




**PLANNING COMMISSION STAFF REPORT
TEXT AMENDMENT AME20230004
HEARING DATE: JULY 25, 2023**

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155 S. Seward Street • Juneau, AK 99801

DATE: July 18, 2023
TO: Michael LeVine, Chair, Planning Commission
BY: Jill Maclean, Director, AICP 

PROPOSAL: The proposed language amends Chapter 65 Bungalow Lots and Structures, and Chapter 25 Table of Dimensional Standards.

STAFF RECOMMENDATION: Forward the proposed text amendment with a recommendation of APPROVAL to the Assembly.

KEY CONSIDERATIONS FOR REVIEW:

- Reduce front yard setback to 17 ft. regardless of zoning district.
- Reduce side yard, street side yard, and rear yard setbacks by 50% regardless of zoning district.

GENERAL INFORMATION

Applicant	Community Development Department
Initiated By	Community Development Department
Property Affected	Borough-wide*

LAND USE CODE AMENDED

49.25.400 TPU	Bungalow Lot Dimensional Standards
49.65 Article VI**	Bungalow Lots and Structures

WORK SESSION DATES

Title 49 Subcommittee	June 15, 2023
*Bungalow lot subdivisions are permissible if the lot(s) are served by public water and sewer, and if located on a publicly maintained road.	
**Chapter 65 Specified Uses cannot be varied (see CBJ 49.20.200)	

ALTERNATIVE ACTIONS:

1. **Amend:** modify the proposed ordinance and recommend approval to the Assembly.
2. **Deny:** recommend denial of the proposed ordinance to the Assembly. Planning Commission must make its own findings.
3. **Continue:** continue the hearing to a later date if determined that additional information or analysis is needed to make a decision, or if additional testimony is warranted.

ASSEMBLY ACTION REQUIRED:

Assembly action is required for this text amendment. The Commission's recommendation will be forwarded to the assembly for final action.

STANDARD OF REVIEW:

- Quasi-legislative decision
- Requires five (5) affirmative votes for approval
- Code Provisions:
 - CBJ 49.10.170(d)

The Commission shall hear and decide the case per CBJ 49.10.170(d) Planning Commission Duties. *The commission shall make recommendations to the assembly on all proposed amendments to this title, zonings and rezoning, indicating compliance with the provisions of this title and the comprehensive plan.*

DISCUSSION

Background –

Recognizing that the Land Use Code no longer meets the needs of the community in certain areas and that the Assembly has identified a housing crisis and made addressing Juneau’s housing supply a priority.

These items discussed include minimum yard setbacks, providing off-street parking, and other minor or grammatical revisions.

After receiving a letter from a builder regarding dimensional standards for bungalows, and a bungalow structure constructed within the rear setback, the Title 49 Subcommittee discussed these items at the June 15, 2023, meeting.

Discussion –

The proposed revisions are consistent with the Comprehensive Plan, and the Assembly’s Goal of increasing housing opportunities in Juneau. Increasing flexibility for the development of bungalow lots provides another approach to increase the housing supply. Given the lack of buildable land—and the historical development of land in Juneau—bungalow lots / structures offer more opportunities for infill development on land traditionally supporting single-family development.

Proposed Revisions -

- Bungalow lots regardless of zoning district would have a 17 ft. front yard setback.
- Bungalow lot dimensions other than front yard setback would be reduced by 50%.
- Remove references to mobile homes [49.65.630(c)].

