



ZONING BOARD OF APPEALS MEETING SWITCHED TO ZOOM January 11, 2022

Today's meeting has been switched to meeting by Zoom only.

Citizen Participation During Hearing

Click the link below to join the virtual meeting. During the public hearing portion, use the Q&A or raised hand features at the bottom of the screen and you will be called upon to speak at the appropriate time.

<https://greeleygov.zoom.us/j/88454026929?pwd=RFdSMY9SQVZmam8yRGowNnNISTBXUT09>

Passcode: 744961

Livestream on YouTube:

View a live stream of the meeting on the City of Greeley YouTube channel

<https://www.youtube.com/CityofGreeley>.

Other options for sharing public comments:

E-mail – Submit to cd_admin_team@greeleygov.com

All comments submitted by e-mail will be read into the record at the appropriate points during the meeting in real time. Comments can be submitted up to and throughout the meeting.

Traditional Mail – Zoning Board of Appeals, 1100 10th Street, Greeley, CO 80631

All written comments must be received no later than the day of the meeting. Written comments received by mail will also be read into the record in real time.

To download the agenda and agenda packet, click on the "Enter City Meeting Portal" button on the Planning Commission web page – <https://greeleygov.com/government/b-c/boards-and-commissions/planning>.

For more information about this meeting or to request reasonable accommodations, contact the administrative team at 970-350-9780 or by email at cd_admin_team@greeleygov.com.

Zoning Board of Appeals

January 11, 2022 at 1:15 PM

1001 11th Avenue, City Center South, Greeley, CO 80631

Agenda

1. Call to Order
2. Roll Call
3. Recognition of former Commissioner Louisa Andersen
4. Approval of the Agenda
5. Approval of Minutes dated September 14, 2021
6. Public hearing to consider a variance request to reduce the interior side setback of the west property line from five feet to zero feet to accommodate an existing shed on property zoned Planned Unit Development located at 7714 Plateau Road
7. Adjournment



**CITY OF GREELEY PLANNING COMMISSION
RESOLUTION NO. 1
SERIES 2022**

A RESOLUTION COMMENDING LOUISA ANDERSEN FOR HER SERVICE ON THE CITY OF GREELEY PLANNING COMMISSION.

WHEREAS, Louisa Andersen served the City of Greeley through her Council appointment to the City of Greeley Planning Commission from September 2016 to July 2021; and

WHEREAS, Ms. Andersen actively engaged in the thoughtful evaluation of development applications and master plans, participated in special trainings, and played a significant role in the consideration of new municipal codes and legislation, thereby adding an invaluable community perspective; and

WHEREAS, during her tenure Ms. Andersen devoted considerable time in service in her role as Planning Commissioner, Zoning Board of Appeals member, in the review of a new municipal Development Code and in numerous special interest topics.

NOW, THEREFORE, BE IT RESOLVED that the members of the City of Greeley Planning Commission and the Community Development staff express sincere appreciation and recognition of the important contributions made by Louisa Andersen in service to the City of Greeley in this capacity.

Signed and approved this 11th day of January, 2022.

Attest:

Justin Yeater, Chair

Becky Safarik, Secretary

City of Greeley, Colorado
ZONING BOARD OF APPEALS PROCEEDINGS

September 14, 2021

1. Call to Order

Chair Yeater called the virtual meeting to order at 1:15 p.m.

2. Roll Call

The hearing clerk called the roll.

PRESENT

Commissioner Jeff Carlson
Commissioner Brian Franzen
Commissioner Larry Modlin
Commissioner Chelsie Romulo
Commissioner Christian Schulte
Chair Justin Yeater

ABSENT

Commissioner Erik Briscoe

3. Approval of Agenda

There being no corrections or additions, the agenda was approved.

4. Approval of August 24, 2021 Minutes

Commissioner Romulo moved to approve the minutes dated August 24, 2021.
Commissioner Schulte seconded the motion. Motion carried 6-0.

