

By: Susan Lee  
Introduced: April 4, 2016  
Public Hearing: April 18, 2016  
Action: Approved

**MATANUSKA-SUSITNA BOROUGH  
PLANNING COMMISSION RESOLUTION NO. 16-15**

A RESOLUTION OF THE MATANUSKA-SUSITNA BOROUGH PLANNING COMMISSION APPROVING A VARIANCE TO THE RIGHT-OF-WAY SETBACK REQUIREMENT FOR THE TRAPPER CREEK INN HANDICAP ACCESS RAMP/DECK, LOCATED ON MSB WAIVER 93-14PWm, RECORDED AT 93-55W, August 12, 1993, TALKEETNA RECORDING DISTRICT; WITHIN TOWNSHIP 26 NORTH, RANGE 5 WEST, SECTION 29, SEWARD MERIDIAN, MSB TAX ACCOUNT# 26N05W29D007.

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WHEREAS, an application for a variance from the setback requirements of MSB 17.55.010(A) has been received to allow the existing handicap access ramp/deck at the Trapper Creek Inn, to remain set back less than 25 feet from the Parks Highway right-of-way, on MSB Waiver 93-14PWm, recorded at 93-55W, August 12, 1993, Talkeetna Recording District, within Township 26 North, Range 5 West, Section 29, Seward Meridian; and

WHEREAS, at its closest point the handicap access ramp/deck is set back 15.9 feet from the Parks Highway right-of-way; and

WHEREAS, the Planning Commission conducted a public hearing on April 18, 2016 on this matter; and

WHEREAS, the Planning Commission reviewed the application, associated materials, and the staff report containing findings of fact and conclusions of law; and

WHEREAS, the subject lot is 26.61 acres in size; and

WHEREAS, this waiver parcel was created in 1993; and

WHEREAS, the Trapper Creek Inn building was constructed in 1983 and was built in compliance with the 25 foot right-of-way setback requirement; and

WHEREAS, the handicap access ramp/deck was constructed by previous owners in order to bring the structure into compliance with the mandatory Americans with Disabilities Act (ADA) of 1990; and

WHEREAS, the Americans with Disabilities Act required that handicap access be provided at this facility; and

WHEREAS, according to the application material the ground slopes downward along the south side of the building, creating a much steeper climb for access and the fuel pumps and gas station are located on the north side of the building; and

WHEREAS, the only public access to the business is on the west side of the building; and

WHEREAS, the handicap access ramp/deck is constructed within compliance of ADA specifications, as a smaller sized ramp would not meet ADA compliance requirements; and

WHEREAS, there are unusual conditions or circumstances applicable to this property as the handicap access ramp/deck was constructed at this particular location in order to bring the Trapper Creek Inn into compliance with the Americans with Disabilities Act requirements; and

WHEREAS, the strict application of the provisions of this title would deprive the applicant of rights commonly enjoyed by other properties, as the mandatory handicap access was constructed at the only feasible location on the building; and

WHEREAS, at its closest point the handicap access ramp is set back 15.9 feet from the Parks Highway right-of-way; however, at its closest point the ramp is set back 91.5 feet from the highway pavement; and

WHEREAS, no written comments in opposition to the variance request were received; and

WHEREAS, the handicap access ramp/deck will not be harmful to the public, nor will it be injurious to nearby property; and

WHEREAS, the access ramp/deck provides handicap access to the Trapper Creek Inn; and

WHEREAS, granting the variance will not be injurious to nearby properties, or harmful to the public welfare; and

WHEREAS, MSB Chapter 17.65 - Variances, was written to grant relief to property owners whose lots are impacted by topographic constraints and/or existing land use regulations thereby making the lot undevelopable; and

WHEREAS, the proposed setback variance is consistent with the policies and goals of the MSB Comprehensive Plan (2005 Update), as the variance will allow the structure to remain in compliance with the Americans with Disabilities Act; and

WHEREAS, the proposed variance is only for the handicap access ramp/deck; and

WHEREAS, deviation from this title is necessary to permit reasonable use of the property as handicap access was a mandatory requirement of the Americans with Disabilities Act; and

WHEREAS, the person seeking the variance did not construct the handicap access ramp/deck; and

WHEREAS, the handicap access ramp/deck was constructed by previous owners of the Trapper Creek Inn; and

WHEREAS, the handicap access ramp/deck was constructed in order to bring the Trapper Creek Inn into compliance with the Americans with Disabilities Act; and

WHEREAS, placing the handicap access ramp/deck around the back of the building is impractical; and

WHEREAS, the person seeking this variance is doing so in order to resolve the setback violation in order to subdivide the property into two lots; and

WHEREAS, the person seeking the variance did not cause the need for the variance; the Americans with Disabilities Act of 1990 caused the need for the variance; and

WHEREAS, the subject lot is not in a special land use district; and

WEHREAS, commercial uses are permitted on this property;  
and

WHEREAS, the variance, if granted, will not permit a land use in a district in which that use is prohibited, as commercial structures, with handicap access ramps are allowed at this location; and

WHEREAS, the variance is being sought so that the handicap access ramp/deck can remain in its current location; and

WHEREAS, the variance is not being sought solely to relieve pecuniary hardship or inconvenience as the handicap access ramp/deck was constructed in order to bring the Trapper Creek Inn into compliance with the Americans with Disabilities Act.

NOW, THEREFORE, BE IT RESOLVED, that the Matanuska-Susitna Borough Planning Commission approves the setback variance for the handicap access ramp/deck at the Trapper Creek Inn.

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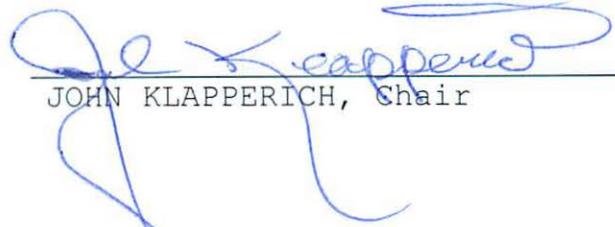
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ADOPTED by the Matanuska-Susitna Borough Planning Commission this 18<sup>th</sup> day of April, 2016.

  
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JOHN KLAPPERICH, Chair

ATTEST

  
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MARY BRODIGAN, Planning Clerk

(SEAL)



YES: *Klapperich, Anderson, Healy, Vague, Kendig, Adams, and Rauchenstein*  
NO: