



**22.08.695 Private recreational cabin.**

“Private recreational cabin” means living quarters in a building separate from and in addition to the main residential building on a lot, used for intermittent or temporary occupancy **by nonpaying guests. Maximum total of six hundred fifty square feet** of living and sleeping areas. (Ord. 09-56 § 4, 2009.)

As discussed in previous meeting, this is a cabin that was used as a cabin in 1950 forward.

Didrickson’s variance requests is to **change** status of both lot and structure from a cabin (280 square feet) to residential home. Cabin was a one story and never a two story; stands 25 feet high from ground to tip of roof per Melissa Henshaw’s onsite visit back in 2008.

Bill,  
You can request at  
the Nov 4<sup>th</sup> meeting  
that a condition be  
placed on this item  
that the structure  
(house) be no  
more than 25'  
high as stated  
in Boyd's drawings



**City and Borough of Sitka**

**PLANNING DEPARTMENT**

100 Lincoln Street • Sitka, Alaska 99835  
PHONE (907) 747-1814 FAX (907) 747-6138  
E-mail: melissa@cityofsitka.com

**MELISSA HENSHAW**

**PLANNER I**

**EXHIBIT 3 - page 2 of 2**

## Melissa Henshaw

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**From:** Stephen Weatherman [stephen@cityofsitka.com]  
**Sent:** Friday, January 27, 2012 3:03 PM  
**To:** 'Wells Williams'; Melissa Henshaw  
**Cc:** 'Michael Harmon'  
**Subject:** 428 Kaaqwaantaan Street

Dear Wells and Melissa

Re: 428 Kaaqwaantaan Street

I have looked at the revised plans and the plan still does not provide a minimum of 2 parking spaces required as noted below. The length available outside of the access easement provided to the flag lot owners is less than 36 feet. 2 paces X 18 feet minimum = 36 feet. The lots frontage is only 35.5 feet and with 3 feet deducted from the usable length for the access easement the available frontage is only 32.5 feet.

### **22.20.100 Off-street parking requirements.**

C. Size and Access. It is recommended that each off-street parking space be ten feet by twenty feet, exclusive of access drives or aisles, particularly on lots containing six or fewer spaces. The minimum dimensions of each off-street parking space, exclusive of aisles or access drives, shall be no less than nine feet by eighteen feet. The width of access drives and aisles shall be determined by the municipal administrator or his designee. Each space shall be visibly designated and marked for occupancy for one vehicle. There shall be adequate provision for ingress and egress from each parking space.

G. Parking Spaces Required for Particular Uses. There shall be established at the time of construction of any main building, or at the time of an alteration, enlargement or any major change of use of any building, permanently maintained off-street parking facilities for use of the occupants, tenants, employees or patrons. It shall be the total responsibility of the owner to provide for and maintain the spaces. No existing parking area shall hereinafter be relinquished or reduced in any manner below the requirements established. The following minimum off-street parking facilities shall be established:

1. Residential Uses. For each dwelling unit up to and including four-family buildings: two parking spaces per unit. For five-unit buildings and above: one and one-half spaces per unit.

Stephen L. Weatherman P.E.  
Municipal Engineer  
City and Borough of Sitka  
100 Lincoln Street  
Sitka, AK 99835  
(907) 747-4042 office  
(907) 738-5063 Cell  
(907) 747-3158 Fax  
[stephen@cityofsitka.com](mailto:stephen@cityofsitka.com)

EXHIBIT 4, Page 1 of 2

## Melissa Henshaw

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**From:** Mellissa Cervera [mellissac@cityofsitka.com]  
**Sent:** Thursday, January 12, 2012 4:53 PM  
**To:** 'Melissa Henshaw'  
**Subject:** FW: 428 Kaagwaantaan Street

Wrong Mellissa. ☺

### *Mellissa Cervera*

*Executive Assistant / Office Coordinator  
City and Borough of Sitka - Public Works Department  
100 Lincoln St. Sitka, AK. 99835  
P (907) 747-1806 F (907) 747-3158  
[www.cityofsitka.com](http://www.cityofsitka.com)*

