


MEMORANDUM

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

DATE: February 7, 2013

TO: Board of Adjustment

FROM: Ben Lyman, Senior Planner
Community Development Department 

FILE NO.: VAR2013 0001

PROPOSAL: A variance request to reduce minimum lot width for future zero lot line from 60 ft. to 52 ft. for one (East) of two proposed lots. (Same request as previous case VAR2007-00004 which has expired.)

GENERAL INFORMATION

Applicant: Nathan Overson

Property Owner: Nathan Overson

Property Address: 9043 Lupine Lane

Legal Description: NORTH RIVERSIDE DRIVE 3 BL D LT 1

Parcel Code Number: 5-B25-0-141-010-0

Site Size: 16,117 sq. ft.

Comprehensive Plan
Land Use Designation: ULDR – Urban Low Density Residential

Zoning: D5 – Single Family and Duplex, Five Units/Acre

Utilities: Public Water and Sewer

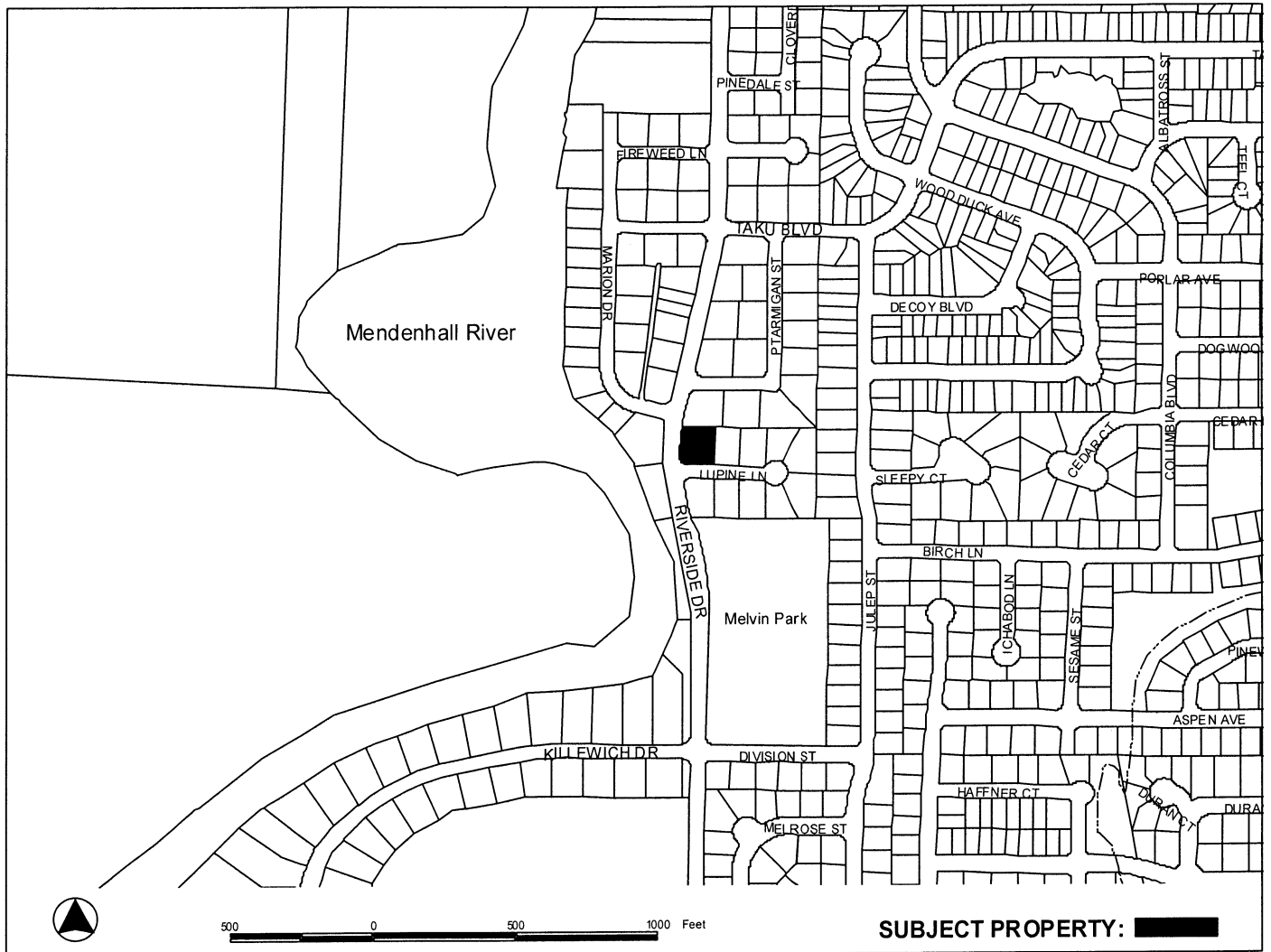
Access: Lupine Lane

Existing Land Use: Duplex

Surrounding Land Use: North - Single-Family and Duplex Residential
South - Single-Family and Duplex Residential
East - Single-Family and Duplex Residential
West - Single-Family and Duplex Residential



Vicinity Map



ATTACHMENTS

Attachment A – Staff report and Notice of Decision for VAR2007-00004

PROJECT DESCRIPTION

The applicant proposes to convert an existing duplex (two dwellings under one roof on one lot) into two common-wall (zero-lot-line) dwellings, each on their own lot. Due to the location of the existing structure on the lot, a lot line splitting the structure onto two lots along the common wall would result in one of the two resulting lots being narrower than required at CBJ 49.25.400, the Table of Dimensional Standards. Sixty feet of lot width is required for common-wall lots in the D-5 zone, but one of the resulting lots would only be 52 feet wide.

BACKGROUND

The applicant applied for, and was granted, an identical variance in 2007. The staff report and Notice of Decision for this case, VAR2007-00004, are attached.

ANALYSIS

See the attached staff report for VAR2007-00004 analysis of this request.

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.*
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.*
3. *That the authorization of the Variance will not injure nearby property.*
4. *That the Variance does not authorize uses not allowed in the district involved.*

5. *That compliance with the existing standards would:*
- (A) *Unreasonably prevent the owner from using the property for a permissible principal 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;*
