

Submitted by: Assembly Chair Dan Coffey
Prepared by: Planning Department
Reviewed by: Assembly Counsel
For reading: August 28, 2007

CLERK'S OFFICE
AMENDED AND APPROVED
Date: 8-25-07

Anchorage, Alaska
AO 2007-117

AN ORDINANCE AMENDING ANCHORAGE MUNICIPAL CODE SECTION 21.15.010, GOVERNING THE PROCEDURES AND STANDARDS FOR ZONING VARIANCES, AND SETTING THE MAXIMUM FEE FOR SINGLE FAMILY RESIDENTIAL VARIANCE APPLICATIONS.

Section 1. Anchorage Municipal Code section 21.15.010 is hereby amended as follows:
(Language not amended is set out for context)

21.15.010 Procedure for obtaining variance.

A. *Generally.* Except as provided in Section 21.15.012, an application for a variance is subject to this section. Any variance shall be the minimum variance that will make possible a reasonable use of the land equivalent to, but not exceeding, the use of similar land permitted generally in the same zoning district. A variance from the floodplain regulations must be in accordance with Chapter 21.60. A variance from the airport height zoning regulations must be substantiated by a finding of "no hazard" by the Federal Aviation Administration upon completion of an airspace determination and a recommendation from the municipal airports aviation advisory commission.

B. *Application.* An application for a variance shall be submitted to the secretary of the board on a form prepared by the municipality.

1. An application for a variance to the Zoning Board of Examiners and Appeals shall include either:
 - a. An as-built survey, no less than two years old by date of application, with an original signature and seal by a registered professional land surveyor in the State of Alaska; or
 - b. A plot plan survey, no less than two years old by date of application, with an original signature and seal by a registered professional land surveyor, licensed in the State of Alaska;.
 - c. The as-built or plot plan survey drawing shall clearly show current existing conditions.
2. If the application involves new construction or demolition, the as-built survey shall clearly show the extent of the proposed changes.

3. The as-built survey or plot plan shall be drawn to scale, be clear, legible, show all structures existing on-site at the time of application, including eaves, cantilevers or any structures 30 inches or more above ground, and show detailed dimensions of the item for which relief is sought.
4. The basis for lot measurements shall be identified on the as-built survey or plot plan.
5. The as-built or plot plan shall also include, at a minimum, the legal description of the petition site, lot square footage, dedicated easements and abutting rights-of-way, include a directional arrow to the north, scale of map, grid number and date of survey.
6. As-built surveys submitted shall be no more than two years old at the time of application, and shall meet or exceed the most recently adopted "Alaska Society of Professional Land Surveyors Minimum Standards for the Practice of Land Surveying."
7. The Planning Director may request other drawings or material essential to an understanding of the application and its relationship to the surrounding properties, including:
 - a. Site contours or a clear depiction of ground slope, if slope is a consideration in the review;
 - b. Location of adjacent structures, if fire/safety issues are a consideration;
 - c. Height of structures; and
 - d. Any other data that will assist in the review.

C. A request for variance may be initiated only by the property owner or [HIS] authorized representative. The application must state with particularity the relief sought and must specify the facts or circumstances that are alleged to show that the application substantially meets the following standards:

1. With respect to variances from the zoning regulations other than the airport height zoning regulations set forth at Chapter 21.65:
 - a. There exist exceptional or extraordinary physical circumstances of the subject property such as, but not limited to, streams, wetlands, or slope, [SPECIAL CONDITIONS EXIST WHICH ARE PECULIAR TO THE LAND INVOLVED] and such

1 physical circumstances [WHICH] are not applicable to other
2 land in the same district;

3
4 b. Because of these physical circumstances, the strict application
5 of this code would create an exceptional or undue hardship
6 upon the property owner, and [STRICT INTERPRETATION
7 OF THE PROVISIONS OF THE ZONING ORDINANCE]
8 would deprive the applicant of rights commonly enjoyed by
9 other properties in the same district under the terms of the
10 zoning ordinance;

11
12 c. The hardship is not self-imposed, and [S]special conditions and
13 circumstances do not result from the actions of the applicant
14 and such conditions and circumstances do not merely constitute
15 [PECUNIARY HARDSHIP OR] inconvenience;

16
17 d. The variance, if granted, will not adversely affect the use of
18 adjacent property as permitted under this code [GRANTING
19 THE VARIANCE WOULD BE IN HARMONY WITH THE
20 OBJECTIVES OF THE ZONING ORDINANCE AND NOT
21 INJURIOUS TO THE NEIGHBORHOOD OR OTHERWISE
22 DETRIMENTAL TO THE PUBLIC WELFARE];

23
24 e. The variance, if granted, is in keeping with the intent of this
25 code, will not change the character of the zoning district in
26 which the property is located, and [GRANTING THE
27 VARIANCE] will not permit a use that is not otherwise
28 permitted in the district in which the property lies; [AND]

29
30 f. The variance, if granted, does not adversely affect the health,
31 safety, and welfare of the people of the Municipality of
32 Anchorage; and

33
34 g [f]. The variance granted is the minimum variance that will make
35 possible a reasonable use of the land.

