MEMORANDUM

CITY/BOROUGH OF JUNEAU
155 South Seward Street, Juneau, Alaska 99801

DATE: November 8, 2012

TO: Board of Adjustment

FROM: Eric Feldt, Planner
Community Development Department

FILE NO.: VAR2012 0021

PROPOSAL: A Variance request to reduce the side yard setback from 5 feet to 1.5 feet for construction of a carport.

GENERAL INFORMATION

Applicant:	Michael Lesmann
Property Owner:	Michael & Chrisanna Lesmann
Property Address:	8251 Aspen Avenue
Legal Description:	Lot 15 Mendenhaven
Parcel Code Number:	5-B25-0-124-007-0
Site Size:	7,000 Square Feet
Zoning:	D-5
Utilities:	City Water & Sewer
Access:	Aspen Avenue
Existing Land Use:	Single-Family Dwelling
Surrounding Land Use:	North - D-5; Single-family Dwelling; Aspen Ave. South - D-5; Single-family Dwelling; Duran St. East - D-5; Single-family Dwelling; Aspen Ave. West - D-5; Single-family Dwelling; Aspen Ave.

ATTACHMENTS

Attachment	A	Vicinity Map
Attachment	B	Project Drawings
Attachment	C	As-built Survey
Attachment	D	Applicant's Narrative
Attachment	E	Neighborhood Signatures

PROJECT DESCRIPTION

The applicant requests a variance to reduce the eastern side yard setback from 5 feet to 1.5 feet for a new carport for boat storage. The property is located at 8251 Aspen Avenue in the Mendenhall Valley. See Attachment A for a vicinity map. A drawing of the carport is provided in Attachment B.

BACKGROUND

The existing house shown in Figure 1 below was constructed in 1961. An as-built survey of the property is provided in Attachment C.

Figure 1. Photograph of subject residence with the applicant's boat shown in the far left where the proposed carport would be constructed. Picture taken by staff on November 5, 2012.

ANALYSIS

The applicant seeks a variance to construct a carport within the side yard setback. Yard setbacks are required to preserve open space between structures between lots for the movement of light and air, and fire separation. The carport is designed to be 10' wide x 35' long with a height of 12 - 14 feet. The footprint of the proposed carport is shown in Figure 2 below.

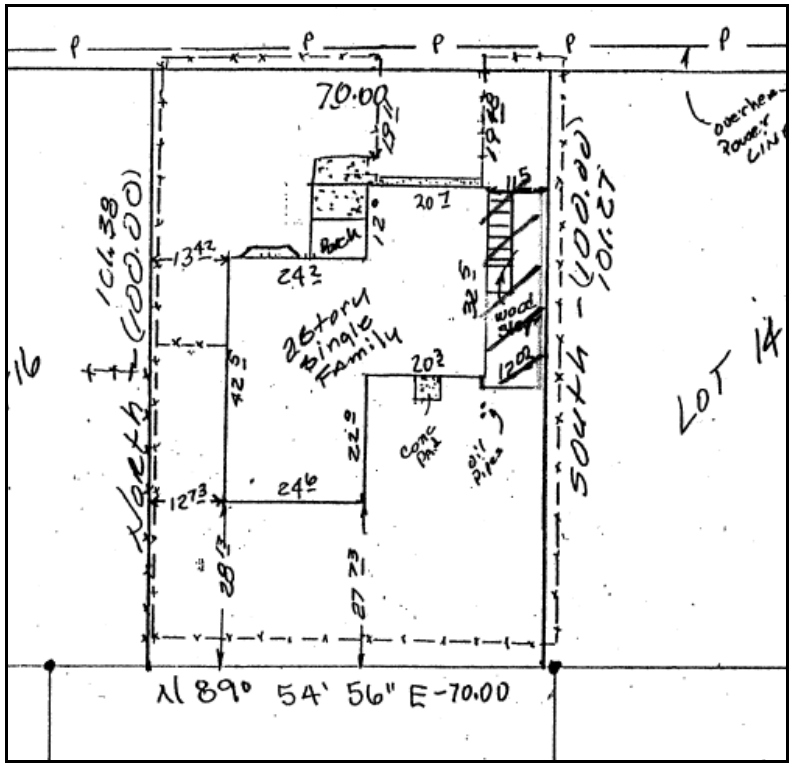


Figure 2. The drawing above is from the as-built survey in Attachment C. The carport's footprint is shown with black diagonal lines near the eastern property line.

The property is flat and square-shaped with an open front yard. The house sites towards the middle of the site stretching toward each side property line.

In Attachment D, the applicant explains that the carport will provide the best protection from inclement weather. Plastic covering and portable covers have been used in the past but offer limited protection. Also, the temporary covering can create noise during windy conditions which may disturb the neighbors. The applicant states that the boat is a large investment to their family and needs permanent storage.

