

ADP2017 0001

Alternative Development Permit for a reduced side yard setback to accommodate additional living space at the second- and third-story levels.

Board of Adjustment Hearing September 26, 2017



Property Info

Applicant / Property Owner:
Pagan Hill and Rob Roys

Existing Land Use:
Single-family dwelling w/an accessory apartment

Property Address:
315 W. Eleventh Street

Surrounding Land Use:
North – (D18) Single-family and multifamily dwellings

Site Size: 3,600 sq. ft.

South – (D5) Single-family Dwelling

**Comprehensive Plan
Land Use Designation:**
MDR (medium density residential)

East – (D5) Single-family Dwelling

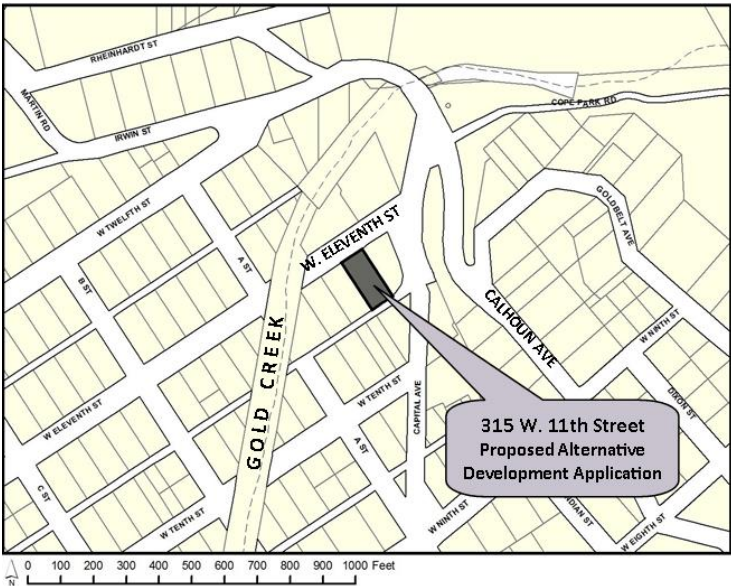
Zoning: D5 Single-family / Duplex

West – (D5) Single-family Dwellings

Utilities: City Water / Sewer

Access: W. Eleventh Street / alley

Vicinity Map

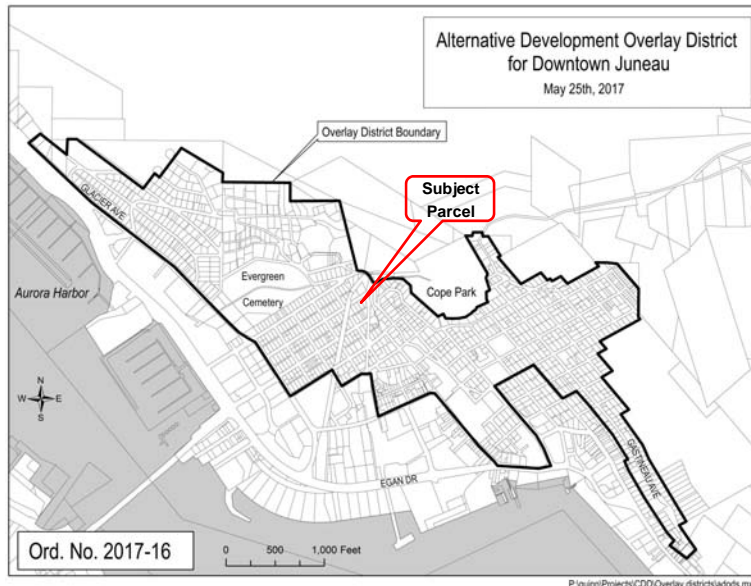


Project Description

Alternative Development Permit for a reduced side yard setback to accommodate additional living space at the second- and third-story levels.



Downtown Juneau ADOD



Title 49 Exceptions

- CBJ 49.25.430(4)(B) addresses bay windows, garden windows, chimney and ventilation shafts, and other similar enclosed structures that **do not increase the building's floor area**.
 - This section of code allows for these types of enclosures to encroach up to 4 feet into a required setback (but no closer than 3 feet from a property line).
 - These types of enclosures must not increase the building's floor area and the proposed "bump out" increases the building's floor area.
- CBJ 49.25.430 Yard Setbacks (4)(J), Substandard lots, an existing lot may: *If the lot width, lot depth, or both are less than required, 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 five feet, whichever is greater.*
 - The owners of the subject parcel are seeking a reduction to the side yard setback that is greater than five feet.