36
37 2. With respect to variances to the subdivision regulations:

38
39 a. There are special circumstances or conditions affecting the
40 property such that the strict application of the provisions of the
41 subdivision regulations would clearly be impractical,
42 unreasonable or undesirable to the general public;

43
44 b. The granting of the specific variance will not be detrimental to
45 the public welfare or injurious to other property in the area in
46 which such property is situated;

c. Such variance will not have the effect of nullifying the intent and purpose of the subdivision regulations or the comprehensive plan of the municipality; and

d. Undue hardship would result from strict compliance with specific provisions or requirements of the subdivision regulations. The applicant may supplement the form with supporting documents.

3. With respect to variances from the airport height zoning regulations set forth at Chapter 21.65: the Federal Aviation Administration has completed an airspace determination which concludes that the proposed variance would not create a hazard.

4. With respect to variances for the number of parking spaces: The application shall demonstrate the number of parking spaces needed by the applicant and that spillover of parking onto other properties will be avoided if the variance is granted.

D [C]. *Public hearing.* Before a variance application is acted upon, there shall be a public hearing on the application.

E [D]. *Standards.* Unless otherwise specified by ordinance, the standards to be applied to the consideration of a variance request shall be as set forth in subsection B of this section.

F [E]. *Approval.*

1. The board empowered to hear the request for the variance shall conduct an inquiry designed to find whether all the standards for issuance of the variance have been met. The board must make general findings of fact sufficient to support its decision as specified in subsection B of this section. A concurring vote of a majority of the fully constituted membership of the board shall be required to grant a variance.

2. In granting any variance each board may prescribe conditions and safeguards to ensure conformity with the purpose and intent of all relevant planning and land use ordinances. Violation of any such condition or safeguard, when made a part of the terms of the variance, shall be deemed an unlawful act and shall act to void the variance.

3. Any variance granted shall become null and void:

a. if the variance is not exercised within one year or as otherwise conditioned of the date it is granted, or

- b. if any building, structure or characteristic of use permitted by variance is moved or altered so as to enlarge the variance or discontinue it.

[E.] [RESERVED.]

G [F]. *Appeals.* An appeal from a decision of the platting board shall be brought in accordance with Sections 21.30.010 through 21.30.100. An appeal from a decision of the zoning board of examiners and appeals shall be brought in accordance with Section 21.30.180.

[G. VARIANCE FOR NUMBER OF PARKING SPACES. A VARIANCE FOR THE NUMBER OF PARKING SPACES SHALL BE GRANTED ON THE BASIS OF THE DEMONSTRATED NEED FOR PARKING AND IF THE SPILLOVER OF PARKING ONTO OTHER PROPERTIES WILL BE AVOIDED.]

(GAAB 21.05.080.F, 21.10.060; AO No. 79-169; AO No. 85-21; AO No. 85-160, 1-8-86; AO No. 86-63; AO No. 89-30; AO No. 99-131, § 3, 10-26-99; AO No. 2003-150, § 1, 12-17-03)

~~Section 2. The maximum fee for a single family residential variance application under 21.15.010 shall be \$ _____.~~

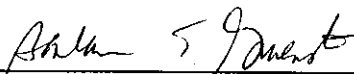
Section [3]2. Anchorage Municipal Code section 21.10.015 notwithstanding, this ordinance shall not require Planning Commission review.

Section [4]3. This ordinance shall be effective immediately upon passage and approval by the Anchorage Assembly.

PASSED AND APPROVED by the Anchorage Assembly this 25th day of September 2007.

ATTEST:


Chair


Municipal Clerk



MUNICIPALITY OF ANCHORAGE
ASSEMBLY INFORMATION MEMORANDUM
NO. AIM 92-2007

Meeting Date: September 25, 2007

From: Assemblymember Coffey

Subject: Summary of Economic Effects for AO 2007-117

Attached to this memo is the Summary of Economic Effects for Ordinance No. 2007-117
AN ORDINANCE AMENDING ANCHORAGE MUNICIPAL CODE SECTION 21.15.010,
GOVERNING THE PROCEDURES AND STANDARDS FOR ZONING VARIANCES, AND
SETTING THE MAXIMUM FEE FOR SINGLE FAMILY RESIDENTIAL VARIANCE
APPLICATIONS.

