



**BOARD OF ADJUSTMENT  
NOTICE OF DECISION**  
Date: December 11, 2014  
File No.: VAR2014 0025

Allen & Gerri Butner  
9220 Lee Smith Drive  
Juneau, Alaska 99801

Application For: A Variance to reduce the rear yard setback from 20 feet to zero feet for the placement of six containers for use as a commercial hydroponic vegetable farm.

Legal Description: Airport Acres Block C Lot 8

Property Address: 9220 Lee Smith Drive

Parcel Code No.: 5-B16-0-105-005-0

Hearing Date: December 9, 2014

The Board of Adjustment, at its regular public hearing, adopted the analysis and findings listed in the attached memorandum dated November 13, 2014, and amended the findings (see below) to approve the Variance to be conducted as described in the project description and project drawings submitted with the application and with the following condition:

1. Prior to a Certificate of Occupancy an As-built stamped by a licensed surveyor shall be provided to the Community Development Department.

New findings made by Board of Adjustment during hearing

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 reduction of the rear yard setback to **five** feet for the placement of six container vans will provide substantial relief to the owner of the property in that the vans will be more accessible stacked three across and two high. The lesser relaxation of a five foot rear yard setback will allow all six containers to be in the rear yard and stacked two high minimizing the visual impact to the neighborhood. This configuration of the containers will 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.***

Public safety and welfare will be preserved with a five foot rear yard setback because the rear lot line is adjacent to a vacant lot with no developed access. The placement of the containers five feet from the rear lot line preserves light and air by minimizing the impact to the neighboring properties.

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

A five foot rear yard setback avoids the need to stack containers 3 high or put them in the side yard. The configuration with the five foot setback in the rear is the least harmful to nearby property.

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

***(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;***

The subject property is within 500 feet of light commercial uses. There are containers at the nearby gas station. Therefore, the development is consistent as to scale, amenities, appearance and features with existing development in the neighborhood.

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

The entire community will benefit from the reduction of the rear yard setback to five feet. The Variance will allow for the proposed hydroponic vegetable farm to produce vegetables to be sold in locally.

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

**Yes.** All criterions are met, therefore, the variance meets Section CBJ § 49.20.250.

Attachment: November 13, 2014 memorandum from Chrissy McNally, Community Development, to the CBJ Board of Adjustment regarding VAR2014 0025.

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, December 9, 2014

Expiration Date: The permit will expire 18 months after the effective date, or June 9, 2016 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: Chris McNally Dem. Satre / Mike Satre  
Chrissy McNally, Planner Michael Satre, Chair  
Community Development Department Planning Commission

Jamie J. Jiri 12/11/14  
Filed With City Clerk 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.