5. Citizen Input

None

6. Public hearing to consider a variance request located at 2915 68th Avenue Court to reduce the rear setback from twenty feet to five feet in the Residential Low Density zone district (Project No. VAR2021-0006)

Mike Garrott addressed the Board, introduced the request, and stated that the request is for a variance to reduce the rear setback to allow for enclosure of an existing patio. He stated that the Development Code (Code) allows back patios to extend to within five feet of the real property line provided that they remain at least 65 percent open and are unobstructed on three sides. Mr. Garrott reported that the applicant requests to enclose the patio, primarily with windows, which would no longer be open and unobstructed. He presented an aerial photograph of the area and pointed out the location of the lot and the community trail. Mr. Garrott provided several photographs of the subject property, covered patio, neighboring

properties and the nearby open space area, adding the most common obstructions are trees and short fences. He noted that the current patio configuration and location is allowed under the Code. Mr. Garrott also presented a site plan depicting the proposed improvements.

Mr. Garrott presented the approval criteria and described the five consideration criteria and three mandatory criteria reviewed by staff. Regarding the mandatory criteria, Mr. Garrott explained that the request must meet number 1 and number 2 or 3 in order to be considered. He advised that, after review, staff did not feel the proposed request adequately met any of the criteria.

Notice letters were mailed to 77 property owners within 500 feet of the site and no concerns were reported. There was one question regarding visibility for pedestrians traveling on the trail. He added that a letter from the homeowner's association expressed support for the proposal. Mr. Garrott pointed out letters of support from neighbors that were included in the packet materials. Staff recommended denial of the request and Mr. Garrott offered to answer questions from the Board.

Upon question by Commissioner Schulte, Mr. Garrott advised that the "open and unobstructed" criterion is defined in the Code. Commissioner Schulte asked how it was defined in the Code. Mr. Garrott stated that the area must be 65 percent unobstructed, or open on three sides. Commissioner Schulte provided an example of an area with floor to ceiling glass panels all the way around and asked whether it was considered obstructed because a bird could not fly through it or unobstructed because a person could see through it. Mr. Garrott stated that the staff has interpreted an obstruction as any material that a person cannot walk through. He added that if the patio is enclosed it could then become additional living space that encroaches into the setback. Commissioner Schulte asked if that would be the case if glass panels were not permanent, but could be removed during warmer months and installed during colder months. Mr. Garrott stated that the issue had not been raised previously and would question whether a building permit might be required. Upon question by Commissioner Schulte, Mr. Garrott advised that curtains or blinds are not considered an obstruction since they are a common element, temporary in nature and do not require a building permit. Commissioner Schulte noted an option in the staff report that the owner could plant dense shrubbery to cover the patio and suggested that it would be as much or more visually obstructive than what is being proposed. Looking at the intent of the Code, Commissioner Schulte asked what would be gained by denying glass panels but allowing an impenetrable wall of foliage. Mr. Garrott agreed that landscaping was an option proposed to the applicant and advised that a permit is not required for landscaping and it does not become a structure in the setback. He added that it is common to see landscaping used for buffering and that it is important to make sure the proposal meets building and development code standards. He added that it would also be necessary to obtain permission from utility providers. Commissioner Schulte asked about the status of utility easements and Mr. Garrott reported that the applicant would be required to seek approval from utility providers if the variances is approved.

Chair Yeater noted that one of the hardships described by the applicant is the step and change in elevation between the home and patio and asked what would be required if the owners wanted to build a deck or additional concrete to support that level. Mr. Garrott advised that a building permit would be required. Chair Yeater confirmed that an accordion style door or door with panels on a rail would not require a permit and Mr. Garrott stated that was correct. Commissioner Romulo confirmed that a variance is not required to increase the level of the floor for a fall hazard and Mr. Garrott stated a variance is only for the enclosure.

Commissioner Franzen asked for clarification as to whether the current patio would be allowed under the new Code. Mr. Garrott replied that the existing patio would be allowed under the new Code. Upon question by Commissioner Franzen, Mr. Garrott advised that the Zoning Board is the deciding entity for this request and that the matter is not heard by City Council unless a decision is appealed.

Anthea Carrasco, an attorney at Grant and Hoffman, addressed the Board on behalf of her clients, Richard and Shirley Hirsch, and thanked staff and the Zoning Board members for evaluating the request and hearing the issue.

Commissioner Briscoe joined the meeting at 1:35 p.m.

Ms. Carrasco expressed that some of the conclusions reached by staff may have been made without detailed analysis and asked the Board to critically review the criteria and analyses. She noted that the lot configuration is particularly atypical as none of the other lots has a walking path in such proximity to a patio or deck. She stated that the Zoning Board is trusted with the authority to determine if staff recommendations correlate to the Code.

