

# Agenda

## Planning Commission - Title 49 Committee City and Borough of Juneau

December 20, 2017

Marine View Building, 4th Floor Conference Room, 230 S. Franklin Street  
12:00 PM

- I. ROLL CALL
- II. APPROVAL OF AGENDA
- III. AGENDA TOPICS
  - A. Proposed Changes to the De Minimis Variance
- IV. COMMITTEE MEMBER COMMENTS AND QUESTIONS
- V. ADJOURNMENT

Presented by:  
Introduced:  
Drafted by:

**ORDINANCE OF THE CITY AND BOROUGH OF JUNEAU, ALASKA**

**Serial No. 2017-33 PCv3**

**An Ordinance Amending the Land Use Code Relating to Variances**

BE IT ENACTED BY THE ASSEMBLY OF THE CITY AND BOROUGH OF JUNEAU, ALASKA:

**Section 1. Classification.** This ordinance is of a general and permanent nature and shall become a part of the City and Borough of Juneau Municipal Code.

**Section 2. Amendment of Article.** CBJ 49.20 Article II Variances is amended to read:

49.20.200 - Variance.

A variance is required to and can only vary the following dimensional standards of this title: building setbacks, lot width, lot depth, and building height dimensions or designs standards of this title.

49.20.210 - Submittal.

~~Except as provided in this article for de minimis variances, An~~ an application for a variance shall be submitted to the board of adjustment through the department.

49.20.220 - Scheduling and fee.

(a) Reserved. ~~If the director determines that the variance applied for is de minimis, the application shall be administered by the department according to subsection 49.20.230(a) and subsection 49.20.250(a).~~

(b) If the director determines ~~that the variance applied for is other than de minimis~~ and the application is complete, it shall be scheduled for public hearing. If the application is filed in conjunction with a major development permit, a separate public notice shall not be required and the variance fee shall be reduced by 20 percent. For separate variance applications, a fee and public notice according to section 49.20.230 shall be required.

49.20.230 - Public notice.

(a) Reserved. ~~Public notice according to subsection 49.20.250(a)(1)(C) shall be required for consideration or issuance of a de minimis variance.~~

(b) ~~For variances other than de minimis, public~~ Public notice according to section 49.15.230 shall be given prior to a hearing on the application by the board of adjustment, ~~except that the placement of a sign on the subject lot is not required.~~

49.20.240 - Board of adjustment action.

The board of adjustment shall hear all variance requests ~~other than those administered by the director as de minimis~~ and shall either approve, conditionally approve, modify or deny the request based on the criteria in section 49.20.250(b) of this chapter.

49.20.250 -- Variance standards ~~Grounds for variances.~~

(a) Administrative variance. ~~De minimis variances.~~

(1) An administrative variance may be granted to allow projections of not to exceed 25 percent of the yard setback requirements of this title upon the director determining the following:

(A) Enforcement of the setback ordinance would result in an unreasonable hardship;

(B) The variance does not aggravate an infraction previously granted a variance;

(C) The grant of the variance is not detrimental to public health, safety, or welfare; and

(D) The grant of the variance is reasonably tailored to relieve the hardship.

**(2) [Appeal procedure]**

~~A de minimis variance may be granted by the director after it is shown that all the following conditions have been met~~

~~(1) — Where a minor setback infraction could be corrected only at unreasonable expense or inconvenience the director may, after taking into account the views of the owners of adjoining property, and upon a finding that the infraction was not the result of a deliberate effort to evade the dimensional requirement, grant a de minimis variance in~~

harmony with the general purpose and intent of this title. A de minimis variance may be granted after it is shown that all the following conditions have been met.

(A) ~~The variance is for one or more projections into yard setbacks, none of which extend beyond 25 percent of required setback distance.~~

(B) ~~The de minimis variance would not aggravate an infraction previously granted a variance.~~

(C) ~~The applicant submits on forms provided by the department written statements from the owners of adjoining property, each acknowledging that the owner has been notified of the application. In lieu of statements provided by the applicant, the department will provide at least five days notice by mail to each such owner.~~

(D) ~~The applicant submits a certified, as built survey to scale, showing all lot line locations, building dimensions, orientations, setbacks, and other distances and features relevant to the requested relief.~~

(b) Non-Administrative Variance. A variance may be granted to provide an applicant relief from requirements of this title after the prescribed hearing and after the board of adjustment has determined that:

(1) Enforcement of the ordinance would result in an unreasonable hardship;

(2) The unusual or special conditions of the property are not caused by the person seeking the variance;

- (3) The grant of the variance is necessary for the applicant to use the property consistent with other property owners in the area;
- (4) The grant of the variance is not detrimental to public health, safety, or welfare;
- (5) The grant of the variance is reasonably tailored to relieve the hardship; and
- (6) The grant of the variance does not result in a smaller lot size, a greater density, or greater lot coverage than allowed for the zone district.

~~*Variances other than de minimis.* Where hardship and practical difficulties result from an extraordinary situation or unique physical feature affecting only a specific parcel of property or structures lawfully existing thereon and render it difficult to carry out the provisions of this title, the board of adjustment may grant a variance in harmony with the general purpose and intent of this title. A variance may vary any requirement or regulation of this title concerning dimensional and other design standards, but not those concerning the use of land or structures, housing density, lot coverage, or those establishing construction standards. A variance may be granted after the prescribed hearing and after the board of adjustment has determined that:~~

- ~~(1) The relaxation applied for or a lesser relaxation specified by the board of adjustment would give substantial relief to the owner of the property involved and be more consistent with justice to other property owners;~~
- ~~(2) Relief can be granted in such a fashion that the intent of this title will be observed and the public safety and welfare preserved;~~
- ~~(3) The authorization of the variance will not injure nearby property;~~

~~(4) The variance does not authorize uses not allowed in the district involved;~~

~~(5) Compliance with the existing standards would:~~

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

~~(B) Unreasonably prevent the owner from using the property in a manner which is consistent as to scale, amenities, appearance or features, with existing development in the neighborhood of the subject property;~~

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

~~(D) Because of preexisting nonconforming conditions on the subject parcel, the grant of the variance would not result in a net decrease in overall compliance with the land use code, title 49, or the building code, title 19, or both; and~~

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

#### 49.20.260 - Conditions of approval.

The board may attach to a variance conditions regarding the location, character and other features of the proposed structures or uses as it finds necessary to carry out the intent of this title and to protect the public interest.

