DATE:     August 27, 2014
TO:       Board of Adjustment
FROM:     Chrissy McNally, Planner  
           Community Development Department
FILE NO:  VAR2014 0015
PROPOSAL: Variance request to reduce the front yard setback from 25 feet to 5 feet for the construction of a single family residence in the D3 zoning district.

GENERAL INFORMATION
Applicant:     Raymond Hurley
Property Owner: Raymond Hurley
Property Address: 14195 Otter Way
Legal Description: USS 3050 LT 2
Parcel Code Number: 4-B31-0-103-002-0
Site Size: 12,397 square feet
Comprehensive Plan Future Land Use Designation: Rural Low Density Residential
Zoning: D-3(T)D-5
Utilities: Public water & private sewer
Access: Otter Way
Existing Land Use: Vacant
Surrounding Land Use: North - D-3(T)D-5/Single family dwelling  
                      South - Indian Cove  
                      East - D-3(T)D-5/Single family dwelling  
                      West - D-3(T)D-5/vacant
ATTACHMENTS

Attachment A: Variance application and narrative  
Attachment B: Proposed site plan  
Attachment C: Proposed house design  
Attachment D: Neighboring lot As-builts  
Attachment E: Parking on Otter Way ROW  
Attachment F: Public notice
PROJECT DESCRIPTION

The applicant proposes to build a two story single family home with attached garage on a vacant lot located on Otter Way along Indian Cove (see Vicinity Map). The applicant requests a reduction to the front yard setback of 25 feet to 5 feet. The reduction will allow for a level driveway to extend from Otter Way to the proposed garage (see Attachment C).

BACKGROUND

The vacant subject lot is 12,397 square feet in size, with an average depth of 112 feet and a width of 113 feet. The owner accreted 6,299 square feet of tideland in 1986. The lot is bordered to the north and east by single family dwellings and the lot to the west is vacant. The lot is accessed by the State owned Right-of-Way Otter Way. The rear tidal lot line lies along Indian Cove (see Vicinity Map). This area is in a VE, Velocity flood zone with a base flood elevation of 25 feet.

The subject lot is zoned D-3(T)D-5. This zoning designation is restricted to the dimensional standards and permissible uses of the D-3 zoning district, but schedule for transfer to D-5 once public sewer is installed. The minimum lot size in the D-3 zoning district is 12,000 square feet. The minimum lot width and depth is 100 feet. Therefore, the subject lot meets each of these dimensional standards.

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.

A granting of the Variance would give substantial relief to the property owner in that they will be able to construct a driveway that is level with the garage (see Attachment C). The applicants are planning this home for retirement and would like to reduce the amount of slope or stairs necessary to access the house. Further, the subject lot lies within a velocity flood zone with a base flood elevation of 25 feet. Constructing the home closer to the front lot line would reduce proximity to the flood
zone which reduces the risk of flooding.

A granting of the Variance would also be more consistent with justice to other property owners because the majority of homes along Otter Way have reduced setbacks (see Attachment D). In fact many of the homes that sit close to the Otter Way Right-of-Way do not have driveways. Residents park along the street (see Attachment D). The proposed design by the applicant reduces the setback in order to provide for safe off street parking. Maintaining a ROW clear of parked vehicles is consistent with justice to other property owners.

Further, the Otter Way Right-of-Way extends 22 feet from the paved travel way to the property line. There are no plans to develop this portion ROW. Therefore, there is still the perception of a setback from the traveled way to allow for proper sight distance for traffic and pedestrians.

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.

In general, the intent of the CBJ Land Use Code is to ensure that growth and development is in accord with the values of its residents, to identify and secure beneficial impacts of growth while minimizing the negative impacts, ensure that growth is of the appropriate type, design and location, to provide open space for light and air, and to recognize the economic value of land and encourage its proper and beneficial use.

Title 49, The Land Use Code and the 2013 Comprehensive Plan both support mitigating measures for development within flood zones. A reduction to the front yard setback will reduce proximity to the flood zone. Ensuring the new dwelling unit is well out of the flood zone and providing safe off street parking secures the benefits to the property and neighborhood and reduces the risks associated with requiring the structure to meet the 25 foot setback.

The Otter Way ROW extends 22 feet from the paved traveled way to the property line and there are no plans to develop this portion of ROW. Therefore, there is still the perception of a setback from the traveled way to allow for proper sight distance for traffic and pedestrians. This is in accord with the provision for open space allowing light and air.

The intent of Title 49 is further observed in that the addition of another dwelling unit to the City’s housing inventory recognizes the economic value of the land. Public safety and welfare will be preserved in that the dwelling unit will have reduced flood concerns and a safe level parking area which will discourage on-street parking.

