

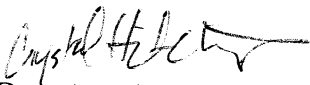
MEMORANDUM

CITY & BOROUGH OF JUNEAU

155 South Seward Street, Juneau, Alaska 99801

DATE: September 19, 2012

TO: Board of Adjustment

FROM: Crystal Hitchings, Planner 
Community Development Department

FILE NO.: VAR2012 0016

PROPOSAL: Variance request to reduce rear setback from 20 feet to 5 feet in order to construct a new storage/shop building to the rear of the existing home and garage.

GENERAL INFORMATION

Applicant: Kevin McDougall

Property Owner: Kevin McDougall

Property Address: 225 St Ann's Avenue

Legal Description: Douglas Townsite Block 48 Lot 8

Parcel Code Number: 2-D04-0-T48-020-0

Site Size: 6,615 square feet

Zoning: D-5, single-family/duplex residential

Utilities: public sewer and water

Access: St. Ann's Avenue

Existing Land Use: single-family residential

Surrounding Land Use:

North	-	D-18, multi-dwelling residential
South	-	D-5, single-family/duplex residential
East	-	D-5, single-family/duplex residential
West	-	D-5, single-family/duplex residential



ATTACHMENTS

- Attachment A: Variance and Development Application Forms
- Attachment B: Applicant's Narrative
- Attachment C: Site Plan
- Attachment D: East Elevation
- Attachment E: Statement of No Opposition from Steven and Sarah Samuelson, not dated
- Attachment F: Statement of No Opposition from Jeff White, dated 8/29/12
- Attachment G: E mail from applicant, dated 8/31/2012, describing verbal agreement for new plantings with Liz and Jeff White
- Attachment H: Aerial Map of Non-Conforming Setbacks in the Neighboring Vicinity
- Attachment I: Public Notice

PROJECT DESCRIPTION

The applicant would like to construct a 16 foot by 28 foot addition to the rear of his existing home with an attached garage. The addition would provide storage and shop space. The proposed addition would be located 5 feet from the rear property line, however, D5 zone requires a 20-foot rear yard setback.

BACKGROUND

The existing home is located approximately 22 feet from the front property line, and an attached garage is located behind the home. A 14 foot wide driveway runs down the approximate center of the site to the garage door, which faces the south side of the property. A drainage area runs along the south side of the property, bisecting the lot and isolating the remainder of the south side of the property from the building site. There is approximately 14 feet between the structure, garage door, and the drainage way. There is approximately 21 feet of open area between the structure and the rear property line.

ANALYSIS

Variance Requirements

Under CBJ §49.20.250 where hardship and practical difficulties result from an extraordinary situation or unique physical feature affecting only a specific parcel of property or structures lawfully existing thereon and render it difficult to carry out the provisions of Title 49, the Board of Adjustment may grant a Variance in harmony with the general purpose and intent of Title 49. A Variance may vary any requirement or regulation of Title 49 concerning dimensional and other design standards, but not those concerning the use of land or structures, housing density, lot coverage, or those establishing construction standards. A Variance may be granted after the prescribed hearing and after the Board of Adjustment has determined:

- 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.***

Because the property is bisected by the drainage ditch, the site is essentially built out unless extensive and expensive measures are taken to bring the drainage underground, or to construct a building or driveway/parking area spanning the ditch. Only 23.7% of the site is occupied with structures, although 50% is allowed. The site does not contain enough reasonably developable land to construct the storage and shop area that the applicant desires. If the relaxation is denied, the applicant would be required to either go to great expense to bury the drainage ditch or design a building or driveway spanning the ditch, or would be required to lease or buy an off-site space to fulfill his needs.

The neighborhood is tightly developed and many lots are substandard. Many homes do not meet the front yard setback requirements and are actually located very close to the street. Front yard setbacks are reduced for many sites in this neighborhood per CBJ 49.25.430(4)(K), *existing substandard setbacks*. Within the same block as the subject site, four homes and one garage appear to be located within the rear yard setback. Several other homes on nearby blocks also appear to be located within rear yards. (See Attachment H.)

The proposed variance would allow the property owner to utilize the developable area of the lot and while remaining consistent with existing development in the neighborhood.

