



CITY AND BOROUGH OF JUNEAU DEVELOPMENT PERMIT APPLICATION

COMMUNITY DEVELOPMENT

NOTE: Development Permit Application forms must accompany all other Community Development Department land use applications.

To be completed by Applicant	PROPERTY LOCATION		
	Physical Address 5025 Powers St		
	Legal Description(s) (Subdivision, Survey, Block, Tract, Lot) USS 1796 ROSS LT 2A		
	Parcel Number(s) 4B2901000021		
	<input type="checkbox"/> This property located in the downtown historic district <input type="checkbox"/> This property located in a mapped hazard area, if so, which _____		
	LANDOWNER/ LESSEE		
	Property Owner Ivonne Fernandez	Contact Person Dan Miller	
	Mailing Address 5021 Powers St	Phone Number(s)	
	E-mail Address		
	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	Ivonne Fernandez Landowner/Lessee Signature	11-05-23 Date	
X	 Landowner/Lessee Signature	11-05-23 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"			
Applicant Dan Miller	Contact Person		
Mailing Address PO Box 32098	Phone Number(s)		
E-mail Address dmiller@gci.net	907-723-2298		
X	 Applicant's Signature	11-5-23 Date of Application	

DEPARTMENT USE ONLY BELOW THIS LINE

This form and all documents associated with it are public record once submitted.

INCOMPLETE APPLICATIONS WILL NOT BE ACCEPTED

For assistance filling out this form, contact the Permit Center at 586-0770.

Intake Initials JLS
Case Number VAR23-003
Date Received 11-6-23



VARIANCE APPLICATION

See reverse side for more information regarding the permitting process and the materials required for a complete application.

**NOTE: Must be accompanied by a DEVELOPMENT PERMIT APPLICATION form.
Not to be used for Administrative Variances**

PROJECT SUMMARY *This bungalow home was constructed approx 4.5' into the rear 25' setback*

VARIANCE REQUESTED (list CBJ Code section you are requesting a variance to) *setbacks - 4.23 feet - rear*

Previous Variance Applications? YES NO Date of Filing: _____

Previous Case Number(s): _____ Building Permit related to YES NO
this variance?

Was the Variance Granted? YES NO

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

ALL REQUIRED MATERIALS ATTACHED

Complete application per CBJ 49.65.210

Narrative including:

Any characteristics of land or building(s) or extraordinary situations that are unusual to this property or structure

Why a variance would be needed for this property regardless of the owner

What hardship would result if the variance is not granted

Site Plan

To be completed by Applicant

DEPARTMENT USE ONLY BELOW THIS LINE

VARIANCE FEES	Fees	Check No.	Receipt	Date
Application Fees	\$ 400.00			
Adjustment	\$ 150.00			
Total Fee	\$ 550.00			

public notices sign

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Case Number	Date Received
VAR23-003	11-6-23

Variance Application Instructions

Variances are outlined in CBJ 49.20 article II

Application: An application for a Variance will not be accepted by the Community Development Department (CDD) until it is determined to be complete. The items needed for a complete application are:

1. **Forms:** Completed Variance Application and Development Permit Application forms.
2. **Fees:** The fee for a Variance Application is \$400.00. If the application is in conjunction with a major development permit, the Variance fee will be reduced by 20 percent. Any development, work or use done without a permit issued will be subject to double fees. All fees are subject to change.
3. **Project Description:** A detailed letter or narrative describing the hardship that is the result of an unusual situation or physical feature affecting a specific parcel of land or structure. **Also include how the proposed project meets the variance criteria listed on the attached sheet.**
4. **Plans:** A site plan showing the following information:
 - A. The location of existing and proposed structures (i.e. buildings, fences, signs, parking areas, etc.); and
 - B. The location of existing physical features of the site (i.e. drainage, eagle trees, hazard areas, salmon streams, wetlands, etc.).

Document Format: All materials submitted as part of an application shall be submitted in either of the following formats:

1. Electronic copies in the following formats: .doc, .txt, .xls, .bmp, .pdf, .jpg, .gif, .xlm, .rtf (other formats may be preapproved by the Community Development Department).
2. Paper copies 11" X 17" or smaller (larger paper size may be preapproved by the Community Development Department).

Please consult with the Community Development Department to discuss whether additional information may be required for your application. The "Planner-On-Call" can be reached by contacting the Community Development Department at (907) 586-0715 or via email at Permits@juneau.org.