The applicant explains that the carport is no different than several other existing carports and lean-to structures in the neighborhood. Staff does not know if any of these existing carports/ lean-to's were permitted or constructed with required permits. Due to their small sizes, lean-to structures typically do not require Building permits and become normal external additions in residential neighborhoods. If built, the applicant's proposed carport would be similar to other carports and lean-to's in the neighborhood.

The applicant states that the neighbor's house to the east is not located very close to the proposed carport, and thus, would not be negatively affected. The neighbor's house behind the subject site is not very close to the proposed carport either.

According to the applicant, having the boat inside the carport will increase the value of their property and others around it. The chosen location along the east side of the house is ideal for the applicant as it does not block views to adjacent neighbors or the street, nor does it cover limited open yard space. Staff notes that the only space to place the carport outside of the yard setbacks would be directly behind the house. This location would be very difficult to access by vehicle, as well as towing a boat. Other locations would require a variance. Placing the carport over the front lawn would allow easy access but it would turn the front yard into one large parking area. This would create an unattractive fixture in the neighborhood.

The applicant submitted a letter signed by adjacent neighbors, including ones to the east and west, supporting the variance. See Attachment E.

Staff notes that if the variance is approved, staff recommends a condition of approval that a surveyor confirm that the carport's supporting columns are at least 1.5 feet away from the property line, and that the carport eave shall be at least 1 foot away from the same property line. Further, prior to construction, the carport shall be reviewed through the Building permitting process and meet all safety codes.

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.

The applicant indicates that the carport is designed at its smallest size to accommodate their boat while encroaching 3.5 feet into the 5-foot side yard setback. Constructing the carport in the preferred location would preserve valuable open space on the applicant's property.

Also, the applicant states that there are other carports and lean-to's in the neighborhood that are located very close to property lines and the proposed carport would be no different. Staff finds that the proposed carport is similar to existing ones throughout the neighborhood.

Therefore, substantial relief would be given to the owner and consistency with to justice to other property owners would be provided if the variance is approved. 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.

As stated earlier, the intent of this title is to preserve open space along property lines to allow the movement of light and air, as well as fire separation. The location of the carport will preserve open yard space elsewhere on the property but will lessen the movement of light and air to the subject property. Adjacent owners will not likely be adversely affected. The intent of the yard setback will be observed.

As mentioned above, the carport will be reviewed through the Building permitting process and meet all applicable building codes for safety. Therefore, public safety and welfare will be preserved with the approval of the variance. This criterion **is met**.

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

As indicated above, if the variance is approved, the carport will meet applicable building codes for safety. The adjacent house is not very close to the location of the carport. Adjacent owners have signed a letter explaining the applicant's proposal and support the applicant's endeavor. See Attachment E. Therefore, the carport's footprint will not injure nearby property. This criterion **is met**.

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

The variance is for a new carport in the side yard setback. Carports and other similar buildings are accessory uses to residences. The underlying zoning district is D-5, primarily permitting single-family homes. Therefore, the carport is a use allowed in the district. 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;

The owner uses the property as their residence, which is a permissible principle use. Denying the variance would only affect where the applicant may place the propose carport. As stated earlier, the carport is an accessory use to the existing residence. Therefore, this criterion is **not met.**

(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;

As stated in the memorandum, many carports and lean-to's exist throughout the neighborhood and are used for various purposes and vary in size. Many of these structures are located very close to adjacent property lines. Therefore, denying the variance would prevent the owner from using the property in a manner which is consistent with existing development in the neighborhood. This criterion **is met.**

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

As indicated earlier, the property is flat and square-shaped with open front and rear yards. The owner wishes to preserve those yards by constructing the carport along the side of the house. Constructing the carport in either the front or rear yard would not be unreasonably expensive, only difficult to access. Therefore, this criterion is **not 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.

Staff is not aware of any pre-existing, non-conforming conditions on the property that would be further aggravated by the subject variance. Therefore, this criterion is **not met.**

Since Criterion 5(B) is met, Criteria 5 is met.

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

The applicant affirms that the carport would increase the value of their home and the value of the neighborhood. Additionally, the applicant indicates that the boat will be less visible under the carport than under a plastic covering. Further, the boat, its accessories, and the truck to tow it would able to be entirely within the property and away from the street, as stated by the applicant. Not using temporary plastic covering may reduce noise disturbances toward the neighbor during windy or stormy weather conditions.

As stated earlier, the neighbors to the east and west of the subject lot signed a letter supporting the applicant's proposal.