Ms. Carrasco also addressed the determination that no difficulty or hardship has been created and asked the Board to consider whether that is the case. She agreed that Mr. and Mrs. Hirsch had a choice about purchasing the property, adding that their life circumstances have changed since the time of purchase. Referring to Commissioner Schulte's question as to whether "open and unobstructed" is defined in the Code, Ms. Carrasco stated that it is not. She asked the Board to have more critical discussion about the purpose of the Code and whether a dense wall of shrubbery is the intent of the Code in preserving an open and unobstructed area. Ms. Carrasco added that a critical examination of the issue would lead to the conclusion that there is no good reason to deny the request, adding that requiring the owners to explore some of the suggested alternatives does not relieve the hardship that they find themselves in and defeats the purpose of the Code.

With regard to the mandatory criteria, Ms. Carrasco clarified that criteria 1 must be present and then either criteria 2 or 3. She noted that the staff comments indicated that the proposed variance would be a detriment to the public interest and adjacent property by creating a rear setback that is inconsistent with the adopted plans. Ms. Carrasco asked the Board to review the comments recommending denial and consider whether the variance created a detriment to the public interest and adjacent property owners. She noted that several neighbors submitted letters in support of the variance request.

Ms. Carrasco noted the approval criteria of whether strict application of the provisions of the Code would result in practical difficulties or unnecessary hardship. She quoted from Section 24-2(1) which states that the Code is intended to promote the health, safety and general welfare of the citizens of Greeley. Ms. Carrasco stated that staff found this criteria had not been met and asked the Board to challenge that conclusion. She indicated that the applicants are residents of the City of Greeley and that allowing them to construct the sunroom and enclosure would promote their health, safety and general welfare, particularly in light of recent health issues experienced by Mr. Hirsch.

Ms. Carrasco pointed out another criteria evaluated by staff as to whether there are exceptional and extraordinary circumstances as they relate to the applicants' property that do not apply generally to other properties in the area. Ms. Carrasco agreed that there was a walking path near other properties, but noted that none of those properties is situated like the applicants' lot with the path so near the patio. She respectfully disagreed with conclusions made by staff and called upon the Board to consider the issue critically and ask whether approval is to anyone's detriment. Ms. Carrasco summarized by requesting the Board to grant the request.

Upon question by Commissioner Schulte, Ms. Carrasco reported that the applicants were not contemplating a floor to ceiling glass enclosure, adding that they would be open to the possibility. She stated that the plans presently include a short wall with glass above. Commissioner Schulte expressed that he did not think the Board was in a position to decide what constitutes open and unobstructed. He asked Ms. Carrasco to read the relevant text regarding mandatory criteria. Ms. Carrasco read the text and stated that her interpretation is that criteria 1 must be met and that either criteria 2 or 3 must be met.

Commissioner Romulo asked for an update on the process for applying for approval by utility companies. Ms. Carrasco stated that her paralegal has been in communication with the utility companies and is still in the process of communicating and getting companies to sign off on the plan.

Chair Yeater pointed out a statement in the applicants' narrative indicating that under other circumstances, the backyard patio would be a perfect place for Mr. Hirsch to spend time and get sun exposure, but has been made problematic by a potential fall risk from the steps leading to the patio. Mr. Yeater indicated that the safety issue is not a matter for determination by the Board. He noted that, according to the applicants' narrative, when the home was purchased, it was perfect, but now privacy is needed. He asked Ms. Carrasco to provide some perspective as to why a variance is needed to allow for privacy. Ms. Carrasco indicated that it is part of analyzing the overall circumstances, adding that if Mr. Hirsch's health had not deteriorated, the applicants would not be making a variance request. She stated that because Mr. Hirsch can no longer access the basement area, full access to the home is unavailable to him. Chair Yeater referenced the statement in the applicants' narrative that the patio as presently constructed does not provide Mr. Hirsch with any real privacy and far less privacy than almost all other similar homeowners. He again asked what had changed to create a lack of privacy and to define the hardship that has been created resulting in a variance request.

Ms. Carrasco stated that the reference to the home being situated differently than others in the neighborhood was due to the proximity of the patio to the walking path. She added that if Mr. Hirsch's health had not deteriorated to a point where other areas of the home were inaccessible, privacy on the patio would not be an issue. Ms. Carrasco stated that creating the additional space would allow Mr. Hirsch to have audible conversations that were private from neighbors and others walking by on the path.