Staff recommends the Commission further consider side and street side yard setbacks, and rear yard setbacks. The reduction of these setbacks by 50% may not meet the purpose of the code, which is intended to, *“encourage construction of small houses on property served by municipal water and sewer and publicly maintained roads. Bungalow style infill development is intended to allow property to be utilized to its maximum potential without adversely impacting established residential neighborhoods”*. (CBJ 49.65.600)

Sections Amended –

The ordinance would amend the Land Use Code Chapters 65 and 25 (CBJ 49.65 and 49.25) in the following sections:

- 49.25.400 Table of Dimensional Standards
- 49.65 Article VI Bungalow Lots and Structures

COMPLIANCE WITH TITLE 49

CBJ 49.05.100 - Purpose and intent. The purpose and Intent of Title 49 Land Use Code is:

- (1) To achieve the goals and objectives, and implement the policies, of the Juneau comprehensive plan, and coastal management program;*
- (2) To ensure that future growth and development in the City and Borough is in accord with the values of its residents;*
- (3) To identify and secure, for present and future residents, the beneficial impacts of growth while minimizing the negative impacts;*
- (4) To ensure that future growth is of the appropriate type, design and location, and is served by a proper range of public services and facilities such as water, sewage, and electrical distribution systems, transportation, schools, parks and other public requirements, and in general to promote public health, safety and general welfare;*
- (5) To provide adequate open space for light and air; and*
- (6) To recognize the economic value of land and encourage its proper and beneficial use.*

TITLE 49 - The proposed text amendment complies with CBJ Title 49 Land Use Code. Additionally, the proposed amendment will not create any inconsistencies in Title 49 as recommended (Attachments A and B).

COMPLIANCE WITH ADOPTED PLANS

2013 COMPREHENSIVE PLAN VISION: *The City and Borough of Juneau is a vibrant State Capital that values the diversity and quality of its natural and built environments, creates a safe and satisfying quality of life for its diverse population, provides quality education and employment for its workers, encourages resident participation in community decisions and provides an environment to foster state-wide leadership.*

2013 COMPREHENSIVE PLAN The proposed text amendment is in compliance with the 2013 Comprehensive Plan.

Chapter	Page No.	Item	Summary
4 (Housing)	37	Policy 4.2	The proposed text amendment supports Policy 4.2 by allowing for smaller lots for bungalow structures and providing housing choices. POLICY 4.2 To Facilitate the Provision of An Adequate Supply Of Various Housing Types And Sizes To Accommodate Present And Future Housing Needs For All Economic Groups.
10 (Land Use)	129	Policy 10.1	The proposed text amendment supports Policy 10.1 by providing opportunity to subdivide a smaller lot with a bungalow structure.

2013 COMPREHENSIVE PLAN The proposed text amendment is in compliance with the 2013 Comprehensive Plan.			
			POLICY 10.1. To Facilitate Availability of Sufficient Land with Adequate Public Facilities and Services for A Range Of Housing Types And Densities To Enable The Public And Private Sectors To Provide Affordable Housing Opportunities For All Juneau Residents.
	130	Policy 10.2	<p>The proposed text amendment supports Policy 10.2 by facilitating creative solutions to subdivide land that otherwise may not be subdivided.</p> <p>POLICY10.2. To Allow Flexibility and A Wide Range of Creative Solutions in Residential and Mixed-Use Land Development Within The Urban Service Area.</p>
	131	Policy 10.3	<p>The proposed text amendment supports Policy 10.3 by providing more flexible standards for bungalow lots that better utilize available land.</p> <p>POLICY 10.3. To Facilitate Residential Developments of Various Types and Densities That Are Appropriately Located in Relation to Site Conditions, Surrounding Land Uses, And Capacity Of Public Facilities And Transportation Systems.</p>

2016 Housing Action Plan The proposed text amendment complies with the 2016 Housing Action Plan.			
Chapter	Page No.	Item	Summary
Part 2, #7	47	Implementation	The proposed text amendment is in compliance with Part 2 #7 Zoning Changes – <i>Evaluate policies designed to encourage new development areas that already have infrastructure; streamline / fast-track infill housing permitting; Look at reducing set-backs and minimum lot sizes for duplex, ADUs, and bungalow infill units.</i>

AGENCY REVIEW

An agency review period was not conducted.

PUBLIC COMMENTS

Public Notice was provided in the July 12, and July 19, 2023, Juneau Empire Your Municipality section. No public comments have been received to date.