Constructing the carport outside of the yards setbacks would limit its location to behind the house. This would be very difficult for vehicle maneuvering. Other locations in a setback would be in the front lawn. This would turn the front yard into one large parking area that would look unattractive to the neighbors. Therefore, allowing the carport to be placed back from the road and next to the house within the side yard setback would result in more benefits than detriments to the neighborhood. This criterion **is met.**

FINDINGS

1. Is the application for the requested Variance complete?

Yes. We find 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 Juneau Coastal Management Program?
Not Applicable. Based on the preceding staff analysis, it is found that no provisions of the Juneau Coastal Management Program apply to the proposed development.

3. Does the variance as requested, meet the criteria of Section 49.20.250, Grounds for Variances?
Yes. Based on the analysis above with the recommended condition, staff finds that the proposal does meet the criteria of CBJ §49.20.250, *Grounds for Variance*.

RECOMMENDATION

Staff recommends that the Board of Adjustment adopt the Director's analysis and findings and approve the requested Variance, VAR2012 0021. The Variance permit would allow for a carport to be within 1.5 feet from the eastern side property line with the following condition:

1. Prior to the pouring of the foundation, a surveyor shall confirm that the supporting columns are at least 1.5 feet away from the property line. The roof eave shall be at least 1 foot away from the same property line.

DEVELOPMENT PERMIT APPLICATION

Project Number	CITY and BOROUGH of JUNEAU	Date Received: 10/5/12
Project Name (City Staff to Assign Name)		

PROJECT / APPLICANT INFORMATION

Project Description: Construction of attached car port on east side of house
A variance request to: reduce the 5' side yard setback to 3' for the construction of a carport.

PROPERTY LOCATION

Street Address	City/Zip
8251 ASPEN AVENUE	JUNEAU 99801

Legal Description(s) of Parcel(s) (Subdivision, Survey, Block, Tract, Lot): MENDEN HAVEN LT 15

Assessor's Parcel Number(s): 5B2501240070

LANDOWNER/ LESSEE

Property Owner's Name	Contact Person:	Work Phone:
MICHAEL & CHRISANNA LESMANN	MICHAEL	465.3859
Mailing Address	**Home Phone:**	**Fax Number:**
lesmann@gci.net	790.4360	465.3532
E-mail Address	**Other Contact Phone Number(s):**	
8251 ASPEN AVENUE	957.2321	

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 Michael D. Lesmann — Landowner/Lessee Signature — Date 10/3/12

X Chrisanna Lesmann — Landowner/Lessee Signature — Date 10/3/12

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	Contact Person:	Work Phone:
Mailing Address	**Home Phone:**	**Fax Number:**
E-mail Address	**Other Contact Phone Number(s):**	

X Michael D. Lesmann — Applicant's Signature — Date of Application 10/3/12

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

STAFF APPROVALS

✔	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)	■	10/5/12	VAR 12-021
	Wetlands Permits			
	Zone Change Application			
	Other (Describe)			

***Public Notice Sign Form filled out and in the file.

Comments:

Permit Intake Initials: DKT

NOTE: DEVELOPMENT PERMIT APPLICATION FORMS MUST ACCOMPANY ALL OTHER COMMUNITY DEVELOPMENT DEPARTMENT APPLICATIONS

VARIANCE APPLICATION

oject Number	Project Name (15 characters)	Case Number	Date Received
		var 12-021	10/5/12

TYPE OF VARIANCE REQUESTED:

- ☐ Variance to the Sign Standard (VSG)
- ☐ Variance to Dimensional Standards (VDS)
- ☐ Variance to Habitat Setbacks (VHB)
- ☐ Variance to Parking Requirements (VPK)
- ☑ Variance to Setback Requirements (VSB)

DESCRIPTION OF ACTIVITY WHICH REQUIRES A VARIANCE: Structure 35'L x 10'W ~~3~~
Construction of attached car port on east side of house whose support beams land within 5 ft of property line set back; to meet current building codes

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): The size and shape of these Mendenhaven parcels do not accomodate the needs of today's homeowner.

UTILITIES AVAILABLE: WATER: ☐ Public ☑ On Site SEWER: ☐ Public ☑ On Site

WHY WOULD A VARIANCE BE NEEDED FOR THIS PROPERTY REGARDLESS OF THE OWNER? It would not. Unless another homeowner had the same values and priorities I have about caring for my assets, presenting an orderly and clean neighborhood, and equal opportunity for all residents within the neighborhood.

WHAT HARDSHIP WOULD RESULT IF THE VARIANCE WERE NOT GRANTED? My $70,000 asset would be parked on my property in an area that it could not be well protected and in an area that would create traffic flow delays while connecting/disconnecting truck from trailer.

