PLANNING COMMISSION - TITLE 49 COMMITTEE AGENDA

May 18, 2023 at 12:00 PM

Zoom Webinar

https://juneau.zoom.us/j/81942635658 or 1-253-215-8782 Webinar ID: 819 4263 5658

A. LAND ACKNOWLEDGEMENT

We would like to acknowledge that the City and Borough of Juneau is on Tlingit land, and wish to honor the indigenous people of this land. For more than ten thousand years, Alaska Native people have been and continue to be integral to the well-being of our community. We are grateful to be in this place, a part of this community, and to honor the culture, traditions, and resilience of the Tlingit people. Gunalchéesh!

B. ROLL CALL

C. REQUEST FOR AGENDA CHANGES AND APPROVAL OF AGENDA

D. APPROVAL OF MINUTES

E. REGULAR AGENDA

1. AME2022 0003: Proposed Amendments to Subdividing on Arterials

F. PLANNING COMMISSION COMMENTS AND QUESTIONS

2. A letter to the Planning Commission regarding Bungalow Setbacks from Dan Miller.

G. PLANNING COMMISSION COMMENTS AND QUESTIONS

H. ADJOURNMENT

ADA accommodations available upon request: Please contact the Clerk's office 36 hours prior to any meeting so arrangements can be made for closed captioning or sign language interpreter services depending on the meeting format. The Clerk's office telephone number is 586-5278, TDD 586-5351, e-mail: city.clerk@juneau.org.

CITY AND BOROUGH OF JUNEAU
ALASKA'S CAPITAL CITY
COMMUNITY DEVELOPMENT

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May 23, 2022

MEMO

TO: Chair Arndt, and Title 49 Committee Members

FROM: Jill Maclean, AICP

SUBJECT: AME2022 0003: Proposed Amendments to Subdividing on Arterials

INTRODUCTION

The purpose of this memo is to present staff recommendations and proposed revisions to the Land Use Code related to development and access to the Title 49 Committee. Staff has been directed to identify "quick fixes" to the Code that remove barriers to development, specifically residential development. We recognize that other revisions may be worthwhile in Chapter 49.35; however, greater revision may necessitate a public process, and take more time. On May 12, 2022, the Title 49 Committee and staff agreed that we would commit to discussing the quick fixes and not attempt to rewrite entire sections or chapters. The intent is to get in, get out, and create as much flexibility in the Land Use Code that is reasonable with smaller (less time consuming) fixes and adjustments.

SUMMARY OF REVISIONS

Note: Each bullet below has the associated Land Use Code citation, and an approximate Line Number to support ease in discussing the changes.

This packet includes this cover memo, and the existing Chapter 49.35 Public and Private Improvements with track changes, including:

- Language striking the requirement of meeting the D1 lot size standard (36,000 square feet), if subdividing along an arterial (49.35.210, ~Line 91);
- Language striking the regulation that these same properties cannot be further subdivided, and replaced with language stating that further subdivision is permissible if the subdivision meets code (49.35.210, ~Line 93);
- Language striking the requirement of "direct and practical access" must be through the frontage (49.35.250 Access, ~Line 359);
- Language recommending splitting two sentences that recently came into question that makes the language more user-friendly (49.35.262, ~Line 402);

- A grammatical revision changing “zone” to “zoning” on ~Line 419;
- Language clarifying that when using private shared access, the parent lot may choose to use the right-of-way for access similar to panhandle subdivisions (49.35.263, ~Line 450).

Staff recommends that the Title 49 Committee favorably recommend these amendments to the Planning Commission.

ATTACHMENTS

Attachment A – Title 49 Land Use Code Chapter 49.35 DRAFT

PART II - CODE OF ORDINANCES
TITLE 49 - LAND USE
Chapter 49.35 - PUBLIC AND PRIVATE IMPROVEMENTS
ARTICLE I. GENERALLY

ARTICLE I. GENERALLY

Commented [JM1]: No changes proposed at this time
Go to Line91 [(49.35.210(b)(3)]

49.35.110 Purpose.

The purpose of this chapter is to:

(1) Establish design and development criteria for public and private improvements; and

(2) Outline the procedures and responsibilities of the developer for furnishing plans and completing the improvements.

(Serial No. 87-49, § 2, 1987; Serial No. 2016-26(b) , § 6, 4-3-2017, eff. 5-3-2017)

49.35.120 Improvements; generally.

(a) The developer must install all of the required improvements within the boundaries of the development, and may be required to make improvements beyond the development boundary in order for all of the improvements to function properly. In addition, improvements must be designed and constructed to provide for future extension to adjoining lands.

(b) If a publicly maintained street serves an area outside the roaded service area boundary as a result of a subdivision, the roaded service area boundary, and if appropriate, the fire service area, shall be extended to include the roaded area and newly created subdivision.

(Serial No. 87-49, § 2, 1987; Serial No. 95-27, § 5, 1995; Serial No. 2002-20, § 2, 8-5-2002; Serial No. 2015-03(c)(am), § 21, 8-31-2015 ; Serial No. 2016-26(b), § 7, 4-3-2017, eff. 5-3-2017)

49.35.130 Standard specifications.

(a) Compliance with specifications. Except as otherwise provided, all subdivision improvements shall be in accordance with the latest revision of the City and Borough subdivision standard specifications and details on file in the engineering and public works department.

(b) The director of engineering and public works may prescribe different or additional standards if unusual or unforeseen conditions exist in a particular development, and the alternative meets or exceeds the intent of the original standard.

(c) Change of standards. Prior to a substantial change in the standards generally applicable to required subdivision improvements, the director of engineering and public works or the director of engineering and public works' designee shall hold a public hearing on the proposed change. The hearing shall be preceded by ten days' published notice. The standards may be changed in response to comments received at the hearing or received at any other time prior to the effective date. The standards shall become effective 30 days after the first notice of the hearing is published. The manager may shorten the notice period or waive the requirement for a hearing and may specify an earlier effective date if the manager finds an emergency exists or that other conditions warrant such action. If the hearing is held with less than three days' published notice, a second hearing preceded by ten days' published notice shall be held.

(Serial No. 87-49, § 2, 1987; Serial No. 92-09, § 2, 1992; Serial No. 99-34, § 5, 1-24-2000; Serial No. 2002-20, § 3, 8-5-2002; Serial No. 2015-03(c)(am), § 22, 8-31-2015)

49.35.140 Construction plans.

(a) *Generally.* The developer must submit construction plans for all proposed public improvements and associated private improvements and utilities within and outside the proposed development's boundary.

(b) *Construction plan submittal.*

(1) *Plan sets.* Prior to submittal of the final plat, and before the start of any construction, the developer must furnish to the City and Borough Permit Center complete sets of construction plans, profiles, details, and special construction provisions for all existing and proposed improvements. The director of engineering and public works shall determine the number of plan sets to be submitted. Plan sets will be forwarded to the appropriate City and Borough departments and agencies.