Commissioner Franzen noted that one of the drawings showed plans to extend heat and air to the enclosed patio area. Ms. Carrasco confirmed that was the applicants' intent, but that they were willing to explore other accommodations if that is determined in the Board's analysis. Commissioner Franzen noted that it would increase the finished square footage of the home. Ms. Carrasco advised that the applicants would be willing not to extend heat and air to the enclosed area if that were determinative to the Board's decision.

Chair Yeater opened the public hearing at 1:57 p.m. There being no public comment, the public hearing was closed at 1:57 p.m.

Chair Yeater opened the matter for discussion by Board members. Commissioner Schulte offered that when there is flexibility in the Code, he would prefer to exercise it in favor of a property owner's right with regard to their property. He added that in this situation, neighbors have not expressed any objections. Commissioner Schulte stated that the proposal does not sound any more obstructive than the existing fence and he felt that the Board was given discretion to determine broadly worded criteria. He also noted the fact that the homeowner's association had no objections may not be binding upon the Board, but was persuasive. Commissioner Schulte expressed that he believed mandatory criteria number 1 had been met. He also felt the Board could articulate that the property was situated sufficiently differently from the neighboring properties and that the proximity of the walking path to the patio seemed to present an exception that is not present in neighboring properties. With regard to mandatory criteria number 2, Commissioner Schulte felt that the written materials and presentation indicate that there are practical difficulties not foreseen when the property was acquired and that denial of the request would result in an unnecessary hardship. He stated that he would support a motion that mandatory criteria 1 and 2 had been met and that the Board would be legally justified in allowing the variance. Assistant City Attorney, Michael Axelrad, addressed the Board and agreed with Commissioner Schulte that the standard was whether mandatory criteria 1 had been met and either mandatory criteria 2 or 3 had been met.

Commissioner Franzen stated that if approval were based on declining health alone, the Board could see similar variance requests in the future. He went on to state that he believed the lot configuration is atypical due to placement of the patio so close to the path. Commissioner Franzen added that with approval of the homeowner's association and overwhelming support of the neighbors, he was inclined to support the request.

Chair Yeater expressed that there are other ways to meet the intent as defined in the packet and struggled with the idea of privacy pertaining to the ability to make a telephone call. He added that Commissioner Schulte had explored what type of material would create an obstruction or privacy. Chair Yeater stated that if the homeowner's association or neighbors would not have supported the variance, he would not be in support. After hearing testimony and understanding the components, Chair Yeater indicated that he would support the request.

Commissioner Romulo observed that there seemed to be agreement that mandatory criteria number 1 had been met and that the Board would need to come up with a new motion for approval regarding whether mandatory criteria 2 or 3 had been met. There was general discussion among the Board members, Assistant City Attorney and staff as to how to draft a motion for approval.

Commissioner Schulte stated that if the Board voted to approve the request, it was not a repudiation of the hard work of staff whose role is to adhere to the Code. He added that the Board has the wider discretion to decide from a public perspective what that means in a given case. He expressed appreciation for the hard work of staff even if the Board reaches a different conclusion.

A motion was put on the table by Commissioner Franzen and there was additional discussion among Board members, staff and the Assistant City Attorney. Commissioner Franzen re-stated the motion and there was additional discussion. The motion failed due to lack of a second.

Commissioner Schulte moved that based on the application received and the presentation of the applicant, the Zoning Board of Appeals, having considered the criteria in Section 24-516(f) and finding that items 1 and either 2 or 3 of Section 24-516(g) do apply, the Zoning Board Appeals approves the requested variance. Commissioner Franzen seconded the motion. Motion carried 6-0 with Commissioner Briscoe abstaining.

7. Adjournment

With no further business before the Board, Chair Yeater adjourned the meeting at 2:18 p.m.

Justin Yeater, Chair

Becky Safarik, Secretary

Zoning Board of Appeals Agenda Summary

January 11, 2022

Key Staff Contact: Darrell Gesick, Planner III, 970-350-9822

Title:

Public hearing to consider a variance request to reduce the interior side setback of the west property line from five feet to zero feet to accommodate an existing shed on property zoned Planned Unit Development located at 7714 Plateau Road

Summary:

The City of Greeley is considering a variance request by Melinda Strauss to reduce the interior side setback (west property line) from 5 feet to 0 feet to allow for an existing shed. The subject property is zoned PUD (Planned Unit Development), is approximately 0.227 acres in size, and is developed with a single-family home. The subject site is located at 7714 Plateau Road.

