

## Zoning Board of Adjustment Staff Report

September 9, 2019

### AGENDA ITEM # 1

<b>Project Name</b>	<b>500 Thrush Ave</b>	<b>PZ # 19-00129</b>
<b>Request</b>	The applicant is requesting to reduce the required rear yard setback from 20 feet to 13 feet 6 inches, resulting in a 6 foot 6 inch variance.	
<b>Applicant</b>	David Pumphrey	

### Recommended Motion

Move to determine that the findings listed in this Staff Report dated September 9, 2019, can be made and, therefore approve the requested rear yard setback variance.

### Project Summary

The applicant is requesting to reduce the required rear yard setback between structures from 20 feet to 13 feet 6 inches to allow for a proposed addition to the existing single family home. In the Arbor Meadows Planned Unit Development, the required rear yard setback is 20 feet, which is different from a typical City subdivision that requires a 15-foot rear setback. The rear yard is adjacent to South Boise Avenue and Tract H. Tract H is owned and maintained by the Arbor Meadows Homeowners association. Because Tract H is directly adjacent to the rear of 500 Thrush Avenue, it creates the appearance of a larger rear yard setback.

The applicant would like to build an addition to the rear of the single-family residence in order to create a room for his aging mother who requires twenty-four hour care and ADA accessibility. The size of the addition is necessary in order to create enough space for a hospital bed, medical equipment and the minimum wheelchair-turning radius required by the ADA.

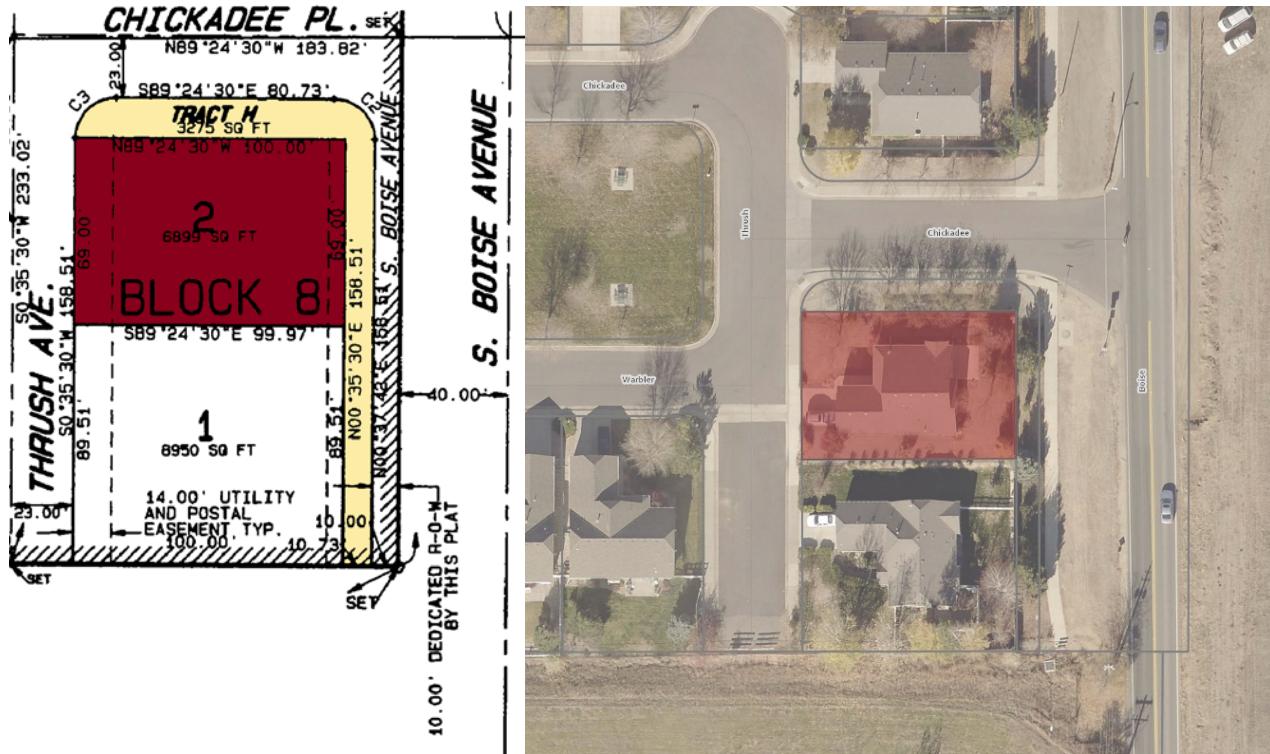
The applicant has provided letters of support from the Arbor Meadows Home Owners Association and the neighbor directly adjacent to the south. At the time this report was prepared, staff has not received any contact indicating objection from the neighborhood.