 - (C) *Be unnecessarily burdensome because unique physical features of the property render compliance with the standards unreasonably expensive;*
- 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.*
6. *That a grant of the Variance would result in more benefits than detriments to the neighborhood.*

See Attachment A for discussion of how the proposed project meets the requirements for Variances.

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 Programs?*

The proposed development is not related to the Juneau Coastal Management Program.

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

Yes, the variance as requested meets the criteria of CBJ 49.20.250, Grounds for Variances. See attached staff report for VAR2007-00004 for analysis.

RECOMMENDATION

Staff recommends that the Board of Adjustment adopt the Director's analysis and findings and "decision" on the requested Variance, VAR2013 0001. The Variance would allow the subject property to be subdivided into two common-wall lots, one of which would not meet the minimum lot width requirement of 60 feet for common-wall lots in the D-5 zone.

**BOARD OF ADJUSTMENT
NOTICE OF DECISION**

Date: February 14, 2006

File No.: VAR2007-00004

Robert Peterson
P.O. Box 35291
Juneau, AK 99803

Application For: A Variance request to reduce the minimum lot width for future common wall dwelling from 60 ft to 52 ft.

Legal Description: North Riverside Drive 3 BL D LT 1

Parcel Code No.: 5-B25-0-141-010-0

Hearing Date: February 13, 2007

The Board of Adjustment, at its regular public meeting, adopted the analysis and findings listed in the attached memorandum dated January 30, 2007, and granted the Variance to allow a common-wall subdivision, to be conducted as described in the project description and project drawing submitted with the application.

Attachment: January 30, 2007 memorandum from Ben Lyman, Planner, Community Development to the CBJ Board of Adjustment regarding VAR2007-00004.

This Notice of Decision does not authorize construction activity. Prior to starting any development project, it is the applicant's responsibility to obtain a building permit for any and all improvements requiring such.


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 Sec. 49.20.120).

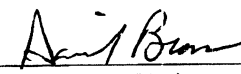
Effective Date: The permit is effective upon approval by the Board, February 13, 2007.

