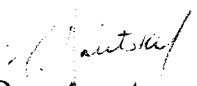


MEMORANDUM

CITY/BOROUGH OF JUNEAU
155 South Seward Street, Juneau, Alaska 99801

DATE: July 19, 2005

TO: Board of Adjustment

FROM: Matthew Halitsky, Planner 
Community Development Department

FILE NO.: VAR2005-00016

PROPOSAL: A Variance request to reduce the side yard setbacks to zero to allow for the subdivision of one lot into two.

GENERAL INFORMATION

Applicant: I.B.E.W., Jake Metcalfe

Property Owner: I.B.E.W., Jake Metcalfe

Property Address: 811/813 W. 12th Street, Juneau

Legal Description: Harborview No. 1/ Urban Renewal, Block 5 Lot 5

Parcel Code Number: 1-C06-0-U05-005-0

Site Size: 6,719 Square feet

Zoning: LC - Light Commercial

Utilities: CBJ Water & Sewer

Access: 12th Street

Existing Land Use: Alternative High School/Harri's Plumbing

Surrounding Land Use: North - Juneau-Douglas High School
South - Zoned LC, Light Commercial
East - Mt. View Senior Center
West - Zoned D-5, Single-family/Residential



PROJECT DESCRIPTION

The applicant is seeking a Variance to reduce the side setback of the subject parcel to zero to accommodate a parcel separation already recorded by deed long ago, but that never went through the legal subdivision process of the CBJ. Harri's Plumbing and Heating and the building housing the alternative high school and associated offices are essentially considered two separate buildings with separate ownership that are attached and existing on a single parcel. The applicant's intention is to create two separate lots in order to provide separate utilities and services to the two distinct businesses, which were already thought to be on separate parcels since the time of the recording of the deed.

BACKGROUND

Earlier this spring, representatives from the I.B.E.W. approached the Community Development Department seeking approval for a second electrical service to the subject parcel. At that time, it was discovered that although the owners of both businesses were under the impression that two separate parcels existed, it was never legally subdivided. In order to provide separate utilities for each building, the lots will now have to be legally split. Since the buildings are attached and have been for years, such a subdivision would require a Variance to reduce the side setback on each resulting lot to zero. The applicants are working closely with the CBJ Building Official to ensure that the attached structures are brought up to current code.

ANALYSIS

As described above, ownership of the subject parcel and the structures existing upon them were separated by deed at a previous date, but did not go through the legal subdivision process with a plat. It is the owner's intent to correct this oversight to prevent future building and zoning issues from arising. The Variance is needed so that once the lot is subdivided; the existing structures may remain in place although they are built to the proposed property line. Normally, a ten-foot side yard setback applies in the Light Commercial Zone. The two buildings have existed in this neighborhood for quite some time. No major exterior alterations are planned as a result of this Variance. Hence, no additional nuisances or deleterious effects are expected by granting this Variance.

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.***

Given the multiple ownership of the lot, the relaxation applied for would give substantial relief to the owners in that they could each retain ownership of the portion of the lot that they believe they own, and which was previously recorded by deed. Substandard lots and structures with legally nonconforming setbacks are typical of this area of downtown Juneau. As no major exterior alterations are planned, the existing character of the neighborhood should not change as a result of a grant of this Variance.

Staff finds that 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 existing buildings have been on site for an extended period of time, and the public safety and welfare have been preserved to date. No changes in land use or major exterior alterations are planned subsequent to a grant of this Variance. Renovations are being conducted to maintain the safety of the buildings, including updated fire protection, and new mechanical and electrical equipment, necessitating the subdivision. Staff finds no evidence to suggest that a grant of this Variance would endanger the public health or safety.

Staff finds that this criterion is met.

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

The existing buildings have been on site for over 30 years without injury to nearby property. Staff finds no evidence to suggest that a grant of this Variance would create such a nuisance or hazard to neighboring property.

Staff finds that this criterion is met.

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

No change in use is proposed as part of this Variance. Commercial businesses and office space, as what currently exists on site, are permitted uses in the Light Commercial Zoning District, as listed under sections 2.000 and 3.000, respectively, in the Table of Permissible Uses under CBJ §49.25.300.