(2) *Engineer's stamp.* Construction plans must be stamped by the professional engineer licensed in the State of Alaska who is responsible for the improvement designs. Multiple engineer stamps are required for plans with multiple discipline designs, e.g., civil, electrical, structural engineering.

(c) *Construction plan—Details.*

(1) *Size.* All construction plans shall be submitted on 22- by 34-inch sheets. The director of engineering and public works may approve alternative sheet sizes.

(2) *Information.* The drawings must contain the following information:

(A) Name of subdivision.

(B) Type of work.

(C) Date.

(D) Name of engineer preparing the drawings and the engineer's stamp.

(E) Space for approval signature by the director of engineering and public works.

(F) A north arrow and scale.

(3) *Scale.* Horizontal scale must be one inch equals 50 feet or greater. Vertical scale must be one inch equals five feet or less with a minimum scale of one inch equals ten feet. The director of engineering and public works may approve alternative scales.

(4) *Benchmarks.* The locations, elevations and description of datum of permanent benchmarks must be shown.

(5) *Street profiles.* Profiles of streets shall indicate finished and existing grades for centerline of the street and shall extend a minimum of 200 feet beyond the limits of the proposed project or, if intersecting an existing street, extend to the far side of the existing street.

(6) *[Details to be included.]* Plans and profiles, where applicable, shall include location, elevation, size, materials, and all other details of the proposed improvements.

(7) *[Complete data.]* Complete survey data must be shown for all horizontal and vertical curves.

(8) *[Location of utilities.]* Construction plans shall include the location of all existing and proposed utilities.

(d) *As-built drawings.* The developer, upon completion of required improvements, must submit a reproducible and digital format copy of as-built plans unless otherwise required by the director of engineering and public works.

(Serial No. 87-49, § 2, 1987; Serial No. 2015-03(c)(am), § 23, 8-31-2015)

ARTICLE II. STREETS[1]

DIVISION 1. IN GENERAL

49.35.210 Street system.

(a) *[In general.]* Subdivision street systems shall be designed for the most advantageous development of the entire neighborhood area and shall meet the following criteria:

(1) The street system shall provide for connecting streets into adjoining unsubdivided lands.

(2) Subdivision street systems shall be designed to maximize the number of connecting streets in a given area in order to reduce the volume of traffic and traffic delays on major streets (arterials and major collectors), to minimize bypass and through trips on residential streets, and to increase the number of local street connections facilitating safer bicycle and pedestrian travel.

(3) Traffic calming should be taken into account in street layout and design.

(b) *Major and minor arterials.* Except as provided in subsection (3) of this section, if a new subdivision involves frontage along an arterial street:

(1) The plat shall note that no lots shall access directly onto the arterial;

(2) Access shall be provided onto an interior access street or a separate frontage road.

(3) A parcel of land with less than 500 feet of frontage on a street, or with less than 350 feet in depth may be subdivided so as to allow access directly onto a minor arterial street if all of the following conditions are met:

(A) All of the resulting lots must meet the minimum lot area standard for ~~a single-family dwelling in the D-1~~the zoning district and density bonuses are not permissible ~~(36,000 square feet)~~.

(B) All of the lots must share a common access point. ~~and further subdivision of the newly created lots is not allowed~~.

(C) Common access to all lots is required and back out parking is prohibited. The applicant must submit a plan that shows the feasibility of off street parking for all lots and an adequate area for a turnaround to prevent back out parking.

(D) The applicant must provide assurance in the form of an easement, plat note, and a maintenance agreement that is recorded with the subdivision, all of which must be acceptable to the director, that ensures the required common access will be constructed and maintained by the property owners.

(E) The proposed subdivision must meet all other applicable subdivision standards and requirements.

(c) *Collector streets.* Collector streets in adjoining subdivisions shall be continued in the new subdivision as needed.

Commented [JM2]: Lots are required to have a minimum frontage. See below Line 359 [(49.35.250(b)]

Commented [JM3]: If the further subdivision can meet code, why is not permissible? See below line 102 (49.35.210(b)(3)(E)

[1]Cross reference(s)—Public ways and property, CBJ Code tit. 62.

(1) *Major collectors.* Except as provided in subsection (C) of this section, if a new subdivision involves frontage along a major collector street:

(A) The plat shall note that no lots shall access directly onto the major collector.

(B) Access shall be provided onto an interior access street or a separate frontage road.

(C) Exception a parcel of land with less than 500 feet of frontage or less than 350 feet of depth may be subdivided so as to allow access directly onto a major collector street.

(2) *Minor collectors.* Access for lots is allowed directly onto minor collector streets if no other restrictions apply.

(Serial No. 87-49, § 2, 1987; Serial No. 95-27, § 6, 1995; Serial No. 2002-20, § 4, 8-5-2002; Serial No. 2015-03(c)(am), § 24, 8-31-2015)

49.35.220 Street names.

Commented [JM4]: No changes proposed at this time

(a) *New streets.* Street names must be unique in order to avoid confusion. When streets are extended, the name must remain the same for the new segment. Proposed street names shall be shown on preliminary plats. The names of streets fronting 13 or fewer lots shall be approved by the director through the minor subdivision processes. The names of streets fronting more than 13 lots shall be approved by the commission at the time of preliminary plat approval for major subdivisions.

(b) *Existing streets.* The commission shall approve applications to change the name of any existing public street or right-of-way.

(1) *Application.* The application must be on a form provided by the department and accompanied by:

(A) The application fee.

(B) Signed letters of approval from a majority of property owners whose properties have access to the public street proposed for the name change.

(2) *Procedure*. After public hearing, the commission shall review the proposed street name change for consistency with this section, and, upon a finding that the change is consistent with this section and that the majority of property owners whose properties have access to the public street proposed for the name change approve of the change, shall approve the application.

(3) *Sign replacement.* If the name change is approved, the applicant shall be responsible for replacing all existing street name signs as specified by the department.

(Serial No. 87-49, § 2, 1987; Serial No. 95-27, § 7, 1995; Serial No. 2015-03(c)(am), § 25, 8-31-2015)

49.35.230 Roadway classification map.

Commented [JM5]: No changes proposed at this time

There are adopted roadway classification maps A—D, dated June 5, 2006, as the same may be amended from time to time by ordinance. These maps set forth the classification of streets and roadways within the CBJ. The roadway classification maps will govern references to streets in this title.

(Serial No. 2015-03(c)(am), § 26, 8-31-2015)

Editor's note(s)—Sec. 26 of Serial No. 2015-03(c)(am) , adopted Aug. 31, 2015, repealed and reenacted § 49.35.230 in its entirety to read as herein set out. Former § 49.35.230 pertained to design criteria and derived from Serial No. 87-49, 1987; and Serial No. 95-27, 1995.

