



**BOARD OF ADJUSTMENT
NOTICE OF DECISION**

Date: February 12, 2014

File No.: FZE2014 0001

Tracy LaBarge
PO Box 21082
Juneau, AK 998802

Application For: A Flood Zone Exception to allow a building to be built on a dock seaward of the mean high tide in a Velocity flood zone.

Legal Description: Lot 8 Block 83 Tidelands Addition

Property Address: 406 S. Franklin Street

Parcel Code No.: 1-C07-0-K83-004-0

Hearing Date: February 11, 2014

The Board of Adjustment, at its regular public meeting, did not adopt the analysis and findings listed in the attached memorandum dated January 31, 2014. The Board of Adjustment adopted the applicants findings and approved the Variance to be conducted as described in the project description and project drawings submitted with the application. New findings are shown below. No Conditions were added to the project.

The following findings were made by the applicant after the publication of staff's January 31, 2014 memorandum and were accepted by the Board of Adjustment at the public hearing.

49.70.410 (b)(4): The importance of the services provided by the proposed facility to the community;

The importance of the services provide by the facility to the community are 1) Generate more sales tax with more open area for seating, 2) Better operation flow of the business and for other tenants which will increase sales tax.

49.70.410 (b)(5): The necessity to the facility of a waterfront location, where applicable;

The applicants indicates that the business is dependant upon being on the waterfront.

49.70.410 (b)(6): The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;

The applicant states that the previous location near the Marine Park Garage is no longer available, and locating the cook and service shacks up against the existing building is not an acceptable location as it would disrupt business operation flow.

49.70.410 (b)(8): The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;

The Comprehensive Plan and Floodplain regulations ensure the health and safety of the community from 100-year storm impacts. Buildings must be built, designed, and located in a way as to be protected from flooding impacts. Through staff's condition, the deck will be able to withstand the 100-year storm impact. Therefore, the applicant's outdoor improvements and adjacent buildings will be safe from the 100-year storm event.

49.70.410 (h): Exceptions shall only be issued upon:

(2): A determination that failure to grant the exception would result in exceptional hardship to the applicant; and

The applicant states that there are no available locations for her business. Other visible dock areas are unavailable or located further seaward of the reach of Mean High Tide.

(3): A determination that the granting of an exception will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances or conflict with existing local laws or ordinances.

As indicated in staff's report, the proposal will be on an elevated dock and will not result in increased flood heights, additional threats to public safety, extraordinary public expense, or create nuisances. Further, the Land Use Code's intent of setting development back from the reach of the mean high tide is to prevent buildings from collapsing due to shoreline erosion, sediment transportation, and undercutting, as well as wave impact. The applicant's shacks will be atop of an elevated deck and not susceptible to those forces. With staff's condition of ensuring the deck to withstand 100-year storm forces, the applicant's proposal will be consistent with the Comprehensive Plan and meet the intent of the Land Use Code.

49.20.250 (b)(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.

Approving the Flood Zone Exception will allow the applicant to place two small shacks seaward of the reach of mean high tide. This is similar and consistent with the adjacent US Ports & Customs building and Visitor's Center. As stated by the applicant, locating their outdoor shacks closer to the building would disrupt business operations, decrease the feel of the applicant's business, and interfere with truck deliveries. Therefore, substantial relief would be given by approving the Flood Zone Exception.

49.20.250 (b)(6): That a grant of the Variance would result in more benefits than detriments to the neighborhood.

According to the applicant, approving the Flood Zone Exception would result in an increase in the investment of the seawalk and the downtown area.

Attachment: January 31, 2014, memorandum from Eric Feldt, Community Development, to the CBJ Board of Adjustment regarding FZE2014 0001.

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

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

Effective Date: The permit is effective upon approval by the Board, February 11, 2014

Expiration Date: The permit will expire 18 months after the effective date, or August 11, 2015 if no Building Permit has been issued and substantial construction progress has not been made in accordance with the plans for which the development permit was authorized. Application for permit extension must be submitted thirty days prior to the expiration date.

Project Planner:


Eric Feldt, Planner
Community Development Department


Michael Satre, Chair
Planning Commission


Filed With City Clerk Deputy

2/14/14
Date

cc: Plan Review

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