Recommended Action:

Approval -

Based on the application received and the preceding analysis, the Zoning Board of Appeals finds that the requested variance to allow for a reduction of the interior side setback from 5 feet to 0 feet, complies with Section 24-516(f), Items 1 and 3, and Section 24-516(g), Items 1, 2 and 3 of the 1998 Development Code and, therefore, approves the request.

Denial-

Based on the application received and the preceding analysis, the Zoning Board of Appeals finds that the requested variance to allow for a reduction of the interior side setback from 5 feet to 0 feet, does not comply with Section 24-516(f), Items 1 and 3, and Section 24-516(g), Items 1, 2 and 3 of the 1998 Development Code and, therefore, denies the request.

Attachments:

Staff Report

Attachment A – Vicinity Map

Attachment B – Narrative

Attachment C – 2005 Building Permit (Single-Family Home)

Attachment D – 2006 Building Permit (Staircase)

Attachment E – 2007 Certificate of Occupancy

Attachment F – Photos of Front and Side of Home

Attachment G – 2021 Building Permit for Second Story Shed

Attachment H – Stop Work Order

Attachment I – Photo of Current Shed and Staircase Landing 2021

Attachment J – Notice Boundary Area

ZONING BOARD OF APPEALS SUMMARY

ITEM: Variance request to reduce the interior side setback from 5 feet to 0 feet to accommodate an existing storage shed

CASE NO: VAR2021-0015

PROJECT: 7714 Plateau Road Setback Variance

LOCATION: 7714 Plateau Road

APPLICANT: Melinda Strauss

CASE PLANNER: Darrell Gesick, Planner III

ZONING BOARD OF APPEALS HEARING DATE: January 11, 2022

ZONING BOARD OF APPEALS FUNCTION:

Review the proposal for compliance with Chapter 5, Variances, of the 1998 City of Greeley Development Code and approve, approve with conditions, continue the application for future consideration, or deny the request.

EXECUTIVE SUMMARY

The City of Greeley is considering a variance request by Melinda Strauss to reduce the interior side setback (west property line) from 5 feet to 0 feet to allow for an existing shed (see Attachments A and B).

A. REQUEST

Approval of a variance to allow for a reduction of the interior side setback from 5 feet to 0 feet (see Attachment A).

B. STAFF RECOMMENDATION

Approval

C. LOCATION

Abutting Zoning: North: PUD (Planned Unit Development)
South: Weld County Agricultural Zoning
East: PUD
West: PUD

Surrounding Land Uses: North: Single-Family Residential
South: Agricultural land
East: Single-Family Residential
West: Single-Family Residential

Site Characteristics: The subject property is zoned PUD (Planned Unit Development), is approximately 0.227 acres in size, and is developed with a single-family home. The lot is a typical rectangular shaped lot that slopes down from the south (back) to the north (front) of the property (see Attachment A).

D. BACKGROUND

A previous property owner submitted a building permit to construct a new single-family dwelling on the subject site in 2005 (see Attachment C). The home is two stories on the front, and the previous owner wanted access to the second story from the front driveway and requested a building permit to add a staircase to the side of the western part of the home in 2006 (see Attachments D and F). Per the 1998 Development Code, staircases were allowed to encroach into the side setback. As part of the staircase install, a shed was built below the staircase, with the top of the shed roof being the landing for the staircase (see Attachment F). It is not known if the City was aware that the 2006 permit request included the shed. The shed was placed on a permanent foundation, located within the west side property line setback, which was not allowed by the 1998 Development Code. Unfortunately, the placement of the shed was never caught by City staff. The home was given a Certificate of Occupancy by the Building Inspection Division in 2007 (see Attachment E).

