



Wangle, John M. & Arlene
Variance: Screen Enclosure
Project Number: P22-131



Project Aerial Map

SUMMARY

Applicant's Request:	To grant a variance of 2.69 feet to allow a 0.31-foot setback from the rear property line for an existing screen enclosure & pool deck.
Applicant:	John M. Wangle
Property Owner:	John M. & Arlene Wangle
Location:	140 SE Rio Angelica
Application Type: (Identify if quasi-judicial)	Variance, Quasi-Judicial
Project Planner:	Bianca Lee

Project Description

The applicant is requesting a variance of 2.69 feet to allow a 0.31-foot setback from the rear property line for an existing screen enclosure and pool deck. The Tesoro PUD requires a minimum setback of three (3) feet from the rear property line for accessory uses or structures for single-family homes.

Background

The owner applied for a screen enclosure permit with the Building Department in June of 2021; the plan subsequently failed plan review because the accessory structure encroaches into the 3' rear setback. The screen enclosure was built before the plans were reviewed by the Building Department, currently the screen enclosure plans are in a failed review status pending plan revision or an approved variance.

Review Criteria

An application for a variance is reviewed for consistency with Article XV of the Zoning Code, Sections 158.295 through 158.299. Final action on the application (approval or denial) is in the form of an Order of the Planning and Zoning Board following a quasi-judicial public hearing. A vote of approval by five (5) members of the Planning and Zoning Board is required to grant a variance.

Public Notice Requirements (Section 158.298 (B))

Public notice was mailed to owners within 750 feet and the file was included in the ad for the Planning & Zoning Board's agenda.

Location and Site Information

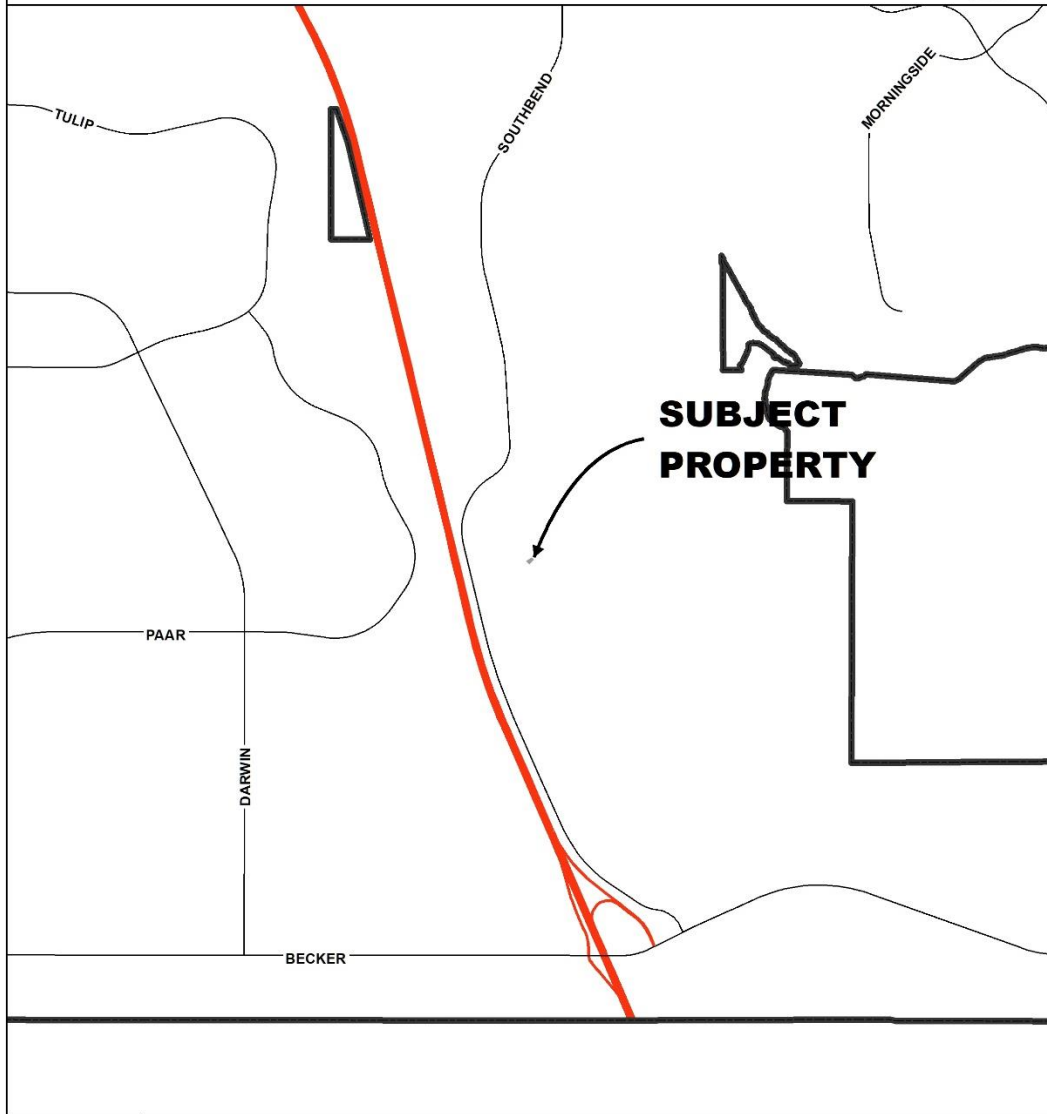
Parcel Number:	4421-800-0125-000-3
Property Size:	0.28 AC/ 11,979 SF
Legal Description:	Tesoro Plat NO. 4, Lot 107
Address:	140 SE Rio Angelica
Future Land Use:	Open Space-Recreation (OSR)
Existing Zoning:	Planned Unit Development (PUD)
Existing Use:	Single-Family Residential

