



# CITY OF BLACK DIAMOND

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January 21, 2016

## CITY OF BLACK DIAMOND STAFF REPORT PAIGE SETBACK VARIANCE FILE NO.: PLN15-0055

### I. APPLICATION INFORMATION

**Applicant:** Jeffery D. Pike  
31827 Thomas Rd. SE  
Auburn, WA 98092

**Owner:** Steve & Anne Paige  
29873 232<sup>nd</sup> Ave. SE  
Black Diamond, WA 98010

**Project Name:** Paige Setback Variance

**Location:** 29873 232<sup>nd</sup> Ave SE, within the SE ¼ of Section 3, Township 21 North, Range 6 East, W.M., King County, WA

**Parcel Number:** 4067600370

**Zoning:** R4, Single Family Residential

**Comprehensive Plan Designation:** Low Density Residential

**Project Description:** Request for the following variance on a 0.24 acre (10,360 square feet) site which contains a single family dwelling:

1. **Side Yard Setback:** The construction of a carport that would encroach on the side yard setback along the southern property line of the subject parcel. The proposed carport would be setback from the side property line 3 ½ feet with eaves projecting approximately 1 ½ foot from the southern property line, in which the base zoning development standards require a 7 foot setback from side property lines. The base zoning allows for eaves to project into yard setbacks up to two feet. The carport will be structurally attached to an existing garage and extend south towards the property line, creating a covered driveway/approach onto the property. Additional development activities associated with the construction of the carport, which will not encroach on the required side yard, include a foundation for the carport and two dry well infiltration systems centered under the proposed slab.

## II. FINDINGS

1. The applicant is proposing the development on a lot that is considered nonconforming based on its existing width compared to the required width prescribed by the R4 zoning district's development standards.
  - a. The R4 zoning district requires a minimum lot width of 60 feet.
  - b. The applicant's property, which was in existence prior to the adoption of the most recent zoning amendment regarding R4 development standards as adopted by Ordinance 09-909 on 06/18/2009, is a width of 50 feet.
2. The applicant is pursuing a 3 ½ foot side yard setback variance for a proposed 720 square foot detached garage.
  - a. Black Diamond Municipal Code (BDMC) Section 18.30.040(6) states that the minimum side yard setback is 7 feet.
  - b. The proposed carport accessory building would be located 3 ½ feet from the southern side property line.
3. According to the applicant, the request is for the purpose of providing a covered structure for storing personal vehicles and items on the property. The existing garage on the property does not have the foundation required to allow vehicle storage.
4. The 0.24 acre (10,360 square feet) property is located on 232<sup>nd</sup> PI SE, in the northwest section of the city near the eastern portion of Lake Sawyer. The lot size and layout is typical of other residential parcels in the area.
5. The zoning designation of the property is R4 Single Family Residential, which allows accessory buildings as a permitted use per BDMC 18.30.020(B)(1).
  - a. The maximum building coverage in the R4 zoning district is 30%, per BDMC 18.30.040(A)(8). The combination of the existing primary dwelling unit footprint of 1,320 square feet, the existing accessory structure footprint of 613 square feet, and the proposed accessory structure footprint of 720 square feet would create a total of 25.6% building coverage on the 10,360 square foot property.
6. The Comprehensive Plan designation of the site is Low Density Residential (LDR).
7. A Variance is a Type 3-Quasi-judicial type decision per BDMC 18.08.060; Type 3 decisions are made by the Hearing Examiner.
8. The Variance is exempt from SEPA per WAC 197-11-800(6)(e).
9. The Variance application (Attachment 1) was submitted on November 12, 2015 and resubmitted with an updated project narrative on December 16, 2015, and determined to be complete for processing on December 30, 2015.
10. Staff conducted a site visit to verify site conditions on December 31, 2015.
11. A combined Notice of Application and Public Hearing (Attachment 2) was issued on January 7, 2016 and provided the required 14-day comment period, pursuant to BDMC 18.08.120(B)(7). **No comment letters were received by the City during the comment period.**
12. A combined Notice of Application and Public Hearing was mailed to all property owners within 300 feet of the perimeter of the affected parcel on January 6, 2016, pursuant to BDMC 18.08.120(C)(1).
13. A combined Notice of Application and Public Hearing was advertised in the City's official newspaper, which is designated as the Voice of the Valley per BDMC 1.20.010, on January 12, 2016, pursuant to BDMC 18.08.120(C)(2). The Voice of the Valley is published weekly on Tuesdays, making the January 12<sup>th</sup> edition the first available time for publication. It was also published on the Voice of the Valley's website on January 11, 2016.

14. A Notice Board containing project information and removable copies of the combined Notice of Application and Public Hearing was posted on the project site, 29873 232<sup>nd</sup> Ave SE, on January 12, 2016, pursuant to BDMC 18.08.120(C)(3).
15. A combined Notice of Application and Public Hearing was published on the Public Notices section of the City's website on January 7, 2016, pursuant to BDMC 18.08.120(C)(4).