## Project Description

The addition will be approximately 13 feet 6 inches by 23 feet 6 inches located on the southeast side of the home. The property is surrounded by Tract H on the north and east sides and is surrounded by streets on the north, east, and west sides.

Tract H is owned and maintained by the Arbor Meadows Home Owners Association and contains mature vegetation screening the property from both South Boise Avenue and Chickadee Place.



## Site Data

<b>Address/Location</b>	500 Thrush Avenue – South of W 1st Street and bordered by Boise Avenue, Chickadee Place, and Thrush Avenue
<b>Subdivision</b>	Arbor Meadows PUD
<b>Land Area</b>	0.16 acres/6,899 square feet
<b>Existing Buildings</b>	1,191 square foot single-family residence
<b>Access</b>	Thrush Avenue
<b>Water Provider</b>	City of Loveland
<b>Wastewater Provider</b>	City of Loveland
<b>Electric Provider</b>	City of Loveland
<b>Gas Provider</b>	Xcel Energy
<b>Floodplain</b>	No

## Attachments

## Attachment A – Application and Justification Statement

## Attachment B - Site Plan

## Attachment C – HOA Letter of Support

#### Attachment D – Letter of Support from Adjacent Neighbor

Attachment E- General Room Mock Up Provided by Staff

Attachment F – ADA Wheelchair Turning Radius Requirements

Zoning and Existing Land Uses				
	Existing Zoning	Existing Land Use(s)		
<b>Subject Property</b>	P-42 Arbor Meadows PUD	Single family home		
<b>Adjacent North</b>	Chickadee Place	Street		
<b>Adjacent South</b>	P-42 Arbor Meadows PUD	Street		
<b>Adjacent East</b>	Thrush Avenue	Single family home		
<b>Adjacent West</b>	South Boise Avenue	Street		
Neighborhood Outreach				
<b>Notification</b>	An affidavit was received from David Pumphrey certifying that written notice was mailed to all property owners within 150 feet of the property on August 20, 2019 and a notice was posted in a prominent location facing North Wilson Avenue on August 20, 2019. All notices identified that the hearing for the variance would be held on September 9, 2019 at 4:00 pm at the Development Center with the Zoning Board of Adjustment.			
<b>Neighborhood Response</b>	Staff has received letters in support from the HOA and the neighbor directly adjacent to the property on the south.			
Zoning Board of Adjustment Criteria and Findings for Approval or Denial				
Pursuant to Section 18.17.1607.B. of the City of Loveland Municipal Code, the Zoning Board of Adjustment shall consider and make findings regarding the following criteria for variance requests. All criteria must be met in order to approve the requested variance.				
Criteria				
<ol style="list-style-type: none"> <li><b>Granting the variance will not substantially conflict with any adopted plans or policies of the City, or the purposes or intent set out in this Code;</b></li> </ol>				
<p><b>Finding:</b> <i>Staff believes that this finding can be met</i></p> <p><b>Analysis:</b> The variance does not conflict with any adopted plans or policies of the City or the purposes of the Unified Development Code. The property is subject to requirements unique to this subdivision established as part of the PUD zoning. The required rear setbacks for lots under 7,000 sf in the UDC is 15 feet, which is less than the rear yard setback of 20 feet required by the PUD.</p>				
<ol style="list-style-type: none"> <li><b>There are exceptional conditions creating an undue hardship, applicable only to the property involved, or the intended use thereof, which do not generally apply to the other land areas or uses within the same zone;</b></li> </ol>				
<p><b>Finding:</b> <i>Staff believes that this finding can be met</i></p> <p><b>Analysis:</b> The applicant is confronted with the need to provide functional space in the home to accommodate and care for an aging parent. This space is not available in the existing house so an addition is planned. The addition must be large enough to accommodate a hospital bed, various medical equipment and wheel chair maneuverability. A complication is the existence of a 20 foot rear setback requirement that is unique to the Arbor Meadows PUD. This 20 foot setback makes the variance necessary. The standard residential rear setback is 15 feet; a 15 foot setback would allow for the proposed addition to occur with only an administrative variation.</p>				
<ol style="list-style-type: none"> <li><b>The Applicant cannot derive a reasonable use of the property without approval of a variance;</b></li> </ol>				
<p><b>Finding:</b> <i>Staff believes that this finding can be met</i></p> <p><b>Analysis:</b> The applicant needs the additional space to care for an aging parent, which is a reasonable use in a residentially zoned neighborhood. Without the variance, the addition would not be large enough to accommodate a hospital bed, medical equipment, and provide for wheelchair accessibility (see Attachment E).</p>				