In January of 2020, a building permit was applied for by the current homeowner to remove the staircase and to add a second story shed on top of the existing shed (see Attachment G). During the review of the permit, it was discovered by City staff that the existing and proposed shed was located within the 5-foot west property line setback. The property owner had begun work without first obtaining a building permit on the second story shed and was issued a Stop Work Order by the Building Inspection Division, and was instructed to not continue work until a variance request had been applied for and approved by the Zoning Board of Appeals (see Attachment H). Because it was unlikely that the second story shed would be supported by City staff, the current owner removed the second story shed. The current property owner is requesting a variance to keep the first story shed as constructed in 2007, prior to their ownership of the home.

E. APPROVAL CRITERIA

Variances: Section 24-516 of the 1998 Development Code states that: *When practical difficulties, unnecessary hardship, or results inconsistent with the general purpose of this Code occur through the strict and literal interpretation and enforcement of the provisions thereof, the Zoning Board of Appeals shall have the authority, subject to the provisions of this Chapter, to grant such conditions as it may determine to be necessary to be in conformance with the intent of the Land Use Chapter of the Comprehensive Plan. In general, the power to authorize a variance from the terms of this Code shall be exercised only under peculiar and exceptional circumstances. The Board may grant a variance as applied for, or a variance constituting a reduction thereof. The Board may attach conditions in granting a variance, which conditions shall be reasonably related to promoting compatibility with the surrounding area and land uses.*

The review criteria found in Section 24-516 (f) 1-5 and (g) 1-3 of the 1998 Greeley Development Code shall be used by the Zoning Board of Appeals when considering all variance requests.

Consideration Criteria: Development Code Section 24-516 (f) 1-5

In taking action on a variance request, the Zoning Board of Appeals shall consider any comments received from the public and the applicant and the staff recommendation. The Board shall also consider if the proposed variance meets the following criteria in taking action to approve, approve with conditions, deny, or table the application for future consideration:

1. Any variance granted shall be the minimum needed to accommodate or alleviate the difficulty or hardship involved.

Staff Comment: The shed is technically setback from the property line approximately 2 feet. However, it is unclear where exactly the property line is located. City staff did not feel that it was necessary for the current owner to spend money to have a survey completed to locate the property line, so staff suggested that the request should be to reduce the west property line from 5 feet to 0 feet. This would allow the shed to remain in the current location. This would be the minimum needed to alleviate the hardship of the current property owner, who did not create the setback issue. The shed was built by the previous property owner, was reviewed by the Planning Division, and granted a Certificate of Occupancy by the City.

The request complies with this criterion.

2. A variance is necessary to accommodate an unusual or atypical lot configuration, which makes a reasonable use of the property unreasonable without a variance.

Staff Comment: The subject site is a typical rectangular lot, which is not unusual or atypical. The only thing that is unusual about the property is that it slopes up from the front to the back, creating a two story front of the house. The previous owner wanted to have direct access to the second story of the home, which is why a staircase was requested and installed. Unfortunately, a shed was built under the stairs, with the top of the shed being used as the landing for the staircase. Although this occurred, this does not make the property unusable without a variance.

The request is not applicable with this criterion.

- 3. Any difficulty or hardship constituting the basis for a variance shall not be created by the party seeking the variance, nor shall it be due to, or a result of the general conditions in the area.**

Staff Comment: The need for the variance was not created by the party seeking the variance. As stated earlier in the report, the shed was built by the previous owner and in some aspect, approved by the City. The current owner is trying to create a legal shed. The request is also not due to the general conditions in the area.

The proposal complies with this criterion.

- 4. Granting the variance is necessary so that the building or structure can align with the prevailing location of other similar buildings or structures on the same block face.**

Staff Comment: The request is not necessary to align this structure with other structures along the block face.

The request is not applicable with this criterion.

- 5. Granting the variance is consistent with the Comprehensive Plan and area neighborhood plans, or may achieve a better result in meeting the intent of the plan objectives than if the codes were strictly applied.**

Staff Comment: The Comprehensive Plan does not address sheds in setbacks and there are no neighborhood plans for this area. The request is not applicable with this criterion.

Mandatory Criteria: Development Code Section 24-516 (g) 1-3

In every instance where the Board grants a variance, there shall be a finding that:

- 1. The granting of such variance will not be of substantial detriment to the public interest or to adjacent property or improvements in such district in which the variance is sought, and will observe the spirit of the Code; and**

Staff Comment: Staff believes that granting the requested variance would not be a substantial detriment to the public interest or to the adjacent property owner, who just recently was approved for a variance to allow retaining walls in the setback that exceeded six feet in height. The shed has been in place for 14 years without creating any substantial issues. The request does not impact utilities, easements, drainage, or access to the rear yard. It appears that the spirit of the Code would be observed.

