

MEMORANDUM

CITY & BOROUGH OF JUNEAU

155 South Seward Street, Juneau, Alaska 99801

DATE: September 11, 2003
TO: Board of Adjustment
FROM: Chris Beanes, Planner
Community Development Department



FILE NO.: VAR2003-00037

PROPOSAL: A Variance to reduce the required front yard setback from 5 feet to 1 foot for placement of an uncovered 12 foot X 20 foot, deck over 30" in height.

GENERAL INFORMATION

Applicant: Michelle Bonnet
Property Owner: Michelle Bonnet and David Woodie
Property Address: 313 Carrol Way
Legal Description: 7A Addition, Block 1, Lot 3A1
Parcel Code Number: 1-C07-0-I01-004-1
Site Size: 1,112 square feet
Zoning: Mixed Use
Utilities: CBJ Water and Sewer
Access: Carrol Way
Existing Land Use: Residential
Surrounding Land Use: North - Open Space
South - Residential
East - Residential
West - Retail Commerical



CITY & BOROUGH OF JUNEAU
ALASKA'S CAPITAL CITY

PROJECT DESCRIPTION

In order to create a usable area for yard use on a small residential lot, the applicant plans on building a deck one-foot from the Carrol Way stairway right-of-way. The applicant is basing the Variance request upon the substandard lot size (1,158 square feet) and an established nonconforming setback of the house (one foot from the front property line). Normally, the minimum lot size for the MU zone is 5,000 square feet, the applicant's lot is 1,158 square feet. The proposed deck will be placed upon the existing retaining wall terrace, which slopes from the uphill side to the east, down to the house, which lies west of the yard. The applicant has proposed no cover over the deck.

ANALYSIS

Topographic features on the applicant's lot exist which make it difficult to use the yard due to the steepness of the slope from east to west. Since the underlying zone requires a 5 foot front yard setback from right-of-way, the applicant's project places the proposed deck less than 5 feet away from the property line, necessitating the Variance. Since the deck is over 30", setback requirements apply. Allowance for projections into yard setbacks are given under specific circumstances. The applicant's proposal was reviewed against §49.25.430(4), *Projections into required yards* for applicability of an exception to the proposed deck. However, upon review none of the exceptions allowed for a setback reduction less than 5 feet. Immediately below the applicant's lot, toward Franklin Street, is a large zero-setback landing and deck over 30" which serves as access for residences. Review of similar ROW stairway conditions which exist in the downtown area reveal similar conditions of setbacks less than 5 feet from ROW stairway property lines, as many of the homes were built around the turn of the century and lot sizes and development tend to stray from the current code requirements.

The pattern of development less than 5 feet from the property line may be attributed to steep topographic conditions, lots that were subdivided into multiple lots, and building prior to codes. In addition, interior lots that don't have street ROW frontage are limited in access around their properties. Creative accessways exist to solve the problem by providing landings, decks, and entries from stairways to and around properties. Decks, outdoor spaces, landings, and homes along stairways downtown tends to be a pattern of development and lends to the unique nature of living downtown, a sort of Juneau vernacular.

The applicant's design for the deck would incorporate a free-standing pier block foundation, upon an existing terraced retaining wall (attachment b). No excavation work would be needed for the applicant's proposal.

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 applicant's request for a setback reduction would provide use of an unusable portion of their property. The proposed deck would be consistent with other development observed nearby. **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 deck would provide access around the applicant's lot for purposes other than recreation, including maintenance and utility access. The proposed deck would further the goal of providing safety for the neighboring properties, especially in the case of need for fire access. **This criterion is met.**

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

The proposed deck would not injure nearby properties as there are large open spaces opposite and east of the deck. Because of the steep topography, privacy will be assured as yards are terraced on multiple levels and provide for inherent privacy. **This criterion is met.**

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

Residential use is allowed in the district. The applicant's proposal will be consistent with the use allowed. **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;***

Compliance would not prevent the applicant from using the property for residential use. **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;***

A pattern of development of landings and decks off of ROW stairways has been observed. The proposal is consistent with nearby development. **This sub-criterion is met.**

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

Steep topography limits the use of the applicant's lot. The deck would provide opportunity for use of the applicant's backyard. Without deck/landing access to the backyard from Carrol Way, the applicant's backyard could not be accessed, other than extensive remodel of the home. **This sub-criterion is met.**

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.

