




# City and Borough of Sitka

100 Lincoln Street • Sitka, Alaska 99835

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## Memorandum

To: Jim Dinley, Municipal Administrator  
Mayor McAdams and Assembly Members

From: Wells Williams, Planning Director 

Subject: Appeal of Boyd Didrickson Variances Approved by the Planning Commission  
428 Kaagwaantaan

Date: April 4, 2012

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The Sitka Planning Commission approved four variances on March 6th to allow Boyd Didrickson to rebuild his house at 428 Kaagwaantaan Street. The project involves reducing the footprint of the home and adding a second story. The upland property owner, George Anderson, is appealing the variances on several grounds.

These variances are similar to the variances that were approved in 2009 when the ownership was in question. Ownership has been resolved.

The approval of the variances included:

1. Reduction of the front setback from 20 feet to 10 feet;
2. Reduction of both side setbacks from 5 feet to 3 feet;
3. Increase in allowable lot coverage from 35% to 50%; and
4. Reduction in the parking requirements from 2 spaces to 1 space.

Boyd Didrickson requested the variances so he could tear his old dilapidated house down and replace it with a newer structure. The current house is a one-story home that has not been lived in for a few years and is in considerable disrepair. The new house would be a two-story house and would have a smaller footprint.

George Anderson and some of his family live in a home behind Didrickson. The Anderson house is uphill of the Didrickson house and is accessed by a driveway that runs along the right side of Mr. Didrickson's home. There is an additional 3 foot wide easement at the front of Mr. Didrickson's property that extends back 10 feet that the Anderson's requested to be used as part of their driveway.

The Planning Commission held a series of meetings on the variance requests. The meetings provided opportunities to see if the matter could be amicably resolved and allow time for better drawings to be submitted.

From the outset, the elder Anderson, represented by his sons, opposed the variance requests on the grounds that 1) they feel that the lot is substandard and that Mr. Didrickson knew this

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Providing for today...preparing for tomorrow

when he obtained it, 2) he should comply with code without variances and, 3) that the granting of the variances would harm their property.

The zoning code states that variances shall not be granted unless the Planning Commission makes an affirmative finding that adjacent properties will not be adversely impacted. Planning Staff consistently expressed the views that deference has generally been given to adjacent property owners in these cases, and, that the affirmative finding could not be granted in this case. The Planning Commission had a different point of view.

The Planning Commission motion to approve the requests passed by a vote of 3-1.

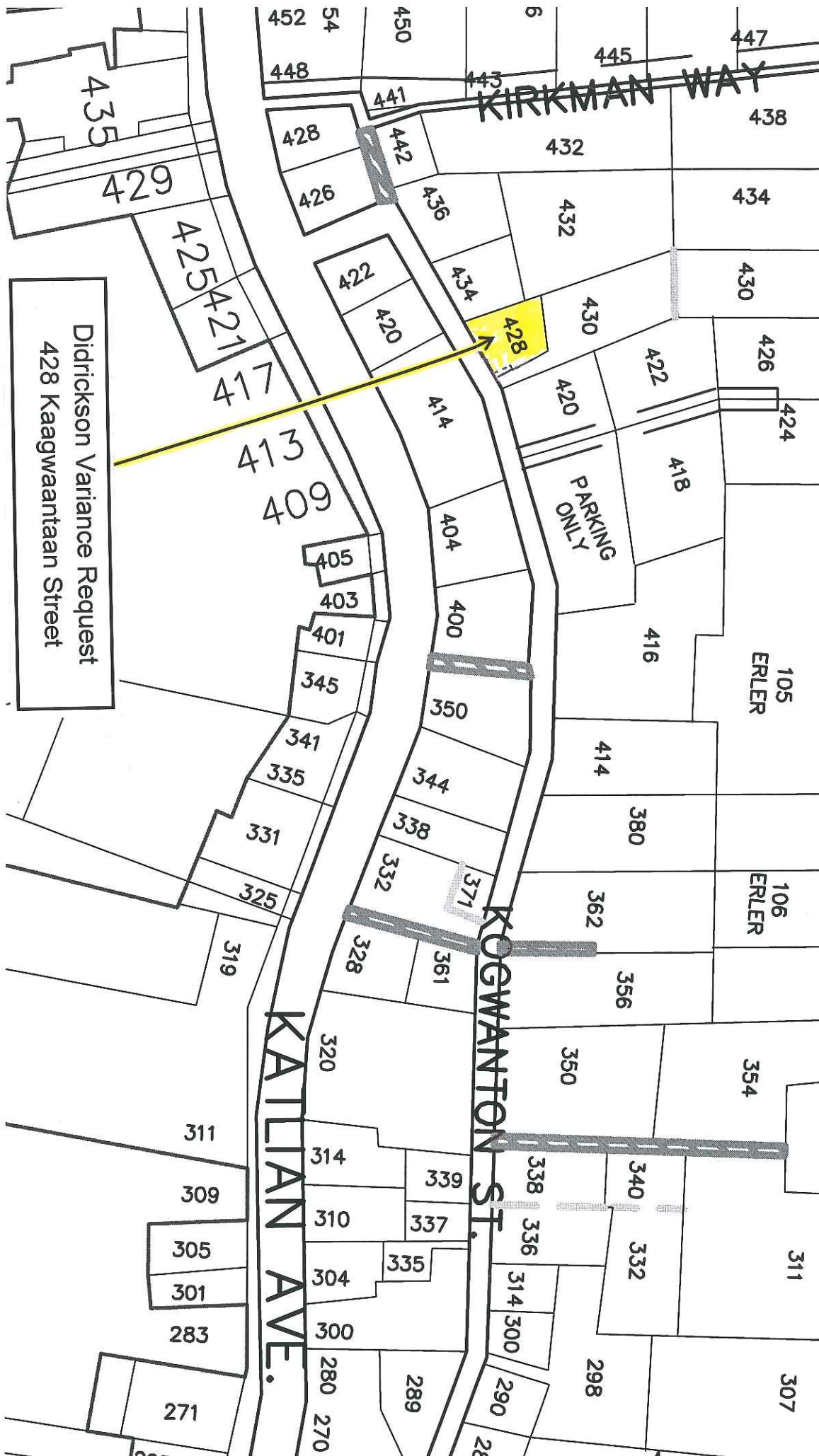
Following the approval of the variances, the board unanimously approved findings in support of the approved variances that found:

1. There are special circumstances to the intended use that do not generally apply to the other properties. Specifically the size of the parcel is substandard and if the applicant were to chose to rebuild the building in its current position, the structure is a greater detriment rather than moving it back;
2. The variance is necessary for the preservation of a substantial property right to allow to reconstruct a house on this lot of record. Regardless of how the property was obtained, it is a deeded property;
3. The granting of this variance will not be injurious to nearby parcels, or public infrastructure by moving the building back from the road it will allow greater access. The 10 foot rear setback being maintained constitutes an effort to ensure that it is not injurious to the adjacent parcel;
4. The granting of this variance will not adversely affect the Comprehensive Plan. It facilitates 2.3.15 To publicly encourage community awareness of the value of protecting historic and cultural resources; and 2.3.17 To encourage the preservation and/or renovation of historical building and sites on public lands; and it is consistent with 2.4.3 To encourage the prevention of deteriorating building conditions and the rehabilitation of deteriorating residential areas; and 2.4.4 To enhance the historic character of older neighborhoods, including the Native Village.

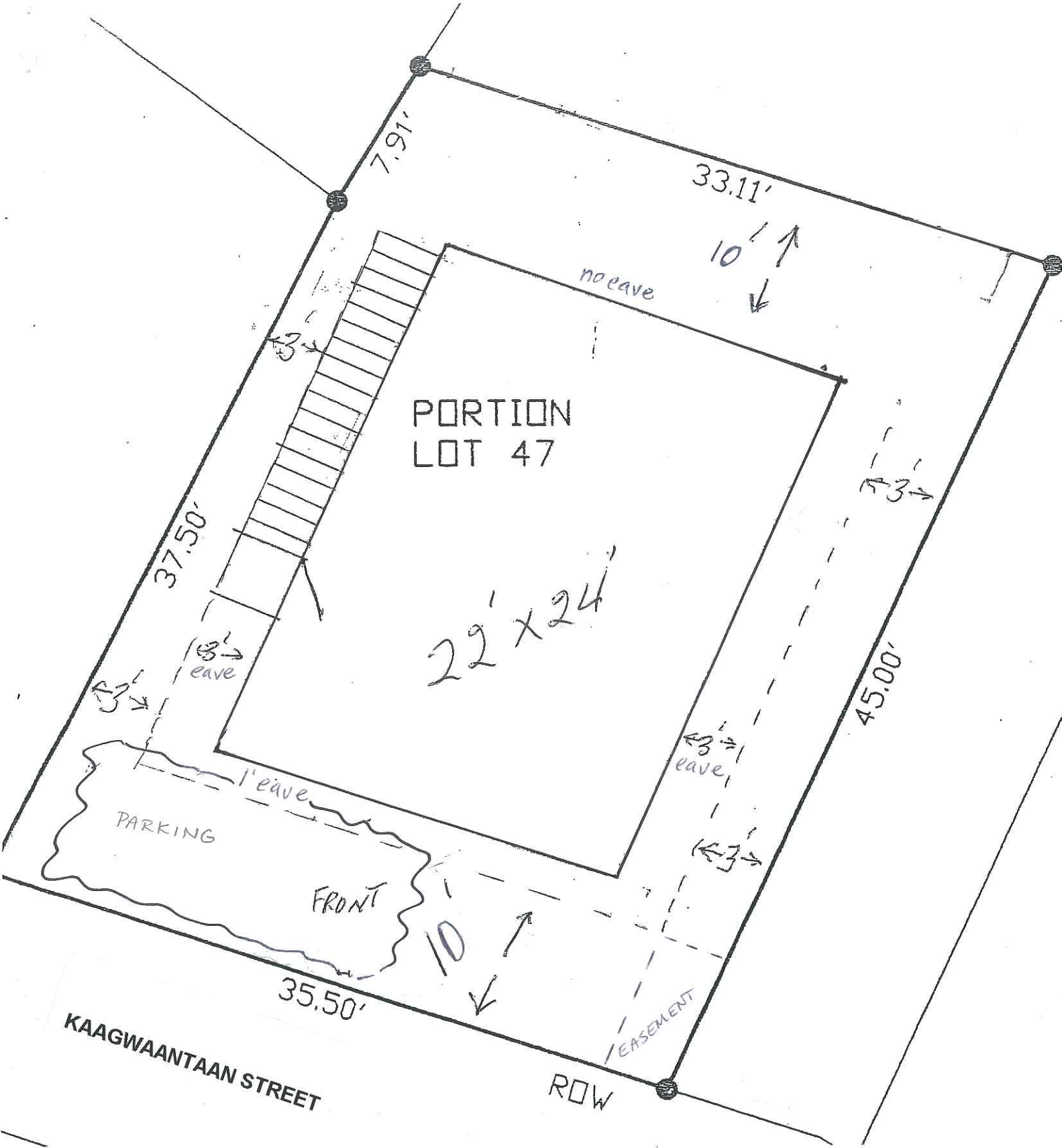
In approving the requests and making the findings the board felt that the Didrickson proposal would improve the neighborhood.

**RECOMMENDED ACTION:**

Uphold the decision of the Planning Commission to grant the four variances.



Didrickson Variance Request  
428 Kaagwantaan Street

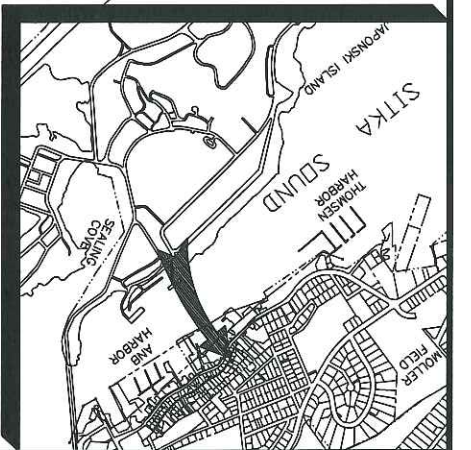
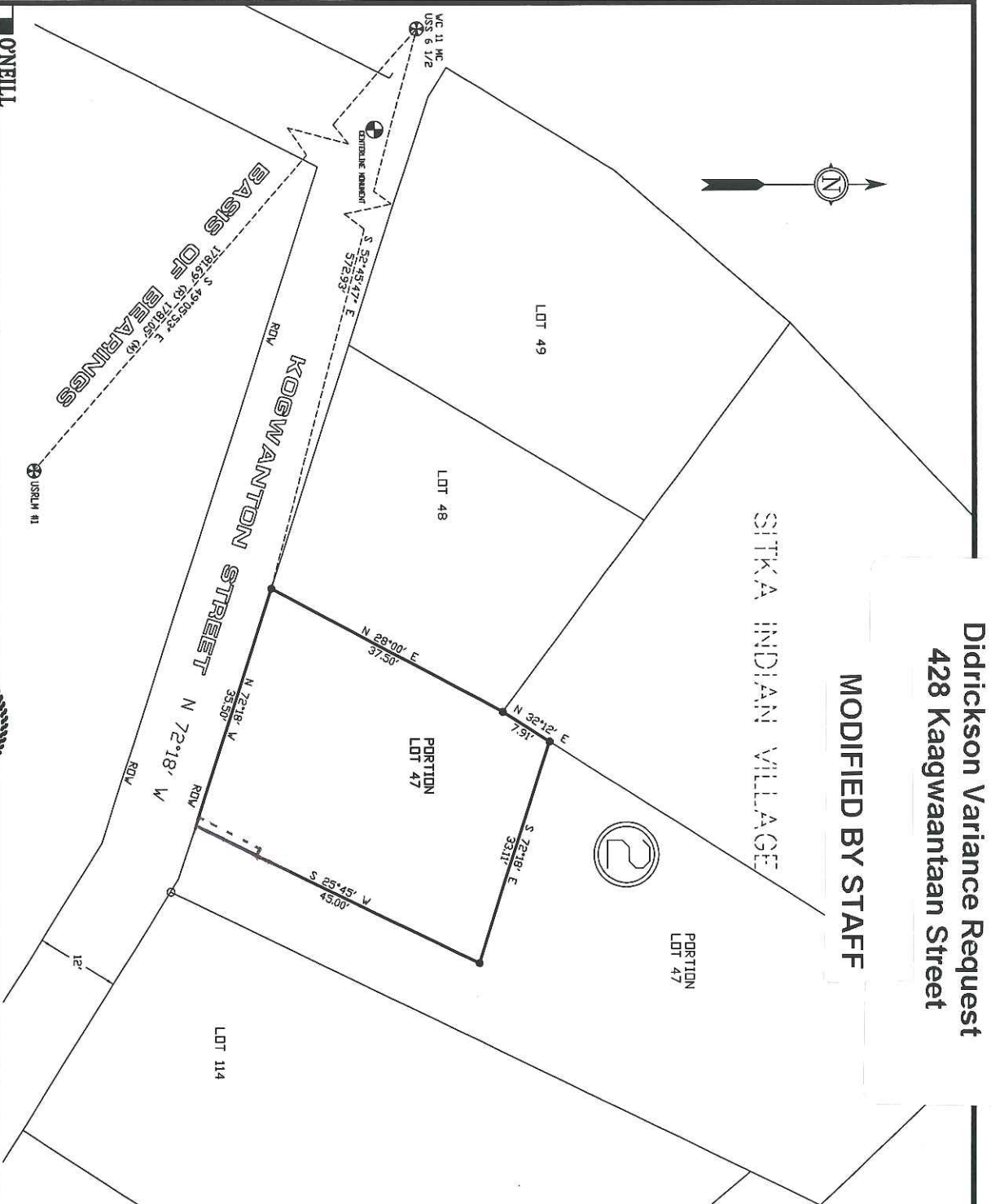