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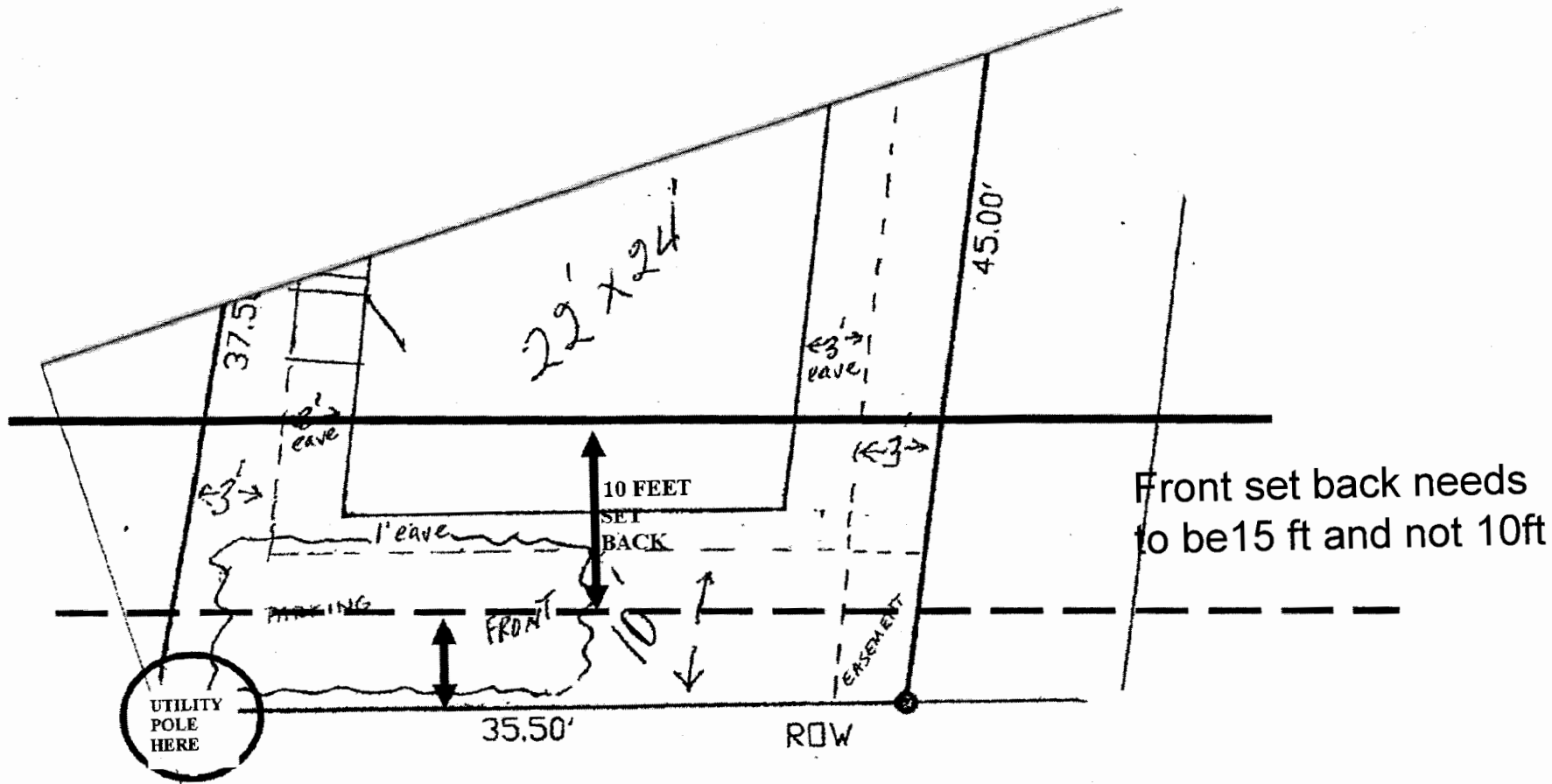
**From:** Stephen Weatherman [mailto:[stephen@cityofsitka.com](mailto:stephen@cityofsitka.com)]  
**Sent:** Thursday, January 12, 2012 4:43 PM  
**To:** 'Wells Williams'; 'Mellissa Cervera'  
**Subject:** 428 Kaagwaantaan Street

Dear Wells and Mellissa

The front set back does not provide for any off street parking. Kaagwaantaan Street has very limited ROW and no parking is allowed on the street. The lot is very limited in size but still needs to provide for off street parking.

Stephen L. Weatherman P.E.  
Municipal Engineer  
City and Borough of Sitka  
100 Lincoln Street  
Sitka, AK 99835  
(907) 747-4042 office  
(907) 738-5063 Cell  
(907) 747-3158 Fax  
[stephen@cityofsitka.com](mailto:stephen@cityofsitka.com)

EXHIBIT 4, Page 2 of 2



KAAGWAANTAAN STREET

Five-foot setback shall be along any property line . purpose of this setback shall be to assure that sidewalks, curb and gutter, power pole locations, or other public necessities can be accommodated

22.20.035 Notes to Table 22.20-1  
EXHIBIT 5

4 March 2009

Mr. Wells Williams, Planning Director  
City & Borough of Sitka  
100 Lincoln Street  
Sitka, Alaska 99835

*In re:* Our file No.: 9265-000  
Planning matter: Didrickson application for variance for  
'428 Kaagwaantaan Street'

Dear Mr. Williams:

I am writing to follow up on our very brief conversation after the meeting of the City & Borough of Sitka ("CBS") Assembly on the 27<sup>th</sup> of January 2009. As you know, at that meeting the Assembly, sitting as the Board of Adjustment, reversed the decision of the CBS Planning Commission to grant a multifaceted variance to Mr. Boyd Didrickson. The property for which Mr. Didrickson had originally sought the variance was part of Lot 47 of Block 2 of United States Survey 2542 A & B. As you are also aware, we represent George Anderson and his family, who both asserts ownership to the entirety of the aforementioned property, and also believes the variance ought not to have been granted to Mr. Didrickson, regardless of the issue of the ownership of the different component parts of the property.

At the meeting on the 27<sup>th</sup> of January, the CBS Assembly voted unanimously to remand the matter to the Planning Commission with specific instructions not to take any further action on the application for the variance sought by Mr. Didrickson until the title issue could be resolved. We are diligently researching the issue of the history of title and ownership of the property in question, and will proceed with any legal actions once our investigation has produced the necessary results. In the meanwhile, I wanted to express on our clients' behalf the substantive bases for their opposition to the variance application.

