

RESOLUTION NO. 1337

A RESOLUTION OF THE CITY OF EDMONDS, WASHINGTON, ACCEPTING THE HEARING EXAMINER'S RECOMMENDATIONS REGARDING THE PROPOSED SEPTEMBER 11TH MEMORIAL (PLN20150017) AND ADOPTING THE HEARING EXAMINER'S FINDINGS AND CONCLUSIONS AS THE CITY COUNCIL'S OWN.

WHEREAS, the hearing examiner conducted an open record hearing regarding a proposed memorial to those who lost their lives on September 11, 2001; and

WHEREAS, on June 12, 2015, the hearing examiner adopted findings and conclusions and made a recommendation to the city council, all of which are contained in **Exhibit A**, which exhibit is attached hereto and incorporated herein by this reference as if set forth in full (hereinafter, the "Recommendation"); and

WHEREAS, the city council, after conducting a closed record review on July 7, 2015, agrees with the hearing examiner's Recommendation and would like to adopt the Recommendation as its decision on the matter;

NOW, THEREFORE,

THE CITY COUNCIL OF THE CITY OF EDMONDS, WASHINGTON, HEREBY RESOLVES AS FOLLOWS:

Section 1. The city council hereby adopts the Recommendation of the hearing examiner as its own findings of fact, conclusions of law and decision on application PLN20150017. The proposal set forth in PLN20150017 is hereby approved.

RESOLVED THIS 21ST DAY OF JULY, 2015.


MAYOR DAVE EARLING

ATTEST:


CITY CLERK, SCOTT PASSEY

FILED WITH THE CITY CLERK:
PASSED BY THE CITY COUNCIL:
RESOLUTION NO.

July 17, 2015
July 21, 2015
1337



CITY OF EDMONDS

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DEVELOPMENT SERVICES DEPARTMENT • PLANNING DIVISION

BEFORE THE HEARING EXAMINER FOR THE CITY OF EDMONDS

Phil Olbrechts, Hearing Examiner

RE: 9/11 Memorial

(PLN20150017)

**FINDINGS OF FACT,
CONCLUSIONS OF LAW AND
RECOMMENDATION.**

INTRODUCTION

The applicants have applied for a setback variance to enable the installation of a 9/11 memorial monument and relocation of an existing sculpture within the 20-foot front yard setback of Fallen Firefighter Memorial Park, located in front of the fire station at 275 6th Avenue S.. The memorial monument will be comprised of a one-ton steel beam recovered from ground zero of the World Trade Center attacks on September 11, 2001. Installation of the memorial will necessitate relocation of an existing sculpture honoring firefighter Captain Bill Angel within the front setback as well. The sculpture and monument will be located 15 feet from the street property line.

It is recommended that the City Council approve the variance request. The Park is almost completely encumbered by setbacks and there is no place to locate the memorial without a setback encroachment. The Park itself is an ideal location for the memorial as it already serves to memorialize a fallen firefighter, it is readily accessible to the public and it is located in front of a fire hall and close to downtown and the public safety building. The proposed location was selected as the result of an intense national and local review process of proposed locations for the memorial.

Variance

p. 1 Findings, Conclusions and Recommendation

1 City engineering staff have reviewed the variance request and found no traffic hazard
2 associated with the request.

3 ORAL TESTIMONY

4 Sean Conrad, City of Edmonds planner, summarized the staff report. The only part of
5 the Memorial Park that isn't within a setback is a small area within the park that is not
6 large enough to accommodate the proposed memorial.

7 Dave Erickson, firefighter, explained that the reason had to be placed in front of the
8 fire hall in order to receive the artifact from the New York/New Jersey Port
9 Authority. The applicants were awarded the artifact through a national competitive
10 process and the award was based upon the proposed location. One of the criteria for
11 award were that it had to be accessible without fee to the public.

12 Carrie Hite, Edmonds Parks, noted that Mr. Erickson had met with her several times
13 to determine what would be the best location. Siting had been discussed amongst
14 several cities and the proposed Edmonds site was found to be most ideal because it's
15 already a memorial site for a fallen firefighter and is located in front of a fire hall.

16 Kathy Lambert, Edmonds engineering, testified that the engineering department had
17 reviewed the proposal for public safety and found no impairment of site distance by
18 the setback encroachment. During building permit review engineering will do added
19 review for site distance safety.

20 EXHIBITS

21 The May 21, 2015 staff report along with its 6 attachments were admitted into the
22 record as Exhibit 1 at the hearing. All references to "att." in this decision are
23 referring to the attachments of the staff report. The staff power point was admitted as
24 Exhibit 2.