FINDINGS

1. Does the proposed text amendment comply with the Comprehensive Plan and other adopted plans?

Analysis: The proposed amendment balances the varied Comprehensive Plan policies and is generally consistent with the overall vision.

Finding: Yes. The proposed text amendment complies with the 2013 Comprehensive Plan.

2. Does the proposed text amendment comply with Title 49 – Land Use Code?

Analysis: The proposed amendment was drafted with the purpose and intent of Title 49 taken into account. If approved as drafted, it will be consistent with the above purposes.

Finding: Yes. The proposed amendments comply with the purpose and intent of Title 49. Additionally, the proposed amendments do not create any inconsistencies within the code as recommended.

RECOMMENDATION

Staff recommends the Planning Commission adopt the Director's analysis and findings, and make a recommendation to the Assembly to APPROVE the proposed text amendments to CBJ Chapter 65 Bungalow Lots and Structures, and Chapter 25 Table of Dimensional Standards (bungalow lots).

STAFF REPORT ATTACHMENT

Item	Description
Attachment A	Title 49 Article VI Bungalow Lots and Structures Draft Language
Attachment B	Title 49 Table of Dimensional Standards
Attachment C	Letter from Mr. Dan Miller, Building Pros Inc.

ARTICLE VI. BUNGALOW LOTS AND STRUCTURES

49.65.600 Purpose.

The intent of this chapter is to encourage construction of small houses on property served by municipal water and sewer and publicly maintained roads. Bungalow style infill development is intended to allow property to be utilized to its maximum potential without adversely impacting established residential neighborhoods.

(Serial No. 2007-13, § 3, 4-2-2007)

49.65.610 Bungalow lot subdivisions.

(a) Subdivisions creating bungalow lots must meet the following requirements:

- (1) Lots must be served by municipal water and sewer and publicly maintained roads.
- (2) In zoning districts D1, D3, D5, D10-SF, and D10, subdivisions shall not exceed two bungalow lots for each standard lot.
- (3) In zoning districts D15 and D18, bungalow lots may be platted without creating standard lots.
- (4) A note shall be included on all plats which create bungalow lots, providing: "At the time of plat recording, structures on (lot and block number for all bungalow lots) were limited to one 1,000 square foot detached single-family residence per lot; other restrictions apply as well. See the City and Borough of Juneau Land Use Code for current regulations."
- (5) Lots created through the Planned Unit Development process shall not be further subdivided into bungalow lots.

(Serial No. 2007-13, § 3, 4-2-2007; Serial No. 2015-03(c)(am), § 41, 8-31-2015)

49.65.620 Review procedure.

(a) The review procedure for bungalow lot subdivisions shall be:

- (1) In zoning districts D1, D3, D5, D10-SF, and D10:
 - (A) A minor subdivision procedure may be used for subdivision of a parcel into not more than four lots, provided that no fewer than one standard lot for each bungalow lot shall be created through this process.
 - (B) Subdivisions containing one standard lot and two bungalow lots shall be processed as major subdivisions.
- (2) In zoning districts D15 and D18, bungalow lots may be platted through the subdivision process set forth in chapter 49.15, article IV.

(Serial No. 2007-13, § 3, 4-2-2007; Serial No. 2015-03(c)(am), § 42, 8-31-2015)

49.65.630 Construction standards.

- (a) Construction on bungalow lots shall be limited to the following:
 - (1) One detached single-family dwelling with a net floor area not to exceed 1,000 square feet, and in addition, no more than 300 square feet, net floor area, of enclosed storage space such as garages, carports or sheds.
 - (2) Structures on bungalow lots shall not exceed 25 feet in height, as measured under section 49.25.420.
 - (3) Area calculations for staircases and elevators:
 - (A) Up to 100 square feet of the footprint of interior staircases and elevators shall not be counted toward the net floor area of the dwelling.
 - (B) The footprint of exterior staircases or elevators providing access to floors above the ground floor shall be counted toward the net floor area of the dwelling.
 - (4) Up to 100 square feet of a second story deck shall not be counted toward the net floor area.
 - (5) The primary entrance must be separate from the garage or carport, and where practicable, must be clearly visible from the street providing access. Where such visibility is not practicable, a pedestrian path must be provided from the street to the primary entrance.
- (b) The following dwelling types shall be prohibited on bungalow lots:
 - (1) Accessory apartments
 - ~~(2) Mobile homes~~
 - (3) Recreational vehicles
 - (4) Bed and breakfast or boarding houses

