


MEMORANDUM

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

DATE: January 9, 2014

TO: Board of Adjustment

FROM: Chrissy McNally, Planner 
Community Development Department

FILE NO.: VAR2013 0021

PROPOSAL: Variance request to reduce street side setback from 13 feet to 0 feet and rear yard setback from 20 feet to 2 feet to reconstruct a garage on the same footprint with second story accessory apartment.

GENERAL INFORMATION

Applicant: David & Renda Heimbigner

Property Owner: David & Renda Heimbigner

Property Address: 635 Alder Street

Legal Description: Seater Addition Block 1 Lot 7A

Parcel Code Number: 1-C03-0-D01-010-0

Site Size: 8,132 Square Feet

Comprehensive Plan Future Land Use Designation: Urban Low Density Residential

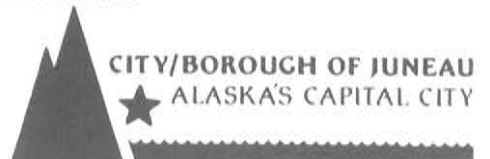
Zoning: D5

Utilities: City water & sewer

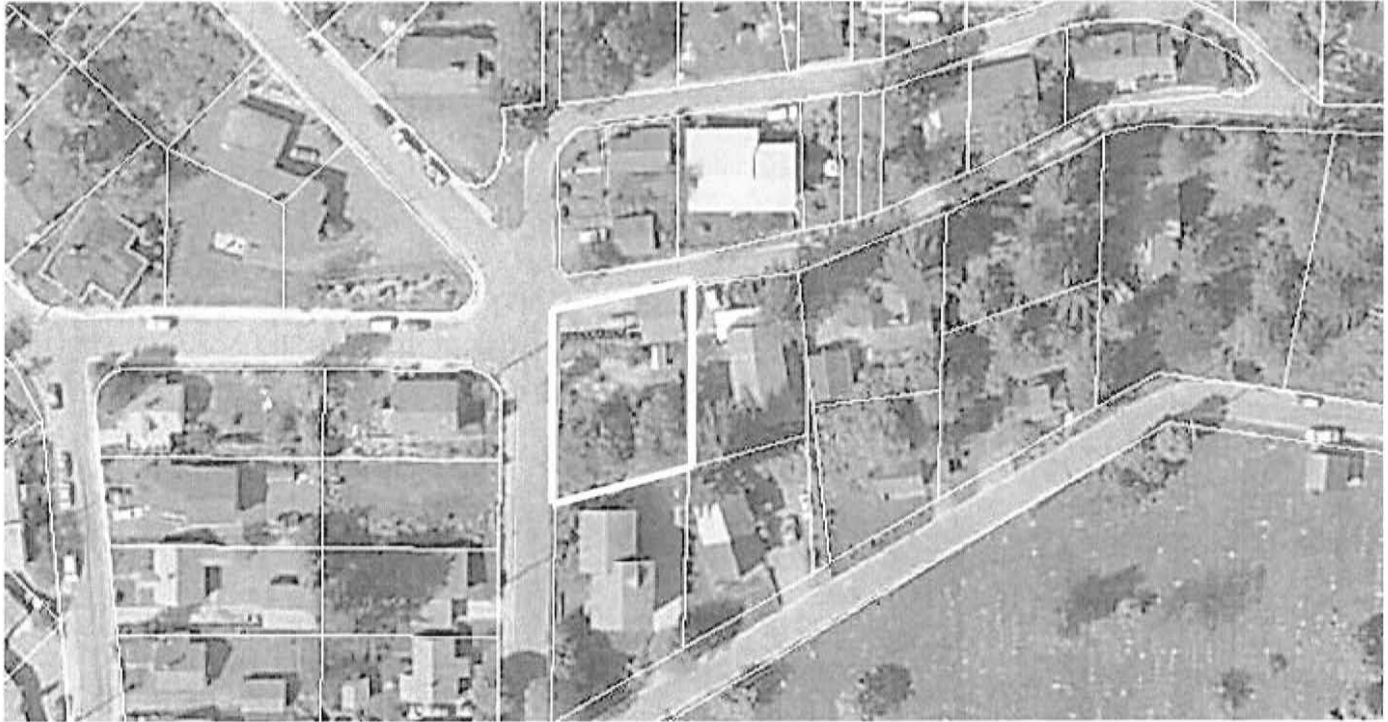
Access: Spruce Street

Existing Land Use: Garage

Surrounding Land Use: North - D5 Single Family Residential
South - D5 Single Family Residential
East - D5 Single Family Residential
West - D5 Single Family Residential



VICINITY MAP



ATTACHMENTS

- Attachment A: Development Permit Application
- Attachment B: Variance Application and applicant's narrative
- Attachment C: Picture of garage street side
- Attachment D: As-built
- Attachment E: Proposed Building
- Attachment F: Easement Document
- Attachment G: Analysis by CBJ Chief Surveyor Ron King
- Attachment H: Public Comments

PROJECT DESCRIPTION

The applicant proposes to replace an existing 24' x 24' one-story garage with a garage and second story apartment on the footprint of the existing garage. The current structure sits 0 feet from the Alder Street Right-of-Way and 2 feet from the rear property line.

BACKGROUND

The residence at 635 Alder Street is comprised of two lots within the D5 zoning district. The eastern lot, 6A contains the main residence which operates as a bed and breakfast. This lot has a driveway with ingress and egress onto Alder Street. The subject lot, 7A is 8,132 square feet. The minimum lot size in the D5 zoning district is 7,000 square feet. The subject parcel contains a two stall 576 square foot garage built in 1942. This lot also contains a driveway with ingress and egress onto Spruce Street.

The garage is legally nonconforming based on two criteria found in Title 49 the Land Use Code. First, according to CBJ 49.30.100, nonconforming situations that predated the adoption of current zoning standards may continue. Secondly, the lot does not currently have a primary use. According to CBJ 49.25.300(a)(4), a lot must have a primary use before it contains an accessory use. In this case, the second story apartment will serve as a primary use for the lot.

In 1982 the property owner granted an easement to the City and Borough of Juneau for the construction of the Alder Street Right-of-Way (see Attachment F). The applicant originally requested a reduction in the side yard setback of 13 feet to 7 feet to reflect the original property line. However, CBJ Chief Surveyor, Ron King, found discrepancies in the As-built survey; CBJ ROW construction site plan and recorded easement document (see Attachment G). The As-built is the most restrictive of the documents showing no distance between the ROW and the garage. Ron King requested the Variance request be a reduction in the side yard setback of 13 feet to 0 feet to more accurately reflect the position of the garage in relation to the ROW.

