2019

The Notice of Application was posted on the subject property, at City Hall, and sent to the following agencies for review and comment.

City of Leavenworth: Public Works Department

Chelan County: Chelan County PUD#1; Chelan County Fire District 3

State of Washington: Washington State Department of Ecology; Washington State Department of Fish and Wildlife; Washington State Department of Archaeology & Historic Preservation;

Additional Agencies/Organizations: Yakama Nation; Confederated Tribes of the Colville Reservation

COMMENTS:

Agency Comments were received in support of the variance; see Attachment A.

Name	Agency	Date	Comment
Herb Amick	City of Leavenworth Public Works	6/14/2019	Cannot guarantee winter access off the alley.
Dave Nalle	Chelan County Fire District #3	6/26/2019	No concerns; recommends approval of variance

No public comments were received stating concerns with the proposal.

III. CONSISTENCY ANALYSIS

The Comprehensive Plan encourages infill development of vacant land in existing developed areas of the city. The following Goals and policies are applicable to the proposal:

Land Use Element General Goals, Goal 5: Encourage infill development on suitable vacant parcels and redevelopment of underutilized parcels. Ensure that the height, bulk and design of infill and redevelopment projects are compatible with their surroundings.

Finding: The parcel is currently vacant. Effective use of this land can be accomplished by infill. Utilization of the property for future residential development, accessed from the alley, is compatible with the adjacent land uses and the Residential Low Density 6,000 zoning designation. The height, bulk and design of the proposal is compatible with the surrounding neighborhood, including the aesthetic compatibility of alley-only access.

Land Use Element Residential Goal 23: Encourage development to occur in urban areas where adequate public facilities and services exist or can be provided in an efficient manner.

Policy 1: Infilling, compatible with surrounding neighborhoods, should be encouraged on remaining buildable lands within the City of Leavenworth.

Finding: Public water and sewer are available to the property, thorough existing water and sewer lines. Additionally, the alley is developed as a dirt/gravel public right-of-way. The variance will allow for infill, on buildable land, within the city limits.

Land Use Element Residential Goal 24, Policy 4: Recognize that the infill of vacant, partially used and underutilized land in existing developed areas of the City is an important aspect of the efficient development of the UGA and City limits and should be strongly encouraged.

Finding: The parcel is located within an existing developed area of the City that can accommodate further development. The proposed infill will allow public facilities and services to be provided in a more efficient manner. The requested variance will allow for efficient infill, consistent with the neighboring properties, which should be “strongly encouraged.”

The Hearing Examiner has the authority to grant variances from the requirements of Title 18 Zoning *where it can be shown that, owing to special and unusual circumstances related to a specific piece of property, the literal interpretations of this title would cause undue or unnecessary hardship. No variance shall be granted to allow the use of property for purposes not authorized in the district in which the proposed use would be located. In granting a variance, the commission may attach conditions which it finds necessary to protect the best interests of the surrounding property or neighborhood and to otherwise achieve the purposes of this title.* (LMC 18.56.050)

The requirements for the granting a variance, LMC 18.56.060, are addressed by the applicant within the application and by staff below.

- A. *The variance is necessary for the preservation of a property right of the applicant substantially the same as is possessed by owners of other property in the same neighborhood or district.*

Applicant Statement: All adjacent homes have back alley access, as well as the homes across the street

Finding: The property is a legal lot of record, as defined in LMC Chapter 21.90. The applicant has the right to develop the lot with a single-family residence, a permitted use in the RL-6 zoning district. A majority of lots in the neighborhood (specifically the lots on this block) have sole alley access, as identified in the application materials and as verified by staff. There are no residential curb cuts on this block of Evans Street (see Exhibit B site visit photos).

The variance is necessary for the preservation of a property right substantially the same as possessed by others within the RL-6 zoning district.

- B. *The plight of the applicant is due to unique circumstances such as topography, lot size or shape, or size of buildings, over which the applicant has no control.*

Applicant Statement: The narrow lot size of 30 feet would eliminate any opportunity to build a home congruent with the neighborhood.

Finding: The subject property is a historically small, narrow lot, created in July 1913 via the plat of Lindsay Addition to Leavenworth. With required side yard setbacks of 5 feet, per LMC 18.20, the building area is limited to 20 feet in width. A typical single-car garage is roughly 12-16 feet wide and a typical two-car garage is roughly 20-24 feet wide. If access off Evans Street is required, the garage will encompass the majority or entire front yard, leaving little to no room for a front entryway to the residence and no front yard area.

The plight of the applicant is due to the unique lot size and shape, over which the applicant has no control.

- C. *The hardship asserted by the applicant is not the result of the applicant's or the owner's action.*

Applicant Statement: The hardship is due to the narrow historical lot dimensions.

Finding: The lot is a historic undisturbed and undeveloped site. The applicant (potential buyer) wishes to purchase the lot to build a single-family residence. As stated above, the lot was created in 1913, prior to the establishment of regulations for residential development and the associated off-street parking and access requirements.

The hardship is not the result of the applicant's or owner's action.

- D. *The authorization of the variance shall not be materially detrimental to the purposes of this title, be injurious to property in the same district or neighborhood in which the property is located, or be otherwise detrimental to the objectives of any comprehensive plan.*

Applicant Statement: No other adjacent houses have driveways on Evans Street.

