

MEMORANDUM

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

DATE: December 6, 2006

TO: Board of Adjustment

FROM: Amy Karn, Planner
Community Development Department

FILE NO.: VAR2006-00048

PROPOSAL: A Variance request to allow accessory structures totaling more than 120 square feet to be located within the rear yard setback.

GENERAL INFORMATION

Applicant: Genevieve McLaughlin

Property Owner: Genevieve & Sean McLaughlin

Property Address: 4437 Julep Street

Legal Description: Sleepy Hollow 1 Lt 14

Parcel Code Number: 5-B25-0-139-013-0

Site Size: 11,375 square feet (.26 acres)

Zoning: D-5 (Residential; Single-Family and Duplex; 5 units per acre)

Utilities: CBJ Water and Sewer

Access: Julep Street

Existing Land Use: Single-Family Residential

Surrounding Land Use: North - D-5; Residential
South - D-5; Residential
East - D-5; Julep Street
West - D-5; Residential



BACKGROUND

The applicant has a concurrent application under consideration for an existing child care home to continue operation out of her residence. Upon review of the Allowable Use application, it was discovered that there are three (3) accessory structures located four feet (4') from the rear property line, within the minimum twenty-foot (20') yard setback. An exception exists to allow this (CBJ §49.25.430(4)(C)), however, the exception only allows for up to one hundred twenty (120) square feet to be placed in the rear setback. The structures total approximately two hundred thirty-six (236) square feet, thus, the applicant is applying for the variance to allow the structures to remain within the rear yard setback.

PROJECT DESCRIPTION

The accessory structures in question are a playhouse, a covered sandbox and a barn with a tipout. The structures total 235.65 square feet in size. CBJ §49.25.430(4)(C)(iii) allows for an exception to setbacks for unheated structures and states the following: "*Enclosures for outdoor fuel tanks, detached storage sheds, greenhouses, playhouses, refuse containers, woodsheds, and similar accessory buildings, if less than... 12 feet high in a rear yard. The total encroachment into a yard... shall be no more than... 120 square feet in a rear yard... In no instance shall the enclosure be closer than three feet to a lot line*". Because the structures total over one hundred twenty (120) square feet in size, a variance is required.

The applicant has stated in her narrative that some of the structures are placed at the rear of the property to increase the outdoor play area available to the children enrolled in her child care home. The playhouse is the safe meeting place for the children and staff in case of a fire within the home. The placement of the playhouse at the very rear of the property allows for maximum distance from the home, increasing the chance of safety should a fire occur.

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.***

Yes. The applicant states that placing the accessory structures within the setback increases the available outdoor play area for the children and allows for better visibility of the children. This, in turn, increases the ability for the applicant to provide a safe environment for the children, which could be more difficult if the structures were located elsewhere on the property.

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.***

Yes. The placement of the structures at the rear of the property aid in public safety by providing a safe shelter for the residents and children enrolled in the child care facility in the event of an emergency. In addition, some of the buildings are used as storage for lawn equipment, tools, and the children's outdoor play equipment. Having an enclosed structure for storage of these items increases the visual relief for surrounding property owners.

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

Yes. Staff is unaware of any negative impacts to surrounding properties as a result of this request.

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

Yes. The uses proposed by the applicant are allowed as accessory uses in the D-5 zoning district.

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

- (A) ***Unreasonably prevent the owner from using the property for a permissible principal use;***

No. Compliance with existing standards would not prevent the owner for using the property for a permissible principal use, which is a single-family dwelling or duplex in the D-5 zoning district.

- (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. Compliance with existing standards would not unreasonably prevent the owner from using the property in a manner which is consistent with existing development in the surrounding neighborhood.

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

No. Staff has seen no evidence that unique features exist on the property that would make 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, CBJ Title 49, or the building code, CBJ Title 19, or both.*

No. Staff is unaware of any preexisting nonconforming conditions that apply to the subject parcel.

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

Yes. As noted above, the structures serve a variety of uses, including storage of equipment and a safe shelter area in case of an emergency. The visual impacts will be reduced by having equipment stored in an enclosed structure, and by opening up the backyard, the safety of the children enrolled in the applicant's child care is increased, due to increased visibility of the children.

JUNEAU COASTAL MANAGEMENT PROGRAM

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

FINDINGS

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

Yes. We find 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 conforms to the requirements of CBJ Chapter 49.20.

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

N/A. No provisions of the JCMP apply to this request.

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

No. Per the analysis and findings above, staff finds that the request does not meet the criteria of Section 49.20.250, Grounds for Variances, subsection 5.

RECOMMENDATION

It is recommended that the Board of Adjustment adopt the Director's analysis and findings and deny the requested Variance, VAR2006-00048, as all six findings could not be justified by the applicant or staff.