**4. Granting the variance will not generally set a precedent for other applications (which would indicate that a text amendment to this UDC should be proposed and considered instead);**

***Finding: Staff believes that this finding can be met***

**Analysis:** The approval of this variance will not set a precedent for the neighborhood as the hardship is unique and the typical rear yards throughout the subdivision are not adjacent to a dedicated open space buffer yard along a street edge.

**5. Granting the variance will not be detrimental to any adjacent properties or the area;**

***Finding: Staff believes that this finding can be met***

**Analysis:** The applicant has provided letters of support by both the Home Owners Association and the property owner directly to the south. The additional landscaping provided in Tract H provides screening of the addition from South Boise Avenue.

**6. Granting the variance will not be detrimental to public health, safety, or welfare; and**

***Finding: Staff believes that this finding can be met***

**Analysis:** The public health, safety, or welfare would not be impacted by the requested variance. The proposed addition is not encroaching into any easements. Additionally, the location of Tract H mitigates the visual impact of the addition from both South Boise Avenue and Chickadee Place.

**7. Adequate relief cannot be reasonably obtained through a different procedure, such as the application of alternative compliance standards, if applicable.**

***Finding: Staff believes that this finding can be met***

**Analysis:** A variance application is the appropriate process to request relief to the rear yard setback. Based on the unique hardship, a PUD amendment is not necessary. Further, an administrative variation is not available, as the setback would result in a more than 20% reduction.

**Staff Recommendation**

City staff is recommending approval of the variance application on the basis that all findings can be met.

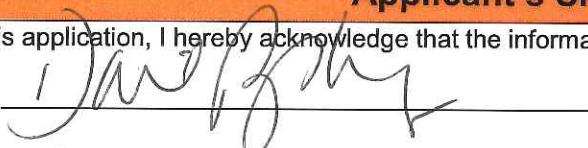
**Appeal Process**

Per 18.04.05.03 of the Unified Development Code the right to appeal a decision by the Zoning Board of Adjustment Hearing Officer is limited to the applicant, and adjoining property owner, or a property owner who received mailed notice of public hearing and either participated in the public hearing or provided written comment to the Director at or before the public hearing.

Per 18.14.04.04.C The application enters into a ten (10) day appeal period once the Zoning Board of Adjustment Hearing Officer has made a final determination. The written petition to appeal along with a one hundred and eighty dollar (\$180) fee must be submitted to City of Loveland Current Planning within the ten (10) day appeal period.

If the City Attorney determines that the appeal meets the threshold findings, the whole Zoning Board of Adjustment will hear (18.14.05.05) the appeal. The Zoning Board of Adjustment is the final appeal body for a variance.

# APPLICATION

Applicant Information		
Name: David Pumphrey	Phone:	720-560-5339
Address: 500 Thrush Ave		City, State: Loveland, CO
Email Address: dpumphre@hotmail.com		Preferred Method of Contact <input checked="" type="checkbox"/> Phone <input type="checkbox"/> Email
Variance Request		
Address of Property in which the Variance is Requested (if different than above information):   		
Describe the requested variance.	Requesting rear setback reduction to 13.5' to allow for addition to be made to existing residential structure to provide and fulfill long-term care requirements for the Property Owner's disabled mother. Dimensions have been determined based on medical care and Americans with Disabilities Act (ADA) requirements.	
List all existing structures on the property.	Single family home with attached garage.	
Applicant's Signature		
By signing this application, I hereby acknowledge that the information provided is correct and complete.		
Signature		
Printed Name	Date 7-22-19 David Pumphrey	

## Findings Report

For each finding below, please provide a detailed justification on how the variance request complies with the finding.