Yes. This criterion is met.

3. That the authorization of the Variance will not injure nearby property.
The granting of the Variance would provide for safe off street parking. This should ensure there is
no additional on street parking. Another design would require a driveway that slopes down to the
garage. Icy or snowy conditions in winter may make the driveway unsafe for travel. In that case, the
residents may choose to park on the street to avoid an icy or snowy slope. On street parking makes
snow removal more challenging, impedes sight distance and would impact adequate space for two-
way traffic.

Yes. This criterion is met.

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

Single family dwellings are allowed in the D-3 zoning district.

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;

Without approval of the Variance request, the owner would be able to construct a single family
home. The design of the driveway would have to be amended and may not be as convenient for the
owner. However, the lot would still be developable.

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;

As previously mentioned, many houses along Otter Way lie close to the paved traveled way and do
not have off street parking. This proposal will meet the parking requirements of Title 49. There are
22 feet of undeveloped ROW between the paved traveled way and the subject property line.

Requiring the applicant to construct the residence to meet the required 25 foot setback would require
a redesign of the proposed house or fill material to raise the structure out of the floodway.

YES. This criterion is met.

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

The applicant would have to raise the lot using either fill or redesign the house to stay out of the flood zone. However, either option is feasible and not unreasonably expensive.

NO. 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.

There are no preexisting non-conforming conditions on the vacant subject parcel. The lot is larger than the minimum lot size for the zoning district. The subject lot meets both the minimum lot width and depth.

NO. This criterion is not met.

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

A reduction to the front yard setback would result in more benefits than detriments in that safe off street parking would be provided by the proposed design. Less on street parking will benefit residents, pedestrians and vehicles passing along Otter Way.

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?**

*Yes.* The proposed development complies with Juneau Coastal Management Program.

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

*Yes.* The grounds for a Variance are met for a reduction in the side and rear yard setback. All required criteria have been met.

**RECOMMENDATION**

Staff recommends that the Board of Adjustment adopt the Director’s analysis and findings and **APPROVE** the requested Variance, VAR2014 0015. The Variance permit would allow for the reduction to the front yard setback from 25 feet to 5 feet for the development of a single family residence in the D-3 zoning district.
VARIANCE APPLICATION

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**TYPE OF VARIANCE REQUESTED:**
- [ ] Variance to the Sign Standard (VSG)
- [ ] Variance to Dimensional Standards (VDS)
- [x] Variance to Habitat Setbacks (VHB)
- [ ] Variance to Parking Requirements (VPK)
- [x] Variance to Setback Requirements (VSB)

**DESCRIPTION OF ACTIVITY WHICH REQUIRES A VARIANCE:**
Request approval to reduce the front yard set back from 25 feet to 5 feet on Lot 2 on Otter Way.

Previous Variance Applications? [ ] YES [x] NO

Previous Case Number(s): ______________ Date of Filing: ______________

Was the Variance Granted? [ ] YES [ ] NO

**UNIQUE CHARACTERISTICS OF LAND OR BUILDING(S):**
This is a waterfront lot located on Otter Way. The reduction of the front yard setback will provide for
back in parking in the garage and avoid parking on the ROW.

**UTILITIES AVAILABLE:**
- WATER: [x] Public [ ] On Site
- SEWER: [ ] Public [x] On Site

**WHY WOULD A VARIANCE BE NEEDED FOR THIS PROPERTY REGARDLESS OF THE OWNER?**
Variance would be needed in order to provide vehicle parking for the home owner and to avoid
parking in the ROW.

**WHAT HARDSHIP WOULD RESULT IF THE VARIANCE WERE NOT GRANTED?**
More vehicle parking on Otter Way which impacts accessibility by road maintenance and emergency
service.

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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.

**NOTE: MUST BE ACCOMPANIED BY DEVELOPMENT PERMIT APPLICATION FORM**
DEVELOPMENT PERMIT APPLICATION

PROJECT NUMBER: VAR20140015
CITY and BOROUGH of JUNEAU
Date Received: 07/24/14

PROJECT / APPLICANT

Property Owner's Name: Raymond L. Hurley
Mailing Address: Box 210784, Auke Bay, AK 99821
E-mail Address: rhurley@ptialaska.net

LANDOWNER / LESSEE CONSENT

**Required for Planning Permits, not needed for 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.

Date: 07/24/14

APPLICANT

Applicant's Name: Raymond L. Hurley
Mailing Address: Box 210784, Auke Bay, AK 99821
E-mail Address: rhurley@ptialaska.net

NOTE: If the same as OWNER, write "SAME" and sign and date at X below.