49.35.240 Improvement standards.

Commented [JM6]: No changes proposed at this time. Go to Line 350 for next proposed change.

(a) *Right-of-way widths.* The minimum right-of-way width of proposed streets is as follows:

(1) Arterials: 100 feet; minor, 80 feet.

(2) Collectors: 60 feet.

(3) Streets other than arterials and collectors: 60 feet.

(4) Cul-de-sacs: temporary or permanent turnaround: a diameter of 120 feet.

(5) Alleys: 20 feet.

(6) Stairways and other non-motorized access routes: 15 feet.

(7) Half streets. Whenever there exists a dedicated or platted half street or alley adjacent to the tract of land to be developed, the other half of the street or alley must be platted, dedicated, and the entire street or alley constructed to current improvement standards.

(8) Substandard width. Any previously platted right-of-way with less than the minimum standards identified for the traffic generated shall be improved to meet the minimum requirements established by this title.

(b) *Right-of-way minimum width reductions.* The director may reduce minimum right-of-way width requirements:

(1) For a collector, the right-of-way width may be reduced by up to ten feet.

(2) For streets with less than 500 average daily trips, or a privately maintained access road in a right-of-way, the width may be reduced by up to 25 feet.

(3) Where the dedicated right-of-way abuts and runs parallel to an exterior property line, will serve as a half-street, and will be developed as a low volume street or a driveway in a right-of-way, the width may be reduced by up to 30 feet.

(4) Alleys and stairway right-of-ways may be reduced by up to five feet.

(5) The director shall make written findings supporting right-of-way minimum width reductions granted under this section. The director's findings shall state that:

(A) The applicant has provided room for electric utility features and demonstrates that if the road is upgraded in the future to include additional sidewalks that there is sufficient right-of-way for construction of the sidewalks without need for retaining walls over two feet in height.

(B) There is sufficient right-of-way or easements to allow for drainage improvements required by construction of the sidewalks.

(C) That any driveways shall be constructed to accommodate the elevations of future sidewalks.

(D) No additional right-of-way width will be required in order to provide for sufficient access to abutting lands.

(E) There is sufficient room for snow storage.

(c) *Sight distance.* Sight distances for intersection, passing and stopping must be in accordance with the specifications set forth in "A Policy on Geometric Design of Highways and Streets".

(d) *Street grades.* Street grades are as follows:

(1) *Maximum.* Grades on arterial streets must not exceed six percent. Grades on other streets must not exceed 12 percent.

(2) *Minimum.* The minimum grade for all streets is one-half percent.

(3) *Cross slope.* The minimum cross slope on all streets is three percent.

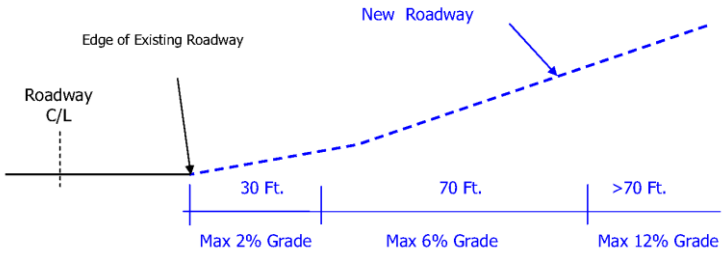
(4) *Exception.* Grades for all streets in hillside areas may be increased under certain circumstances according to chapter 49.70, article II, hillside development.

(e) *Intersections.*

(1) *Corner sight distance.* Corner sight distance must be in accordance with CBJ 49.35.240, however, in no case shall the sight distance be less than 200 feet.

(2) *Intersection angle.* Intersections of right-of-way lines must not be less than 60 degrees. The intersection of the centerline of the constructed roadway must not be less than 80 degrees.

(3) *Grade.* The grade for the approach leg of a new roadway at an intersection must not exceed two percent for the first 30 feet, measured from the edge of the existing roadway. The grade for the next 70 feet of the new roadway must not exceed six percent (See Figure 1).

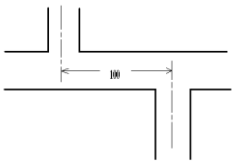


Maximum Grades at the Intersection of a New Roadway

Figure 1

(4) *Adjustment to grade.* In certain circumstances, the director of engineering and public works may require the centerline grade to be adjusted to ensure the grades along the edge of the intersecting street do not exceed the maximum grades listed above.

(5) *Alignment.* A proposed street that will intersect with an existing cross street shall, whenever practicable, align with an existing street intersection on the opposite side of the cross street. Street jogs that have center line offsets of less than 100 feet, shall not be permitted (See Figure 2).



Street jogs shall be no less than 100' apart, measured from the center of the street.

Figure 2

(f) *Curves.*

(1) *Design.* Curves shall be designed in accordance with "A Policy on Geometric Design of Highways and Streets."

(2) *Vertical curve.* The minimum length of vertical curves is 200 feet unless otherwise approved by the director of engineering and public works.

(g) *Cul-de-sacs.*

(1) *Length.* Streets designed to have one end permanently closed shall be no more than 600 feet and not less than 150 feet in length measured from the center of the intersection to the radius point of the turnaround. The director for minor subdivisions, and the commission for major subdivisions, may authorize a longer or shorter cul-de-sac if it is found that the unique characteristics of the site warrant modification to the length.

(2) *Temporary cul-de-sacs.* Temporary cul-de-sacs will be allowed where a street can practically be extended to provide for connecting streets into an adjoining undeveloped land, is located in a right-of-way or in an easement for public access, and if the following are met:

(A) The temporary portions of the cul-de-sac shall be easements on the plat rather than as dedicated right-of-way. Such easements shall allow for public access and maintenance as if it were dedicated right-of-way until such time the easements are vacated. The easements shall not contribute towards lot area.

(B) All of the cul-de-sac must be constructed to permanent street construction standards except as noted in (G) below.

(C) The CBJ will record a release of the easements for the temporary portions of the cul-de-sac at the state recorder's office at Juneau at the time the cul-de-sac is removed and the street improvements have been extended.

(D) Easement lines for the temporary cul-de-sac will be considered front property lines for determining building setbacks.

(E) All improvements, including utilities and private driveways, must be designed to accommodate the eventual extension of the street and reversion of the temporary cul-de-sac to adjoining

properties. The construction plans shall demonstrate those improvements connecting through a temporary cul-de-sac will still comply with CBJ standards after the temporary cul-de-sac is removed.

