

City and Borough of Sitka
PLANNING & ZONING COMMISSION
Minutes of Meeting
May 6, 2008

Present: Don Alexander, Richard Parmelee, Jeremy Twaddle, Planning Director
Wells Williams, Planner Sara Russell, and Secretary Ptarmica
McConnell.

Absent: Larry Crews and Brian McNitt

Members of the Public: Joanne Lott, Cliff Richter, Dennis Allen, Fred Reeder, Ann
Carlson, Calvin Carlson, Duck Didrickson, Katherine Williams,
Ernie Karras, Roxanne Didrickson, Margaret Peterson, Kirk
Payne, Anne Pollnow, Joe Doriento, Matthew Hunter, Jim
Scholz, Craig Giammona (Sitka Sentinel).

The Chair called the meeting to order at 7:00PM.

Consideration of Minutes from the April 15th, 2008 meeting:

MOTION: M/S Twaddle/Parmelee moved to approve the minutes from the April
15th, 2008 meeting.

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

The evening's business:

**BIHA VARIANCE REQUEST
INCREASE MAXIMUM ALLOWABLE HEIGHT OF AN
ACCESSORY STRUCTURE FROM 16 TO 19 FEET
100 INDIAN RIVER ROAD
BARANOF ISLAND HOUSING AUTHORITY**

Public hearing and consideration of a variance request to increase the maximum allowable height of an accessory structure from 16 feet to 19 feet. The request is filed by Baranof Island Housing Authority for 100 Indian River Road. The property is also known as Lot 3AA of the Indian River Subdivision.

Ms. Russell reported that earlier this spring Baranof Island Housing Authority (BIHA) started the construction of their two 4-plex buildings at the corner of Indian River Road and Sawmill Creek Road. Construction was also started on an accessory structure, however, stopped when it was realized that a variance was needed for the height of the structure.

Looking at the 4-plex structures from Indian River Road, the proposed accessory structure, a maintenance building is located behind the two 4-plexes. The code allows for a maximum height of 16 feet for an accessory structure. BIHA is requesting a variance to allow for an increase to 19 feet.

The maintenance building is 884 square feet-34 feet wide x 26 feet long.

On the side of the property where this building will be located there is a definite grade difference between it and the adjacent properties on Kaasda Heen Circle.

There have been no comments received from the adjacent property owners. This a straight forward request.

Joanne Lott and Cliff Richter came forward to represent BIHA in this request.

Mr. Williams explained that this item was caught while going through the building permit process, and that there are at least 2-3 other variance requests for “other” building.

There was no public comment.

MOTION: M/S Parmelee/Twaddle moved to approve the variance request to increase the height of BIHA’s maintenance building located at 100 Indian River Road to 19 feet.

ACTION: Motion **PASSED 3-0** on a voice vote.

MOTION: M/S Parmelee/Twaddle moved to approve the following findings:

1. There are special circumstances to the intended use that do not apply generally to the other properties;
2. The variance is necessary for the preservation and enjoyment of a substantial property right or use possessed by other properties but are denied to this parcel;
3. The granting of such a variance will not be materially detrimental to the public welfare or injurious to the property nearby parcels of public infrastructure;
4. The granting of such a variance will not adversely affect the Comprehensive Plan. Comprehensive Plan Policy 2.4.1 states it is the policy of the City and Borough of Sitka to guide the orderly and efficient use of private and public land in a manner that does not infringe on the rights of private land owners.

ACTION: Motion **PASSED 3-0** on a voice vote.

ALLEN VARIANCE REQUESTS

- 1) **INCREASE THE HEIGHT OF THE EXISTING HOME TO 27 FEET**
- 2) **REDUCE THE REAR SETBACK TO 5 FEET**
- 3) **REDUCE THE NORTHWEST SIDE SETBACK TO 7 FEET**
- 4) **REDUCE THE FRONT SETBACK TO 7 FEET**

**336 KAAGWAANTAAN STREET
DENNIS ALLEN**

Public hearing and consideration of variance requests filed by Dennis Allen at 336 Kaagwaantaan Street. The requests are to 1) increase the height of the existing home, a legal nonconforming structure, from 19 feet to 27 feet, 2) reduce the rear setback to 5 feet, 3) reduce the northwest side setback to 7 feet, and 4) reduce the front setback to 7 feet. The property is also known as Lot 1 of the Allen/Carlson Subdivision.

