

## LARIMER COUNTY | COMMUNITY DEVELOPMENT



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**Date:** Tuesday, August 27, 2024

**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\\_p73VDnl6RIu85E4iP8mixw](https://larimer-org.zoom.us/webinar/register/WN_p73VDnl6RIu85E4iP8mixw)

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., August 27, 2024, at which time the following business was transacted.

**Board Members Present:** Forrest Hancock, Brannon Hughes, David Leighton, Lauren Light, Lee Taylor, and Chris Burnette (alternate)

**Staff Present:** Jenny Axmacher (Planning Manager), Samantha Lasher (Staff Liaison), Samantha Mott, Jared Seay, Jacy McNulty (County Planners), Amy White (Code Compliance Supervisor), Alan Kee (Code Compliance Inspector) and Christine Luckasen (Assistant County Attorney)

**Minutes:** Approval of the June 25, 2024, Minutes of the Larimer County Board of Adjustment was tabled as there was no quorum to vote.

**Findings and Resolutions:** David Leighton moved and Forrest Hancock seconded the Motion to approve the following Findings and Resolutions: Roeder Setback Variance (#24-ZONE3666), Lewis Setback Variance (#24-ZONE3626), Abramoff Setback Variance (#24-ZONE3678), Kittle Setback Variance (#24-ZONE3653), and Tho Assets, LLC Setback Variances (#24- ZONE3632). Board members Forrest Hancock, Brannon Hughes, David Leighton, Lauren Light, and Lee Taylor voted in favor of the Motion.

The Board reviewed the applications on the agenda for the August 27, 2024, meeting. The Board asked if any members of the Board, Staff, or anyone in the in-person or online audience wished to remove any item from the consent agenda. The following items were moved to the discussion agenda by the request of members of the public: Emuna Capital Investments Setback Variance (#24-ZONE3635); and Welcome to Realty, LLC (#21-ZONE3656).

**Consent Applications:**

The following applications were approved by consent:

**File No:** #24-ZONE3666 (Roeder Setback Variance) **Owner:** Sarah Roeder and Gregory Roeder  
**Applicant:** Gregory Roeder

**Request:** The Application of Gregory Roeder, requesting a variance was presented to the Board. The Application requested a setback variance to allow construction of an addition to an existing residence addition and for the addition to be located 13.3 feet from the front property line where 20 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. David Leighton moved and Forrest Hancock 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 buildings or additions must go through the proper County review and permit 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 and proposed buildings are located where shown on the Larimer County approved Plot Plan for this development.

Board members Forrest Hancock, Brannon Hughes, David Leighton, Lauren Light, and Lee Taylor voted in favor of the Motion. The Application was approved with conditions.

**File No:** #24-ZONE3626  
**Owner:** Kenneth Lewis  
**Applicant:** Kenneth Lewis

Request: The Application of Kenneth Lewis, requesting a variance was presented to the Board. The Application requested a setback variance to allow a proposed addition to be no closer than 25 feet from the side property line where 50 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. David Leighton moved and Forrest Hancock 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. The approval of this variance 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 and proposed buildings are located where shown on the Larimer County approved Plot Plan for this development.

1. A septic permit from the Department of Health and Environment is required at the time that the applicant applies for a building permit.

2. The applicant agrees to put up temporary markers or fencing to demarcate the boundaries of the conservation easement during the construction period.

3. The applicant agrees to share all building permit application materials with the National Park Service.

Board members Forrest Hancock, Brannon Hughes, David Leighton, Lauren Light, and Lee Taylor voted in favor of the Motion. The Application was approved with conditions.

File No: #24-ZONE3678 (Abramoff Setback Variance)  
Owner: Julie and David Abramoff  
Applicant: David Abramoff

Request: The Application of David Abramoff, requesting a variance was presented to the Board. The Application requested a setback variance to allow construction of a new single-family residence to be located 16.4 feet from the front property line (Shore Road) where 20 feet is required and to be located 7 feet from the other front property line (Bridge Way) where 20 feet is also 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. David Leighton moved and Forrest Hancock 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. These variances are only for the buildings or structures as submitted with this variance application. All future buildings or additions must go through the proper County review and permit 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 and proposed buildings are located where shown on the Larimer County approved Plot Plan for this development.

Board members Forrest Hancock, Brannon Hughes, David Leighton, Lauren Light, and Lee Taylor voted in favor of the Motion. The Application was approved with conditions.

File No: #24-ZONE3653 (Kittle Setback Variance)  
Owner/Applicant: Robert Kittle Jr.

Request: The Application of Robert Kittle Jr., requesting three variances was presented to the Board. The Application requested setback variances to allow, 1) the existing deck to be located 0.00 feet from the front property line where 25 feet is required, 2) for the existing deck to be located 48 feet from the centerline of W. Highway 14 where 100 feet is required, and 3) for the existing deck to be located 0.3 feet from the side property line where 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. David Leighton moved and Forrest Hancock 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. The approval of this variance 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 and proposed buildings are located where shown on the Larimer County approved Plot Plan for this development.
5. The required as-built permit for the reroof and deck, as identified within the code compliance research, must be completed after the variance approval.
6. The porch that encroaches onto the neighboring property to the east must be removed.

Board members Forrest Hancock, Brannon Hughes, David Leighton, Lauren Light, and Lee Taylor voted in favor of the Motion. The Application was approved with conditions.

File No: #24-ZONE3632 (Tho Assets, LLC Setback Variances)  
Owner: Tho Assets LLC  
Applicants: David Bangs, Will Erickson and Thomas Olson Jr.