Staff finds that 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;***

No. The two buildings are already being used for their permitted principle uses, commercial retail and office space. Although a denial of this Variance would still allow the businesses to operate as-is, the applicant would not be able to subdivide the property as the existing structures are currently built to a zero-setback and are attached. Compliance with the existing standards would not be possible without removal or extreme alteration of the existing buildings.

(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;***

No. The property is already being used for a permitted use. The owners would like to make improvements that would only be allowed if the two buildings existed on separate parcels. Although ownership was separated at the time of the recorded deed, the parcel never went through the legal subdivision process. A Variance is needed only to allow this subdivision.

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

Yes. As the two structures already exist, compliance with the existing standards would mean removal or extreme alteration of the buildings in order to meet the required 10' side yard setback. A grant of this Variance would allow the proposed subdivision, while maintaining the existing look of the buildings and retaining the neighborhood character that already exists.

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.***

Yes. The two buildings are already considered legally nonconforming for not currently meeting their front, streetside, or rear setbacks. This is a typical situation in this neighborhood, as the lots were platted long ago. The intent of the subdivision is to allow the owners to upgrade their respective buildings with newer and updated electrical services, as well as other improvements to enhance the structure and the safety of the tenants within. A grant of this Variance would allow this subdivision, ultimately bringing the structures into greater compliance with CBJ Titles 19 and 49.

Staff finds that this criterion is met, based on sub-criteria C and D.

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

As the two buildings already exist and no major exterior modifications are planned, a grant of this Variance will not result in any detriments to the neighborhood. However, a grant of this Variance would allow for the proposed subdivision to take place, thereby enabling the Building Division to issue permits allowing the owner to make improvements to and occupy their respective buildings, ultimately of benefit to the neighborhood.

Staff finds that this criterion is met.

JUNEAU COASTAL MANAGEMENT PROGRAM

The proposed development was reviewed for compliance with the Juneau Coastal Management Program. Staff is unaware of any enforceable policies of the JCMP that apply to this proposal. Review of U.S. Fish and Wildlife Service mapped bald eagle nests indicated that no mapped nests are located on the subject parcel, or on adjacent lots to the proposed development.

FINDINGS

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

Yes, the application for the requested Variances are complete and contain the information necessary for the Board of Adjustment, per CBJ §49.20.230, to either approve, conditionally approve, modify or deny the requested variances based on the criteria found in CBJ §49.20.250.

2. *Will the proposed development comply with the Juneau Coastal Management Program?*

N/A. Staff is unaware of any enforceable policies of the JCMP that apply to this proposal.