Ms. Russell explained that Mr. Allen was before the board last spring with a request to replat his property along with two adjacent property owners. The subdivision was approved and recorded.

The applicant's home is a legal nonconforming structure. He would like to raise the house a total of 8 feet and add an addition. The extra space will be used for a garage and bedroom. The total height of the raised structure will be 27 feet.

For purposes of the project the areas that will be directly affected by the project are the rear setback and the height. Mr. Allen is requesting a rear setback reduction to 5 feet and increase of the existing height from 19 feet to 27 feet. Although the structure is a legal nonconforming use the Planning Dept. is still required to bring the request before the board.

While the applicant's proposed project won't affect the northwest setback or the front setback, staff suggested that the applicant ask for setback reductions to bring the house into compliance on those sides. Mr. Allen is requesting a reduction in the northwest side setback to 7 feet, and a reduction in the front setback to 7 feet to bring the existing structure into compliance.

As a side note...Mr. Allen and his neighbor behind him, Calvin Carlson, settled in court last spring over a land dispute. The subdivision replat that was done last spring was part of the settlement agreement. Approval of Mr. Allen's requests doesn't affect or supersede the court agreements.

The applicant, Dennis Allen came forward. He stated that he would like to add a second story to his home so that he can add a garage, bedroom, and bathroom, as well as add a better foundation.

Mr. Williams took the Board through a series of photos showing the variance request.

Mr. Allen also stated that he believes that about 90% of the houses in the Indian village are two stories already. He explained that he and Mr. Carlson did have a land dispute, but that it had already been resolved. He also mentioned that the utilities will be swapped between those two properties and the electric lines will be buried up the access. He said a City employee came out today to go over the lines, which was required prior to a contractor beginning the work.

Mr. Williams advised the board that because they only had three members in attendance that it was advisable to table this decision until the next meeting.

Public Comments:

Fred Reeder, of 311 Tlingit Way, came forward. He stated that this request troubled him because when you increase height, you also increase width for fire protection and getting the fire trucks in to access that area is already tough. He doesn't think that making houses bigger in this area is a good idea for planning. He also stated that the large ambulance can't get through now. He feels this is a fire and safety issue that needs to be addressed.

Ann Carlson, owner of Lot 35, at 338 Kaagwaantaan on the map came forward. She stated that she objects to the variance request. She mentioned that Mr. Allen put up an 8 foot fence after the court battle, which blocks fire truck access already. She also objects to the setback variance (3), which borders her lot.

Calvin Carlson, owner of the lot directly behind Mr. Allen feels that if the request is granted it will block the light that comes into his house.

Duck Didrickson then came forward. He advised the board that he lived across from Mr. Allen about 100 feet down the road. His first concern is fire protection, which he feels is already compromised due to the 9 foot fence that Mr. Allen put up. He stated that his friend, Mr. Carlson, won't get as much light into his house if this request is granted. He felt that Mr. Allen had enough property that he could build out rather than up. He feels there needs to be respect for neighbors.

Katherine Williams, who lives in the first house on Back Street, asked if Mr. Allen had enough property to build out rather than up.

Mr. Williams advised that there is some ability to build out, only about a 10 foot wide strip due to the front (20ft) setback and back (10ft) setback requirements.

Katherine Williams stated that she felt that if Mr. Allen were permitted to build up, it would bring down the property value of Mr. Carlson's property because he wouldn't be able to see the ocean anymore. She felt that it didn't make sense to be building high-rises in the Indian village. She also stated that fire trucks and ambulances already have to squeeze in to get people in need of their services. She also noted that people must be considerate of their neighbors since people live wall to wall in that neighborhood. She recommended Mr. Allen build out rather than up.

