

AGENDA ITEM E. NEW BUSINESS

ITEM 4. – BUILDING SETBACK ENCROACHMENT PERMIT
TRACT G2 FISHERMEN ROADS SUBDIVISION EDELMAN ADDITION

KPB File No.	2021-169
Planning Commission Meeting:	January 24, 2022
Applicant / Owner:	Benjamin P. Cheah and Megan M. Cheah of Kenai, Alaska
Surveyor:	Ryan Sorensen / Edge Survey and Design, LLC
General Location:	Kalifornsky Beach Road, Kalifornsky

Parent Parcel No.:	055-360-39
Legal Description:	Tract G-2, Fishermen Roads Subdivision Edelman Addition, Plat KN 96-59, Kenai Recording District
Assessing Use:	Residential
Zoning:	Rural Unrestricted

STAFF REPORT

Specific Request / Purpose as stated in the petition: To allow garage to remain in current location.

Site Investigation: An as-built survey was completed on December 28, 2021. The survey determined that an existing garage is within the 20 foot building setback adjoining Kalifornsky Beach Road. The building is not parallel with the right of way and the encroachment varies from 1.9 feet to 0.1 feet.

Kalifornsky Beach Road is a state maintained right of way that is 200 feet wide. Fishermen Roads Subdivision, Plat KN 84-73, established the 20 foot building setback. The setback was carried forward on Fishermen Roads Subdivision Edelman Addition, Plat KN 96-59.

The constructed width of Kalifornsky Beach Road is approximately 50 feet. Utility lines, ditches, and a patch of trees are between the roadway and the encroaching building. The building does not appear to create a line of sight issue for vehicular traffic.

Staff Analysis: Fishermen Roads Subdivision, Plat KN 84-73, subdivided government lots and aliquot parcels. Tract G was created and a 20 foot building setback was put in place. Plat KN 84-73 contained the plat note "Building setback line to be limit of utility easements along streets."

Fishermen Roads Subdivision Edelman Addition, Plat KN 96-59, subdivided Tract G. Plat KN 96-59 created the boundary configuration for Tract G-2. The 20 foot building setback note was carried over on this platting action. Plat KN 96-59 contained the plat note "The front ten (10) ft. of the twenty (20) ft. building setback along all street rights-of-way is a utility easement." This did not vacate or reduce the easement that was granted per KN 84-73.

State of Alaska DOT supplied a comment stating that 'DOT CR ROW has not comment on setbacks outside the ROW'.

The area subject to the encroachment is relatively flat. Tract G-2 does not appear to be impacted by wetlands.

There is a natural vegetative buffer between the road way and the encroachment. The nearest intersection on the west side of Kalifornsky Beach Road is approximately 2,650 feet in both directions.

The driveway for the subject lot and for Tract G-1 to the south appear to not have a limited line of sight due to the structure. The driveway approaches to Kalifornsky Beach Road are clear due as there are ditches and overhead power lines that are clear of structures and trees.

This review is for the building setback encroachment only. The as-built survey does indicate additional structures located within the 10 foot utility easement located along the southern property line. It was verbally stated to staff that those are moveable structures and there were no plans to vacate the utility easement. As stated above the parent plat, Fishermen Roads KN 84-73 granted a 20 foot utility easement. While the replat had a note granting a 10 foot utility easement, the borough has no record of the 20 foot utility easement being vacated.

If the owners wish to vacate the utility easement for the structure, a utility easement vacation petition will be required and a hearing would be scheduled once a complete application is submitted. ***Staff recommends have the as-built survey corrected to reflect the 20 foot utility easement, correct the subdivision name in the title block to Fishermen, and submit the corrected as-built for recording.***

The subject parcel is within the Kalifornsky Beach Advisory Planning Commission boundary. The Kalifornsky APC did not have a quorum at their January 5th, 2022 meeting and were not able to provide comments on this matter.

Findings:

1. Tract G-2 is subject to a 20 foot building setback adjoining Kalifornsky Beach Road right of way as created by Plat KN 84-73 and carried over on Plat KN 96-59.
2. Kalifornsky Beach Road is constructed and maintained by the State of Alaska DOT.
3. The constructed width of Kalifornsky Beach Road does not utilize the full dedication of 200 feet.
4. There are no street intersections within close proximity to the building encroachment.
5. Two driveways connect to the highway south of the building encroachment, the subject parcel and the parcel to the south.
6. The line of sight for the two private drives does not appear to be impacted.
7. The land surrounding the subject encroachment does not contain low wet areas.
8. The land is relatively flat.
9. The garage is built at an angle to the setback line and the widest encroachment width is 1.9 feet.
10. The original subdivision granted 20 foot utility easements resulting in a portion of the garage being within the utility easement.
11. The structure is a 24.2 foot by 24.2 foot garage with additional attachments.
12. Per KPB Assessing information, the garage was built in 2020.
13. State of AK DOT supplied a review of no comment on setbacks outside of the dedicated right of way.

20.10.110. – Building setback encroachment permits.

E. The following standards shall be considered for all building setback encroachment permit applications:

1. The building setback encroachment may not interfere with road maintenance.

Findings 2-4, 6-8 and 13 appear to support this standard.

2. The building setback encroachment may not interfere with sight lines or distances.

Findings 2-4, 6-8 and 13 appear to support this standard.

3. The building setback encroachment may not create a safety hazard.

Findings 2-4, 6-8 and 13 appear to support this standard.

F. The granting of a building setback encroachment permit will only be for the portion of the improvement or building that is located within the building setback and the permit will be valid for the life of the structure or for a period of time set by the Planning Commission. The granting of a building setback permit will not remove any portion of the 20 foot building setback from the parcel.

- G. The Planning Commission shall approve or deny a building setback encroachment permit. If approved, a resolution will be adopted by the planning commission and recorded by the planning department within the time frame set out in the resolution to complete the permit. The resolution will require an exhibit drawing showing, and dimensioning, the building setback encroachment permit area. The exhibit drawing shall be prepared, signed and sealed, by a licensed land surveyor.

KPB department / agency review:

SOA DOT comments	DOT CR ROW has not comment on setbacks outside the ROW'
Code Compliance – Eric Ogren	No comment
Advisory Planning Commission	No quorum at the Jan. 5 th meeting, not able to provide comments.

RECOMMENDATION:

Based on the standards to grant a building setback encroachment permit, **Staff recommends** to adopt Resolution 2022-04, subject to compliance with KPB 20.10.110 sections F and G.

NOTE:

20.10.110.(H) A decision of the planning commission may be appealed to the hearing officer by a party of record, as defined by KPB 20.90, within 15 days of the date of notice of decision in accordance with KPB 21.20.250.

END OF STAFF REPORT