<b>Finding</b>	<b>Justification</b>
1. Granting the variance will not substantially conflict with any adopted plans or policies of the City, or the purposes or intent set out in the Unified Development Code.	The variance will not substantially conflict with any plans or policies of the City as the additional structure will be confined to the property in question and will not impact utility easement accessibility. The setback variance is not intended to conflict with the purpose of the Unified Development Code as the requested variance is well within the administrative variance threshold for R1 zoning, therefore reasonably residing within primary code regulations and compliance.
2. There are exceptional conditions creating an undue hardship, that are specific only to the property involved or the intended use, which do not generally apply to the other properties or uses within the same zone.	The intended usage of the specific property is subject to exceptional conditions and undue hardship that does not generally apply to other properties within the same zone by virtue of the Property Owner's/Occupant's individual circumstances. Having to provide a safe and secure residence, along with 24x7 long-term medical care capabilities, for a disabled elderly parent requires specific accommodations that can not be currently met without modifying the existing structure on the property. Additionally, specific to the property, the residing structure is the smallest model in the development and an inefficient provisioning of space in relation to its intended usage, which does not generally apply to other properties within the community.
3. The Applicant cannot derive a reasonable use of the property without approval of the requested variance.	As currently constituted, the existing structure on the property can not accommodate wheelchair accessibility nor meet long-term care requirements. The dimensions have been defined by medical care and American's with Disabilities Act (ADA) minimum requirements. The 13.5' variance setback is based on a 13.5' extension to the existing structure to accommodate a hospital bed (84") and ADA minimum wheelchair turning radius (60"). This 12' (144") minimum requirement is then supplemented by an additional 1.5' construction allowance for a small clearance and the finished structure. The property structure does not currently have 12' of linear space nor a wheelchair accessible entrance.
4. Granting the variance will not set a precedent for other applications.	It is not the intention of the Applicant for this variance to set a precedent for other applications. This request is intended to be limited to the conditions of this singular application and the specific circumstances surrounding this particular property and its required usage by the Applicant/Property Owner. It is intended to be an independent consideration and not to influence deliberations for any other, or future, application submissions.
5. Granting the variance will not be detrimental to any adjacent properties or the area.	The variance will have no impact, detrimental or otherwise, to adjacent properties. It will not result in any view obstructions, access implications, or devaluing propositions for any of the adjacent properties. The property is a corner lot with only one immediate neighboring property, of which the Property Owners have provided a letter of support for this variance approval (please reference additional documentation provided). There is no property located directly behind for which the rear setback applies.
6. Granting the variance will not be detrimental to public health, safety, or welfare.	The variance will not be detrimental to public health, safety, or welfare, as it will still be within the parameters of typical residential administrative zoning regulations and will merely result in an extension of the existing structure that currently resides on the property.

B

## PROJECT SUMMARY

CONTRACTOR:  
GRACE BUILDERS INC.  
2323 STONECREST DRIVE  
FT. COLLINS, CO 80521

**LEGAL DESCRIPTION:**

500 THRUSH AVENUE, LOT 2, BLOCK 8,  
ARBOR MEADOWS SECOND SUBDIVISION IN  
THE NORTHWEST QUARTER OF SECTION 19 AND  
THE NORTHEAST QUARTER OF SECTION 24,  
TOWNSHIP 5 NORTH RANGE 68 WEST OF THE  
6TH PRINCIPAL MERIDIAN, CITY OF  
LOVELAND, LARIMER COUNTY, COLORADO.

LOT ACREAGE:  
(.16 AC.) 6,900 S.F.

**PROJECT SQUARE FOOTAGES:**  
**MAIN LEVEL LIVING**  
**GARAGE**

1,128 SF.  
1,128 SF.

(T.F.) INDICATES MINIMUM TOP OF FOUNDATION  
(F.G.) INDICATES MINIMUM TOP OF GARAGE  
FLOOR

SITE PLAN DRAWING IS BASED UPON PLAT OF  
 ARBOR MEADOWS SECOND SUBDIVISION  
 PREPARED BY LANDSTAR SURVEYING INC.  
 DATED JUNE 12, 1999.



TRUE NORTH

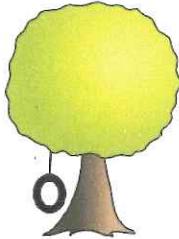
## SITE PLAN

SCALE 1<sup>°</sup>=20'-0"

kenney & associates LLC

architects landscape architects urban designers planners  
05/21/2021 KML 970.663.0548

970.663.0548



**Madison Street Arbor Meadows  
Home Owners Association  
1630 South College Avenue  
Fort Collins, CO 80525**

July 5, 2019

Mr. David Pumphrey  
500 Thrush Avenue  
Loveland, CO 80537

Dear David:

You plan to request a variance *from The Madison Street Arbor Meadows Design and Architectural Guidelines* for your home at 500 Thrush Avenue. Specifically, as I understand it, you would like to add a room on the back side of your home and said addition would not conform to the setbacks established by the filed plat for the subdivision. Your request involves adding a modest addition of **13.5 feet** to give your mother a place to live with the needed care and assistance. This project would require multiple steps and approvals, including a variance from the City of Loveland.