**Didrickson Variance Request**  
428 Kaagwaantaan Street

# Didrickson Variance Request 428 Kaagwaantaan Street

MODIFIED BY STAFF

SITKA INDIAN VILLAGE



- LEGEND**
- ⊕ PRIMARY CONTROL MONUMENT RECOVERED GRASS CAP
  - ⊕ BLVD FIELD PRIMARY MONUMENT (RECOVERED)
  - SECONDARY MONUMENT (SET)
  - SECONDARY MONUMENT (RECOVERED)
  - (R) RECORDED DATA
  - (C) COMPUTED DATA
  - (M) MEASURED DATA



**ONEILL**  
SURVEYING AND ENGINEERING

BOX 1049 SITKA, ALASKA 99835  
PHONE (907) 741-4700  
FAX (907) 747-7590  
EMAIL: sitka@oneillse.com

BY	DATE	REV.	DESCRIPTION OF CHANGE



DESIGNED & DREW	IRAWAN, JUD/KAJ
CHECKED	
DATE OF PLOTTING	M. 2008 4.22PM
SCALE	1" = 10'
PROJECT NO.	30248-01-00

**SURVEYOR'S CERTIFICATE**

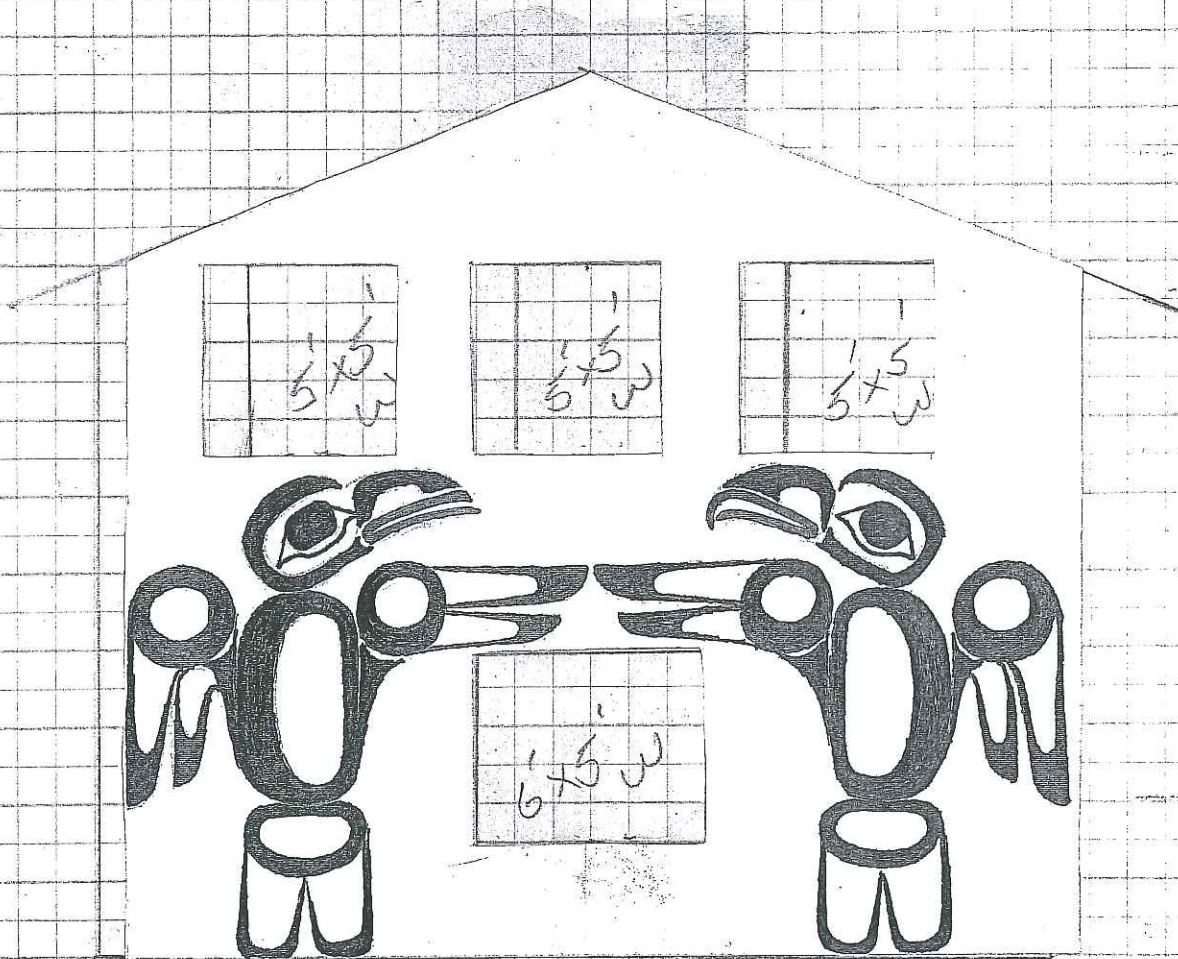
I HEREBY CERTIFY THAT I AM A REGISTERED SURVEYOR, LICENSED IN THE STATE OF ALASKA, AND THAT I HAVE PERSONALLY AND INDEPENDENTLY EXAMINED THE FIELD NOTES OF SAID SURVEY, AND THAT ALL DIMENSIONS AND OTHER DETAILS ARE CORRECT ACCORDING TO SAID FIELD NOTES.

DATE: \_\_\_\_\_

FRANZ K. ONEILL, L.S. 6584

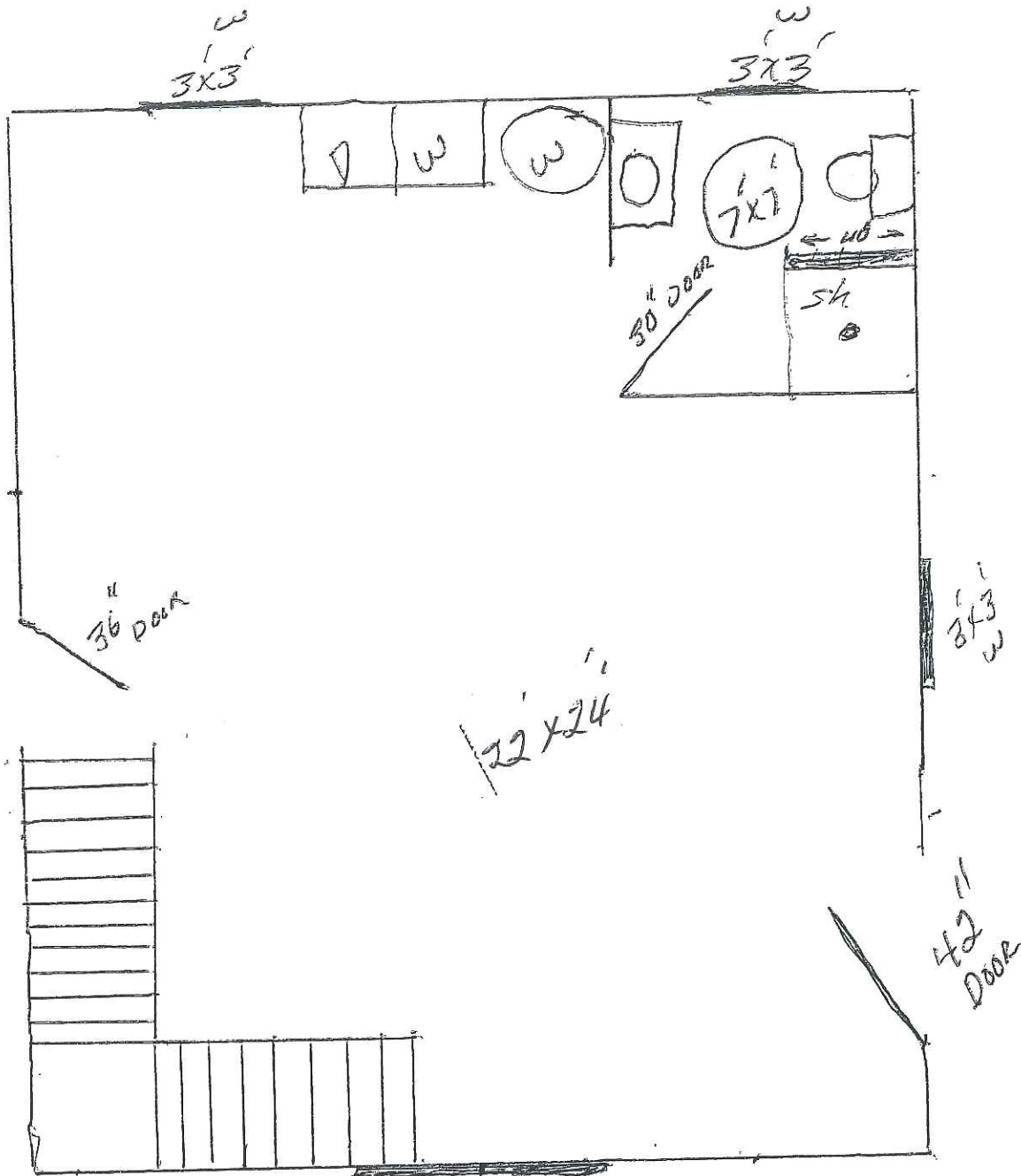
**BOUNDARY SURVEY**

PORTION LOT 47 BLOCK 2  
SITKA INDIAN VILLAGE  
USS 2542 A AND B  
CLIENT: BOYD DIDRICKSON



KOGWANTON ST  
FRONT

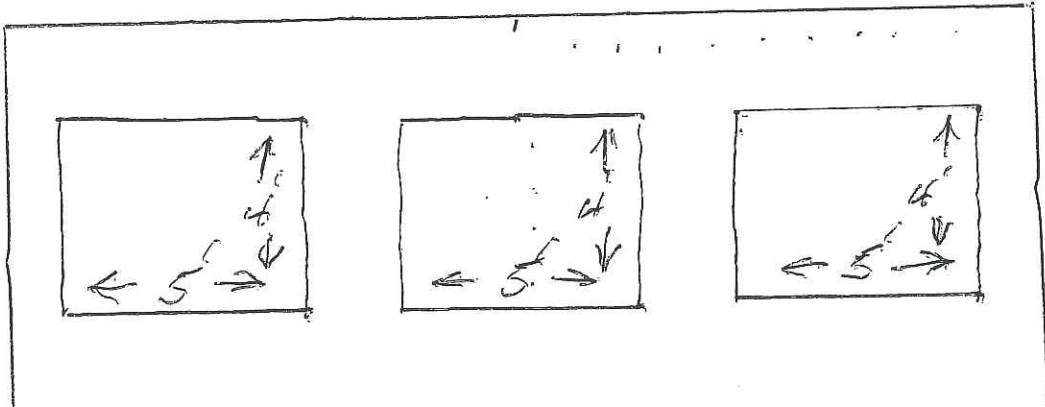
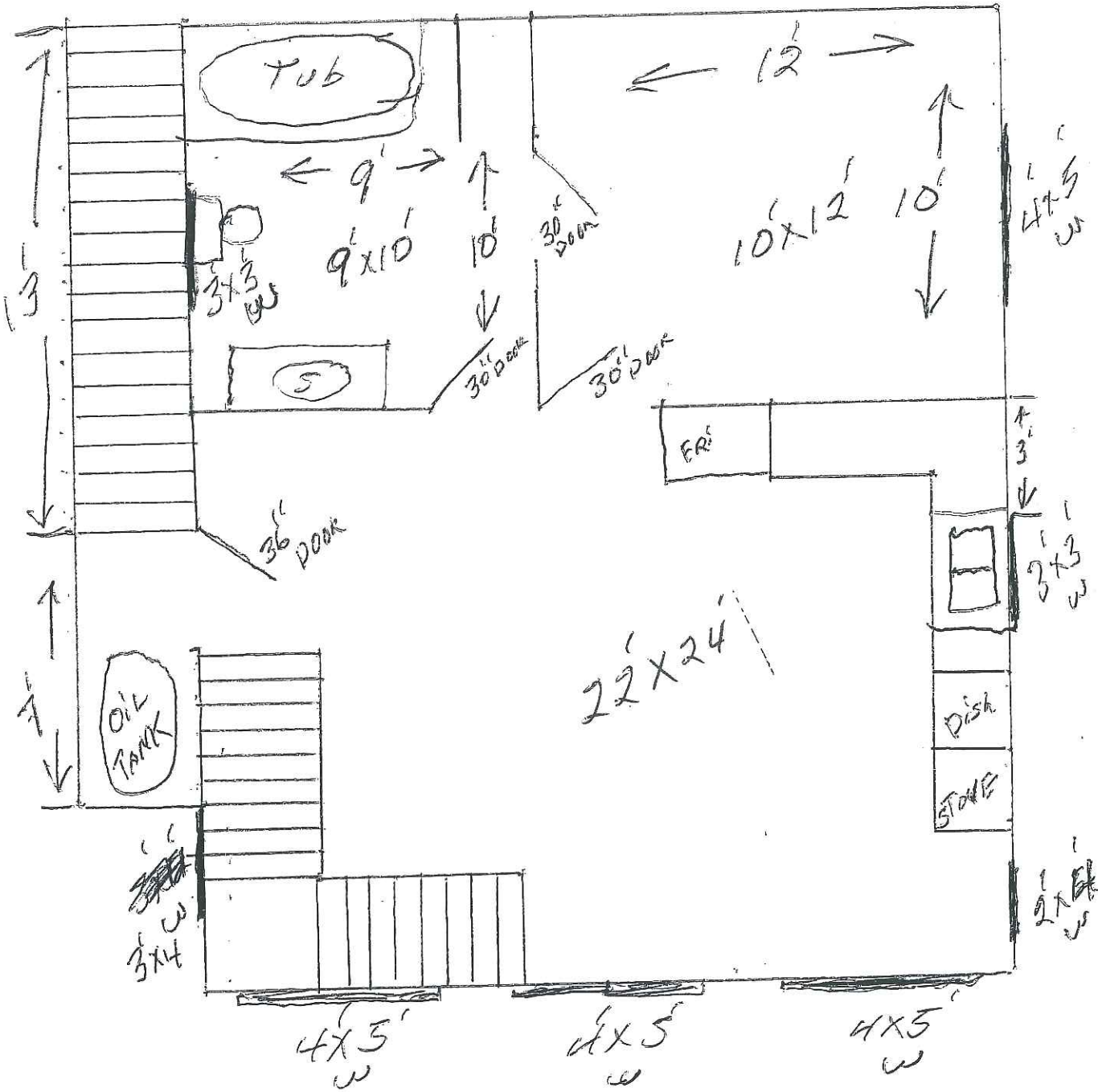
**Didrickson Variance Request**  
428 Kaagwaantaan Street