Ernie Karras came forward and stated that he opposes the request. He feels it is a privacy issue with relation to the neighbors. He also stated that the fence blocks the fire truck access. Mr. Karras grew up on Back Street.

Roxanne Didrickson came forward next. She said she was told at a Sitka Tribes of Alaska meeting that the Indian village was an historic site. She feels that if people keep building, the heritage of the village will be lost. She said her husband, Duck Didrickson, has been fighting for years to keep the village the way it is. She feels that if Mr. Allen needs privacy, he should get curtains.

Margaret Peterson was the next to speak. She stated that she lives with Calvin Carlson. She asked if the roads will be blocked for construction if the request was granted. She also stated that she is totally opposed to this request because if it is granted they will lose their view and their property value will go down. She felt that they had already gone through the court battle, had the property lines set, spent lots of money, and now Mr. Allen wants to change things. She reiterated that she is strongly opposed to the request.

Mr. Allen came forward again and explained that at the beginning when he purchased his property he offered to trade his property for Lot 35, which at the time was owned by Calvin Carlson so that Mr. Carlson could have the lot directly in front of his home too. He said that shortly after he received a letter from Mr. Carlson threatening litigation, so that is why he fought for his land. Mr. Allen noted that he's been there 19 years and wants to raise his house so that he can put in a good foundation and add on a garage and a bedroom.

Mr. Williams explained that his earlier comment about taking this request through two meetings wasn't necessary if the Board was not in favor of the request based on the public testimony. He advised the Board that there have only been a few situations where there was a request for an increase in height where there was opposition. He stated that there was a fair amount of testimony that increasing the height would adversely affect an adjacent property owner(s) and that the testimony deserves a fair amount of weight because a motion to approve the findings

would have to be made in support of the original motion including a finding that it would not adversely affect adjacent property owners.

Mr. Allen noted that about 90% of the native homes in the area are 2-story homes and that his is one of the only one-story homes.

Board Discussion:

Mr. Twaddle asked Mr. Allen if he was comfortable with the Board voting with only three members explaining that the vote would have to be unanimous.

Mr. Allen said they should do what they needed to do.

Mr. Parmelee was hesitant to move forward with all the opposition.

Mr. Twaddle explained that part of the building could go two stories without a variance request.

Mr. Alexander stated that fire equipment access was the issue he was concerned about.

MOTION: M/S Twaddle/Parmelee motioned to approve the variance request to increase the height of the Allen residence from 19 feet to 27 feet.

ACTION: Motion **FAILED 1-2** on a voice vote with Mr. Alexander in favor. Mr. Alexander rules that the other three requests become mute.

MOTION: M/S Twaddle/Parmelee motioned to approve the following findings in support of the denial of the request: that it would be detrimental to adjacent property owners as well as detrimental to public health, safety, and infrastructure.

ACTION: Motion **PASSED 3-0** on a voice vote.

Mr. Williams stated that Mr. Allen has 10 days to appeal the decision to the Sitka Assembly. If he does not, he has the right to come back with a different request.

TEXT CHANGES AND CONDITIONAL USE PERMIT REQUESTS

- 1) **ZONING TEXT CHANGE TO ADD “COMMERCIAL DOCK” AS A CONDITIONAL USE IN P (PUBLIC) ZONING DISTRICT**
- 2) **CONDITIONAL USE PERMIT REQUEST FOR A COMMERCIAL DOCK IN THE P ZONING DISTRICT**
- 3) **ZONING TEXT CHANGE TO ADD “BULK FUEL STORAGE” AS A CONDITIONAL USE IN THE P ZONING DISTRICT**
- 4) **CONDITIONAL USE PERMIT REQUEST FOR BULK FUEL STORAGE IN THE P ZONING DISTRICT**