(F) Temporary cul-de-sacs must provide required access and minimum frontage on a publically maintained right-of-way to all lots using the cul-de-sac as access. If the cul-de-sac is not extended to the adjoining property, the maximum length of an unconstructed right-of-way between the temporary cul-de-sac and the adjoining property shall be the minimum lot width for the zoning district. If the right-of-way is located in more than one zoning district, the shortest minimum lot width shall be used. The right-of-way between the constructed temporary cul-de-sac and the adjoining property shall be subject to the stub street requirements of this Title (See Figure 3).

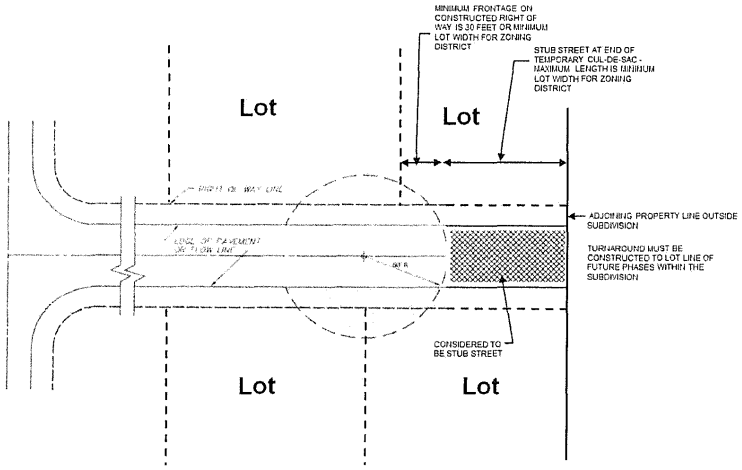


Figure 3

(G) The temporary cul-de-sac may be located on property within the subdivision intended for future subdivision phases in conjunction with a platted right-of-way. It may also be located outside the subdivision boundary entirely within an easement (See Figure 4). If the temporary cul-de-sac is constructed on property outside of the subdivision boundary, then curb, gutter, and sidewalks are not required for the temporary cul-de-sac.

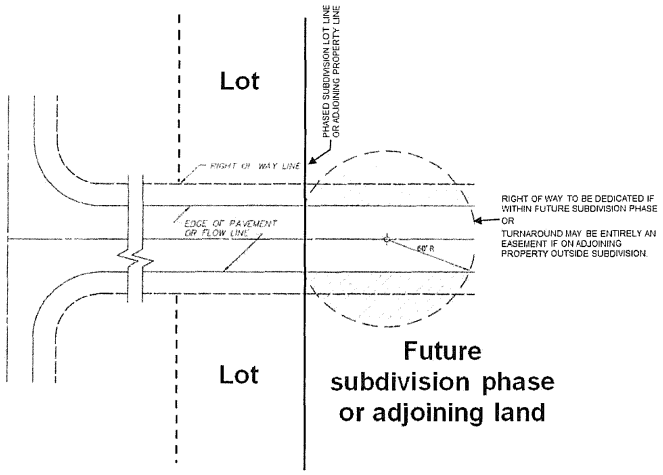


Figure 4

(H) The plat shall include the following note "Temporary cul-de-sac easement shall be vacated upon extension of street unless the director determines all or a portion of the cul-de-sac may remain."

(I) When the developer of adjoining property is required to connect to the temporary cul-de-sac, the temporary portions of the cul-de-sac shall be removed. The director, after considering public safety, costs, and recommendations of the director of engineering and public works department and of the fire marshal, shall determine if the developer may leave all or part of the temporary portions of the cul-de-sac. If any temporary cul-de-sac portion is removed, then the resulting constructed right-of-way shall conform to CBJ standards.

(3) *Hammerhead turnarounds.* Hammerhead turnarounds may be built in lieu of a temporary cul-de-sac, upon approval by the director of engineering and public works.

(h) *Streets construction standards.*

(1) *Arterials.* The subdivider is not responsible for the construction of arterial streets, but may be required to dedicate the necessary right-of-way during the platting process.

(2) *Other streets.* Other than arterials, street shall comply with the following:

Table 49.35.240 Table of roadway construction standards

Avg. Daily Trips (ADT)	Adopted Traffic Impact Analysis Required	Sidewalks	Travel Way Width	Street Lights	Width	Paved Roadway Required	Publicly Maintained

≥ 500	Yes	Both sides	26 ft.	At all intersections	60 ft. Public ROW[ii]	Yes	Yes
212 to 499	Maybe	One side	24 ft.	At all intersections	60 ft. Public ROW[ii]	Yes	Yes
0 to 211	No	Not required	22 ft.	At intersection of subdivision streets and external street system	60 ft. Public ROW[ii]	Yes	Yes
0 to 211	No	Not required	20 ft.[i]	At intersection of subdivision streets and external street system	60 ft. Public ROW[ii]	No, if outside the urban service area	No
0 to 70	No	Not required	20 ft.[i]	No	50 ft. private easement	No[iii]	No

[i] Or as required by the Fire Code at CBJ 19.10.

[ii] ROW width may be reduced as prescribed at CBJ 49.35.240.

[iii] Except as provided by CBJ 49.35.262(b)(9).

(3) *Signs and markings.* The subdivider must install street name signs, traffic control signs, and traffic control pavement markings in accordance with approved plans and the requirements of the current issue of the Manual on Uniform Traffic Control Devices, including the current Alaska Traffic Manual Supplement, published by the Alaska Department of Transportation and Public Facilities.

(i) *Street waivers.* The director, after considering the recommendations of the director of the engineering and public works department and of the fire marshal, may waive the following and no other street improvement requirements:

(1) Right-of-way relocation. If a plat is submitted for the purpose of relocating a right-of-way, the director may waive all or some of the construction requirements under the following conditions:

(A) The proposed relocation will improve access to abutting or neighboring property not otherwise adequately served.

(B) The subdivider has provided sufficient engineering information to demonstrate to the director of engineering and public works the feasibility of constructing a public street at the location of the relocated right-of-way.

(C) The relocated right-of-way and the resulting subdivision layout will conform to all the other standards of this chapter.

(D) The improvements required in the new right-of-way will not be less than those in the existing right-of-way.

(E) No additional lots are being platted.

(2) *Stub streets.*

(A) The director for minor subdivisions and the commission for major subdivisions may waive the full construction of a roadway within a right-of-way that is required to provide access to a bordering property, and does not provide required access to any lot within the subdivision. A developer requesting a stub street waiver shall demonstrate in the construction plans that a street can reasonably be constructed to CBJ standards in the right-of-way. The commission or director may require provision of a roadbed, utility line extensions, or other appropriate improvements (See Figure 5).