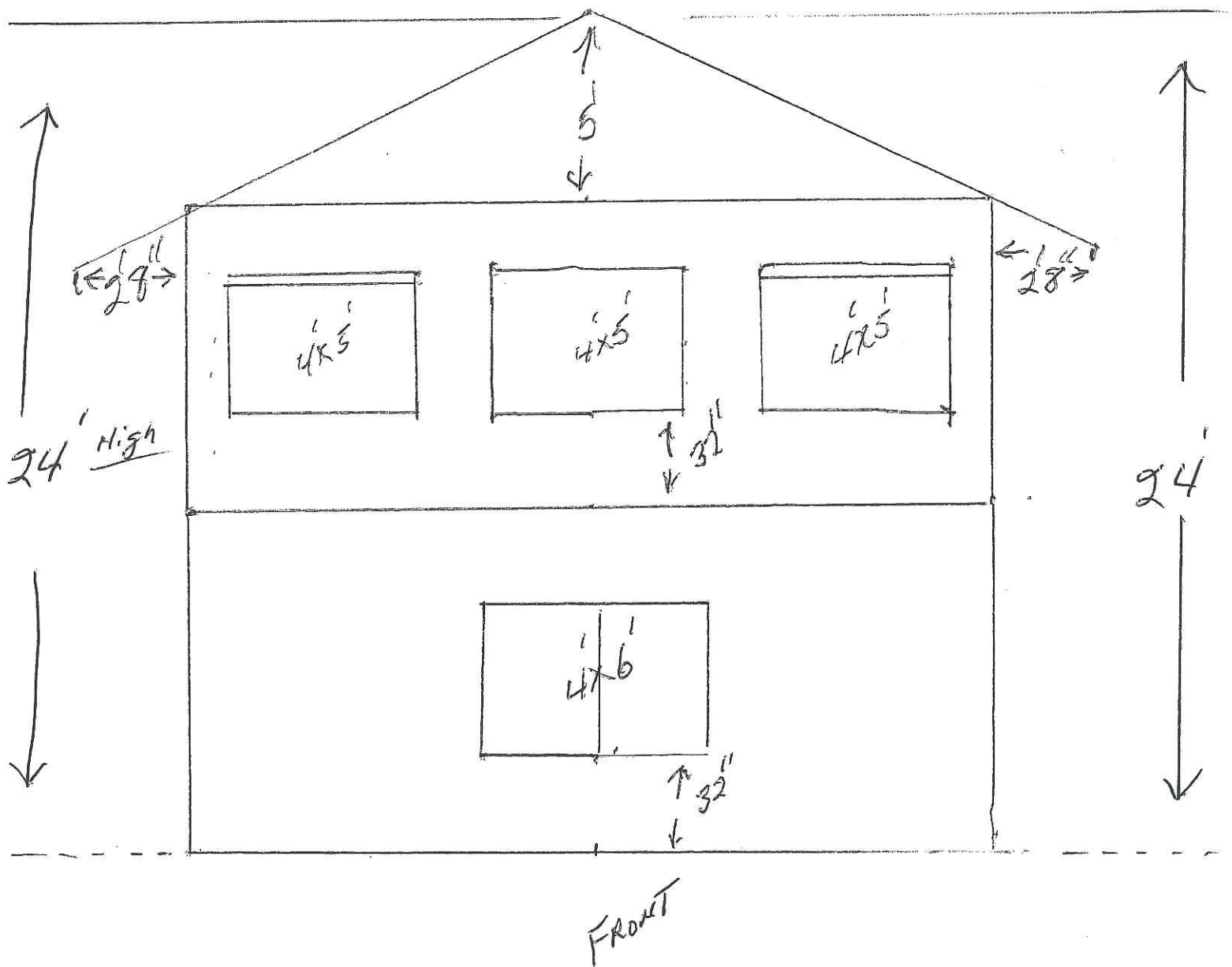
" 5x6" WALLS  
 200  
 21 SHG ply wood  
 1 1/2" FLOOR  
~~4x4~~ " 6x12"  
 50'

**Didrickson Variance Request**  
 428 Kaagwaantaan Street

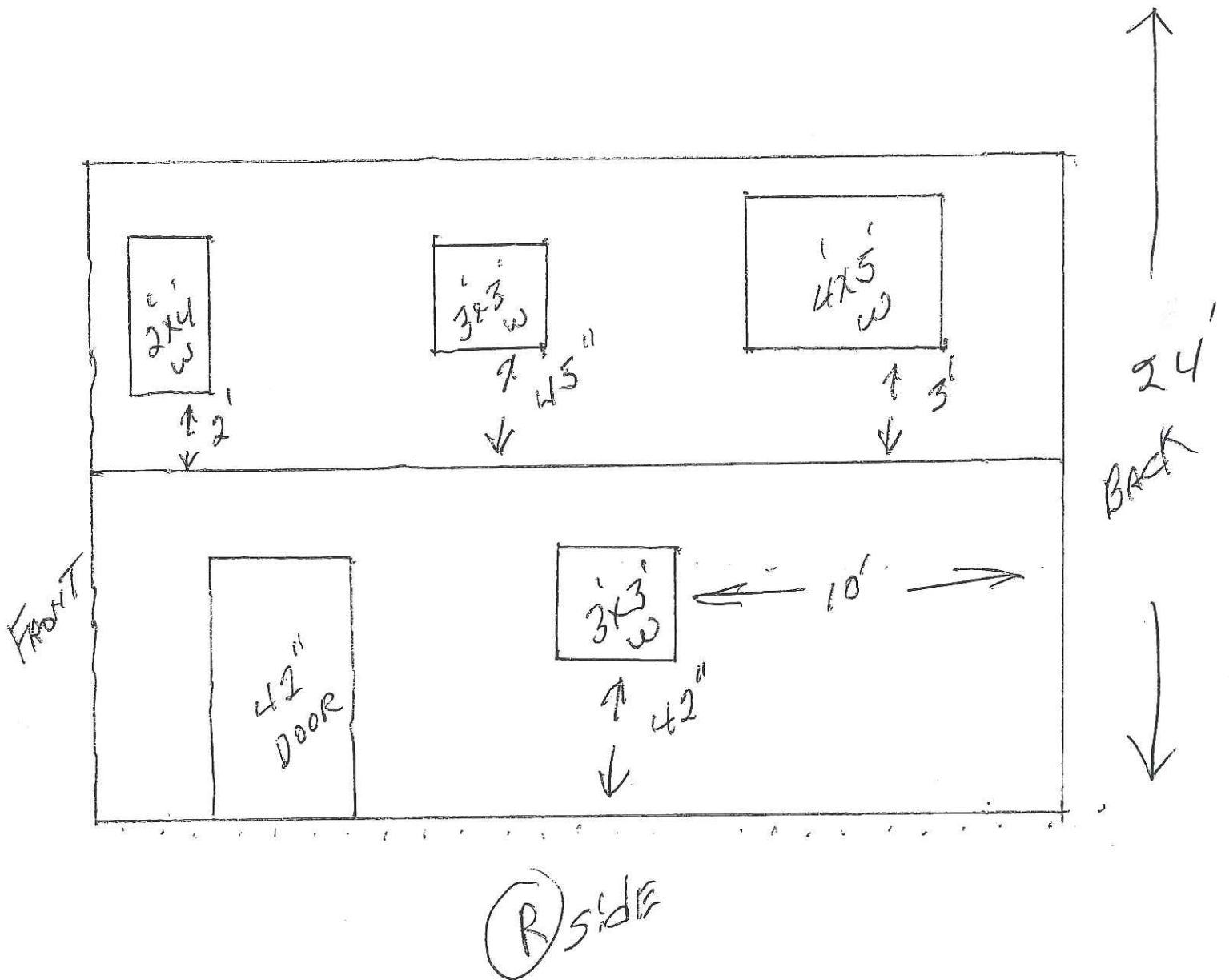
**Didrickson Variance Request**  
**428 Kaagwaantaan Street**



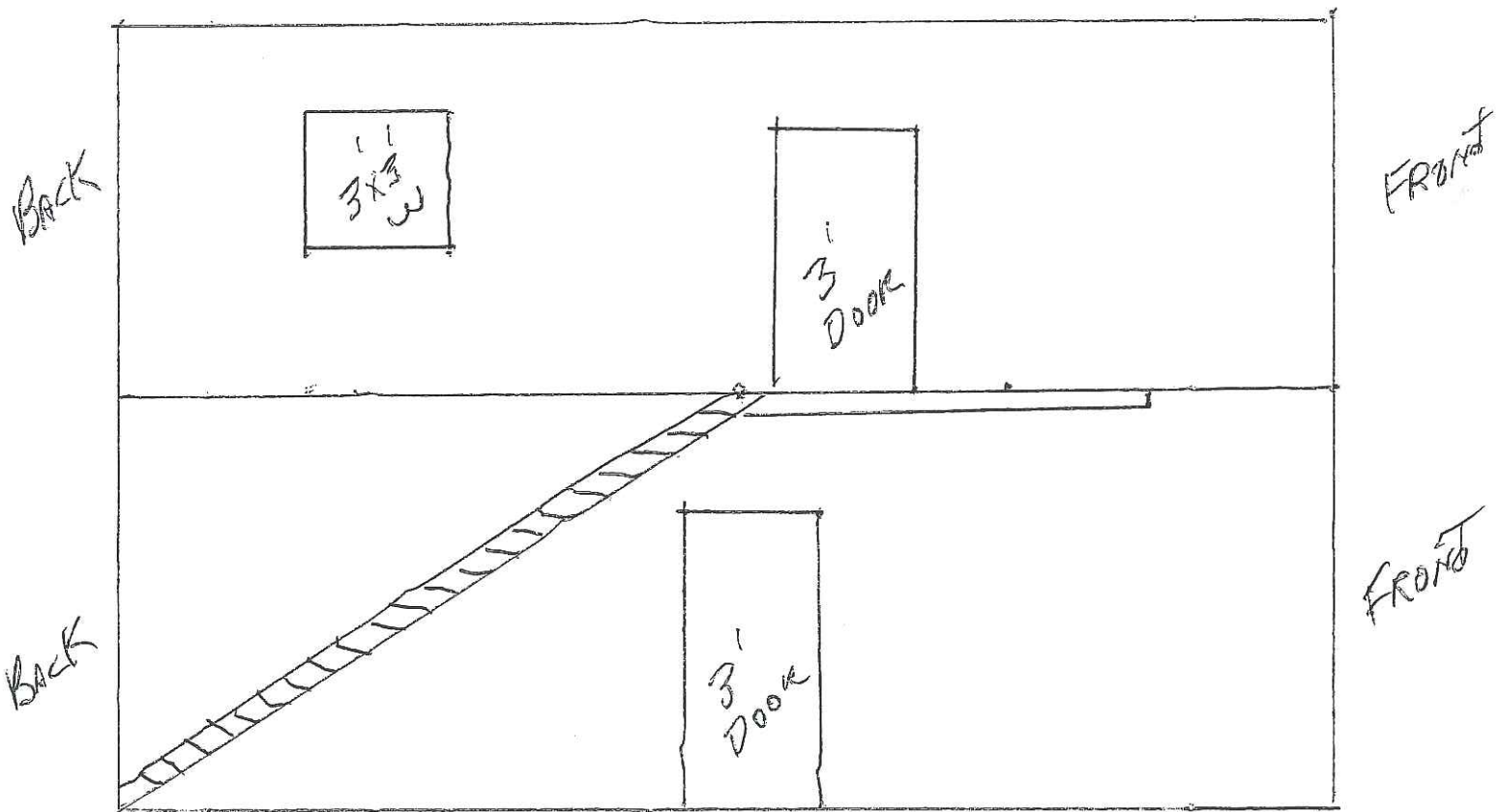




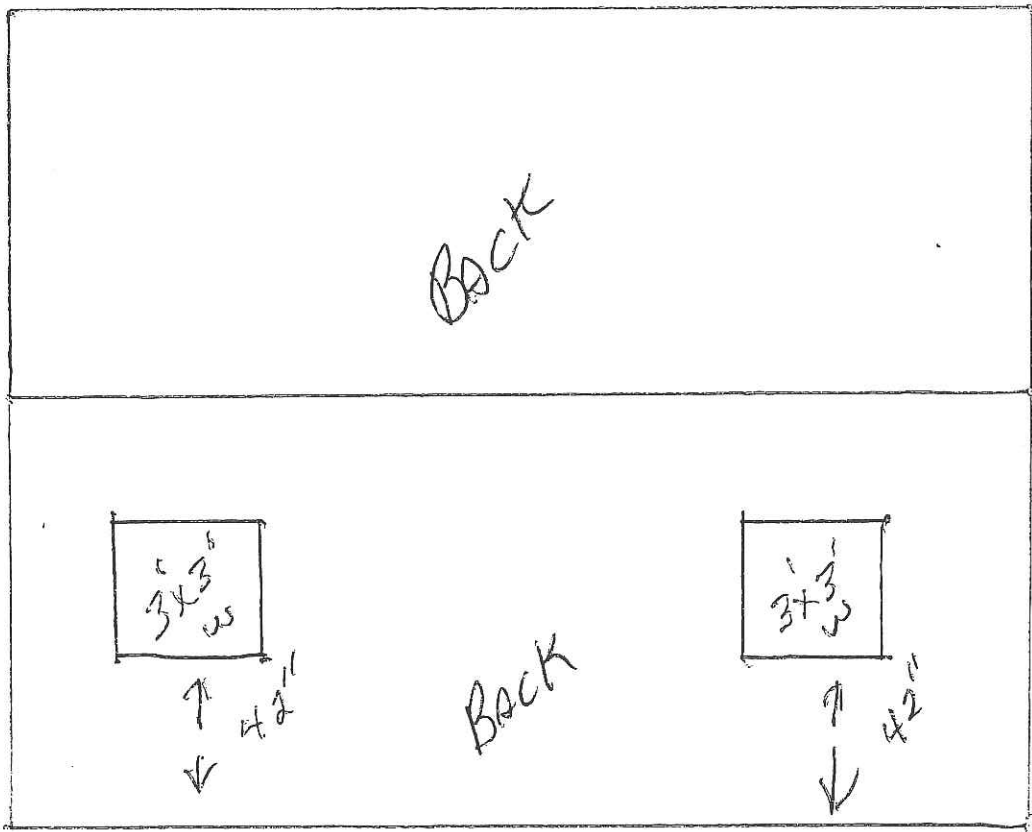
**Didrickson Variance Request**  
 428 Kaagwaantaan Street