Timeline of Events

- October 11, 2016 the current property owners received a building permit for a new single-family residence with two conditions:
 - A Conditional Use Permit was required for the accessory apartment
 - The 2nd and 3rd-story “bump out” enclosure was **not approved** (according to emails, the property owner and architect were informed of this on September 28, 2016. The notes indicate that that any design of the “bump out” had to raise the base of the window above floor height)
- The permit was approved for zoning compliance on September 28, 2016, subject to the conditions stated above.
- The zoning compliance assured that the proposed location and height met zoning requirements.
- The required foundation setback verification form was issued on September 28, 2016, to allow the foundation to be poured.
- The setback verification form enabled the location of the foundation to be verified by a surveyor. To minimize permit costs to the applicant, a separate foundation permit was not required by CBJ.

Timeline of Events

- On November 10, 2016, the current property owners received a Conditional Use Permit for an Accessory Apartment on an Undersized Lot (see Attachment D AAP2016-0022).
- On November 14, 2016, in a follow-up email regarding the approval of the Accessory Apartment Permit, CDD reminded the architect and applicant of the need to submit revised plans for the “bump out”.
- On December 12, 2016, the architect emailed a proposal for plans showing a revised “bump out” which had an exterior face that extended the full height of the 2nd and 3rd stories.
 - This **significantly differed** from the guidance previously provided regarding bay windows. The architect explained that significant construction had already occurred on the **unpermitted** “bump out” and revising the exterior face would require costly structural revisions.

Timeline of Events

- On December 14, 2016, the Community Development Department (CDD) agreed to the proposed revision of the plans **if there was a condition on the building permit that the bay windows are never able to provide useable space, and also if someone were motivated to use that space in the future, then they would be in violation of the approved building permit.**
- The agreed upon plan removed the cabinets for the wet bar and studio desk from the “bump out” area. Furthermore, it was decided that an agreement would be signed saying that if the desk or wet bar were removed and the “bump out” was accessible, a window seat would be added to ensure the space in the “bump out” did not become useable floor space. This compromise allowed for approval of the permit without costly structural revisions. It was made clear that the agreed upon plans still needed to be formally submitted to CDD for the permit to be modified and a fee needed to be paid.

Timeline of Events

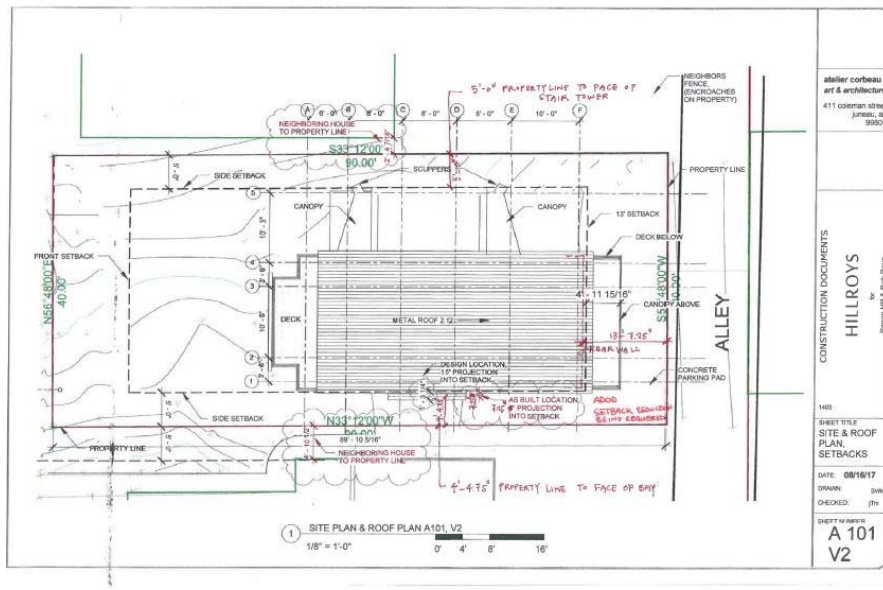
- Subsequently, an additional modification to the agreed upon plans was requested.
 - The proposed modification would allow a refrigerated “piece of equipment” (kegerator) to use the floor space in the “bump out” which previously was agreed to not be useable floor space.
 - The storage of kegerator would increase this space and eliminate the void. **This negates the previously agreed to modifications, which allowed the “bump out” to remain in the setback.**