I should note initially the over-arching purposes of the Sitka Municipal Code ("SMC") pertaining to planning. Specifically, SMC 22.04.020 sets out several of these purposes, including the following discrete provisions:

EXHIBITED 5

**Baxter Bruce & Sullivan P.C.**

Mr. Wells Williams  
City & Borough of Sitka  
4 March 2009

Page 2 of 6

- A. Provide for orderly development;
- B. Lessen street congestion;
- C. Promote fire safety and public order;
- D. Protect the public health and general welfare;
  - 1. Provide for adequate public utilities;
- E. Prevent overcrowding and to stimulate systematic development of transportation, water, sewer, school, park and other public facilities;
- F. Protect private property rights;
- G. Encourage the protection of environmentally critical or historically significant resources;
- H. Assure provision of adequate space for commercial, industrial, residential and other land uses necessary for public welfare;
- I. Provide for efficient and effective administration and enforcement of these regulations;
- J. Provide adequate light, air, privacy, and convenience of access to property;
  - 1. Enhance surface water management; and
- K. Provide for the gradual elimination of those uses of land, buildings and structures which do not conform to the standards of the district in which they are located and are adversely affecting the development and taxable value of property in the district.

I should respectfully submit to you that the granting of these variances is at odds with each and every one of the foregoing provisions of the code, in varying degrees. These may, of course, be considered more precatory than binding on CBS officials, but I think that it is fair and wise to keep them in mind when considering Mr. Didrickson's plans for the use of the property at issue.

Your memorandum to the CBS Assembly of the 20<sup>th</sup> of January 2009 further spells out solid reasons why the variances ought never to have been granted. As you noted, "[t]he current house is a one-storey home that has not been lived in for over two years and is in considerable disrepair." I suggest that the non-use for this length of time you have documented is almost an abandonment of the property, or certainly would be if any application were to be made for non-conforming use.

**Baxter Bruce & Sullivan P.C.**

Mr. Wells Williams  
City & Borough of Sitka  
4 March 2009

Page 3 of 6

Your memorandum also addressed a procedural point that I think is relevant to the consideration of Mr. Didrickson's application for the variances. You noted that, "[t]he Planning Commission held a series of meetings on the variance requests ... [which] ... provided opportunities to see if the matter could be amicably resolved and allow[ed] time for better drawings to be submitted." Unfortunately, Mr. Didrickson failed to avail himself of the additional time yielded by this series of meetings to submit additional drawings. Indeed, he failed to comply with the pertinent provision of the Sitka Municipal Code ("SMC") governing variance applications, 22.24.020, which reads as follows:

A. Application Requirements. The application shall contain the following data:

1. Legal description of the property affected;
2. Plot plan showing the location of all existing and proposed buildings or alterations of such buildings, dimensions to the property lines on all sides from the building(s) and clearly showing the specific relief requested in accordance with the provisions of Chapter 22.30, Zoning Code Administration.

The Variance Application submitted by Mr. Didrickson probably ought not to have been accepted for consideration because it failed to comply with subsection (2) above. A review of the plot plans attached to the Variance Application reveals that there are no illustrations of the locations of existing buildings. The Variance Application form itself also calls for additional mandatory information on the attached 'easy to read' plot plan. The locations of physical features are wholly lacking, as are locations and specifications for water, sewer, electrical, cable, and telephone infrastructure on the property and immediately adjacent to the property. If CBS staff is consider any future Variance Application submitted by Mr. Didrickson, the Andersons would fully expect it to comply with these provisions of the Sitka Municipal Code.

To turn to the more directly enforceable and substantive components of the SMC, the very language of the ordinance defining "variance" is an excellent place to start. Sitka Municipal Code 22.08.850 defines variance as:

"... the relaxation of the strict application of the terms of this title to a proposed development to be constructed in the future. This definition shall



**Baxter Bruce & Sullivan P.C.**

Mr. Wells Williams  
City & Borough of Sitka  
4 March 2009

Page 4 of 6

not be construed to permit any use in any district in which that use is prohibited by the district regulations.”

The reference to strict application indicates that these rules are serious and are meant to be strictly applied. Turning to a later passage in Sitka Municipal Code, the standards for granting variances are enumerated as follows:

**22.24.020 Variances.**

The purpose of this section is to provide a means of altering the requirements of this code in *specific instances where the strict application of those requirements would deprive a property of privileges enjoyed by other properties with the identical regulatory zone because of special features or constraints unique to the property involved*. The city shall have the authority to grant a variance from the provisions of this code when, in the opinion of the planning commission, the conditions as set forth in Section 22.30.160(D) have been found to exist. In such cases a variance may be granted which is in harmony with the general purpose and intent of this code so that the spirit of this code shall be observed, public safety and welfare secured, and substantial justice done. [emphasis added]

Mr. Didrickson's Variance Application fails to meet this definitional test because the Planning Commission did not make factual findings to show how strict application of those requirements would deprive the property claimed by Mr. Didrickson of privileges enjoyed by other properties with the identical regulatory zone because of special features or constraints that are unique to this property. Every piece of property is, by definition, of limited size. The provisions of the zoning code limit the size of structures on all properties by imposing minimum setbacks and maximum lot coverages. This is probably as universal a feature or constraint as can be faced by any given piece of property. There are many small lots in Sitka generally, and in the part of this town known as Indian Village particularly. Small lot size would hardly justify granting variances to persons seeking to shrink their setbacks and aggrandize their lot coverages. If such features or constraints were allowed to be the basis for the granting of variances uniformly, then the exceptions would rapidly swallow the rule, and the provisions of the zoning code be rendered meaningless.