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 428 Kaagwaantaan Street



**Didrickson Variance Request**  
428 Kaagwaantaan Street

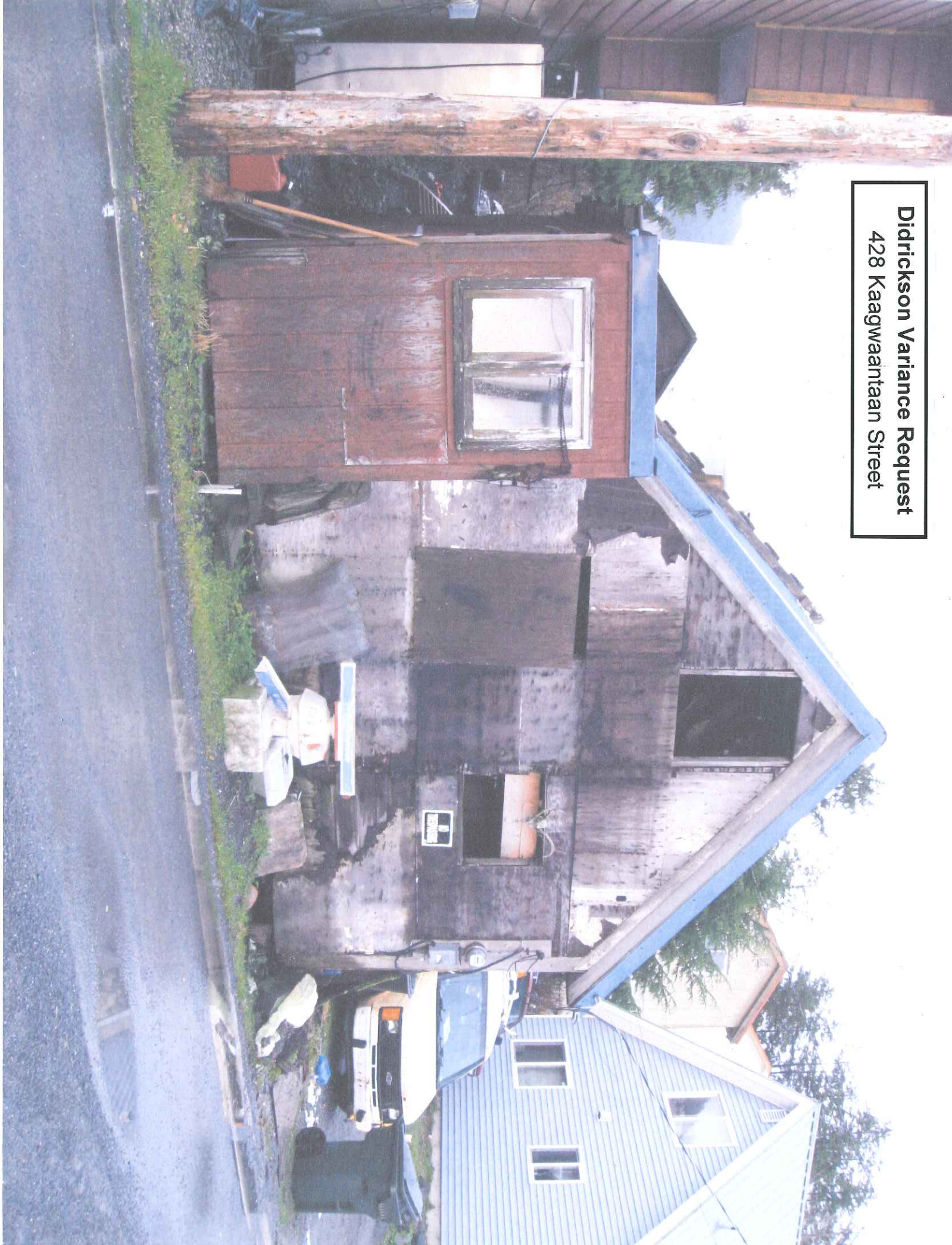


**Didrickson Variance Request**  
428 Kaagwaantaan Street



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**Didrickson Variance Request**  
**428 Kaagwaantaan Street**

**Didrickson Variance Request  
428 Kaagwaantaan Street**

**PROPERTY LINE**



**KAAGWAANTAAN STREET**







**ONE OF THE  
TWO SHEDS  
TO BE REMOVED**

**SMOKE HOUSE  
TO BE REMOVED**

**NO  
TRESPASSING  
NO  
PARKING  
POSTED**

**Didrickson Variance Request  
428 Kaagwaantaan Street**

**City and Borough of Sitka  
Planning and Zoning Commission  
Minutes of Meeting  
March 6, 2012**

**Present:** Jeremy Twaddle (Chair), Darrell Windsor (Member), Richard Parmelee (Member), Tom Rogers (Member), Wells Williams (Planning Director), Melissa Henshaw (Planner)

**Members of the Public:** Stephen Weatherman (Municipal Engineer), Donald Anderson, William (Bill) Anderson, Boyd Didrickson, Dennis Allen, Sue Litman, Scott Saline, Sharon Romine

Chairman Twaddle called the meeting to order at 7:04 p.m.

**Consideration of the Minutes from the February 21, 2012 meeting:**

**MOTION: M/S PARMELEE/WINDSOR** moved to approve the meeting minutes for February 21, 2012.

**ACTION:** Motion **PASSED unanimously** on a voice vote.

**This evening's business:**

**VARIANCE REQUEST  
428 KAAGWAANTAAN STREET  
BOYD DIDRICKSON**

*Public hearing and consideration of a variance request filed by Boyd Didrickson at 428 Kaagwaantaan Street. The request is for a reduction in the 1) front setback from 20 to 10 feet, 2) rear setback from 10 feet to 8 feet, 3) both side setbacks from 8 feet to 3 feet, and 4) and increase in lot coverage to approximately 51 %. The property is also known as Lot 47 Block 2 of the Sitka Indian Village. This request is for the construction of a new two-story house.*

Planning Director Williams showed drawings and explain the variances. He encouraged the Planning Commission to take the time they need on this request. He stated that Staff is not making a recommendation, but rather is working on the public process. He went over the required findings with the Commission specifically with the adjacent neighbor being adversely affected. He informed the Commission that Staff did a Code review on the question of missing information on the application. The results are that it isn't in the Code, rather is on paperwork that gets handed out with the application. Staff has been consistent on this, in that not everything needs to be complete and typically more information comes out in the public process.

There was clarification on the drawing that Planning Director Williams showed. The rear setback is 10 feet with no eaves.

**Applicant:** Mr. Didrickson came forward. He stated that this is the sixth time he has been in front of this Commission. He has changed his drawing 4 or 5 times. The current building is built right to the road. A front setback of 10 feet would be better. If he stayed within the setbacks his house would be 8 foot by 10 foot. It took him thousands of dollars to prove that he owns the land. He wants to get started building to make the Village look better.

Chair Twaddle asked about the art that was on the current structure. To which Mr. Didrickson replied that he had to take it down because people were trying to take it. He has since sold most of it. Chair Twaddle confirmed that the rear would be to 10 feet with no eave. Mr. Didrickson added that he didn't say a thing when his neighbor Mr. Saline built to one foot of his property. Whatever the Commission needs him to do, he will do it, but the neighbors will always complain no matter what he does.

Chair Twaddle went over the application. Mr. Didrickson stated that he won't need any further conditional use permits on this property. If he has to remodel he will, but he is only one foot from the road.

**Public Comment:** Bill Anderson came forward. He is speaking on behalf of his father, George Anderson. Stating that there are a couple of procedural issues, one being that the public notice went out prior to the application being provided by the applicant and that the application wasn't done 13 days in advance. He had concerns that this application was missing the minimum requirements and that this lot needed to have them stated in the variance request. He added that the requests challenge state statute, CBS Comprehensive Plan and the codes including zoning regulations. He asked that this be pushed to another meeting to add two more variances to this request.

Chair Twaddle received confirmation from Planning Director Williams on the lot size and width in that the applicant is not asking to change the lot size or width and is technically a legal lot of record.

Mr. Anderson received confirmation that the lot size and width do not need to be included in this case. He continued with his presentation discussing the structure as a private recreational cabin, that Didrickson did not receive money for this lot nor pay money for it and Mr. Anderson was forced to hand the land over. He noted that Mr. Didrickson knew that there were limitations on this lot. He read from the Alaska Statutes land use regulation that he provided under sec. 29.40.040 (b) 1, 2, and 3. He stated that this property is not unique to this part of Sitka.

Planning Director Williams asked Mr. Anderson about the ownership and the quit claim deed in which there is a conveyance of any interest of the property. He asked why a warranty deed wasn't done. To which Mr. Anderson replied that discussions between the lawyers occurred for this.

Chair Twaddle asked about the property and structure. Mr. Anderson replied that they owned the land but not the cabin. Mr. Anderson confirmed that they allowed a lot of people to stay there and Mr. Didrickson stayed without charge since approximately 1985.

Discussion occurred regarding the private recreational cabin when these are two separate pieces of property.

Mr. Anderson continued that they do not approve of the proposed figures on the building, the entrance way, back of structure, fuel tank, floor plans, inspections, easement, renting out, height, and manufacturing. This request does not comply with Comprehensive Plan 2.4.19 A, B, and D, and in the CBS Code 21.40.030 Easements.

Planning Director Williams received clarification from Mr. Anderson on the rear setback and that the front setback needed to be increased and on the interior layouts of the structure. Mr.

Anderson didn't feel that there was supervision on the house up the street when Mr. Didrickson was building there. Mr. Anderson is opposed to an entryway on the easement side of the lot.

Chair Twaddle confirmed that due to the width of the property the side setbacks are not 8 feet, but should be 5 feet to 3 feet.

Mr. Anderson shared his concerns with the density of this area and the fire hydrant location. However, Commissioner Parmelee said that the applicant is tearing down this structure and building one its place. Chair Twaddle noted that the proposed height of this structure is 24 feet in height. Mr. Anderson received clarification on the lot size and that the lot size doesn't have to be a variance in the request due to this lot being an existing lot of record since it isn't a lot that is being created. He asked if there are other lots and requests that are similar to which Planning Director replied that the neighbor, Mr. Saline's property was one.

Planning Director Williams proposed a process for this request.

Chair Twaddle received clarification from Mr. Didrickson his interpretation on renting the place. Mr. Didrickson stated that he didn't know if it was called a cabin, but it was a house and other people lived there. He has been paying the taxes for 30 years and living in it for 27 years. He bought it because the title search showed who owned it and he purchased it from them. He was paying property tax, insurance and utilities. He even had a loan on it 20 years ago.

Discussion occurred amongst the Board.

**MOTION: M/S PARMELEE/WINDSOR** moved to approve a variance request filed by Boyd Didrickson at 428 Kaagwaantaan Street. The request is for a reduction in the 1) front setback from 20 to 10 feet, 2) both side setbacks from 5 feet to 3 feet, 3) an increase in lot coverage to approximately 50% and 4) a reduction in the parking requirements from 2 spaces to 1 space. The property is also known as Lot 47 Block 2 Sitka Indian Village. This request is for the construction of a new two-story house.

**ACTION: Motion PASSED 3-1** on a voice vote.

Staff recommended with the Board's participation the following findings in support of the approved request:

**MOTION: M/S PARMELEE/WINDSOR** moved to approve the following findings in support of the granting of the variance request:

1. There are special circumstances to the intended use that do not generally apply to the other properties. Specifically the size of the parcel is substandard and if the applicant were to chose to rebuild the building in its current position, the structure is a greater detriment rather than moving it back;
2. The variance is necessary for the preservation of a substantial property right to allow to reconstruct a house on this lot of record. Regardless of how the property was obtained, it is a deeded property;
3. That the granting of such a variance will not be injurious to nearby parcels, or public infrastructure by moving the building back from the road

- it will allow greater access. The 10 foot rear setback being maintained constitutes an effort to ensure that is it not injurious to the adjacent parcel;
4. The granting of the variance will not adversely affect the Comprehensive Plan. It facilitates 2.3.15 To publicly encourage community awareness of the value of protecting historic and cultural resources; and 2.3.17 To encourage the preservation and/or renovation of historical buildings and sites on public lands; and is consistent with 2.4.3 To encourage the prevention of deteriorating building conditions and the rehabilitation of deteriorating residential areas; and 2.4.4 To enhance the historic character of older neighborhoods, including the Native Village.

**ACTION:** Motion **PASSED unanimously** on a voice vote.

Planning Director Williams did state that there is an opportunity to come up with a framework when STA is ready for how to address these small lots in the Indian Village. There has been some dialog with creating a historic district or having BIHA take over full control but neither one has gained traction which maybe they shouldn't. It might be time to come to grips with how unrealistic it is that there will be two off street parking spaces and full setbacks on lots of this size in this area. Chair Twaddle added that it is addressed in the Comprehensive Plan for land use in this area. He stated that there is an issue in this area and the Board's thought it to try and alleviate the problems in this area rather can create them. Planning Director Williams stated that the Anderson's have 10 days to appeal.

#### **PLANNING DIRECTOR'S REPORT**

Planning Director Williams updated the Commission on the day care conditional use permit.

#### **PUBLIC BUSINESS FROM THE FLOOR**

None.

#### **ADJOURNMENT**

**MOTION: M/S PARMELEE/ROGERS** moved to adjourn at 9:05 p.m.

**ACTION:** Motion **PASSED unanimously** on a voice vote.

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Jeremy Twaddle, Chair

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Melissa Henshaw, Secretary

**City and Borough of Sitka  
Planning Commission  
Minutes of Meeting  
February 21, 2012**

**Present:** Jeremy Twaddle (Chair), Tom Rogers (Member), Darrell Windsor (Member), Gail Johansen Peterson (Contract Secretary).

Chairperson Twaddle called the meeting to order at 7:12 p.m.

**Consideration of the Minutes from the February 7, 2012 meeting:**

**MOTION: M/S Windsor/Rogers** to approve the meeting minutes for February 7, 2012.

**ACTION: Passed unanimously** on a voice vote.

**This evening's business:**

**VARIANCE REQUEST  
428 KAAGWAANTAN STREET  
BOYD DIDRICKSON**

*Public hearing and consideration of a variance request filed by Boyd Didrickson at 428 Kaagwaantaan Street. The request is for a reduction in the 1) front setback from 20 to 10 feet, 2) both side setbacks from 8 feet to 3 feet, 3) an increase in lot coverage to approximately 50% and 4) a reduction in the parking requirements from 2 spaces to 1 space. The property is also known as Lot 47 Block 2 Sitka Indian Village. This request is for the construction of a new two-story house.*

Chair Twaddle reported he received a copy of correspondence from William Anderson and George Anderson addressed to Wells Williams and read the letter aloud. The letter provided a copy of the Quitclaim Deed signed and effective November 10, 2011. The letter identified procedural errors and respectfully requested the variance application be re-submitted to the Planning Commission as a new request to be considered at a scheduled meeting in March 2012.

Chair Twaddle reported he researched the matter found the variance request before the Commission is an amended request from 2008. Chair Twaddle recommended the applicant submit a new variance request. There was no objection. This item will be rescheduled for March upon receipt of the new application.

**PLANNING DIRECTOR'S REPORT**

There was none.

**PUBLIC BUSINESS FROM THE FLOOR**

There was none.

**ADJOURNMENT**

**MOTION: M/S Windsor/Rogers** moved to adjourn at 7:30 p.m.

**ACTION: Passed unanimously** on a voice vote.

The meeting adjourned at 7:30pm.

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Jeremy Twaddle, Chair

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Gail Johansen Peterson, Contract Secretary

**City and Borough of Sitka  
Planning and Zoning Commission  
Minutes of Meeting  
February 7, 2012**

**Present:** Jeremy Twaddle (Chair), Darrell Windsor (Member), Richard Parmelee (Member), Wells Williams (Planning Director), Melissa Henshaw (Planner)

**Members of the Public:** Stephen Weatherman (Municipal Engineer), Peter Corey, Pat O'Neill, Scott Saline, Doris Emenoff, Nancy Yaw Davis, Jon Martin, Boyd Didrickson, Bill Anderson, Don Anderson, Sue Litman, Joan Bergey, Christian Fabian, Craig Giammona (Daily Sitka Sentinel)

Chairman Twaddle called the meeting to order at 7:00 p.m.

**Consideration of the Minutes from the January 17, 2012 meeting:**

**MOTION: M/S PARMELEE/WINDSOR** moved to approve the meeting minutes for January 17, 2012.

**ACTION:** Motion **PASSED unanimously** on a voice vote.

**This evening's business:**

**VARIANCE REQUEST  
428 KAAGWAANTAAN STREET  
BOYD DIDRICKSON**

*Public hearing and consideration of a variance request filed by Boyd Didrickson at 428 Kaagwaantaan Street. The request is for a reduction in the 1) front setback from 20 to 10 feet, 2) rear setback from 10 feet to 8 feet, 3) both side setbacks from 8 feet to 3 feet, and 4) and increase in lot coverage to approximately 51 %. The property is also known as Lot 47 Block 2 of the Sitka Indian Village. This request is for the construction of a new two-story house.*

Ms. Henshaw reviewed the request by stating that the request has somewhat changed. The scale of the drawing needs to be clarified by the applicant due to the tapering of the property in the rear. Stephen Weatherman, Municipal Engineer submitted another email regarding how this revised configuration still does not allow for adequate parking.