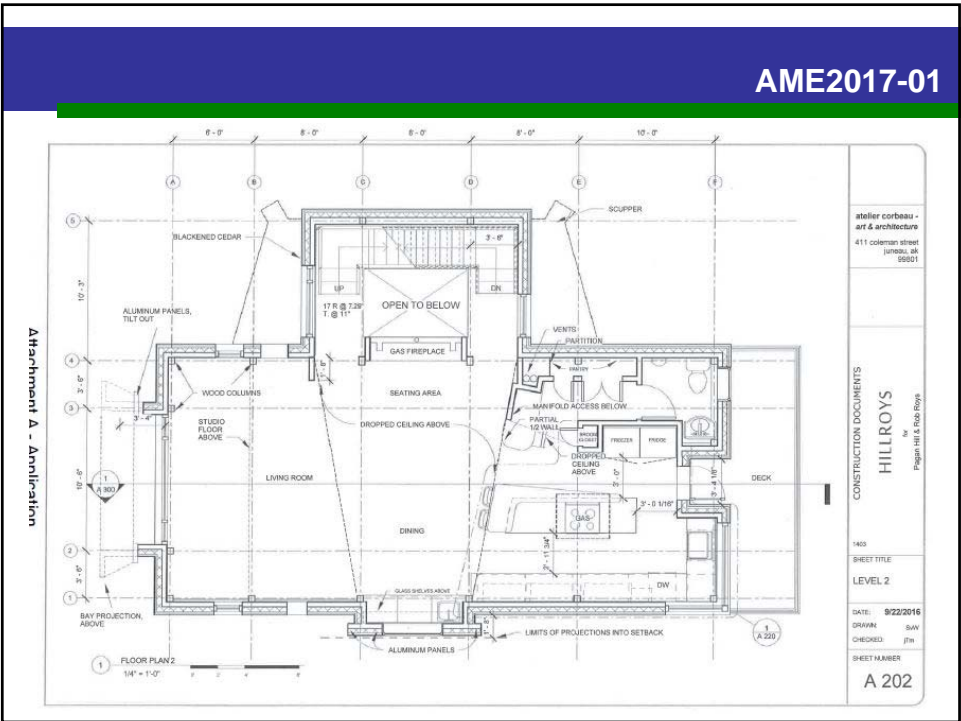
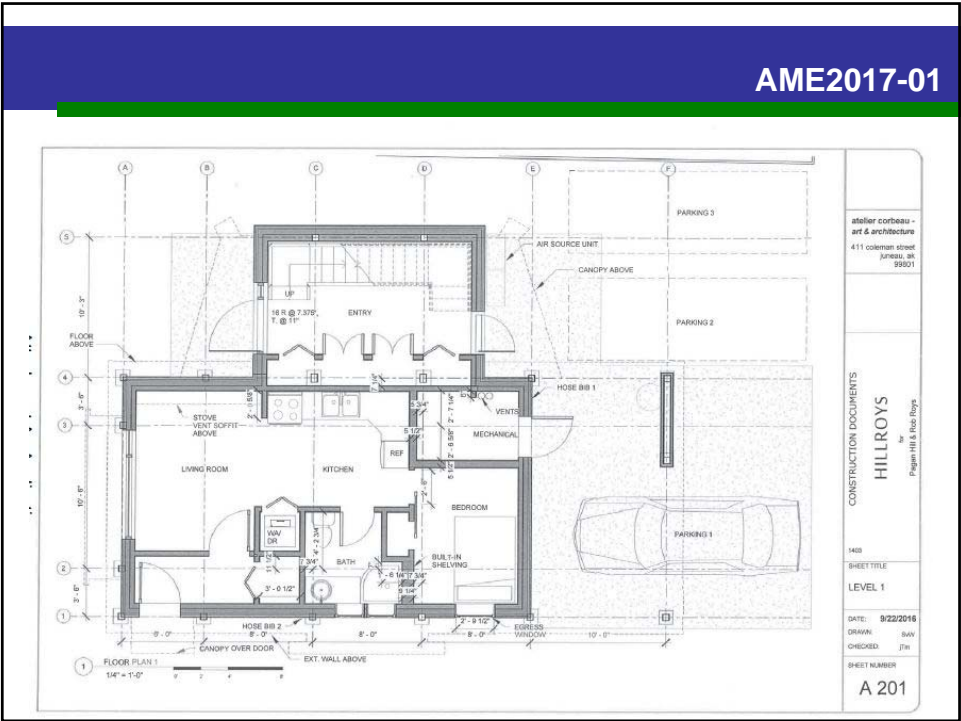
Timeline of Events