#### 49.20.270 - Expiration and extensions of approval.

Expiration and extensions of variances shall be governed by the procedures and standards established for development permits in chapter 49.15, article II.

**Section 3. Amendment of Section.** CBJ 49.85.100(10) Generally is amended to read:

49.85.100 - Generally.

Processing fees are established for each development, platting and other land use action in accordance with the following schedule:

\*\*\*

(10) Board of adjustment.

(A) Administrative variance ~~De minimis variance, \$120.00;~~

(B) Non-Administrative Variance ~~other than a de minimis variance, \$400.00;~~

(C) Alternative development permit, \$400.00.

\*\*\*

**Section 4. Effective Date.** This ordinance shall be effective 30 days after its adoption.

Adopted this \_\_\_\_\_ day of \_\_\_\_\_, 2018.

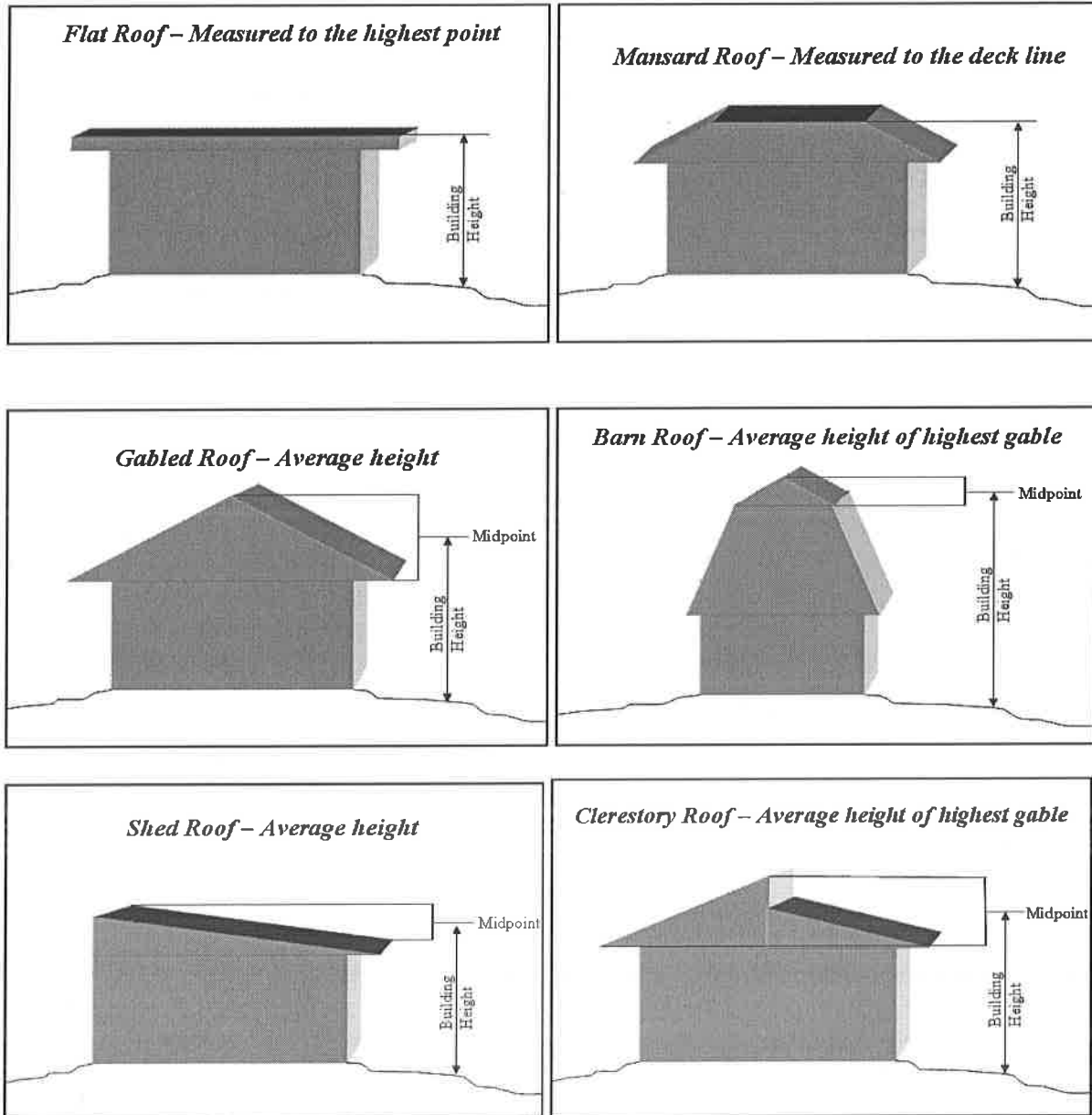
Attest:

\_\_\_\_\_  
Kendell D. Koelsch, Mayor

\_\_\_\_\_  
Laurie J. Sica, Municipal Clerk

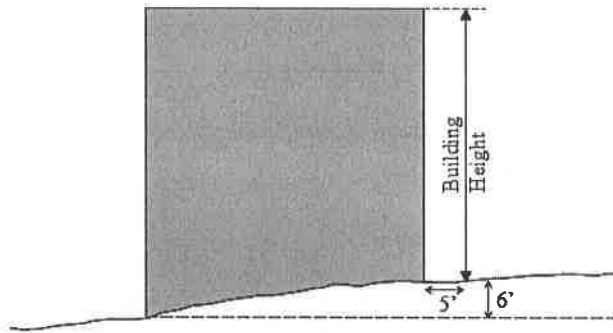
## How to Calculate the Height of a Building

The height of a building is the vertical distance above a reference datum (page 2) measured to the highest point of the coping of a flat roof or to the deck line of a mansard roof or to the average height of the highest gable of a pitched or hipped roof. Roofs with slopes greater than 75 percent shall be regarded as walls. The height of a stepped or terraced building is the height of the highest segment thereof. See images below for examples:



The reference datum shall be whichever of the following yields the greater height of building:

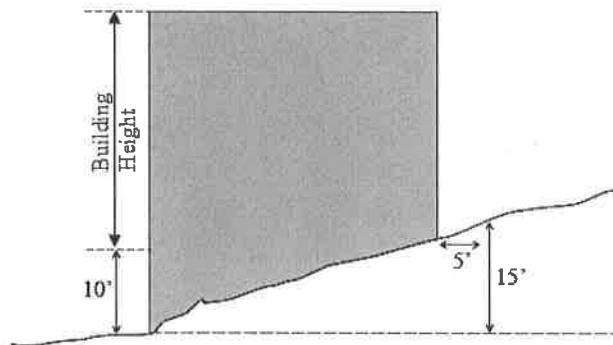
1. The highest point within a horizontal distance of five feet from the exterior wall of the building, when such point is not more than ten feet above the lowest point within said five-foot radius.



\*\*\*Building height is still measured according to the information provided on page 1.

OR

2. An elevation ten feet higher than the lowest grade, when the highest point described in 1 is more than ten feet above the lowest point.



\*\*\*Building height is still measured according to the information provided on page 1.

### Exceptions

Height limitations stipulated in this section shall not apply to tanks, church spires, belfries, cupolas, monuments, fire and hose towers, chimneys, flagpoles, masts, aerials, antennas, telecommunication and electrical transmission towers and other similar structures or facilities.

Height calculations **DO NOT** include any fill or construction whose sole purpose is to elevate the reference datum, per CBJ §49.25.420(c)(2).

Based on CBJ §49.25.420 Height of building.

## Setback Exceptions

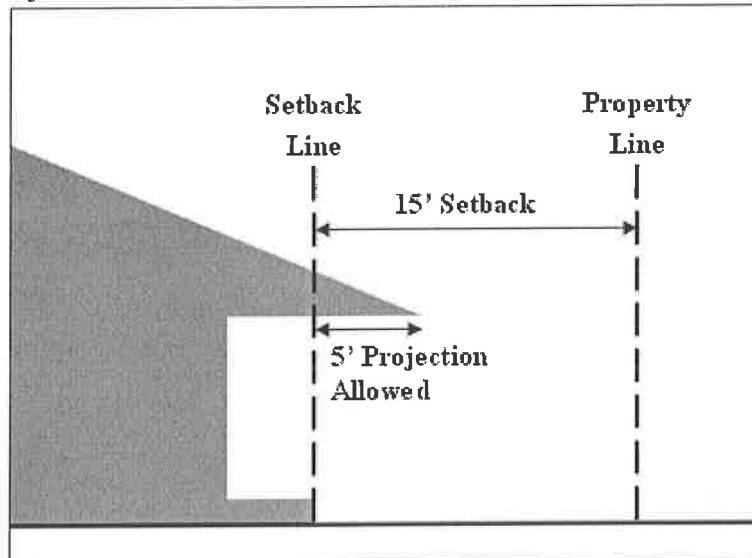
The Table of Dimensional Standards lists the setbacks (front, rear, side, and street side) defined for each zoning district. However, the Land Use Code provides a few exceptions for certain architectural features, structures and decks. **Please keep in mind this is just an explanation. For the full section and all setback exceptions, please refer to CBJ 49.25.430.**

### Architectural Features (§49.25.430(4)(A)):

Architectural features and roof eaves may project 4 inches for each 1 foot of yard setback required (or 1/3 of the required yard setback), but no closer than 2 feet to the side and rear lot lines.

Example:

Required setback = 15 feet  
 $(4 \times 15 = 60 \text{ inches} \rightarrow 60 \text{ inches} \div 12 = 5 \text{ feet})$   
 Roof eaves may project = 5 feet into the 15 foot setback (see figure to left)



*\*\*\*In the MU2 zoning district, architectural features, roof eaves, and canopies may project into a required front or street side yard setback to the front or street side yard property lines.*

### Enclosures (§49.25.430(4)(B)):

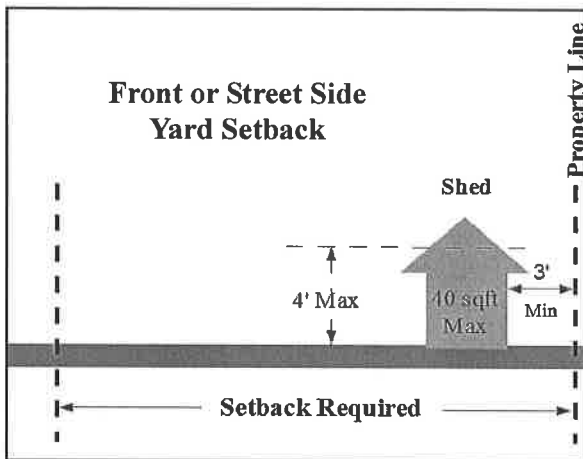
Any enclosed structures that do not increase the building's floor area may project 4 feet into any required yard setback provided that the maximum length of projection along the building does not exceed 15 lineal feet for any one yard setback. In no instance shall the projecting structure be closer than 3 feet to a lot line. Examples of enclosures include bay windows, garden windows, chimney and ventilation shafts.