(Serial No. 2007-13, § 3, 4-2-2007)

49.25.400 Minimum dimensional standards.

There is adopted the table of minimum dimensional standards, table 49.25.400. Minimum dimensional standards for all zoning districts shall be according to the table of minimum dimensional standards, subject to the limitations of the following sections and as otherwise specifically noted in the special area or use sections, chapters 49.65 and 49.70.

(Serial No. 87-49, § 2, 1987; Serial No. 89-32, § 2, 1989; Serial No. 98-09, § 5(Exh. B), 1998; Serial No. 98-20, § 2(Exh. A), 1998; Serial No. 2004-13, § 2, 9-27-2004; Serial No. 2006-13, § 2, 5-15-2006; Serial No. 2007-13, § 2, 4-2-2007; Serial No. 2012-24, § 3, 5-14-2012, eff. 6-14-2012 ; Serial No. 2021-28 , § 4, 8-23-2021, eff. 9-22-2021)

TABLE 49.25.400

TABLE OF DIMENSIONAL STANDARDS

Zoning Regulations		RR	D-1	D-3	D-5	D-10 SF	D-10	D-15	D-18	MU	MU2	MU3	NC	LC	GC	WC	WI	I
Minimum Lot Size ¹																		
	Permissible Uses	36,000	36,000	12,000	7,000	3,600 ¹⁰	6,000	5,000	5,000	4,000	4,000	3,000	3,000	2,000	2,000	2,000	2,000	2,000
	Bungalow⁹		18,000	6,000	3,500	2,500	3,000	3,000	2,500									
	Duplex	54,000	54,000	18,000	10,500													
	Common Wall Dwelling				7,000	3,600 ¹⁰	5,000	3,500	2,500		2,500							
	Single-family detached, two dwellings per lot	72,000	72,000	24,000														
Minimum lot width		150'	150'	100'	70'	40'	50'	50'	50'	50'	50'	40'	40'	20'	20'	20'	20'	20'
	Bungalow⁹		75'	50'	35'	25'	25'	25'	25'									
	Common wall dwelling				60'	40'	40'	30'	20'		20'							
Maximum lot coverage																		
	Permissible uses	10%	10%	35%	50%	50%	50%	50%	50%	None	80%	75%	None	None	None	None	None	None
	Conditional uses	20%	20%	35%	50%	50%	50%	50%	50%	None	80%			None	None	None	None	None
Maximum height permissible uses		45'	35'	35'	35'	35'	35'	35'	35'	None	45' ⁴	35'	35'	45'	55'	35' ⁴	45' ⁴	None
	Accessory	45'	25'	25'	25'	25'	25'	25'	25'	None	35'	25'	25'	35'	45'	35' ⁴	45' ⁴	None
	Bungalow⁹		25'	25'	25'	25'	25'	25'	25'									
Minimum front yard setback ³		25'	25'	25'	20'	20' ¹⁰	20'	20'	20'	0'	5' ^{5,8}	0'	0'	25'	10'	10'	10'	10'
Maximum front yard setback												20'	15'					
Minimum street side yard setback		17'	17'	17'	13'	10'	13'	13'	13'	0'	5'	0'	0'	17'	10'	10'	10'	10'
Maximum street side yard setback												15'	10'					
Minimum rear yard setback ³		25' ²	25'	25'	20'	10'	20'	15'	10'	0'	5'	5'	0' ¹¹	10'	10'	10'	10'	10'
Minimum side yard setback ³		15' ²	15'	10'	5'	3'	5'	5'	5'	0'	5'	0'	0' ¹¹	10'	10'	10'	10'	0'
	Common wall dwelling				10' ⁶	3'	5' ⁷	5' ⁷	5' ⁷		5' ⁷							