A nonconforming front setback exists for the applicant's home. The application for a deck over 30" in the front setback would further the nonconformance. **This sub-criterion is not met.**

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

A deck along Carrol Way would be consistent with observations, and would contribute to The established pattern of outdoor spaces along stairways downtown. **This criterion is met.**

JUNEAU COASTAL MANAGEMENT PROGRAM

No applicability of the guideline has been found upon review of the JCMP.

FINDINGS

- 1. Is the application for the requested Variance complete?**
Yes. The applicant has supplied adequate information to make a determination for the requested Variance.
- 2. Will the proposed development comply with the Juneau Coastal Management Program?**
N/A. No applicable codes regarding the JCMP have been identified.
- 3. Does the Variance as requested, meet the criteria of Section 49.20.250, Grounds for Variances?**
Yes. All of the applicable criteria have been met by the applicant's proposal.

RECOMMENDATION

It is recommended that the Board of Adjustment adopt the Director's analysis and findings and approval on the requested Variance. The Variance permit would allow for the request to reduce the required front yard setback for a deck over 30" from 5 feet to 1 foot. The approval is subject to the following condition:

1. The deck shall remain uncovered, no structural cover is allowed.

VARIANCE APPLICATION

(APPLICANT PLEASE FILL IN SHADED AREAS AS A MINIMUM)

Project Number	Project Name <u>Ironnet Deck</u>	Case Number <u>Var 2003-00032</u>	Hearing Date	Date Received <u>8/21/03</u>
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VARIANCE TYPE: Setback Height Bulk Other (Describe) _____

DESCRIPTION OF ACTIVITY WHICH REQUIRES A VARIANCE:

Deck with 1-foot setback from Carrol Way stairs when a 5-foot setback is required. Deck will be beside house which has a 0-foot setback.

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):

House is adjacent. Existing land is not useable without a deck.

PROPOSED USE OF LAND OR BUILDING(S):

Build deck.

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

PROPOSED SETBACKS (If variance changes setbacks):

Front 1 ft. Rear _____ ft. Side _____ ft. Other _____ ft.

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

House has 0 foot setback on Carrol Way.

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

Architecturally, with the house adjacent to the stairs, setting the deck ~~to~~ back 5 feet would be awkward, as well as provide very limited back yard space

WHAT HARDSHIP WOULD RESULT IF THE VARIANCE WERE NOT GRANTED?

A small deck, 10' x 20', would be reduced to a very small deck, 10' x 15', ~~for us~~ when the house is. We would be unable to use our very small backyard, which is 22' wide, effectively.

REVIEW APPROVALS	
Buildings	Initials Date
Engineering	_____
Planning	<u>AW</u> _____

VARIANCE FEES			
	Fees	Check No.	Receipt Date
Application Fees	\$ <u>350.00</u>	<u>2922</u>	<u>11/16/05</u> <u>8/21</u>
Adjustment	\$ _____	_____	_____
Total Fee	\$ _____	_____	_____

DEVELOPMENT PERMIT APPLICATION

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

Project Number	CITY and BOROUGH of JUNEAU	Date Received: 8/21/03
Project Name (City Staff to assign name)	Bonnet Deck Variance	

PROJECT / APPLICANT INFORMATION

Project Description Unattached deck to be built behind house at 313 Carol Way.			
PROPERTY LOCATION			
Street Address 313 Carol Way		City / Zip	
Subdivision (if known) 7A Addition	Survey (if known)	Block / Tract (if known) 1	Lot (if known) 3A1
Assessor's Parcel Number (if known) 1 CO701010041			
LANDOWNER / LESSEE			
Property Owner's Name Michelle Bonnet and David Woodie		Contact Person Michelle Bonnet	Work Phone No. 465-5158
Mailing Address P.O. Box 21878, Juneau, AK 99802		Home Phone No. 586-9595	FAX No. 465-5274
LANDOWNER/LESSEE CONSENT (Required for Planning permits not needed on Building/Engineer permits)		INITIAL ALL THAT MAY APPLY	
I am (we are) the owner(s) or Lessee 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.		APPLICATION TYPE	OWNER'S INITIALS
<input checked="" type="checkbox"/> <u>Michelle Bonnet</u> <u>7-27-03</u> Landowner/Lessee Signature Date <input checked="" type="checkbox"/> <u>[Signature]</u> <u>7-27-03</u> Landowner/Lessee Signature Date		ALLOWABLE USE	
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.		CONDITIONAL USE	
APPLICANT (If same as OWNER, write "SAME" and sign and date at X below)		VARIANCE	
Applicant's Name SAME		DESIGN REVIEW	
Mailing Address		SUBDIVISION	
<input checked="" type="checkbox"/> <u>Michelle Bonnet</u> Applicant's Signature		OTHER	
<input type="checkbox"/> Contact by E-Mail: _____		Contact Person Home Phone No. FAX No.	
<input checked="" type="checkbox"/> <u>7-27-03</u> Date of Application			