### Structures - Unheated (§49.25.430(4)(C)(i-v))

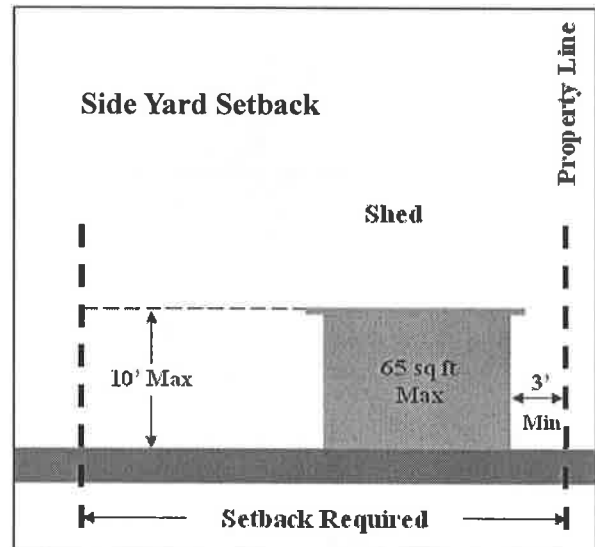
All of the following unheated structures are allowed in required yard setbacks as described below. Roof eaves associated with any of the following structures may be no closer than 2 feet to any side or rear lot line.

- **Unenclosed balconies, connecting deck stairways, walkways, ramps and landings** with or without roofs, may extend to the front lot line or street side lot lines provided the structure does not exceed 5 feet in internal width exclusive of support structure and is no closer than 3 feet to a side or rear lot line.

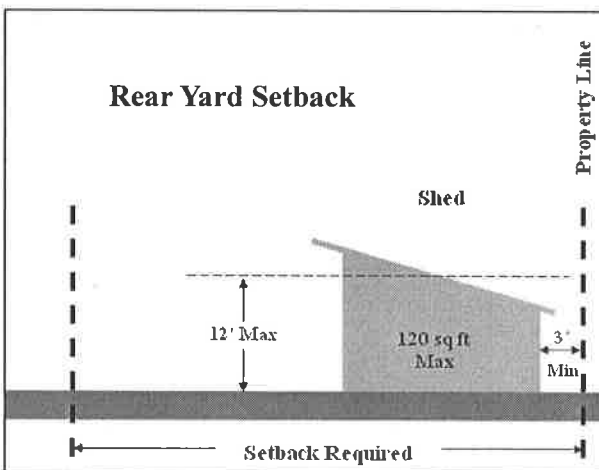
- **Arctic entries** (unheated) cannot exceed 65 square feet gross floor area, and can be no closer than 5 feet to any property line.
- **Temporary boat or recreational vehicle shelters** consisting of a plastic, canvas or similar cover material applied to a frame for winter storage provided that the cover and associated framework are removed during the period of April 15 through September 30 and provided that the shelter is no closer than 3 feet to a lot line.
- **Accessory buildings** including enclosures for outdoor fuel tanks, detached storage sheds, greenhouses, playhouses, refuse containers, woodsheds, and similar buildings are allowed if they are not closer than 3 feet to a lot line and they meet the following requirements:



- *Front or Street Side Yard Setback – building must be less than 4 feet high within the setback, and not encroaching more than 40 square feet into the setback (see figure to the left)*



- *Side Yard Setback – building must be less than 10 feet high within the setback, and not encroaching more than 65 square feet into the setback (see figure to the right)*



- *Rear Yard Setback – building must be less than 12 feet high within the setback, and not encroaching more than 120 square feet into the setback (see figure to the left)*

\*\*\*Where a structure is located in more than one setback, the more restrictive standards shall prevail.

**Porches, Decks, Terraces, and Patios (§49.25.430(4)(D & E)):**

- **Uncovered porches, terraces, or patios** extending no more than 30 inches above the finished grade may be no closer than 3 feet to a side lot line **and** no closer than 10 feet to a front, street side or rear lot line.
- **Unenclosed FIRST STORY porches or decks with or without roof** and with or without non-sight obscuring safety rails less than 44 inches in height, may project no more than 6 feet into any yard setback, provided, however, such projection is no closer than 5 feet to a lot line. Eaves may project a maximum of 3 feet from these structures.

**Parking Decks (§49.25.430(4)(I)):**

- **Parking deck**, no part of which exceeds one foot above the level of the adjoining roadway, and which does not include other uses, is exempt from the setback requirements of this chapter; provided a non-sight-obscuring safety rail not more than 42 inches in height is allowed.