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(Supp. No. 152)

Notes:

- 1. Minimum lot size is existing lot or area shown on chart in square feet.
- 2. Sixty feet between nonresidential and designated or actual residential site; 80 feet between industrial, extractive and other uses.
- 3. Where one district abuts another the greater of the two setbacks is required for both uses on the common property line.
- 4. (Height Bonus) Reserved.
- 5. (Pedestrian Amenities Bonus) Reserved.
- 6. Zero-foot setback for the portion of the dwelling with a common wall, five-foot setback or five-foot wide easement for the portion of the dwelling at the common lot line without a common wall, and ten-foot setback for the remaining side yards of the lot.
- 7. Zero-foot setback for the portion of the dwelling with a common wall, five-foot setback or five-foot wide easement for the portion of the dwelling at the common lot line without a common wall, and five-foot setback for the remaining side yards of the lot.
- 8. On corner lots, buildings shall be set back 15 feet from a street intersection. The area in which buildings shall be prohibited shall be determined by extending the edge of the traveled ways to a point of intersection, then measuring back 15 feet, then connecting the points.
- 9. Special restrictions apply to construction on bungalow lots. See special use provisions 49.65.600.
- 10. For lots adjacent to an alley, the following reductions to the dimensional standards apply:
 - (a) Minimal lot area includes 50% of adjacent alley (see graphic).
 - (b) Reserved.
 - (c) Minimum front yard setback of ten feet.
- 11. Additional setbacks apply when lot abuts a multi-family or single-family residential zoning district.

(Serial No. 2008-04, § 2, 2-25-2008, eff. 3-27-2008; Serial No. 2012-24, § 3, 5-14-2012, eff. 6-14-2012 ; Serial No. 2021-28 , § 4, 8-23-2021, eff. 9-22-2021; Serial No. 2021-35(am), § 4(Exh. B), 2-7-2022, eff. 3-10-2022)

To the members of the Title 49 committee as well as all of the current members of the Planning Commission,

First of all let me thank you for volunteering your time to be a Planning Commissioner for the City and Borough of Juneau. I know how much time it takes away from your families but I hope that the benefit your service brings to the community will bring you satisfaction in knowing your time on the Commission helped many Juneau residents.

Background;

My name is Dan Miller and I am the owner of Building PROS Inc., I moved to Juneau in 1995 and have literally built hundreds of new houses and done countless small jobs improving the homes of many residents of Juneau. While conducting business I did get to come in front of the planning commission a few times and because of these experiences I decided to apply to become a planning commissioner. I ended up spending 11 years on the commission and am proud of the work we did as a commission for the CBJ. I am still working full time and Building PROS is busier than ever. A couple of years ago I met a young man who was starting his own construction company, his name is Joony Munoz, he with his wife Yvonne, owns Munoz Construction. He and I share common work ethics and the desire to bring our clients the most quality and value for their projects. This resulted in working on some of our jobs together. Sometimes I'd work for him, sometimes he'd work for me. As a mentor, I helped Joony with a subdivision on a lot he lives on off of the Backloop. He had never gone through the process of subdividing before and I was glad to help. It took a year to get the subdivision done (we had to wait for code to change, I will come back to this point later) and the bungalow started, but in 2022 Joony was off and running. Per my recommendation Joony had construction stakes set by a licensed surveyor so that we could lay out the building on the lot, also per my recommendation, we set the building at least one foot extra away from the setback lines "just to be sure". I helped lay out the building initially for excavation. Joony laid out the building for the foundation and the CBJ Inspector checked the foundation placement for the foundation setback form. Let me just say that the staking was sufficiently believable that it fooled all of us. The bungalow house was built and it wasn't until the as-built was done that we discovered that the building is set too far back, being at 20.77 feet from the rear property line instead of the required 25 feet. I obviously did not do a thorough enough job of mentoring my friend, which is why I am presenting this issue to you on his behalf.