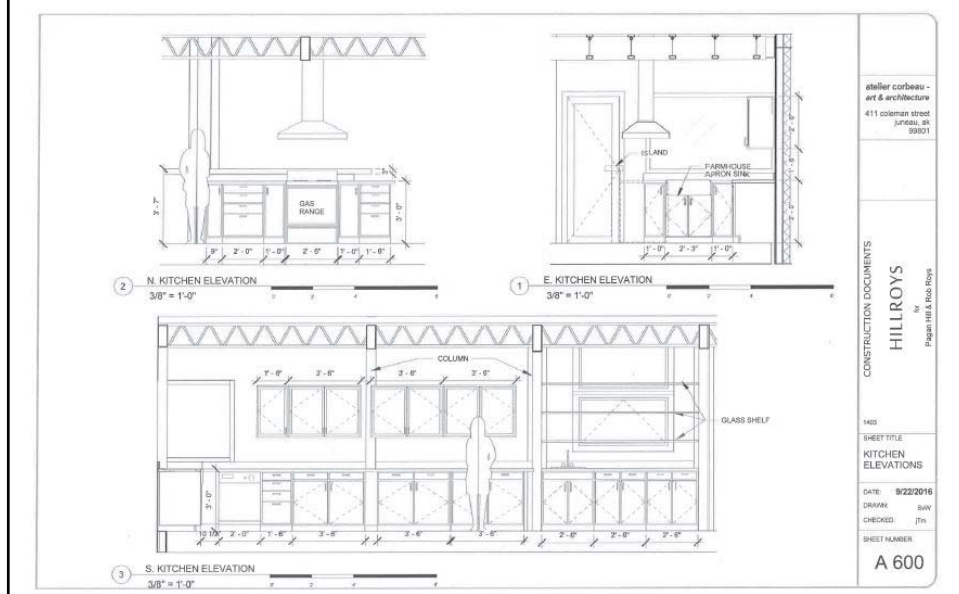
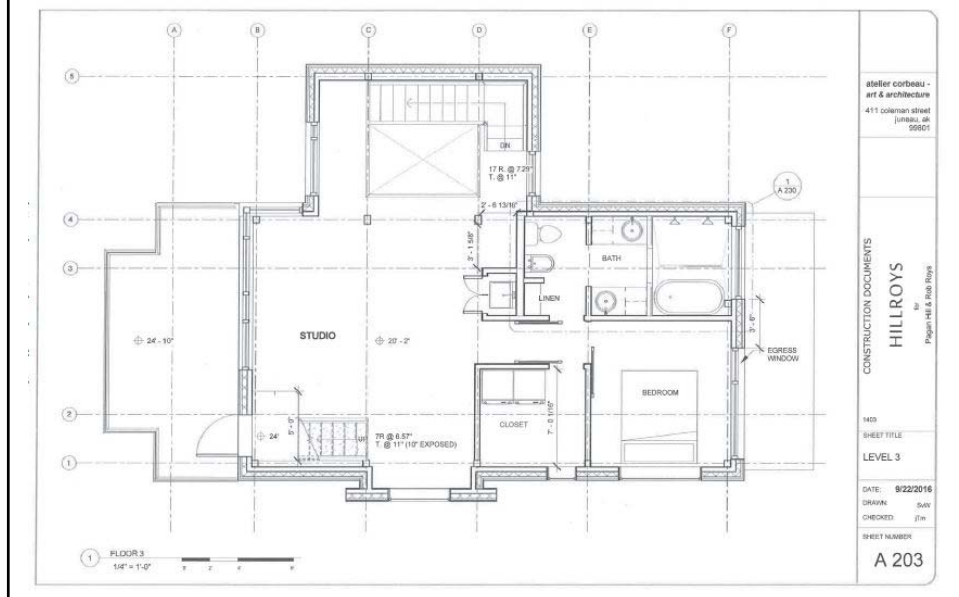
- The owners were informed that information would be made available to them should they wish to seek a variance and that CDD would keep them apprised of the progress of the new Alternative Development Permit, which at the time had not been drafted nor adopted.
- The application does not meet the requirements for a de minimis variance. Per CBJ 49.20.250 Grounds for Variances (a) De minimis variance (1), a de minimis variance may be granted, *Where a minor setback infraction could be corrected only at the unreasonable expense or inconvenience the director may, after taking into account the views of the owners of adjoining property, and upon 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 purposes of this title.*

Questions on Background / Timeline of Events

- The Board of Adjustment has the authority to reduce the side yard setback by averaging corresponding side yard setbacks of residential buildings within a 150 foot radius as determined by the director.
- In this instance, the applicant is seeking a reduction to the side yard setback of **5 feet to 4.475 feet**. Based upon the averaging of the properties within a 150 foot radius, a side yard setback of **3.8 feet** may be granted through an Alternative Development Permit, if the Board of Adjustment finds that the residential development meets the requirements of the ADOD.