YES. 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 Title 49 is established in Section CBJ § 49.05.100 Purpose and Intent. The intent of Title 49 are to: implement the policies of the Comprehensive Plan; ensure that growth and development is in accord with the values of its residents; secure the benefits of growth while minimizing the negative impact; ensure that future growth is of the appropriate type; design, and location; promote public health, safety, and general welfare; provide adequate open space for light and air, and ensure proper and beneficial use of land.

The project does not create any public health or safety issues.

The subject site is bordered to the rear by an extremely steep undeveloped city-owned slope currently utilized as a drainage way for uphill lands. The City Lands Department commented that they do not have any development plans for this site at this time. The adjacent site to the rear/west corner is a double lot at a higher elevation with the adjoining portion of the lot developed as a yard and parking area. The adjacent site to the rear/east is also a double lot with vegetation/yard and elevation separating it from proposed development on the subject site. The subject site is not visible to any properties in the neighborhood to the rear of the site due to the steep elevation difference between the blocks.

The applicant spoke in person with Sara and Steven Samuelson, owners of the adjacent property to the east. This site is developed with a home that is approximately 25 feet from the proposed new structure and forward of it. The Samuelson's signed a statement of no opposition to the proposed variance (Attachment E.)

The adjacent site to the west is developed with a home that is at approximately the same level as the second story of the proposed structure on the subject site, but forward of the proposed addition in the rear setback. The applicant spoke in person with Jeff and Liz White, owners of this site. During this conversation, the Whites did raise a concern about the visual impact that the second story would have on their property. The applicant and the Whites entered into an agreement to share the cost of planting sufficient trees along the common property line to minimize the visibility of the proposed structure from the adjacent lot (Attachment G.) With this agreement, the Whites have submitted a statement of no opposition to the project (Attachment F.)

Allowing encroachment into the rear yard of this site allows growth, development and beneficial use of an otherwise built-out property. Distance, vegetation, and elevation between properties generally maintain light and air and minimize negative effects of the development on neighboring properties.

The proposed addition will be a natural extension of the existing structure and will mainly be adjacent to an undeveloped and potentially undevelopable lot. A verbal agreement between neighbors to plant trees minimizes negative visual impacts on the most affected lot. Making tree-planting on the west property line a condition of approval rather than just a verbal agreement will insure that this mitigating step is completed.

YES. With a Condition of Approval requiring tree planting along the common side property line between the subject site and the site to the west to mitigate visual impacts to that property, this criterion will be met.

3. *That the authorization of the Variance will not injure nearby property.*

Nearby properties are separated from the proposed structure by distance, vegetation, and elevation. Adjacent property owners have submitted statements of no opposition. A condition of approval to insure that new vegetation be planted along the west side property line will insure that the adjacent property to the west is not visually injured.

YES. With a Condition of Approval requiring tree planting along the common side property line between the subject site and the site to the west to mitigate visual impacts to that property, this criterion will be met.

4. *That the Variance does not authorize uses not allowed in the district involved.*

The variance would allow a shop and storage building, which are considered accessory to the residential use.

YES. This criterion is met.

5. *That compliance with the existing standards would:*

(A) Unreasonably prevent the owner from using the property for a permissible principal use;

NO. The proposed building is an accessory use.

(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;

The proposed storage/shop structure is consistent in the scale, amenities, appearance and features with existing development in the neighborhood. The proposed structure may extend into the rear setback further than some other structures in the neighborhood, but not all. However, the proposed structure is separated from most other properties by extreme slope,

vegetation, and distance. The adjacent property to the east is the most affected property. With the Condition of Approval to plant screening vegetation to the east of the proposed structure, the building will be screened from the adjacent property. Those property owners have signed a statement of no opposition, including a statement that it would not obstruct views or impede sunlight. With the proposed screening condition, the structure won't appear as visible to that adjacent property in its location within the rear setback.

YES. With a Condition of Approval requiring tree planting along the common side property line between the subject site and the site to the west to mitigate visual impacts to that property, this criterion will be met.