The proposal complies with this criterion.

2. The strict application of the provisions of the Code would result in practical difficulties or unnecessary hardship inconsistent with the general purpose and intent of the Code; or

Staff Comment: Strict application of the Code would require the current owner to remove a shed at their cost when the shed was constructed by a previous owner and granted a Certificate of Occupancy by the City of Greeley and would result in practical and an unnecessary hardship. The approval of the variance would allow the shed to remain in the current location and would meet the intent of the Code.

The proposal complies with this criterion.

3. There are exceptional or extraordinary circumstances or conditions applying to the property involved or to the intended use or development of the property that do not apply generally to other properties or uses in the same zoning district.

Staff Comment: The unusual circumstance with the subject site is that the current owner purchased a property that had a shed constructed, with City approval, which was located within the side setback. The property owner is trying rectify the situation by asking for the variance that should have been applied for and presented to the Zoning Board of Appeals 14 years ago. This situation happens from time to time, but it is not common to other properties within the community.

The proposal complies with this criterion.

F. PHYSICAL SITE CHARACTERISTICS

1. SUBDIVISION HISTORY

The subject site was platted as Lot 4, Block 6 of Poudre River Ranch Second Filing, on February 16, 2001 (Rec No. 2826681). The property has not undergone any additional subdivisions since it was platted.

2. HAZARDS

Staff is unaware of any potential hazards that presently exist on the site.

3. WILDLIFE

The site is located within an area of moderate ecological significance. However, all the surrounding platted parcels have already been developed, so staff does not believe any wildlife should be impacted.

4. FLOODPLAIN

The property is not located within any flood zones.

5. DRAINAGE AND EROSION

The subject site generally drains from the south to the north. The granting of this variance should not impact drainage.

6. TRANSPORTATION

The variance request would not require a traffic study. The construction of a single-family home on the subject property should not have any noticeable impacts to area traffic.

F. SERVICES

1. WATER

Water services would not be impacted by the variance request.

2. SANITATION

Sanitation services would not be impacted by the variance request.

3. EMERGENCY SERVICES

The subject site is currently, and will continue to be, served by the City of Greeley Police Department and the City of Greeley Fire Department.

4. PARKS / OPEN SPACES

Public parks or additional public open space areas would not be impacted by the variance request.

5. SCHOOLS

Schools would not be impacted by the variance request.

G. NEIGHBORHOOD IMPACTS

1. VISUAL

No visual impacts are anticipated with the rezone request. Any development plan application for the property would be reviewed for compliance with the City's Development Code requirements regarding visual impacts.

2. NOISE

No noise impacts are anticipated with the rezone request. Any potential noise created by future development will be regulated by the Municipal Code.

H. PUBLIC NOTICE AND COMMENT

Notification letters regarding the proposed variance were mailed to 40 property owners within 500 feet of the subject site on December 15, 2021, and a sign was posted on the property on December 15, 2021. One letter in opposition to the request was provided (see Attachment K).

I. ZONING BOARD OF APPEALS RECOMMENDED MOTIONS

Approval -

Based on the application received and the preceding analysis, the Zoning Board of Appeals finds that the requested variance to allow for a reduction of the interior side setback from 5 feet to 0 feet, complies with Section 24-516(f), Items 1 and 3, and Section 24-516(g), Items 1, 2 and 3 of the 1998 Development Code and, therefore, approves the request.

Denial-

Based on the application received and the preceding analysis, the Zoning Board of Appeals finds that the requested variance to allow for a reduction of the interior side setback from 5 feet to 0 feet, does not comply with Section 24-516(f), Items 1 and 3, and Section 24-516(g), Items 1, 2 and 3 of the 1998 Development Code and, therefore, denies the request.