**Applicant:** Mr. Didrickson came forward. He stated that he shortened the house by two feet, and clarified the eaves on the sides of the house are 3 feet. He doesn't understand why he needs two parking spaces. All lots are small in the Village and although he doesn't want to go three stories high with this house he will if he has to.

Chair Twaddle clarified with the applicant the size of the eaves and that the farthest point out is what is considered when looking at setbacks.

Mr. Didrickson point out that the house will be 12 feet from the road. Currently the house is 10 inches away from the road. He has conversed with the Tribe in regards to this request. He plans on hand carving on the outside like the house that was there previously, as it was the most



photographed home in Sitka. He has been in front of this Board many times. He discussed the ownership issue.

**Public Comment:** Bill Anderson and Doris Emenoff came forward. They presented a PowerPoint clarifying the chain of title, small lot size, and Mr. Anderson read from the Attorney of Anderson's letter regarding zoning codes date March 4, 2009. He stated that zoning codes have restrictions that are necessary and should be observed. They oppose any and all variances for this property.

Planning Director Williams showed an aerial for Chair Twaddle to get a feel for lot coverage of properties in the area.

Mr. Anderson stated that the cabin that was built was just to be a temporary structure and a place for people to stay in the 50's. He has concerns with safety due to the close proximities.

Commissioner Parmelee commented that rebuilding the existing building would not be better than the proposed configuration. Commissioner Windsor agreed.

Mr. Anderson brought up the issues of a retaining wall and drainage.

Mr. Didrickson stated that the retaining wall currently sits 15 feet away from the Anderson's property and the drainage should not be an issue since it drains onto Mr. Didrickson property.

Planner Henshaw read Stephen Weatherman, Municipal Engineer's letter regarding the parking spaces. Mr. Weatherman stated that two spaces are necessary per the Sitka General Code.

Discussion occurred of the entryway into the house for the first floor with regards to setbacks.

No motion was made due to the changes that need to be made in the application. This request is scheduled for the Planning Commission meeting on February 21, 2012.

## **PLANNING DIRECTOR'S REPORT**

The Administrator has asked Planning Director Williams to have the Commission look at an item, however the agenda was closed so it is under Planning Director's Report. 4 J's Coffee is currently on private property belonging to Strawberry Loge along Signaka Way. The business is requesting to lease property from the Municipality on Griffin Island. Sitka General Code 18.12.010 E essentially states that the Assembly will have to put this request out for competitive bid unless they determine that it benefits only one party. The Planning Commission is to determine if there are any issues with that. Planning Director discussed the history of this area.

Joan Bergey came forward. She is the owner of 4 J's Coffee and has had the business for 5 years. She stated that the Lodge sent her a court order to remove the coffee stand within 75 days. She also stated that the proposed location on Griffin Island would be the best location. There are utility services since the Yacht Club was once there. She would clean up the area of litter. She has been to Parks and Recreation Commission to which they approved of this proposed location unanimously.

Chair Twaddle received confirmation of the Assembly and lease process. Discussion on the parking issues occurred.

**MOTION: M/S PARMELEE/WINDSOR** moved to recommend to the Assembly that this location be leased by competitive bid with the following condition:

1. Contingent upon favorable review from the Port and Harbor Commission.

**ACTION:** Motion **PASSED unanimously** on a voice vote.

Planning Director Williams informed the Commission on the next meeting's agenda and Planning Department budget.

**PUBLIC BUSINESS FROM THE FLOOR**

None.

**ADJOURNMENT**

**MOTION: M/S PARMELEE/WINDSOR** moved to adjourn at 8:56 p.m.

**ACTION:** Motion **PASSED unanimously** on a voice vote.

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Jeremy Twaddle, Chair

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Melissa Henshaw, Secretary

**City and Borough of Sitka  
Planning and Zoning Commission  
Minutes of Meeting  
January 17, 2012**

**Present:** Jeremy Twaddle (Chair), Darrell Windsor (Member), Richard Parmelee (Member), Wells Williams (Planning Director via teleconference), Melissa Henshaw (Planner)

**Members of the Public:** Stephen Weatherman (Municipal Engineer), Dawn Menendez, Peter Menendez, Corrie Bosman, Valerie Nelson, Connor Nelson, Amanda Johnson, Marty Johnson, Jon Martin, Boyd Didrickson, Dennis Allen, Bill Anderson, Don Anderson, Sue Litman, Doug Osborne, Jim Steffen, Christian Fabian (via phone), Craig Giammona (Daily Sitka Sentinel)

Chairman Twaddle called the meeting to order at 7:05 p.m.

**Consideration of the Minutes from the January 3, 2012 meeting:**

**MOTION: M/S WINDSOR/PARMELEE** moved to approve the meeting minutes for January 3, 2012.

**ACTION:** Motion **PASSED unanimously** on a voice vote.

**This evening's business:**

**VARIANCE REQUEST  
428 KAAGWAANTAAN STREET  
BOYD DIDRICKSON**

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Ms. Henshaw reviewed the request. Previously approved back in January 2009 however, it was appealed due to disputed ownership issues. The ownership has been established and this request is now back before the board for approval. The status of a 3 foot by 10 foot piece in the southwest corner needs to be clarified. Staff's understanding is that it is now owned by the Anderson's and not Mr. Didrickson. Ms. Henshaw informed the Commission that if that is the case, then there is a one foot setback on that side property line rather than three feet.

Planning Director Williams suggested no motion this evening on this item, as the Planning Office has been and is still attempting to get clarification.

Stephen Weatherman, Municipal Engineer came forward. His comment is that this site needs to provide for parking on the property.

**Applicant:** Mr. Didrickson came forward and expressed that the 3 by 10 foot portion is an easement in which no one is allowed to park upon. He still legally owns it. The purpose is so the

Anderson's can drive over it due to the electric pole and guard rail. The structure that is currently on the property is setback 6 inches from the front property line. The structure can be built further back from the front property line to accommodate for parking. Chair Twaddle received confirmation that the easement has been surveyed and recorded.

Planning Director Williams explained the previous request. The agreement is to tear down the three accessory structures and replace the cabin like structure with this one.

The Board went over the paperwork in the packet and discussed with Staff and the applicant regarding the recorded document on the easement.

**Public Comment:** Bill Anderson and Don Anderson came forward. Their elderly father owns the property at 430 Kaagwaantaan Street. They played a recording of the Assembly meeting from January 10, 2012 from the Johnson (Lucas) rezone. They also presented a PowerPoint on the topics of the small square footage, setbacks and buildable space of the property, boundary lines, structures on the property, retainer walls, drainage, and safety, the financial hardship with regards to the unobstructed view from their father's property, parking, and obtaining the property through squatter's rights.

Planning Director Williams stated that the applicant was going to shift the front setback further to accommodate parking. He attempted to receive clarification from the Anderson's if they are opposed to the request.

Bill Anderson stated that a retaining wall needs to be in place on the applicant's property. Discussion occurred of the Building Department looking at drainage and soil issues.

Discussion occurred on the building height and restrictions on the height as a condition as stated in the previous request. The applicant is going to be approximately 24 feet in height.

Don Anderson received clarification on the front setback with regards to the substandard road. Planning Director replied that there is not a requirement to park a certain amount of feet back from a right of way. He stated that the Board, the applicant, Municipal Engineer, and the Andersons may consider what would be enough of a front setback.

Planning Director asked the applicant to submit a new drawing by noon Tuesday, January 24<sup>th</sup>. Chair Twaddle also requested that an elevation drawing also be submitted to show the height and roof pitch.

Dennis Allen stated from the floor that he suggest the Commission work with the applicant. The Commission did not approve his variance request in the Indian Village, so instead he built a three story structure at 35 feet in height that made the entire neighborhood upset.

No motion was made. This request is scheduled for the Planning Commission meeting on February 7, 2012.

#### **PLANNING DIRECTOR'S REPORT**

None.

#### **PUBLIC BUSINESS FROM THE FLOOR**

None.

#### **ADJOURNMENT**

Planning Commission Minutes  
January 17, 2012  
Page 2 of 3 FINAL

**MOTION: M/S WINDSOR/PARMELEE** moved to adjourn at 10:30 p.m.

**ACTION:** Motion **PASSED unanimously** on a voice vote.

---

Jeremy Twaddle, Chair

---

Melissa Henshaw, Secretary

**Request:**

Reduction in front setback to 10 feet, side setback to 3 feet, an increase in lot coverage to approximately 50%, reduction in the parking requirements to 1 space.

**Zoning District: R-1**

Front setback: 20 feet  
Rear setback: 10 feet  
Side setback: 8 feet

**Meeting Flow**

- o Report from Staff
- o Applicant comes forward
- o Applicant identifies him/herself – provides comments
- o Commissioners ask applicant questions
- o Staff asks applicant any questions
- o Floor opened up for Public Comment
- o Comment period closed - brought back to the board
  
- o Motions

**Tonight's Motions**

- o Move to approve with conditions
- o Motion approving findings - required if motion passes or fails

**Didrickson Variance Requests**

428 Kaagwaantaan Street  
March 6, 2012

The applicant is out of the hospital, back in town, and has signed the new application.

After public comment the Board may be ready for a motion on this request. If so, Staff will propose findings after the motion is made.

**Didrickson Variance Requests**

428 Kaagwaantaan Street  
February 21, 2012

The applicant met with Staff on a new drawing that makes this request now a front setback to 10 feet, side setbacks to 3 feet, an increase in lot coverage to approximately 50% and a reduction in the required parking spaces from 2 to 1.

The applicant has cut the front eave of the house down to 1 foot, and removed the eave in the rear of the house. Therefore there is no rear setback variance required nor is the tapering of the lot an issue.

**Didrickson Variance Requests**

428 Kaagwaantaan Street  
February 7, 2012

The applicant has submitted a new version of a drawing that makes this request a front setback of 10 feet, a rear setback to 8 feet and side setbacks to 3 feet and an increase in lot coverage approximately 51%.

One thing that needs to be looked at is the scale of the drawing. The property tapers by about 2 feet in the rear of the property, therefore, the side setbacks don't necessarily match up to a 3 foot setback along the entire length of the house.

Another email came from Stephen Weatherman, Municipal Engineer regarding the revised plans in which the plan still does not provide a minimum of 2 parking spaces. The full email is in your packet.

## **Didrickson Variance Requests**

428 Kaagwaantaan Street

January 17, 2012

Boyd Didrickson's variance requests are back on the Planning Commission agenda. The property is located in the Sitka Indian Village. The location is on the right hand side of Kaagwaantaan Street heading outbound.

The Planning Commission approved these requests back in January of 2009, the approvals were appealed to the Assembly based on a conflict involving land ownerships, and the Assembly remanded it back to the Planning Commission to be considered pending a resolution of the ownership issue. The Assembly approval of the Remand Motion, is now in effect since the ownership case has cleared the judicial process.

Didrickson is requesting approval of the variances originally approved by the board.

It is Staff's understanding that the resolution of the ownership issue involved an agreement for the upland property owner to buy a three foot by ten foot portion of Mr. Didrickson's lot. This rectangular piece that now belongs to the Andersons is closest to Kaagwaantaan Street and is marked in your packet. To date, a plat has not been submitted that moves a lot line. We are going to have to get a firm handle on that issue before the case is ready for action by the Planning Commission.

The upland property owner is planning on giving a detailed presentation at Tuesday's meeting. The expectation is that the presentation will be a part of their continued opposition to the requests. They are the neighbors with the flag lot just north and east of Mr. Didrickson's property.

Due to the change, the side setback is now one foot on the east side rather than the three feet that was asked for in the agenda and that was advertised. This property is now 1509 square feet and the house and stairs would be approximately 791 square feet. Mr. Didrickson has agreed in the past to remove all the other existing accessory structures which includes two sheds and a smoke house.

This case is complex. It will take some effort to get a handle on physical layout of the property, how the land ownership change affects that layout, and what needs to be done prior to a motion being made. There are numerous issues that are made more complex by small size of the parcels involved.

Unfortunately, like the Menendez case, everyone is going to have to try to be patient will the issues are clarified. Once the issues are clarified, there will probably still be an upland property owner who opposes the variances.

### **Didrickson Variance Requests**

428 Kaagwaantaan Street  
January 6, 2009

This is a new request from Mr. Didrickson. He is requesting variances to reduce the front setback from 20 feet to 8 feet, a rear setback from 10 feet to 6 feet, side setbacks from 8 feet to 3 feet, and an increase of lot coverage to approximately 55% for the construction of a new two-story house.

This property is 1,539 square feet and the proposed house and stairs would be approximately 791 square feet. The existing accessory structures will be removed.

The Anderson family that lives upland from this property has opposed this request, since the property ownership is unclear and they feel that the variances would adversely affect their property. You will find that letter in your packet.

### **Didrickson Variance Requests**

428 Kaagwaantaan Street  
December 2, 2008

Back before the board on Tuesday night is the Didrickson variance. At the November 4<sup>th</sup> Planning Commission meeting Mr. Didrickson and the Anderson family were asked to come back at our December 2<sup>nd</sup> meeting. This was decided after issues in regards to the ownership of the property came up. Both parties were to get together and work out these issues.

We will see if there have been any resolutions.

### **Didrickson Variance Requests**

428 Kaagwaantaan Street  
November 4, 2008

The applicant has altered his variance requests for construction of his two story house that covered the lot by 896 square feet down to 793 square feet. Two accessory structures will remain adding 28 square feet to a total of 821 square feet of lot coverage. This new design is to allow more room for vehicles to maneuver in the driveway to the right of the lot.

This request is to reduce the front setback from 20 feet to 9 feet, rear setback from 10 feet to zero feet, left side setback from 8 feet to 3.5 feet, right side setback from 8 feet to 5.5 feet, and an increase in lot coverage to approximately 55%.



The applicant's approach is to keep the shed in the left rear side of the property and a 4 foot by 4 foot smoke house will remain on the right rear corner. The larger "community" smoke house will be removed from this property.

There are a number of historical concerns held by the upland property owners. Some of these concerns are outside the scope of the variance process. Others will be taken care of by the requirement for an as-built survey. The third set of concerns may be associated with a condition for approval that limits the height of the structure to 25 feet.

Staff is recommending that the board consider a motion approving the requests with a condition that limits the height to 25 feet. The potential motion should be discussed with Mr. Didrickson before it's actually made.

If the motion is acceptable, and, if passes, staff will propose a follow up motion that contains findings.

If the motion with the height condition is not acceptable, and, Mr. Bill Anderson considers it to be a deal breaker, we're back to the drawing board.

## **Didrickson Variance Requests**

428 Kaagwaantaan Street

October 21, 2008

This property is located in the Sitka Indian Village. The location is on the right hand side of Kaagwaantaan Street heading outbound.

The applicant is requesting variances to reduce the front setback from 20 feet to 6 feet, a rear setback from 10 feet to zero feet, side setbacks from 8 feet to 3.5 feet, and an increase of lot coverage to approximately 75% for the construction of a new two story house.

This property is 1,539 square feet and the proposed house, stairs, and accessory structures would be 1,164 square feet. The proposed house would be 896 square feet, the proposed stairs and existing accessory structures would be 268 square feet. The existing accessory structures that cross over the property line in the back of the property will be cut back to accommodate construction of the new house.