(C) Be unnecessarily burdensome because unique physical features of the property render compliance with the standards unreasonably expensive;

As noted under criterion 1 above, the property is bisected by a drainage ditch, making the western 17 feet of the site essentially unusable, even as a driveway or for parking, without relocating the drainage way, bringing it underground, or constructing on pilings or similar over the ditch. If the drainage way did not exist, the property owner could relocate their drive way and add onto the home at the center of the lot. However, because of the drainage way and the expense to bury or relocate it, only the rear of the lot is developable. The site is essentially built out but only half of the allowable lot coverage is able to be utilized.

YES, this criterion is met.

or

(D) Because of preexisting nonconforming conditions on the subject parcel the grant of the Variance would not result in a net decrease in overall compliance with the Land Use Code, CBJ Title 49, or the building code, CBJ Title 19, or both.

The lot width is 67 feet, which is only 96% of the required 70 feet. However, the lot meets required minimum lot depth so the rear setback is not reduced. Reducing the rear setback would result in a net decrease in overall compliance.

No, this criterion is not met.

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

The applicant states that constructing the proposed building would create storage space for items that are currently stored in the front yard, which would visually benefit the neighborhood. No evidence has been submitted to show that any detriments will occur from a grant of the Variance. Conditions of Approval requiring planting new vegetation, as previously noted, would provide aesthetic benefits

to the adjacent property to the west and insure that no detriments result for that property.

YES. With a Condition of Approval requiring tree planting along the common side property line between the subject site and the site to the west to mitigate visual impacts to that property, this criterion will be met.

FINDINGS

1. Is the application for the requested Variance complete?

YES. The application contains the information necessary to conduct full review of the proposed operations. The application submittal by the applicant, including the appropriate fees, substantially conforms to the requirements of CBJ Chapter 49.15.

Per CBJ §49.70.900 (b)(3), General Provisions, the Director makes the following Juneau Coastal Management Program consistency determination:

2. Will the proposed development comply with the Alaska Coastal Management Program?

N/A. This project is not located within an area affected by the CMP standards.

3. Does the variance as requested, meet the criteria of Section 49.20.250, Grounds for Variances?

YES. With a Condition of Approval requiring tree planting along the common side property line between the subject site and the site to the west to mitigate visual impacts to that property, all criterion will be met.

RECOMMENDATION

Staff recommends that the Board of Adjustment adopt the Director's analysis and findings and APPROVE the requested Variance, VAR2012 0016, with the following Conditions of Approval. The Variance permit would allow for a reduction of the rear setback from 20 feet to 5 feet in order to construct a new storage/shop building at the rear of the existing home and garage.

1. The applicant shall coordinate with the adjacent property owners to the east (305 St. Ann's Avenue) to plant vegetation in the area directly east of the proposed addition. Vegetation shall be of sufficient species, density, and height at maturity to provide year-round screening of the roof and wall of the proposed addition from the adjacent property.
2. Prior to issuance of a Building Permit, a planting plan sufficient to meet the above described requirement must be approved by Community Development Department Staff.

3. Prior to issuance of a Certificate of Occupancy, 50% of the vegetation specified in the approved planting plan must be in place, or a bond for 50% of the cost of installation shall be secured. 50% of the required planting shall be completed within 2 years of the approval date of this variance.

VARIANCE APPLICATION

Project Number <u>Var20120016</u>	Project Name (15 characters)	Case Number <u>Var20120016</u>	Date Received <u>8/22/12</u>
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TYPE OF VARIANCE REQUESTED:

<input type="checkbox"/> Variance to the Sign Standard (VSG)	<input type="checkbox"/> Variance to Dimensional Standards (VDS)
<input type="checkbox"/> Variance to Habitat Setbacks (VHB)	<input type="checkbox"/> Variance to Parking Requirements (VPK)
<input checked="" type="checkbox"/> Variance to Setback Requirements (VSB)	

DESCRIPTION OF ACTIVITY WHICH REQUIRES A VARIANCE:

ATTACHED

Previous Variance Applications?

YES NO

Date of Filing: _____

Previous Case Number(s): _____

Was the Variance Granted? YES NO

UNIQUE CHARACTERISTICS OF LAND OR BUILDING(S):

ATTACHED

UTILITIES AVAILABLE:

WATER: Public On Site

SEWER: Public On Site

WHY WOULD A VARIANCE BE NEEDED FOR THIS PROPERTY REGARDLESS OF THE OWNER?