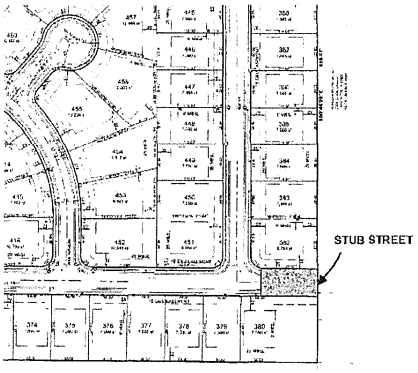


Figure 5

(B) Reserved.

(C) When the developer of adjoining property is required to connect to the stub street, then the developer of the adjoining property will be required to construct the stub street to City and Borough standards at the time.

(3) *Remote subdivisions accessible by navigable water.* The commission and the director may waive roadway improvements and other street construction requirements for remote subdivisions accessed solely by navigable water.

(4) *Roadway construction standards waivers.* Roadway construction standards identified in Table 49.35.240 may be waived in accordance with this subsection for any street reconstruction project, not including routine maintenance; or any new street construction project located in a right-of-way platted before 1987. Waivers shall be in writing.

(A) Roadway construction standards may be waived by the director if:

(i) The existing roadway does not comply with the roadway construction standards identified in Table 49.35.240;

(ii) There are unique circumstances that make compliance with the requirements of the table unreasonable;

(iii) The proposed project will not aggravate the intent of the requirements of this chapter; and

(iv) The proposed project complies with the American Association of State Highway and Transportation Officials' guidelines.

(B) Roadway construction standards may be waived by the commission if:

(i) The existing roadway does not comply with the roadway construction standards identified in Table 49.35.240;

(ii) There are unique circumstances that make compliance with the requirements of the table unreasonable;

(iii) The proposed project will not aggravate the intent of the requirements of this chapter; and

(iv) Unique circumstances make compliance with the American Association of State Highway and Transportation Officials' guidelines unreasonable, and the commission requires sufficient safeguards to protect public health, safety, and welfare under the circumstances.

(j) *Pioneer path standards.* The following standards shall apply to remote subdivisions accessed by pioneer paths.

(1) Interior access shall be provided solely by pioneer path in a right-of-way. The right-of-way width of a pioneer path within a remote subdivision shall be 60 feet.

(2) Grades for pioneer paths must not exceed 18 percent. The maximum cross slope grade must not exceed five percent.

(3) The width of a pioneer path shall not exceed 54 inches of tread, and must be located within a six-foot corridor.

(4) Pioneer paths shall be designed and constructed to prohibit vehicular traffic wider than 48 inches from using the path, which may include the use of boulders, bollards, or any other similar structure.

(k) *Responsibility for improvements.* Unless otherwise provided, it shall be the responsibility of the subdivider to pay the cost of all right-of-way and street improvements caused by any development, as determined by the director.

(Serial No. 87-49, § 2, 1987; Serial No. 88-30, § 2, 1988; Serial No. 2002-20, § 5, 8-5-2002; Serial No. 2006-15, § 8, 6-5-2006; Serial No. 2010-41, § 2, 1-10-2011; Serial No. 2015-03(c)(am), § 27, 8-31-2015 ; Serial No. 2016-26(b), 4-3-2017, eff. 5-4-2017 ; Serial No. 2018-08, § 2, 3-5-2018, eff. 4-5-2018 ; Serial No. 2019-08, § 2, 4-22-2019, eff. 5-23-2019)

49.35.250 Access.

(a) *Principal access to the subdivision.* Except as provided below, the department shall designate one right-of-way as principal access to the entire subdivision. Such access, if not already accepted for public maintenance, shall be improved to the applicable standards for public acceptance and maintenance. It shall be the responsibility of the subdivider to pay the cost of the right-of-way improvements.

(1) *Principal access to remote subdivisions.* The department shall designate the principal access to the remote subdivision. Such access may be by right-of-way.

(b) *Publicly maintained access within a subdivision.* Unless otherwise provided in this section or in 49.15.420(a)(1), all lots must satisfy the minimum frontage requirement and have direct and practical access to the right-of-way ~~through the frontage~~ that complies or can be improved to comply with the emergency service access requirements of CBJ 19.10. The minimum frontage requirement on a right-of-way is 30 feet or the minimum lot width for the zoning district or use as provided in CBJ 49.25.400. These requirements for frontage and access can be accomplished by:

Commented [JM7]: Same language used below for PSAs. See Line 406 (49.35.262(b)(4)

(1) Dedication of a new right-of-way with construction of the street to public standards. This street must connect to an existing publicly maintained street;

(2) Use of an existing publicly maintained street;

(3) Upgrading the roadway within an existing right-of-way to public street standards. This existing right-of-way must be connected to another publically maintained street; or

(4) A combination of the above.

(c) *Privately maintained access within a subdivision.* Lots shall front and have direct access to a publically maintained street except as:

(1) *Privately maintained public access.* A subdivision may create new lots served by a privately maintained access within a public right-of-way not maintained by an agency of government as provided by CBJ 49.35, article II, division 3. All lots must have either a minimum of 30 feet of frontage on a right-of-way, or the minimum lot width for the zoning district or use as provided in CBJ 49.25.400.

(2) *Private shared access.* A lot in a subdivision is exempt from having the minimum frontage on a public right-of-way when a shared access is approved pursuant to CBJ 49.35, article II, division 2. All lots served by a shared access shall have a minimum of 30 feet of frontage on the shared access.

(d) *Remote subdivisions accessible by navigable waterbodies.* All lots in a remote subdivision solely accessible by navigable waterbodies must have a minimum of 30 feet of frontage on, and direct and practical access to, either the navigable water or a right-of-way. The right-of-way must have direct and practical access to the navigable water.

(e) *Access within remote subdivisions accessible by pioneer paths.* All lots must either have direct and practical access with a minimum of 30 feet of frontage on the right-of-way, or the minimum lot width for the zoning district or use as provided in CBJ 49.25.400.

(Serial No. 2016-26(b), § 9, 4-3-2017, eff. 5-3-2017)

DIVISION 2. PRIVATE SHARED ACCESS

49.35.260 Purpose.

Shared access serving four or fewer lots without frontage on a right-of-way may be constructed within a private easement consistent with this division.

(Serial No. 2016-26(b), § 10, 4-3-2017, eff. 5-3-2017)

49.35.261 Application.

An applicant must submit the following to request shared access:

(1) A preliminary plan and profile of the proposed shared access; and

(2) A proposed access easement, drainage and utility agreement.

(Serial No. 2016-26(b), § 10, 4-3-2017, eff. 5-3-2017)

49.35.262 Standards.

(a) *Agency review.* The director shall forward the complete application to the fire department and to the engineering and public works department for review.

(b) *Approval criteria.* The director may approve a subdivision, with or without conditions, that has a shared access if all of the following criteria are met:

(1) The shared access will be located in a private easement completely on the lots served.