Purpose of the ADOD

Provide adequate minimum standards and procedures for the construction of new residential buildings and the expansion, restoration, or repair of existing residential buildings, while providing time to implement new zoning regulations. This article is intended to provide for the development of housing, **preserve the character of neighborhood** and promote the restoration of blighted buildings.

Per the Commission's deliberations, the knowledge gained thru ADP applications is intended to guide new zoning standards for the downtown neighborhoods.

ADOD Overview

- The ADOD (Ordinance 2017-16 - Attachment B) was discussed and recommended for approval by the Planning Commission at the May 23, 2017, public hearing.
- During that hearing, the Commission heard testimony from the public, including concern that the overlay would allow property owners to construct "McMansions" that would be out of character to the Casey-Shattuck Flats neighborhood and would be constructed higher than the existing structures, and that this would change the flavor of the neighborhood.
- The Commission agreed that preserving the character of the historic neighborhoods was important and was the reason for considering an overlay district, because the existing zoning standards did not reflect the built environment and did not allow for the construction or restoration of these buildings.

Site Photos



View from W. Eleventh Street



Site Photos



View from Capital Ave



Site Photos



View from W. Eleventh Street

Site Photos



View from W. Eleventh Street

Site Photos



View from alley



Site Photos



View from alley

Site Photos



View of alley and neighboring properties



Site Photos



View of alley and neighboring properties



Site Photos



View of W. Eleventh Street and neighboring properties

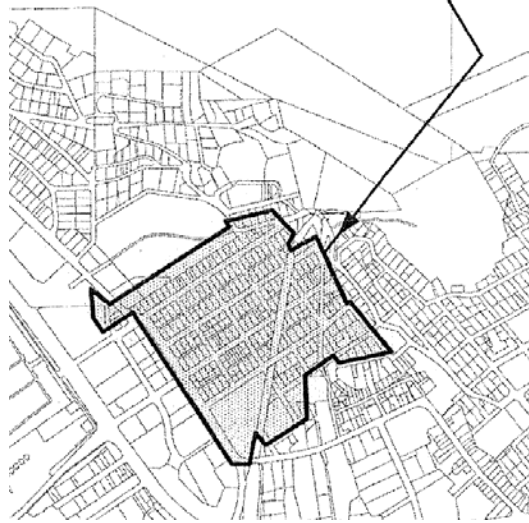


AME2017-01

- The subject parcel is located within the historic Casey Shattuck neighborhood
- This neighborhood was surveyed and documented in *THE REPORT OF THE CASEY-SHATTUCK NEIGHBORHOOD HISTORIC BUILDING SURVEY* completed in 2004. The Casey-Shattuck Subdivision was platted in 1913. The subdivision targeted working class miners and fishermen of the region, and the dwellings are predominantly one- and two-stories in height.
- Based on the above information, the requested second- and third-story encroachments are not in character with the neighborhood.

Casey Shattuck

Casey Shattuck Subdivision



Casey Shattuck



Casey Shattuck



Casey Shattuck



Agency & Public Comments

- CBJ Assessor: No opinion regarding whether this construction has an impact on the neighborhood at this time.
- CBJ Building: No issues with the project.
- Four public comments were received in favor of the residential development (Attachment H of the Staff Report), including:
 - Existing reduced setbacks in the neighborhood
 - Existing small lots with minimal setbacks
 - Allows for “traditional use” of land

ADOD Questions

This application is for a residential development that has been constructed without the necessary approvals.

- Should Alternative Development Permit (ADP) applications be accepted for after-the-fact construction?

Per the discussions that spurred the adoption of the ADODs, ADP applications are intended to guide and direct new zoning for the downtown(s) neighborhoods while maintaining the existing character.

- Existing residential zoning districts have a height maximum of 35 feet. Does this height represent the built environment of the Flats neighborhood that we are seeking to preserve?