(OFFICE USE ONLY BELOW THIS LINE)

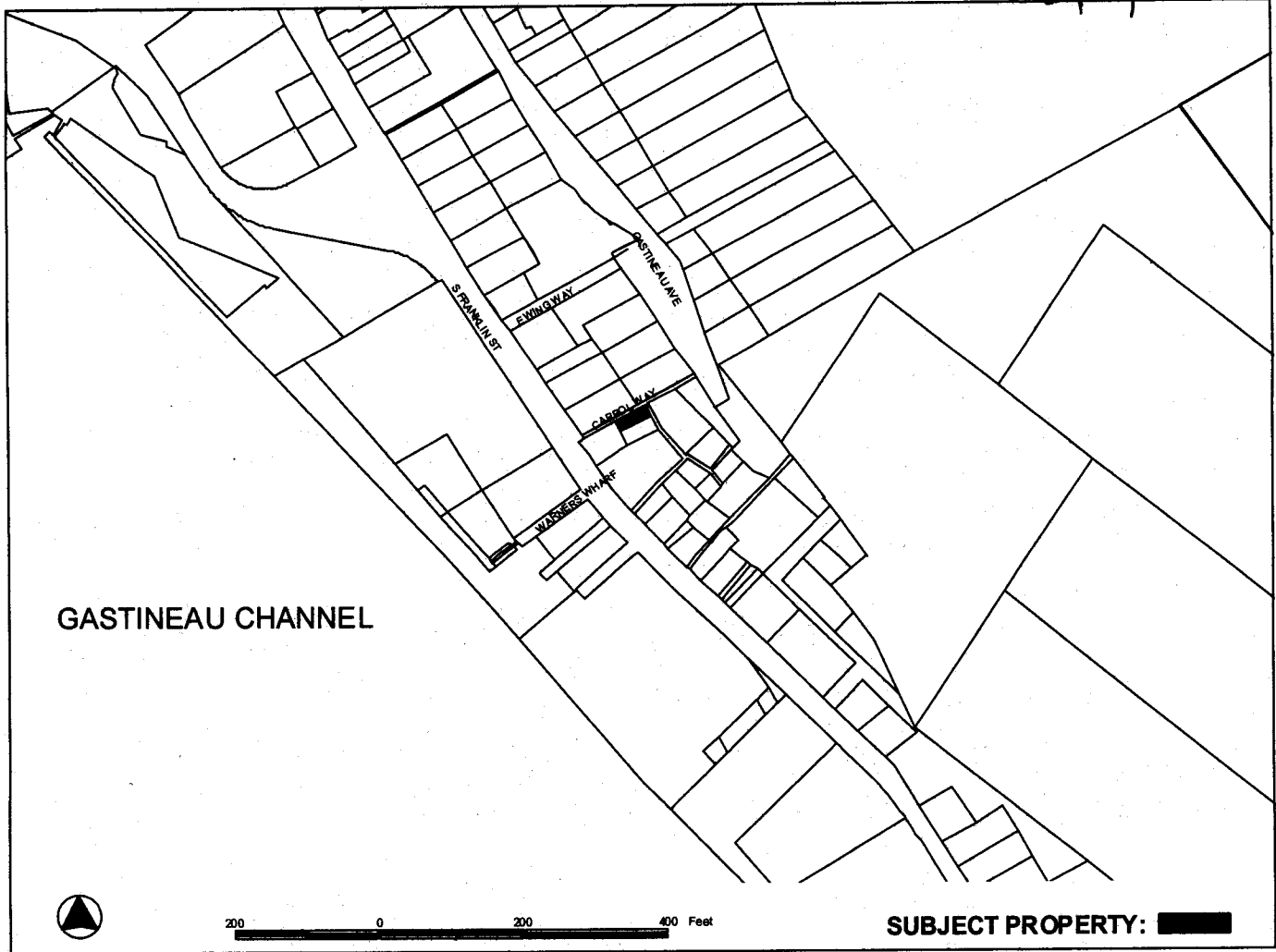
STAFF APPROVALS

C	PERMIT TYPE	SIGN	DATE RECEIVED	APPLICATION NO.	C	PERMIT TYPE	DATE RECEIVED	APPLICATION NO.
	ALLOWABLE USE APPROVAL					WATER PERMIT		
	CONDITIONAL USE APPROVAL					SEWER PERMIT		
<input checked="" type="checkbox"/>	VARIANCE		8/21/03	VAR03-37		GRADING PERMIT		
	DESIGN REVIEW APPROVAL	MINOR MAJOR				DRIVEWAY PERMIT		
	SUBDIVISION	MINOR MAJOR PLIN				RIGHT-OF-WAY PERMIT		
	STREET VACATION					PUB. FAC. TRANSMISS. & EXCAV. PERMIT		
	SIGN APPROVAL	LOCATED IN HISTORIC DISTRICT? <input type="checkbox"/> YES <input type="checkbox"/> NO				OTHER - (Describe)		
<input checked="" type="checkbox"/>	BUILDING PERMIT		7/28/03	BLD03-538		Permit Intake Initials		<u>[Signature]</u> MMW
	Zone	Total Lot Area	Required Setbacks					
	MU	1112	Front 5 Back 0 Side 0 Other					

COMMENTS: Need to establish which yard is front yard. If front is West, then a variance to setback would be needed

NOTICE OF PUBLIC HEARING

Chris' Copy



PROPOSAL: A Variance request to reduce the required front yard setback from 5 feet to 1 foot for replacement of a deck.

FILE NO:	VAR2003-00037	APPLICANT:	MICHELLE M BONNET
TO:	Adjacent Property Owners	PROPERTY OWNER:	MICHELLE BONNET & DAVID WOODIE
HEARING DATE:	September 23, 2003	PROPERTY ADDRESS:	313 CARROL WAY
HEARING TIME:	7:00 P.M.	PARCEL CODE NUMBER:	1-C07-0-101-004-1
PLACE:	ASSEMBLY CHAMBERS Municipal Bldg. 155 South Seward St., Juneau, Alaska 99801	SITE SIZE:	1,112 Square Feet
		ZONING:	Mixed Use
		ACCESS:	CARROL WAY

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 Chris F Beanes 586-0771 Chris_Beanes@ci.juneau.ak.us

Planning Commission Agendas, Staff Reports and Meeting Results can be viewed at www.juneau.org/plancomm.

Date notice was printed: September 9, 2003

RECEIVED

AUG 9 2003

PERMIT CENTER/CDD

4' wide

WAY

RODENBERG WAY

LOT 3A1
AREA
1158 S.F.