We'll walk through these requests Tuesday night. The scope of these requests is clearly unusual. On one hand, the small size of the lot creates unique problems for lot coverage. On the other hand, the Planning Commission has historically declined to grant zero foot setbacks. The applicant will help us understand all the issues with the property. We'll then get a sense of the Planning Commission's views and go from there.

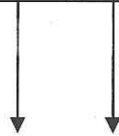
Table 22.20-1

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

ZONES	MINIMUM LOT REQUIREMENTS		MINIMUM SETBACKS			MAXIMUM HEIGHTS		MAXIMUM BUILDING COVERAGE	MAXIMUM DENSITY	Parking Spaces
	Width	Area <sup>(1, 18)</sup>	Front <sup>(3)</sup>	Rear	Side	Principal Structures	Accessory Structures			
R-1 <sup>(e, 1e)</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%		2 spaces

Applicant's variance request

	30.5 ft	1,503 s.f.	10 ft	10 ft	3 ft	???- must be 21.10 height, same as the cabin that exits	n/a	50%		1 Parking Space
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Was not entered on application or advertised to neighbors and public, which is in conflict of full disclosure and transparency of these proceedings.

**THESE ARE SUBSTANTIAL CHANGES, AND NEED TO BE FULLY REVEALED, AS THE REQUESTED VARIANCES CHALLENGE STATE STATUTES, CBS COMPREHENSIVE PLAN, THE GENERAL CODES INCLUDING ZONING REGULATIONS.**

Failure in not complying with Policy and Procedure can be viewed by judicial reviewer as a negative for both City of Sitka and applicant.



**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 last meeting, this is a cabin that was used in 1950s (till November 10, 2012) for People to stay in – both George and Jean Anderson never charged occupants for rent.

Didrickson’s variance requests is to change the status and use of this lot from a cabin to a 2 story (?) residential home. Cabin was a one story.

**Reminder—Didrickson did not pay any money to George Anderson for this lot. He got it for free.**

November 10, 2011,

**Boyd Didrickson takes ownership of lot known as "Portion of lot 42, Block 2"**

**Didrickson paid no money to owner George Anderson of this lot, known as 428 Kaagwaantaan; through legal maneuvers, George Anderson was forced to hand the land over to Didrickson.**

**This was a substandard lot created by Bureau of Land Management back in 1955, when they divided one lot into two, without the permission of George and Jean Anderson.**

**When Didrickson assumed title of the land, he was fully aware of the limitations/restrictions, and the inability to build on this lot because of the zoning codes. He received the land without paying for it .**

**In other words:**

**The owner, B Didrickson, is seeking variances for a 2 story residential "house" and was fully aware when he obtained the property for nothing, the property would be under the current zoning restrictions, and therefore the variances he is requesting needs to be denied. Applicants for a variance cannot argue hardship based on actions they committed that resulted in self-induced hardship.**

**sec. 29.40.040. Land use regulation.**

(a) In accordance with a comprehensive plan adopted under AS 29.40.030 and in order to implement the plan, the assembly by ordinance shall adopt or amend provisions governing the use and occupancy of land that may include, but are not limited to,

- (1) zoning regulations restricting the use of land and improvements by geographic districts;
- (2) land use permit requirements designed to encourage or discourage specified uses and construction of specified structures, or to minimize unfavorable effects of uses and the construction of structures;
- (3) measures to further the goals and objectives of the comprehensive plan

(b) A variance from a land use regulation adopted under this section **may not be granted if**

- (1) special conditions that require the variance **are caused by the person seeking the variance;**
- (2) the variance will permit a land use in a district in which that use is prohibited; or
- (3) the variance is sought solely to **relieve pecuniary (adj. relating to money, as in "pecuniary loss" hardship) or inconvenience.**

**To obtain a variance, it is necessary for the applicant to prove each of the following:**

- 1. That there is a peculiar condition of the property. This condition must be related to the property and cannot be things like other properties in the area or the personal situation of the homeowner. Peculiar conditions are things like hills in areas that are otherwise totally flat, a lot that is smaller than other lots in the area for reasons that do not relate to the owner or anyone in the chain of title, lots of unusual shape, etc.**
- 2. That applying the specific regulation of the ordinance to the peculiar condition of the lot results in an undue hardship that can only be fixed by varying the requirement of the ordinance. If something other than the ordinance causes the "hardship," such as easements, or the fact that the neighbor has his or her building too close to a lot line, etc., a variance is not appropriate.**
- 3. That the owner did not create the condition of the lot or the hardship. However, it is not just the immediate owner; it is anyone in the chain of title. For example, if a lot were split in the 1950s and the result is an undersized lot, the owner of the lot today, in the eyes of the law, created the condition. A self created hardship will not permit the granting of a variance. This is also true if you have a side yard issue where the building is too close to the property line. The fact that an owner prior to the applicant placed the building there does not justify a variance.**
- 4. Even if the applicant can prove the three elements outlined above, no variance can be granted unless the applicant can also prove that granting the variance will not harm the general intent and purposes of the zoning ordinance. That general intent and purpose must be preserved. Therefore, the applicant will have to explain the intent and purpose of the regulation from which the variance is sought and why granting the variance to the particular property will not impair that intent and purpose.**

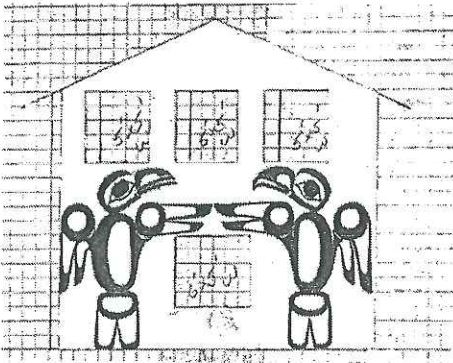
**There are no special circumstances to the intended use that do not generally apply to other properties; clearly this is not a unique situation with the size of the property, as various meetings have stated this is not unique to this part of Sitka.**

**Because this property was outright given to applicant for no money, consideration of preservation and enjoyment of a substantial property right or use possessed by other properties, does not apply here. Didrickson rights to usage of property was made clear from the start in his knowing fully well the zoning requirements would not allow him to build what he is currently seeking.**

**The granting of these variances will be materially detrimental to the public welfare or injurious to the property, nearby parcels, or public infrastructure. To be built, Didrickson needs six variances from the City of Sitka; there are required standards to obtain variances and believe Didrickson has not met them.**

**The granting of these variances will adversely affect the Comprehensive Plan—will be allowing precedents to be set with project to built. Would effect all of Sitka, not just Kaagwaantaan street.**

**Any blight in the neighborhood, which is caused by the property owners' neglect, cannot be used as an excuse for a variance.**



Door way needs to be located in front,  
not on sides of building – safety and  
privacy

1. Do not approve of having figures on a building in a R1 zone, as it does not fit in with the character of the neighborhood and will cause people/vehicles to be stopping in middle of road to gawk and snap pictures, causing safety issues for pedestrians, vehicles, and congestion problems on both Kaagwaantaan and Katlian – also would be intruding on residents privacy and peacefulness of neighborhood. Design is an interpretation of a person, and does not conform with native tradition as well.
2. Entrance way – missing.
3. Back of structure – privacy is an issue. Do not want Didrickson starring at us, and visa a versa. His windows need to be for light illumination, not for viewing
4. Fuel Tank needs to be located in front of house for fire/safety reasons, which will take up room on the 10ft parking space
5. Floor plan shows no inside stairwell to this two level structure
6. Onsite inspections to conform with plans – this was not done at 215 building site, and resulted in a structure that is out of character of neighborhood.
7. A prescribed easement of 3 feet over from property line – Anderson's lost a major portion of their parking spaces for vehicles when Didrickson assumed possession of property.
8. No renting out – variance was granted on condition Didrickson would be using this as a residential – variances was intended to accommodate him only – if this is not the case, then variance is not to be considered as applicant is wishing to gain monetarily from these variances for a substandard lot.
9. HEIGHT – no more than 21.1 feet from ground level, including crawl space if this is to be considered
10. No manufacturing to be done at this residence for commercial business, resulting in foul smelling odors, dead animal heads lying about

**2007**

**CITY AND BOROUGH OF SITKA, ALASKA  
COMPREHENSIVE PLAN UPDATE**

2.4. General Land Use Goals and Policies

2.4.19. To consistently follow and enforce land use policies, codes, regulations, and decisions, and do so in accordance with the following policies and objectives:

A. Zoning and subdivision regulations are the primary mechanisms to manage land use in the Borough. Conditional use permits, variances, and relief from requirements **shall be granted when all appropriate factors have been considered.**

B. Rezoning may be considered in areas where excessive need exists for conditional uses, variances and/or relief from existing requirements.

D. **Zoning and parking requirements/regulations shall be consistently followed and enforced.** Relief from requirements to provide parking spaces shall be granted only in exceptional cases.

Chapter 21.40 DESIGN AND CONSTRUCTION REQUIREMENTS AND  
MONUMENTATION

**21.40.030 Easements.**

A. Generally. Municipality shall be party to all easements. All easements shall be recorded and no changes shall occur without municipal approval.

B. Utility Easements. Utility easements at least five feet wide along the front property lines of lots shall be provided where necessary for public utilities. An anchor pole easement ten feet wide, twenty-five feet deep, appropriately placed, together with the right of access shall be provided where necessary for pole-mounted public utilities. Buried electrical and telecommunication utilities are recommended wherever possible. No more than four lots shall be served by private utility easements.

**22.04.040 Interpretation and application of provisions**

**E. The words “shall” and “should” are always mandatory and not discretionary**



March 2, 2012

Planning Commission, City of Sitka

Dear Planning Commissioners:

Attached is a summary of a phone discussion Jeannie Emanoff (speaking on behalf of George Anderson) had with Mr. Williams regarding procedural issues on variance request.

We've identified at least 4 problems we felt needing clarification on a proposed variance which is to be considered at the next Planning Commission meeting on 3/6/2012. Those problems in the form of a question are:

- Why was applicant's variance request (submitted to Mr. Williams on the morning of 2/28/12) honored as having been filed timely? **Per Variance FAQ August 2003: Complete applications and all supporting materials must be submitted by noon on Tuesday, thirteen days prior to a scheduled Planning Commission meeting. To have been timely filed, applicant needed to have submitted application on or before February 23, 2011. The Planning Commission had previously ruled in their 2//21/12 meeting that the applicant had to resubmit a new application, as it had been well over a year (application was done back in October/November 2008). What is not told until now, is both George, Jeannie and myself (William) placed a call into the Planning Department on 2/27/12@2:30pm, getting Melissa Henshaw's voice mail. Jeannie left her a message, requesting a copy of the most recent variance application submitted by the applicant, and all of the paperwork including the floor plans for us to review. On 2/28/12@9:03am, I received an email from Ms. Henshaw, with the attached variance application - that was all. Application was signed and dated by applicant on 2/28/12. Given the date of signing, it appears that after the voice mail on 2/27/12, the Planning Department placed a call to applicant requesting the variance application be completed. Mr. Wells, in his phone discussion on 2/28/12 with Jeannie, did not reply to our very specific question, but rather blamed us for wanting to drag this out. As you both know, Planning Department is the gatekeeper for variance applications, and as such, need to keep with the policy and procedures they have in place. This incident illustrates the Planning Department (ie, Wells Williams) is arbitrarily and capriciously determining deadline dates for submission of applications. We find this to be against Planning Department policy and procedure, and ask if you are the right persons to make the decision, to have the Planning Commission postpone this hearing/meeting until their next meeting, which occurs later in March.**
- **Why was the planning commission meeting notices sent out a week prior (February 20-24, 2012) to receiving applicant's application?** This is most troublesome, as it ties in with the above question. Policy and Procedure, dictated by the General Codes for Sitka, states that an application needs to be 13 days in advance so it can reviewed for completeness, and necessary paperwork submitted, and determination made if it is ready to move on for public notification. The notifications went out before an application was received. It is a huge issue we feel Mr. Williams created, and goes against the Policy and Procedure of our General Code. It raises questions on how fair is the variance application process to adjacent property owners and the community at large when you are dealing directly with the Planning Department.
- Why are there no floor plans with the variance request submitted by applicant?
- Why was this considered a completed application.

Ms. Emanoff was seeking clarification on all of the above. However, Mr. Williams took exception to this line of questioning, and became passive/aggressive over the matter, and sounded dismissive, uncaring, and annoyed. This behavior leads one to believe there is something amiss here; including the perception that the Planning Department is wishing to convey we are being a nuisance and are dragging this out with procedural issues. We also get the general sense that the Planning Department (ie, Wells Williams), is pushing to get these variances approved by the Planning Commission and not remaining neutral in this matter as an ex facto, and has withheld information to us (such as city's 2 parking spaces requirement for R1 zoned) even though we had brought this matter up back in 2009-2010. He has accommodated applicant in many ways as an ex officio Planning Commission member that shows favoritism, along with bias when questioning his reasoning.

In conclusion, both George Anderson and his family request the following:

- The scheduled Planning Commission hearing on this particular variance be done on March 27 (guessing on this date), rather than March 6, and be told prior to March 6<sup>th</sup> so as to not be showing up for nothing.
- Applicant provides a floor map;
- An explanation from Mr. Wells Williams on what he considers to be: a completed application for a variance request; what criteria/methodology he uses for making determination.

Thank you.

William Anderson for George Anderson

PO Box 704, Sitka AK 99835

(907) 966-8555/747-8328

Fax: (907)966-8605

Cc: Todd Araujo

2/28/12, Tuesday morning, between 11a-12noon.

Jeannie Emanoff calls the Planning Department. Questions we were seeking clarification were:

- Wanted to know how notification could have gone out the week before (February 20<sup>th</sup>-25<sup>th</sup>), when the applicant had not even submitted his variance application till this very day, February 28, 2012.
- Also wanted to find out if application was considered complete by Wells Williams, as one important question was not completed/answered, which was: ARE THE CONDITION THAT REQUIRE THE VARIANCE CAUSED BY THE APPLICANT? YES NO

Call to Planning Departments reaches Melissa Henshaw's desk.

Jeannie asks her first question on whether an application could be submitted after the notifications had been sent out the prior week. Melissa Henshaw's response was that he (B Didrickson) was in the hospital. This lead Jeannie to ask in an inquiring way "do you make special considerations when they are in the hospital or ill? Is this a reason for special consideration?"

Melissa was not able to answer this question and transferred Jeannie to Wells Williams, Planning Director.

Jeannie asked her question to Mr. Williams, and Mr. Williams' responses were:

**Well, can I ask a question – is this how it's going to be? Procedures, etc. You can answer or not if you want.**

- **We are satisfied with the application and really if it was like that, could see this dragging on for some time**
- **Mr Williams then goes into a discussion where he points out that there is a: meeting (Planning commission) where questions or additional information may be requested at that point.**
- **Other places, Anchorage (Jeannie added "Juneau?") and other jurisdictions may have a more stricter application policy.**

**I've worked here many years, and not worked like that. If there is a concern with the process of the commission you can talk about that at the meeting.**

**Okay, see you next week.**

Phone discussion ends.

February 14, 2012

Wells Williams, Planning Department  
City and Borough of Sitka  
100 Lincoln Street  
Sitka AK 99835

Dear Mr. Williams:

With the upcoming Planning Commission schedule for 2/21/12, I, William Anderson, am providing you with a copy of the QuitClaim Deed that was signed and became effective 11/10/2011.