TO BE COMPLETED BY THE APPLICANT

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

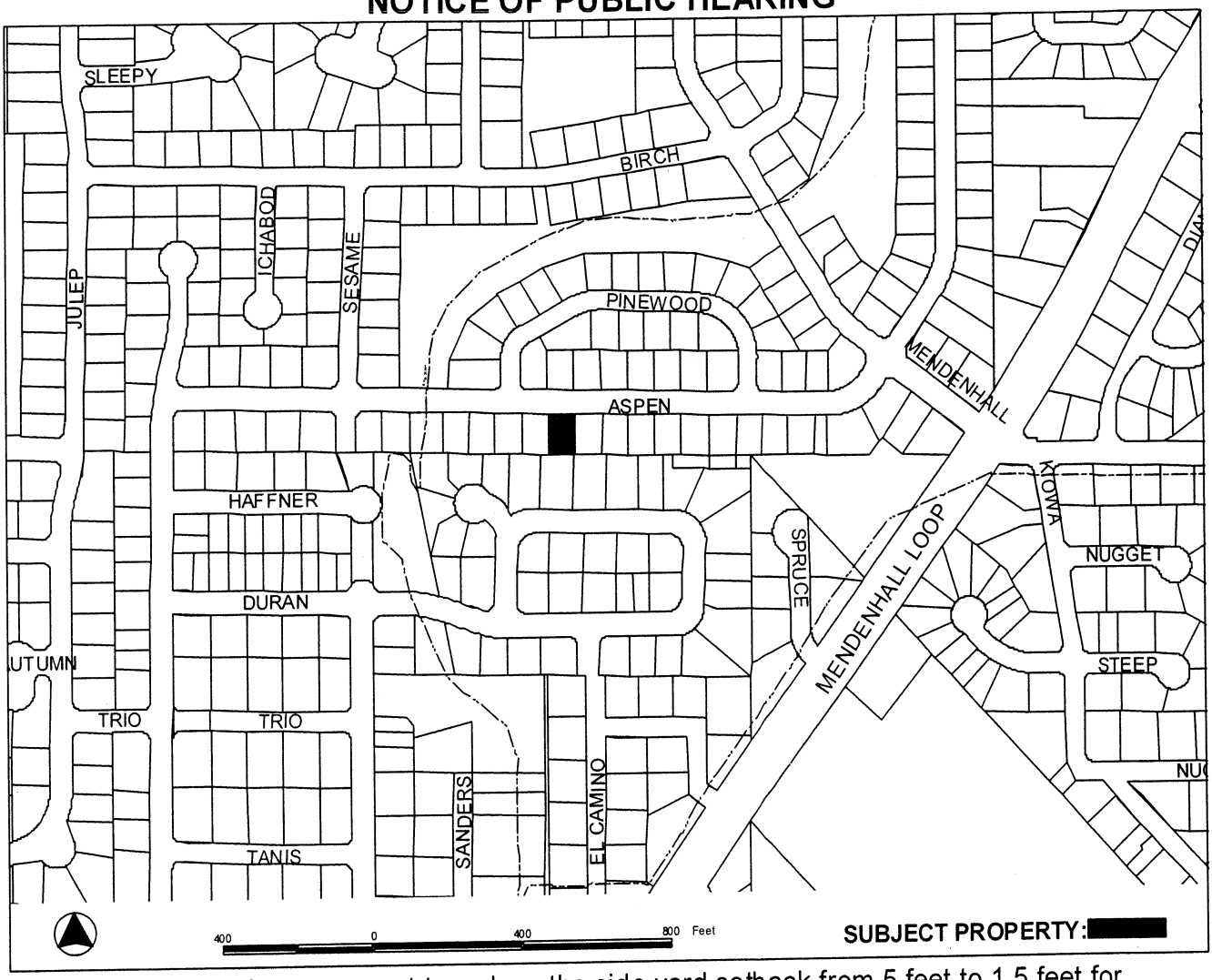
If you need any assistance filling out this form, please contact the Permit Center at 586-0770.

VARIANCE FEES

	Fees	Check No.	Receipt	Date
Application Fees	$400.00			
Adjustment	$			
Total Fee	$400.00	CAA 3137	015411C	10/5/12

NOTE: MUST BE ACCOMPANIED BY DEVELOPMENT PERMIT APPLICATION FORM

NOTICE OF PUBLIC HEARING



PROPOSAL: Variance request to reduce the side yard setback from 5 feet to 1.5 feet for construction of a carport.