### **III. APPLICABLE PLANS, CODES AND STANDARDS**

1. Black Diamond Municipal Code Chapter 18.08, Administration: Procedures, Notice, and Appeals
2. Black Diamond Municipal Code Chapter 18.12, Decision Criteria for Permits
3. Black Diamond Municipal Code Chapter 18.30, Single-Family Residential Districts – R4 and R6
4. Black Diamond Municipal Code Chapter 18.50, Accessory Uses and Structures
5. Washington Administrative Code Chapter 197-11-800, Categorical Exemptions (SEPA)

### **IV. ANALYSIS**

*This section of the report analyzes the proposal in light of the various standards contained in adopted plans, codes and regulations. BDMC Chapter 18.12 provides review criteria for certain permits.*

#### **18.12.030 Variances:**

**B. Criteria. The city will consider the following criteria in reviewing applications for variances, and may only approve an application if the applicant demonstrates that all of the criteria are met:**

**1. Granting of the proposed variance would not allow a use which is not classified as a permitted, accessory, or conditionally permitted use in the applicable zoning district;**

The variance request relates to a permitted accessory use in the R4-Single Family Residential zoning district. Granting of the proposed variance would not allow a use which is not classified as a permitted, accessory, or conditionally permitted use in the applicable zoning district.

**2. The variance is necessary because of special circumstances relating to the unique size, shape, topography, location or surroundings of the subject property;**

The subject property is considered a nonconforming lot based on its existing width of 50 feet at the front yard in the R4 zoning district which requires a minimum lot width of 60 feet. The property was in existence prior to the adoption of Ordinance 09-909, which established the minimum lot width development standard for the R4 zoning district. If the subject property met applicable zoning standards for width, a variance would not be necessary for the proposal. The substandard width of the property creates restrictive development opportunities that would normally be available for similar residential parcels of the same zoning in the vicinity.

**3. The need for the variance and the special circumstances applicable to the subject property are not the result of deliberate actions of the applicant or property owner;**

As mentioned above, the applicant's property is considered a nonconforming lot based on its width of 50 feet in the R4 zone which requires a minimum width of 60 feet. Since the applicant's lot was in existence prior to the adoption of the current R4 zoning development standards, it is not the result of the applicant's actions that the lot is nonconforming. The garage on the property existed at the time of the applicant's purchase of property, and is not structurally able to store

vehicles. The location of the garage precludes development of the carport in any other reasonably accessible location on the property. It would be unreasonable to expect the applicant to demolish the garage in order to develop a carport that would otherwise be permitted outright on a lot of standard width.

**4. Strict enforcement of the requirements of this title creates an unnecessary hardship to the property owner or would deprive the property owner of the rights commonly enjoyed by others in the same area;**

Surrounding homes in the area have carport accessory structures of similar size, massing, and location as what the applicant is proposing, as referenced in the applicant's Project Narrative (Attachment 2). Based on the width of other existing lots in the immediate vicinity of the subject parcel, a 720 square foot accessory building would typically be permitted along a driveway without encroaching on side yards. Strict enforcement of the requirements of this title would deprive the property owner of the rights commonly enjoyed by others in the same area based on the substandard existing condition of the applicant's lot.

**5. The variance does not create health or safety problems, will not be injurious to the public welfare, and does not grant a special privilege to the property owners;**

The proposed carport requires review and approval of a building permit to ensure it is constructed to the standards set forth by adopted codes. Accessory structures of this type are typical in single family neighborhoods, including the owner's, and will not be out of scale or character of the surrounding neighborhood. The applicant's neighbor to the south, adjacent to the side yard in which the variance is requested, has submitted a letter in support of the proposed accessory building stating it will not impact them nor the neighborhood as a whole (Attachment 6). The granting of the requested variance will not provide the applicant with special privileges that are not available to other property owners, as the applicant is proposing the development on a nonconforming lot that would otherwise restrict the development potential of an allowed accessory building in the R4 zone.

**6. The variance from height or size requirements does not infringe upon or interfere with the requirements of any easement or covenant; and**

There is no evidence that the variance for a reduction in the side yard setback would infringe or interfere with the requirements of any easement or covenant. There have been no public comments received to the contrary.

**7. The variance is the minimum necessary to grant relief to the applicant.**

The variance request is the minimum necessary to create an adequately sized accessory structure that provides a covered and accessible area to store personal property and vehicles. The 3 ½ side yard setback reduction request is the minimum that would allow for the reasonable construction of a carport accessory structure that will adequately serve the applicant's need for covered storage.

## **V. CONCLUSIONS**

1. The proposed variance satisfies the criteria of BDMC Section 18.12.030.B (Variances).

**VI. STAFF RECOMMENDATION**

The variance requested is not excessive, and is within the size and scale of the surrounding neighborhood. Granting of the variances would allow the applicant to construct an accessory structure on a nonconforming lot that is appropriately sized for providing covered storage for the applicant's vehicles and items.

Staff recommends this variance (PLN15-0055) be approved.

**VII. ATTACHMENTS**

Attachment 1	Variance Application, dated 11/12/2015
Attachment 2	Variance Narrative Resubmittal, dated 12/16/2015
Attachment 3	Site Plan, dated 11/12/2015
Attachment 4	Site Aerial Photo, dated 12/30/2015
Attachment 5	Notice of Application and Public Hearing, dated 01/07/2016
Attachment 6	Neighbor's Letter, dated 10/05/2015

*Staff reserves the right to respond to matters raised subsequent to the writing of this report.*