

Date: Tuesday, November 28, 2023
Time: 6:00 PM
Location: Hybrid - In-Person: Hearing Room 1st Floor, 200 West Oak Street, Fort Collins or Virtual, Zoom Link: https://larimer-org.zoom.us/webinar/register/WN_AHtbqaQ5ReS_L9Y_mw9qBA

BOARD OF ADJUSTMENT ADDENDUM 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., November 28, 2023 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: Jenny Axmacher (Planning Manager), Samantha Lasher (Staff Liaison), Samantha Mott, Laura Culleton and Jared Seay (County Planners), Tony Brooks (Code Compliance Inspector) and Christine Luckasen (Assistant County Attorney)

Minutes: Lee Taylor moved and Lauren Light seconded the Motion to approve the October 24, 2023 Minutes of the Larimer County Board of Adjustment as presented. Board members Carol Cochrane, David Leighton, Lauren Light, and Lee Taylor voted in favor of the Motion. Board member Philip San Filippo abstained from voting. The Minutes were approved.

Findings and Resolutions: There were no Findings and Resolutions to approve.

Consent Applications:

The following applications were approved by consent:

File No: #23-ZONE3530 (Johnson Setback Variance)
Owners: Kathryn Johnson and Ralph Johnson
Applicants: Shawn Johnson and Kathryn Johnson

Request: The Application of Shawn Johnson and Kathryn Johnson, requesting a variance was presented to the Board. The Application requested a setback variance to allow a 20.5-foot by 22.4-foot existing shop/garage addition that is located 3.6 feet from the western side property line, which includes a 0.5-foot overhang, where a minimum of 5 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 Philip San Filippo 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 in nine months 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 addition is located where shown on the Larimer County approved Plot Plan for this development.

5. The lean-to shed must be removed to meet Section 3.4.5.F.2. of the Larimer County Land Use Code. Otherwise, an Appeal to Section 3.4.5.F.2. will be required or other existing accessory storage buildings/garage will need to be removed.

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: #20-ZONE2676 (Northen Setback Variance)
Owner: MRH Properties LLC and Roger Northen Jr.
Applicant: Troy M. Jones, MTA Planning and Architecture

Request: The Application of Troy M. Jones, MTA Planning and Architecture, requesting variances was presented to the Board. The Application requested three setback variances to bring buildings into compliance. The request includes a setback variance to allow the enclosed storage units to have a setback of 57 feet from the centerline of E. Lincoln Avenue, rather than the required minimum of 100 feet for a major collector and 17 feet from the edge of E. Lincoln Avenue rather than the required minimum of 25 feet. The applicant is also requesting a side setback of 5 feet rather than the required minimum of 10 feet and 23 feet from an access easement rather than the required minimum of 25 feet. E. Lincoln Avenue is classified as a major collector which requires a 100-foot setback from the right-of-way centerline.

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. Philip San Filippo moved and Lee Taylor 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 in one year unless the applicant takes affirmative action consistent with this approval.

4. The Larimer County Building Department must be provided with a written certification by a Colorado Licensed Land surveyor that the existing structure is located where shown on the Larimer County approved Plot Plan for this development.

5. A Floodplain Development Permit (FDP) is required for this project. The FDP must be approved prior to issuance of the building permits.

6. Site Plan Review must be completed for the use and building permits must be approved for the storage containers.

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-ZONE3545 (Brown Setback Variance)
Owners: Bruce Brown and Leslie Brown
Applicants: Mike Nilsen and LNM Builders LLC

Request: The Application of Mike Nilsen and LNM Builders LLC, requesting a variance was presented to the Board. The Application requested a setback variance for a new deck to be located 10 feet from the front property line rather than the required minimum of 25 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. Lauren Light moved and David Leighton 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 in one year unless the applicant takes affirmative action consistent with this approval.

4. The Larimer County Building Department must be provided with a written certification by a Colorado Licensed Land surveyor that the existing structure is located where shown on the Larimer County approved Plot Plan for this development.

5. Staff recommends the applicant read and address all referral agency comments. Comments may be enforced by the respective referral agencies, including those not included as conditions of approval.