According to CBJ 49.30.500(b) *Reconstruction*, a nonconforming building may be rebuilt on the same footprint if;

“the cost of renewal of the the damaged parts exceeds 75 percent of the cost of the replacement of the entire building, exclusive of foundation...”

In this case, the entire structure, including foundation is being removed so the parcel will lose its nonconforming status. Because of this, a Variance is required for the construction of the new garage and dwelling on the footprint of the non-conforming structure.

No Variance would have been required if the new building was less than 75% of the value of the garage and retained the original foundation. However, the addition of the second story in that instance would have required a Conditional Use Permit according to CBJ 49.25.430(4)(M). Given the need to replace the foundation, staff advised the applicant to pursue a Variance for the entire project.

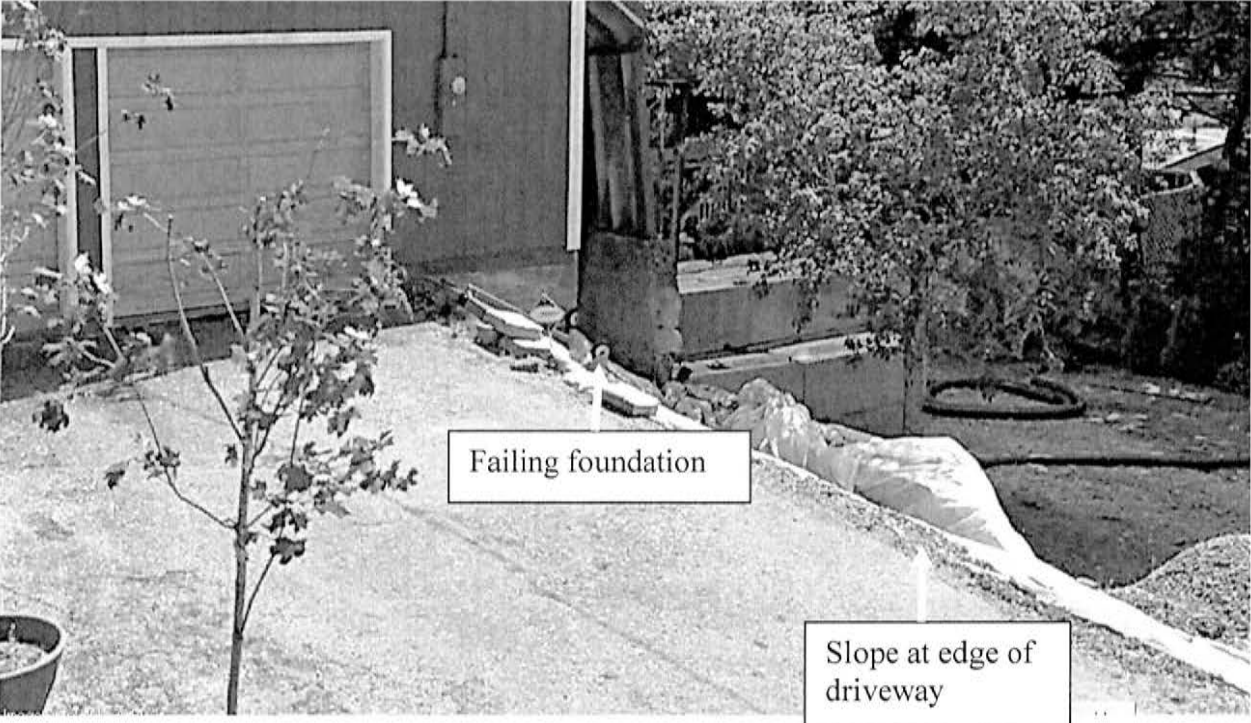


Figure 1: Garage with foundation exposed



Figure 2: South side of garage from Spruce Street

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.

Allowing the proposed structure to be built on the same footprint as the current structure would provide substantial relief to the property owner. Moving the driveway to align with a relocated garage meeting a setback of anywhere between 5 and 13 feet would require replacement of the existing retaining wall (see figure 2). Retaining walls require certified engineer plans and a separate building permit. Fill would have to be added to the lot in order to raise the level of the land to align with the current driveway. The driveway would have to be widened or shifted to align with the garage doors. Removal of landscaping would be required to accommodate the new location. There is approximately 5 feet between the garage and the deck. If the applicant were required to meet the full 13 foot setback the section of the deck adjacent to the garage would have to be removed.

The neighborhood is accustomed to the garage on its current footprint because it predated construction of the street. Many garages and residences in the area sit within required setbacks. Parking parallel to the ROW is common for many properties in the neighborhood.

Staff received three letters of opposition from neighbors. All three letters cite the roof configuration and the site limitations for vehicles exiting the driveway behind the garage as cause for denial of the Variance. Their comments can be seen in Attachment H.

Ed Foster, Superintendent of the CBJ Streets Division provided the following comments during the request for comments period;

“The roof eave currently hangs out over the curb of Alder St. posing a hazard for large vehicles/equipment traveling on Alder St. Having a garage sitting this close to the street curb also creates an unsafe condition with vehicles parked in the driveway nearest to Alder St., as seen in the photo submitted in the application. Alder St. is very narrow and makes it even more difficult to avoid the obstacles created by this structure sitting so close to Alder St.

If this existing structure is demolished and rebuilt I would like to see it moved to meet the required side set back along Alder St. The rear set back along Lot 6A does not concern me as it is not compromising the safety of a public ROW.”

With the Variance request correction of 7 feet to 0 feet, CBJ Engineering was not opposed to the granting of the Variance. CBJ Chief Surveyor requested that if approved, the Variance would condition that a Hold Harmless Agreement be recorded holding CBJ harmless for damage associated with snow plowing operations.

The proposed design for the new structure removes the roof slope that causes snow to fall in the ROW (see Attachment C & E). The slope of the gabled roof would cause snow to fall on the

Heimbigner's property to the rear and front of the new structure. This improvement will significantly reduce the causes for concern associated with the position of the garage. Staff also made a request for accident statistics at the corner of Alder and Spruce Streets from the Juneau Police Department. That data was not available before the deadline of this report.

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 found in CBJ 49.05.100 *Purpose and Intent*, is to ensure that growth and development is in accord with the values of Juneau residents; to identify and secure the beneficial impacts of growth while minimizing negative impacts; to ensure that future growth is of appropriate type, design, and location; to provide adequate open space for light and air; and to recognize the economic value of land and encourage its proper and beneficial use.

The dimensional standards established in Title 49 support its intent. Setback requirements provide for adequate space for light and air. The current footprint does impact the adequacy of open space for visibility onto the ROW from the driveway adjacent to the rear of the garage. If the building were relocated to meet the rear yard setback of 20 feet and the side yard setback of 13 feet, or some distance in between, additional space would be allowed for snow storage and site distance for vehicles exiting the Alder Street driveway.

The apartment is a residence which is allowed outright on the parcel and is therefore appropriate. Also, the current structure does not meet current building standards so a new structure would provide a safer building that meets building and fire codes. The new structure will eliminate the dumping of snow on the ROW by keeping it onsite. This new design will improve public safety. However, the granting of the Variance would not fully address all neighborhood and CBJ Street Division concerns about visibility and snow storage. Public welfare would be enhanced if the garage were to meet the setback requirements. Though there will be some net gain in public safety and welfare by the changes made to the roof direction.

NO. This criterion is not met

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

The new structure will occupy a 60-year old footprint. Therefore, the granting of the Variance would not injure nearby property. The addition of the second story may affect neighboring view sheds. However, if the building were moved to meet the setback requirements, a second story would still affect neighboring view sheds. Further, the new design will eliminate the roof design flaw that is of most concern to the neighbors.

YES. This criterion is met.

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

The lack of a primary use and the presence of only an accessory use on the parcel is legally nonconforming. The applicant plans to add an apartment above the garage. Though the apartment will be accessory to the primary dwelling on Lot 6A, the apartment can be considered a primary use for the subject lot. Adding a primary use to the lot will bring the parcel into conformity with the currently adopted *Table of Permissible Uses*. Accessory structures, such as garages are allowed in all zoning districts.

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;*

The applicant would be able to build the proposed structure within the required setbacks given the lot dimensions and proposed design. The cost of the project would increase, but both the garage and apartment are allowed with appropriate building permits if built within the required setbacks.

NO. 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;*

Compliance with the existing standards would not prohibit the applicant from building the proposed structure on the lot. The proposed design is consistent as to scale, amenities, and appearance of existing development in the neighborhood. The design of the proposed structure would be allowed outright with the appropriate building permits if built within the required setbacks.

NO. This criterion is not met.

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

If the proposed structure were built to meet the required setbacks, significant redesign of landscaping and other structures on both parcels associated with 635 Alder Street would be required.

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 garage is considered legally nonconforming. Rebuilding the garage on the same footprint would result in neither a net increase or decrease in compliance with the Land Use Code, CBJ Title 49. However, the new garage will be built to current building code resulting in a net increase in compliance with Title 19. The addition of a primary use on the site will result in a net increase in compliance with Title 49.

YES. This criterion is met.

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

The design of the new structure will change the direction of the roof so that snow will no longer fall into the ROW. This change will result in more benefits than detriments to the neighborhood. If the new structure is to be built on the same footprint as the current structure, there is a neutral effect on the neighborhood as the garage has been there since 1942. The addition of the second story may affect the view sheds of property owners to the north. However, this would be the result if the structure were built within the required setbacks.

YES. This criterion is met.

FINDINGS

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

YES. Staff finds 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?*

Not Applicable.

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

YES. Based on the analysis above, staff finds that the proposal with a Condition of Approval requiring a Hold Harmless Agreement be recorded holding CBJ harmless from claims relating to damage during normal street plowing operations, does meet the criteria of CBJ 49.0.250, Grounds for Variances. Specifically, the Variance meets criteria 1, 3, 4, 5C, 5D, and 6.

RECOMMENDATION

Staff recommends that the Board of Adjustment adopt the Director's analysis and findings and **APPROVE** the requested Variance, VAR2013 0021 with the following Condition of Approval. The Variance permit would reduce the street side setback from 13 feet to 0 feet and rear yard setback from 20 feet to 2 feet to reconstruct a garage on the same footprint with second story accessory apartment.

1. A Hold Harmless Agreement shall be recorded holding CBJ harmless from claims relating to damage during normal street snow plowing operations.

DEVELOPMENT PERMIT APPLICATION

Project Number VAL20130021	CITY and BOROUGH of JUNEAU	Date Received: 10/25/13
Project Name (City Staff to Assign Name)		

INFORMATION

Project Description repair an existing garage and construct a second story apartment		
PROPERTY LOCATION		
Street Address 635 Alder Street	City/Zip Juneau 99801	
Legal Description(s) of Parcel(s) (Subdivision, Survey, Block, Tract, Lot) Seater Addn B1 1 L 7A		
Assessor's Parcel Number(s) 100300010100		
LANDOWNER/ LESSEE		
Property Owner's Name David & Renda Heimbriggen	Contact Person: Renda	Work Phone: 723-4202
Mailing Address 635 Alder Street, Juneau	Home Phone: 723-4202	Fax Number: 1267381470A
E-mail Address rendadave@gmail.com	Other Contact Phone Number(s):	

PROJECT / APPLICANT

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	Renda Landowner/Lessee Signature	10/25/13 Date
X	David Heimbriggen Landowner/Lessee Signature	10/25/13 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		Contact Person:
Mailing Address		Home Phone:
E-mail Address		Fax Number:
E-mail Address Same		Other Contact Phone Number(s):
X	Renda Applicant's Signature	10/25/13 Date of Application

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

STAFF APPROVALS

	Permit Type	Assign	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)			
✓	Variance Case (De Minimis and all other Variance case types)		10/25/13	VAL20130021
	Wetlands Permits			
	Zone Change Application			
	Other (Describe)			

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

Comments:	Permit Intake Initials JKL
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VARIANCE APPLICATION

Project Number <u>AL20130021</u>	Project Name (15 characters)	Case Number	Date Received <u>10/25/13</u>
-------------------------------------	------------------------------	-------------	----------------------------------

TYPE OF VARIANCE REQUESTED:

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

DESCRIPTION OF ACTIVITY WHICH REQUIRES A VARIANCE:

repair an existing garage and construct a second story apartment

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): _____

see attached

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

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

see attached

WHAT HARDSHIP WOULD RESULT IF THE VARIANCE WERE NOT GRANTED?

see 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</u>	_____	_____	_____
Adjustment	\$ _____	_____	_____	_____
Total Fee	\$ <u>400</u>	<u>CC</u>	<u>CDM522</u>	<u>10/25/13</u>

NOTE: MUST BE ACCOMPANIED BY DEVELOPMENT PERMIT APPLICATION FORM

TO BE COMPLETED BY THE APPLICANT

Description of Activity:

Rebuild an existing garage and construct a second story apartment. Due to the extent of repair needed, the most cost effective measure is to replace the entire structure on the existing footprint.

Unique Characteristics:

The structure was constructed in 1942 as a two-car garage with attic storage (see photo). The building sits in the NE corner of the lot and along with a greenhouse, is the only structure on the lot. The garage sits 46 feet from its front street property line which runs parallel with Spruce Street. It sits 7 feet from its side property line running parallel to Alder Street. It is unheated, with plywood siding and in imminent danger of collapse.

A road paving project in recent years encroached 4-1/2 feet over the Alder street property line, taking it to within 2-1/2 feet of the garage. The owner built a sidewalk along the garage for public safety and the road and garage have coexisted harmoniously.

While the lot has extreme topographical challenges, the current footprint represents the only feasible location for reconstruction and the best access for parking.

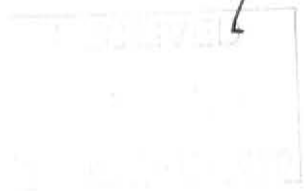
Water and sewer is available.

Why is variance needed:

A variance is needed for relief from current side and back setbacks to maintain the safe and feasible location, with a more stable structure. *want to reduce street side setback from 13' to 7'. want rear setback from 20' to 2'*

What hardship would result if not granted:

Public safety would be compromised, unreasonable cost incurred by the owner to build elsewhere on the lot, decrease in compliance to land use and building codes by not constructing, damage to adjoining owners lot and a downgrade to the neighborhood.



Variance Approval Criteria

- (1) Approval would give substantial relief to the owner of the property by addressing unreasonable costs to construct elsewhere on said lot. The current location of the building is the only feasible location on the lot. The topographical challenges are extreme and construction cost would be prohibitive.

Reconstructing the building on its current location would minimize its intrusion on the adjoining neighbor and provide maximum visibility to drivers as they approach the adjoining five-way intersection of Parks, Troy, Hemlock, Spruce and Alder Streets.

- (2) The current structure is in imminent danger of collapse, and must be repaired. Rebuilding provides an opportunity to bring the structure to current building codes.
- (3) The authorization of a variance would allow the structure to remain in its current location which would minimize injury to nearby property and maintain the best visibility for drivers approaching the five-way intersection.
- (4) The variance does not authorize use not allowed in the district involved, but rather brings the structure into current land use code resulting in a net increase in compliance.
- (5) Compliance with the existing standards would:
 - a. Unreasonably prevent the owner from using the property for a permissible principal use, jeopardize public safety, damage the adjoining property owners land and provide an eyesore to the neighborhood;
 - b. Unreasonably prevent the owner from using the property because of the cost to put the structure elsewhere;
 - c. Be unnecessarily burdensome because of the difficult topographical nature of the lot, the cost to relocate would be extremely prohibitive. Current location is the only feasible area;
 - 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, title 49, or the building code, title 19, or both. The building is in imminent danger of collapse.
- (6) A grant of the variance would result in a net gain in compliance and benefits to the neighborhood by:
 - a. bringing the structure into conformance with building codes,
 - b. benefit the neighbors with a safe and attractive structure
 - c. provide additional housing in a market short of such
 - d. invest in the neighborhood
 - e. maintain public safety for local drivers

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2014-04-14
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GENERIC/CDC

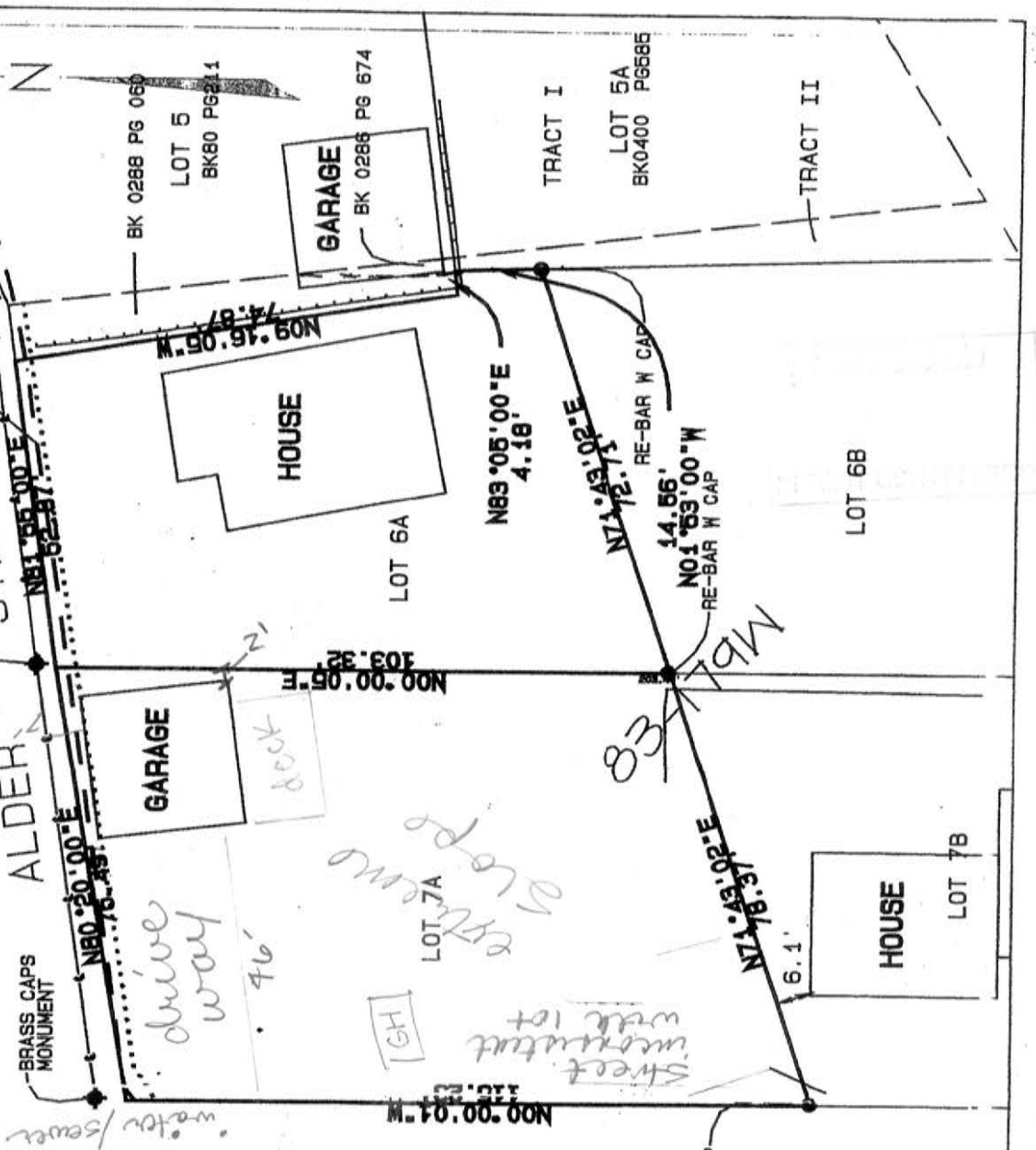


Attachment C



2 STREET EASEMENT
BK 0423 PG 357
BK 0421 PG 487
BK 0269 PG 574

ALDER STREET



16 5188 7A S 2341 14
CONVEY. PRINT 992

TRUY AVENUE

SPRUCE STREET

PARKS STREET

RE-BAR W CAP



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

TDS 8437
F.B. _____ JOB No 12737
SCALE AS-SHOWN
DATE 11-22-03

AS-BUILT SURVEY OF
LOTS 6A & 7A, BLOCK 1
SEATER ADDITION
TOWNSITE OF JUNEAU

Plan Number 87896 | Order Code: 00WEB

FamilyHomePlans.com

U.S. customers call [1-800-482-0464](tel:1-800-482-0464) | Canadian customers call [1-800-361-7526](tel:1-800-361-7526)

[Click Here to Mirror Reverse Plan](#)



Plan Number: 87896

- 576 Total Living Area
- 576 Upper Level
- 1 Bedrooms
- 1 Full Bath(s)
- 2 Car Garage
- 24' Wide x 24' Deep

Available Foundation Types:

- Slab

Order Code: 00WEB

- 1 Set: \$275.00
- 4 Sets: \$310.00
- 8 Sets: \$350.00
- Reproducible Set: \$490.00
- PDF File: \$490.00
- Materials List: Included With Plan Order
- Mirror Reverse: \$25.00 per order

- Additional Sets: \$25.00



Plan Number 87896 | Order Code 00WEB | Front Elevation

FamilyHomePlans.com

U.S. customers call [1-800-482-0464](tel:1-800-482-0464) | Canadian customers call [1-800-361-7526](tel:1-800-361-7526)

[Click Here to Mirror Reverse](#)

RECEIVED
FEB 14 2013

In consideration of the benefits derived therefrom, the Grantor: WILLIAM W. JORGENSON whose address is 635 Alder Street, Juneau, Alaska, conveys and quitclaims to the Grantee: THE CITY AND BOROUGH OF JUNEAU, a municipal corporation, whose office is located at 155 S. Seward Street, Juneau, Alaska, a perpetual easement for the purpose of constructing, reconstructing and maintaining a public street and appurtenances through, across and under any portion of the following described property:

Those portions of lots 6A and 7A, block 1 of a resubdivision of the Seater Addition filed as plat No. 83-179W within the Juneau Recording District, First Judicial District, State of Alaska of Alaska, more particularly described as:

Beginning at the northwest corner of said lot 7A, thence N 80°20' E, 75.49 feet to the northwest corner of said lot 6A; thence N 81°55' E, 62.34 feet to the northeast corner of said lot; thence S 6°55' E, 2.67 feet, along the easterly line of said lot 6A; thence S 81°16'18" W, 132.13 feet; thence S 58°25'52" W, 6.88 feet to the west line of said lot 7A; thence North 4.87 feet to the place of beginning. Containing 404.1 square feet, more or less.

In accordance with "Attachment A" hereon attached.

The Grantors hereby agree not to construct or have constructed any structures on he easement described herein.

Dated this 17 day of April, 1986

By: William W. Jorgenson

ACKNOWLEDGMENT

STATE OF ALASKA)
) ss
FIRST JUDICIAL DISTRICT)

This is to certify that on the 17th day of April, 1986, before the undersigned, a Notary Public in and for the State of Alaska, duly commissioned and sworn, appeared William W. Jorgenson, to me known and known to me to be the grantor in the foregoing easement acknowledged to me that he executed the same freely and voluntarily, being fully authorized to do so.

Witness my hand and official seal on the day and year in this certificate first above written.