FILE NO:	VAR2012 0021
TO:	**Adjacent Property Owners**
HEARING DATE:	November 13, 2012
HEARING TIME:	7:00pm
PLACE:	**ASSEMBLY CHAMBERS** Municipal Building 155 South Seward St Juneau, Alaska 99801

APPLICANT:	Michael D Lesmann
Property PCN:	5B2501240070
Size:	7,000 sqft
Zoned:	D5
Owner(s):	Michael and Chrisanna Lesmann
Site Address:	8251 Aspen Avenue
Accessed via:	Aspen Avenue

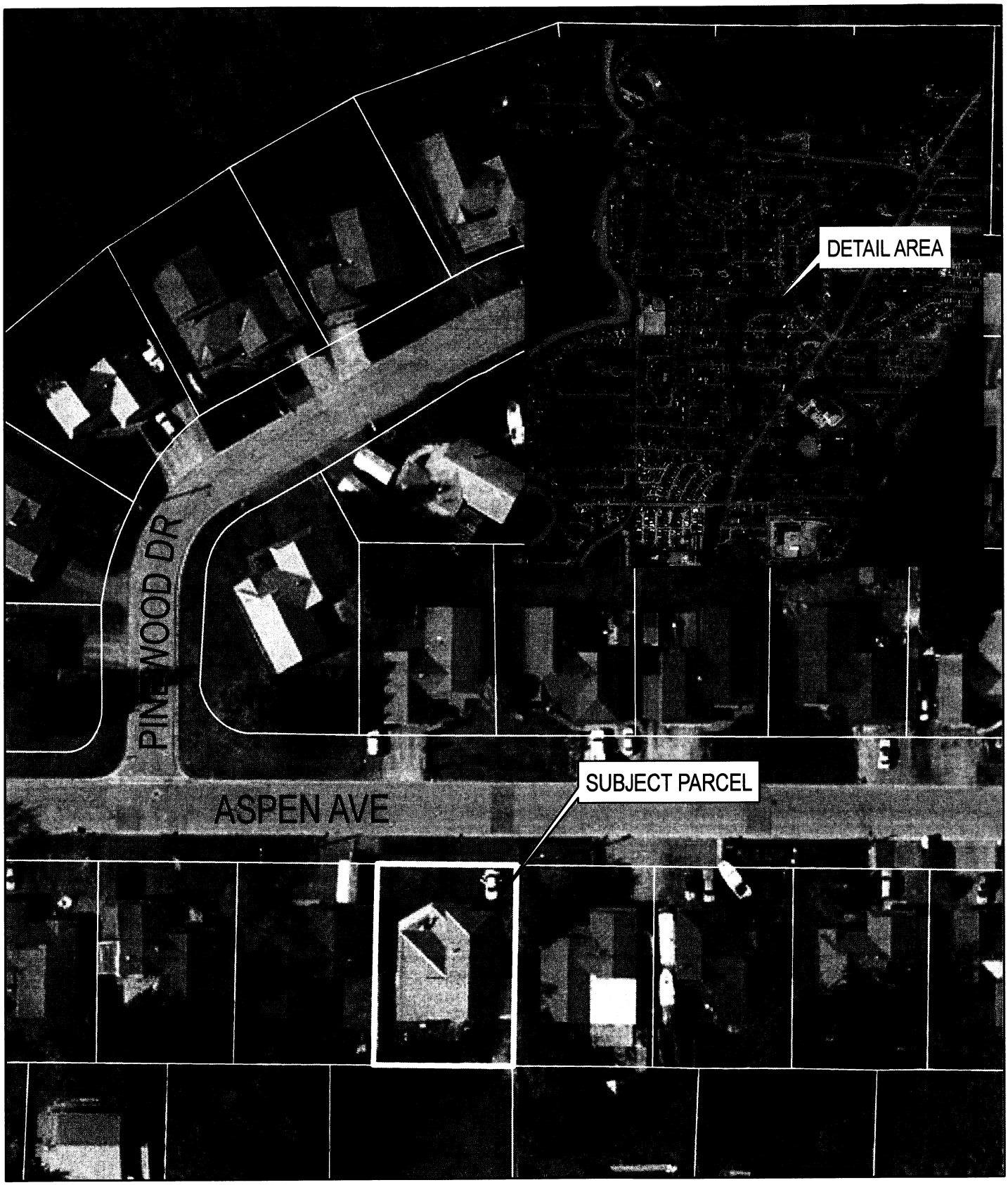
PROPERTY OWNERS PLEASE NOTE:

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 Eric Feldt at eric_feldt@ci.juneau.ak.us or at 586-0764