The purpose of this correspondence is to let you know there are procedural errors which need to be cleared up. With Mr. Boyd Didrickson now the legal owner of what is described as Portion of lot 47 Block 2, which came into effect on 11/10/2011, the City Planning Commission was in error to have moved forward with granting Mr. Didrickson back in November 2008 (approximation) for granting multiple variances on a nonconforming lot (portion of Lot 42, Block 2). Mr. Didrickson was not the owner of property at stated time (11/2008) – he became legal owner on 11/10/2011 with the QuitClaim. Therefore, any and all variance requests presented from 2008 to November 10, 2011 is null and void.

We respectively request the variance be resubmitted to the Planning Commission as a new request, and the planned review not occur as planned on 2/21/12, but rather the following scheduled meeting in March 2012.

We want to heavily emphasis that back in November 2008, there was a planning commissioner, Bryant McNitt, who was present as one of the residing commissioners. His response on approving Didrickson's variance request at the time was: any overall improvement (ie, adding a two story to lot) was a benefit to adjacent property owners. Mr. McNitt owns property on Kaagwaataan, and needed to have removed himself from the approving process, but did not. We firmly believe this was a direct conflict of interest, and believe it to have been illegal. This only adds further support to why Planning Commission's 2008 decision was wrong and why we are requesting resubmission and new review date.

Because portion of Lot 42, Block 2 is "nonconforming", we respectively request that when announcement of the agenda is published, this word be included as it is stating the truth, and will not be misleading to the public that is a conforming lot of 8,000 square feet.

We (George Anderson and his family), would like a written response either by email ([williams@searhc.org](mailto:williams@searhc.org)) or written response this week to our request.

Thank you.



William Anderson/George Anderson  
(907) 966-8555/747-8328

Cc: Todd Araujo

**QUITCLAIM DEED &**  
**RESERVATION OF INGRESS & EGRESS EASEMENT**

The Grantor, **GEORGE ANDERSON**, a widower and surviving spouse of **ESTHER JEAN ANDERSON** (see copy of Death Certificate attached hereto as Exhibit A), who also appears of record as **JEAN ANDERSON**, of P.O. Box 704, Sitka, Alaska 99835, for and in consideration of one dollar (\$1.00) and other valuable consideration, in hand paid, conveys and quitclaims to the Grantee, **BOYD DIDRICKSON**, of P. O. Box 2625, Sitka, Alaska 99835, any and all interest in the following described real estate, located in the Sitka Recording District, First Judicial District, State of Alaska:

A portion of Lot Forty-seven (47), Block Two (2), **SITKA INDIAN VILLAGE**, U. S. Survey 2542, Sitka Recording District, First Judicial District, State of Alaska, described as follows:

**BEGINNING** at a point on the westerly boundary line of Lot 47 at a point common to the most easterly corner of Lot 48, Block 2; thence S 28° 00' W 37.50 feet; thence S 72° 18" E 35.5 feet; thence N 25° 45' E 45.00 feet; thence N 72° 18" W 33.11 feet; thence S 32° 12' W 7.91 feet to the point of beginning.

**RESERVING UNTO GRANTORS**, as the owners of the remaining portion of Lot Forty-seven (47), Block Two (2), **SITKA INDIAN VILLAGE**, U. S. Survey 2542, their guests, invitees, heirs, successors, and assigns, an easement for full, free and unobstructed ingress and egress over, across and through the following described tract of land:

A portion of Lot Forty-seven (47), Block Two (2), SITKA INDIAN VILLAGE, U. S. Survey 2542, Sitka Recording District, First Judicial District, State of Alaska, described as follows:

BEGINNING at a point on the westerly boundary line of Lot 47 at a point common to the most easterly corner of Lot 48, Block 2; thence S 28° 00' W 37.50 feet; thence S 72° 18" E 32.5 feet to the true point of beginning; run thence N 25° 45' E 10.00 feet; thence S 72° 18" E 3.00 feet; thence S 25° 45' W 10.00 feet; thence N 72° 18" W 3.00 to the true point of beginning.

Dated this 10 day of November, 2011.

GRANTOR:

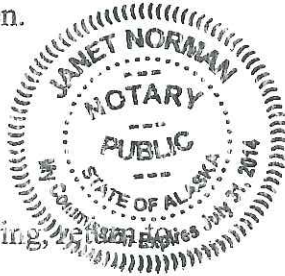
*George Anderson by William Lars Anderson*  
*his attorney-in-fact*

George Anderson by William Lars Anderson,  
his attorney-in-fact

STATE OF ALASKA )  
  ) ss.  
FIRST JUDICIAL DISTRICT )

THIS IS TO CERTIFY that on this 10 day of November, 2011, before me, the undersigned, a notary public in and for the State of Alaska, duly commissioned and sworn, personally appeared **William Lars Anderson, attorney-in-fact of George Anderson**, to me known and known to me to be the person named in and who executed the within and foregoing instrument, and he acknowledged to me that he signed the same freely and voluntarily for the uses and purposes therein mentioned, as such attorney-in-fact.

WITNESS my hand and official seal the day and year in this certificate first above written.



*Janet Norman*  
\_\_\_\_\_  
Notary Public, State of Alaska  
My commission expires: 7-31-14

After recording,  
GRANTOR

## Melissa Henshaw

---

**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)

## Melissa Henshaw

---

**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*

---

**From:** Stephen Weatherman [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)



## Melissa Henshaw

---

**From:** Colleen Ingman [colleen@cityofsitka.com]  
**Sent:** Thursday, February 09, 2012 11:35 AM  
**To:** 'Jeremy Twaddle'; thomas.rogers@firstbankak.com; rjparmelee@gmail.com; dwindsor@gci.net  
**Cc:** 'Melissa Henshaw'; 'Wells Williams'  
**Subject:** FW: Planning Commission

Good morning,  
As requested, I'm forwarding the message below from Georgia Skannes.

Sara Peterson  
Deputy Clerk

---

**From:** georgia [mailto:civicminded05@yahoo.com]  
**Sent:** Thursday, February 09, 2012 9:26 AM  
**To:** Colleen Pellett  
**Subject:** Planning Commission

Good day Colleen,

Just read the news release in the paper regarding Back Street. Please pass on my utmost negativity towards approval of this item. My Uncle, George Anderson, is very elderly and has constant problems with Didrickson and others blocking his access to his home on the hill. My Uncle is very elderly and Bill Anderson can give you more details on the several years of issues since Didrickson was allowed to build his Inn. I know that the Karras' have also had some problems as well as many others.

I have always felt that Back Street should be a one-way access. I am sure the Fire Chief and Police Chief will agree that access is a problem with their rigs.

Please pass this on to the Planning Commission and Mr. Williams. As a past member of the Assembly and a 6 year Planning commissioner in Juneau and Santa Barbara, I pass this information on not only as a concern for my Uncle and the Karras' but as a professional elected official as well. I as that this be read into the minutes as part of the Public Record.

Thank you for your consideration and hard work.

Georgia C. Skannes

Bill Anderson, a member of the family that owns a house upland from Didrickson's property, told the commission again Tuesday that he is opposed to the project. He said the lot is too small to accommodate the house Didrickson is planning.

Didrickson said the project would improve the Indian Village, and pointed out that under the zoning code he could build a house up to 35 feet high on the existing footprint if the variances are not approved.

"If that's what I have to do, that's what I'll do," he said.

Commission members seemed to agree with Didrickson that his project would improve the neighborhood. And they noted that very few of the houses on the street conform to zoning codes.

But the commission ultimately deferred to Planning Director Wells Williams, who said the variance requests were "not ready for a motion."



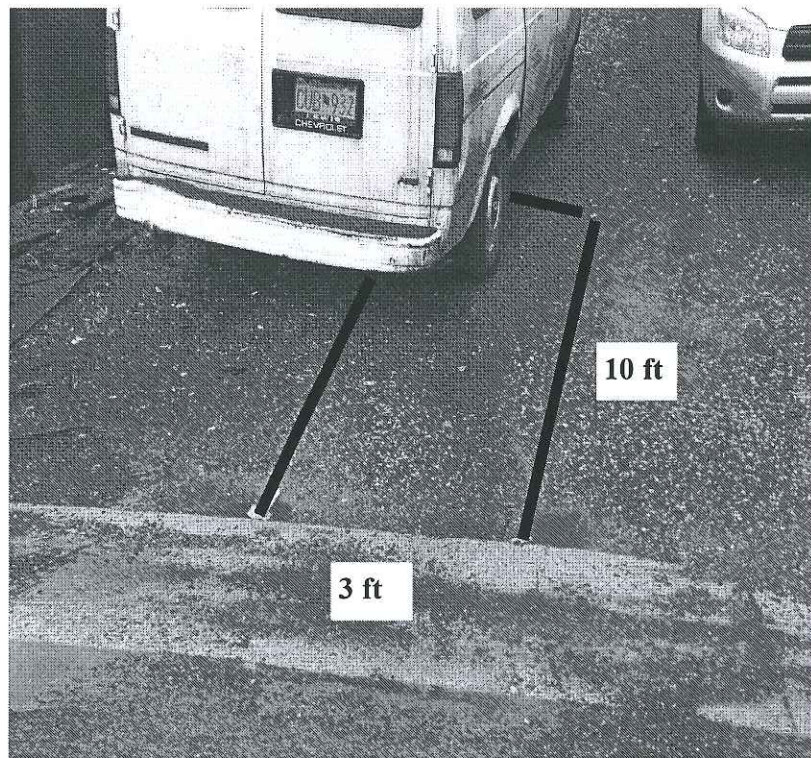
Pics show B Didrickson's violating ingress agreement—has parked van 1.5 ft over, with end of van passenger side roughly 6 ft. in ingress—blocking and hindering vehicles from parking on George Anderson's limited driveway.

Below is the legal discription written to

RESERVING UNTO GRANTORS, as the owners of the remaining portion of Lot Forty-seven (47), Block Two (2), SITKA INDIAN VILLAGE, U. S. Survey 2542, their guests, invitees, heirs, successors, and assigns, an easement *for full, free and unobstructed ingress and egress over, across and through the following* A portion of Lot Forty-seven (47), Block Two (2), SITKA INDIAN VILLAGE, U. S. Survey 2542, Sitka Recording District, First Judicial District, State of Alaska, described as follows:

BEGINNING at a point on the westerly boundary line of Lot 47 at a point common to the most easterly corner of Lot 48, Block 2; thence S 28° 00' W 37.50 feet; thence S 72° 18" E 32.5 feet to the true point of beginning; run thence N 25° 45' E 10.00 feet; thence S 72° 18" E 3.00 feet; thence S 25° 45' W 10.00 feet; thence N 72° 18" W 3.00 to the true point of beginning.

**Point—Boyd Didrickson is not keeping his word in leaving this ingress free and accessible to George Anderson, family, visitors, and anyone doing business with residents of 430 Back Street. We are at a loss for words with B Didrickson and his attorney for not following through with above condition that we paid dearly for—\$4,000 total to have ingress condition.**





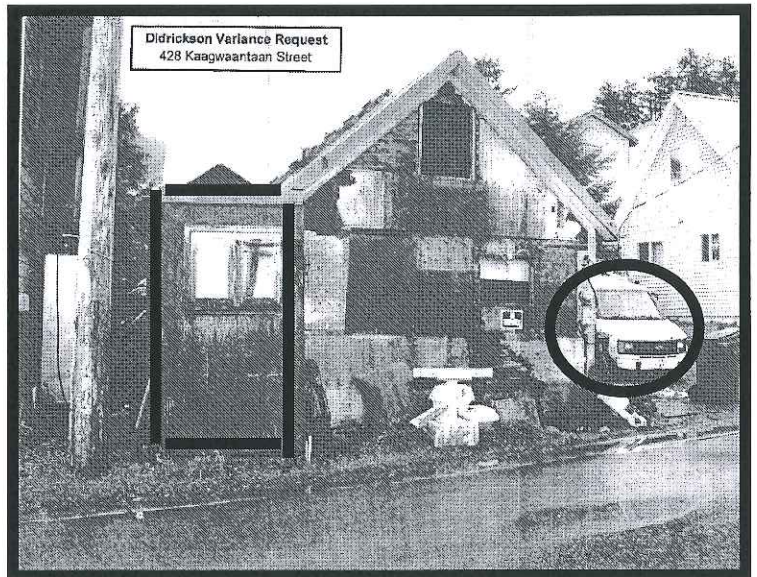
Providing this picture to give a more realistic view and scale as to the current size of cabin structure.. In the foreground is Scott Saline's roof. Shown also is that property is on hill, and has both drainage and soil retainment issues for upland property.

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

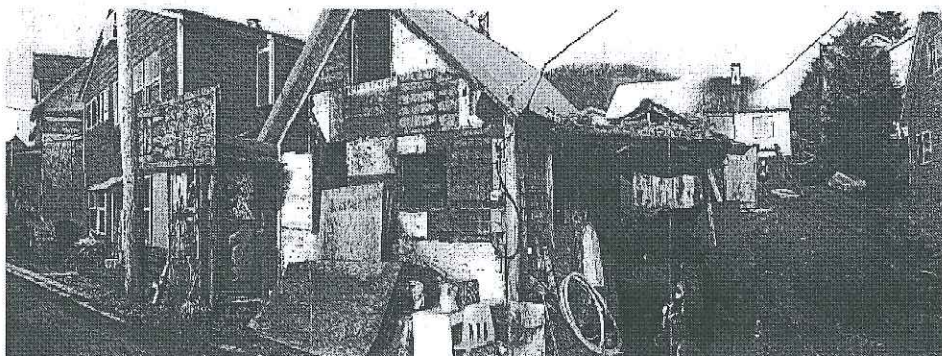
To the best of our knowledge, Boyd Didrickson did not get approval from the Planning Commision to add this on..

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 by B Didrickson on initial variance request. Purpose of showing this is for scale representation in proportion to area.

To the best of our knowledge, Boyd Didrickson had initiated below chain of title search back in June, 1984 with the Ketchikan based business. Believe this was done in attempt to clarify on his part if the property he was attempting to obtain from Bertha Benjamin (ak, Bertha Basco) was truly hers to sell. The point here is, Boyd Didrickson knew what he was buying and what the limitations and challenges this piece of land/cabin presented for future expansion.

**DOCK STREET TITLE AGENCY, INC.**

309 Dock Street  
 P.O. Box 5040  
 Ketchikan, Alaska 99901  
 (907) 225 0477

TO: Citizen Borough Sitka  
304 Fair  
Sitka, Alaska  
99835

FROM: Stephen T. Harper  
DOCK STREET TITLE AGENCY  
P.O. BOX 5040  
KETCHIKAN, ALASKA 99901

SUBJECT: REAL ESTATE TAXES/LIENS

DATE:

NEED REPLY BY:

06/1/84

06/01

PLEASE INFORM US OF ANY TAXES AND/OR LIENS HELD BY THE CITY OF

Sitka AGAINST PROPERTY DESCRIBED AS: Orat portion  
of lot 47, Block 2, U.S. Survey No. 2042, Sitka  
Canadian Village, SFD, 3rd, 4th & 5th  
 THE OWNER OF WHICH IS: Mr. Snow, George & Jean Anderson  
lot 47N

IF TAXES ARE PAID, PLEASE INDICATE DATE PAID, AMOUNT AND TAX ACCOUNT NUMBER. IF TAXES AND/OR ASSESSMENTS ARE DELINQUENT, PLEASE INDICATE AMOUNT AND YEAR(S) DELINQUENT.

\$112.40 paid 7-29-83  
Acct # 1-6502

see more particularly described as follows:

Beginning at the most northerly cor. of lot 47,  
 thence S 43° 15' E 36.50 feet, thence S 25° 45' W  
 108.00 feet; thence N 58° 14' W 2.06 feet; thence N  
 72° 18' W 8.00 feet; thence N. 25° 45' E 45.00 feet;  
 thence N. 72° 18' W 33.11 feet; thence N 22° 12' E  
 77.11 feet to the point of beginning.