**1490 SEWARD AVE
DELTA WESTERN**

TEXT CHANGE REQUEST

- 5) **ZONING TEXT CHANGE TO ADD “BULK FUEL STORAGE” AS A PERMITTED USE IN THE WATERFRONT ZONING DISTRICT**

**5309 HALIBUT POINT ROAD
SAMSON TUG & BARGE**

- 1) *Public hearing and consideration of a zoning text change filed by Delta Western, inc. to add “commercial dock” as a conditional use in the (P) Public zoning district. The location request is 1490 Seward Avenue. The property is also known as Tract A, Block ASCS 88-62.*
- 2) *Public hearing and consideration of a conditional use permit request for a commercial dock in the (P) Public zoning district. The request is filed by Delta Western, Inc. for 1490 Seward Avenue. The property is also known as Tract A, Block ASCS 88-62.*
- 3) *Public hearing and consideration of a zoning text change filed by Delta Western, Inc. to add “bulk fuel storage” as a conditional use in the (P) Public zoning district. The location request is 1490 Seward Avenue. The property is also known as Tract A, Block ASCS 88-62.*
- 4) *Public hearing and consideration of a conditional use permit request for bulk fuel storage in the (P) Public zoning district. The request is filed by Delta Western, Inc. for 1490 Seward Avenue. The property is also known as Tract A, Block ASCS 88-62.*
- 5) *Public hearing and consideration of a zoning text change to add “bulk fuel storage” as a permitted use in the Waterfront zoning district. This request is filed by Samson Tug & Barge for 5309 Halibut Point Road. The property is also known as a Portion of Lot 5 according to Plat No. 84-7 and Alaska Tidelands Survey No. 1571 according to Plat No. 2005-17.*

Mr. Williams explained that tonight’s objective is to introduce these five items and go over the process. Kirk Payne, Delta Western’s CEO, will describe the plan to the Board.

Staff has written one report for the five requests as they are interrelated. Delta Western Inc. is a petroleum distributor that is planning to develop a retail fueling facility here in Sitka. Their proposed location is near the Sitka Maritime Heritage Society building on Japonski Island at the base of O’Connell Bridge. They will also be storing bulk fuel at the Samson Tug & Barge site.

The City and Borough of Sitka owns the upland property and leases the property to the Sitka Maritime Heritage Society. Sitka Maritime Heritage Society has received authorization from the Assembly to sublease a portion of the property to Delta Western, Inc. The tidelands are in State ownership. Delta Western Inc. will be responsible for going through the lease process with the State of Alaska.

Mr. Williams explained that the hope is that Mr. Payne will put more detail in writing for the next time these requests come before the Planning & Zoning Commission and that there is much public process anticipated for this request. The five requests are necessary for the operation. The plan is that Delta Western Inc. will barge in fuel and pump it into the bulk storage at Samson Tug & Barge, then trucks will transport the fuel to the fueling facility on Japonski Island where it will be available for resale.

Mr. Payne came forward and stated that he really appreciates the public process. He explained that their plan is to have a marine retail fuel dock with a small amount of storage for day sales on Japonski Island, and therefore would need bulk fuel storage, which is planned to take place at Samson Tug & Barge. He explained further that Delta Western is probably the largest fuel

distributor in the state and supplies to many of the smaller communities throughout Alaska with the 7 tugs/barges they charter.

Products stored will be unleaded gasoline, #2 diesel, and #1 diesel. Underground fuel storage will be less than 20,000 gallons. He wants the tanks to be as big as they can be without disrupting the aesthetics of the shoreline. There will be a concrete pad over the storage tanks. Underground fuel lines will be buried from the storage to the catwalk. Trucks will park on top of the tanks during offloading. On the fuel float there will be a small 10' by 15' office. There will be 8 fuel dispensers on the dock. Two employees will work the dock. As for parking, there will be four parking spots, two on each side of the catwalk. There will be a kayak float attached to the dock and it will be located between the dock and the USCG station and will be for the use of the Sitka Maritime Heritage Society.