**BAXTER BRUCE & SULLIVAN P.C.**  
Benjamin Brown

VARIANCE FEE	\$75.00
Plus current city sales tax	

**CITY AND BOROUGH OF SITKA  
PLANNING DEPARTMENT  
VARIANCE APPLICATION**

*\*\*In the event all requested information is not provided, the application may not be processed.\*\**

APPLICANT'S NAME: Boyd Didrickson  
 PHONE NUMBER: 747-5857 738-5857  
 MAILING ADDRESS: 428 Kaagwaantaan street Sitka AK 99835

OWNER'S NAME: Boyd Didrickson  
*(If different from applicant)*  
 PHONE NUMBER: \_\_\_\_\_  
 MAILING ADDRESS: \_\_\_\_\_  
 PROJECT ADDRESS: \_\_\_\_\_  
 LEGAL DESCRIPTION: Lot: 47 Block: 2 Subdivision: Sitka Indian Village

SPECIFIC REQUEST:  
*(e.g. Reduction of front setback to 15' for a porch)*

Build a new 2-story house  
1- Reduce front setback to 10'  
2- Reduce side setbacks to 3'  
3- Increase lot coverage  
4- Reduction in parking to 1 space

REASON REQUEST IS BEING SUBMITTED:  
*(e.g. Existing porch is too small to provide adequate access)*

Because old house too old and too small

DIMENSIONS OF NEW CONSTRUCTION:  
*(Width, Length, Height above grade)*

22 x 24

REASON PROJECT CANNOT BE BUILT WITHIN EXISTING SETBACKS:

(List alternatives that would comply with setbacks and why they are unworkable)

Lot is too small in Indian Village

UNUSUAL CHARACTERISTICS OF THE PARCEL:

(e.g. Lot Shape, Topography, Streams)

HARDSHIPS THAT WILL BE CAUSED IF THE REQUEST IS NOT GRANTED:

House would remain on street & property line of house next door

DESCRIBE ANY FUTURE CONDITIONAL USE REQUESTS THAT MAY BE APPLIED FOR IN THE FUTURE:

(e.g. Bed and Breakfast)

ARE THE CONDITIONS THAT REQUIRE THE VARIANCE CAUSED BY THE APPLICANT?  Yes  No

**An easy to read plot plan drawn to scale, MUST be attached to this application and contain the following:**

1. Existing and proposed structures with their drives, dimensions and property offsets.
2. Roadway pavements, sidewalks and existing grading on the property and immediately adjacent to it.
3. Roadway frontage and parcel area.
4. Location of all physical features on the parcel such as drainage, hills or rock out croppings, and tidelands.
5. Location and specifications of all water, sewer, electrical, cable, and telephone infrastructure on the property and immediately adjacent to the property. The applicant must verify, to the satisfaction of the Public Works Department, that utility lines and services are not under proposed structures.

**\*\*A sample plot plan follows on the next page for your reference.\*\***

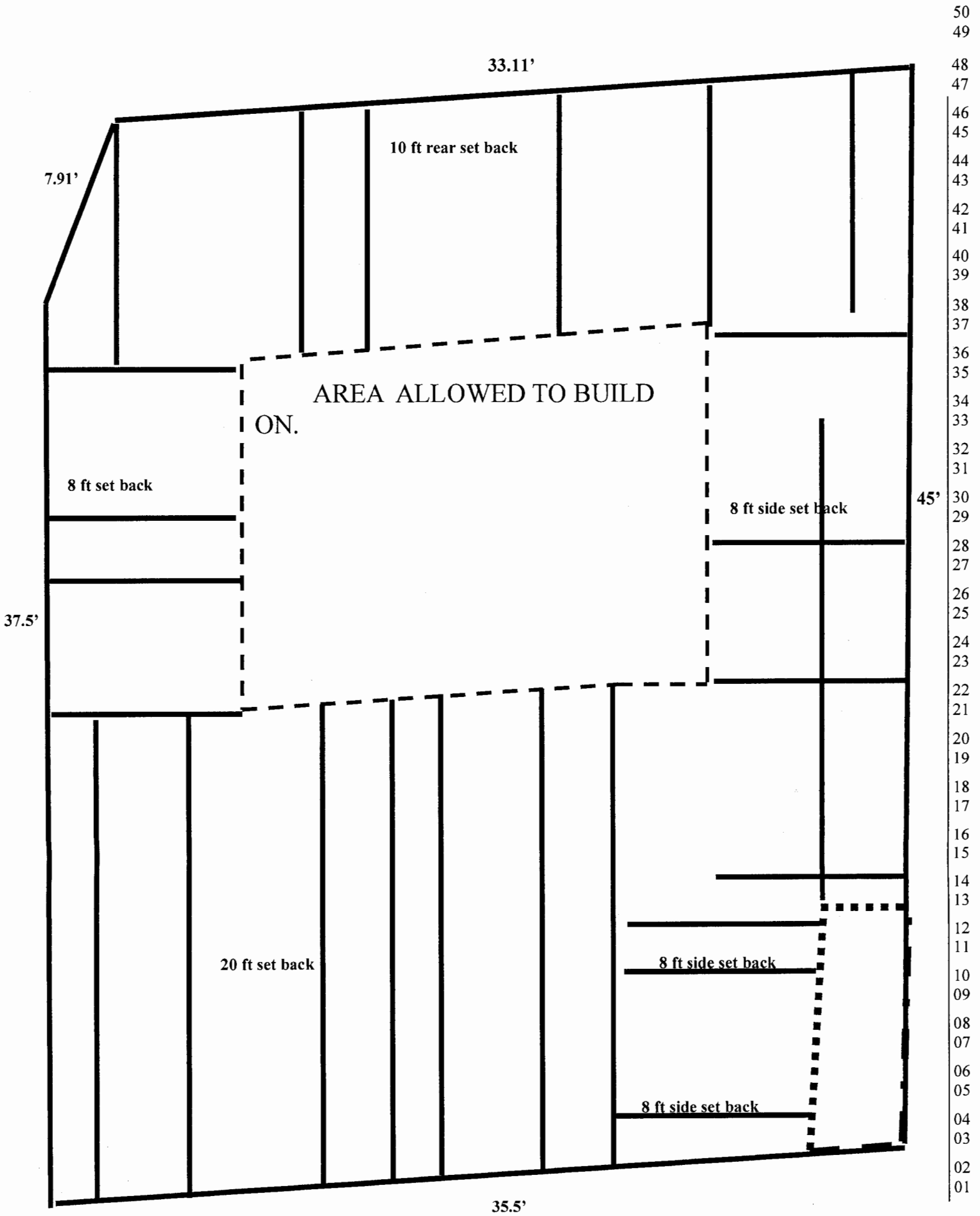
*In applying for and signing this application, the property owner hereby grants permission to Municipal staff to access the property before and after the Planning Commission's review for the purposes of inspecting the proposed and/or approved structures.*