The Problem;

The bungalow house is built. It achieved the affordability goal that the Bungalow ordinance set out to achieve. The contractor, Munoz construction, has completed the home, he has a buyer for the home but because of the setback issue CBJ can not issue a Certificate of Occupancy. He is still paying construction loan interest on a home that is completely ready to occupy. The current construction loan interest rate is 9.5%, so saying that time is of the essence is an understatement. Juneau needs Munoz construction and can not afford to put him out of business. If you don't believe me, just try calling around for a contractor to install a window, door, or even tougher, a new kitchen or addition....

The Meeting with CBJ;

Joony and I met with Jill Mclean, Charlie Ford and Scott Cambior all of CBJ CDD to discuss this difficult situation. In a nut shell we were told that the only real way forward was to buy a strip of land from the neighbor. Joony asked the neighbors and they don't want to sell. He's not a government so its not like he can force them to sell with an imminent domain tool. The proverbial saying...between a rock and a hard place....that is this situation.

With my planning commission experience I asked about trying for a variance, Jill was upfront and let us know that it would be difficult if not impossible to meet the criteria. We haggled over this for awhile and I admit I regressed about why the variance ordinance had changed. So instead of being able to get a variance for just about anything, the current philosophy is to change code. For instance, on the subdivision of this bungalow lot (mentioned above), the original lot lines had been skewed at a bit of an angle and were plotted at 100 feet long. But if you make the lines perpendicular, the lot lines were only 98 feet long. So instead of being able to ask for a variance we had to wait for the code to change. And I have to admit, this code change will help many people now and in the future.

Grasping for a solution, knowing that a variance would be a long shot (according to Jill), I asked about possible code changes that might benefit us, but really be an improvement to Title 49 and be a benefit to others in the future as well. We did a bit of brainstorming and I believe there are 2 possible changes that could be made that were more or less received favorably by those in the meeting. This letter is meant to address these possible solutions. The first possible code change could be changing the setback requirements of a bungalow lot. The second could be a minor rewrite of the administrative variance. And the third possible solution is just applying for a non-administrative variance. (I believe I have findings that are real and relevant)

The 3 possible solutions;

- 1) *Change the setback requirements for Bungalow Lots.* Bungalow Lots were intentioned to be in-fill and to help boost density without the full impact of a normally size house. To accomplish this the code was written and in the Table of Dimensional Standards, a Bungalot lot is allowed to be one half of the lot size of the undlying zone and one half of the width. For example in a D-3 zone, a regular lot has to be 12000 sqft and 100 feet wide, whereas a bungalow lot can be half of those or 6000 sqft and 50' wide. Perhaps we can expand these one half rules to the setbacks. So I would propose that *one half of the setbacks can be reduced to one half of the setback requirement for that zone, but no less than 3 feet.* So as an example, in a D-3 zone, instead of a front setback of 25 feet, side setbacks of 10 feet and a rear set back of 25 feet, a person could choose to reduce one of the sides to 5' and either the front or the back to 12.5 feet. Some relaxing of these setbacks on Bungalow lots would surely allow more development of this affordable housing option and would provide the relief my friend and colleague Joony Munoz needs.
- 2) *Change the administrative variance language.* Per Title 49:

“an administrative variance may be granted to allow projections not to exceed 25 percent of the yard *setback* requirements of this title or two feet, whichever is less, upon the director determining the following:

A) Enforcement of the ordinance would create an undue hardship resulting from the unusual or special conditions of the property;

(B) The unusual or special conditions of the property are not caused by the person seeking the variance;

(C) The grant of the variance is not detrimental to public health, safety, or welfare; and

(D) The grant of the variance is narrowly tailored to relieve the hardship.”

If the first sentence of the above code was re-written to exclude the “or two feet, whichever is less”.

