

**PLANNING & ZONING COMMISSION
SPECIAL MEETING NOTICE**

**Please note the special time and date of this meeting: Tuesday at 5:00 p.m. in the
City Hall Council Chambers**

**- AGENDA -
120 Freeman Drive
Tuesday, July 18, 2017
5:00 p.m.**

**The meeting will be followed by a regular meeting of the City Council
beginning at 6:30 p.m., with workshop at 6:00 p.m.**

The public is invited and encouraged to attend

1. CALL TO ORDER:
2. PLEDGE TO FLAG:
3. ROLL CALL:
4. APPROVAL OF AGENDA:
5. PUBLIC COMMENTS:
6. COMMISSION COMMENTS:
7. PUBLIC HEARING VARIANCE:
 - A. Public Hearing Harvey & Brenda McDonald, Variance Application, 17-06-22-01, 902 Bayview Court, Lot 2, Block 7, Thorne Bay Alaska, discussion and action item:
Variance application request for permitting a 2.8-foot setback from property lines; where City Code requires 5-foot setback from road right-of-way, PUBLIC HEARING

During a Public Hearing, the Applicant will have 10 Minutes to present his request to the Planning Commission. After Applicants introduction, the Commission will have the opportunity to ask questions of the applicant. The Mayor will then open the floor for Public Comments (comments must be relevant to the variance application only). Each person from the public that requests to comment will have 3 minutes to present their comments or questions. The applicant must wait until all public testimony has been heard and the Mayor opens the floor to the Applicant before answering any questions or comments made during the public hearing. After all public testimony is heard the Applicant will have 10 minutes to respond to comments from the Public testimony. The Mayor will then close the floor to public comments and open to commission discussion and review of the application.

8. NEW BUSINESS:
 - A. Resolution PZ-17-07-18-01, a resolution of the City Council, acting as the Planning Commission for the City of Thorne Bay, approving Variance Application No. 17-06-22-01 – for Harvey & Brenda McDonald, discussion and action item:

The Commission will use this time to determine if the required criteria for approving a variance application has been met. All resolutions are in the positive, therefore approval of this resolution will mean that the Commission has approved the Variance Application, permitting a 2.10-ft. setback from lot line. Failure of this resolution will result in denial of the Variance Application, requiring the Applicant to follow the development setbacks as written in the Thorne Bay Municipal Code.

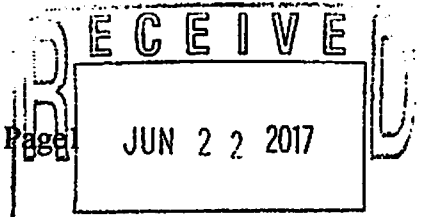
9. COMMISSION COMMENTS:
10. PUBLIC COMMENTS:
11. ADJOURNMENT:

Posted: July 7, 2017: City Hall (2), Alaskan & Proud, Thorne Bay School, Forest Service, The Port, Riptide Liquor, SISD and Tackle Shack, www.thornebay-ak.gov

City of Thorne Bay

VARIENCE APPLICATION

Var Page 1



File Number <u>17-06-22-1</u>	File Name <u>Harvey McDonald</u>	City of Thorne Bay
Date Received <u>6/22/17</u>	By <u>TF</u> Fee (\$25)	16.16.010.A.1
Hearing Date <u>7/18/17</u>	Notice Deadline <u>7/08/17</u>	(10 days)
Application is for: Subdivision _____	Zoning <u>X</u>	
Reviewed by: Public Works	Meeting at least 21 days after filing <u>YES</u>	

Applicant Name: Harvey McDonald
 Address: 902 Bay View Ct. Phone 907-254-1245
 Email/Contact Info hemcdo@gmail.com
 Agent: _____ Phone _____

I certify that I am the legal owner of the property submitted for a variance.

