

CARBON COUNTY
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VARIANCE REQUEST – STAFF REPORT

Date: April 20, 2022

To: Carbon County Board of County Commissioners

From: Forrest J. Mandeville, AICP – Contract Planner

RE: Manley Brown Bear Inn Group 2 Development Permit – Variance Request from Setback Requirements

Recommendation: Approval

Recommended Motion: *Having reviewed and considered the variance request, staff report, public comment, and all of the information presented, I hereby move to approve the variance request with the findings conditions included in the project memorandum for the Manley Brown Bear Inn Group 2 Development Permit.*

Project/Application Summary:

Byrne Manley of Carrigan’s Saloon, Inc., d/b/a Brown Bear Inn, has submitted a variance application from setback requirements for a Group 2 Development Permit. The site of the proposed development is in Roberts, on the northeast corner of 1st Street and Cedar Street. The legal description is Lot 7 Amended, Plat 2380 RB, Section 32, T 5S, R 21E, Carbon County, MT.

The applicant has stated the intention is to construct a covered porch approximately 10-feet wide and 42-feet long. The site plan indicates future development of a two-story addition in the rear as well. The developer is requesting a variance from setback requirements to allow 15-foot front setback from the property line, instead of the required 30-foot front setback. There will also be an expansion of a 0-foot setback on the south side of the property.

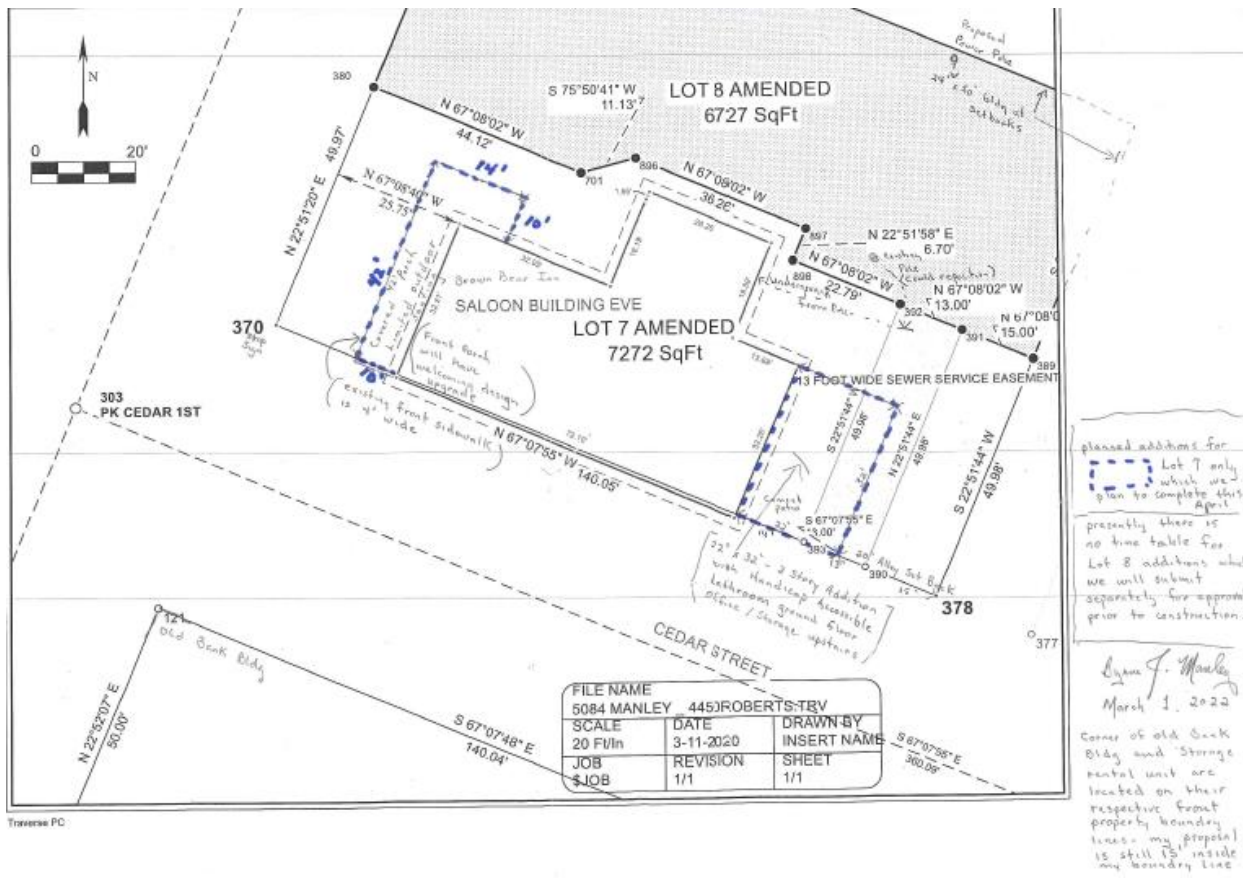
The Carbon County Development Regulations allow an applicant to request a variance to allow for deviation from the literal interpretation of the requirements of the regulations. Variances may be granted if the request is determined to be not contrary to the public interest, and where, owing to

special conditions, literal enforcement based on these regulations results in an unnecessary hardship, excluding financial hardships.