(2) The shared access serves four or fewer lots. (insert return)

(i) If a subsequent common wall residential subdivision is intended to be served by shared access, the common wall parent lot shall count as two lots.)

Commented [JM8]: Suggest separating these two sentences to draw a more clear distinction between the hierarchy of development

(3) The shared access does not endanger public safety or welfare.

(4) The shared access complies or can be improved to comply with the emergency service access requirements of CBJ 19.10.

(5) The use of each lot served by the shared access shall be limited to one single-family residence and an accessory apartment.

(6) The total average daily trips resulting from the subdivision shall not exceed 70.

(7) Shared access is only allowed in RR and D-1, D-3, D-5, and D-10 SF zoning districts defined by CBJ 49.25.210.

(8) Shared access is prohibited if the subdivision abuts a parcel that does not have alternative and practical frontage on a publicly maintained right-of-way.

(9) The portion of the shared access in the right-of-way shall be paved or surfaced with materials consistent with the adjacent public roadway. The length of the portion of the shared access in the right-of-way shall consist of a minimum two-foot apron or as required by the governing agency of the right-of-way.

(10) Lots must meet the minimum standards for the ~~zone~~ zoning district according to the table of dimensional standards excluding the shared access easement. A buildable area must exist without the need for a variance.

Commented [JM9]: Grammatical fix.

(c) *Approval process.*

(1) Upon preliminary plat approval by the director, the applicant shall construct the shared access pursuant to the corresponding standard in Table 49.35.240 for a roadway with zero to 70 average daily trips. A financial guarantee cannot be used as a condition of construction.

(2) The shared access easement shall be recorded.

(3) The following shall be noted on a plat or in a recorded decision that contains a shared access:

(i) The private easement is for access, drainage, and if applicable utilities, and shall be specifically identified.

(ii) The owner(s) of the lots served by the private access easement acknowledge the City and Borough is not obligated and will not provide any maintenance or snow removal in the private easement.

(iii) The owner(s) of the lots served by the private access easement shall be responsible and liable for all construction and maintenance of the shared access from the edge of the publicly maintained travel lane.

(iv) Except a subsequent common wall subdivision depicted on this plat, the lots served by the private access easement are prohibited from subdividing unless the access is upgraded to a public street, dedicated to, and accepted by the City and Borough.

(v) Owner of a lot served by the private access easement shall automatically abandon all rights to and usage of the private access easement except for utilities, if any, if a publicly maintained street serves that lot.

(vi) A lot with frontage on a public street and on the shared access is prohibited from having vehicular access to the public street except through the shared access.

(Serial No. 2016-26(b), § 10, 4-3-2017, eff. 5-3-2017; Serial No. 2020-11, § 2, 4-27-2020, eff. 5-28-2020)

49.35.263 Other shared access requirements.

(a) If a shared access is approved, the applicant must apply for and receive a right-of-way permit to construct the shared access.

(b) If the director determines that a street sign is required for a health, safety, or welfare reason, the applicant shall install a street sign provided by the City and Borough at the applicant's expense.

(c) The front yard setback shall be measured from the shared access easement. The lot fronting on the public right-of-way, may have a separate and additional access if approved by the government entity that controls the right-of-way. The front yard setback shall be measured from the right-of-way and not the shared access.

(d) The width of the shared access easement may be reduced by up to 20 feet if the director finds there is sufficient area for the provision of utilities, drainage, snow storage, and that it is unlikely for the shared access easement to expand in the future to a public street.

(e) The director shall determine the placement location of mailboxes. The director may require additional improvements and design changes to enable efficient mail delivery and minimize traffic interferences.

(f) The standards identified in this article do not apply to any preexisting shared access previously permitted by the department.

(Serial No. 2016-26(b), § 10, 4-3-2017, eff. 5-3-2017)

Commented [JM10]: Does the "by" help clarify that the PSA may only be reduced by 20 ft.

(start with 50 ft width may be reduced to not less than 30 ft.)

In other words, the PSA cannot be less than 30 ft. in width

DIVISION 3. PRIVATELY MAINTAINED ACCESS IN A RIGHT-OF-WAY

Commented [JM11]: No changes past this point

49.35.270 Purpose.

A privately maintained access road serving 13 or fewer lots located outside the urban service area may be constructed within a public right-of-way and constructed to less than full public street construction standards.

(Serial No. 2016-26(b), § 11, 4-3-2017, eff. 5-3-2017)

49.35.271 Application.

On a preliminary plat application, the applicant must submit the following to request approval for a privately maintained access in a right-of-way:

(1) A preliminary plan and profile of the proposed privately maintained access road and any proposed public or private utilities; and

(2) A proposed access agreement as required by 49.35.272.

(Serial No. 2016-26(b), § 11, 4-3-2017, eff. 5-3-2017)

49.35.272 Access agreement.

(a) An access agreement must be executed between the City and Borough and all property owners proposed to be served by a privately maintained access road. The agreement must identify the parties and the property, all signatures must be notarized, and the agreement must include the following provisions:

(1) In exchange for the grantee not being required to construct a road that can be accepted for maintenance by the City and Borough, and for the City and Borough not being responsible for maintaining the privately maintained access road, the parties execute this agreement with the intent for it to run with the land and bind all heirs, successors, and assigns consistent herein;

(2) The grantee acknowledges that the City and Borough is not obligated to provide any maintenance, including snow removal, for the privately maintained access. The grantee is required to arrange for year-round reasonable maintenance for the privately maintained access, including snow removal, sufficient to meet weather conditions and to allow for safe vehicular traffic;

(3) The grantee and the grantee's heirs, successors, and assigns will defend, indemnify, and hold harmless the City and Borough from any claim or action for any injury, loss, or damage suffered by any person arising from the location, design, maintenance, or use of the privately maintained access;

(4) The grantee will ensure that use of the privately maintained access road will not block vehicular or pedestrian access by the public in the right-of-way;

(5) The City and Borough will have unimpeded access in the right-of-way.