Below documents shows Boyd Didrickson was going for squatter rights (a form of adverse passion) in claiming the property belonging to George and Jean Anderson (deceased). The point: Boyd Didrickson used adverse possession to claim the property on which the cabin he lived in, using property tax as his means of showing squatter's rights. Point is: Boyd Didrickson was very much aware at the time this had been initiated (litigation paperwork), the zoning requirements for building on property he is asking variances for.

He currently resides in 3 story residence on Back Street, has it set up as a bed and breakfast,- paying both city taxes and renewed his business license for this B&B in November 2011, as it had lapsed in 2008. It has by all accounts parking spaces for himself and guests. Again, the point is B Didrickson is well versed in zoning, based in his capacity as a business person, and B&B operator, and resident in R1 zone.

IN THE SUPERIOR COURT FOR THE STATE OF ALASKA  
FIRST JUDICIAL DISTRICT AT SITKA

BOYD DIDRICKSON,  
Plaintiff,

vs.

GEORGE ANDERSON, and all other persons)  
or parties unknown claiming a right, title,  
estate, lien, or interest in the real estate  
described in the complaint in this action.  
Defendant.

Filed in the Trial Courts  
State of Alaska First District  
Sitka

JUL 13 2011

Clerk of the Trial Courts  
By *[Signature]* Deputy

Case No.: 151-11-444C1

VERIFIED COMPLAINT FOR ADVERSE POSSESSION,  
ODIET TITLE, AND EJECTMENT

Plaintiff through his attorney, Corrie J. Bosman alleges that:

1. Plaintiff, Boyd Didrickson, is the owner by title and adverse possession of that parcel of real estate known as Lot 47, Block 2 of the Sitka Indian Village, U.S. Survey 2542 A & B, beginning at a point on the westerly boundary line of Lot 47 at a point common to the most easterly corner of Lot 48 of Block 2; thence S. 25° 00' W., 37.50 feet; thence S 72° 18' 13.35.50 feet; thence N. 25° 45' E., 45.00 feet; thence N. 72° 18' W., 33.11 feet; thence S. 32° 12' W., 7.91 feet to the point of the beginning. Sitka Recording District, First Judicial District, Sitka, Alaska. This property is also commonly known as 428 Kogwanon Street, Sitka, Alaska 99833.

Corrie J. Bosman  
P.O. Box 6005  
Sitka, AK 99833  
Tel: (907) 747-1060/ Fax: (907) 747-4015

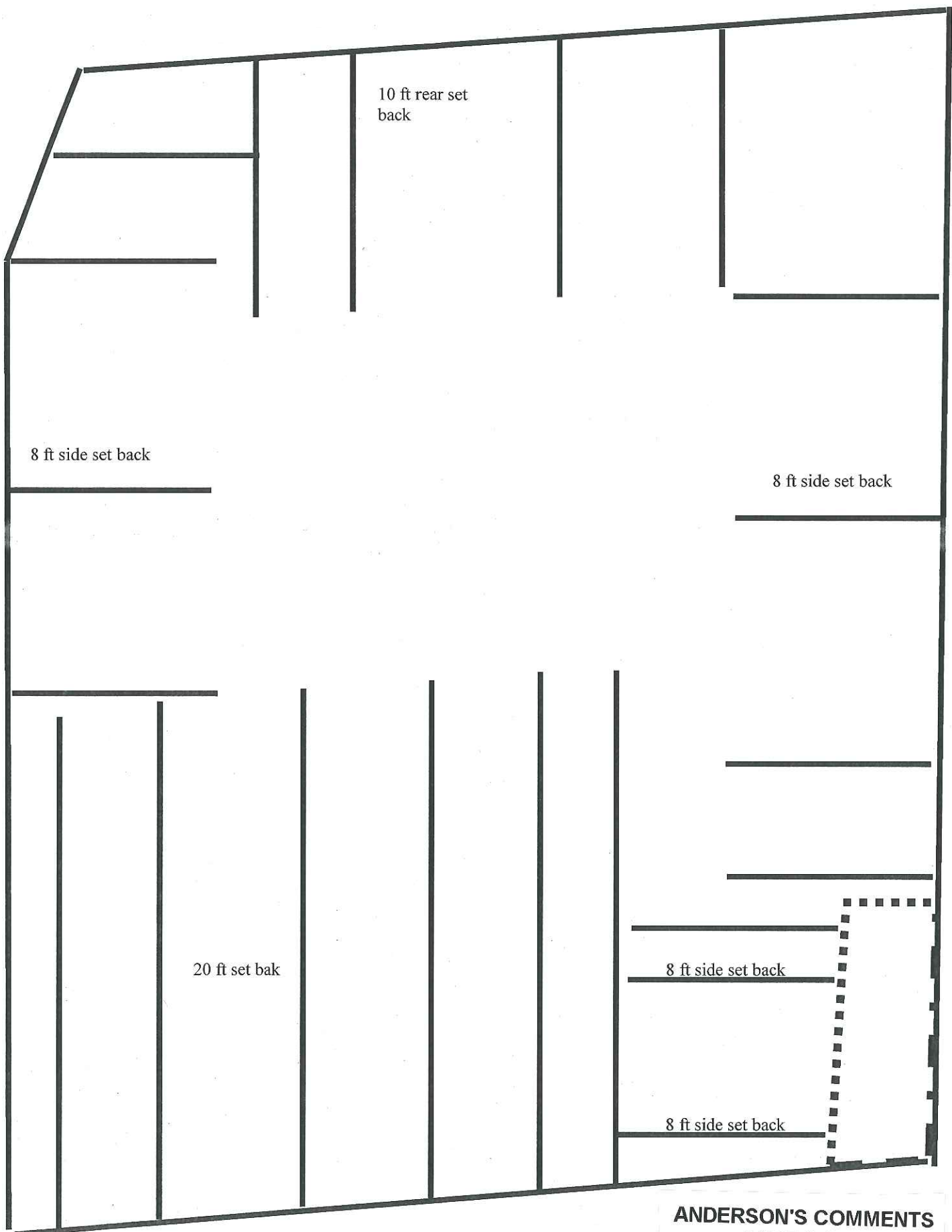
ANDERSON'S COMMENTS  
PAGE 4 OF 5

on v. Anderson

JUDGE ASSIGNED  
JUDGE DAVID V. GEORGE  
Superior Court Judge  
MAGISTRATE BRUCE E. HORTON

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## Melissa Henshaw

---

**From:** Tad Fujioka [tad@cityofsitka.com]  
**Sent:** Tuesday, January 10, 2012 8:55 PM  
**To:** Melissa Henshaw  
**Subject:** Re: Help!

Melissa,

I am out of town, able to check email only occasionally, hence the delay in responding. Hopefully this gets to you in time to help you out.

It looks to me like the easement is a 3'x10' almost-rectangle in the southern corner of the parcel shown in the Boundary Survey that you attached. The easement lies just above the letters "ROW" and it includes 3' of street frontage and extends 10' away from the street.

It is not clear to me why Anderson would have a particular need for that small easement. His panhandle is just as narrow further up the driveway, so this doesn't allow him to widen his driveway, except for the bottom 10'. It might be just to make the turn on to Kaagwaataan Street a little easier, but I wouldn't think that it would need to be a rectangle to do that - a triangle would work just as well.

Tad

--- [melissa@cityofsitka.com](mailto:melissa@cityofsitka.com) wrote:

From: "Melissa Henshaw" <[melissa@cityofsitka.com](mailto:melissa@cityofsitka.com)>  
To: <[tad@cityofsitka.com](mailto:tad@cityofsitka.com)>  
Subject: Help!  
Date: Tue, 10 Jan 2012 15:06:52 -0900

Attached are documents stating that there is an easement that I can't figure out where the easement is. I have included a plat map of the property if you could show me whereby highlighting the area or something?!?!

Thanks,  
Melissa Henshaw, Planner I  
City and Borough of Sitka

907-747-1814

Attorneys At Law

---

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

Professional Corporation

---

P.O. Box 32819  
Juneau, Alaska 99803  
(907) 789-3166 (Telephone)  
(907) 789-1913 (Facsimile)  
[www.baxterbrucelaw.com](http://www.baxterbrucelaw.com)

Daniel G. Bruce  
Kevin J. Sullivan  
Z. Kent Sullivan  
Alexander J. Hildebrand  
Todd J. Araujo  
Renee O. Wallace  
Kris L. Barnum  
Fred J. Baxter of Counsel

October 24, 2011

Theresa Hillhouse, Municipal Attorney  
City and Borough of Sitka  
100 Lincoln Street  
Sitka, Alaska 99835

Re: 428 Kogwanton Street, Sitka Alaska

Dear Ms. Hillhouse:

The purpose of this letter is to confirm that my client, George Anderson of 430 Kogwanton Street, Sitka Alaska, releases any claim of ownership he may have to Boyd Didrickson's property located at 428 Kogwanton Street, Sitka Alaska. Mr. Anderson hereby acknowledges fee simple ownership in favor of Mr. Didrickson to 428 Kogwanton Street, Sitka Alaska and ownership of such property is no longer in dispute.

If you have any questions regarding this matter, please do not hesitate to contact me at (907) 789-3166 or [taraujo@baxterbrucelaw.com](mailto:taraujo@baxterbrucelaw.com).

Sincerely,

BAXTER BRUCE & SULLIVAN P.C.

Todd J. Araujo



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:

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

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

Page 2 of 5

- 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 5

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

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

Page 4 of 5

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.

As far as the discrete provisions of SMC

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

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

Page 5 of 5

I look forward to hearing from you as to how you wish to proceed in this matter. Even if you and your father elect not to pursue the objective of ownership of Lot 47, Block 2, it is possible that we may be able to assist you in reversing the Sitka Planning Commission's decision to permit Mr. Didrickson to build a three-storey house on the portion of the property he claims to own. As I mentioned when we spoke, I shall be in Sitka on the 26<sup>th</sup> & 27<sup>th</sup> of this month, and would be happy to meet with you in person at that time, and to view the property and structure in question. Please do not hesitate to communicate with me via e-mail at [bbrown@baxterbrucelaw.com](mailto:bbrown@baxterbrucelaw.com) if that is more convenient for you. I appreciate your attentive and prompt responses on this matter.

Yours very truly,

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

Benjamin Brown

BEB/hah

cc: clients

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. Smith Date: Feb 20-12

Signature of OWNER: \_\_\_\_\_ Date: \_\_\_\_\_  
*(If different from the Applicant)*

# DIDRICKSON VARIANCES

Boyd Didrickson  
428 Kaagwaantaan Street  
Sitka, AK 99835

Alex Andrews  
PO Box 733  
Sitka, AK 99835

Lila Kirkman, Estate of  
103 Peter Simpson Road  
Sitka, AK 99835

Annie P. Littlefield Trust  
PO Box 2212  
Sitka, AK 99835

Gerald E. Didrickson  
PO Box 900  
Sitka, AK 99835

Timothy/Tammy Mears  
PO Box 1156  
Sitka, AK 99835

Baranof Island Housing Authority  
PO Box 517  
Sitka, AK 99835

Violet Willis  
416 Kaagwaantaan Street  
Sitka, AK 99835

George Anderson  
PO Box 704  
Sitka, AK 99835

Scott Saline  
PO Box 3183  
Sitka, AK 99835

David Kitka Sr. Estate of  
436 Kaagwaantaan Street  
Sitka, AK 99835

Johnnie John Estate  
456 Katlian Avenue  
Sitka, AK 99835

Bertrand Kirkman  
103 Peter Simpson Road  
Sitka, AK 99835

Phoebe Brumfield  
2071 SE Erwin Road  
Port St. Lucie, FL 34952-5521

Anne H. Johnson  
452 Katlian Avenue  
Sitka, AK 99835

Armstrong, Ann/Wichman, Carol  
PO Box 1034  
Sitka, AK 99835

Frank Kitka, Kitka, D/A/H/A/W  
380 Kaagwaantaan Street  
Sitka, AK 99835

Lisa Dundas  
432 Kirkman Drive  
Sitka, AK 99835

North Pacific Seafoods, Inc.  
4 Nickerson Street, Suite 400  
Seattle, WA 98109

Sitka Tribe of Alaska  
456 Katlian Avenue  
Sitka, AK 99835





LAW OFFICE OF  
**Corrie J. Bosman**  
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Fax (907) 747-1015

Wells Williams, Planning Director  
City and Borough of Sitka  
100 Lincoln Street  
Sitka, AK 99835

November 22, 2011

**Re: Variance request for 428 Kaagwaantaan Street**

Dear Mr. Williams,

In December 2008 Boyd Didrickson submitted a variance request in relation to his property at 428 Kaagwaantaan Street. On January 6, 2009 the City and Borough of Sitka Planning Commission unanimously approved the request (as modified) and permitted the following variances: (1) reduce the front setback from 20 feet to 8 feet; (2) reduce the rear setback from 10 feet to 6 feet; (3) reduce the left setback from 5 feet to 3 feet and; (4) reduce the right setback from 5 feet to 4 feet. The Commission also made special findings in support of the variance request. *See Minutes of Planning and Zoning Commission Meeting of January 6, 2009 at 3.*

The Commission's decision occurred following careful consideration of the public testimony presented and the factual circumstances surrounding this specific parcel. Among the public testimony presented at the time was that of Bill Anderson and Jeannie Emanoff testifying on behalf of the adjacent upland landowner, George Anderson. Among the issues presented in their testimony was a claim that the title to the property was in question as it appeared the tile had been recorded to both Mr. Anderson and Mr. Didrickson. George Anderson appealed the Planning Commission's January 6, 2009 decision. The issue was taken up at the January 27, 2009 meeting of the City and Borough of Sitka Assembly. George Anderson, through counsel, again argued that title to the parcel was in dispute. Given this uncertainty the Assembly chose to remand the issue to the Planning Commission until the issue of land ownership was resolved.

A lawsuit to resolve the dispute regarding land ownership was filed in the Sitka Superior Court in July, 2010. The parties reached and finalized an out of court settlement in November, 2011 resolving any dispute over land ownership of the parcel in question. Specifically, any ownership rights Mr. Anderson had over the property at 428 Kaagwaantaan Street have been resolved through the signing and recording of a quitclaim deed from Mr. Anderson to Mr. Didrickson. *See* attached October 24, 2011 letter from George Anderson's attorney, Todd Araujo, showing fee simple ownership vested in Mr. Didrickson and copy of recorded said quitclaim deed.<sup>1</sup>

Now that the land ownership is no longer in dispute Mr. Didrickson wishes to proceed with his project in a timely manner. His request for a variance is identical to that already provided to, and approved by, the Planning Commission in January 2009. The current structures on the property are dilapidated and unsightly. Mr. Didrickson has been unable to work on them the past two years due to the unsubstantiated land ownership claim of the family of George Anderson. Mr. Didrickson wishes to clean up and improve upon the property without further delay.

For the forgoing reasons Mr. Didrickson requests his variance request is placed on the agenda for the Planning Commission meeting set for January 17, 2012.

Sincerely,



Corrie J. Bosman

Cc: Theresa Hillhouse, Municipal Attorney

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<sup>1</sup> In signing the quitclaim deed Mr. Anderson has been provided a small ingress and egress easement across the lower driveway portion of the property. This easement is in no way impacted by the variances requested and in fact alleviates many of the Anderson's earlier concerns with Mr. Didrickson's project.