Application Review & Hearing Procedure: Once the application is determined to be complete, the Community Development Department will initiate the review and scheduling of the application. This process includes:

Review: As part of the review process the Community Development Department will evaluate the application for consistency with all applicable City & Borough of Juneau codes and adopted plans. Depending on unique characteristics of the Variance Application request the application may be required to be reviewed by other municipal boards and committees. During this review period, the Community Development Department will coordinate the review of this application by other agencies, as necessary. Review comments may require the applicant to provide additional information, clarification, or submit modifications/alterations for the proposed project.

Hearing: All Variance Applications must be reviewed by the Board of Adjustment. Once an application has been deemed complete and has been reviewed by all applicable parties the Community Development Department will schedule the requested permit for the next appropriate meeting.

Public Notice Responsibilities: As part of the Variance process, all requests must be given proper public notice as outlined in 49.20.230 which consists of the following:

Community Development Department will give notice of the pending Planning Commission meeting and its agenda in the local newspaper a minimum of 10-days prior to the meeting. Furthermore, the department will mail abutters notices to all property owners within 500-feet of the project site. A "Public Notice Sign" is required to be posted on the site by the Applicant and the Community Development Department will create the sign to be posted.

11-5-23

Narrative for setback variance application.

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 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 and approved the location before any concrete was poured.** 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 for the FINAL inspection 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. How this error happened is completely unknown to the surveyor, me and the owners. We absolutely believed it was set with the one foot extra.

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 cannot afford for this unfortunate occurrence to put him out of business.

Joony Munoz 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 best way forward was to buy a strip of land from the neighbor. Joony asked the neighbors and they don't want to sell. I then wrote a letter to the title 49 committee offering a few thoughts and possible solutions. Two of the three possible solutions were to make some subtle changes to code, but Scott Cambior let me know that the Title 49 committee felt that changing code to provide relief for a single applicant might not be appropriate. I happen to agree with the Title 49 committee but I also believe that you may want to take a look at my proposed bungalow changes to see if it wouldn't help get a few more of these infill homes built (when you have a bit of time). In late summer, it looked like the owner was going to be open to selling the 127 sqft of land necessary to satisfy the setback. But, according to Joony, the neighbor wanted \$250,000 for the strip of land. I would just say that there is no ill will for the neighbor as it is his right to price his land according to the value to which he cherishes it.

The third solution was to just bring forward a variance application for relief of the rear setback. I believe that this is the appropriate solution and hope you will find my analysis and findings acceptable.

Submit a Non Administrative variance application.

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. Indeed, in the Variance Application Instructions supplied by CBJ, under Project description, it instructs the applicant to provide "A detailed letter or narrative describing the hardship that is the result of an unusual situation...."

In the 45 years I have been building with hundreds and 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), for the one inch or so of encroachment. 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;

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 so unusual that they are unexplainable, completely inadvertent, and wholly 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.

Sincerely,

A handwritten signature in black ink, appearing to be 'Dan Miller', with a long horizontal line extending to the right.

Dan Miller

Building Pros Inc

NOTES

- 1) All distances are measured in U.S. Survey feet.
- 2) Record information derived from plat #2022-20, "LOT 2A AND 2B, A SUBDIVISION PLAT OF LOT 2, PLAT NO. 389, A FRACTION OF SURVEY NO. 1796," as conducted by JW BEAN. PLS, and recorded 08/01/2022 in the Juneau, Recording District, Juneau, AK
- 3) Subject to easements and restrictions of record.
- 4) Where measured or calculated bearings and distances differ from record, record info. is shown in parenthesis.
- 5) The basis of bearing for this survey is the record bearing of S61°48'30"W between the NE & NW corners of Lot 2A per the plat referenced in "2)" of these notes.