Expiration Date: The permit will expire 18 months after the effective date or August 13, 2008, 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 permit expires.

Robert Peterson
File No.: VAR2007-00004
February 14, 2007
Page 2 of 2

Project Planner: _____


Ben Lyman, Planner
Community Development Department


Daniel Bruce, Chairman
Planning Commission

Filed With City Clerk

Date



2/16/07

cc: Plan Review

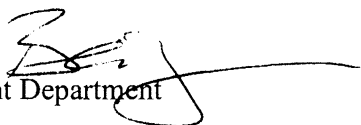
NOTE: The Americans with Disabilities Act (ADA) is a federal civil rights law that may affect this development project. ADA regulations have access requirements above and beyond CBJ-adopted regulations. Owners and designers are responsible for compliance with ADA. Contact an ADA-trained architect or 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 - 1-800-949-4232, or fax 360-438-3208.

MEMORANDUM

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

DATE: January 30, 2007

TO: Board of Adjustment

FROM: Ben Lyman, Planner
Community Development Department 

FILE NO.: VAR2007-00004

PROPOSAL: A Variance request to reduce minimum lot width for future common wall dwelling from 60 feet to 52 feet.

GENERAL INFORMATION

Applicant: Robert Peterson

Property Owner: Robert Peterson

Property Address: 9045 Lupine Lane

Legal Description: North Riverside Drive 3 BL D LT 1

Parcel Code Number: 5-B25-0-141-010-0

Site Size: 16,117 square feet

Zoning: D-5 (Single-Family & Duplex Residential)

Utilities: Public Water & Sewer

Access: Lupine Lane

Existing Land Use: Duplex

Surrounding Land Use: North - Duplex (D-5)
South - Duplex (D-5)
East - Duplex (D-5)
West - Duplex (D-5)



CITY/BOROUGH OF JUNEAU
★ ALASKA'S CAPITAL CITY

PROJECT DESCRIPTION

The applicant proposes to subdivide a lot with an existing duplex into two common-wall residential lots. Due to its dimensions and the location of the existing structure, subdivision of the existing lot will result in one lot of sub-standard width. The location of the existing duplex on the lot, and the common wall between the residences in the duplex, dictates that if the lot is to be subdivided, the resulting eastern lot will be sub-standard in width. The applicant requests a variance to the minimum lot width requirement of 60' for common wall dwellings in the D-5 zoning district for the proposed eastern lot, which would only be 52' wide if the variance is granted. See Attachment C for an as-built survey of the property with the proposed lot line and resulting lot dimensions shown.

If the requested variance is granted, the applicant will need to obtain a building permit to upgrade the common wall between the existing dwellings to meet the requirements of Title 19, the Building Code, and will have to complete all work permitted under that building permit under the requirements of CBJ §49.65.710. The required building permit (BLD2007-00025) has been applied for and was under review at the time of the drafting of this staff report. The applicant will also need to subdivide the property under the provisions of CBJ §49.15 Article IV.

BACKGROUND

The existing lot was created in the North Riverside Drive Subdivision No. 3 in 1970, and the existing duplex was constructed in 1971. The lot is 0.37 acres, or 16,117 square feet in area. In the D-5 zoning district, the minimum lot area for common-wall dwellings is 7,000 square feet per lot. The proposed lots will each be equal to or larger than the minimum area.¹

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 Attachment C

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 subject lot, with the existing structure, could not be subdivided under the current dimensional standards at CBJ §49.25.400 without the requested variance or major re-design of the existing structure. Granting the requested variance would allow the subdivision of the property, which would give substantial relief to the owner of the property involved, as he would be able to sell one-half of the structure and property and retain the other half for his own use. This would reduce the financial burden of owning the property.

The existing lot is 16,117 square feet in area, and the minimum lot size for duplexes in the D-5 zoning district is 10,500 square feet. The lot is, therefore, 5,617 square feet larger than (153% of) the minimum lot size for the use occurring on the property. Although the dimensions of the property lend themselves to common-wall subdivision, as the minimum lot width for common-wall properties is 60' per lot, and the lot is up to 123' wide, the location of the existing duplex, and the common wall within that structure, is approximately 52' from the east property line. This results in a situation where the structure would have to be drastically modified in order to meet the minimum lot width requirement.