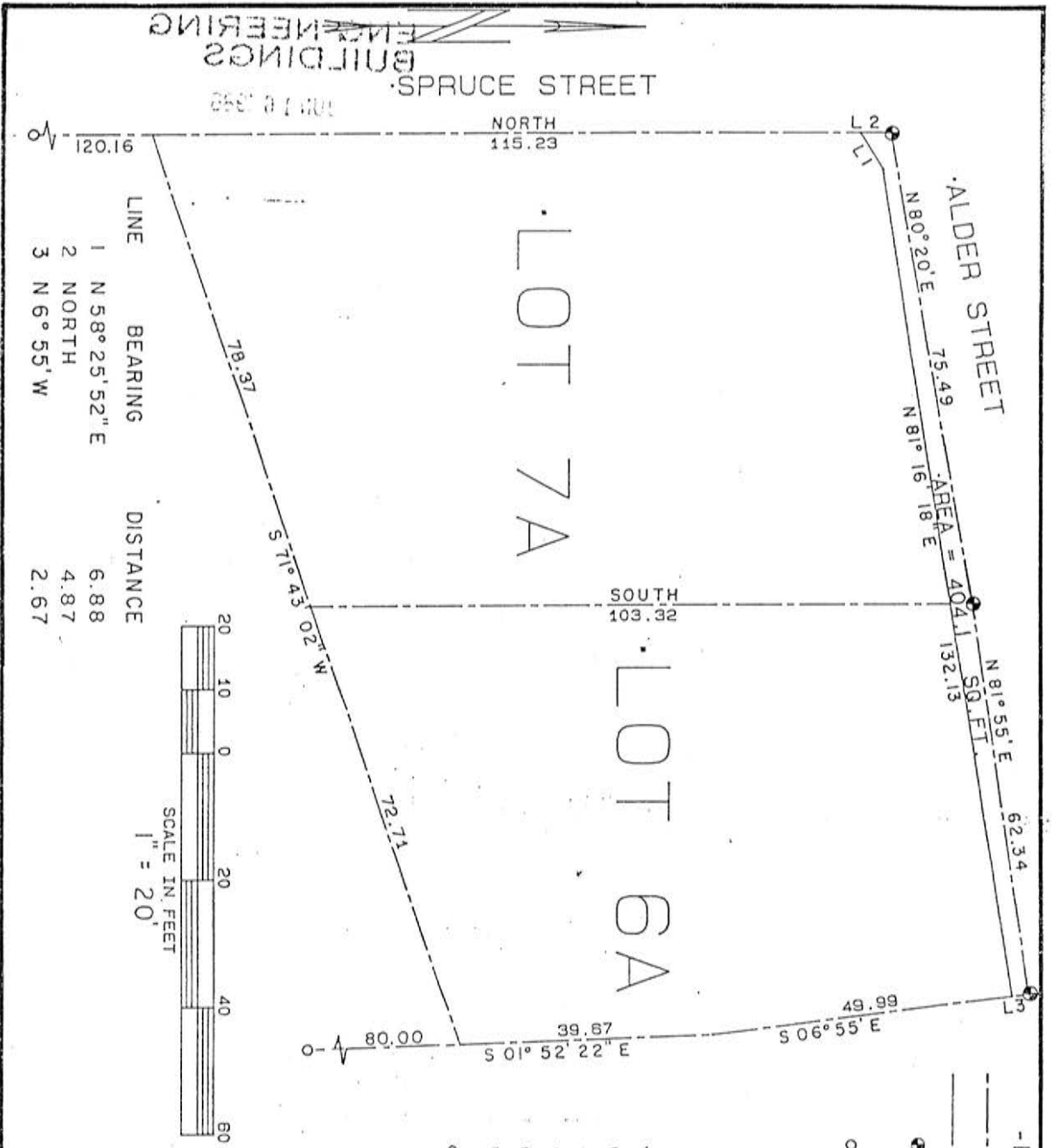


Mary Ann Turner
Notary Public
My Commission expires: 8/10/87

This easement approved as to form this ___ day of ___, 19__.

City/Borough Attorney

1-003-0-001-008-0



R.O.W. EASEMENT
LOT 6A & 7A, BLOCK 1
U.S. SURVEY N° 1295
SEATER ADDITION TO THE
JUNEAU TOWNSITE, ALASKA
 DRAWN BY: W.J.Z.
 CHECKED BY: A.T.B.
 DATE: 10-08-85
 SCALE: 1" = 20'

86-002224
 13.00
 RECORDED-FILED
 JUNEAU REC. DISTRICT
 APR 22 8 35 AM '86
 REQUESTED BY: JC & B
 ADDRESS: Attn: Terry Brewster
155 S. Seward St.
Juneau, AK 99801

-LEGEND-
 - - - - - PROPERTY LINES
 - - - - - EASEMENT LINE
 ● 2 1/2" BRASS MON., W.K.V.H., 261 E
 FOUND THIS SURVEY
 ○ 1 1/2" ALUM. MON., W.K.V.H., 261 E
 ON 5/8" REBAR, FOUND THIS SURVEY

[Handwritten signature]

Christine McNally

From: Ron King
Sent: Thursday, November 07, 2013 1:45 PM
To: Christine McNally
Cc: Travis Goddard
Subject: 635 Alder St Variance

Chrissy, review of the Bean As Built and the CBJ Reconstruction drawing reveals an issue relating to the correct ROW Easement line and the proximity of the garage. Both documents agree the monuments are not property corners of the Shattuck Addition Re-subdivision conflicting with the location drafted in the ROW Easement document (not surveyed).

The Bean as built delineates property line as solid, curb line dashed, the easement by a dotted line and BC monuments displaced from the property corners.

The CBJ plan delineates the property line by a double-dash, curb line solid, no easement delineation and a BC monument (above the see note 1) displace from the property corner.

Both surveys disagree with the ROW Easement Document and none of the documents delineate a distance from the garage. Due to the discrepancies in the surveys and lack of a true dimension from garage to the easement line an as built is required to establish the correct surveyed distance for the variance request.

Snow removal. The close proximity of the building to the curb heightens the difficulty for CBJ to plow snow. If the building is allowed to be reconstructed with additions the CBJ will require an agreement holding CBJ harmless from claims relating to damage during normal street snow plowing operations.

Ron King
Chief Regulatory Surveyor
586-0881

Bean As

Built
Plan

CBJ

Christine McNally

From: Jon & Gladi <jpgk@gci.net>
Sent: Friday, January 03, 2014 1:42 PM
To: Christine McNally
Subject: Re: Heimbigner Property Variance Request

Follow Up Flag: Follow up
Flag Status: Flagged

To Whom it May Concern:

We thank the Planning Board for the opportunity to provide input regarding the variance request on the Heimbigner property.

My wife and I have lived at our residence, 640 Hemlock St., for over 20 years. Our home is one street uphill from the Heimbigner property. We feel the variance should **not** be granted for two salient safety reasons:

- Visible on-site observation notes the Heimbigner garage location on Alder Street **currently** sheds snow directly onto the street. People walking on Alder St. past the subject garage can have snow and ice drop directly on them. Alder is a one-car narrow street and a buildings that drops snow directly onto the street is a public safety hazard.
- The corner of Spruce and Alder Streets is a dangerous corner. If the Heimbigner request for a variance is **not** granted, people leaving the Heimbigner property by car will have more time to react and have better visibility to see oncoming cars turning onto Alder from Spruce or Hemlock; it will be safer for pedestrians also.