FND: 1.25" DIA. PLASTIC CAP
ON #5 REBAR, "JW BEAN,
PLS" (TYPICAL THIS SYMBOL)

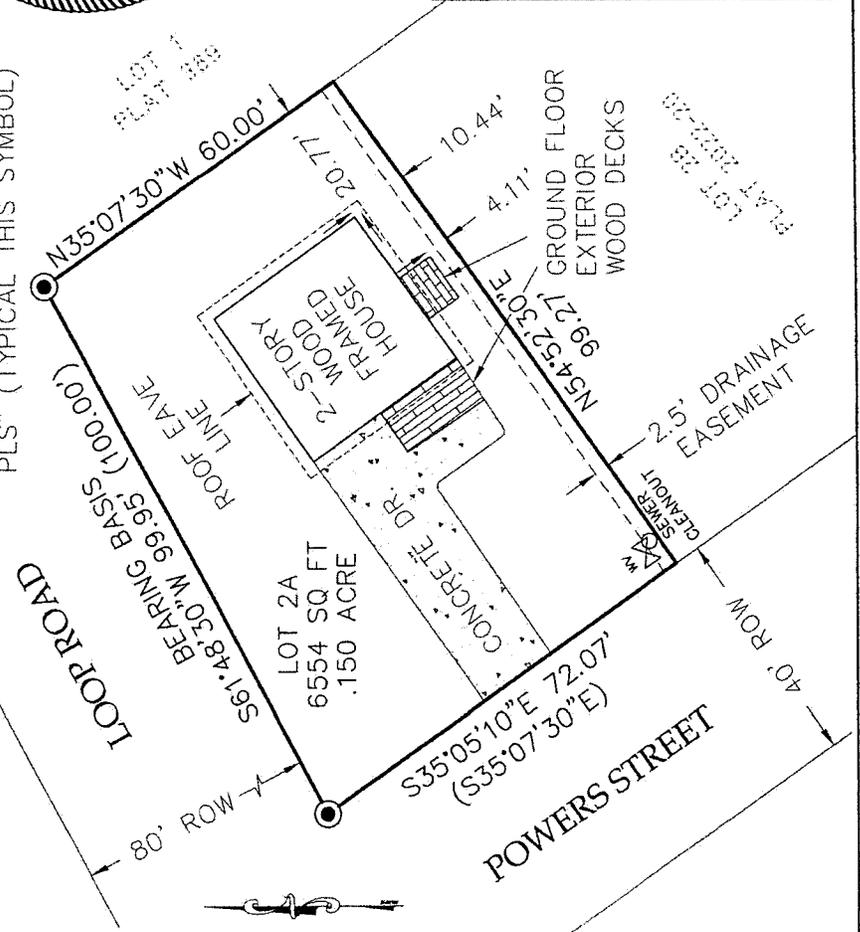
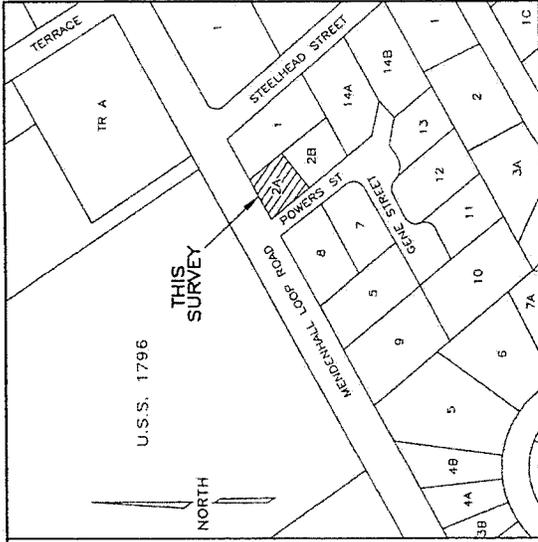


VICINITY MAP

SOURCE: CBJ GIS BASEMAP

SURVEYOR'S CERTIFICATE

I hereby certify I am a Registered Land Surveyor licensed to practice land surveying in the State of Alaska, and this As Built represents a survey made by me or under my direct supervision, and all walks, roads, improvements, encroachments and overlaps are shown correctly to the best of my knowledge.
Date: April 27, 2023



AS-BUILT SURVEY

OF
LOT 2A
WITHIN

PLAT # 2022-20, "A SUBDIVISION OF LOT 2, PLAT NO. 389"
WITHIN THE CITY & BOROUGH OF JUNEAU, AK

SURVEYOR:

RANDAL V. DAVIS, PLS
9240 N. DOUGLAS HIGHWAY
JUNEAU, ALASKA 99801
(907) 209-3400

OWNERS:

IVONNE & ROSE FERNANDEZ
5021 POWERS STREET
JUNEAU, AK 99801

DATE: 04/25/23 SCALE: 1"=30'

SHEET 1 OF 1