ZONING DISTRICTS

49.25.400

TABLE 49.25.400

TABLE OF DIMENSIONAL STANDARDS

| Zoning Regulations                            | RR               | D-1    | D-3    | D-5              | D-10                | D-10 SF         | D-10            | D-15            | D-18            | MU    | MU2               | LC    | GC    | WC               | WI               | I     |
|-----------------------------------------------|------------------|--------|--------|------------------|---------------------|-----------------|-----------------|-----------------|-----------------|-------|-------------------|-------|-------|------------------|------------------|-------|
| Minimum Lot Size <sup>1</sup>                 |                  |        |        |                  |                     |                 |                 |                 |                 |       |                   |       |       |                  |                  |       |
| Permissible Uses                              | 36,000           | 36,000 | 12,000 | 7,000            | 3,600 <sup>10</sup> | 6,000           | 5,000           | 5,000           | 5,000           | 4,000 | 4,000             | 2,000 | 2,000 | 2,000            | 2,000            | 2,000 |
| Bungalow <sup>9</sup>                         | 18,000           | 18,000 | 6,000  | 3,500            | 2,500               | 3,000           | 3,000           | 3,000           | 2,500           |       |                   |       |       |                  |                  |       |
| Duplex                                        | 54,000           | 54,000 | 18,000 | 10,500           |                     |                 |                 |                 |                 |       |                   |       |       |                  |                  |       |
| Common Wall Dwelling                          |                  |        |        | 7,000            | 3,600 <sup>10</sup> | 5,000           | 3,500           | 2,500           |                 |       | 2,500             |       |       |                  |                  |       |
| Single-family detached, two dwellings per lot | 72,000           | 72,000 | 24,000 |                  |                     |                 |                 |                 |                 |       |                   |       |       |                  |                  |       |
| Minimum lot width                             | 150'             | 150'   | 100'   | 70'              | 40'                 | 50'             | 50'             | 50'             | 50'             | 50'   | 50'               | 20'   | 20'   | 20'              | 20'              | 20'   |
| Bungalow <sup>9</sup>                         |                  | 75'    | 50'    | 35'              | 25'                 | 25'             | 25'             | 25'             | 25'             |       |                   |       |       |                  |                  |       |
| Common wall dwelling                          |                  |        |        | 60'              | 40'                 | 40'             | 30'             | 20'             |                 |       | 20'               |       |       |                  |                  |       |
| Minimum lot depth                             | 150'             | 150'   | 100'   | 85'              | 85' <sup>10</sup>   | 85'             | 80'             | 80'             | 80'             | 80'   | 80'               | 80'   | 60'   | 60'              | 60'              | 60'   |
| Maximum lot coverage                          |                  |        |        |                  |                     |                 |                 |                 |                 |       |                   |       |       |                  |                  |       |
| Permissible uses                              | 10%              | 10%    | 35%    | 50%              | 50%                 | 50%             | 50%             | 50%             | 50%             | None  | 80%               | None  | None  | None             | None             | None  |
| Conditional uses                              | 20%              | 20%    | 35%    | 50%              | 50%                 | 50%             | 50%             | 50%             | 50%             | None  | 80%               | None  | None  | None             | None             | None  |
| Maximum height permissible uses               | 45'              | 35'    | 35'    | 35'              | 35'                 | 35'             | 35'             | 35'             | 35'             | None  | 45' <sup>4</sup>  | 45'   | 55'   | 35' <sup>4</sup> | 45' <sup>4</sup> | None  |
| Accessory                                     | 45'              | 25'    | 25'    | 25'              | 25'                 | 25'             | 25'             | 25'             | 25'             | None  | 35'               | 35'   | 45'   | 35' <sup>4</sup> | 45' <sup>4</sup> | None  |
| Bungalow <sup>9</sup>                         |                  | 25'    | 25'    | 25'              | 25'                 | 25'             | 25'             | 25'             | 25'             |       |                   |       |       |                  |                  |       |
| Minimum front yard setback <sup>3</sup>       | 25'              | 25'    | 25'    | 20'              | 20' <sup>10</sup>   | 20'             | 20'             | 20'             | 20'             | 0'    | 5' <sup>5,8</sup> | 25'   | 10'   | 10'              | 10'              | 10'   |
| Minimum street side yard setback              | 17'              | 17'    | 17'    | 13'              | 10'                 | 13'             | 13'             | 13'             | 13'             | 0'    | 5'                | 17'   | 10'   | 10'              | 10'              | 10'   |
| Minimum rear yard setback <sup>3</sup>        | 25' <sup>2</sup> | 25'    | 25'    | 20'              | 10'                 | 20'             | 15'             | 15'             | 10'             | 0'    | 5'                | 10'   | 10'   | 10'              | 10'              | 10'   |
| Minimum side yard setback <sup>3</sup>        | 15' <sup>2</sup> | 15'    | 10'    | 5'               | 3'                  | 5'              | 5'              | 5'              | 5'              | 0'    | 5'                | 10'   | 10'   | 10'              | 10'              | 0'    |
| Common wall dwelling                          |                  |        |        | 10' <sup>6</sup> | 3'                  | 5' <sup>7</sup> | 5' <sup>7</sup> | 5' <sup>7</sup> | 5' <sup>7</sup> |       | 5' <sup>7</sup>   |       |       |                  |                  |       |

Notes:

1. Minimum lot size is existing lot or area shown on chart in square feet.
2. Sixty feet between nonresidential and designated or actual residential site; 80 feet between industrial, extractive and other uses.
3. Where one district abuts another the greater of the two setbacks is required for both uses on the common property line.
4. (Height Bonus) Reserved.
5. (Pedestrian Amenities Bonus) Reserved.
6. Zero-foot setback for the portion of the dwelling with a common wall, five-foot setback or five-foot wide easement for the portion of the dwelling at the common lot line without a common wall, and ten-foot setback for the remaining side yards of the lot.
7. Zero-foot setback for the portion of the dwelling with a common wall, five-foot setback or five-foot wide easement for the portion of the dwelling at the common lot line without a common wall, and five-foot setback for the remaining side yards of the lot.
8. On corner lots, buildings shall be set back 15 feet from a street intersection. The area in which buildings shall be prohibited shall be determined by extending the edge of the traveled ways to a point of intersection, then measuring back 15 feet, then connecting the points.
9. Special restrictions apply to construction on bungalow lots. See special use provisions 49.65.600.