Signed Harvey McDonald Date 6-22-17

VARIENCE is to permit construction about 2.2 feet into the lot line set-back
 Where City Code requires 5 foot set-back along lot line

17.04.044 Variance procedure. A variance is a tool that gives an applicant relief from the strict application of the zoning title. It will permit a justifiable exemption or exception to the development requirements...when their imposition would result in unnecessary hardship or practical difficulties.

Zoning limits the use of property and structures. A variance can lessen some of the limits that zoning imposes. To be granted a variance, the applicant must show how the zoning title impedes development on his/her property more than it would on other property within the same zone. In other words, the applicant is responsible for showing how the strict application of the zoning title will hurt him/her more than other land owners within the same zone.

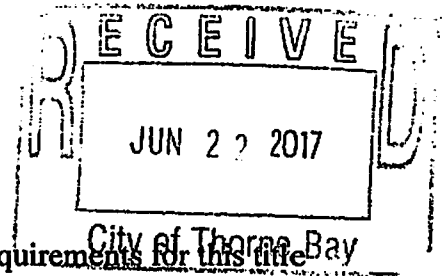
What physical conditions exist that make the variance necessary?

To put a 12'x12' addition on our residence the lot line set-back needs to be encroached by 2.2 foot.

What hardship will occur by conforming to the provisions of Code?

The constructed apartment would be too small for occupancy.

Planning Commission Action: Approved _____ Denied _____ Date: _____ Clerk _____



STANDARDS:

16.36.010 Platting variance requirements. A variance from the requirements for this title may be granted only if the following conditions are met:

- A. The granting of a platting variance will not be detrimental to the public health, safety or welfare, or injurious to adjacent property.
- B. The conditions upon which the platting variance is based do not apply generally to the properties other than the property for which the variance is sought.
- C. The tract to be subdivided is of such unusual size and shape or topographical configuration that strict application of the requirements of this title will result in undue and substantial hardship to the owner of the property.
- D. Implementation of the variance will not cause a violation of a state fire regulation adopted pursuant to AS 18.70.080. (Ord. 87-01 § 11(part), 1987)

17.04.044 A. Acquired Criteria for Approval.

1. That there are exceptional physical conditions or circumstances on the property or that would relate to its intended use or development that make the variance necessary; *Developing a small apartment for us when the house becomes my son's property. Property side boundary lines narrows in the front where the addition is to be built, therefore causing the addition to encroach into the setback by 2.2 feet. If the property line was not as narrow, the building would not encroach into the required 5 foot setback.*

2. That the particular conditions or reasons that require the variance are not caused by the person requesting the variance; *City set-back requirements along lot line. The request for a variance is due to the current zoning setback requirement of 5 feet from lot lines. The original home owner's placement of this house was in such a manner that makes it difficult to provide for additional living quarters (as permitted in the uses for Residential/Commercial 1), without encroaching into the setback.*

3. That the strict application of the provisions of this title would result in unnecessary hardship; *The designed apartment would not be large enough for two people. The strict application of the 5 foot setback requirement and not being granted this variance request, would result in a hardship as it would minimize the living space for my wife and I.*

4. That approval of the variance would not be detrimental to the health, safety and welfare of other properties in the vicinity; *About half of the set-back would be effected. The approval of this variance would not be detrimental to the health, safety or welfare of any person or property within the area. Allowing the variance will still leave a setback of about 2 foot 9 inches from the lot line. This variance will not prohibit emergency access to the properties in this area.*

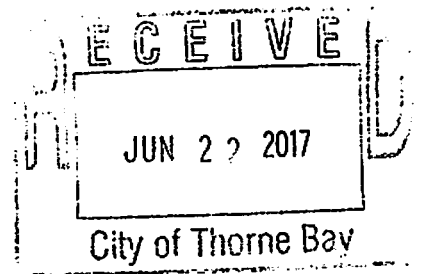
5. That the variance will not allow a land use in a zone that prohibits that particular land use; *Land use for Residential/commercial 1 will not be violated. The apartment is a permitted use within the Residential/Commercial 1 Zone. The variance is for a setback encroachment.*

6. That approval of the variance is consistent with the comprehensive plan; The variance would remain consistent with the comprehensive plan. It stays with the Residential/commercial 1 standards.