Finding: Residential development is permitted outright in the Residential Low 6,000 (RL-6) zoning district. The owner seeks approval to residentially develop the subject property with primary access via the alley, rather than Evans Street, due to the narrow lot width, the desire to have a front yard area and front porch, similar to neighboring properties. The historically developed properties in this block have

only alley access, which preserved street development for front yards, porches and sidewalks. The proposal is consistent with the surrounding uses and properties on Evans Street.

As stated in the Comprehensive Plan analysis above, *Infilling, compatible with surrounding neighborhoods, should be encouraged on remaining buildable lands within the City of Leavenworth.* Allowing access off the alley, would be consistent with the comprehensive plan by promoting infill of vacant land within the City.

The alley was platted with a 90 degree turn to the south. The southern portion of the alley has since been vacated in favor of a 15' alley dedication to the east, across the north 15 feet of lots 14, 15 and 16 of the plat (see Exhibit D). The current alley ends at the east property line of lot 16 and the southeast property line of lot 3; and is accessible to only five (5) residential lots (including the subject property). With the limited number of lots being served by the alley, and no through traffic, significant adverse impacts are not anticipated with the utilization of the alley for primary vehicular access.

The application has been reviewed by the Public Works Director, who commented that the City cannot guarantee winter access via the alley. Because the alleyways are not maintained to the same standards as the streets, and may be inaccessible during winter months, staff recommends a condition of approval requiring an Indemnity Agreement between the City and the property owner. Requiring this agreement is consistent with code requirements for ADUs with primary alley access, pursuant to LMC 18.20.020(B)(4) and thus consistent with the zoning code.

The application was also reviewed by Fire District #3 Deputy Fire Chief, Dave Nalle, who commented, "The intentions appear to be in accordance with the Leavenworth Municipal Code, being particularly the International Fire Code, 102.5 2015 edition [Exhibit C], and applicable State and National codes recognized by the Fire Prevention Bureau. It is the recommendation of this office that [the] variance be allowed."

For the purposes of emergency addressing and access, staff recommends a condition of approval, requiring the applicant to provide and maintain a walkway from Evans Street to the residence.

The authorization of the variance, as conditioned, will not be materially detrimental to the purposes of the zoning code, be injurious to property in the same district or neighborhood in which the property is located, or be otherwise detrimental to the objectives of any comprehensive plan.

E. The hardship asserted by the applicant results from the application of this title to his property.

Applicant Statement: The requirement for driveway access off Evans Street would materially detract from my use and enjoyment of the property and would negatively affect the appearance of the neighborhood in general.

Finding: LMC Section 18.20.060 requires off-street parking in compliance with LMC Chapter 14.12. Section 14.12.150 requires 1-2 off-street parking spaces for a single-family residence (varies depending on size of residence).

LMC Section 21.90.030 contains the following applicable definitions:

"Parking space, off-street" means an off-street enclosed or unenclosed impermeable surface area permanently reserved for the temporary storage of one automobile and **connected with a street** by an impermeable surface driveway which affords ingress and egress for automobiles.

"Street" means a public right-of-way which affords the principal means of access to abutting property, including avenue, place, way, drive, lane, boulevard, highway, road, and any other thoroughfare **except an alley**.

"Alley" means a public thoroughfare or right-of-way used primarily for utility installation, service or delivery access, or for a **secondary means of vehicular access** for abutting properties that are adjacent to a street.

The code requirement for primary access from a street, not an alley, creates a hardship for the applicant. The hardship asserted by the applicant results from the application of the zoning code to this property.

V. CONCLUSION & RECOMMENDATION

The proposal can be supported by various applicable goals and policies of the City's Comprehensive Plan, as identified in Section III of this report. The city cannot issue a building permit for this lot without approved off-street parking and access. A variance from the parking standards is necessary for the applicant to infill the historic lot similar to all uses on this block. If the variance is granted, as conditioned, the proposed alley access for residential use will not have adverse impacts to adjacent land uses and will be consistent with the surrounding development.

Development Services staff recommends **APPROVAL** of VAR 2019-02, authorizing primary vehicular access and required off-street parking off the alley, subject to the recommended conditions of approval.

VI. RECOMMENDED CONDITIONS OF APPROVAL

The City of Leavenworth Staff recommends approval of Variance #VAR 2019-02 (Reed) subject to the following recommended conditions of approval:

1. The "Applicant" shall include the person or entity making the referenced application or proposal, the Applicant's contractor(s), property owner(s), and all successors, heirs, and assigns of the property owner, hereinafter referred to as "Applicant." All conditions imposed herein shall be binding on the "Applicant."
2. The Applicant shall comply with all federal, State, and local laws and regulations, and obtain permits as required by law.
3. Pursuant to LMC 18.56.050, the Applicant shall complete (sign) and record, with the Chelan County Auditor, a City approved Indemnity Agreement, prior to issuance of a building permit for the Accessory Dwelling.
4. Pursuant to LMC 18.56.050, the Applicant shall provide and maintain a walkway from the Evans Street sidewalk to the proposed residence.

APPEAL

Decisions of the Hearing Examiner may be appealed, by applicants or parties of record from the Hearing Examiner public hearing, to the Chelan County Superior Court as provided for in LMC 21.11.040; provided, however, that no final decision of the Hearing Examiner may be appealed to Chelan County Superior Court unless such party has first brought a timely motion for reconsideration of the Hearing Examiner's decision pursuant to LMC 21.15.120.

Attached Exhibits:

- A. Agency Comments
- B. Site Plan, Vicinity Map, Site Photos
- C. 2015 International Fire Code, Section 102.5
- D. Map of modified alley location