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

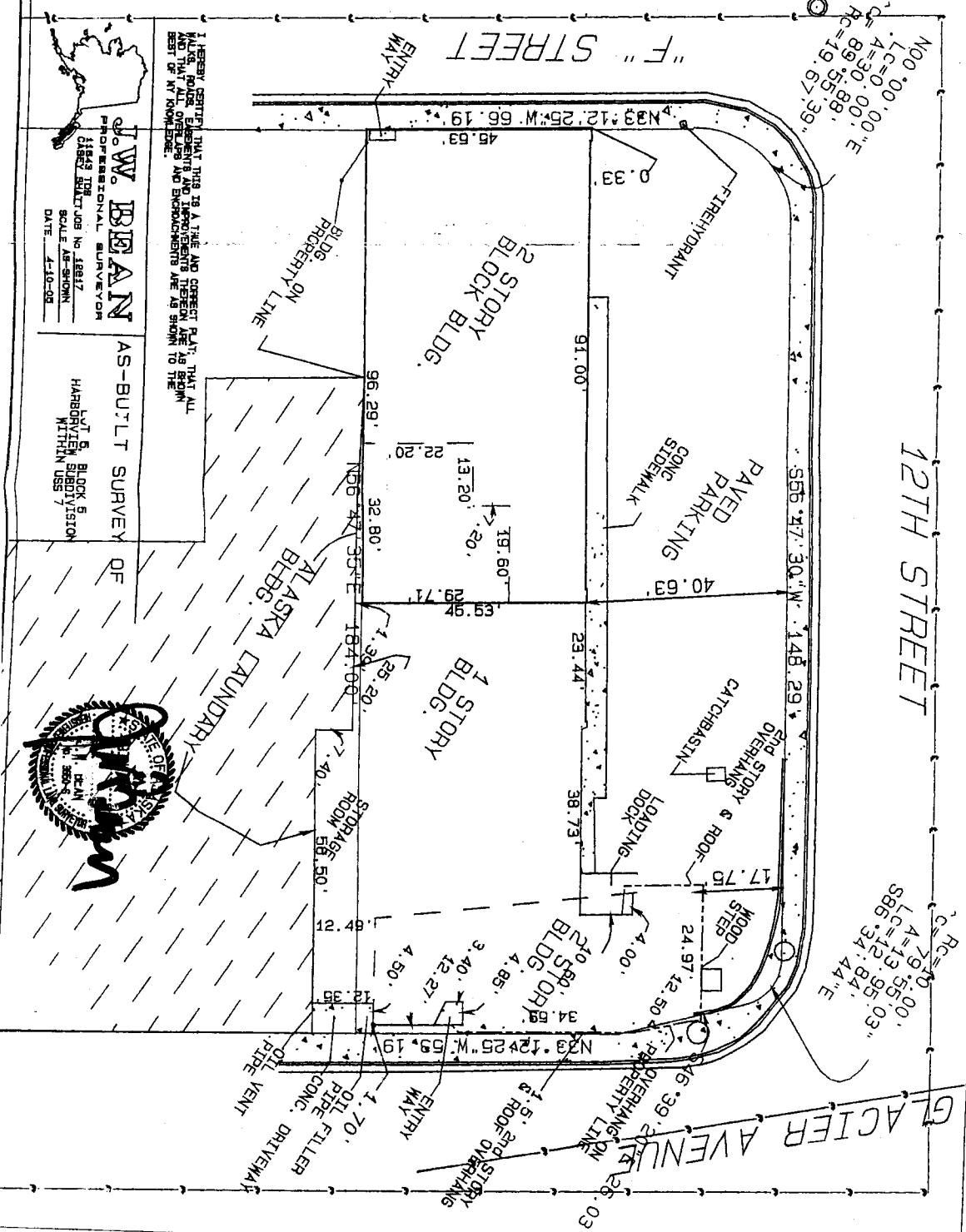
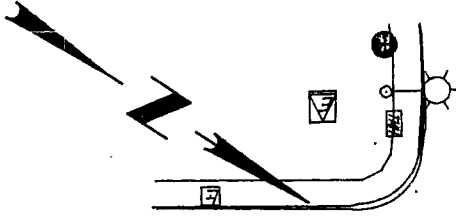
Yes, based on the above analysis, the director finds that the Variance request does meet all six criteria provided for under CBJ §49.25.250.

RECOMMENDATION

It is recommended that the Board of Adjustment adopt the Director's analysis and findings and grant the requested Variance, VAR2005-00016. The Variance would reduce the side yard setback from the required ten feet to zero, to accommodate a subdivision between two existing, attached structures.

ATTACHMENT A

RECEIVED
JUN 21 2005
PERMIT CENTER/CDD



J.W. BEAN
PROFESSIONAL SURVEYOR
ALASKA LICENSE NO. 18947
SCALE: AS SHOWN
DATE: 4-10-05

AS-BUILT SURVEY OF
BLDG 5, BLOCK 5
HARBORVIEW SUBDIVISION
WITHIN USS 7



I HEREBY CERTIFY THAT THIS IS A TRUE AND CORRECT PLAT, THAT ALL WALLS, BORDERS, EASEMENTS AND ENCROACHMENTS ARE AS SHOWN AND THAT ALL OVERLAPS AND ENCROACHMENTS ARE AS SHOWN TO THE BEST OF MY KNOWLEDGE.

ATTACHMENT A

811/813 W. 12th Street Juneau, AK
809 W. 12th Street Juneau, AK

RECEIVED

MAR 18 2005

PERMIT CENTER / CDC

UNIQUE CHARACTERISTICS OF LAND OR BUILDING:

As described in the attached subdivision application, the most unique characteristic of this land and buildings is that there are two separate buildings with separate owners on the same lot. Physically, neither the land nor buildings on this lot differ significantly from other properties in the area.

WHY WOULD A VARIANCE BE NEEDED FOR THIS PROPERTY REGARDLESS OF THE OWNER? WHAT HARDSHIP WOULD RESULT IF THE VARIANCE WERE NOT GRANTED?

1) *Relief to the property owners and more consistent with justice to other property owners.*

Given the multiple ownership of the lot, the relaxation applied for would give substantial relief to the owners in that they could each retain ownership of the portion of the lot that they believe they own, and the buildings would not need to be removed from the site.