49.25.400

PART II: CODE OF ORDINANCES

10. For lots adjacent to an alley, the following reductions to the dimensional standards apply:
- (a) Minimal lot area includes 50% of adjacent alley (see graphic).
  - (b) Minimal lot depth includes 50% of the width of adjacent alley.
  - (c) Minimum front yard setback of ten feet.
- (Serial No. 2008-04, § 2, 2-25-2008, eff. 3-27-2008; Serial No. 2012-24, § 3, 5-14-2012, eff. 6-14-2012)

Chapter 49.20

**APPEALS, VARIANCES AND INTERPRETATIONS**

**Article I. Appeals**

- 49.20.110 Appeals to the planning commission.
- 49.20.120 Appeal to the assembly.

**Article II. Variances**

- 49.20.200 Variance.
- 49.20.210 Submittal.
- 49.20.220 Scheduling and fee.
- 49.20.230 Public notice.
- 49.20.240 Board of adjustment action.
- 49.20.250 Grounds for variances.
- 49.20.260 Conditions of approval.
- 49.20.270 Expiration and extensions of approval.

**Article III. Interpretations**

- 49.20.300 Authorization to interpret.
- 49.20.310 Submittal.
- 49.20.320 Use not listed.

49.20.110

## PART II: CODE OF ORDINANCES

**ARTICLE I. APPEALS****49.20.110 Appeals to the planning commission.**

(a) Review by the commission of a decision of the director, may be requested by filing a notice of appeal stating with particularity the grounds therefor with the department within 20 days of the date of the decision appealed. The notice shall be considered by the commission at a regular scheduled meeting. The department and any aggrieved person, including the developer, may appear at that meeting and explain to the commission why it should hear the appeal. The appeal shall be heard unless it presents only minor or routine issues and is clear from the notice of appeal and any evidence offered at the consideration thereof, that the decision appealed was supported by substantial evidence and involved no policy error or abuse of discretion.

(b) If the commission decides to hear the appeal, it shall announce whether it intends to review the entire decision, or merely a portion thereof and whether review shall be de novo or on the record. If the commission decides to hear the appeal, it shall give public notice thereof in a newspaper of general circulation in the municipality. The department shall prepare the record on appeal, which shall consist of the original application and supporting materials, written public comment thereon, and all notes, memoranda, minutes and other department material in relation thereto. The burden of proof in the appeal shall be on the party challenging the decision of the director. In a hearing de novo, proof shall be established by a preponderance of the evidence. If the appeal is heard on the record, argument may be heard, but no evidence outside the record shall be admitted and the decision of the department shall be upheld if there is substantial evidence in support thereof and no policy error or abuse or discretion therein. The commission may confirm, reverse, or modify the director's decision, or change the conditions which the director placed on approval. The commission shall support its action with written findings.

(c) Upon its own motion, the commission may certify a case directly to the assembly without review, hearing or recommendation.

(Serial No. 87-49, § 2, 1987; Serial No. 92-10, § 3, 1992; Serial No. 95-35, § 4, 1995; Serial No. 97-01, § 6, 1997)

**49.20.120 Appeal to the assembly.**

Appeal to the assembly is a matter of right. Unless ordered otherwise by the commission or the assembly, a decision by the commission shall not be stayed pending appeal, but action by the appellee in reliance on the decision shall be at the risk that the decision may be reversed on appeal. The appeal of a commission decision not to hear a case shall be limited to that issue, the remedy for which shall be a remand to the commission for a hearing on the merits of the case. Appeals shall be conducted according to chapter 01.50 of this Code, except as provided in this section.

(Serial No. 87-49, § 2, 1987; Serial No. 91-41, § 2, 1991)

**ARTICLE II. VARIANCES****49.20.200 Variance.**

A variance is required to vary dimensions or designs standards of this title.

(Serial No. 87-49, § 2, 1987)

**49.20.210 Submittal.**

Except as provided in this article for de minimis variances, an application for a variance shall be submitted to the board of adjustment through the department.

(Serial No. 87-49, § 2, 1987; Serial No. 95-33, § 2, 1995)

**49.20.220 Scheduling and fee.**

(a) If the director determines that the variance applied for is de minimis, the application shall be administered by the department according to subsection 49.20.230(a) and subsection 49.20.250(a).

(b) If the director determines that the variance applied for is other than de minimis and the application is complete, it shall be scheduled for public hearing. If the application is filed in con-

## APPEALS, VARIANCES AND INTERPRETATIONS

49.20.250

junction with a major development permit, a separate public notice shall not be required and the variance fee shall be reduced by 20 percent. For separate variance applications, a fee and public notice according to section 49.20.230 shall be required.

(Serial No. 87-49, § 2, 1987; Serial No. 95-33, § 3, 1995; Serial No. 2010-15(c), § 2, 5-19-2010)

#### 49.20.230 Public notice.

(a) Public notice according to subsection 49.20.250(a)(1)(C) shall be required for consideration or issuance of a de minimis variance.

(b) For variances other than de minimis, public notice according to section 49.15.230 shall be given prior to a hearing on the application by the board of adjustment, except that the placement of a sign on the subject lot is not required.

(Serial No. 87-49, § 2, 1987; Serial No. 95-33, § 4, 1995)

#### 49.20.240 Board of adjustment action.

The board of adjustment shall hear all variance requests other than those administered by the director as de minimis and shall either approve, conditionally approve, modify or deny the request based on the criteria in section 49.20.250(b) of this chapter.

(Serial No. 87-49, § 2, 1987; Serial No. 95-33, § 5, 1995)

#### 49.20.250 Grounds for variances.

##### (a) *De minimis* variances.

- (1) Where a minor setback infraction could be corrected only at unreasonable expense or inconvenience the director may, after taking into account the views of the owners of adjoining property, and upon a finding that the infraction was not the result of a deliberate effort to evade the dimensional requirement, grant a de minimis variance in harmony with the general purpose and intent of this title. A de minimis variance may be granted after it is shown that all the following conditions have been met.