OR

instead of deleting the 2 feet or less, it could be changed to apply to for side yard setbacks. And for front or rear yard setback a 5 feet or less restriction could be added. Either way, these changes seem reasonable to me and I believe the director would be able to have findings in favor for this situation.

3) *Submit a Non Administrative variance application.* Interestingly enough, the same conditions for an administrative variance is required for an non administrative variance. I believe that B, C and D are pretty easy for the planning commission or the director to have suitable findings for. It is criteria A, that seems a little tougher so I will go into it more here. I believe that people tend to get hung up on unusual or special “conditions” of the property. I believe that people may tend to define the condition of the property as it’s physical characteristics, such as the land being very steep or being adjacent to an important anadromous stream and I too believe that those are examples of conditions. But conditions are also the specific processes of the property that occur during a project. Synonyms for conditions using “Microsoft Word” are “circumstances, situations, settings, environments and surroundings.” So certainly, the physical characteristics of a property are conditions or environments or surroundings but so too are all of the events and processes that occur on a property, these being the circumstances or the situations. In all the years I have been building with hundreds of opportunities to mess it up, I have had only one situation where a setback encroachment occurred, in that case it required a “diminimus variance” (basically similar to today’s administrative variance).

This Bungalow setback issue is an unprecedented request for me. I really believe that what we did to make sure of the house placement was the responsible thing to do. We did NOT just wing it. We purposefully hired a reputable professional surveyor and he provided us with staking to set the house by. We do not know if a stake ended up getting moved or removed or if it was in the wrong place. We don’t know if we misunderstood what exactly was staked, but as I’ve said above, what we believed to be accurate was sufficiently authentic that 3 professionals (me,

Joony Munoz and the CBJ inspector) all believed in its accuracy. This circumstance, or situation or condition of this property does NOT get any more unusual or unprecedented than this.

Therefore, the Findings could be as follows (please note that these findings could be the same for either an administrative variance decided by the director or for a non-administrative variance decided by the Planning Commission):

- A) Enforcement of the ordinance would create an undue hardship resulting from the unusual or special conditions of the property;

The unfortunate events that led to incorrect placing of the bungalow building are completely unusual such that special consideration is necessary to alleviate the undue hardship. The situation that the builder and CBJ are in are due to circumstances that are unexplainable, completely inadvertent, and accidental. There is NO benefit the owner would gain by purposefully encroaching into the setback only hardship, uncertainty and financial duress. Therefore, the condition of this requirement is met.

- B) The unusual or special conditions of the property are not caused by the person seeking the variance;

In reality, I submitted the building permit and a professional surveyor did the staking, so it wasn't Joony Munoz who caused the special conditions of the property. (this distinction was pointed out by CDD director Jill Mclean during our solution finding meeting) There is NO benefit the owner would gain by purposefully encroaching into the setback only hardship, uncertainty and financial duress. This condition is met.

- C) The grant of the variance is not detrimental to public health, safety, or welfare;

Granting a rear setback of 20.77 feet instead of 25 feet is not detrimental to the public health, safety and welfare. This condition is met.

- D) And; The grant of the variance is narrowly tailored to relieve the hardship;

It doesn't get any narrower than one hundredth of a foot, granting the 20.77 feet setback is narrowly tailoring the variance to relieve the hardship. This condition is met.

Of the three possible solutions we just want whichever one is going to stop the financial hemorrhaging the soonest. As some of you know, at the end of the project is when you have all of that money out and you're just hanging on for the Certificate of Occupancy, so you can get out from under the construction loan. With today's rates it's a huge deal. At the meeting with CBJ, Scott and Jill spent a bit of time looking at schedules for upcoming meetings and it was thought that the bungalow setback change might be the fastest. Although deleting or changing a couple of words in the administrative variance code sounds quick too. That all said, I believe my variance findings are sound and I hope you do as well, in case this is the path we must take.

Thank you again for your service to our community and for your time in considering this issue,

Sincerely,

Dan Miller

Building Pros Inc