ATTACHED

WHAT HARDSHIP WOULD RESULT IF THE VARIANCE WERE NOT GRANTED?

ATTACHED

For more information regarding the permitting process and the submittals required for a complete application, please see the reverse side.

If you need any assistance filling out this form, please contact the Permit Center at 586-0770.

VARIANCE FEES

	Fees	Check No.	Receipt	Date
Application Fees	\$ <u>400.00</u>	_____	<u>CDD3001</u>	<u>8/22/12</u>
Adjustment	\$ _____	_____	_____	_____
Total Fee	\$ <u>400.00</u>	_____	<u>CDD3001</u>	<u>8/22/12</u>

NOTE: MUST BE ACCOMPANIED BY DEVELOPMENT PERMIT APPLICATION FORM

TO BE COMPLETED BY THE APPLICANT

DEVELOPMENT PERMIT APPLICATION

Project Number VAR20120016	CITY and BOROUGH of JUNEAU	Date Received: 8/22/12
Project Name (City Staff to Assign Name)		

PROJECT / APPLICANT INFORMATION	Project Description Build 16' X 28' STORAGE WORK AREA		
	PROPERTY LOCATION		
	Street Address 225 ST ANNS AVE	City/Zip Douglas	
	Legal Description(s) of Parcel(s) (Subdivision, Survey, Block, Tract, Lot) Douglas BL 48 L 8		
	Assessor's Parcel Number(s) 2D 040 T48 0200		
	LANDOWNER/ LESSEE		
	Property Owner's Name KEVIN McDougall	Contact Person: SAMR	Work Phone: 209-4959
	Mailing Address Box 240714 Douglas, AK 99824	Home Phone:	Fax Number:
	E-mail Address mcDougall11@gmail.com	Other Contact Phone Number(s):	
	LANDOWNER/ LESSEE CONSENT ****Required for Planning Permits, not needed on Building/ Engineering Permits****		
I am (we are) the owner(s) or lessee(s) of the property subject to this application and I (we) consent as follows: A. This application for a land use or activity review for development on my (our) property is made with my complete understanding and permission. B. I (we) grant permission for officials and employees of the City and Borough of Juneau to inspect my property as needed for purposes of this application.			
X	Kevin McDougall Landowner/Lessee Signature	8/20/12 Date	
X	_____ Landowner/Lessee Signature	_____ Date	
NOTICE: The City and Borough of Juneau staff may need access to the subject property during regular business hours and will attempt to contact the landowner in addition to the formal consent given above. Further, members of the Planning Commission may visit the property before the scheduled public hearing date.			
APPLICANT If the same as OWNER, write "SAME" and sign and date at X below			
Applicant's Name SAMR	Contact Person:	Work Phone:	
Mailing Address	Home Phone:	Fax Number:	
E-mail Address	Other Contact Phone Number(s):		
X	Kevin McDougall Applicant's Signature	8/20/12 Date of Application	

-----OFFICE USE ONLY BELOW THIS LINE-----

STAFF APPROVALS	<input checked="" type="checkbox"/>	Permit Type	***SIGN	Date Received	Application Number(s)
		Building/Grading Permit			
		City/State Project Review and City Land Action			
		Inquiry Case (Fee In Lieu, Letter of ZC, Use Not Listed)			
		Mining Case (Small, Large, Rural, Extraction, Exploration)			
		Sign Approval (If more than one, fill in all applicable permit #'s)			
		Subdivision (Minor, Major, PUD, St. Vacation, St. Name Change)			
		Use Approval (Allowable, Conditional, Cottage Housing, Mobile Home Parks, Accessory Apartment)			
	X	Variance Case (De Minimis and all other Variance case types)		8/22/12	VAR 2012 0016
		Wetlands Permits			
	Zone Change Application				
	Other (Describe)				
***Public Notice Sign Form filled out and in the file.					
Comments:				Permit Intake Initials	
_____ _____ _____				ESF	

Board of Adjustment,

Description of activity which requires a variance:

I propose to build a 16'x28' storage/shop attached to the rear of my existing house. To accomplish I will need a variance to build to within 5' of my rear property line.