- (A) The variance is for one or more projections into yard setbacks, none of which extend beyond 25 percent of required setback distance.

- (B) The de minimis variance would not aggravate an infraction previously granted a variance.

- (C) The applicant submits on forms provided by the department written statements from the owners of adjoining property, each acknowledging that the owner has been notified of the application. In lieu of statements provided by the applicant, the department will provide at least five days notice by mail to each such owner.

- (D) The applicant submits a certified, as-built survey to scale, showing all lot line locations, building dimensions, orientations, setbacks, and other distances and features relevant to the requested relief.

(b) *Variances other than de minimis.* Where hardship and practical difficulties result from an extraordinary situation or unique physical feature affecting only a specific parcel of property or structures lawfully existing thereon and render it difficult to carry out the provisions of this title, the board of adjustment may grant a variance in harmony with the general purpose and intent of this title. A variance may vary any requirement or regulation of this title concerning dimensional and other design standards, but not those concerning the use of land or structures, housing density, lot coverage, or those establishing construction standards. A variance may be granted after the prescribed hearing and after the board of adjustment has determined that:

- (1) The relaxation applied for or a lesser relaxation specified by the board of adjustment would give substantial relief to the owner of the property involved and be more consistent with justice to other property owners;
- (2) Relief can be granted in such a fashion that the intent of this title will be observed and the public safety and welfare preserved;
- (3) The authorization of the variance will not injure nearby property;

49.20.250

## PART II: CODE OF ORDINANCES

- (4) The variance does not authorize uses not allowed in the district involved;
  - (5) Compliance with the existing standards would:
    - (A) Unreasonably prevent the owner from using the property for a permissible principal use;
    - (B) Unreasonably prevent the owner from using the property in a manner which is consistent as to scale, amenities, appearance or features, with existing development in the neighborhood of the subject property;
    - (C) Be unnecessarily burdensome because unique physical features of the property render compliance with the standards unreasonably expensive; or
    - (D) Because of preexisting nonconforming conditions on the subject parcel, the grant of the variance would not result in a net decrease in overall compliance with the land use code, title 49, or the building code, title 19, or both; and
  - (6) A grant of the variance would result in more benefits than detriments to the neighborhood.
- (Serial No. 87-49, § 2, 1987; Serial No. 95-33, § 6, 1995)

**49.20.260 Conditions of approval.**

The board may attach to a variance conditions regarding the location, character and other features of the proposed structures or uses as it finds necessary to carry out the intent of this title and to protect the public interest.

(Serial No. 87-49, § 2, 1987)

**49.20.270 Expiration and extensions of approval.**

Expiration and extensions of variances shall be governed by the procedures and standards established for development permits in chapter 49.15, article II.

(Serial No. 87-49, § 2, 1987)

**ARTICLE III. INTERPRETATIONS****49.20.300 Authorization to interpret.**

The board of adjustment is authorized to interpret the zoning map and the text of this title and to pass upon questions of lot lines or district boundary lines and similar questions presented by the department or a property owner directly concerned.

(Serial No. 87-49, § 2, 1987)

**49.20.310 Submittal.**

An application for a map or text interpretation shall be submitted to the board of adjustment by filing a copy of the application with the director in the department of community development. The application shall contain information sufficient to enable the board to make the necessary interpretation. The interpretation shall be scheduled for consideration by the commission. Individual mailed notice of boundary line interpretations shall be provided to adjacent property owners.

(Serial No. 87-49, § 2, 1987)

**49.20.320 Use not listed.**

After public notice and a hearing, the board may permit in any district any use which is not specifically listed in the table of permissible uses but which is determined to be of the same general character as those which are listed as permitted in such district. Once such determination is made, the use will be deemed as listed in the table of permissible uses.

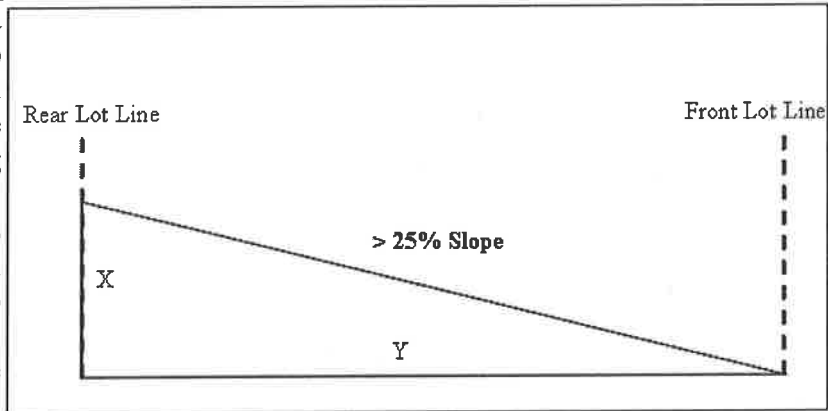
(Serial No. 87-49, § 2, 1987)

## Site Specific Setback Reductions

The Table of Dimensional Standards lists the setbacks (front, rear, side, and street side) defined for each zoning district. However, the Land Use Code provides a few setback reductions for specific lots which meet certain criteria. **Please keep in mind this is just an explanation. For the full section and all setback exceptions, please refer to CBJ 49.25.430.**

### Sloping Lots (§49.25.430(4)(F)):

If the natural gradient of a sloping lot (from front to rear) exceeds 25%\*\*\*, the front yard setback shall not be less than the established yard of a dwelling which occupies an adjoining lot. Accessory structures, such as garages and storage buildings, on adjoining lots cannot be used to establish the yard setback, and in no instance shall the setback be less than five feet to a lot line.