If the existing structure were located in the center of the property (from east to west), a variance would not be required in order to subdivide the property as proposed.

The applicant has stated that "the relaxation applied for would give me, the new owner and future owners more affordable housing thus offering relief."²

Yes. Staff finds that Criterion 1 has been met. The relaxation applied for would give substantial relief to the owner of the property involved and would be consistent with justice to other property owners.

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 requested variance will reduce the minimum lot width for one of two proposed lots, but will not modify the minimum setbacks, lot area, or other dimensional standards codified in Title 49, the Land Use Code. The public safety and welfare will be preserved by requiring that the conversion of the existing duplex to two common-wall dwellings follow the process and requirements codified in Title 49, the Land Use Code, and Title 19, the Building Code.

Yes. Staff finds that Criterion 2 has been met. 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.

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

Many dwellings in the neighborhood of the subject property have been developed with common-wall dwellings, although the proposed conversion will create the first common-wall dwellings on Lupine Lane.

Comments on the potential effects of the proposed project and the requested variance in particular on nearby properties were solicited from the CBJ Assessor, who stated that "I see no negative effect to the neighborhood by allowing the duplex to become a zero lot."³

Yes. Staff finds that Criterion 3 has been met. The authorization of the variance will not injure nearby property.

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

The variance would make it possible for the owner of the property to convert the existing duplex into two common-wall dwellings, use category 1.910 at CBJ §49.25.300, a permissible use in the D-5 zoning district.

Yes. Staff finds that Criterion 4 has been met. The variance does not authorize uses not allowed in the district involved.

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

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

The property was developed with a duplex in 1971. Duplexes are permissible principal uses in the D-5 zoning district.

No. Staff finds that sub-criterion 5(A) has not been met. Compliance with the existing standards would not unreasonably prevent the owner from using the property for a permissible principal 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;

As the CBJ Assessor, Jim Canary, points out in his email of January 29, 2007,⁴ many of the properties in the neighborhood of the subject property have been developed with common-wall (zero lot line) dwellings. The applicant proposes to ensure that both resulting lots are equal to or greater than the minimum lot size for common-wall dwellings in the D-5 zoning district.

Yes. Staff finds that sub-criterion 5(B) has been met. Compliance with the existing standards would unreasonably prevent the owner from using the property in a manner which is consistent as to amenities and features with existing development in the neighborhood of the subject property.

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

The subject property is a relatively flat lot which is significantly larger than the minimum lot size for the use currently developed on the property.

CBJ §49.65.750(2) allows the width of common-wall lots to be measured “at either the front building line as defined by the code or at the actual front line of the building...” *Building line* is defined at CBJ §49.80.210 as meaning “a line parallel to the street line at a distance therefrom, equal to the depth of the front yard required for the zoning district in which the lot is located.” In the D-5 zoning district, CBJ §49.25.400 requires a 20’ front yard. Based on the information on the plat of the North Riverside Drive Subdivision No. 3 and the as-built survey of the property in the file, it appears that the lot is at least 120’ wide at the building line, and may even be more than 120’ wide at the front line of the building. However, because the structure is not centered on the lot from east to west, subdividing the structure through the common wall of the two dwellings results in the eastern lot being less than the required 60’ in width. The unique physical features of this situation are, therefore, related to the structure and not to the property.

No. Staff finds that sub-criterion 5(C) has not been met. Unique physical features of the property do not exist.

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.***

There are no nonconforming conditions on the subject parcel.

No. Staff finds that sub-criterion 5(D) is not met. Preexisting nonconforming conditions do not exist on the subject parcel.

Yes. Staff finds that Criterion 5 has been met in sub-criterion 5(B), as described in the analysis above.

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

The CBJ Assessor has indicated that the proposed project would not have a negative effect on the neighborhood.⁵ The applicant has stated that “the neighborhood is benefited by home owners (instead of renters) who seem to care more about the upkeep of the property and the welfare of the neighborhood.”⁶ If true, this would be a modest benefit to the neighborhood. There is no indication in the record that the proposed project will have any other effects upon the neighborhood, either beneficial or detrimental.