7. That the variance is not requested because of monetary considerations or inconvenience. The change is needed to provide room for us when the property is turned over to our son. The variance is not requested because of monetary considerations or inconvenience. The request is requested due to restricted building size when the property is turned over to my son.

C. Notification.

1. Notification of variance application shall be made by first class mail to surrounding property owners which will consist of adjacent property owners and property owners located across rights-of way or alleys, no less than ten calendar days from the planning commission hearing.



THORNE BAY DEVELOPMENT PLAN APPLICATION
Thorne Bay Municipal Code 15.04.020

RECEIVED

JUN 27 2017

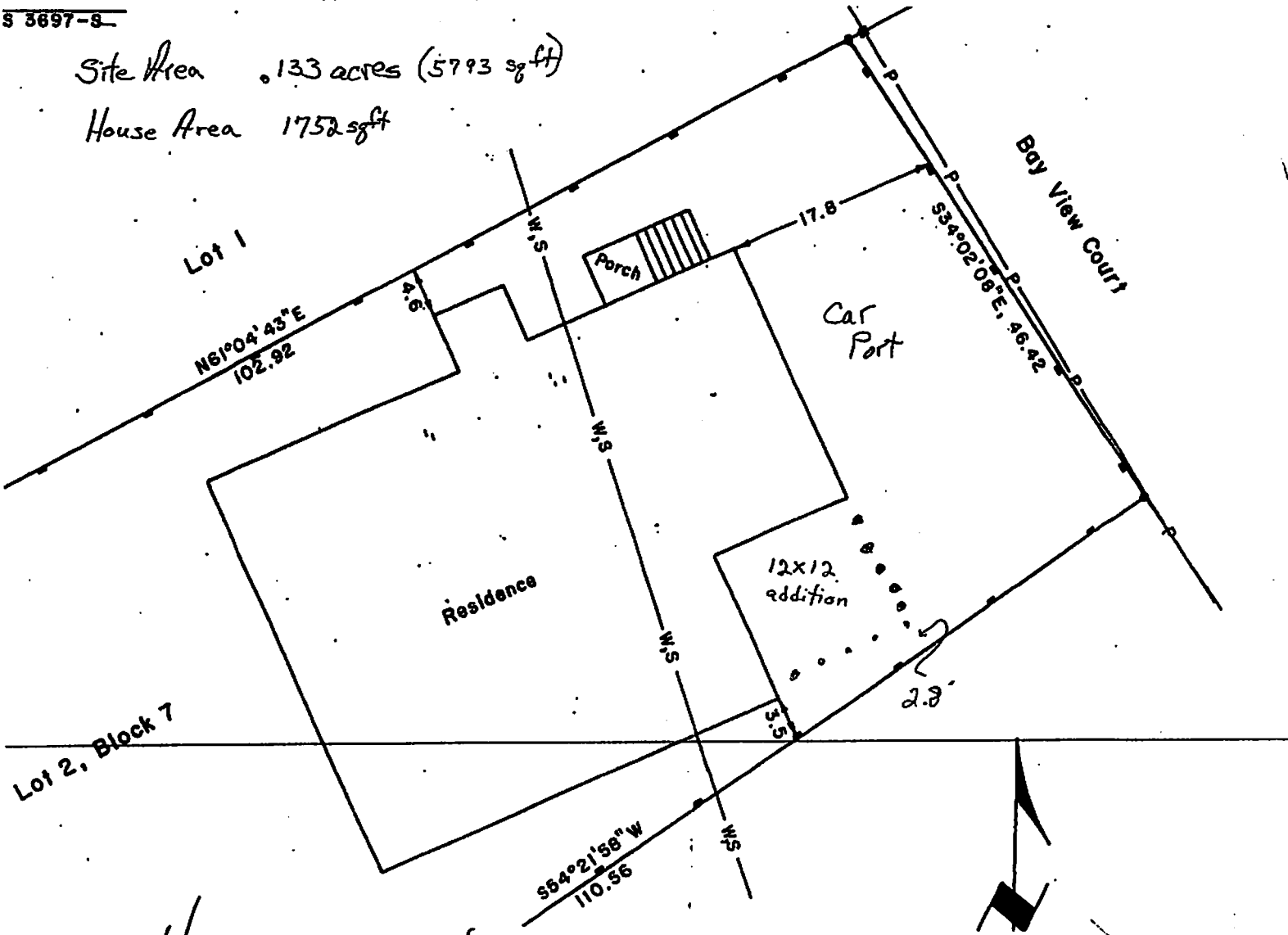
OWNER (Please Print) Harvey and Brenda McDonald City of Thorne Bay
 ADDRESS/LEGAL DESCRIPTION 902 Bayview Ct Lot 2 Block 7 A.S.T.S # 82-139
 ZONING AND SETBACKS Mixed residential/Commercial I 5' lot lines 10' Rd ROW