Signature of APPLICANT: Boyd D. [Signature]

Date: Feb 20-12

Signature of OWNER:  
(If different from the Applicant)

Date:



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Providing this picture to give a more realistic view and scale as to the current size of cabin structure.. In the foreground is Scott Saline's roof. Shown also is that property is on hill, and has both grade and slope challenges for upland property from not being disturbed due to intensive digging to carve into hill to build structure



The current entrance to cabin was a add on, and was not part of the original cabin.

To the best of our knowledge, Boyd Didrickson did not get approval from the Planning Commission to add this on..

Note also, parking of B Didrickson's Van is on the side of cabin

We believe parking is an overlooked issue that needs to be addressed in variance request.



428 Kaagwaantaan Street



Picture is one of the original pics provided in B Didrickson initial variance request in 2008.

Purpose of showing this is for scale representation and show how Mr. Didrickson allowed structure to deteriorate.



**ARIEL VIEW TAKEN IN 2007**

**Indian Village B & B**

**215 Kogwanton, Sitka, AK 99835 (907) 747-5845**

2 Rooms. Located in the Indian Village, near downtown, with a magnificent view of the ocean, mountains and harbor. Part of a working

native artist studio/workshop. Two rooms: each includes continental breakfast, phone and TV. Non-smoking. \$100-\$150.

Email: [boyddidrickson@gmail.com](mailto:boyddidrickson@gmail.com)

City and Borough of Sitka Regular Assembly Meeting; March 15, 2006 Page 7

Item X

CUP B&B Boyd Didrickson

MOTION, by Stelzenmuller to approve the conditional use permit for a two-guestroom bed and breakfast filed by Boyd Didrickson with the following conditions:

1) The maximum occupancy of the bed and breakfast shall be two guests per room with one child; 2) a Fire and Life Safety Inspection must be satisfactorily completed prior to occupancy of the bed and breakfast; and 3) the applicant shall contact the Planning Office by February 21, 2007, for a review.

Mayor Dapevich stepped down as he believed he could not be objective. Skannes objected. However, Bailey pointed out that bias in a board of adjustment hearing is a legal reason to step down.

Pete Karras has lived on this street for years and strongly opposes this conditional use permit.

Adeline Jacobs lived in Sitka for 64 years and is a sister-in-law to Bertha Karras. She spoke to speed limits, buses and other problems.

Williams brought up that if this passes, Mr. Didrickson still has some hurdles to overcome to be active within one year.

Motion PASSED on a 5-1 roll call vote with Bailey opposed.

Reconvene MOTION, by Stelzenmuller to reconvene as the Assembly in regular session.

Motion PASSED by unanimous consent.

Mayor took back the gavel.

**Board Member C:** well that, and then also, I mean, most of the lots there are all substandard (unable to hear rest of statement from Member C)

**J Twaddle:** You know, and by granting the variance there is a lot of thought or a lot of worry, about parking and fire access. You know if the applicant chooses to rebuild the building the way it sits now, I think it is at a greater detriment with current positioning and current obvious state then it would be to move the structure back from where it is at now.

**Wells W:** Item B is preservation of a substantial property right. I'm assuming Mr. Chairman that what you are inferring to is that because it is lot of record, there is a right to build a house there,

**J Twaddle:** Correct

**Wells W:** ...that therefore the variance is necessary to allow for the construction of a lot, a house, and lot of record. Is that correct?