Prepared By: Guadalupe Marroquin, Election & Budget Coordinator
Reviewed By: Barbara E. Gruenstein, Municipal Clerk
Submitted By: Assemblymember Coffey

MUNICIPALITY OF ANCHORAGE

Summary of Economic Effects -- General Government

AN ORDINANCE AMENDING ANCHORAGE MUNICIPAL CODE SECTION
21.15.010, GOVERNING THE PROCEDURES AND STANDARDS FOR ZONING
VARIANCES, AND SETTING THE MAXIMUM FEE FOR SINGLE FAMILY
RESIDENTIAL VARIANCE APPLICATIONS .

AO Number: 2007-117

Title:

Sponsor: Assemblymember Coffey
Preparing Agency: Department of Assembly
Others Impacted: Zoning Board of Examiners, Platting Board

CHANGES IN EXPENDITURES AND REVENUES:

(In Thousands of Dollars)

	FY07	FY08	FY09	FY10	FY11
Operating Expenditures					
1000 Personal Services	\$ -	\$ -	\$ -	\$ -	\$ -
2000 Non-Labor	-	-	-	-	-
3900 Contributions	-	-	-	-	-
4000 Debt Service	-	-	-	-	-
TOTAL DIRECT COSTS:	\$ -	\$ -	\$ -	\$ -	\$ -
Add: 6000 Charges from Others	\$ -	\$ -	\$ -	\$ -	\$ -
Less: 7000 Charges to Others	-	-	-	-	-
FUNCTION COST:	\$ -	\$ -	\$ -	\$ -	\$ -

REVENUES:

CAPITAL:

POSITIONS: FT/PT and Temp

PUBLIC SECTOR ECONOMIC EFFECTS:

Maximum fees for single family variance application is not available, which prevents estimate of economic impact. At this time, there appears to be no public sector costs, either increased revenue from fines or additional cost to the municipality, greater than \$30,000 associated with this ordinance; therefore no Summary of Economic effects is required. Anchorage Municipal Code Section 2.30.050 B.1.b.i.

PRIVATE SECTOR ECONOMIC EFFECTS:

Maximum fees for single family variance application is not available, which prevents estimate of economic impact. At this time, there appear to be no public sector costs greater than \$30,000 associated with this ordinance; therefore no Summary of Economic effects is required. Anchorage Municipal Code Section 2.30.050 B.1.b.i.

Prepared by: Guadalupe Marroquin, Election & Budget Coordinator
Reviewed by: Barbara E. Gruenstein, Municipal Clerk

Telephone: 343-4376
Telephone: 343-4312

2007 SEP 25 AM 8:36

M.O.A.

Municipality of Anchorage
MUNICIPAL CLERK'S OFFICE
Agenda Document Control Sheet

AO 2007-117

(SEE REVERSE SIDE FOR FURTHER INFORMATION)

1	SUBJECT OF AGENDA DOCUMENT	DATE PREPARED	
	AMEND AMC 21.15.010 GOVERNING THE PROCEDURES	8/17/07	
	AND STANDARDS FOR ZONING VARIANCES AND		
	SEETING THE MAXIMUM FEE FOR VARIANCE	Indicate Documents Attached <input checked="" type="checkbox"/> AO <input type="checkbox"/> AR <input type="checkbox"/> AM <input type="checkbox"/> AIM	
	APPLICATIONS		
2	DEPARTMENT NAME	DIRECTOR'S NAME	
	Assembly	Dan Coffey, Assembly Chair	
3	THE PERSON THE DOCUMENT WAS ACTUALLY PREPARED BY	HIS/HER PHONE NUMBER	
	Julia Tucker, Assembly Counsel	343-4419	
4	COORDINATED WITH AND REVIEWED BY	INITIALS	DATE
	Mayor		
	Municipal Clerk		
	Municipal Attorney		
	Employee Relations		
	Municipal Manager		
	Anchorage Parks & Recreation		
	Fire		
	Health & Human Services		
	Merrill Field Airport		
	Municipal Light & Power		
	Office of Management and Budget		
	Police		
	Port of Anchorage		
	Office of Economic & Community Development		
	Solid Waste Services		
	Public Transportation		
	Anchorage Water & Wastewater Utility		
	Executive Manager		
	Planning Department		
	Chief Fiscal Officer		
	Heritage Land Bank		
	Information Technology Department		
	Project Management & Engineering		
	Purchasing		
	Other		
5	Special Instructions/Comments		
	Consent Agenda-Introduction		
6	ASSEMBLY HEARING DATE REQUESTED	7	PUBLIC HEARING DATE REQUESTED
	8/28/07		9/25/07

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 CLERK'S OFFICE
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