Findings

1. Is the application for the requested Alternative Development Permit complete?

Yes. Staff finds the application contains the information necessary to conduct full review of the proposed operations. The application submittal by the applicant, including the appropriate fees, substantially conforms to the requirements of CBJ Chapter 49.70.1200.

2. Is the proposed use appropriate according to the Alternative Development Overlay District?

Yes. The requested permit is appropriate according to the Alternative Development Overlay District. The permit is listed at CBJ 49.25.300, Section 1.110 for the D5 zoning district.

Findings

3. Will the proposed development comply with the other requirements of this chapter?

Yes. The proposed development complies with the other requirements of this chapter. Public notice of this project was provided in the September 15, 2017, and September 25, 2017, issues of the Juneau Empire's "Your Municipality" section. A Notice of Public Hearing was mailed twice to all property owners within 500 feet of the subject parcel. (The second mailing was sent in order to correct a scrivener's error in the project description). Moreover, a Public Notice Sign was posted on the subject parcel, visible from the public right-of-way. Furthermore, the proposed development complies with the height, parking and vegetative cover requirements of the D5 zoning district.

4. Will the proposed development materially endanger the public health or safety?

No. As discussed in the above analysis, the proposal is located in a D5 zoning district located within the downtown Juneau Alternative Development Overlay District. No evidence indicates that the proposed development will materially endanger public health or safety.

Findings

5. Will the proposed development substantially decrease the value of or be out of harmony with property in the neighboring area?

Yes. As discussed above, the development is not in harmony with the neighboring properties. The development chose to benefit from the existing (D5) zoning standards for maximum height (35 feet), which is a full story higher than neighboring properties, and seeks to benefit from reduced side yard setbacks for the second and third stories of the building, thus creating a development (single-family dwelling) that is not in character with the surrounding built environment of the historic Casey-Shattuck Flats neighborhood.

6. Will the proposed development be in general conformity with the land use plan, thoroughfare plan, or other officially adopted plans?

No. As discussed above, the development is in general conformity with Title 49, but the requested encroachment does not conform to the 2013 Comprehensive Plan.

Recommendation

It is recommended that the Board of Adjustment adopt the Director's analysis and findings and deny the requested Alternative Development Permit for a reduction to the side yard setback.

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QUESTIONS?



Project Site

	D5	Subject Parcel	ADOD
Lot Size	7,000	3,600	-
Lot Width	70	40	-
Lot Depth	85	90	-
Height	35	34.6	-
Lot Coverage (maximum)	50%	24%	Not applicable to this request
Vegetative Coverage (minimum)	20%	20%+	Not applicable to this request
Front Setback	20	20+	Not applicable to this request
Street Side Yard Setback (alley)	13	10	Not applicable to this request (permissible under CBJ 49.25.430 Setbacks(4)(K) Existing substandard setbacks)
Side Yard Setback (east)	5	5	Not applicable to this request
Side Yard Setback (west)	5	4.475	3.8 (see Attachment A p. 13 for analysis)*

*Setbacks permissible thru an Alternative Development Permit under the ADOD for the Subject Parcel if approved by the Board of Adjustment

150' Radius Average Side Yard Setbacks

Address	Required Side Yard Setback	Actual Side Yard Setback	Source
300 W. Eleventh St.	5	16*	Old Site Plan
316 W. Eleventh St.	5	7.2*	Old Site Plan
1038 Capital Ave.	5	2.4	Site Plan for variance
1018 Capital Ave.	5	4.2	Asbuilt Survey
338 W. Tenth St.	5	2.5	GIS
319 W. Eleventh St.	5	4.9	Site Plan for variance
327 W. Eleventh St.	5	1.5	Asbuilt Survey
1011 Capital Ave.	5	44.5*	Building Location w/ROW Vacation Plat
328 W. Tenth St.	5	7.6*	GIS
1029 A St.	5	5.3*	Asbuilt Survey
USS 4521 Irwin Addition	5	87*	Old Site Plan
Casey Shattuck BL 204 LT 3	5	5.57*	Site Plan for Variance
Casey Shattuck BL 204 LT 4	5	13.2*	Asbuilt
MCKELVEY LT B	5	2	Building Location w/ROW Vacation Plat
Casey Shattuck BL 204 LTS 7	5	0**	GIS
Total	--	3.8	

* indicates larger than required side yard setback, therefore the minimum required setback of 5' is used to calculate the average

** indicates that the structure encroaches onto adjacent property, therefore zero is used to calculate the average