

BOARD OF ADJUSTMENT MINUTES

The regular meeting of the Larimer County Board of Adjustment was held in the County Board Hearing Room in the Larimer County Administrative Services building, Fort Collins, Colorado and virtually via Zoom at 6:00 p.m., January 23, 2024, at which time the following business was transacted.

Board Members Present: Carol Cochrane, David Leighton, Lauren Light, Philip San Filippo, and Lee Taylor

Staff Present: Samantha Lasher (Staff Liaison), Samantha Mott, Jared Seay, Laura Culleton (County Planners), Chad Gray (Code Compliance), Caryn Nezat (Engineering), Andrew Lewis and Christine Luckasen, (Assistant County Attorneys)

Minutes: Philip San Filippo moved and Lee Taylor seconded the Motion to approve the November 28, 2023 Minutes of the Larimer County Board of Adjustment as presented. Board members Carol Cochrane, David Leighton, Lauren Light, Philip San Filippo, and Lee Taylor voted in favor of the Motion. The Minutes were unanimously approved.

Findings and Resolutions: Philip San Filippo moved and Lauren Light seconded the Motion to approve the following Findings and Resolution: Welcome to Realty Setback Variance Denial (#23-ZONE3445). Board members Carol Cochrane, David Leighton, Lauren Light, Philip San Filippo, and Lee Taylor voted in favor of the Motion.

Consent Applications:

The following applications were approved by consent:

File No: #23-ZONE3486 (Robinson Setback Variance)
Owners: Danny D. Robinson and Kimberly Jo Robinson
Applicant: Danny Robinson

Request: The Application of Danny Robinson, requesting two variances was presented to the Board. The Application requested setback variances to allow: 1) a shed to be located 31.9 feet from the Miller Fork Stream, and 2) a deck to be located 25.2 feet from the Miller Fork Stream rather than the required minimum of 100 feet.

Action: There were no requests from the public, the Board, or Staff to have a full hearing on this request and therefore it remained on the Consent Agenda. Lee Taylor moved and Lauren Light seconded the Motion to approve the Application with the following conditions:

1. Failure to comply with any conditions of the variance approvals may result in reconsideration of the use and possible revocation of the approvals by the Board of Adjustment.

2. All future additions or buildings that would be within setbacks as defined in the Land Use Code must go through the proper County review and planning process prior to construction.

3. The approval of these variances shall automatically expire in one year unless the applicant takes affirmative action consistent with this approval.

4. The Larimer County Building Division must be provided with a written certification by a Colorado Licensed Land surveyor that the proposed building and structure are located where shown on the Larimer County approved Plot Plan for this development.

5. The owners of 677 Streamside Drive, Glen Haven, Colorado, will be required to work with Larimer County Code Compliance to attain all required building permits for existing structures and those proposed within this variance request, file No.#23-ZONE3486.

Board members Carol Cochrane, David Leighton, Lauren Light, Philip San Filippo, and Lee Taylor voted in favor of the Motion. The Application was approved with conditions.

File No: #23-ZONE3560 (Mather Setback Variance)

Owner: Timothy Mather

Applicant: Timothy Mather

Request: The Application of Timothy Mather, requesting a variance was presented to the Board. The Application requested a setback variance to allow an existing small second story deck to be located 18.4 feet from the property line where a minimum of 25 feet is required.

Action: There were no requests from the public, the Board, or Staff to have a full hearing on this request and therefore it remained on the Consent Agenda. Lee Taylor moved and Lauren Light seconded the Motion to approve the Application with the following conditions:

1. Failure to comply with any conditions of the variance approval may result in reconsideration of the use and possible revocation of the approval by the Board of Adjustment.

2. All future additions or buildings that would be within setbacks as defined in the Land Use Code must go through the proper county review and planning process prior to construction.

3. This approval shall automatically expire one year from the date of this Resolution unless prior to expiration the applicants (a) take affirmative action consistent with this approval, OR (b) submit a written request showing good cause to extend the one-year time limit.

4. A building permit will be required for the addition to the studio.

5. The Larimer County Building Department must be provided with a written certification by a Colorado Licensed Land Surveyor that the structures are located where shown

on the Larimer County approved Plot Plan for this development as part of the building permit process.

6. The applicant will need to provide eave gutters on the north side of the studio to prevent drainage onto the adjacent property or provide documentation to be reviewed by the Larimer County Engineering Department that the property to the north is not negatively impacted by drainage from the studio.

Board members Carol Cochrane, David Leighton, Lauren Light, Philip San Filippo, and Lee Taylor voted in favor of the Motion. The Application was approved with conditions.

Discussion Applications:

The following application was approved after discussion:

File No: #23-ZONE3437
Owner: Dominic Gambone
Applicant: Dominic Gambone

Request: The Application of Domonic Gambone, requesting 15 variances, was presented to the Board. The Application requested setback variances to allow:

Existing Residence:

- 1) 23 feet from the centerline of Falls Creek, where a minimum of 100 feet is required.

Existing South Deck:

- 2) 17 feet from the front property line, where a minimum of 25 feet is required;
- 3) 20 feet from the centerline of Falls Creek, where a minimum of 100 feet is required.