**J Twaddle:** Yes, true. To reconstruct another house and it is irrelevant whether the applicant paid for the property or bartered for the property or whatever. It's deeded property.

**Wells W:** and then item C...it is not going to be injurious to nearby parcels

**J Twaddle:** Back to the public infrastructure, building to be moved back from the road to allow greater access. I think injurious would be if that building continues to be left like the condition it is in, it would fall into the street.

**Board Member C:** Or catches on fire.

**Wells W:** Would it be fair to add to that the fact that the 10 foot rear setback is being maintained constitutes an effort to insure that it is not injurious to adjacent parcel.

**J Twaddle:** Absolutely.

**Wells W:** In that, the D, we got that twice, just because...creating variance will not adversely affect the comprehensive plan, specifically, the I may have to, find that it facilitates the renovation, or in this case, reconstruction of a historical building that it continues to promote historical and cultural resources on a structure that is being rebuilt.

**Melissa Henshaw:** What numbers are these?

**Wells W:** I'm looking at, thank you Melissa; 2.3.17 and 2.3.15, on lefthand side. And that it is consistent with 2.4.4 which is to enhance historic character of older neighborhoods including the Native village. As well 2.4.3 which is immediately above that which is to encourage the rehabilitation of deteriorating residential areas. So, are you with me folks? 2.3.15, 2.3.17, 2.4.3, deteriorating residential areas 2.4

The Planning and Zoning approved variance without regard to the definition of nonconforming, as defined in Section 22.08.640 of the Title 22 ZONING.

Quote: "Nonconformity means any lot, structure, use of land, use of a structure or characteristics of such use which does not conform to the terms of this title but which was in lawful and active use on the effective date of the ordinance codified in this title. (Ord. 02-1683 § 4 (part), 2002.)"

Under "22.24.050 Nonconforming use permit "of Title 22 Zoning, there are two sections we point out as matter of record:

**D. Nonconforming Uses of Land – <quoting>:**

"Where, at the time of the passage of the ordinance codified in this title, lawful uses of land existed that would not be permitted under the regulations imposed by this title, the use may be continued so long as it remains otherwise lawful; provided, that:

2. No such nonconforming uses of land shall be moved, in whole or part, to any portion of land or lot or parcel other than that occupied on the date of the adoption of the ordinance codified in this title.



3. If, for any reason whatsoever, the nonconforming use of land ceases for a period of **twelve consecutive months or one year**, any subsequent use of the land **shall conform to the regulations specified in this title for the district** in which the land is located.”

4. **No additional structures not conforming to the requirements of this title shall be erected in connection with such a nonconforming use of land.”**

**E. Reconstruction of Nonconforming Structure <quoting>:**

“2. ***Nonconforming structures*** may be replaced or reconstructed on the same footprint of the original structure, with the exception of encroachments into public rights-of-way or adjacent property, ***provided the intended use of the structure is the same as, or less intensive than, the prior use*** and is a permissible use in the district. ***Projections beyond the footprint, including architectural features, roof eaves, foundation footings, porches, decks, terraces, patios, unenclosed stairways and fire escapes, and attached structures, may also be replaced or reconstructed as they existed on the original structure*** with the exception of encroachments into public rights-of-way or adjacent property.”

It is important to point out: existing structure is a cabin of 280 square feet (20' by 14'). It is not a residential home, but a cabin. It has always been a one story, with maximum height of 25 feet.

See Exhibit 3 – Cabin citation from 22.08.695

***Mr. Boyd Didrickson has not lived on this piece of property for OVER 24 months (MARCH 2005 TO OCTOBER 2008) and no longer meets nonconforming use on/after April 2006. Granting of variances was a clear violation of the General Code, in that the majority of Planning Commission assumed this property fell under nonconforming lot of record status; Planning and Zoning Commission erred and wrongfully approved variances, citing reasons to which would have applied IF parcel was still under nonconforming status.***

***Proof of Mr Didrickson vacating and abandoning Portion of Lot 47 Block 2 is found in Assembly minutes for when Mr Didrickson moved to a new residence (physical address being 215 Kaagwaantaan) in the early Spring of 2005, in which he sought and was approved for a bed and breakfast conditional use permit by Assembly. Other records of fact proving this include Planning Commission minutes from 2008 forward.***

Couple this fact with Sitka General Code, Chapter 22.24, SPECIAL USE PERMITS, under section 22.24.010 Conditional uses, in item B. Conditional Use Permit Provisions for Bed and Breakfasts, it specifically states:

“4. In no case shall a bed and breakfast be operated in any residence other than an **owner-occupied dwelling.**”

In other words, Mr. Didrickson could not have lived/resided at 428 Kaagwaantaan from March 2005 to October 2008 without having lost his B&B status (listed in current phone book as: Indian Village Bed and Breakfast – 747-5845). In pointing this out, it is establishing Mr. Didrickson created a self induced hardship in choosing to not live/revitalize the property known as 428 Kaagwaantaan, and elected to vacate – it was not something out of the control of property owner (ie, Mr. Didrickson). In checking with the Sitka Utility Department, electrical services were disconnected in January 2007.

In establishing that Mr. Didrickson has lost his nonconforming status for both property and existing structure/cabin, we point out this now **removes** this lot from the protection of not

having to be minimally 8,000 sq ft. with width of 80 ft. These are the minimum legal requirements that all lots must follow, otherwise it is illegal.