ATTACHMENTS

- A. Narrative
- B. Site Plan

DEVELOPMENT PERMIT APPLICATION

(APPLICANT - PLEASE FILL IN THE PROJECT/APPLICANT INFORMATION)

Project Number 11-9-06-086	CITY and BOROUGH of JUNEAU	Date Received: 11-9-06
Project Name (City Staff to assign name) McLaughlin Child Care		

PROJECT / APPLICANT INFORMATION	Project Description 12-Kid childcare															
	PROPERTY LOCATION															
	Street Address 4437 Sulep Street	City / Zip Seward 99801														
	Subdivision (if known) Sleepy Hollow 1	Survey (if known)	Block / Tract (if known) / Lot (if known) 14													
	Assessor's Parcel Number (if known) SB 250139 0130															
	LANDOWNER / LESSEE															
	Property Owner's Name Sean and Genevieve McLaughlin	Contact by E-Mail: sean@cgj.net	Contact Person Genevieve													
	Mailing Address 4437 Sulep SU AK 99801	Home Phone No. 7690547	Work Phone No. 2694614													
	LANDOWNER/LESSEE CONSENT (Required for Planning permits not needed on Building/Engineer permits)		INITIAL ALL THAT MAY APPLY													
	<p>I am (we are) the owner(s) or Lessee of the property subject to this application and I (we) consent as follows:</p> <p>A. This application for a land use or activity review for development on my (our) property is made with my complete understanding and permission.</p> <p>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.</p> <p>[Signature] 11-9-06 Landowner/Lessee Signature Date</p> <p>Landowner/Lessee Signature Date</p> <p>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 and/or the Design Review Board may visit the property and may do so during the weekend before the scheduled public hearing date.</p>		<table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 70%;">APPLICATION TYPE</th> <th style="width: 30%;">OWNER'S INITIALS</th> </tr> </thead> <tbody> <tr><td>ALLOWABLE USE</td><td></td></tr> <tr><td>CONDITIONAL USE</td><td></td></tr> <tr><td>VARIANCE</td><td></td></tr> <tr><td>DESIGN REVIEW</td><td></td></tr> <tr><td>SUBDIVISION</td><td></td></tr> <tr><td>OTHER</td><td></td></tr> </tbody> </table>	APPLICATION TYPE	OWNER'S INITIALS	ALLOWABLE USE		CONDITIONAL USE		VARIANCE		DESIGN REVIEW		SUBDIVISION		OTHER
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SUBDIVISION																
OTHER																
APPLICANT (If same as OWNER, write "SAME" and sign and date at X below)																
Applicant's Name Same	Contact by E-Mail:	Contact Person														
Mailing Address [Signature]		Home Phone No. / FAX No.														
[Signature]		X 11-9-06														
Applicant's Signature		Date of Application														

(OFFICE USE ONLY BELOW THIS LINE)

STAFF APPROVALS	C K	PERMIT TYPE	SIGN	DATE RECEIVED	APPLICATION NO.	C K	PERMIT TYPE	DATE RECEIVED	APPLICATION NO.
	<input checked="" type="checkbox"/>	ALLOWABLE USE APPROVAL	<input checked="" type="checkbox"/>	11/9/06	USE2006-64		WATER PERMIT		
	<input checked="" type="checkbox"/>	VARIANCE	<input checked="" type="checkbox"/>	11/9/06	VAR2006-18		SEWER PERMIT		
		DESIGN REVIEW APPROVAL					GRADING PERMIT		
		SUBDIVISION					DRIVEWAY PERMIT		
		STREET VACATION					RIGHT-OF-WAY PERMIT		
		SIGN APPROVAL					PUB. FAC. TRANSMISS. & EXCAV. PERMIT		
		BUILDING PERMIT					OTHER (Describe)		
		Zone		Total Lot Area	Required Setbacks		Permit Intake Initials [Signature]		
					Front _____ Back _____ Side _____ Other _____				
COMMENTS:									

1:\FORMS\CDD\FORMS\PERM\FORM.XLS REV. 2/18/98

NOTE: DEVELOPMENT PERMIT APPLICATION FORM MUST ACCOMPANY ALL OTHER COMMUNITY DEVELOPMENT DEPARTMENT APPLICATIONS

VARIANCE APPLICATION

(APPLICANT PLEASE FILL IN SHADED AREAS AS A MINIMUM)

Project Number PR5 2006-206	Project Name McLaughlin Child Care	Case Number VAR 2006-00048	Hearing Date	Date Received 11/9/06
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VARIANCE TYPE: Setback Height Bulk Other (Describe) _____

DESCRIPTION OF ACTIVITY WHICH REQUIRES A VARIANCE:
See attached

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):
Residence and child care

PROPOSED USE OF LAND OR BUILDING(S):
same

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):

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?
The health and safety of the children in care as well as residing in the residence would be greatly effective.

REVIEW APPROVALS		VARIANCE FEES			
	MINOR	MAJOR	ISSUE	REVIEW	DATE
Buildings	_____	_____	\$ _____	_____	_____
Engineering	_____	_____	\$ _____	_____	_____
Planning	_____	_____	\$ _____	_____	_____
			Total Fee	\$ _____	_____

no fee - applied w/ USE 2006-00064

Variance Application For Out Buildings

1. In running a home childcare the more play space and visibility of the children is a true asset. This also increases the ability to maintain a safe and healthy environment. Increasing the enjoyment of the children, decreasing the unhappy sounds they may make.

2. The placement of the playhouse is at the very back of the property. This acts as our safe meeting place in case of fire. Also with the placement of this out building it increases the use and visibility of the backyard.

3. The placement of the buildings will not injure or cause any damage to other properties.

4. These building are used for storage of lawn maintenance equipment, tools and children' outdoor play equipment. This aids in the visual relief to adjacent properties. This also aids in the safety to the children when having a well-manicured play space.

5. *work with applicant / BCD on this...*

6. This variance will help maintain a pleasant visual appearance of the property. This variance will also increase the safety of the children with the ability to visually maintain sight of them because of the location of the buildings.

Genevieve and Sean McLaughlin
4437 Julep Street

ATTACHMENT A

RECEIVED
NOV 9 2006
PERMIT CENTER / CDD