Unique characteristics of land or building:

Tight quarters already but site at rear of property is suitable to build with no impediments or hazards to neighbors. There is a rising hillside beyond rear property line. There will be no obstructions to views or use of land by neighbors. This location at rear of property will barely be seen from the street. There is no opposition to proposed building by neighbors. See attached statements.

Why a variance would be needed regardless of the owner:

This would be the best use of this site on the property. There is no other suitable place to build on this lot. North side of home is already close to property line. South side has narrow drive way which accesses rear of lot and borders small run off creek. Ground floor of house on south side has an apartment with windows both for light and egress that would also preclude building there. This building site is actually ideal for this storage addition. Addition will add value to property.

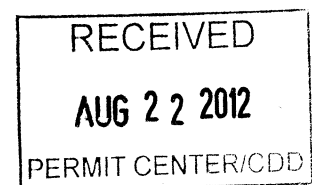
What hardship would result if the variance were not granted?

I need more storage/work space. If not granted a suitable site I already own would go unused. I would be forced to spend excessive money to purchase storage off site. This would be very inconvenient and most likely be considerably more expensive. Currently numerous pieces of fishing gear are stored in driveway along south side of house. They continue to be an eye sore and make snow removal difficult in the winter.



How proposed project meets Variance Approval Criteria:

- (1) Many of these lots in Douglas are quite small at 50'x100' and have limited room for expansion. This would allow me to use the only suitable place to build on my property. It would allow me to meet my needs for additional storage/work area, add value to my property and produce no adverse on my neighbors.
- (2) Intent of title will be observed with no issues of safety or public welfare arising. This should be evident by visitation of planners/inspectors.
- (3) Variance is to build to within 5' and will not injure nearby property.
- (4) There are no proposed uses that are not already authorized in the district. No commercial activities. No addition to zoning density.
- (5) Compliance with the existing standards would:
 - (A) Without a variance I would be unable to build on a suitable site. Yes, I could pave the area without a variance and store numerous items outside under tarps. There is already too much of that in Juneau. It would seem unreasonable to deny what would be a higher use of the property.
 - (B) This addition will be mostly unnoticeable from the street but upon observation will appear to be a logical extension of existing home. It will match existing roof line in style, height and materials. Due to nature of property and existing home our profile is already much less visually imposing than other homes in the neighborhood and addition will not change that.
 - (C) It is beyond unreasonable burdensome and expensive. Because of the physical features of this property there is **no** other site to build upon and a variance is required to do this.
 - (D) I believe this to be true.
- (6) Granting this variance will results in no detriments to the neighborhood. There is no opposition from my neighbors. See attached statements. I believe it is always in the interests of everyone to have our property well kept.



