

Turnagain Community Council  
Comments on Case No. 2009-026  
Request for variance from AMC 21.40.030.G.1  
Construction of new house and new garage in the 20' front yard setback.

The Turnagain Community Council has reviewed this request for variance and does not believe that the applicant has met the required "burden of proof" to justify the request.

**Standard 1.**

***There exist exceptional or extraordinary physical circumstances of the subject property such as, but not limited to, streams, wetlands, or slope, and such physical circumstances are not applicable to other land in the same district;***

The applicant states Lot 1, Pete's Subdivision differs greatly from other lots within the improvement district concerning lot dimensions. However, there are six lots adjacent to the lot in question that are of a similar nature with respect to unfavorable lot dimensions. Two are at the south end of Marston Drive and two on Sonstrom Drive and the two remaining lots within Pete's Subdivision. The variance is not specific within the improvement district but must look at the surrounding subdivisions and neighborhood when claiming "exceptional or extraordinary physical circumstances".

The applicant claims a sewer easement constricts the buildable area when approximately 80% of the sewer easement is in the building setback area not in the buildable area.

Finally, the applicant states a concern about slope that **may** impact the location of the foundation. As shown on the applicant's Exhibit B, the 3:1 slope is on Lot 4A, Block 2, McKenzie Subdivision not on the applicants lot. Also shown on Exhibit B within the applicant's lot is the minimum 4:1 slope. Construction of the 4:1 slope is allowed within the setback area and is not an exceptional or extraordinary physical circumstance. The contours in Exhibit B clearly show that the lot is overall very level and buildable. Standard construction techniques can provide for any needs of the applicant to build within permissible limits and outside of the setback areas.

The Turnagain Community Council has been actively involved with the development of the Marston-Foraker RID, LID, WID project since its conception. We are on record from the beginning stating that the future development of the lots has many limitations concerning construction and that the Council would only support responsible development within this marginal area. The Turnagain Community Council has walked and reviewed all of the project area with numerous MOA engineering staff over the years and is familiar with the

applicant's site. This lot does not have "exceptional or extraordinary physical circumstances" and does not meet the "burden of proof". **Again, the Turnagain Community Council does not support the granting the requested variance.**

**Standard 2.**

***Because of these physical circumstances, the strict application of this code would create an exceptional hardship upon the property owner, and would deprive the applicant of rights commonly enjoyed by other properties in the same district under the zoning ordinance.***

The requirement of "exceptional or extraordinary physical circumstances" was not met in Standard 1; therefore the required "exceptional hardship upon the property owner" has not been created and met for Standard 2.

**Standard 3.**

***The hardship is not self-imposed, and special conditions and circumstances do not result from the actions of the applicant and such conditions and circumstances do not merely constitute inconvenience.***

The site as presented in Exhibit B is well within standard construction techniques available to the applicant. Only a recommendation from a Geotechnical Engineer can state where the safest building location would be and building within allowable limits can be accomplished as presented, if somewhat inconvenient for the applicant.

**Standard 4.**

***The variance, if granted, will not adversely affect the use of adjacent property as permitted under this code.***

The proposed waterline adjustment requested of AWWU to meet the requirements of the applicant's variance does adversely impacts the community at large with the burden of additional design and construction costs. Also, granting the variance would place the applicant's house in the center of the viewshed created by the construction of Marston Drive and Petes Place (a benefit greatly prized by the neighborhood) adversely impacting all residents of this highly used access point to the Tony Knowles Coastal Trail.

**Standard 5.**

***The variance, if granted, is in keeping with the intent of this code, will not change the character of the zoning district in which the property is located.***

Currently there are no houses along Marston Drive that are built within the entire 20' setback to the ROW limits. This would significantly change the character of the existing housing along Marston and would negatively impact the view shed

created by the construction of Marston Drive and Petes Place by placing the house in the middle of the view shed.

**Standard 6.**

***The variance, if granted, does not adversely affect the health, safety, and welfare of the people of the Municipality of Anchorage.***

No comment.

**Standard 7.**

***The variance, if granted, is the minimum variance that will make possible a reasonable use of the land.***

The applicant requests placing a building within the entire 20' front yard setback. This is the **maximum** variance allowable for the zoning. The Turnagain Community Council feels that building within in the current allowable lot area provides for a reasonable use of the land.

The position of the Turnagain Community Council is the applicant has not met the "burden of proof" and therefore request that a variance not be granted.

Respectfully submitted,

Breck Tostevin, President  
on behalf of the Turnagain Community Council  
Board of Directors

Dated: February 26, 2009.