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

Date notice was printed: October 31, 2012



Map created 11/8/2012

8251 ASPEN AVE VICINITY

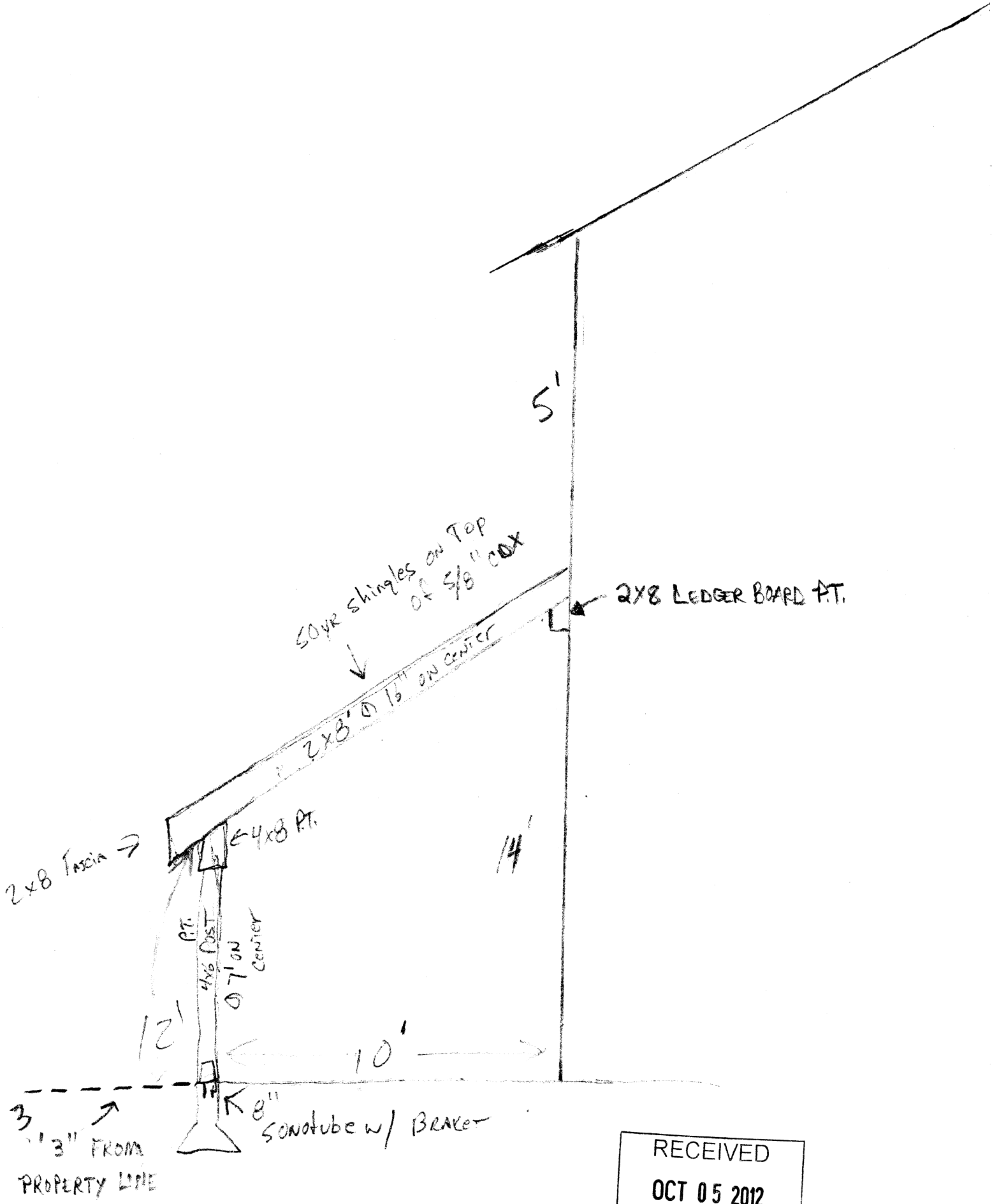
0 50 100 Feet

N

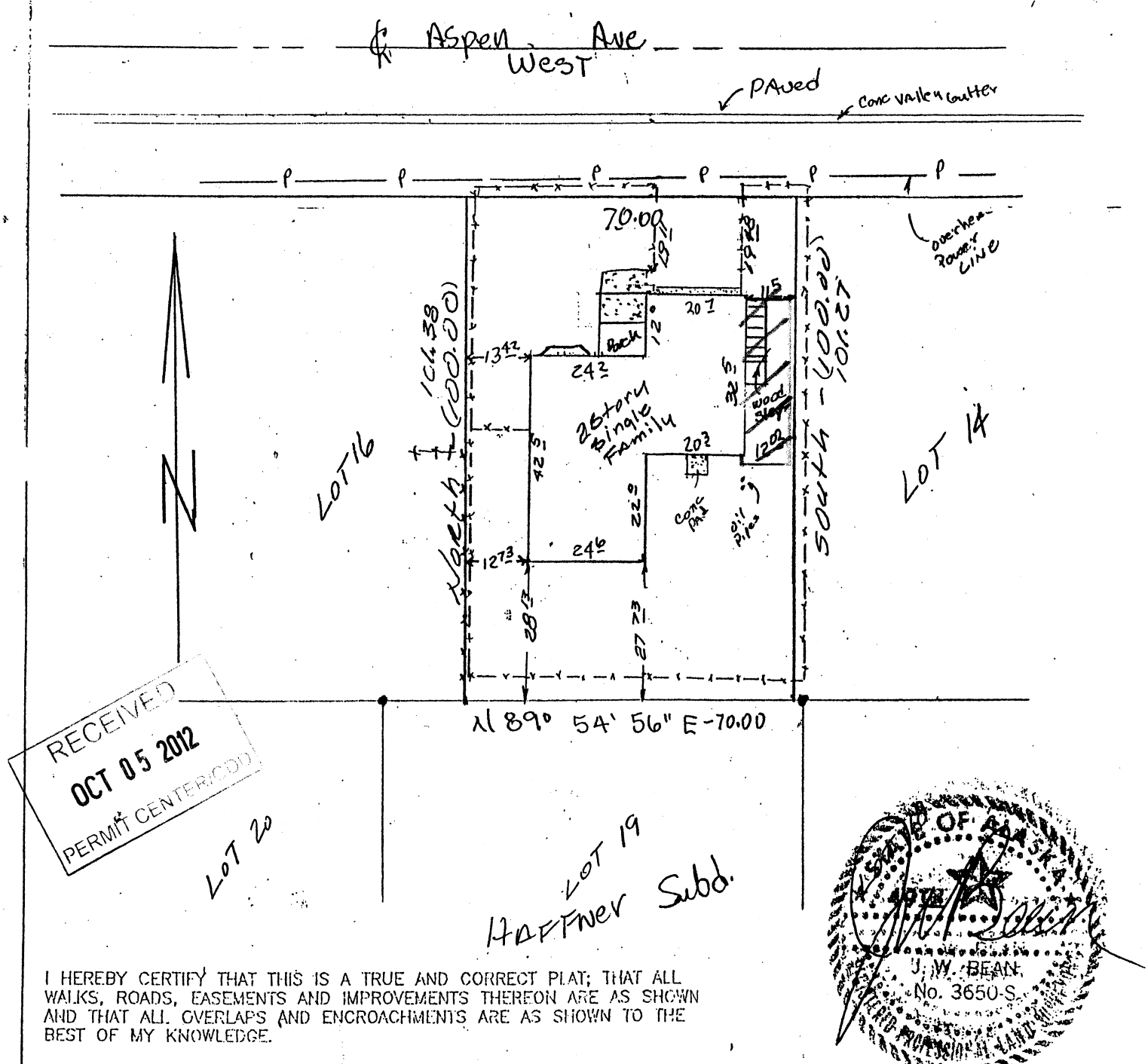
CITY/BOROUGH OF JUNEAU
ALASKA'S CAPITAL CITY

-THIS IS NOT A SURVEY-
Property lines are approximate

ATTACHMENT A



ATTACHMENT B



I HEREBY CERTIFY THAT THIS IS A TRUE AND CORRECT PLAT; THAT ALL WALKS, ROADS, EASEMENTS AND IMPROVEMENTS THEREON ARE AS SHOWN AND THAT ALL OVERLAPS AND ENCROACHMENTS ARE AS SHOWN TO THE BEST OF MY KNOWLEDGE.

J. W. BEAN
No. 3650-S

J.W. BEAN
PROFESSIONAL SURVEYOR
10/11/50 JOB No 12064
SCALE 1" = 30'
DATE 11/25/97

AS-Built Survey of
LOT 15,
Mendehaven Subd.
within U.S.S 1799

ATTACHMENT C

Variance Approval Criteria

8251 Aspen Avenue
Mike Lesmann
957.2321

1) ***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.***

Yes, the addition of this carport to my home would provide substantial relief to my ability to store and care for my family's assets. A drive from the Mendenhall Valley Boulevard end of Aspen Avenue to the Portage Blvd end of Aspen Avenue will reveal a total of 15 other homeowners (on each side of the Aspen) that are currently enjoying the use of a carport/lean-to structure of varying sizes to store and protect their assets.

I have minimized the relaxation request as much as my measurements suggest is possible. From the foundation of my home to the property line, I measure 165 inches. There are exterior fixtures, i.e., a rain downspout, microwave vent and light fixture that protrude approximately 5 inches from the wall. Each of these items is at the height of and in the path of the fishing vessel that I want to park under the carport. This leaves approximately 160 inches of clearance between the side of my home and the property line. The distance between the outside wheel wells of the vessel's trailer measures 103 inches. If one trailer wheel well was 5 inches from the skirting of my home (due to the protrusion of the exterior fixtures mentioned above), I would be left with 57 inches between the other wheel well and the property line – encroaching 3 inches into the 5 foot setback.