BOUNDARY MARKER

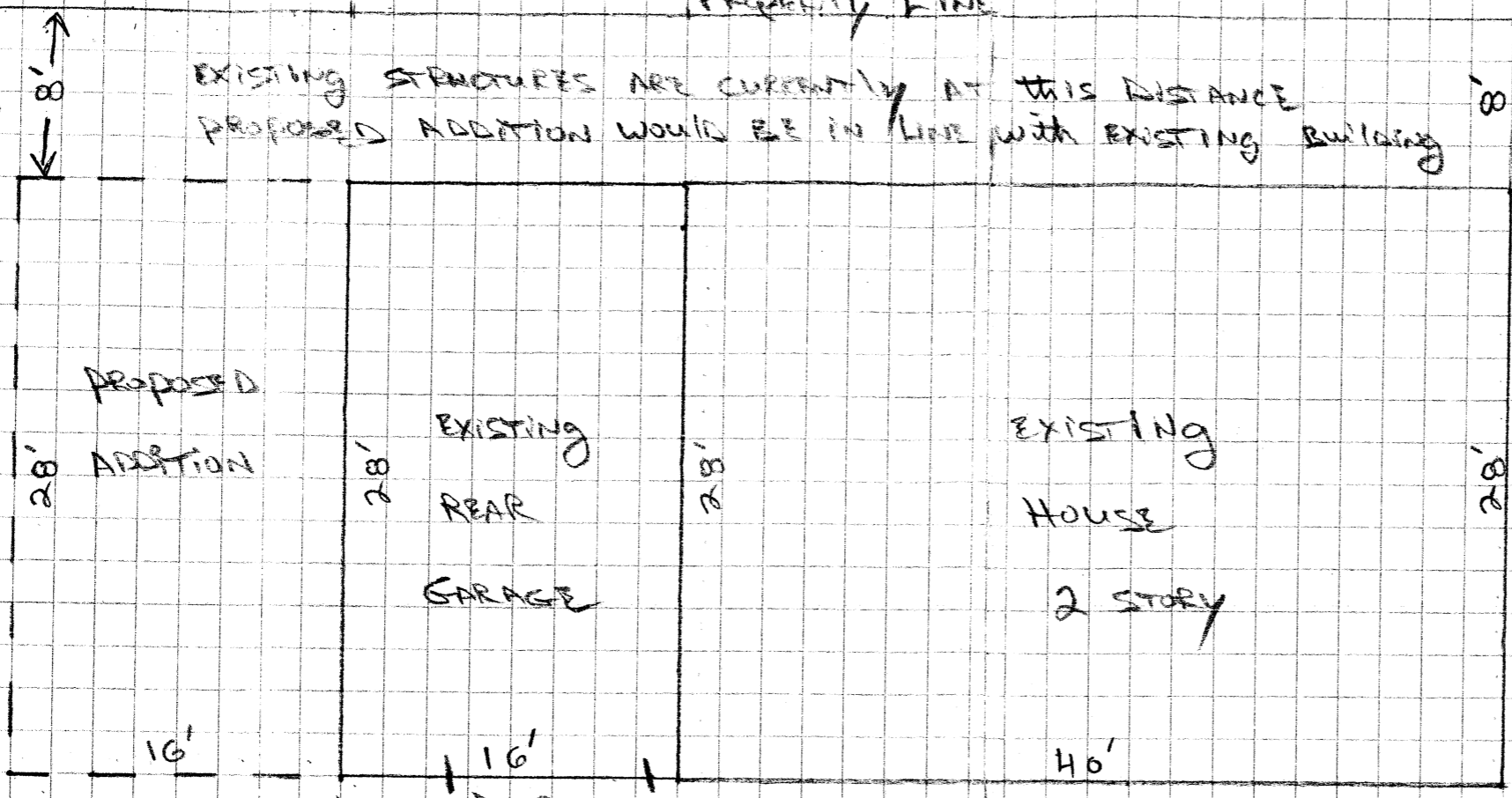
100'