Request: The Application of David Bangs, Will Erickson and Thomas Olson Jr. requesting three variances was presented to the Board. The Application requested setback variance to allow 1) for a proposed deck to be 34.2 feet from the edge of the north lot line when 50 feet would have otherwise been allowed, 2) for a proposed deck setback to be 19.0 feet from the west property line when 50 feet would have otherwise been allowed and 3) for a proposed addition to the

existing home to be setback is proposed to be 29.0 feet from the west property line when 50 feet would have otherwise been allowed.

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. David Leighton moved and Forrest Hancock 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. These variances are only for the buildings or structures as submitted with this variance application. All future buildings, additions, and improvements must meet County setback requirements or must go through the proper County review and permit process prior to construction.
3. The approval of this variance 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 and proposed buildings are located where shown on the Larimer County approved Plot Plan for this development.
5. The owners of this lot will comply with all required Community Development requirements for building permits for the proposed structure within this variance request, File No. 24-ZONE3632, including working with the Planning Division to process an application for an amended plat and legalize the current lot configuration with a planning process and finalizing all outstanding building permits per Code Compliance Division comments on this application.

Board members Forrest Hancock, Brannon Hughes, David Leighton, Lauren Light, 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: #24-ZONE3635 (Emuna Capital Investments, Inc. Setback Variance)  
Owner: Emuna Capital Investments Inc.  
Applicants: Tom Spaeth and Ruben Bachayev

Request: The Application of Tom Spaeth and Ruben Bachayev, requesting several variances was presented to the Board. The Application requested setback variances to allow 1) For the existing illegal duplex to be located 2.7 feet from the front property line where 25 feet is required; 2) For the existing front entry stairs to be located 0 feet from the front property line where 25 feet is required; 3) For the existing illegal duplex to be located 34.7 feet from centerline of Highway 34 where 100 feet is required; 4) For the existing illegal duplex to be located 92.0 feet from the centerline of the Big Thompson River where 100 feet is required; 5) For the existing illegal

duplex to be located 3.7 feet from the south side property line where 5 feet is required; 6) For the existing illegal duplex to be located 1.5 feet from the north side property line where 5 feet is required; and 6) For the existing illegal duplex to be located 1.5 feet from the north side property line where 5 feet is required; and 6) For the existing illegal duplex to be located 1.5 feet from the north side property line where 5 feet is required; and 7) For an existing shed to be located 4.5 feet from the north side property line where 5 feet is required.

Action: The request was removed from the consent agenda by Betty Turner, a member of the public, for a full proceeding.

Discussion:

Jacy McNulty, a Planner with the Larimer County Community Development Department, presented this application to the Board.

The applicant spoke briefly on the application and explained that the variance is needed to begin obtaining building permits and that they are happy to answer any questions the Board may have.

Betty Turner, a neighbor, spoke at the public hearing. Ms. Turner has questions about the addressing of the property and about whether the property would be used as a weekend or vacation rental. The applicant stated that the property only has a single address, but that it was previously two units.

Board of Adjustment Member Lee Taylor asked whether the Board of Adjustment has jurisdiction over whether the property can be rented. Staff clarified that the application before the Board of Adjustment was for the variance only.

Lee Taylor 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. The approval of this variance 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 and proposed buildings are located where shown on the Larimer County approved Plot Plan for this development.
5. The building on this property shall be converted from an illegal duplex into a single-family residence.

6. The overhang on the south side of the building shall be removed to comply with the required fire separation distance in the Building Code.

7. The retaining wall in the front of the property shall be removed from the CDOT right-of way.

8. The applicant must obtain a special use permit from CDOT for the front entry stairs that encroach into the right-of-way.

9. Any parking in the right-of-way, which is specifically for this property, must have a lease from CDOT that is renewed annually.

Board members Forrest Hancock, Brannon Hughes, David Leighton, Lauren Light and Lee Taylor voted in favor of the Motion. The Application was approved with conditions.

The following application was denied after discussion:

File No: #24-ZONE3656 (Welcome to Realty Setback Variance)  
Owner: Welcome to Realty LLC 401 Profit Sharing Plan  
Applicant: Christophe Attard

Request: The Application of Christophe Attard, requesting setback variances was presented to the Board. The Application requested two setback variances to allow a newly constructed single family-residence to be 7.3 feet from the front property line where 20 feet is required and 5.0 feet from the side property line where 7 feet is required.

Action: The request was removed from the consent agenda by Eric Gertge, a member of the public, for a full proceeding.

Discussion:

Jared Seay, a Planner with the Larimer County Community Development Department, presented this application to the Board.

The applicant presented to the Board of Adjustment, explaining the purpose and intent of the variance request.

The Board of Adjustment Members asked Staff about the topography of the property, about how the home came to be in its current location, about the setbacks of other homes in the vicinity.

Two community members, who identified themselves as living in the subject property's neighborhood, spoke at the public hearing in opposition to the application.

No community members spoke in support of the application.

Before the vote could be completed, Board of Adjustment Member Lee Taylor lost connection via Zoom video. It was confirmed on the record that Board of Adjustment Alternate Member Chris Burnette listened to the entirety of the application and felt prepared to make an informed vote on this application. Board of Adjustment Alternate Member Chris Burnette voted on this application instead of Board of Adjustment Member Lee Taylor.

Forrest Hancock moved and Lauren Light seconded the Motion to approve the Application.

Board members Forrest Hancock and Lauren Light voted in favor of the Motion. Board members Brannon Hughes, David Leighton and Chris Burnette voted against the Motion. The Application was denied for failure to receive the requisite four votes in favor.

Adjournment: The meeting was adjourned at 7:29 p.m.