(6) The grantee is required to arrange for maintenance of the right-of-way. The grantee and the grantee's heirs, successors, and assigns will maintain the privately maintained access road and public right-of-way according to the conditions established in this agreement;

(7) The City and Borough will record a copy of the agreement, at the grantee's expense, with the state recorder's office for each lot or parcel of land either, in the case of existing lots, those adjoining the segment of right-of-way in which the privately maintained access is to be located; or, in the case of lots created by subdivision and served by the privately maintained access, those lots so created;

(8) The owners of the lots subject to this agreement are required to pay for right-of-way upgrades when existing or proposed development served by the privately maintained access exceeds 211 average daily trips as determined by the director;

(9) The owners of the lots subject to this agreement are prohibited from subdividing unless the privately maintained access is upgraded or all the property owners served by the privately maintained access execute a new access agreement;

(10) Any development that increases the estimated traffic above 211 average daily trips, as determined by the director, shall pay a proportionate share of the costs of the right-of-way upgrades, which will offset the costs imposed on the existing owners served by the privately maintained access. The proportionate share shall be the percentage increase in average daily trips;

(11) The owners of the lots subject to this agreement authorize the City and Borough to amend this access agreement by adding a new owner only upon presentation of a written and fully executed maintenance agreement between all the existing property owners subject to the original access agreement and the new property owner proposing to be served by the existing privately maintained access. Any amended access agreement supersedes an existing access agreement. After recording, the new access agreement shall be sent to all the owners subject to it; and

(12) The owners agree to maintain in full force and effect any insurance policy required by the City and Borough until and unless the roadway is accepted for maintenance by the City and Borough.

(b) Prior to the City and Borough executing the access agreement:

(1) The owners of the lots subject to the agreement shall create an owner's association for the purpose of continuing the duties contained in the agreement; and

(2) The association shall obtain liability insurance of a type and in the amount deemed necessary by the City and Borough to provide coverage for claims arising out of or related to the use, occupancy, and maintenance of the privately maintained access road. The City and Borough shall be named as an additional insured on any required policy.

(Serial No. 2016-26(b) , § 11, 4-3-2017, eff. 5-3-2017)

49.35.273 Standards.

(a) *Agency review.* The director shall forward the complete application to the fire department and to the engineering and public works department for review.

(b) *Approval criteria.* A subdivision may be approved, with or without conditions, with privately maintained access in a public right-of-way if all of the following criteria are met:

(1) The subdivision is located outside of the Urban Service Boundary;

(2) The proposed privately maintained access would abut and provide access to 13 or fewer lots each limited to a single-family residence, or the proposed access road could serve 13 or fewer lots;

(3) The proposed privately maintained access will be located in a public right-of-way that has not been accepted for public maintenance;

(4) The proposed privately maintained access does not endanger public safety or welfare;

(5) The proposed privately maintained access will be improved to provide for emergency service access;

(6) A privately maintained access shall only serve property in which the maximum allowable residential density uses do not exceed 211 average daily trips as determined by the director; and

(7) Property served by the privately maintained access shall include accessory apartment traffic, if allowed with or without a conditional use permit, even if accessory apartments are not currently proposed.

(8) Privately maintained access is prohibited unless:

(A) The abutting parcels have alternative and practical frontage on a publicly maintained right-of-way; or

(B) The property owners of all abutting parcels are signatories of the access agreement required by CBJ 49.35.272.

(c) *Approval process.*

(1) All of the requirements of this Title and the conditions identified in the preliminary plat notice of decision have been satisfied.

(2) Area for the right-of-way has been dedicated to the City and Borough. The privately maintained access has been constructed consistent with corresponding standard in 49.35.240 for a roadway with zero to 211 average daily trips.

(3) The access agreement is recorded prior to recording the final plat.

(4) The director may impose conditions necessary for public, health, safety, and welfare upon approving the subdivision.

(Serial No. 2016-26(b) , § 11, 4-3-2017, eff. 5-3-2017)

49.35.274 Other requirements.

(a) If a preliminary plat with a privately maintained access in the public right-of-way is approved, the applicant must apply to the engineering and public works department for a permit to construct the privately maintained access as required by CBJ 62.05, accompanied by final construction plans. Additional fees and bonding may be required for final plan review, inspection, and construction of the access road and utilities.

(b) The applicant shall install a street sign, to be provided by the City and Borough, which shall indicate that the privately maintained access is not maintained by the City and Borough.

(c) The director shall determine the placement location of mailboxes. The director may require additional improvements and design changes to enable efficient mail delivery and minimize traffic interferences.

(Serial No. 2016-26(b) , § 11, 4-3-2017, eff. 5-3-2017)

5-10-23

To the members of the Title 49 committee as well as all of the current members of the Planning Commission,

First of all let me thank you for volunteering your time to be a Planning Commissioner for the City and Borough of Juneau. I know how much time it takes away from your families but I hope that the benefit your service brings to the community will bring you satisfaction in knowing your time on the Commission helped many Juneau residents.

Background;

My name is Dan Miller and I am the owner of Building PROS Inc., I moved to Juneau in 1995 and have literally built hundreds of new houses and done countless small jobs improving the homes of many residents of Juneau. While conducting business I did get to come in front of the planning commission a few times and because of these experiences I decided to apply to become a planning commissioner. I ended up spending 11 years on the commission and am proud of the work we did as a commission for the CBJ. I am still working full time and Building PROS is busier than ever. A couple of years ago I met a young man who was starting his own construction company, his name is Joony Munoz, he with his wife Yvonne, owns Munoz Construction. He and I share common work ethics and the desire to bring our clients the most quality and value for their projects. This resulted in working on some of our jobs together. Sometimes I'd work for him, sometimes he'd work for me. As a mentor, I helped Joony with a subdivision on a lot he lives on off of the Backloop. He had never gone through the process of subdividing before and I was glad to help. It took a year to get the subdivision done (we had to wait for code to change, I will come back to this point later) and the bungalow started, but in 2022 Joony was off and running. Per my recommendation Joony had construction stakes set by a licensed surveyor so that we could lay out the building on the lot, also per my recommendation, we set the building at least one foot extra away from the setback lines "just to be sure". I helped lay out the building initially for excavation. Joony laid out the building for the foundation and the CBJ Inspector checked the foundation placement for the foundation setback form. Let me just say that the staking was sufficiently believable that it fooled all of us. The bungalow house was built and it wasn't until the as-built was done that we discovered that the building is set too far back, being at 20.77 feet from the rear property line instead of the required 25 feet. I obviously did not do a thorough enough job of mentoring my friend, which is why I am presenting this issue to you on his behalf.

The Problem;

The bungalow house is built. It achieved the affordability goal that the Bungalow ordinance set out to achieve. The contractor, Munoz construction, has completed the home, he has a buyer for the home but because of the setback issue CBJ can not issue a Certificate of Occupancy. He is still paying construction loan interest on a home that is completely ready to occupy. The current construction loan interest rate is 9.5%, so saying that time is of the essence is an understatement. Juneau needs Munoz construction and can not afford to put him out of business. If you don't believe me, just try calling around for a contractor to install a window, door, or even tougher, a new kitchen or addition….

The Meeting with CBJ;

Joony and I met with Jill Mclean, Charlie Ford and Scott Cambior all of CBJ CDD to discuss this difficult situation. In a nut shell we were told that the only real way forward was to buy a strip of land from the neighbor. Joony asked the neighbors and they don't want to sell. He's not a government so its not like he can force them to sell with an imminent domain tool. The proverbial saying…between a rock and a hard place….that is this situation.