Surrounding Uses

Direction	Future Land Use	Zoning	Existing Use
North	OSR	PUD	SFH
South	OSR	PUD	SFH
East	OSR	PUD	SFH
West	OSR	PUD	SFH

OSR-Open Space-Recreation, and PUD- Planned Unit Development

GENERAL LOCATION



Location Map

IMPACTS AND FINDINGS

Section 158.295 (B) of the Zoning Code establishes the duties of the Planning and Zoning Board in authorizing a variance. The Planning and Zoning Board may authorize a variance from the provisions of the Zoning Code as will not be contrary to the public interest when, owing to special conditions, a literal enforcement of the provisions will result in unnecessary and undue hardship. Pursuant to Section 158.296, a variance is authorized only for height, area, and size of structure, yard size, building setback, lot size requirements, and other applicable development regulations, excluding use. To authorize a variance, the Planning and Zoning Board should consider the criteria listed under Section 158.295 (B) (1) through (7) of the Zoning Code. The applicant's response to this criterion is attached to the application. Staff's review is provided below:

Compatibility with variance criteria Section 158:295 (B).

- 1) That special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures, or buildings in the same zoning district.
 - *Staff Findings: Special conditions and circumstances do not exist, which are peculiar to the land, structure, or building involved. The pool also defined as an accessory structure was constructed within the required setback. The pool deck was later extended to include posts and a screen enclosure which encroach into the 3' rear setback. The screen enclosure was built prior to plans being submitted to the Building Department for review. A building permit has not been approved.*
- 2) That the special conditions and circumstances do not result from any action of the applicant.
 - *Staff Findings: See No. 1 above.*
- 3) That granting the variance requested will not confer on the applicant any special privilege that is denied by this chapter to other lands, buildings, or structures, in the same zoning district.
 - *Staff Findings: Special privileges would be conferred upon the applicant, a 3 ft. rear setback is a regulatory standard applied to other lands, buildings, and structures; specifically accessory uses within the Tesoro PUD.*
- 4) That literal interpretation of the provisions of the chapter would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of the chapter and would work unnecessary and undue hardship on the applicant.
 - *Staff Findings: Literal interpretation of the provisions of the chapter would not deprive the applicant of rights commonly enjoyed by other properties in the same zoning district or introduce unnecessary and undue hardships on the applicant.*
- 5) That the variance granted is the minimum variance that will make possible the reasonable use of the land, building, or structure.
 - *Staff Findings: The existing structure encroaches into the rear setback set forth by Amendment No.8 of the Tesoro PUD. The Tesoro PUD development standards can be reviewed and/or revised to better align with the expectations and future development plans for the community.*

6) That the granting of the variance will be in harmony with the general intent and purpose of the chapter and that the variance will not be injurious to the area involved or otherwise detrimental to the public welfare.

- *Staff Findings: See No. 5 above.*

7) That there will be full compliance with any additional conditions and safeguards which the Planning and Zoning Board or Zoning Administrator may prescribe, including but not limited to reasonable time limits within which the action for which variance is required shall be begun or completed, or both.

- *Staff Findings: The applicant has acknowledged this.*

PLANNING AND ZONING BOARD ACTION OPTIONS

The Board may choose to approve, deny or table the proposed variance. If the Board finds that the variance application is consistent with the criteria as listed in Section 158.295 (B) (1) through (7) of the City code (listed above), then the Board may:

- Motion to approve
- Motion to approve with conditions

If the Board finds that the variance application is inconsistent with the criteria as listed in Section 158.295 (B) (1) through (7) of the City code, then the Board may:

- Motion to deny

Should the Board need further clarification or information from either the applicant and/or staff, the Board may:

- Motion to table or continue the hearing or review to a future meeting

(NOTE TO APPLICANTS: Any request for a variance that is denied by the Planning and Zoning Board may be appealed to the Board of Zoning Appeals. Appeal applications are made through the City Clerk's office and must be submitted within 15 days after the Planning and Zoning Board hearing).