

Date: Tuesday, July 25, 2023

Time: 6:00 PM

Location: Hybrid - In-Person: Lake Estes, 3rd 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 MINUTES

The regular meeting of the Larimer County Board of Adjustment was held in the Lake Estes Conference Room on the 3rd Floor in the Larimer County Administrative Services Building, Fort Collins, Colorado, and virtually via Zoom at 6:00 p.m., July 25, 2023, at which time the following business was transacted.

Board Members Present: Philip San Filippo, David Leighton, Carol Cochrane, John Barnette and Lauren Light

Staff Present: Rebecca Everette (Community Development Director), Jenny Axmacher (Planning Manager), Samantha Lasher (Staff Liaison), Alyssa Martin, Justin Currie and Tracy Hicks, (County Planners), Christina Scrutchins (Community Information Resource Tech) and Andrew Lewis, (Assistant County Attorney)

Minutes: David Leighton moved and Philip San Filippo seconded the Motion to approve the March 28, 2023, Minutes of the Larimer County Board of Adjustment as presented. Board members Philip San Filippo, David Leighton, Carol Cochrane, and Lauren Light voted in favor of the Motion. Board member John Barnette abstained from voting. The Minutes were unanimously approved.

Findings and Resolutions: Philip San Filippo moved and David Leighton seconded the Motion to approve the following Findings and Resolutions: Brown Setback Variance (File #22-ZONE3388), Marso Setback Variance (File #22-ZONE3409), and Yabroff Setback Variance (File #22-ZONE3405). Board members Philip San Filippo, David Leighton, Carol Cochrane, and Lauren Light voted in favor of the Motion. Board member John Barnette abstained from voting.

Consent Applications:

The following applications were approved by consent:

File No: #23-ZONE3434 (Salazar Setback Variance)
Owners: Samantha and Chesley Salazar
Applicant: Samantha Salazar

Request: The Application of Samantha Salazar, requesting a variance was presented to the Board. The Application requested a setback variance to allow an addition to an existing detached garage and an existing shed to be located

6.5 feet from the rear property line rather than required minimum of 10 feet and a right-of-way setback variance for the existing garage to be located 80.2 feet from the right-of-way center line 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. Philip San Filippo moved and John Barnette 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 proposed garage addition, the existing garage, and the existing shed are located where shown on the Larimer County approved Plot Plan for this development.
5. A condition of approval will be required due to the addition of a 3rd bedroom that was done in 2020. The applicant will need to follow the County's Code Compliance "as-built" permitting process which refers to existing structures, additions to structures or basements finished without a building permit or required inspections.

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

File No: #23-ZONE3436 (Kerst Setback Variance)
Owner/Applicant: Aaron Kerst

Request: The Application of Aaron Kerst, requesting a variance was presented to the Board. The Application requested a setback variance to allow: i) a new deck to be constructed 75 feet from the centerline of Highway 34 and 90 feet from the centerline of the river, rather than the required minimum of 100 feet; and ii) a replacement roof on a cabin to be located 95 feet from the centerline of Highway 34 and 75 feet from the centerline of river for the cabin rather than the required minimums of 100 feet as required per the zoning district.

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 John Barnette 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 proposed structures are located where shown on the Larimer County approved Plot Plan for this development.

5. The proposed building must be constructed to meet floodplain development requirements per the Larimer County Engineering Department. A Floodplain Development Permit must be obtained prior to construction.

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

File No: #23-ZONE3459 (Kessler Setback Variance)
Owners: Kendal Kessler & Rebecca Kessler
Applicant: Kendal Kessler

Request: The Application of Kendal Kessler, requesting a variance was presented to the Board. The Application requested a setback variance to allow an existing loafing shed to be located 3 feet and 2 inches from the property line rather than the required minimum of 5 feet as required per the zoning district.

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 John Barnette 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.

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

Discussion Applications:

The following applications were approved after discussion:

File No: #23-ZONE3451 (Jennings & Zalles Setback Variance)
Owners: Floyd Jennings and Carola Zalles
Applicant: Thomas Beck / TW Beck Architects

Request: The Application of Thomas Beck with TW Beck Architects, requesting a variance was presented to the Board. The Application requested a setback variance to allow a new single-family residence to be constructed 12.5 feet from the front property line, rather than the required minimum of 25 feet as required per the zoning district.

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

The Applicant reiterated the request for a setback of 12.5 feet from the property line to address eaves of roof as the measuring point and confirmed that the road is an access easement to sewer pump and emergency access.

The following persons appeared and objected to the request. Kathleen Addisson and Jim Addisson oppose the application. They indicate they had not previously seen the plans for the property. Their objection is based on the closeness to their property line and the potential to block their view. Additionally, Jim Addison addressed the various criteria under the Land Use Code for consideration of a variance, arguing that the distance was not nominal or inconsequential. Mr. Addison also discussed the height restrictions on the lot. Don Darling addressed the Board with concerns of the view corridor but was in support of the planned placement of the structure. Mr. Bazzel Baz also indicated that he is in favor of the location of the structure.

The Board asked about constructing the residence more towards center which was addressed by Thomas Beck in his rebuttal. Owner Floyd Jennings also spoke, indicating he was attempting to be accommodating to neighbors.

Philip San Filippo moved and John Barnette seconded the Motion to approve the Application with the following conditions:

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

File No: #23-ZONE3455 (Zayo Setback Variance)
Owner: Zayo Group LLC
Applicant: Rex Atkinson / Five Nine Design Group

Request: The Application of Rex Atkinson with Five Nine Design Group, requesting a variance was presented to the Board. The Application requested a setback variance to allow a proposed fiber-optic building to be located i) 60 feet from the centerline of County Road 20E, rather than the required minimum of 110 feet, ii) to be located 1 foot from the front property line, rather than the required minimum of 25 feet, and iii) to be located 1 foot from the rear property line, rather than the required minimum of 10 feet as required per the zoning district.

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

The Board asked for clarification regarding the previous setback variance which was granted from a prior variance approval and whether other alternatives were considered, such as building upon the existing structure. The Applicant responded that they had considered an alternative and provided a reason why it wasn't feasible. The Applicant also stated the reason for the additional request was to increase the service area available for fiber optics.

David Leighton 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 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 proposed building is located where shown on the Larimer County approved Plot Plan.

5. The applicant will need to obtain required final inspections and a letter of completion for the expired permit as identified within the Code Compliance comments.

6. If the generators for the proposed utility building and existing utility building are combustible engines and if they exceed specific thresholds, the engines will need to be registered with the Air Pollution Control Division (APCD) under an Air Pollutant Emissions Notice (APEN).

7. Larimer County Engineering will require that the proposed structure be located outside of the ultimate right-of-way and adjacent easement.

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

Other Business:

Election of the Board of Adjustment Chair:

A request was made for Board Member Carol Cochrane to continue as Chair and to table the election of the Board of Adjustment Chair to the September meeting.

Philip San Filippo moved and David Leighton seconded the motion that the Board table this matter to September 26, 2023, at 6:00 p.m.

The question was called and members Philip San Filippo, David Leighton, Carol Cochrane, John Barnette and Lauren Light voted in favor of the motion.

The Board discussed resuming use of the Board Hearing Room on the first floor of the County building next month. The Board also discussed resuming site field trips next month.

Adjournment: The meeting was adjourned at 7:31 p.m.