

DATE: March 20, 2000
TO: Planning Commission
FROM: Gary Gillette, Planner
Community Development Department
FILE NO.: VAR2000-00010

PROPOSAL: A variance request to reduce the side yard setback from 5 feet to 2.9 feet to allow enclosure of an existing deck for living space and to 0 feet to allow extension of an existing access deck.

GENERAL INFORMATION

Applicant: Delores Reina
Property Owner: Delores Gonzalez (Reina)
Property Address: 330 West 8th Street
Legal Description: Lot 7 & Fraction Lot 8, Block 202, Casey Shattuck Subdivision
Parcel Code Number: 1-C06-0-C02-005-0
Site Size: 6,472 Square Feet
Zoning: D-18, Multifamily Residential
Utilities: CBJ Water and Sewer Services
Access: West Eighth Street
Existing Land Use: Duplex Residence
Surrounding Land Use: North - Residential
South - Residential
East - Residential
West - Residential

PROJECT DESCRIPTION

The applicant proposes to enclose an existing covered deck to create additional living space on the lower floor of an existing residence. In addition, a portion of an existing access ramp would be extended to the property line. The access ramp provides wheelchair access to the lower floor of the building.

BACKGROUND

The applicant provides assisted living care for disabled persons in the lower level of the building. The additional space created by the enclosure of the deck will allow easier access in the space for those in wheelchairs. The access ramp would be extended to provide a useable width once the deck is enclosed. Without this extension of the access ramp it would be only about 2 feet wide which is too narrow to provide adequate access. The extension would allow the ramp to be 2.9 feet which is adequate for wheelchair access. The ADA standard for ramp width is 36-inches. The subject ramp would be slightly less due to existing conditions but is acceptable for adequate access according to Sara Boesser of the CBJ Building Division.

The proposed enclosure of the deck is located 2.9 feet from a side property line where a 5-foot setback is required. This encroachment only occurs for approximately 4 feet of the proposed enclosure. The site jogs such that the remaining 10 feet of the proposed enclosure would meet the required setback. In addition, the proposed extension of the access ramp would be 0 feet to the property line where a 5-foot setback is required. This ramp provides wheelchair access to the lower floor. The extension of the access ramp is desired to provide a useable width for wheelchair access.

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.***

The proposed relaxation would give substantial relief to the owner as it would allow increasing the living space of the lower floor and provide useable wheelchair access to the lower level of the building. Since the proposed enclosure involves utilizing the structure of an existing deck there is no lesser relaxation that would provide substantial relief to the owner. Thus, 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.***

The proposed deck enclosure and access ramp extension would require a building permit (applicant has an application pending). The building permit would require the project to meet codes for safety, emergency egress, and fire resistive construction for elements built to the property line therefore, the safety and welfare would be preserved. Thus, this criterion is met.

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

The proposed deck enclosure and access ramp extension is located such that it is far removed from the building on the adjacent lot. There has been no evidence presented that would indicate that the enclosure would injure nearby property. Thus, this criterion is met.

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

The existing use is a residential building which is allowed in the zoning district. The granting of the requested variance would not result in uses not authorized in the district. Thus, 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;***

The proposed project is to an existing residence with adult day care use which are permissible principal uses in the D-18 zoning district. Compliance with the standards would not prevent the owner from using the property for a permissible use as the use

currently exists. Thus, this sub-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;***

Other existing development in the neighborhood feature decks and living space similar to that of the subject building. Compliance with the standards would not prevent the owner from using the property in a manner which is consistent with existing development as it is currently doing so. Thus, this sub-criterion is not met.

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

The subject lot slopes very steeply from the back of the existing building. The deck which is proposed to be enclosed is built on a post structure. To add to the existing structure to the north would require expensive piling construction. The most practical method of acquiring expanded living space would be to enclose the deck as proposed. In this manner the existing super structure can be used to the owner's advantage. An additional structure would be cost prohibitive as the site drops dramatically to the north of the building. Thus, this sub-criterion is met.

or

- (D) *Because of pre-existing 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.***

The existing deck that is proposed to be enclosed and the access ramp that is proposed to be extended are both legally non-conforming as it appears these elements were constructed prior to current setback requirements. Enclosing the deck as proposed only effects approximately four lineal feet of the entire building. The expansion of the access ramp effects approximately seven lineal feet. The area of effect is minimal and would not seem to cause a net decrease in overall compliance with the Land Use Code or Building Code. Thus, this sub-criterion is met.

This criterion is met because C and D are met.

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

There have been no detriments identified as a result of the proposed project. The proposed enclosure on an existing deck will add value to the building. The access ramp extension will allow useable wheelchair access to meet disabled access needs. Therefore, there are more benefits than detriments to the neighborhood. Thus, this criterion is met.

JUNEAU COASTAL MANAGEMENT PROGRAM

The proposed development was reviewed for compliance with CBJ §49.70.900, the Juneau Coastal Management Program. The analysis reveals that no enforceable policies of the JCMP apply to the proposed project.

FINDINGS

CBJ§49.20.240, Board of Adjustment Action, states that the Board of Adjustment shall hear all variance requests and shall either approve, conditionally approve, modify or deny the request based on the criteria in CBJ§49.20.250.

Under CBJ§49.20.220, Scheduling and Fee, the director makes the following determination:

1. *Is the application for the requested variance complete?*

Yes. The application contains the information necessary to conduct a full review of the proposed operations. The application submittal by the applicant, including the appropriate fees, substantially conform to the requirements of CBJ code Chapters 49.15. Additionally, advertising notice was provided in the Juneau Empire under “Your Municipality” which ran on March 17, 2000. A notice was mailed to owners of record of all property within 500 feet of the subject property on March 17, 2000.

Under 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 Program?*

Not Applicable. Based on the preceding staff analysis, it is found that no provisions of the Juneau Coastal Management Program apply to the proposed development.

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

Yes. Based on the preceding analysis it is determined that the requested variance meets the grounds for variance of Section 49.20.250 of the CBJ Land Use Code.

RECOMMENDATION

It is recommended that the Board of Adjustment adopt the director's findings and analysis and grant the requested variance because the grounds for variances in Section §49.20.250 of the CBJ Land Use Code are met.