X

Date of Application: 07/24/14

STAFF APPROVALS

Permit Type: Variance Case (De Minimis and all other Variance case types)

Date: 07/24/14

Application Number(s): VAR20140015

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

Permit Intake Initials: SB

Revised November 2009
Variance Approval Criteria

A variance may be granted after the prescribed hearing and after the Board of Adjustment has determined the following criteria are met. Include your project narrative a detailed description about how your proposal meets each of the criteria listed 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 properly involved and be more consistent with justice to other property owners;

   Approval of the front yard set back from 25 ft to 5 ft. would provide necessary relief for the following:

   A) Allow construction of a personal resident single family three bedroom two story dwelling with dimensions of 70 ft x 58 ft.
   B) Provide for back in parking to the garage from the public street (Otter Way). This also will keep Otter way ROW clear of parked vehicles that is the common practice today. Attached to this report are three photos of Otter Way at 5:30 pm on July 21, 2014 and four photos taken on July 8, 2014 at 4:49 pm demonstrating vehicle and trailer parking in the ROW.
   C) Provide for house design that includes the access shaft for an elevator to be installed at a future date.
   D) Improves the site distance between Lots 1, 2, 3, 4, & 5.
   E) Attached are “As Built” drawings, when available, for Lots 1, 3, 4, 5, 6, & 7. In every lot, there exists an approved front yard set back variance of various dimensions or the dwelling was grandfathered in when Otter Way was platted.
   F) The road drainage has been engineered and will continue to function without any modifications required by the State of Alaska or the CBJ Public Works. Snow removal will remain as presently conducted.
   G) If the decision were ever made to widen Otter Way the improvements would have to be made on the inland or uphill side of the road.

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 requested relief will enhance public safety. It will allow for back in parking into the garage and keep vehicles off the ROW. Currently, the neighboring lots do park on the right of way which impedes snow removal and emergency services.

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

   Approving this variance will not injure or impact in any manner the neighboring property.

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

   Approval of this variance request does not provide for any unauthorized use of the property.

INTAKE REVIEW
Gen Eng._____
POC______
IOC______
Tech.______
Compliance with the existing standards would:

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

Owner would be forced to park vehicles in the ROW and not be able to back onto parking pad.

(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;

Granting the variance would improve the efficient use of the land as well as the features and blending in with other neighborhood dwellings

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

The development plans would have to be extensively reworked and impact the features and amenities of the home. As previously mentioned, being able to provide for vehicle parking off the ROW is a benefit to everyone – especially for winter road maintenance and emergency services.

(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 or the building code, title 19, or both; and

There are no preexisting nonconforming conditions on Lot 2. The property has never been developed.

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

Granting the variance would result in more benefits than detriments to the property owners on Otter Way.
HURLEY RESIDENCE
Attachment C
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 ENCODAGENTS ARE AS SHOWN TO THE BEST OF MY KNOWLEDGE.

J.W. BEAN
PROFESSIONAL SURVEYOR
1970 ARCTIC CIRCLE
JUNEAU - ALASKA
(907) 736-8520
SURVEYOR - PLANNER

Attachment D
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 overtops and encroachments are as shown to the best of my knowledge.

J. W. Bean
Professional Surveyor
1070 Arctic Circle
Juneau, Alaska
907-789-0999
Surveyor-Planner

Sketch Plan of:
Lot 6, U.S.S. 3050,
with Right-of-Way Take

Received
JUL 24 2014
PERMIT CENTER/CDD
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
PROFESSIONAL SURVEYOR
3803 KIOWA DRIVE
JUNEAU, ALASKA
907-789-0590

AS-Built of
Lot 7, U.S.S. 3050
VEHICLES PARKED ON EDGE OF OTTER WAY RIGHT OF WAY
July 21, 2014 at 5:30 PM & July 8, 2014 at 4:45 PM

Attachment E
**PROPOSAL:** Variance request to reduce the front yard setback from 20 feet to 5 feet for the construction of a single family residence in the D3 zoning district.

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<th>Applicant:</th>
<th>Raymond Hurley</th>
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<td>Juneau, Alaska 99801</td>
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**PROPERTY OWNERS PLEASE NOTE:**

You are invited to attend this Public Hearing and present oral testimony. The Planning Commission will also consider written testimony. You are encouraged to submit written material to the Community Development Department 14 days prior to 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 Chrissy McNally at christine_mcnally@ci.juneau.ak.us or at 586-0761.

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

Attachment F