Yes. Staff finds that Criterion 6 has been met. A grant of the variance would result in more benefits than detriments to the neighborhood.

JUNEAU COASTAL MANAGEMENT PROGRAM

The requested variance is not related to the Juneau Coastal Management Program or its enforceable policies.

FINDINGS

- 1. *Is the application for the requested variance complete?***

Yes. The application for the requested variance meets the requirements at CBJ §49.15.130.

⁵ Attachment B
⁶ Attachment A

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

N/A. The proposed development is not related to the Juneau Coastal Management Program or its enforceable policies.

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

Yes. The variance as requested meets the criteria of CBJ §49.20.250, Grounds for Variances, as described above in the *Analysis* section of this memorandum.

RECOMMENDATION

It is recommended that the Board of Adjustment adopt the Director's analysis and findings and approve the requested Variance, VAR2007-00004. The Variance would allow for the subdivision of Lot 1, Block D, North Riverside Drive Subdivision No. 3, into two common-wall lots, one of which would be of sub-standard width; 52' where 60' is required.

To: City And Borough Juneau
Planning Commission

From: Robert Peterson
Po box 35291
Juneau, AK 99803
321-1047
luoe302j@gci.net

RE: Variance VAR2007-0004

I ask that you please approve my variance request based on meeting the requirements of CBJ 49.20.250

- 1) The relaxation applied would give me, the new owner and future owners more affordable housing thus offering relief
- 2) The intent of the title, welfare, and public safety will still be maintained with the minimum lot size still being used as required for D-5 Subdivision
- 3) This authorization does not hurt nearby land owners as the house already sits where it is, and with the remodel it will promote the neighborhood in many ways.
- 4) The property will not be used for anything except family housing
- 5) The compliance now, does unreasonably prevent me, the new owner from using the land in a permissible fashion.
- 6) The neighborhood is benefited by home owners (instead of renters) who seem to care more about the upkeep of the property and the welfare of the neighborhood.

Sincerely Robert Peterson

ATTACHMENT A

RECEIVED

JAN 17 2007

PERMIT CENTER / CDD

Benjamin Lyman

From: Jim Canary
Sent: Monday, January 29, 2007 3:48 PM
To: Benjamin Lyman
Subject: RE: property value question

The Subject property is located on Lupine Lane, which is real close to Taku Blvd, Wood Duck, Decoy, Julep and Riverside Drive all streets with similar zero lot line developments. I see no negative effect to the neighborhood by allowing the duplex to become a zero lot.

I'm assuming that the duplex when converted to a zero lot will have to be upgraded with extra insulation and fireproofing between the common walls and attic, along with double water and sewer lines.

From: Benjamin Lyman
Sent: Monday, January 29, 2007 3:36 PM
To: Jim Canary
Subject: property value question

Jim-

The new owner of 5B2501410100 has requested a variance to the minimum lot width requirement for common-wall dwellings to allow the conversion of this duplex into two common-wall dwellings, each on their own lot. If it is approved, the requested variance would allow the eastern lot to be 52' wide where 60' is required in the zoning district. Both resulting lots would meet minimum lot area requirements in the zoning district.

Can you see any negative (or positive) repercussions of granting this variance and allowing this conversion?

