

**BOARD OF ADJUSTMENT
NOTICE OF DECISION**

Date: November 28, 2011
File No.: VAR20110025

Rich Coneen, Architect
7081 N. Douglas Hwy
Juneau, AK 99801

Application For: Variance to exceed the 10' maximum height standard for a canopy.
Legal Description: Tidelands Addition Block 82 Lot 5 FR
Property Address: 276 S. Franklin St., Juneau
Parcel Code No.: 1-C07-0-K82-004-0
Hearing Date: November 22, 2011

The Board of Adjustment, at its regular public meeting, adopted the analysis and findings 3 and 4 listed in the attached memorandum dated November 16, 2011. Additional information was presented by the applicant at the public hearing.

Based on these and other factors presented at the meeting, the Board of Adjustment voted to adopt the following revised findings and approved the Variance as proposed in the application and with the following conditions:

Revised findings:

- 1. That the relaxation applied for or a lesser relaxation specified by the Board of Adjustment would give substantial relief to the owner of the property involved and be more consistent with justice to other property owners.**

As discussed in the staff report (memorandum from Nicole Jones dated November 16th, 2011) the property owner would have substantial relief if the variance is approved since they would no longer need to re-design their canopy or remove the projection from the right-of-way.

The increased height of this canopy is in part an architectural feature. There are canopies within the downtown that have canopies that have architectural features that are higher than 10 feet from the finished grade. A grant of this variance is more consistent with justice to other property owners.

Yes, the Board of Adjustment finds that this criterion is met.

2. That relief can be granted in such a fashion that the intent of this title will be observed and the public safety and welfare be preserved.

The intent of canopies is to provide protection from inclement weather. This canopy meets the intent of Title 49 because increasing the width of the canopy into the right of way offers better protection to pedestrians.

Yes, the Board of Adjustment finds that this criterion is met.

5. That compliance with the existing standards would:

(B) Unreasonably prevent the owner from using the property in a manner which is consistent as to scale, amenities, appearance or features, with existing development in the neighborhood of the subject property;

There are many canopies within this neighborhood that have architectural features that are above the 10 foot height limit. This project is an architectural feature in nature while still providing sidewalk amenities. This canopy is consistent as to scale, amenities and appearances with existing development of this neighborhood.

Yes, the Board of Adjustment finds that this criterion is met.

6. That a grant of the Variance would result in more benefits than detriments to the neighborhood.

The property owner is allowed to construct a 12 foot high canopy if it does not encroach into the right-of-way. The canopy will be less functional if it must be reduced by 18 inches. Allowing the canopy to extend into the right-of-way will be a benefit to the neighborhood because those who walk beneath the canopy will be better protected by inclement weather.

Yes, the Board of Adjustment finds that this criterion is met.

The variance has been granted with the following conditions:

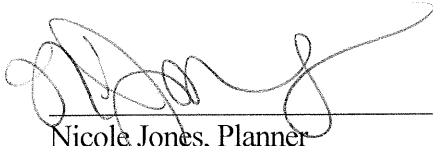
1. An As-Built Survey showing the encroachment into the right-of-way and the height of the canopy shall be required prior to Certificate of Occupancy.
2. An Indemnity and Hold Harmless agreement shall be signed by the property owner in accordance with CBJ 49.15.850 prior to Certificate of Occupancy.

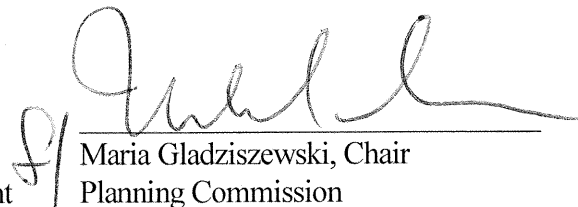
Attachment: November 16, 2011, memorandum from Nicole Jones, Community Development, to the CBJ Board of Adjustment regarding VAR20110025

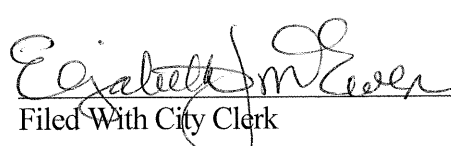
This Notice of Decision does not authorize construction activity. Prior to starting any development project, it is the applicant's responsibility to obtain the required building permits.

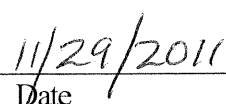
This Notice of Decision constitutes a final decision of the CBJ Board of Adjustment. Appeals must be brought to the CBJ Assembly in accordance with CBJ §01.50.030. Appeals must be filed by 4:30 P.M. on the day twenty days from the date the decision is filed with the City Clerk, pursuant to CBJ §01.50.030 (c). Any action by the applicant in reliance on the decision of the Board of Adjustment shall be at the risk that the decision may be reversed on appeal (CBJ §49.20.120).

Effective Date: The permit is effective upon approval by the Board, November 22, 2011
Expiration Date: The permit will expire 18 months after the effective date, or May 22, 2013, if no Building Permit has been issued and substantial construction progress has not been made in accordance with the plans for which the development permit was authorized. Application for permit extension must be submitted thirty days prior to the expiration date.

Project Planner: 
Nicole Jones, Planner
Community Development Department


Maria Gladziszewski, Chair
Planning Commission


Filed With City Clerk


Date

cc: Plan Review

NOTE: The Americans with Disabilities Act (ADA) is a federal civil rights law that may affect this development project. ADA regulations have access requirements above and beyond CBJ-adopted regulations. Owners and designers are responsible for compliance with ADA. Contact an ADA-trained architect or other ADA trained personnel with questions about the ADA: Department of Justice (202) 272-5434, or fax (202) 272-5447, NW Disability Business Technical Center (800) 949-4232, or fax (360) 438-3208.