Existing West Deck:

- 4) 16 feet from the centerline of Falls Creek, where a minimum of 100 feet is required.

Existing North Shed:

- 5) 18 feet from the front property line, where a minimum of 25 feet is required;
- 6) 23 feet from the centerline of Falls Creek, where a minimum of 100 feet is required.

Existing West Shed:

- 7) 14 feet from the front property line, where a minimum of 25 feet is required;
- 8) 32 feet from the centerline of Falls Creek, where a minimum of 100 feet is required.

Existing Carport:

- 9) 23 feet from the front property line, where a minimum of 25 feet is required;
- 10) 3 feet from the side property line, where a minimum of 5 feet is required;
- 11) 49 feet from the centerline of Falls Creek, where a minimum of 100 feet is required.

Existing East Shed:

- 12) 3 feet from the side property line, where a minimum of 5 feet is required;
- 13) 63 feet from the centerline of Falls Creek, where a minimum of 100 feet is required.

Existing Covered Garden:

- 14) 92 feet from the centerline of Falls Creek, where a minimum of 100 feet is required.

Existing Covered Porch:

- 15) located on the north side of existing west deck: 16 feet from the centerline of Falls Creek, where a minimum of 100 feet is required.

Discussion:

The property owner was represented by attorney Bob Choate at the Board of Adjustment hearing. Bob Choate presented a PowerPoint addressing the characteristics of the property and reiterated the request for the above setbacks and requested the Board's approval.

The Board asked about whether Falls Creek was an intermittent creek and what the flood plain was. It was confirmed that the structures on the property are located outside of any FEMA floodway. The Board asked whether there was a Homeowner's Association in place for the subject property; it was confirmed that there is no HOA for the subject property. The Board asked about the vault and domestic well for potable water; it was confirmed that the variances requested would not impact the well or the vault. It was also confirmed that Environmental Health did not have any concerns with the variances requested.

The Board discussed the location of the structures currently on the property and inquired whether the property owner had already attempted to accommodate the neighboring property by cutting off a portion of the structures. The Board inquired as to whether the property owner could remove more of the shed in order to increase the setback. The property owner explained that he had tried to accommodate the neighboring property owners by cutting off portions of the structures and reducing structure heights.

The following persons appeared and supported the request:

- **Tony Falbo** - Mr. Falbo expressed his support and spoke on behalf of the Poudre Canyon Fire District as the Battalion 1 Chief, stating that he had no concerns about these variance requests as a resident or as the Battalion Chief.
- **Nicholas Stanford** - Mr. Stanford expresses his support for the variance requests and explained how close in proximity all of the homes in Falls Creek are to each other.

The following persons appeared and objected to the request:

- **Benjamin Curley** - Mr. Curley stated that he was not in support of these variance requests due to the close proximity of the homes in Falls Creek and the fire danger, along with his struggles to obtain homeowner's insurance due to the proximity of the homes and the resultant fire danger.

Following public comment, the property owner, via his attorney Bob Choate, offered to construct a fire wall along the south side of the existing carport and existing east shed, located on the south side of the property, to accommodate Mr. Curley's concerns.

The Board closed the public portion of the hearing and discussed the application.

The Board asked Planning Staff whether a building is 200 square feet or less it requires a building permit; Staff confirmed that if a building is less than 200 square, not on permanent foundation, is an accessory building, and is a single story, it doesn't require a building permit - but it must still be at least 5 feet from all property lines. Staff also confirmed that the sum total of all accessory structures on a lot cannot exceed 10% of the total lot area; and that Mr. Gambone's accessory structures do not exceed this amount.

Action: Lee Taylor moved and Philip San Filippo seconded the Motion to approve the Application with the following conditions:

1. Failure to comply with any conditions of the variance approvals may result in reconsideration of the use and possible revocation of the approval by the Board of Adjustment.
2. All future additions or buildings that would be within setbacks as defined in the Land Use Code must go through the proper County review and planning process prior to construction.
3. This approval shall automatically expire in one year unless the applicant takes affirmative action consistent with this approval.
4. The Larimer County Building Division must be provided with a written certification by a Colorado Licensed Land surveyor that the existing structures are located where shown on the Larimer County approved Plot Plan for this development.
5. Within one year of the date of approval, the applicant must install a firewall along the south side of the existing carport and existing east shed, located on the south side of the property. Following installation, the applicant must submit proof of such installation to the Building Division.

Board members Carol Cochrane, David Leighton, Lauren Light, Philip San Filippo, and Lee Taylor voted in favor of the Motion. The Application was approved with conditions.

Other Matters:

- Posting of Public Meeting: Carol Cochrane moved and Philip San Filippo seconded that the Larimer County Board of Adjustment designate www.Larimer.gov as the place for posting notice of public meetings, and if exigent or emergency circumstances prevent the online posting at such location, public notice shall be physically posted at the bulletin boards located at the north and south entrances to the Larimer County Courthouse Offices

Building at 200 West Oak, Fort Collins, Colorado, in accordance with Colorado's open meetings laws.

Adjournment: The meeting was adjourned at 7:16 p.m.

(These proceedings were recorded by audio tape.)

LARIMER COUNTY BOARD OF ADJUSTMENT

By: Carol E. Eddins
Chair

ATTEST:

Jocelyn Light