Synopsis: Whereas: the original garage will be torn down. There is property available to build the garage/apartment **elsewhere** on site. Then: if the setback regulations are honored, the new garage will shed snow on the Heimbigner's property, not on people or cars on Alder St. Drivers leaving the Heimbigner property will have better visibility of oncoming traffic and so will pedestrians (especially from the Spruce St. side). This is the ideal time to make the project a win-win for the property owners and the public alike. The Heimbigner property will have a new garage and apartment and this dangerous corner will be a safer place for both drivers and pedestrians.

Thank you.

Jon Pond and Gladi Kulp
640 Hemlock St.
Juneau

On Dec 31, 2013, at 1:33 PM, Christine McNally <Christine_McNally@ci.juneau.ak.us> wrote:

Christine McNally

From: Mark Millea <mjmillea@gci.net>
Sent: Tuesday, December 31, 2013 12:39 PM
To: Christine McNally
Subject: Fwd: VAR20130021

Hi Chrissy,

Thanks for that superfast answer to my question about the Heimbigner garage. It looks like "no problem" to me. There must be lots of interesting setback situations when structures predate the setback lines!

And a Happy New Year to you! Mark Millea

Date: Sat, 28 Dec 2013 18:33:11 -0900
To: christine_mcnally@ci.juneau.ak.us
From: Mark Millea <mjmillea@gci.net>
Subject: VAR20130021

Hi Chrissy,

Heimbigner Trust proposal to reduce setbacks. Looking at the garage that is already there, it isn't very clear to me where the setbacks will be.

If there is some other diagram that you could send me without any excess work on your part, I'd be interested in seeing it.

I own property close enough to have gotten two of your "Notices of Public Hearing".

Thank you,

Mark Millea, 1600 Evergreen Ave., Juneau

January 7, 2014

To the members of the Juneau Board of Adjustment.

VAR2013-0021 is requesting a variance to setback distances for lot 7A on Alder St. I request that this variance be denied as the applicant has not demonstrated that the conditions allowing for a variance (as described in 49.20.250 (b)) have been met.

Municipal code 49.20.250(b) describes the conditions under which a Variance, other than de minimis, may be issued. These specific conditions, and my related comments are described below:

- (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;*

Having to comply with setbacks does not, in itself, prevent a permissible use of the property. Wherever possible, new construction should comply with new requirements. The property owner may not like having to comply, but that is not a reason to grant a variance.

The application contains an assertion of increased construction costs associated with compliance, but no data is provided to support this assertion. Nor is there any data supporting the position that this potentially increased cost represents a hardship to the property owner.

As discussed in (c) below, the flat, easily accessible, easily buildable area of lot 7A is large enough to accommodate a garage/apartment within the current setback requirements, and it is likely that any new structure will require a new foundation regardless of where it is located on the lot. Simply claiming there is only one feasible location for a replacement structure does not make it so.

It is possible that compliance with the requirements will cost more than non-compliance, but that is true of many of our codes, regulations, and requirements. The property owner has been making continuous modifications (both with permits and without) to the land and buildings on these lots (7A and 6A) for the last ten years. There has never before been any indication that using heavy equipment for construction, grading, or filling presents any difficulty. No data has been supplied which supports the assertion that compliance with the required setbacks will cause hardship.

- (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;*

Granting this variance will result in harm to public safety.

In its current location, the garage impedes visibility of and for vehicles using the commercial driveway for the hotel in lot 6A, and presents a hazard to traffic and pedestrians. In addition, being located immediately adjacent to the edge of Alder St, the garage roof deposits snow directly into the travel lanes of Alder St.

Complying with the required setback and placing the building farther from the edge of Alder St. cannot possibly be construed as jeopardizing public safety as claimed in the application. Doing so would actually improve public safety by increasing the visibility of the traffic using the commercial driveway and would also reduce the amount of snow dumped directly from the roof into the travel lanes of Alder St.

There is approximately 45' between the front of the existing garage and Spruce St. The replacement building can easily be moved 10' closer to Spruce St and still be more than 20' from the corner of Spruce and Alder. The replacement building can easily be moved 5' farther from Alder St. without approaching the 'challenging terrain' of the lot.

- (3) *The authorization of the variance will not injure nearby property;*
The authorization of the variance will result in harm to nearby properties and public safety, as described in (2) above.
- (4) *The variance does not authorize uses not allowed in the district involved;*
This standard is met, since the variance application does not request a change in allowable use.
- (5) *Compliance with the existing standards would:*
- A. *Unreasonably prevent the owner from using the property for a permissible principal use;*
Compliance with the standards would have no affect on the owner's ability to use the property for a permissible use. The available flat building area on the lot is large enough to accommodate a garage and apartment built in compliance with existing setback standards without intruding on other structures.
 - 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;*
Other buildings in the neighborhood comply with setback requirements, so denying the variance would not unreasonably prevent the owner from using the property in a manner which is consistent with existing development in the neighborhood. As it currently stands, the existing garage is unique among neighboring properties in that it was built much closer to the property line than the other buildings.

The variance application claims that granting the variance will "minimize injury to nearby property". Simply making the assertion does not make it so. My lot (7B) is an adjoining property. Replacing the garage with a two story dwelling which complies with normal setbacks should cause no damage to my property. It isn't clear how complying with normal setbacks might damage the only other adjoining lot (6A), nor the lots on the other side of Alder St. (9 and 11). No data or explanation has been supplied which supports this assertion.

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

The flat, easily accessible, easily buildable area of lot 7A is much larger than the footprint of the existing garage. If the 1942 garage is in imminent danger of collapse, then it is unlikely that its foundation can be reused to support a modern two-story dwelling. The owner has spent the last ten years making additions and improvements to lots 7A and 6A and the buildings and structures on them, including multiple modifications requiring the use of heavy equipment. Once the equipment and crews are on site, it is unlikely that it will be prohibitively more expensive to pour the new foundation 5' farther south.

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, title 49, or the building code, title 19, or both; and*

While the requested variance is for a replacement building to be built in the same footprint as the existing garage, the proposed replacement is much larger and serves a different purpose. As such, the existing negative effects on the neighborhood would be increased if this variance is approved.

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

Granting this variance will provide no benefit to the neighborhood, and detriments to the safety and appearance of the neighborhood have been described above.