2) *Preservation of public safety and welfare.*

The existing buildings have been on the site for an extended period of time, and the public safety and welfare have been preserved. Renovations are being conducted to increase the levels of health and safety of the buildings, including updated fire protection, and new mechanical and electrical equipment.

3) *Injury to nearby property.*

The existing buildings have been on site for an extended period of time without injury to nearby property.

4) *Variance does not authorize uses not allowed in the district.*

No change in use is proposed as part of this variance.

5) *Compliance with the existing standards would:*

- (A) *Unreasonably prevent the owner from using the property for a permissible principal use;*
- (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;*
- (C) *Be unnecessarily burdensome because unique physical features of the property render compliance with the standards unreasonably expensive; 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, title 49, or the building*

ATTACHMENT B

811/813 W. 12th Street Juneau, AK
809 W. 12th Street Juneau, AK

RECEIVED

MAR 18 2005

code, title 19, or both; and

PERMIT CENTER / CDC

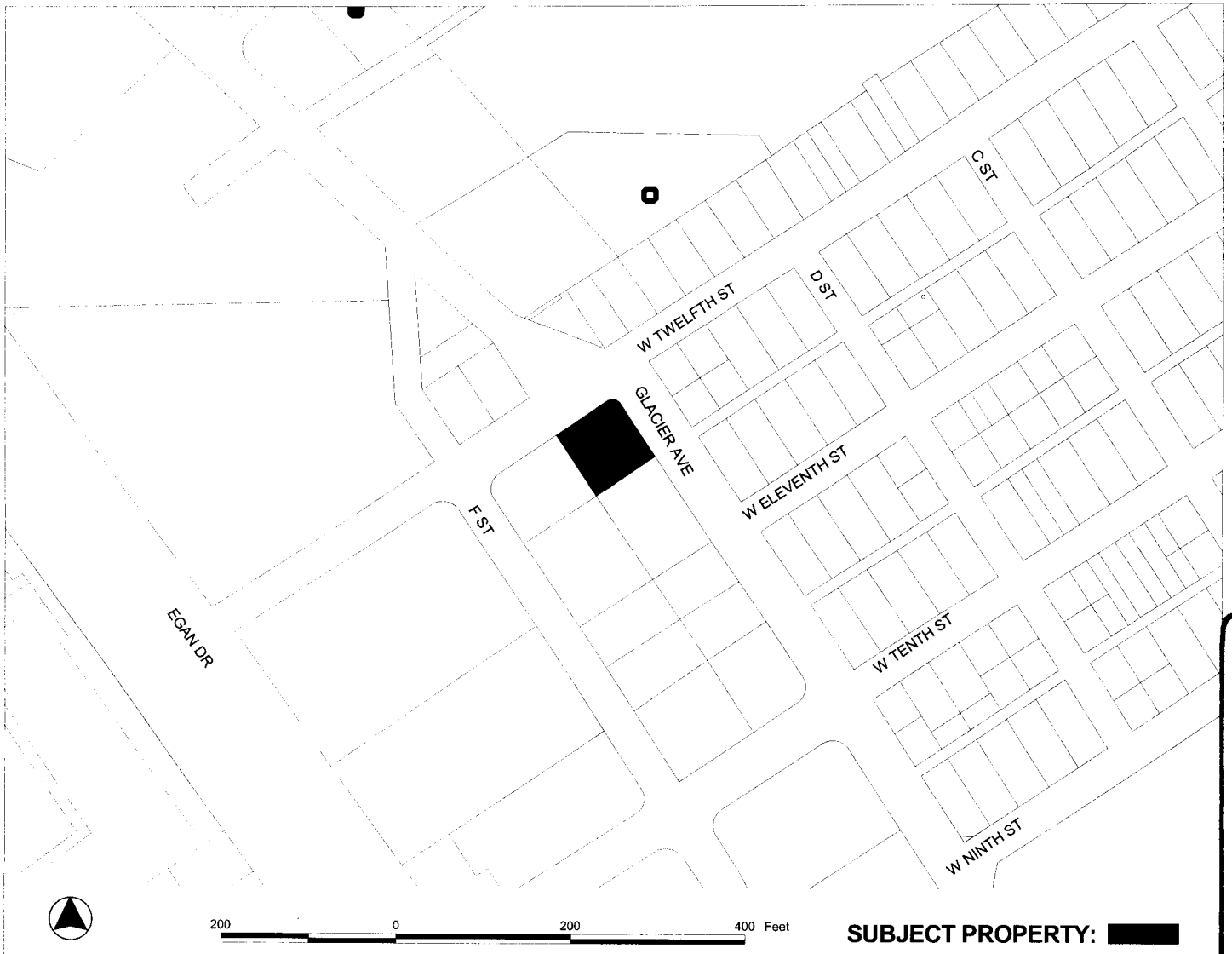
Compliance with the existing standards would unreasonably prevent the owners from using the property for its permissible use. In order to comply with existing setback standards, at least one of the existing buildings would have to be at least partially removed, or one of the property owners would have to relinquish ownership to the other in order to rectify the existing situation. Both of the solutions are unreasonable.