Before you formalize your plans for the addition in question, it is my understanding that you need a letter from the Madison Street Arbor Meadows Home Owners Association (MSAM HOA) expressing a willingness on the part of the Design Review Committee (DRC) and the Executive Board to consider your request. You received this letter from us dated July 17, 2017. This continues to be a unique, one time only request. Your back yard is bordered by Chickadee Place on the north and South Boise Avenue to the east. You share a property line to the south with Curt and Carmen Hagge. Therefore, the proposed addition would have minimal visual impact on the subdivision other than for the Hagues, who do not object to the project. The front of your home would maintain the architectural character of MSAM. Upon your original request, the former chair of the DRC conferred with the other DRC members and consulted the Executive Board. **The Executive Board agreed that your project was worthy of consideration and endorsed your updated plan to proceed with the approval process.**

Please note that final approval of the variance to the HOA's *Design and Architectural Guidelines, Section VI. Item c*, cannot be approved by both the DRC and the Executive Board until submittal requirements are met by your project. These requirements include: a site plan, floor plans, roof plans, and all exterior elevations (see Section IV. of the Design and Architectural Guidelines).

Respectfully,



Barbara Miller  
Chairman, Design Review Committee

  
Dennis Miller, Board President

D

July 6, 2019

City of Loveland

To whom it may concern:

My husband and I live next door to David Pumphrey, he lives at 500 Thrush Ave and we live at 516 Thrush Ave.

He is looking at building an addition on to his house, an extension on the back of the house to be able to take care of his mother and accommodate her needs, such as room and a wider door to help her get around in a wheel chair.

As a neighbor next door to him we are fine with his request to build the new addition for the care of his mother.

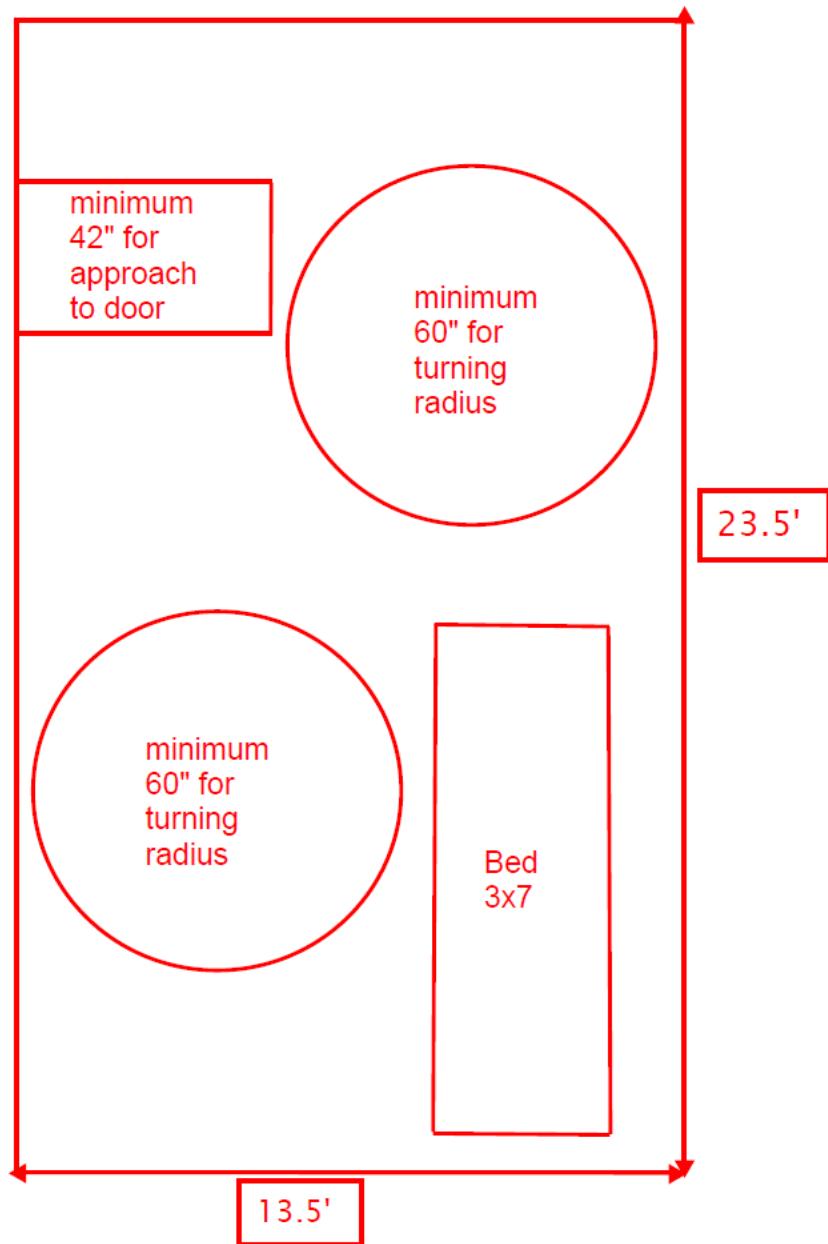
If you have any questions or concerns please contact us at 970-669-3536.