Required Board Action:

Under the Development Regulations, the Planning Board, in its role as the Board of Adjustment, is tasked with holding a public hearing, evaluating the staff report, considering the requirements necessary to grant a variance, and recommending approval, approval with conditions, or denial of the variance request to the County Commissioners. The Board may recommend conditions related to the variance request and any recommendation must be based on findings.

The County Commissioners must make a final decision to approve, approve with conditions, or deny the variance request within 60 days of receiving a complete application. A complete application was received by the Planning Department on March 7, so a decision must be made by May 6, 2022



Site Plan

Development Regulations – Compliance Review/Findings Summary: (Section references are to the Carbon County Development Regulations unless otherwise noted)

Pursuant to Section V-C.3.c, the Board of Adjustment shall not recommend that a variance be granted unless:

1. Special conditions: There are special circumstances or conditions that are peculiar to the land or building for which the variance is sought that do not apply generally to land or buildings in County.

The existing building was constructed prior to the County's setbacks being adopted. Several other buildings in the area also have little or no setbacks from property lines. Granting the variance will allow an upgraded building entrance with a covered porch. The front of the building is currently only 25-feet back from the front property line, so any extension would require a variance. The specific variance would allow for limited outdoor seating. The extension of the 0-setback on the south will be in line with the existing building. Setbacks to the rear and north will be met; the owner of the subject property also owns the lot to the north, which is undeveloped. These site restrictions are not generally common in the County and do not generally apply to other properties, as they are the product of commercial development in a platted, unincorporated community.

2. Not a result of the applicant: The special circumstances or conditions have not resulted from an act of the applicant or been established to circumvent these Regulations.

These circumstances are not a result of action by the applicant. An original building burnt down and was rebuilt in 1984. The current owner purchased the building in 2003 and has not made exterior improvements since purchasing the property.

3. Strict application unreasonable: Due to the special circumstances or conditions, the strict application of these Regulations would deprive the applicant of reasonable use of the land or building or create an undue hardship on the landowner.

Applying the setback requirements strictly would disallow any expansion in the front. It would also not be consistent with other development, which also predates the setback requirements and was constructed with little or no setbacks. Therefore strict application of the setbacks requirements on this site is likely unreasonable.



Current front of Building (left) and Porch Concept (right)



Subject Property (Blue) and Vicinity

4. Necessary to provide reasonable use: Granting the variance is necessary to provide a reasonable use of the land or the building.

The property can be utilized without the granting of the variance, and in fact is being utilized. However, any external improvements would be difficult without encroaching into the setback.

5. Minimum variance: the variance is the minimum variance necessary to allow a reasonable use of the land or building.

Granting a variance to allow a 15-foot setback in the front would allow for a reasonable development of the site. The expansion of the 0-setback on the south side of the building is consistent with current use of the site.

6. Not injurious: Granting the variance will not be injurious to the neighborhood or detrimental to the public welfare.

Granting of the variance should not be injurious to the neighborhood as several other properties have similar or smaller setbacks. The intersection of 1st Street and Cedar Street has existing stop signs for traffic control and sufficient sight lines should be maintained, so there should not be a significant impact of traffic safety in the area and there will still be room for some off-street parking in the front of the property.

7. Consistent with regulations: Granting the variance is consistent with the purposes and intent of these Regulations.

The purpose of setback requirements is typically to prevent crowding of development and/or to maintain open viewsheds. The granting of this variance will not impede viewsheds or result in crowding of other properties.

Summary of Public Comments:

The Planning Board, acting in its capacity as the Board of Adjustment, held a public hearing on the Manley Brown Bear Inn Group 2 Development Permit variance and accepted public comment on the matter. Mr. Byrne Manley discussed his plans for the property and spoke in favor of granting the variance.

Board discussion was generally in favor of the proposal and that granting the variance made sense. There was some concern about adequate parking being provided. Mr. Manley said that with the existing sidewalk in front of the property not much parking area would be lost, but that angular parking could likely add spaces if it became an issue.

Board of Adjustment Recommendation:

The Planning Board, in its capacity as the Board of Adjustment, conducted a public hearing regarding this application at their regular meeting of April 19, 2022, and unanimously recommended approval of the Manley Brown Bear Inn Group 2 Development Permit variance request, pursuant to the following conditions (Section references are to the Carbon County Development Regulations):

1. The variance approval shall be interpreted as the minimum needed – i.e. to allow 15-foot front setback and continuation/expansion of the zero-setback on the south side per the site plan. Any other encroachment into the setback will be in violation of the Development Regulations.

2. Off-street parking shall be permitted in the front of the property off of 1st Street. (Section V-A.4.d.i)

3. If approved activity on site is inactive for two years this permit is deemed abandoned and a new permit must be obtained prior to activity resuming. (Section IV-B.)

4. Any intensification of use shall be made known to the Carbon County Planning Department to determine whether an amended permit is required. (Section IV-A.2)

5. Any deviation from the site plan must be made known to the Planning Office to determine whether or not the deviation is in compliance with the approved development permit or if a new permit is needed.

6 All other necessary permits must be obtained. (Section V-A.4.d.vii)