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 denied after discussion:

File No: #23-ZONE3445 (Welcome to Realty Setback Variance)
Owner: Welcome to Realty LLC 401 Profit Sharing Plan
Applicant: Christophe Attard

Request: The Application of Christophe Attard, requesting a variance was presented to the Board. The Application requested a setback variance to allow a newly constructed single-family dwelling to be located 0 feet from the west property line rather than the required minimum of 20 feet.

Action: The request was removed from the consent agenda for a full proceeding.

The Applicant testified that they understood that the single-family dwelling was placed in the “wrong place” on the lot; that they were willing to cut a portion of the home off the building to prevent encroachment into the Right-of-Way for Costigan Avenue; that they believed the requested 0-foot setback fits with the character of the neighborhood; and that granting the variance would not have a substantial impact on other properties in the vicinity.

Five individuals appeared and objected to the request; two appeared in-person and three appeared virtually online.

Eric Kurtch (in-person) expressed concern that the proposed placement of the home “looks terrible” in the neighborhood given how close it is to the street, that the proposed placement shown by the applicant on the applicant’s PowerPoint wasn’t accurate, and that if the home was moved back to where the prior house was located, he wouldn’t be in opposition to the home being there.

Amanda Cooley (online) expressed concern that the applicant has continually violated Larimer County permitting regulations, that the placement of the home significantly impacts the aesthetic of the neighborhood, that the home’s placement “doesn’t flow with the neighborhood,” and that the potential of ice on the road makes the home’s proposed placement potentially dangerous during winter conditions.

Connor Wigham (online) expressed concern that the applicant didn’t use a licensed contractor, that the failure to use a licensed contractor has resulted in preventable issues, and that many neighbors have expressed concern regarding the proposed placement of the home.

Christa Novelli (online) expressed concern that homes on similarly sized lots are in compliance with the required setbacks, that the proposed location of the home is a “real detriment” to the neighborhood and does not look good “right up against the street like that,” additionally, Christa expressed concern about the potential danger of people “sliding out” when Costigan Avenue becomes icy, creating potential danger.

Vicky Nickham (in-person) expressed concern that the applicant has been irresponsible regarding Larimer County permitting requirements and has failed to adequately mitigate neighbor concerns.

The applicant addressed the neighbors' concerns, stating that:

- There are other homes that are closer in proximity to the Right-of-Way.
- No matter where the home is placed, if you slide on the ice, there is a risk of sliding into the home.
- The proposed home location is "as close as possible" to where the home that previously existed was located.
- The lot is not a rectangle, making placing the home more difficult.
- Moving the home to a new location would be a financial hardship.

The Board questioned the applicant as to why he didn't place the home in the same location as the previous home, why he didn't utilize a licensed contractor to help place the home in compliance with Larimer County setback requirements, and as to whether the home could have been placed in the same location as the previous home.

The applicant responded that he could have placed the home in the same location and that the proposed location was "as close as possible" to the old location.

The Board expressed concern that the applicant's answer wasn't accurate and that had the applicant used a licensed contractor, the home would comply with the Larimer County setback requirements.

The Board also asked the applicant why the home was placed in the wrong location, and the applicant responded that the Larimer County inspector approved of the proposed location. The Board expressed concern that the applicant's answer wasn't accurate, and that the setback certification required by Larimer County was not obtained by the applicant because the applicant failed to have properly surveyed prior to the foundation being poured. The Board expressed concern that, had the applicant complied with the Larimer County Building Department's conditions of approval, this setback variance would not be necessary.

Philip San Filippo moved and Lee Taylor seconded the Motion to approve the Application with conditions.

No members voted in favor of the Resolution. Board members Carol Cochrane, David Leighton, Lauren Light, Philip San Filippo and Lee Taylor voted against the Motion. The setback variance was denied.

Findings and Resolutions: Lee Taylor moved and Lauren Light seconded the Motion to approve the following Findings and Resolutions: Northern Setback Variance (#20-ZONE2676), Brown

Setback Variance (#23-ZONE3545), and Johnson Setback Variance (#23-ZONE3530). Board members Carol Cochrane, David Leighton, Lauren Light, Philip San Filippo and Lee Taylor voted in favor of the Motion.

Adjournment: The meeting was adjourned at 7:38 p.m.

(These proceedings were recorded by audio tape.)

LARIMER COUNTY BOARD OF ADJUSTMENT

By: _____
Chair

ATTEST:
