

PLANNING AND ZONING COMMISSION  
STAFF REPORT



August 7, 2014

**Planning Variance case no. PV 14-06: Gerry Broadhead**

**CASE DESCRIPTION:** request for approval of an up to a 5-foot variance from the minimum 7.5-foot side building setback generally required on residential lots to legitimize the previous construction of a 140 square foot storage structure that has been placed within 2.5 feet from the subject property's southeast side property line.

**LOCATION:** 2102 Miana Court

**LEGAL DESCRIPTION:** Dominion Hill Phase 2, Block 1, Lot 8

**ZONING:** Planned Development District – Housing (PD-H)

**EXISTING LAND USE:** residential

**PROPERTY OWNER:** Gerry Broadhead

**STAFF CONTACT:** Randy Haynes - Senior Planner

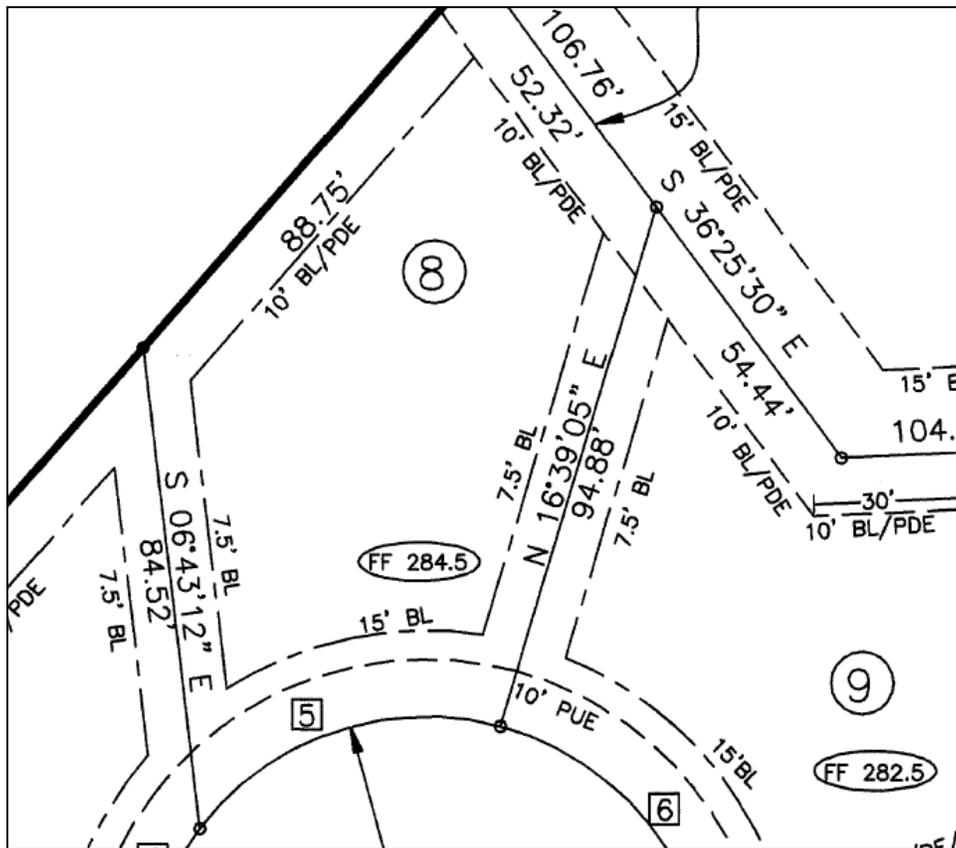
**SUMMARY RECOMMENDATION:** Staff recommends **denying** the requested variance.



**AERIAL PHOTOGRAPH:**



**DETAIL OF FINAL PLAT DRAWING:**



**2102 MIANA COURT:**



**STORAGE BUILDING AS VIEWED FROM MIANA COURT:**



Although the storage building appears attached to the residence, it is in fact a separate structure with a pier and beam foundation.

## **BACKGROUND:**

The subject property lies within a residential subdivision and is surrounded on three sides by land zoned for residential use. The abutting property to the northeast is undeveloped and zoned for multiple-family use. Recently the applicant/property owner, Mr. Broadhead, built a 140 square foot storage building on the east side of his residence. No building permit was requested, or site plan submitted for approval prior to construction. The new shed was placed within 2.5 feet of the east side property line. The minimum required building setback from that side property line is 7.5 feet.

Responding to a citizen complaint, Development Services staff contacted Mr. Broadhead and determined that an encroachment did exist. Mr. Broadhead is requesting a 5-foot variance from the 7.5-foot building setback standard to allow the storage building to remain in place.

## **ANALYSIS:**

The Planning and Zoning Commission may authorize a variance from minimum building setback standards stipulated in the Land and Site Development Ordinance. No variance shall be granted unless the Planning and Zoning Commission finds that all of the following criteria are met:

1. That the granting of the variance will not be detrimental to the public health, safety or welfare, or materially injurious to properties or improvements in the area (an area encompassing approximately a 200-foot radius);

**The City's Fire Marshal has repeatedly voiced concerns regarding the reduction of minimum side building setbacks, saying that reducing side building setbacks increases the opportunity to have an extension of fire from one house to the next. In this particular case, the Fire Marshal stated that the narrow distance between the fence and the new shed, a little over 2 feet, does not allow safe passage for emergency personnel. Staff supports the finding of the Fire Marshal that, in this specific case, the current location of the storage building creates an unsafe condition.**

2. That the granting of the variance will not be detrimental to the public health, safety or welfare, or materially injurious to properties abutting the subject property;

**The residence located on the directly abutting property, 2100 Miana Court, is over 25 feet from the new storage building. As conditions exist today, it is unlikely that the existence of the new shed would be immediately injurious to the structure on the abutting property. However, granting the variance could potentially impact any future building additions on adjacent properties, which would be subject to stricter, more costly building code requirements due to this encroachment on this adjacent property.**

3. That the hardships and difficulties imposed upon the owner/applicant are greater than the benefits to be derived by the general public through compliance with the requirements of this chapter.

**Staff recognizes that storage sheds encroach into required side yard setbacks in many instances around Bryan. The location of some may create conditions that would be judged as potentially compromising safety and some would not. In this particular case, staff believes that the installation of this storage shed creates an unsafe condition by constricting safe access for emergency personnel. It is important to note that there are several places in the back yard of the applicant's property that would accommodate the shed and also comply with the ordinance. Staff contends that the hardships and difficulties that will be befall the owner in order to move**

**the storage building and comply with the ordinance will not be greater than the benefits derived by the public through strict enforcement of the ordinance.**

**RECOMMENDATION:**

Staff recommends **denying** the requested variance.