I am requesting to set my support posts at the 126 inch mark – approximately 3 feet, 3 inches from the property line or 1 foot and 9 inches outside the setback parameters. This would allow for exactly 11 inches of space between my vessel and the carports support posts; 1 foot of space between my vessel and the exterior east wall of my home.

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

I've discussed this project with my neighbors – residents of 8247 Aspen Avenue - to the immediate east of my home. They are in favor of a solid structure, asphalt-shingled carport. For the past decade, a portable, plastic tarp-covered structure, as well as a portable, metal roof-covered structure, has protected my previous fishing vessel. Both windy weather and snow/ice run-off from my roof created for noisy conditions that disturbed their children's sleep. (They have two bedrooms on the west side of their home.) Their property on the west side of their home is used exclusively as a dog run area. There is sufficient space and no out buildings such that a fire hazard should exist. I envision no safety concerns and believe that this project will create harmony between neighbors.

ATTACHMENT D

3) ***The authorization of the variance will not injure nearby property.***

As suggested in #2 above, I cannot envision a scenario whereby construction of a carport whose support beams rest a little over 3 feet from the property line would injure any nearby property. There are no structures in that area, on that side of the neighbor's house. It is an area of their yard that they do not personally access. It is overrun with grass, weeds and dog feces.

4) ***The variance does not authorize uses not allowed in the district involved.***

Correct. The variance would not be authorizing a use that is not allowed in the district involved. Construction of a carport is allowed in a D-5 zone.

5) ***Compliance with the existing standards would:***
C) Be unnecessarily burdensome because unique physical features of the property render compliance with the standards unreasonably expensive;

It would be disingenuous of me to suggest that our property is characterized by unique physical features. To the contrary, it is a standard, rectangular-shaped, D-5 zoned Mendenhaven lot. I don't know how old the pertinent CBJ Land Use codes are, but I doubt that the developers of 1961 envisioned the extent of home remodeling, home additions and accumulation of personal possessions homeowners would realize 50 years after creation of the Mendenhaven subdivision. It's been said that a man's home is his castle. For me, the entire 70 X 100 foot parcel of land is my 'castle'. Since 1997, I've painstakingly cared for it: keeping the lawn nice; keeping the asphalt black and sprayed free of debris; keeping the vinyl siding and windows clean; keeping the fascia boards, soffits and rain gutters white; and keeping everything tidily in its place. The curb appeal of my castle is important to me and I take pride in how I care for it. The construction of this carport is an extension of, a continuation of the financial and sweat equity that my wife and I have invested to make this Mendenhaven parcel shine. It is a positive contribution to the value of other properties around it.

A parcel of this size and shape doesn't easily accommodate the dreams of *today's* homeowner. To properly store and care for a $70,000 asset such as this vessel, I would have to pour a second driveway in what would essentially be our front yard. Then, place some type of protective storage covering over that spot (which I believe is a violation of some other CBJ Land Use code). This would block our view of neighbors to the west, would block our street view and create a safety hazard, would impede our view of the glacier and generally create an eyesore. It would result in the exact opposite picture we've tried present to the neighborhood and the public – a piece of property that looks cluttered and doesn't have tidy, tucked out-of-the-way storage space for its owner's possessions. That is the real burden for this homeowner.

6) ***A grant of the variance would result in more benefits than detriments to the neighborhood.***

To reiterate some of the points above, I firmly believe this variance is beneficial to my neighborhood. It will increase the value of my home, and quite potentially, others. It will create for a harmonious relationship with the neighbors to my east. It will keep a fishing vessel (and some of its accompanying items) off the street and out of immediate sight. The curb appeal of my castle can be maintained. The location of this carport will also mitigate potential traffic flow delays on a very busy street as I connect and disconnect my truck from the vessel's trailer. Having the vessel parked on the back half of the parcel allows for my truck to be entirely on my property, not ¾ of the way into the street while connecting/disconnecting the trailer from the truck.

I support Mike and Chrisanna Lesmann's request of the City & Borough of Juneau for a variance to the 5 foot setback code on their property at 8251 Aspen Avenue. We understand that the Lesmann's wish to construct a carport on the east side of their home for the purpose of storing and protecting their boat. The Lesmann's preservation of their home and property reflects well on our neighborhood. This addition to their house adds value and continues their tradition of maintaining an appealing and orderly property.

Name	Address	Date
[signature]	8247 Aspen Ave	10/8/12
Michael E Kelly	8572 Duran St	10-9-12
Bobbi & Rich Wolk	8255 Aspen	10-9-12
Morris Carriuo	8250 Aspen	10/9/12
[signature]	8246 Aspen	10/9/12
Mary M Jackson	8243 Aspen	10-9-20

RECEIVED
OCT 10 2012
PERMIT CENTER/CDD

ATTACHMENT E

RECEIVED
OCT 10 2012
FBI/DOJ CENTER 600