The Planning and Zoning in its final justification summary, used the Comprehensive Summary sheet to start naming why it would not be injurious to this plan, using the historical and cultural significance reasons. Portion of lot 47 Block 2, known as 428 Kaagwaataan is not a historical cabin and is not on record as a historical site. Further, Sitka Kaagwaantaan street is not a historical district. Therefore, Planning and Zoning improperly identified lot, cabin, and street/district as a historical/cultural site.

In Title 22, under 22.04.02 Purpose – this section deals with comprehensive plan, which is the policy we tie/map to zoning codes to. After each reason applicable to this appeal, and in italicized lettering, is a reason as to why the variances granted are noncompliant:

The purpose of this title is to regulate the use of land and improvements by districts in accordance with the comprehensive plan, the coastal management program and other applicable programs. These zoning regulations are designed to:

- A. Provide for orderly development - *proposed development is not orderly, as the granted variances are shoe horning in, illegal setbacks to accommodate 1 particular lot owner's desire to build an illegal structure, illegal because it goes against city zoning codes.*

*See Exhibit 5 – Sidewalks, curb and gutter, power pole locations*

- B. Lessen street congestion – *Kaagwaantaan Street is a one way street. In granting only 1 parking spot, and allowing parking lot to be on the front setback of ten feet, there is an immediate issue of congestion, as one or two vehicle(s) can now park on this 32.5 ft by 10 ft setback. The 20 foot setback (the 32.5 ft by 20 ft) needs to be there for preventing congestion and safety.*
- C. Promote fire safety and public order - *Fire safety is compromised by Planning Commission's determination in allowing 3 foot side setbacks. Eight feet is the minimum for a lot of 8,000 square feet; this lot is 1,503 square feet, but is not square in any way. It is irregular in shape (five sided). Rather than promoting fire safety, Planning Commission shrunk the requirement so that adjacent property owners and applicant are at greater risk to fire spreading to either property because of the 5 foot encroachment in substandard lot.*
- D. Protect the public health and general welfare- *it is known the right of way (Kaagwaantaan) has a 12 foot width. Challenges occur daily for both pedestrians (children and adults) and vehicles (private and commercial) in traversing this right of way. By allowing 10 foot encroachment of front setback, it is not only poor planning, but putting all who access this portion at risk. With a 32.5 width and 10 foot setback, there is potential for abuse by property owner by enabling another vehicle to park in this 32.5' by 10' space (car lengths can range from 10 feet to 15 feet, thereby allowing the potential for 2 cars to be parked in a horizontally fashion by current and future owners), even though the intent of the variance is to get 1 parking spot in. Pedestrians, vehicles, or pets/animals will now be at greater risk for being hit by vehicle(s) due to right of way's compromising width and new parking spot created by variance for the property owner's convenience in order to build.*

*See Exhibit 4 - City of Sitka staff findings of deficient parking space.*

- E. Prevent overcrowding and to stimulate systematic development of transportation, water, sewer, school, park and other public facilities – *Population density is high in this section of Kaagwaantaan (9 homes, with 24 residents plus). If one were to add up the total square footage of all 9 homes, you are looking closely at 26,000 square feet, or ½ acre. This is a high density number, and believe this is overcrowding in trying to shoe horn in a building request, using variances to achieve this end.*
- F. Protect private property rights – *because this property was nonconforming up till March 2005, Mr Didrickson's after March 2005 allowed the property and structures go to ruin, making it a blight to the surrounding neighbors, and the neighborhood in general. His property rights in being able to rebuild were forfeited per nonconforming rules and regulations of the General Code.*

G. Encourage the protection of environmentally critical or historically significant resources – *Not applicable as lot and structure(s) do not come under this regulation.*

**K. Provide for the gradual elimination of those uses of land, buildings and structures which do not conform to the standards of the district in which they are located and are adversely affecting the development and taxable value of property in the district. *This lot was established back in 1954, and was substandard. Its use was at an end when current property owner let it fall to disrepair/ruin back in March 2005.*** (Ord. 02-1683 § 4 (part), 2002.)

See Exhibit 6 – Letter from Ben Brown, Attorney for Baxter Bruce and Sullivan, Dated March 4, 2009.

By so approving, Planning and Zoning Commission adversely effected the neighborhood by: increased population density, contributing to traffic flow problems on a one-way street, circumvents Comprehensive Plan for long term planning by allowing substandard lots, with lapsed nonconforming uses/lots/buildings, to be developed in not just this residential zone, but for all zoned areas. As to the setbacks approved in this variance, this was in direct conflict with the Zoning Code on the allowable setbacks and illegal. Again, the Planning and Zoning were falling back on the “special circumstances” clause, sighting this was an irregular shaped lot, topography, not injurious to adjacent owners, and meeting the Comprehensive land.

Although it can be said we all can empathize as to the predicament Mr. Didrickson is placed in, it is a self created hardship that was preventable. This parcel, Portion of Lot 47 Block 2, was neglected and abandoned with no repairs or upkeep between March 2005 to October 2008. In addition, George Anderson and family offered a solution in August 2011 by offering to buy this parcel, but Mr. Didrickson’s asking price was \$75,000, which was not a fair market value. This shows to certain degree, a self created hardship.

Please see Exhibit 6 – letter from Jeannie Emanoff.