setback

PROPOSED
DECK

1' setback

LOT 2A1

313 CARROLL
WAY

CARROLL

LOT 5A

site plan

ATTACHMENT A

RECEIVED

AUG 25 2003

PERMIT CENTER/CDD

SOUTH

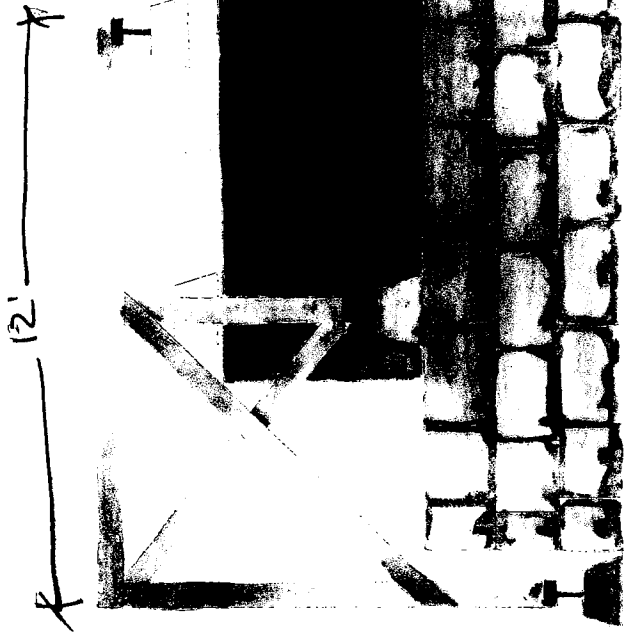
FRANKLIN

STREET

← Z

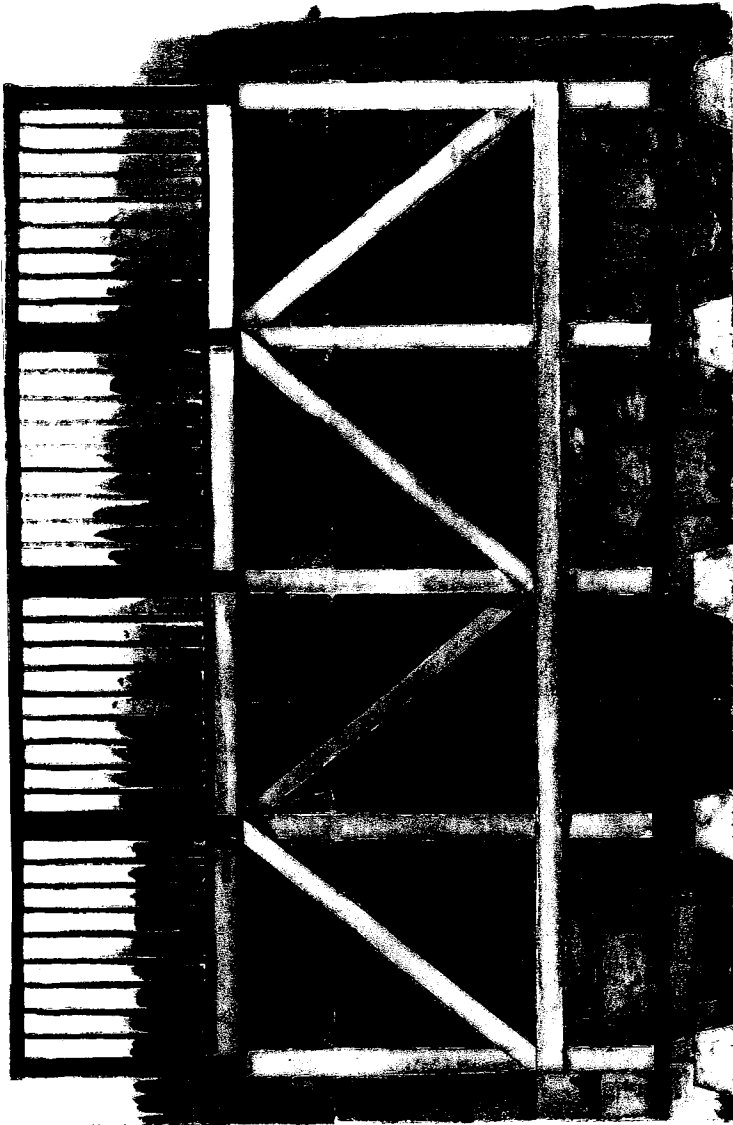
Deck elevations

side view



Overall:
 10' high
 20' wide
 12' Deep
 Railings
 48" high
 5" thick on 4
 center 5
 upstarts
 and beams
 all 4x6"
 Brass
 and
 Joints
 and
 Deck
 2x6"
 all hardware
 will be
 permit
 installed

*Railing requires
 where deck grade
 30" above 6" above
 spacing posts
 minimum*



Front view (From applicants house)