He anticipates the barge would arrive 1-2 times per month to Samson Tug & Barge and the number of trucks transporting fuel to the Japonski Island site would depend on demand for the fuel. He explained that the tank storage at Samson Tug & Barge would be above ground and cover less than an acre.

Mr. Parmelee asked if he thought there would be any congestion if the work float is full, boats are getting fuel, and kayakers are loading and unloading.

Mr. Alexander asked if there had been any feedback regarding Mr. Parmelee's concern from the Harbor Department or the US Coast Guard.

Mr. Payne replied that they have talked to both agencies and have not received any negative comments regarding the plan.

Mr. Williams stated that it was time to take public comment if there is any at this time and that Mr. Payne would be putting more detail in writing with his Conditional Use Permit applications for clarity purposes.

Public Comment:

Anne Pollnow of the Sitka Historic Preservation Commission came forward and wanted to know if there would be Corp. of Engineer's permits attained per Section 106 of the process.

Mr. Payne replied that he was working on that.

Ms. Pollnow also stated that the property is considered a Sitka Landmark; the Sitka Naval Station. She is concerned that the tanks are going to go right on the landmark and she wants to make sure that this request goes through the Sitka Historic Preservation Commission per Ordinance 92.10.75.

Mr. Williams assured Ms. Pollnow that the Planning Department takes care of notification to the Sitka Historic Preservation Commission.

Joe Doriento of the Sitka Maritime Heritage Society (SMHS) came forward and explained that there had been numerous meetings between the Sitka Maritime Heritage Society and Delta Western and that Delta Western had been very accommodating. He also mentioned that the Harbor Department was very happy with the location of the kayak float. He also noted that the

approval of this request would help the SMHS to further its goals to have a Maritime Museum in Sitka.

Matthew Hunter came forward. He is also a member of the Sitka Maritime Heritage Society as well as a local historian. He mentioned that he was initially concerned with the loss of property, but then realized the tanks would be buried. He mentioned that there is a long history of fuel storage in the immediate area of the request and even further down the coastline. He feels this is a very fitting use for the historic site.

Mr. Williams explained that the Sitka public process will take as long as it needs. Tomorrow he will forward the information to the Sitka Historic Preservation Commission so they can go through their process next. He explained that the Planning Department's concern is that all the steps in the process are procedurally clean. This is a very big project for Sitka and there will probably be people in favor and others with issues relating to this project.

Jim Scholz came forward representing Samson Tug & Barge requesting that Item G) zoning text change to add "bulk fuel storage" as a permitted use in the Waterfront zoning district, be addressed because he felt it didn't directly relate to Delta Western's requests.

Mr. Williams responded that he is not really comfortable with acting on Item G at this time and thinks all the requests should be addressed together.

Mr. Scholz wanted to go on record that he feels a text change shouldn't be lumped in with the rest of the process.

Mr. Parmelee would like to see something in writing from the Harbor Department and USCG regarding the traffic and safety issues related to the requests, and Mr. Payne made note of that.

PUBLIC BUSINESS FROM THE FLOOR

None

PLANNING DIRECTOR'S REPORT

Mr. Williams reminded the Board that at the last meeting it was decided to spend 10 minutes at each meeting bringing their attention to items in the Comprehensive Plan they might not have already known about. He reviewed the format of the Comprehensive Plan on the overhead projector. There are three main parts to the Plan: 1) Maps, 2) Goals/Policies, and 3) Current Issues. He said that the Current Issues are technical and should be updated yearly. He pulled two sentences out of the Comp Plan under, "How the Comprehensive Plan is used."

...This is an analytical process where the reviewer first determines which of the Plan's goals, policies, and objectives are relevant to the decision or issue at hand. Then the reviewer examines how the pending decision comports with the relevant plan provision...

ADJOURNMENT

Meeting adjourned at 9:00PM.

Don Alexander, Chair

Ptarmica McConnell, Secretary