PROPERTY LINE

EXISTING STRUCTURES ARE CURRENTLY AT THIS DISTANCE
PROPOSED ADDITION WOULD BE IN LINE WITH EXISTING BUILDING

VARIANCE APPLIED FOR TO BUILD
TO WITHIN 5' PROPERTY LINE

PROPERTY LINE

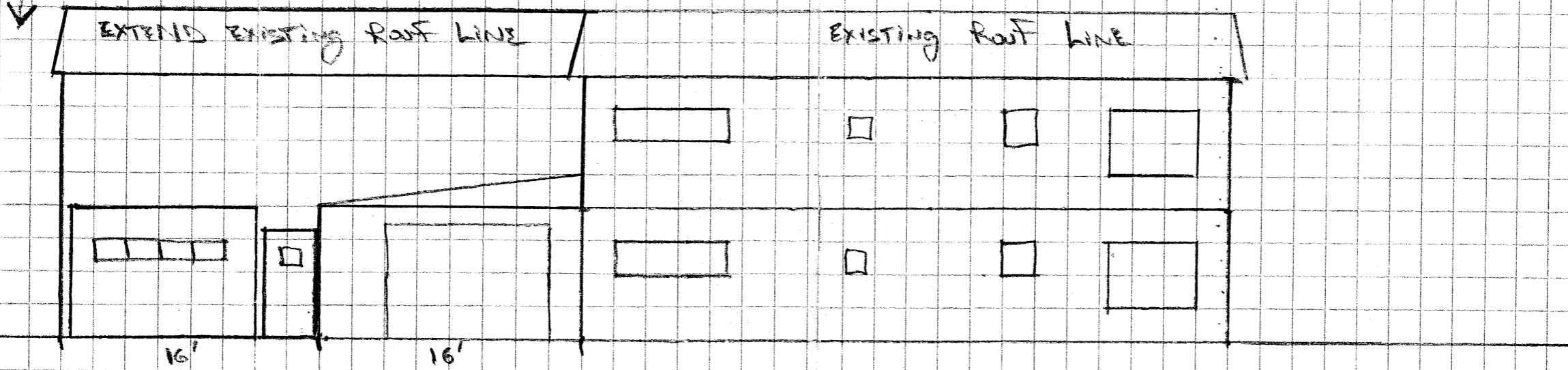


RECEIVED
AUG 22 2012
PERMIT CENTER/CDD

SCALE — EACH SQUARE = 2 FEET
1 INCH = 8 FEET

ST. ANN'S AVE

NEED TO BUILD TO WITHIN 5'
OF REAR PROPERTY LINE



HILL SIDE

16'

16'

PROPOSED ADDITION INKED OVER

RECEIVED
AUG 22 2012
PERMIT CENTER/CDD

Board of Adjustment,

I am an adjoining neighbor to Kevin McDougall at 225 St. Anns Ave in Douglas. I understand he is applying for a variance to build an addition on his home to the rear of his property. This variance would allow him to build to within 5' of his rear property line. He is proposing to build a 16'x 28' storage/work area and this seems to be the only suitable place available to build on his lot. As he explained the project it would be a natural extension of his existing home and roof line. It will not obstruct my views or impede my sunlight.

Kevin has discussed with me the size and location of this building and his need for additional space. He has answered any questions I had and I have no opposition to his project or to the CBJ granting him this variance.

Thank you for your consideration on his behalf.

Steven Samuelson

Laak Samuel

Board of Adjustment,

I am an adjoining neighbor to Kevin McDougall at 225 St. Anns Ave in Douglas. I understand he is applying for a variance to build an addition on his home to the rear of his property. This variance would allow him to build to within 5' of his rear property line. He is proposing to build a 16'x 28' storage/work area and this seems to be the only suitable place available to build on his lot. As he explained the project it would be a natural extension of his existing home and roof line.

Kevin has discussed with me the size and location of this building and his need for additional space. He has answered any questions I had and I have no opposition to his project or to the CBJ granting him this variance.

Thank you for your consideration on his behalf.

Jeff White 8/29/2012

Crystal Hitchings

From: Kevin McDougall [mcdougall11@gmail.com]