Use the space below to draw a map of the site, providing the following information as listed below and in Thorne Bay Municipal Code 15.04.020. The State of Alaska Department of Commerce aerial maps with property lines are a useful tool to assist with developing the map.

- All boundary lines (lot lines) of the site, including the dimensions.
- All roads and easements – public and private – that provide access to or through the site.
- All easements, utilities, bodies of water, existing drainages.
- All existing structures and proposed structures, their dimensions and their setbacks from ALL property lines.
- All other information if applicable such as, sewer and water hookup, water meter and septic system.

§ 3697-8

Site Area .133 acres (5793 sq ft)
 House Area 1752 sq ft



Owner Harvey McDonald Date 6-22-17
 (Signature) _____

P.O. Box 19
Thorne Bay, AK 99919

June 26, 2017

RE: Variance Application, McDonald, Harvey, 902 Bayview Court, ASLS 82-139

Thorne Bay Municipal Code Title 17.04.044 (C) requires the City to notify adjacent and across right-of-way property owners when a variance application has been received by the Planning & Zoning Commission.

Harvey & Brenda McDonald, who own lot 2, block 7 (Bayview Court), has requested a variance so that he may build closer to the road than the set-back requirement in **Residential/Commercial I** allows. The section of code that Mr. McDonald is requesting a variance for is 17.04.024 (F)(4).

A public hearing will be held on **July 18, 2017, at 5:00 P.M.** at a Special Meeting of the City Council, sitting as the Planning & Zoning Commission. If you have any questions or concerns in this matter, please attend the meeting and let your voice be heard.

17.04.060 Appeals. A. Due Process. This section guarantees the public due process in all land use actions. An administrative decision regarding a development permit may be appealed to the planning commission, decisions of the planning commission/platting board may be appealed to the city council sitting as the board of adjustment, and decisions of the city council may be appealed to the Superior Court of the state of Alaska. A written notice of appeal must be filed with the city clerk within thirty days after the decision being appealed is announced in writing.

If you have any questions please contact Teri Feibel, City Clerk, (907) 828-3380 or cityclerk@thornebay-ak.gov.

Thank you,

Teri Feibel, CMC
City Clerk

**Additional Information regarding Variance Application No. 17-06-22-01,
McDonald, Harvey, 902 Bayview Court, A.S.L.S. 82-139**

-Overview-

Thorne Bay Municipal Code Title 17.04.044 (C) requires the City to notify adjacent and across right-of-way property owners when a variance application has been received by the Planning & Zoning Commission.

Harvey & Brenda McDonald, who own lot 2, block 7 (Bayview Court), has requested a variance so that he may build closer to the road than the set-back requirement in **Residential/Commercial I** allows. The section of code that Mr. McDonald is requesting a variance for is 17.04.024 (F)(4).