With my planning commission experience I asked about trying for a variance, Jill was upfront and let us know that it would be difficult if not impossible to meet the criteria. We haggled over this for awhile and I admit I regressed about why the variance ordinance had changed. So instead of being able to get a variance for just about anything, the current philosophy is to change code. For instance, on the subdivision of this bungalow lot (mentioned above), the original lot lines had been skewed at a bit of an angle and were plotted at 100 feet long. But if you make the lines perpendicular, the lot lines were only 98 feet long. So instead of being able to ask for a variance we had to wait for the code to change. And I have to admit, this code change will help many people now and in the future.

Grasping for a solution, knowing that a variance would be a long shot (according to Jill), I asked about possible code changes that might benefit us, but really be an improvement to Title 49 and be a benefit to others in the future as well. We did a bit of brainstorming and I believe there are 2 possible changes that could be made that were more or less received favorably by those in the meeting. This letter is meant to address these possible solutions. The first possible code change could be changing the setback requirements of a bungalow lot. The second could be a minor rewrite of the administrative variance. And the third possible solution is just applying for a non-administrative variance. (I believe I have findings that are real and relevant)

The 3 possible solutions;

1) *Change the setback requirements for Bungalow Lots.* Bungalow Lots were intentioned to be in-fill and to help boost density without the full impact of a normally size house. To accomplish this the code was written and in the Table of Dimensional Standards, a Bunglalow lot is allowed to be one half of the lot size of the undlying zone and one half of the width. For example in a D-3 zone, a regular lot has to be 12000 sqft and 100 feet wide, whereas a bungalow lot can be half of those or 6000 sqft and 50' wide. Perhaps we can expand these one half rules to the setbacks. So I would propose that *one half of the setbacks can be reduced to one half of the setback requirement for that zone, but no less than 3 feet.* So as an example, in a D-3 zone, instead of a front setback of 25 feet, side setbacks of 10 feet and a rear set back of 25 feet, a person could choose to reduce one of the sides to 5' and either the front or the back to 12.5 feet. Some relaxing of these setbacks on Bungalow lots would surely allow more development of this affordable housing option and would provide the relief my friend and colleague Joony Munoz needs.

2) *Change the administrative variance language.* Per Title 49:

"an administrative variance may be granted to allow projections not to exceed 25 percent of the yard setback requirements of this title or two feet, whichever is less, upon the director determining the following:

A) Enforcement of the ordinance would create an undue hardship resulting from the unusual or special conditions of the property;

(B) The unusual or special conditions of the property are not caused by the person seeking the variance;

(C) The grant of the variance is not detrimental to public health, safety, or welfare; and

(D) The grant of the variance is narrowly tailored to relieve the hardship."

If the first sentence of the above code was re-written to exclude the "or two feet, whichever is less".

OR

instead of deleting the 2 feet or less, it could be changed to apply to for side yard setbacks. And for front or rear yard setback a 5 feet or less restriction could be added. Either way, these changes seem reasonable to me and I believe the director would be able to have findings in favor for this situation.

3) *Submit a Non Administrative variance application.* Interestingly enough, the same conditions for an administrative variance is required for an non administrative variance. I believe that B, C and D are pretty easy for the planning commission or the director to have suitable findings for. It is criteria A, that seems a little tougher so I will go into it more here. I believe that people tend to get hung up on unusual or special "conditions" of the property. I believe that people may tend to define the condition of the property as it's physical characteristics, such as the land being very steep or being adjacent to an important anadromous stream and I too believe that those are examples of conditions. But conditions are also the specific processes of the property that occur during a project. Synonyms for conditions using "Microsoft Word" are " circumstances, situations, settings, environments and surroundings." So certainly, the physical characteristics of a property are conditions or environments or surroundings but so too are all of the events and processes that occur on a property, these being the circumstances or the situations. In all the years I have been building with hundreds of opportunities to mess it up, I have had only one situation where a setback encroachment occurred, in that case it required a "diminimus variance" (basically similar to today's administrative variance).
   This Bungalow setback issue is an unprecedented request for me. I really believe that what we did to make sure of the house placement was the responsible thing to do. We did NOT just wing it. We purposefully hired a reputable professional surveyor and he provided us with staking to set the house by. We do not know if a stake ended up getting moved or removed or if it was in the wrong place. We don't know if we misunderstood what exactly was staked, but as I've said above, what we believed to be accurate was sufficiently authentic that 3 professionals (me, Joony Munoz and the CBJ inspector) all believed in its accuracy. This circumstance, or situation or condition of this property does NOT get any more unusual or unprecedented than this.

Therefore, the Findings could be as follows (please note that these findings could be the same for either an administrative variance decided by the director or for a non-administrative variance decided by the Planning Commission):

A) *Enforcement of the ordinance would create an undue hardship resulting from the unusual or special conditions of the property;*
The unfortunate events that led to incorrect placing of the bungalow building are completely unusual such that special consideration is necessary to alleviate the undue hardship. The situation that the builder and CBJ are in are due to circumstances that are unexplainable, completely inadvertent, and accidental. There is NO benefit the owner would gain by purposefully encroaching into the setback only hardship, uncertainty and financial duress. Therefore, the condition of this requirement is met.

B) *The unusual or special conditions of the property are not caused by the person seeking the variance;*
In reality, I submitted the building permit and a professional surveyor did the staking, so it wasn't Joony Munoz who caused the special conditions of the property. (this distinction was pointed out by CDD director Jill Mclean during our solution finding meeting) There is NO benefit the owner would gain by purposefully encroaching into the setback only hardship, uncertainty and financial duress. This condition is met.

C) *The grant of the variance is not detrimental to public health, safety, or welfare;*
Granting a rear setback of 20.77 feet instead of 25 feet is not detrimental to the public health, safety and welfare. This condition is met.

D) *And; The grant of the variance is narrowly tailored to relieve the hardship;*
It doesn't get any narrower than one hundredth of a foot, granting the 20.77 feet setback is narrowly tailering the variance to relieve the hardship. This condition is met.

Of the three possible solutions we just want whichever one is going to stop the financial hemorrhaging the soonest. As some of you know, at the end of the project is when you have all of that money out and you're just hanging on for the Certificate of Occupancy, so you can get out from under the construction loan. With today's rates it's a huge deal. At the meeting with CBJ, Scott and Jill spent a bit of time looking at schedules for upcoming meetings and it was thought that the bungalow setback change might be the fastest. Although deleting or changing a couple of words in the administrative variance code sounds quick too. That all said, I believe my variance findings are sound and I hope you do as well, in case this is the path we must take.

Thank you again for your service to our community and for your time in considering this issue,

Sincerely,

Dan Miller

Building Pros Inc