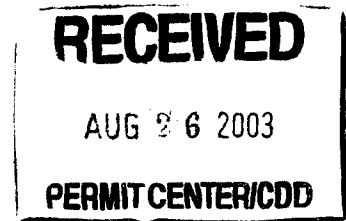
RECEIVED

AUG 21 2003

PERMIT CENTER/CDD

ATTACHMENT B

David Woodie & Michelle Bonnet
P.O. Box 21878
Juneau, AK 99802



August 25, 2003

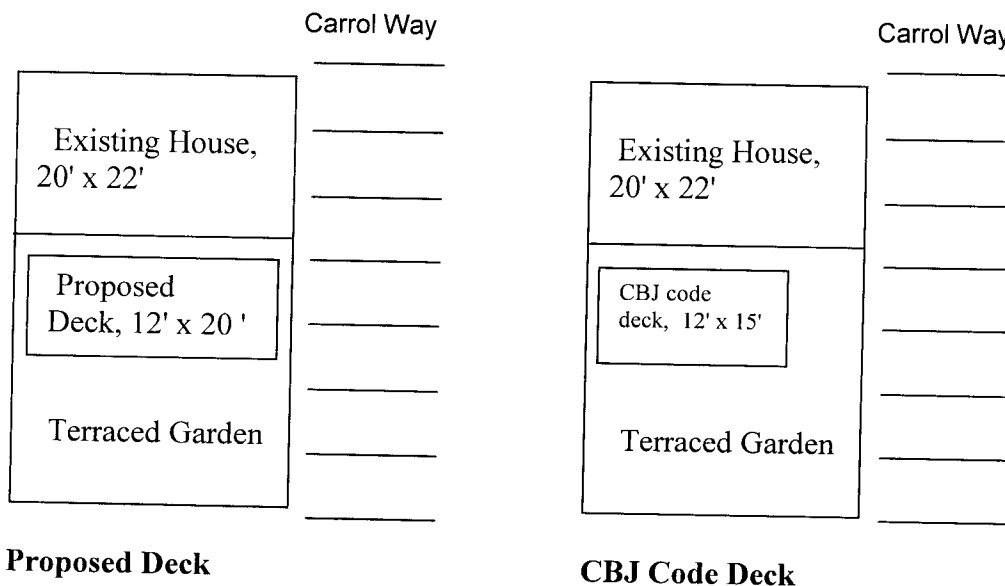
Re: Variance request – 5-foot setback, Case # VAR2003-00037

Dear Planning Commissioners:

We own and occupy the house at 313 Carrol Way. Carrol Way is a stairway between Gastineau Avenue and South Franklin Streets. Our house sits on its property line adjacent to Carrol Way, with a zero-foot setback from the stairs.

Over the past several years, we have put considerable effort and more than \$15,000 into creating a back yard on our very small (22' x 35') lot. We purchased an additional piece of land and have added that to our lot, and have had retaining walls installed to stabilize the slope behind our house. We are now ready to build a deck and finally make the back yard space usable. It is not level as it exists, and hence we are unable to use and enjoy it.

Because CBJ regulation interprets the front of our house to be the side of our house that faces Carrol Way, and therefore interprets our back yard to be a side yard, the setback from Carrol Way to our proposed deck is supposed to be five feet, rather than the zero-foot setback on all other sides. As you can see from the drawings below (not to scale), this would result in an awkward configuration, since the house itself has no setback from the stairs.



The reduced size of the deck would also turn our very small yard into a minute yard.

We request that the Planning Commission grant a variance from the 5-foot front yard setback and allow us to build our deck with a 1-foot setback, making it architecturally consistent with

the grandfathered house. This variance would greatly increase our use and enjoyment of our yard, enhance the appearance of the neighborhood, and meet the CBJ's conditions for granting a variance:

Necessity. No lesser relaxation will give substantial relief.

Safety. The public safety and welfare will be preserved.

Impact to Adjacent Property. The deck is intentionally designed to be free-standing in order, for example, to cause no trouble when the stairs are re-built. There will be no impact to adjacent property.

Primary Use is Allowed. The use proposed (enjoyment of back yard) is allowed in this mixed use zone.

Burden of Compliance. This project meets all four of the possible criteria, but we will only elaborate here on (B) and (D).

(B) If we comply with the 5-foot setback, we will be unreasonably prevented from using our yard in a manner consistent with the past use in the neighborhood. There are only a handful of houses in this neighborhood. There was previously a deck and garden across Carrol Way from our house on a neighbor's property, with a zero-foot setback, until it was destroyed by construction six years ago. The house next to ours also had a deck in front of it until its lot was subdivided in order for further construction to occur. Both we and our neighbors greatly enjoyed and used our decks. In fact, much of our efforts over the past six years, after we first repaired the damage done to our house by the nearby developments, have been directed at building a garden and yard that will again make our home livable.

(D) The pre-existing nonconforming condition is that our house is directly adjacent to the Carrol Way stairs, with no setback. Although the deck will be free-standing, it will be clearly associated with the house. Since the house is already nonconforming and directly adjacent to the stairs, addition of this deck will not result in a net decrease in overall compliance with CBJ code.

Benefits vs. Detriments. There are no detriments to the neighborhood. The benefits if this variance is granted will be an attractive deck and flower garden which will greatly enhance the area, and two happy people in the neighborhood.

We appreciate your consideration once again and request that you grant us a variance from this requirement.

Sincerely,



David J. Woodie



Michelle M. Bonnet

RECEIVED
AUG 26 2003
PERMIT CENTER/CDD