Finally, the variance application asserts that granting the variance would:

- ① Provide a building compliant with building codes
- ② Provide a safe and attractive building
- ③ Provide housing
- ④ Invest in the neighborhood
- ⑤ Maintain public safety

Of these assertions, the first four are unrelated and not dependent on approval of the requested variance and the fifth is untrue:

- ① A replacement building which is compliant with building codes is expected regardless of where it is placed on the lot. This does not depend on a setback variance.
- ② The neighborhood will benefit from the replacement building regardless of where it is placed on the lot. This does not depend on a setback variance.
- ③ The replacement building will provide housing regardless of where it is placed on the lot. This does not depend on a setback variance.

- ① The investment in the neighborhood does not depend on a setback variance. The replacement building, with its apartment, will function just as well if it is placed at the required setback.
- ② As described above, crowding a building into the corner against a commercial driveway (lot 6A) and a narrow street (Alder) is an impediment to safety rather than an enhancement.

I have no objection to the replacement of the garage as described if its placement conforms to normal setbacks, as do other buildings in the neighborhood.

John Thurston
628 Seater St
Juneau, Alaska

January 4, 2014

City and borough of Juneau
Community Development Dept.
155S Seward St
Juneau, Alaska 99801

Attn: Chrissy McNally - var20130021
Heimbigner Trust
Site address: 635 Alder St. x Spruce St.

Planners;

I received a Notice of Public Hearing on December 24, 2013 relating to File No VAR2013 0021, the property address is listed as 635 Alder Street, Applicant is listed as Heimbigner Trust. That notice reads a variance request to reduce street side setback from 13 to 0 feet and rear yard setback from 20 feet to 2 feet to 'reconstruct a garage on the same footprint with second story accessory apartment'. That was the only information that I received on that day.

After a phone call to Chrissy McNally, I received a copy by email of the Variance Application and it's relevant attachments. After reviewing them, I find that the variance requested is titled, 'Variance to Dimensional Standards'. Is there a reason that the requested variance is not listed as 'Variance to Setback Requirements'?

The Notice reads 'reconstruct' and the application reads 'repair', with an owners opinion of 'imminent danger of collapse', reconstruct and repair do not mean the same safety result to the neighboring home owners, in my opinion. In order to correct these problems, perhaps the Heimbigners should be asking for a new construction variance rather than for a variance that states 'repair'.

I have been in the subject structure within the last two years. I witnessed cracks in the existing foundation, within the same approximate time I have been informed by the property owner that the structure had moved eight inches. Currently, there are several temporary cement barriers placed against the slab, in an unsuccessful attempt to hold the garage on it's footprint. There is also a "temporary deck" covering the pre-existing retaining wall.

Alder Street does have unique characteristics and with those come unique challenges. Two cars can not pass without one pulling over, there are no public street lights and no public sidewalks. Block 1 Seater addition to Juneau Town site dated 12/6/1932 shows the roads as 10 ft wide, today it is a 15ft wide street. When the Heimbigners refer, in their application, to the encroachment on her property, it is our belief, both George and Bill Jorgensen agreed to the street improvement, hence, the short retaining wall for lot 6A and the 6 inch high gutter protection on lot 7A. To get the extra footage for the road, it seems unrealistic, however possible, that the 'extra' five feet would come from just one side of the street. There are visual 'Brass Caps Monument' markers in the neighborhood. Due to snow, ice, melt, thaw and changes in topography with improvements and new construction, underground springs are also a problem, surfacing in different locations.

While the **lot** may have topographical challenges, most of Seater Addition also has similar challenges. It's on a hill. How many other variances have been granted in the same geographical area for similar reasons?. The erosion problem was there and they were aware of it before the 20+ dump trucks of 'poop', not legally defined or sold as landfill, was hauled in! The Heimbigners refer to "extreme slope" as a reason to grant a variance, this slope is primarily located at the bottom portion of 7A that butts lot 7B. Could be, 20+ dump truck loads of 'poop' cause "extreme slopes". Is it possible that the extreme slope was man made?

Public Safety, as we see it , is the primary reason for denying the variance application. Without evidence of posted permits, the Heimbiggers have extended the existing garage roof eaves approx 18 inches to shed both water and snow onto Alder St. without consideration of vehicle/pedestrian safety.

When I requested removal of the extended portion, I was told, "The extension is necessary to keep the water away from the Garage". I believe they have been asked, on more that one occasion, by the Public Works Dept, Division of Street, to also reduce the extension to allow for appropriate snow removal and Street cleaning equipment access. The CBJ's inability to perform required maintenance has a negative affect on the entire neighborhood. Currently the roof extension is still present! There are no snow stops, and the snow slides directly into the street. With no variance approval they would have appropriate snow removal storage accommodations, not requiring them to transport it across the street, currently being done.

Currently they have NO vision of west bound traffic/pedestrians when pulling out of the driveway located at Lot6A, which is required parking to accommodate their lodging business. With current, legal setbacks in place, they too will have vision to traffic/pedestrians coming from the west. At the 5-way intersection going west , you can not see down Spruce until you are out in the intersection because of the plantings on subject property. With standard setbacks this too could be improved. The driveway on the 7A lot is blind because of the Spruce St. vegetation. With a set back in place all of these safety issues could be addressed thus making it a safer neighborhood for all visitors and residents and not just the entering/exiting individuals from the referenced properties.

An Engineer for the City suggests there probably is not a significant price increase to relocating the garage. He questioned the financial 'hardship' that the applicant is stating might rather be based on the additional requirements to meet building codes based on the second story addition . The 'dig out' and extra footings required for a second story would be relevant in both instances, regardless of location, and this could account for any additional costs.

With approximately five lots suitable for additional building, please do not set a precedence, that allows this to become the norm. There are not any properties in this neighborhood with 0 set backs, please do not set a precedence for the area. Granting a variance is not the only feasible option. This is not a case of too little footage. The lot measures 8132 sq feet and the current garage measures approximately 24x24, with no other permanent structures on said lot.

I stress again, this garage has to come down completely. What a better time for the property to come under complete compliance, conform with the rules and build according to code with proper setbacks which in turn will make the neighborhood safe! Yes, additional housing is needed in Juneau, but not at the expense of existing taxpayers. It is your job as planners to also protect existing properties, their owners and make neighborhoods as safe as possible. This variance would not make it safer for anyone, including the Heimbiggers and their out of town Bed and Breakfast guests. These guest are not used to our narrow roads, they can use all the vision they can get.

Thank you for your time and consideration,

Susan Woods - Agent for Edward C Loidhamer
641 Alder St
Juneau, Alaska 99801