Because of the preexisting nonconforming conditions of the subject parcel, the grant of the variance would result in a net increase overall compliance with the land use code, title 49, and the building code, title 19.

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

A grant of the variance would not result in any detriments to the neighborhood. There are benefits to the neighborhood for the subdivision to be accepted and this variance to the side yard set back be allowed so that the buildings and businesses can remain, and the building department can issue a permit allowing the owner to make improvements to and occupy their building.

NOTICE OF PUBLIC HEARING



ATTACHMENT C

PROPOSAL: A Variance request to reduce the setbacks to allow the subdivision of one lot into two.

FILE NO:	VAR2005-00016	APPLICANT:	HARRI'S PLUMBING & HEATING
TO:	Adjacent Property Owners	PROPERTY OWNER:	HARRI PLUMBING & HEATING INC
HEARING DATE:	July 26, 2005	PROPERTY ADDRESS:	809 W TWELFTH ST
HEARING TIME:	7:00 P.M.	PARCEL CODE NUMBER:	1-C06-0-U05-005-0
PLACE:	ASSEMBLY CHAMBERS Municipal Bldg. 155 South Seward St., Juneau, Alaska 99801	SITE SIZE:	6,719 Square Feet
		ZONING:	Light Commercial
		ACCESS:	TWELFTH ST

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 no later than 8:30 A.M. on the Wednesday preceding 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 Matt Halitsky at 586-0781, or e-mail: Matthew_Halitsky@ci.juneau.ak.us

Planning Commission Agendas, Staff Reports and Meeting Results can be viewed at www.juneau.org/plancomm. Date notice was printed: July 12, 2005

VARIANCE APPLICATION

(APPLICANT PLEASE FILL IN SHADED AREAS AS A MINIMUM)

Project Number PR05-0	Project Name BREW HARRIS PL	Case Number VAR05-10	Hearing Date	Date Received 3/18/05
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VARIANCE TYPE: Setback Height Bulk Other (Describe)

DESCRIPTION OF ACTIVITY WHICH REQUIRES A VARIANCE:
 See the attached subdivision application for more information. We are requesting a subdivision of a lot which currently has two separate buildings and two separate owners. Subdividing the lot between the two existing buildings will make them both in violation of the current side yard setback requirements.

PREVIOUS VARIANCE APPLICATIONS: Yes No
 Date of Filing: _____
 Variance from which standards: Setback Height Bulk Other (Describe) _____
 Was variance granted? Yes No

EXISTING USE OF LAND OR BUILDING(S):
 The existing buildings are used and have been used for some time for retail and office activities.

PROPOSED USE OF LAND OR BUILDING(S):
 There is no change to the use of the land or buildings.

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

PROPOSED SETBACKS (If variance changes setbacks):
 Front: _____ ft. Rear: _____ ft. Side: _____ ft. Other: _____ ft.

UNIQUE CHARACTERISTICS OF LAND OR BUILDING (Difference from other properties in the area):
 SEE ATTACHED

WHY WOULD A VARIANCE BE NEEDED FOR THIS PROPERTY REGARDLESS OF THE OWNER?
 SEE ATTACHED

WHAT HARDSHIP WOULD RESULT IF THE VARIANCE WERE NOT GRANTED?
 SEE ATTACHED

REVIEW APPROVALS Buildings _____ Engineering _____ Planning _____	VARIANCE FEES			
	Application Fees	\$		
	Adjustment			
	Total Fee	\$	350.00	change 19911 3/18/05

ATTACHMENT D