Sincerely,

*Carmen Hagge*

Curt & Carmen Hagge  
516 Thrush Ave.  
Loveland CO 80537

E



General Room Mock Up Provided by Staff

Americans with Disability Act (ADA) Wheelchair Turning Space Minimum Requirements.

Source: <https://www.ada.gov/reg3a/fig3.htm>

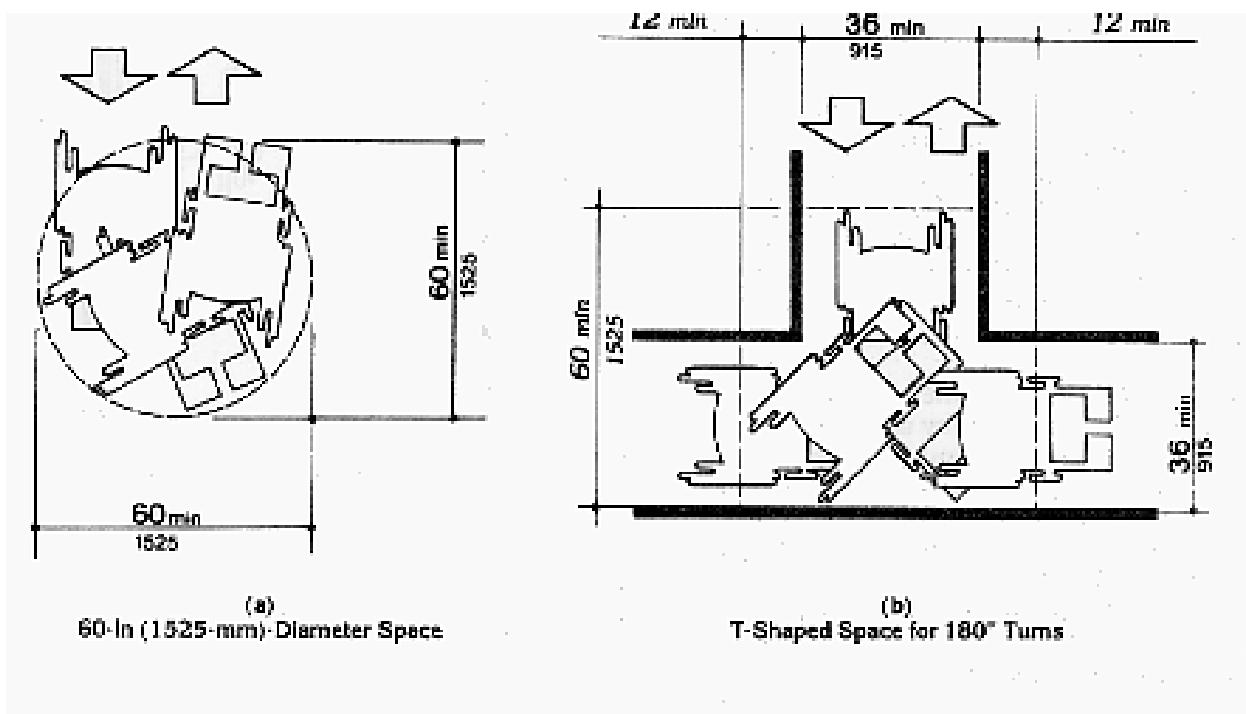


Fig. 3  
Wheelchair Turning Space