

REPORT TO THE BOARD OF ZONING APPEALS

DATE: October 16, 2025

SUBJECT: Case #252562 - 1622 Painted Horse Pass - Request approval of a Variance to allow an accessory structure to be closer to the property line than the height of the structure.

INTRODUCTION:

- Applicant Andrew Butas, on behalf of the property owner Brian & Rebecca Bednarz, is requesting this Variance to allow construction of an accessory structure to be in the required rear yard and to have a setback less than the height of the accessory structure (see Exhibit 2).
- The subject property is located on the east side of Painted Horse Pass, zoned R-2: Medium Density Residential (Exhibit 1 & 8), and surrounded by R-1 & R-2 zoning districts (Exhibit 9).
- The surrounding properties are also zoned R-2: Medium Density Residential (see Exhibit 9).

BACKGROUND:

- The property is 0.32 acres in size, and the home was renovated in 2022, featuring multiple elements in the backyard, along with a 5-foot utility easement.

KEY POINTS:

1. The requested Variance would allow a new accessory structure to be located 5-feet 3-inches from the rear property line (see Exhibit 3).

- The accessory structure is proposed to be a shaded space for congregating & relief from the sun.
- The accessory structure will be approximately 167 square feet.
- There are no other accessory structures on the property.
- There is a swimming pool, deck space, and artificial turf in the backyard of the property.
- No portion of the accessory structure (except the roof overhang) will be located within the 5-foot utility easement along the west and north property lines.
- The Stables neighborhood has an active Homeowners Association (HOA). The applicant has attained approval before construction of the accessory structure. The Town does not enforce HOA rules (see Exhibit 5).

2. The Zoning Ordinance states accessory structures must have a setback from a property line equal to or greater than its height, but in no case shall an accessory structure be located closer than five (5) feet from a property line or other building or structure.

- The accessory structure is proposed to be approximately 10-feet 7-inches in height and therefore would need to be 10-feet 7-inches from the side property line.
- The applicant has requested the accessory structure be placed 5-feet 3-inches from the east property line and approximately 6 feet 5 inches from the principal structure.
- The applicant states the placement of the accessory structure is based on the limited space & layout configuration of the lot, which limits the placement of the proposed accessory structure. (see Exhibit 3).

3. The accessory structure is required to be constructed in a like manner to the principal building in terms of architectural style, roof style, and building material per §151.025(D)(1)(b)(3) (a). The applicant has stated the accessory structure will be compatible with the exterior finishes of the primary structure.

- The accessory structure will have a gable roof of cedar wood with gutters, and cedar posts painted matching the principal structure.
- Variance was granted to a similar property (1629 Painted Horse Pass) in the same subdivision in March 2023.
- The placement of the accessory structure (1629 Painted Horse Pass) was based on the topographic conditions of the lot, which limited the placement of the proposed accessory structure due to drainage issues in the rear yard.

4. There are alternatives to creating an encroachment into the side yard setback for the accessory structure.

- The applicant could construct an open-air arbor structure without a solid roof which is exempt from the setback regulations; however, this would not provide the applicant with shelter from weather elements.
- The applicant could construct a “modified” arbor structure. The portion of the accessory structure within the required side yard setback could be an open arbor while the portion of the accessory structure outside of the required side yard could be roofed over, providing some protection from the elements. This alternative, based on the exact measurements, could still not provide the applicant with a sufficient amount of protection from the elements.

In order to grant a variance, the Board must find exceptional physical conditions with the property making strict application of the requirements of the Zoning Ordinance an undue hardship or practical difficulty depriving the owner of reasonable use of the property. The Zoning Ordinance states a Variance may only be granted if it will not cause “substantial detriment” to the public good and will not substantially impair “the intent of the Zoning Ordinance.” The Ordinance requires the Board to review a specific set of criteria, Section 151.309(F)(1), in considering each request (see Exhibit 10). The Board must find the request meets the criteria based upon the evidence presented. If the request does not meet the criteria, it must be denied.

STAFF RECOMMENDATION: Staff cannot recommend the approval, as there is no physical hardship for the accessory structure to be closer to the property line than what the zoning ordinance requires.

ATTACHMENTS:

[Exhibit 1 - Vicinity Map 9.30.25.pdf](#)

[Exhibit 2 - Example Conditions of Approval.pdf](#)

[Exhibit 3 - Cover Letter 9.30.25.pdf](#)

[Exhibit 4 - Plot Plan 9.30.25.pdf](#)

[Exhibit 5 - HOA Approval Letter 9.30.25.pdf](#)

[Exhibit 6 - Aerial Showing Approx. Location of Accessory Structure 9.30.25.pdf](#)

[Exhibit 7 - Proposed Area with Landscape Screening 9.30.25.pdf](#)

[Exhibit 8 - Lot 143 Plat Plan 9.30.25.pdf](#)

[Exhibit 9 - Existing Zoning 10.10.25.pdf](#)

[Exhibit 10 - Standards for Approval of Variance 10.10.25.pdf](#)

PROPOSED MOTION:

To approve a Variance to allow an accessory structure to be constructed and closer to the rear property line than the height of the structure at 1622 Painted Horse Pass, subject to the conditions in Exhibit 2.