#### **4. The desired outcome or requested changes to the decision.**

Assembly overturns the Sitka Planning and Zoning Commission’s approval of Mr. Boyd Didrickson’s variances for those reasons outlined in this appeal.

## EXHIBIT 6

Date: March 16, 2012

To: Sitka City Assembly, Acting as Board of Adjustments

From: Jeannie M. Emanoff

The facts governing this situation are:

- 1) Mr. Didrickson has already sought and received special exceptions in order to combine three lots and build a new residential three story home (215 Kaagwaantaan Street), which eliminated the water view from upland property owners, Pete and Bertha Karess.
- 2) The minimum lot size for home construction is 8k square feet. This is 1503 sq ft, substandard lot, furnished with a cabin. The intent of Boyd is to create a single family home out of a cabin, that would occupy 50% of the lot. The small cabin has been abandoned for several years. If you don't deviate from city code, it states that maximum percentage for even a multifamily R-2 is 50% of an 8k sq ft lot. He seeks to exceed that on a lot no larger than 1503sq ft which already has other issues of its own.
- 3) If you do this, you must also grant the same variances to us, and anyone else who requests special consideration on substandard lots not larger than 1500 sq ft. Even if it is inches from a right of way.
- 4) Favor should not be awarded based on the current condition of the cabin structure, as it's a direct result of Mr. Didrickson's own hand. He has driven past it for years and not taken actions to provide maintenance and upkeep. Ample opportunity was available to correct this, but chose to not to do so, as he already had a three story residence (215 Kaagwaantaan) and therefore abandoned 428 Kaagwaantaan structure from March 2005 forward.
- 5) Refer to Assembly minutes in March of 2005 and you will see he requested and was approved a bed and breakfast status with a number of conditions he had to meet first.
- 6) It was the city assembly acting as board of adjustments in 2009, who reevaluated the decision of the commission and determined that no action could be taken until property ownership was resolved to avoid legal ramifications. Could not proceed until ownership was clear and definitive. Now that we've reached this, and as Boyd Didrickson became the SOLE Owner without question, the codes and restrictions that apply in that year are the ones that must be followed regardless of the perceived hardships that are verbalized by Mr. Didrickson. There are no immediate hardships that will arise, if this variance is denied to Mr. Didrickson. He will not be rendered homeless without this variance.
- 7) The Planning Commission has been allowing unreasonably high structures to be built that are out of character for this area. Denny Allen, eliminated view from Calvin Carlson with his three story structure, Scotty Saline was allowed to dramatically alter the height

## EXHIBIT 6

of his structure, and Mr. Didrickson eliminated once already Pete and Bertha Karras's view with a towering three story structure, and if he is again granted special favors, will pursue changes that would be large enough to eliminate our view. These tall structures do not fit in with the dynamics of the neighborhood.

- 8) Construction process will alter the grade of the slope, and raises land stability concerns for our property. Current abandoned storage utility structures have somewhat of a lean. We would like to see some form of a solid structural retaining wall included in the application, utilized on his portion of the lot to ensure that the integrity of our upland property will not be affected.
- 9) I believe that any statements about historical or art value to Kaagwaantaan Street are invalid arguments to this variance. This is a residential neighborhood, and Mr. Didrickson does not have cultural or commercial status for this particular lot.

Thank you.

Jeannie Emanoff

Table 22.20-1

Development Standards<sup>(2)</sup>

ZONES	MINIMUM LOT REQUIREMENTS		MINIMUM SETBACKS			MAXIMUM HEIGHTS		MAXIMUM BUILDING COVERAGE	MAXIMUM DENSITY
	Width	Area <sup>(1, 19)</sup>	Front <sup>(3)</sup>	Rear	Side	Principal Structures	Accessory Structures		
R-1 <sup>(6, 18)</sup>	80 ft.	8,000 s.f.	20 ft. <sup>(8)</sup>	10 ft. <sup>(9)</sup>	8 ft.	35 ft. <sup>(10)</sup>	16 ft.	35%	
R-1 MH <sup>(6, 18)</sup>	80 ft.	8,000 s.f.	20 ft. <sup>(8)</sup>	10 ft. <sup>(9)</sup>	8 ft.	35 ft. <sup>(10)</sup>	16 ft.	35%	
R-1 LD/ LDMH	80 ft.	15,000 s.f. <sup>(5)</sup>	20 ft. <sup>(8)</sup>	20 ft. <sup>(9)</sup>	15 ft.	35 ft. <sup>(10)</sup>	16 ft.	35%	
R-2 <sup>(6, 18)</sup>	80 ft.	8,000 s.f. for the first two units and 1,000 s.f. for each additional unit	20 ft. <sup>(8)</sup>	10 ft. <sup>(9)</sup>	8 ft.	40 ft.	16 ft.	50%	Maximum density = 24 DU/A
R-2 MHP <sup>(6)</sup>	80 ft.	Same as R-2	20 ft. <sup>(8)</sup>	10 ft. <sup>(9)</sup>	8 ft.	40 ft.	16 ft.	50%	Same as R-2
CBD <sup>(17)</sup>	None	None <sup>(17)</sup>	(11)	(11)	(11)	50 ft.	16 ft.	None	

VARIANCES:

Front set back

from 20 ft to 10 ft

Side set backs

from 8ft to 3 ft

Reduction from 2 parking spaces to 1 parking space

EXHIBIT 1