Sent: Friday, August 31, 2012 2:56 PM

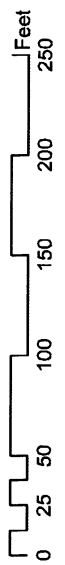
To: Crystal Hitchings

Subject: Variance and tree planting mitigation

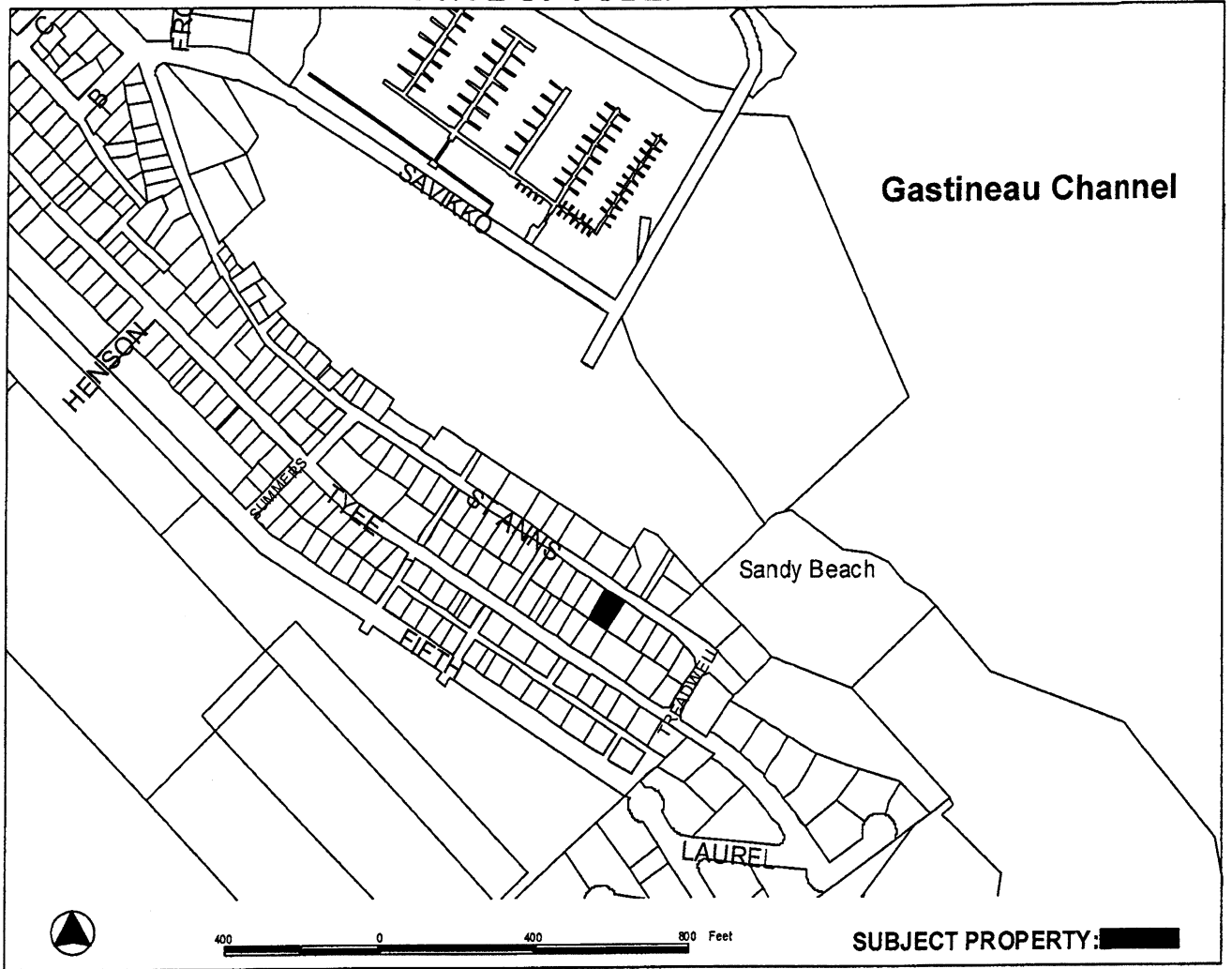
Crystal,

In discussing this project with my neighbors to the North side, Jeff and Liz White, they did raise a concern of about the visual impact of my red roof. They said they would like to plant some more trees along our joint property line to mitigate this. They proposed splitting the cost of the trees. I told them I was willing to do that and they said they would not oppose my app for a variance. Their statement is included with my application.

Thank you - Kevin McDougall



NOTICE OF PUBLIC HEARING



PROPOSAL: Variance request to reduce rear setback from 20 feet to 5 feet in order to construct a new storage/shop building at the rear of the existing home and garage.

<p>FILE NO: VAR2012 0016</p> <p>TO: Adjacent Property Owners</p> <p>HEARING DATE: Sep 25, 2012</p> <p>HEARING TIME: 7:00 PM</p> <p>PLACE: ASSEMBLY CHAMBERS Municipal Building 155 South Seward St Juneau, Alaska 99801</p>	<p>APPLICANT: KEVIN MCDOUGALL</p> <p>Property PCN: 2-D04-0-T48-020-0</p> <p>Owner(s): KEVIN M MCDOUGALL</p> <p>Size: 6615 sqft</p> <p>Zoned: D5</p> <p>Site Address: 225 ST ANN'S AVE</p> <p>Accessed via: ST ANN'S AVE</p>
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PROPERTY OWNERS PLEASE NOTE:

You are invited to attend this Public Hearing and present oral testimony. The Planning Commission will also consider written testimony. You are encouraged to submit written material to the Community Development Department no later than 8:30 A.M. on the Wednesday preceding the Public Hearing. Materials received by this deadline are included in the information packet given to the Planning Commission a few days before the Public Hearing. Written material received after the deadline will be provided to the Planning Commission at the Public Hearing.

If you have questions, please contact

CRYSTAL HITCHINGS 586-0715

Planning Commission Agendas, Staff Reports and Meeting Results can be viewed at www.juneau.org/plancomm.

Date notice was printed: September 12, 2012