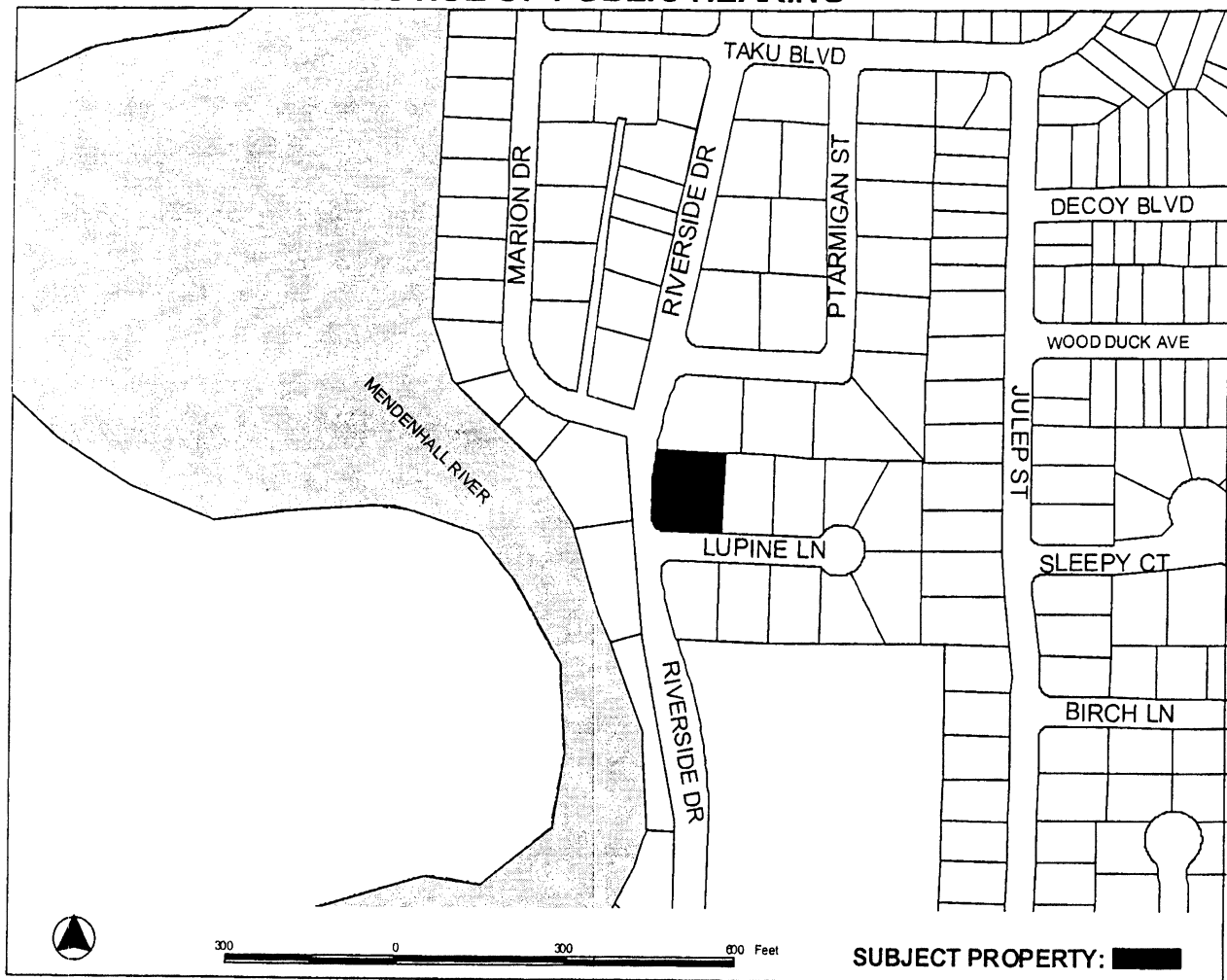
Benjamin S. Lyman
Planner II
Community Development Department
City and Borough of Juneau, Alaska
Phone: 907-586-0758
Fax: 907-586-3365

ATTACHMENT B

1/29/2007

file

NOTICE OF PUBLIC HEARING



PROPOSAL: VAR2007-00004: A variance request to reduce minimum lot width for future zero lot line from 60 ft to 52 ft.

FILE NO:	VAR2007-00004	APPLICANT:	ROBERT PETERSON
TO:	Adjacent Property Owners	PROPERTY OWNER:	IRENE & ALIFELETI TUPOU
HEARING DATE:	February 13, 2007	PROPERTY ADDRESS:	9045 LUPINE LN
HEARING TIME:	7:00 P.M.	PARCEL CODE NUMBER:	5-B25-0-141-010-0
PLACE:	CENTENNIAL HALL Egan Room 101 Egan Drive Juneau, Alaska 99801	SITE SIZE:	16,117 square feet
		ZONING:	D5
		ACCESS:	LUPINE LN

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

Ben Lyman at 586-0758 , or via e-mail at: Benjamin_Lyman@ci.juneau.ak.us

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

Date notice was printed: January 31, 2007