



## Legislation Text

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**File #:** 17-0448, **Version:** 1

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### **ITEM TITLE:**

Approval of Exception (#17-01) for a One Foot Three Inch (1'3") Encroachment into the Required Twenty (20) Foot Front Yard Setback for a Single-Family Residence Located at 355 Nebesna Street, Lot 15, Block 6, North Portion Mineral Creek Subdivision. Applicant: Brad Barnett

**SUBMITTED BY:** Rochelle Rollenhagen, Senior Planner

### **FISCAL NOTES:**

Expenditure Required: N/A

Unencumbered Balance: N/A

Funding Source: N/A

### **RECOMMENDATION:**

Approve Exception (#17-01) for a one foot three inch (1'3") encroachment into the required twenty (20) foot front yard setback for a single-family residence located at 355 Nebesna Street, Lot 15, Block 6, North Portion Mineral Creek Subdivision, submitted by Brad Barnett.

### **SUMMARY STATEMENT:**

On August 23, 2017 the Community Development Department received an exception application from Brad Barnett for a one foot three inch (1'3") encroachment into the required twenty (20) foot front yard setback for a single-family residence located at 355 Nebesna Street, Lot 15, Block 6, North Portion Mineral Creek Subdivision.

On May 17, 2017 Brad Barnett applied for a building permit for a new single-family residence located at 355 Nebesna Street. A building permit was issued on June 22, 2017. With his usual surveyor retired, Mr. Barnett did his own measurements and was quite sure he was within the setbacks, he submitted a site plan that showed he met all setback requirements. Upon completion of the structure he acquired an as-built survey that revealed the encroachment, which now necessitates a one foot 3 inch (1'3") exception/encroachment into the required twenty (20 foot) front yard setback. A detailed findings and conclusions statement has been attached for your review.

Valdez Municipal Code Section 17.06.050(2) outlines the standards for an exception as follows:

- a) There is adequate factual evidence to suggest that the building was erected in good faith and every intent of meeting the provisions of this title, and that the innocent error does not violate the spirit and intent of this title.

*The applicant states that he measured from the original stake with a ribbon that he thought was a property marker. Trying to buffer the setback by two feet, he actually thought he had a twenty-two (22) foot front yard setback. As he felt confident in the existing markers he did not acquire a survey and also his usual surveyor had retired. He states that he constructed the house in good faith and to the best of his ability. There is no financial gain or any other good reason not to be in the setbacks and it appears this was an honest mistake. This appears to be an innocent error and does not violate the spirit or intent of the title.*

- b) The granting of the exception will not result in material damage to other properties in the vicinity nor be detrimental to the public health, safety or welfare.

*There is no damage resulting from this exception to the front yard setback. The encroachment is into the front yard setback and not the adjacent property. Granting the exception will "legalize" a non-compliant structure under the current setback distances allowed. Allowing the exception will ensure that owners of the property will not run into problems should they ever decide to sell the residence.*

- c) The granting of the exception will not be contrary to the objectives of the comprehensive plan.

*The exception is not contrary to the objectives of the Comprehensive Plan. Please see the relevant sections of the Comprehensive Plan listed below*

## **Comprehensive Plan - Overall Goal**

To create an atmosphere that will encourage stable economic development in Valdez while enhancing the quality of life. Improvements should be made to all elements that give the community its' character. This would include enhancing the economic productivity and diversification of the region to assure continued economic prosperity; providing for public safety and the economic welfare of the community when siting future industrial, commercial, residential, and public land uses; enhancing the scenic beauty, uniqueness and historic significance of the Valdez area; and opening up new land for residential, commercial, and industrial land.

## **Residential Land Use**

**Goal** -Provide safe, convenient, and attractive residential areas that protect and enhance property values while encouraging economies in necessary community expenditures for required community infrastructure and utilities.

**Objective** - Encourage residential construction and expansion in those areas of the community where necessary community facilities and utilities are already in place and/or can easily be extended.

## **Section 17.14.010 Single Family Residential Zoning District Intent**

The R-A (single-family residential) district is intended to include lands for urban development and which are provided with a full range of public utilities, including sewers, water, electricity and street drains or are intended to be provided with such utilities in the near future. This district is intended

primarily for single-family dwellings, excluding mobile homes, at moderate densities. Structures and uses required to serve recreational, religious and other noncommercial needs of residential areas are allowed as permitted or conditional uses subject to restrictions intended to preserve the residential character of the R-A district. (Ord. 03-15 § 3 (part): prior code § 30-14(a))

By an innocent error, Brad Barnett mistakenly built a new single-family residence one foot three inches (1'3") into the required twenty (20) foot front yard setback located at 355 Nebesna Street, Lot 15, Block 6, North Portion Mineral Creek Subdivision. An Exception allowing a one foot three inch (1'3") encroachment into the required twenty (20) foot front yard setback is required to legalize the new setback of eighteen feet nine inches (18'9").

Per Section 17.06.060 of the Valdez Municipal Code a Public Notice was published in the newspaper on August 30, 2017 and September 6, 2017. Notice of the Public Hearing was mailed to property owners within a 300 foot radius on August 31, 2017

Staff has not received any public comment on this exception request at this time.

Staff recommends the Planning and Zoning Commission approve Exception (#17-01) for a one foot three inch (1'3") encroachment into the required twenty (20) foot front yard setback for a single-family residence located at 355 Nebesna Street, Lot 15, Block 6, North Portion Mineral Creek Subdivision, submitted by Brad Barnett.