\*\*\*To calculate a percent slope, divide the elevation change in feet (X) by the depth of the property (Y) and multiply the resulting number by 100 to get a percentage value equal to the percent slope of the hill.

$$(X \div Y) \times 100 = \% \text{ Slope}$$

### Shoreline Properties (§49.25.430(4)(G)):

In any zoning district, yard setbacks are not required from tidewater lot lines.

### Substandard Lots (§49.25.430(4)(J)):

If the lot width, lot depth, or both are less than required in the Table of Dimensional Standards, the corresponding side or rear setbacks may be reduced to the same percentage that the lot width, depth, or both, bear to the zoning district requirements, except that in no case shall the side and rear yard setbacks be less than half those required by this chapter, or 5 feet, whichever is greater.

To calculate the required setbacks for substandard lots:

$$(\text{Existing Lot Width} \div \text{Required Lot Width}) \times \text{Required Side Yard Setback}$$

Example: *In a D-3 Zoning District*

|             | Existing | Required |
|-------------|----------|----------|
| Lot Width 1 | 40 feet  | 100 feet |
| Lot Width 2 | 76 feet  | 100 feet |

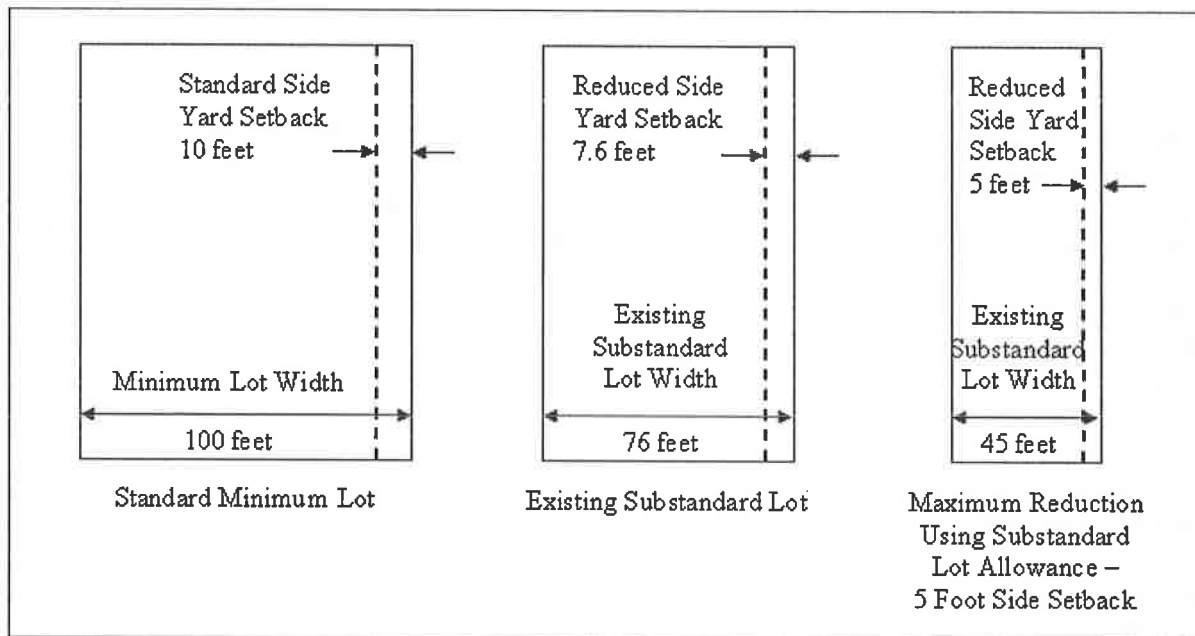
Side Setback required for a Standard Lot – 10 feet

To calculate the Rear Yard Setback:

$$(76 \text{ feet} \div 100 \text{ feet}) \times 10 \text{ feet} = 7.6 \text{ feet (greater than half required or 5 feet) so} = \underline{7.6 \text{ feet}}$$

To calculate the Side Yard Setback:

$$(40 \text{ feet} \div 100 \text{ feet}) \times 10 \text{ feet} = 4 \text{ feet (less than half required or 5 feet) so} = \underline{5 \text{ feet}}$$



Example of how side setbacks are reduced proportionally to a lot's substandard width.

**Existing Substandard Setbacks (§49.25.430(4)(K)):**

A new building may have a front yard setback equal to the average front yard setback of the 3 closest adjacent buildings using the following stipulations for the average calculation:

- The average calculation shall be made using 1 building per lot.
- If any of the 3 buildings used in the averaging calculation is located a greater distance from the required setback, then the required front yard setback for the zoning district shall be used in the calculation.
- An existing building located on the subject lot may be used as 1 of the 3 buildings to calculate the setback determination.
- The buildings used in averaging must be either conforming or legally nonconforming enclosed buildings or carports and have a wall or column height of at least seven feet measured from the finished grade.
- Porches, bay windows and temporary buildings allowed to project into setbacks cannot be used for averaging.
- In no instance shall the required setback be less than half that required by the Table of Dimensional Standards or 10 feet, whichever is greater.
- If there are fewer than 3 buildings within 500 feet of the subject property, then the required setback shall be the average of front yard setbacks those buildings within 500 feet, using a maximum of 1 building per lot.

**Carports and Garages (§49.25.430(4)(H)):**

A minimum setback of 5 feet from any property line shall apply to carports and garages in any residential zoning district if they meet all of the following criteria:

- The topography of the lot makes construction a hardship.
- The carport or garage has a maximum height of 17 feet measured from the finished garage floor level.
- The carport or garage has a maximum gross floor area of 600 square feet.
- The sight distance is approved by the director.
- The enclosed space directly under the garage shall be subject to the above setback exception, and no additional stories are allowed on top of the garage.