A public hearing will be held on **July 18, 2017, at 5:00 P.M.** at a Special Meeting of the City Council, sitting as the Planning & Zoning Commission.

-Municipal Code 17.04.024 - Residential/Commercial I Zoning-

17.04.024 Mixed residential/commercial I. The purpose of this zone is to maintain property values and to provide for aesthetically pleasing neighborhoods by permitting single-family houses, duplexes and modular homes with a limited range of compatible uses.

Section 15.04.020 stipulates that "Development Plans" are required of All building to make the public aware of setback requirements and eliminate building encroachments into right-of-way, easements and other properties. (Ord. 16-01-05-02)

A. Permitted Uses. Permitted uses are uses allowed in the zone without special permitting.

1. Single-family houses or duplex;
2. Modular homes or modular duplex;
3. Home occupation or business;
4. Office in home;
5. Accessory buildings for private/residential uses such as garage, shed, private storage of a recreational vehicle, travel trailer, recreational boat, truck;
6. Visiting travel trailer or motor home occupied by guest's accessory to a residence up to forty-five days;
7. Basic services (services and facilities which are necessary for development. They include power lines, water lines, sewer lines, pump/lift stations, power/telephone poles and other low impact facilities of the same character to provide for utilities).
8. Up to two living units, not to exceed 1500 square feet each, attached to a permitted or conditionally approved commercial uses, and one living unit not to exceed 1500 square feet, detached but not used in association with permitted or conditionally approved commercial uses.

**Additional Information regarding Variance Application No. 17-06-22-01,
McDonald, Harvey, 902 Bayview Court, A.S.L.S. 82-139**

- d. All easements on the property;
- e. Location of all existing and proposed buildings on the property and their approximate distance from the lot lines;
- f. Sewer and water lines and power poles serving the property.

C. Notification.

1. Notification of variance application shall be made by first class mail to surrounding property owners which will consist of adjacent property owners and property owners located across rights-of way or alleys, no less than ten calendar days from the planning commission hearing.

2. The notice shall contain:

- a. The name of the applicant;
- b. Date, time and place of hearing;
- c. A description of the location of the property and the legal description of the property if available;
- d. A description of the character and purpose of the variance;
- e. The reference number of the sections of the title which pertain to the application;
- f. An explanation of the appeal process.

3. Notices shall be sent to the most current address on the city's utility listing or city records, and if no address can be found, the most current property owner listed in the State Recording Office. The failure of a property owner to receive a notice shall not void a planning commission decision if a good faith attempt to contact the current property owner was made.

4. A copy of the property owner notification list shall be kept in the file along with a notarized affidavit that letters have been sent.

5. A copy of the resolution approving or denying the variance shall be sent to the applicant and to any other person who requests a resolution in writing.

Resolutions denying an application shall be mailed within five days of the date of the decision and will explain the appeal process.

D. Reviewing Body.

1. The reviewing body will be the planning commission.

2. All formal actions of the reviewing body shall be made by a resolution conforming to the standards of Section 2.48.080 and shall address all required criteria for approval.

E. Appeals.

1. Appeals of the planning commission decision may be made to the city council within thirty days of the postmark of the notification of the decisions. Appeals must be made in writing.

(Ord. 93-23 § 6(part), 1993)

**Additional Information regarding Variance Application No. 17-06-22-01,
McDonald, Harvey, 902 Bayview Court, A.S.L.S. 82-139**