25 FINDINGS OF FACT

Procedural:

- 21 1. Applicant. The applicant is the Firefighters of Local 1828 and Snohomish
22 County Fire District #1
- 23 2. Hearing. The Hearing Examiner conducted a hearing on the application
24 on May 28, 2015 at 3:00 p.m. at the Edmonds Public Safety Complex in the Council
25 Chambers.

Substantive:

1 3. Site/Proposal Description. The applicants have applied for a setback
2 variance to enable the installation of a 9/11 memorial monument within a 20 foot
3 front yard setback of Fallen Firefighter Memorial Park, located in front of the fire
4 station at 275 6th Avenue S.. The memorial will be comprised of a one-ton steel beam
5 recovered from ground zero of the World Trade Center attacks on September 11,
6 2001. The steel beam will be flanked by two building silhouettes constructed of
7 stainless steel and glass. A diagram of the proposed monument is attached to the staff
8 report (Attachment 2). The existing sculpture in the park honoring Edmonds Fire
9 Captain Bill Angel will be moved to the east approximately 20 feet to accommodate
10 the 9/11 memorial. This sculpture, once moved, will also be within the setback and
11 therefore is considered part of the proposal. The proposed monument and the existing
12 sculpture honoring Captain Bill Angel would be located approximately 15 feet from
13 the street property line and within the 20-foot street setback. A Residential zoning
14 district is located immediately west of the fire station, thereby requiring a 25-foot
15 setback. The proposed structure maintains 25-foot setbacks from the residentially
16 zoned property.

17 4. Characteristics of the Area. The proposed location of the 9/11 Memorial
18 monument is within a small, special use park, located on the north end of the public
19 safety complex property. The Fallen Firefighter Memorial Park is located
20 immediately north of Fire Station #17. The location of the park is at the corner of two
21 streets, 6th Avenue North on its east side and Sprague Street on its north side. East of
22 the park, across 6th Avenue North, is public property developed with a track and
23 grand stands, skate park and Boys & Girls Club. North and east of the park are
24 residential homes developed in multifamily housing buildings such as a tri-plex and
25 four-plex. The zoning for the residential properties is a multi-family residential zone
(RM-1.5). The location of the memorial and the property to the east are zoned for
public use (P) (Attachment 3).

18 5. Adverse Impacts. There are no adverse impacts associated with the
19 proposal. The primary issue of concern would be traffic safety and Edmonds
20 engineering staff has determined that the proposed encroachment into the front yard
21 setback of the park will not impair traffic sight distance or otherwise create a traffic
22 hazard. As a memorial of limited bulk and dimension the encroaching structure will
not significantly disrupt the passage of light and air or create any aesthetic
incompatibilities with adjoining public and multi-family uses.

23 6. Necessity for Variance. The need for the setback variance arises out of the small
24 size and location of the Fallen Firefighter Memorial Park. As shown in the 8th slide
25 of the staff power point presentation, Ex. 2, there is only a small area in the entire
Fallen Firefighter Memorial Park that is not encroached by setbacks. The proposed
memorial would not fit in this area. The proposed location is also necessary to
maximize public visual access to the memorial, as it places the memorial near street
frontage. The current use of the park as a memorial for a fallen fighter, its

1 accessibility to the public and its location in front of a fire hall all make it an ideal and
2 unique location for the memorial. As testified by Mr. Erickson, these factors were the
3 reasons the New York/New Jersey Port Authority awarded the memorial to the City
4 of Edmonds. In addition to the national review process conducted by the Port
5 Authority, the City of Edmonds itself has spent three years reviewing potential
6 locations and found the proposed site to be the most ideal for the proposed memorial.

7 CONCLUSIONS OF LAW

8 **Procedural:**

9 1. Authority of Hearing Examiner. ECDC 20.85.020 provides the Hearing
10 Examiner with the authority to review and act upon variance applications as Type III-
11 A. As authorized by ECDC 20.01.002(A), the Development Services Director has
12 determined that the examiner's decision shall serve as a recommendation to the City
13 Council pursuant to ECDC 17.00.030(C).

14 **Substantive:**

15 2. Zoning Designations. The subject property is Public Use (P).

16 3. Review Criteria and Application. ECDC 16.80.030(A) imposes a 20 foot
17 front yard setback in the P zone. Since the applicants propose the placement of the
18 proposed memorial and the existing statute 15 feet from the adjoining street, a
19 variance is required. Variance criteria are set by ECDC 20.85.010, quoted below and
20 applied through corresponding conclusions of law.

