

To: **Committee of Adjustments**
Through: **Ben Boike, Community Development Director**
From: **Melissa Sonnek, City Planner**
Date: **October 19, 2021**

Variances to Allow an Accessory Structure in the Front Yard and to Exceed the Max Size at 273 Hwy 62 – William Dohman

REQUEST:

All Energy Solar, on behalf of William Dohman, has applied for two variances to construct a free standing solar panel system in the front yard of their property at 273 Highway 62. The requested variances are as follows:

- 1) Variance to allow an accessory structure in the front yard, (*only permitted in the rear yard*), and
- 2) Variance to allow an accessory structure larger than 250 square feet (*requested size is 24' by 24' totaling to 576 sq. ft.*).

ATTACHMENTS:

Application and Narrative

Public Notice

Staff Presentation

Draft Findings of Fact



CURRENT USES AND ZONING:

	Use	Zoning
Subject Property	Residential	R1C – Single Family Residential
Properties to North	Residential	R1C – Single Family Residential
Properties to East	Residential	R1C – Single Family Residential
Properties to South	Residential	City of Sunfish Lake
Properties to West	Residential	R3 Townhouse and R4 – Multiple Family Residential

As it can be seen in the above chart, the subject property as well as all surrounding properties are varying intensities of residential, the majority of which are single family homes and are zoned as such.

VARIANCE REQUESTS:

1. Variance to allow an accessory structure in the front yard

§153.380 ACCESSORY BUILDINGS OR STRUCTURES.

(C) No accessory buildings or structures for uses such as plant growing, storage or play, other than a garage attached or unattached to the principal building, shall be located within any yard other than the rear yard.

As can be seen in the image to the right, the majority of this 4.84 acre lot is either heavily covered with mature trees or a wetland area. Therefore leaving little to no area that is viable for solar panels.

The only viable locations for solar panels are the roof of the home or the front yard. Also shown in the image to the right, there is a large, mature oak tree that shades the majority of the home, leaving only the grassy, open front yard area as a viable location for solar panels. As such, the applicant is requesting a variance to locate an accessory structure in the front yard.



2. Variance for an Accessory Structure to Exceed the Maximum Allowable Size

§153.380 (F) ACCESSORY BUILDINGS OR STRUCTURES.

(3) No detached garage may exceed 624 square feet in area... Other accessory buildings may not exceed 200 square feet in area, except as follows.

(a) The maximum size of either the detached garage or an accessory building, but not both, may be increased by ten square feet of building area for every 2,000 square feet of lot area in excess of the required minimum lot area; provided, however, that no detached garage shall exceed 1,000 square feet in area and no accessory building shall exceed 250 square feet in area. For each 20 square feet increase in the allowable building size, the required side and rear yard setbacks shall be increased one foot.

The code allows for an accessory structure or building (other than a garage) to be up to 200 sq. ft. Except in the case of lots that are larger than the minimum square footage (*RIC – Minimum of 15,000 sq. ft.*), for every 2,000 sq. ft. over the minimum size, the accessory structure can be increased in size, up to 250 sq. ft. Since lot is well over the required square footage for minimum lot size (*Subject lot totals to 210,671 sq. ft.*), the accessory structure can be up to 250 square feet in area.



Picture above is of a system of the same size as the proposed 6 panel by 4 panel system.

ANALYSIS:

In reviewing variance requests, the following section of the Zoning Code, Section 153.027 A, is utilized:

(2) Criteria for Granting a Variance: A Variance may only be granted by the Committee of Adjustments when:

- a) The variance is in harmony with the general purpose and intent of the Ordinance;
- b) The terms of the variance(s) are consistent with the Comprehensive Plan; and
- c) The applicant for the variance establishes that there are practical difficulties in complying with the Zoning Ordinance.

(3) Definition of Practical Difficulties: “Practical Difficulties” as used in connection with the granting of a Variance means that:

- a) The property owner proposes to utilize the property in a reasonable manner;
- b) The plight of the property owner is due to circumstances unique to the property that were not created by the property owner; and
- c) The variance will not alter the essential character of the neighborhood.

(4) Restrictions on Granting Variances: The following restrictions shall be applied when considering granting a variance:

- a) Economic considerations alone do not constitute practical difficulties;
- b) The Committee of Adjustments may not permit as a variance any use that is not allowed in the Zoning Ordinance for property in the district where the affected person’s land is located (i.e. a use variance).

(5) Imposing Conditions: The Committee of Adjustments may impose conditions when granting a variance, however, conditions imposed must be directly related to and must bear a rough proportionality to the impact created by the variance.

REVIEW:

Variance #1: Accessory Structure in the Front Yard

The subject property is largely comprised of large, mature trees as well as a sizeable wetland, therefore limiting the only viable space to place the solar panels to the front yard. City staff believes this variance request is justified because,

- Clearly demonstrated difficulties in complying with the code,
 - Mature trees and wetland largely negate the option of placing the solar panels anywhere but the front yard.
- Difficulty of the property complying with the code is unique to the property and not created by the property owner,
 - The wetland is nearly entirely contained within the subject property and therefore qualifies as a unique property, and
 - The wetland was not created by the property owner.
 - Cutting down several mature trees to find a new area would not be in the best interest of either the City or the property owner.
- The property abuts a busy road and has some screening between the road and the front yard to shield the solar panels from view.

City staff supports granting variance #1.

Variance #2: Accessory Structure Larger than the Maximum Allowable Size

City staff does not believe the applicant has demonstrated a practical difficulty to justify an accessory structure over twice the size of the allowable maximum (576 sq. ft. compared to 250 sq. ft.). In fact, the purpose of the size is to allow the property owner to purchase an electric car and have the electricity off-

set and sell back accumulated (extra) power to the utility company. Economic consideration alone does not constitute a practical difficulty. There are no unique factors or characteristics for this property that would prevent them from having smaller system.

The applicant states that part of the practical difficulty is that this property is larger than most single-family lots, however the Code already accounts for larger lot sizes by allowing larger accessory structures on larger lots, up to 50 sq. ft. larger.

City staff believes the ability to generate more power (larger financial savings) by having a larger system does not constitute as a hardship or practical difficulty when compared to generating less power (smaller financial savings) by having a smaller system that complies with existing code and therefore does not support granting variance #2.

STAFF RECOMMENDATION:

Based on the above comments, Staff recommends the Committee of Adjustments hold a public hearing and;

1. Approve variance request #1 to allow an accessory structure in the front yard based on the attached findings of fact, and
2. Deny variance request #2 to allow an accessory structure larger than the maximum allowable size based on the attached findings of fact.

FINDINGS OF FACT:

Two proposed resolutions adopting findings of fact and reasons for approval and denial, respectively, for the requested variances are attached for your consideration.