F. Property Development Standards.

1. Minimum lot size: four thousand five hundred square feet.
2. Minimum lot width: forty feet.
3. Parking: to the maximum extent possible, all parking will be off-street and on the premises. Dwelling units, including new apartments, duplex, triplex or multifamily completed after the adoption of this title shall provide off-street parking as required in Section 17.04.041.
4. **Setbacks: five feet from all lot lines and ten feet from road rights-of-ways. In addition, development on corner lots shall not impede vehicular visibility.**
5. Building heights: thirty-five feet.
6. Density:
 - a. For separate single-family dwellings:
 - i. Four thousand five hundred square feet for each single-family dwelling structure.
 - ii. No more than one single-family dwelling structure permitted per lot without the submission of a plot plan conforming to the applicable standards of Section 16.20.010, Preliminary plats.
 - iii. For uses other than residential, no more than one principal structure.
 - iv. No subdivision allowed.
 - b. For duplex and multifamily dwelling structures:
 - i. Four thousand five hundred square feet for each multifamily dwelling structure or duplex, and four thousand five hundred square feet for each additional single-family structure.
 - ii. Four thousand five hundred square feet for each additional multifamily structure.
 - iii. No more than one single or multifamily dwelling structure permitted per lot without the submission of a plot plan conforming to the applicable standards of Section 16.20.010, Preliminary plats.
 - c. Maximum lot coverage: fifty percent of the lot area.
 - d. Temporary structures are not subject to Section 17.04.024(F)(6)(c).

7. Fences, Walls and Hedges. Property line fences, walls and hedges may occupy a portion of a yard and be built up to the property line with a six foot maximum height limit. Fences shall not obstruct vehicular visibility. (Ord. 99-26 § 6(part), 1999; Ord. 93-23 § 6(part), 1993)

-Municipal Code 17.04.044 – Variance Procedure-

17.04.044 Variance procedure. A variance is a tool that gives an applicant relief from the strict application of the zoning title. It will permit a justifiable exemption or exception to the development requirements of the title when their imposition would result in unnecessary hardship or practical difficulties.

**CITY OF THORNE BAY - PLANNING COMMISSION
RESOLUTION PZ-17-07-18-01**

A RESOLUTION OF THE CITY COUNCIL ACTING AS THE THORNE BAY PLANNING COMMISSION FOR THE CITY OF THORNE BAY, ALASKA, SUPPORTING THE VARIANCE REQUEST, FILE NUMBER 17-06-22-01, Permitting a 2.10-foot setback from the property lot line, where City Code requires 5-foot setback from lot line

WHEREAS, the Planning Commission serves city-wide functions of planning, platting and zoning for the city, and to advise the chief executive officer and city council of them; and

WHEREAS, the City Council, acting as the Thorne Bay Planning Commission, held a public hearing on July 18, 2017 at 5:00 p.m., to consider a request by Harvey & Brenda McDonald for a Variance to permit a setback of 2.10-feet from lot line, where the Thorne Bay Municipal Code 17.04.024-Residential/Commercial I Zone, requires a setback of 5-feet from lot line, file number 17-06-22-01; and

WHEREAS, the City Council, acting as the Thorne Bay Planning Commission, has answered the following required criteria for approval (Thorne Bay Municipal Code 17.04.044 (A) of the Variance as follows:

- 1. That there are exceptional physical conditions or circumstances on the property or that would relate to its intended use or development that make the variance necessary;**
- 2. That the particular conditions or reasons that require the variance are not caused by the person requesting the variance;**
- 3. That the strict application of the provisions of this title would result in unnecessary hardship;**
- 4. That approval of the variance would not be detrimental to the health, safety and welfare of other properties in the vicinity;**
- 5. That the variance will not allow a land use in a zone that prohibits that particular land use;**
- 6. That approval of the variance is consistent with the comprehensive plan;**
- 7. That the variance is not requested because of monetary considerations or inconvenience;**
- 8. That the variance request is for work yet to be performed.**

NOW, THEREFORE, BE IT RESOLVED, that the City Council acting as the Planning Commission of the City of Thorne Bay approves Variance Application No. 17-06-22-01 permitting a 2.10-foot setback from lot line.

PASSED AND APPROVED BY THE CITY COUNCIL ACTING AS THE PLANNING COMMISSION ON July 18, 2017.

**_____
James Gould, Mayor**

ATTEST:

**_____
Teri Feibel, City Clerk/Treasurer**