21 **ECDC 20.85.010:** *No variance may be approved unless all of the findings in this
22 section can be made.*

23 **ECDC 20.85.010.A(1) – Special Circumstances:** *That, because of special
24 circumstances relating to the property, the strict enforcement of the zoning ordinance
25 would deprive the owner of use rights and privileges permitted to other properties in
the vicinity with the same zoning.*

a. *Special circumstances include the size, shape, topography, location or
surroundings of the property, public necessity as of public structures and
uses as set forth in ECDC 17.00.030 and environmental factors such as
vegetation, streams, ponds and wildlife habitats.*

b. *Special circumstances should not be predicated upon any factor personal
to the owner such as age or disability, extra expense which may be
necessary to comply with the zoning ordinance, the ability to secure a
scenic view, the ability to make more profitable use of the property, nor any*

1 *factor resulting from the action of the owner or any past owner of the same*
2 *property;*

3 4. Special circumstances clearly support the variance application. As determined in
4 Finding of Fact No. 6, almost the entire Park parcel is encumbered by setbacks and
5 the Park itself is ideally and uniquely suited to accommodate the proposed memorial.
6 The limited space of the Park also serves as a special circumstance justifying the
7 relocation of the existing sculpture honoring Bill Angel within the front yard setback.

8 **ECDC 20.85.010(B) – Special Privilege:** *That the approval of the variance would not*
9 *be a grant of special privilege to the property in comparison with the limitations upon*
10 *other properties in the vicinity with the same zoning;*

11 5. The proposed variance is for a highly unique and publicly significant use that can
12 only be accommodated under a very narrow set of locational parameters. Other public
13 uses meeting the same objectives and limitations would likely be authorized in the P
14 zone as well. No grant of special privilege is involved in this application.

15 **ECDC 20.85.101(E) – Comprehensive Plan:** *That the approval of the variance will*
16 *be consistent with the comprehensive plan;*

17 6. Additions or improvements to the Fallen Firefighter Memorial Park is anticipated
18 in the Parks, Recreation and Open Space (PROS) Plan adopted by City Council in
19 February 2014. The PROS plan is adopted by reference in the Comprehensive Plan.

20 **ECDC 20.85.010(D) – Zoning Ordinance:** *That the approval of the variance will be*
21 *consistent with the purposes of the zoning ordinance and the zone district in which the*
22 *property is located;*

23 7. The proposal is consistent with the purpose of the P zone. ECDC 16.80.000
24 provides that the purpose of the P zone is to accommodate the siting and development
25 of regional public facilities and to regulate the use of these lands to assure their
continued availability for public use. The proposed memorial enhances the public use
and appreciation for the surrounding public facilities and the individuals who dedicate
their lives to public service.

ECDC 20.85.010(E) – Not Detrimental: *That the variance as approved or*
conditionally approved will not be significantly detrimental to the public health, safety
and welfare or injurious to the property or improvements in the vicinity and same
zone;

8. As determined in Finding of Fact No. 5, there are no adverse impacts associated
with the proposal. Consequently, the proposal will not be significantly detrimental to
public health, safety and welfare.

1 **ECDC 20.85.010(F) – Minimum Variance:** *That the approved variance is the*
2 *minimum necessary to allow the owner the rights enjoyed by other properties in the*
3 *vicinity with the same zoning.*

4 9. The requested variance is the minimum necessary to accommodate the
5 proposed memorial and to maintain public visual access to the existing sculpture. As
6 shown in 8th slide of the staff power point (Ex. 2), the only area that is not encumbered
7 by setbacks is a small triangular area located in the back of the park. This area is not
8 large enough to accommodate the proposed memorial. Further, placing the existing
9 sculpture in this triangular area would block it from public view.

10 **DECISION**

11 It is recommended that the City Council approve the variance application subject to
12 the following conditions:

- 13 1. The installation of the 9/11 Memorial monument, relocation of the existing
14 sculpture honoring Captain Bill Angel, landscaping and lighting shall
15 substantially comply with the plans submitted with this application.
- 16 2. The Applicant shall obtain a building permit prior to installing the monument.
- 17 3. Compliance with Engineering codes and construction standards will be
18 reviewed with the building permit application for development of the site.
19 Applicant is encouraged, wherever feasible, to incorporate pervious
20 pavements, rain gardens and/or other low impact development techniques into
21 the project design.
- 22 4. The location of the monument shall be in accordance with Edmonds City
23 Code, 9.25, Street Obstruction and located such that the existing City utilities
24 may be maintained, repaired, and operated.

25 Dated this 12th day of June 2015.


Phil A. Olbrechts

City of Edmonds Hearing Examiner

Appeal Right and Valuation Notices

This land use decision is final and subject to closed record appeal to the City Council as authorized by ECDC 20.01.003. Appeals must be filed within 14 days of the issuance

1 of this decision as required by ECDC 20.07.004(B). Reconsideration may be requested
within 10 calendar days of issuance of this decision as required by ECDC 20.06.010.

2 Affected property owners may request a change in valuation for property tax purposes
3 notwithstanding any program of revaluation.

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