J. ATTACHMENTS

Attachment A – Vicinity Map

Attachment B – Narrative

Attachment C – 2005 Building Permit

Attachment D – 2006 Building Permit

Attachment E – 2007 Certificate of Occupancy

Attachment F – Photo of the Front and Side of the Home in 2007

Attachment G – 2021 Second Story Shed Permit

Attachment H – Stop Work Order

Attachment I – Photo of Current Shed and Staircase Landing 2021

Attachment J – Neighborhood Notification Boundary

Attachment K – Neighbor Letter

Zoning/Vicinity Map 7714 Plateau Road Variance



Legend

- Structure
- Weld Parcels
- Road Centerline
- Roads

VAR2021-0015





Variance Submittal Checklist

1

The following checklist is intended to provide an outline for applicants to ensure a complete submittal and avoid processing delays due to inadequate information. Variance applications shall include all items listed in the following checklist. If an item is not checked as included in the submittal, a detailed narrative outlining reasons why the item has not been submitted shall be included. Lack of such statement or any required items shall constitute an incomplete submittal and shall be rejected by the City. Please review Section 24-513 through 24-518 of the City of Greeley Development Code for complete application and procedural requirements.

2

APPLICATION SUBMITTAL REQUIREMENTS

- Application form (*attached*).
- Application fee consistent with the City of Greeley's Fee Schedule.
- Proof of ownership or legal instrument identifying the applicant's interest in the property.
- Narrative describing the reason for the variance request.
- Narrative describing the grounds on which the claim is justified. Address the specific criteria in Section 24-516.
- Basic site plan (dimensioned and/or to scale), site photos, building elevations or other supporting documentation.

I am requesting a variance, based on a request from Becky Safarik, City of Greeley Interim Community Development Director. When our house was built, the original build included a storage shed on the lower level deck that protuded from the side of the house. Apparently this is too close to the property line and we want a variance allowing the storage shed to stay. The plans were submitted to the City of Greeley and approved, and inspected without any challenges. We are being told a variance after the fact is needed. Becky has all documents, pictures, and relevant information. Please refer to the documents already submitted.

NEW RESIDENTIAL PERMIT APPLICATION
(ALL INFORMATION MUST BE COMPLETE FOR PROCESSING)

F&F

Date 10/10/05 Site Address 7714 Plateau Rd

For new construction, would you like a footing and foundation permit (requires a 3rd foundation plan)? YES or NO

Will this job require a temporary electrical inspection? YES or NO

Subdivision Poudre River Ranch Filing Second

Block 4 Blk 6 Lot Size 9869 Sq. Ft. Livable _____

Setbacks: Front 25 Rear 23 Left 5'-5" Right 5'-5"

Number of Units 1 Property Zoning residential

Contractor Name Jensen Quality Custom Homes Inc Phone (970) 381-5599

Address 600 N. 71st Ave City Greeley State CO Zip 80634

Email Address JensenQCHI@msn.com Cell Phone (970) 381-5599

ELEC: Subcontractor Name C.G. electric

MECH: Subcontractor Name Comfort Zone

PLBG: Subcontractor Name Robins Plumbing

Is A/C included? YES or NO If yes, give total value \$ 2500.00

Is lawn sprinkler included? YES or NO If yes, give total value \$ _____

Is fire sprinkler included? YES or NO If yes, give total value \$ _____

Owner Name Jensen Quality Custom Homes Inc Phone (970) 381-5599

Address 600 N. 71st Ave City Greeley State CO Zip 80634

If new construction, do you wish to use the fee deferral program? YES or NO

ATTACHMENTS:

Fee Deferral Form: YES or NO

Building Plans: (2 Sets) YES or NO

Site Plan: (2 copies on 8 1/2 x 11) YES or NO

Plan Name or Number 1927

Signature _____ Print Name _____

PLEASE TURN TO REVERSE SIDE TO COMPLETE FORM

| | | | |
|------------------------|-----------------------|------------------|-----------------|
| Office Use Only | | | |
| Valuation \$ | <u>\$ 194,358</u> | Bldg Fee | <u>1370.00</u> |
| Permit # | <u>05100136 10-27</u> | Sales Tax | <u>3302.39</u> |
| F&F # | <u>05100137 10-24</u> | Trans Fee | <u>2059.00</u> |
| Zone | <u>10/12/05</u> | Drain Fee | <u>69.00</u> |
| Census | <u>P</u> | Lien Fee | <u>12.00</u> |
| Trans Zone | | Admin Fee | <u>25.00</u> |
| Drain Basin | | Plan Check | <u>_____</u> |
| Park Zone | | Fire/Rescue | <u>275.00</u> |
| | | Temp Elec | <u>30.00</u> |
| | | Police Fee | <u>133.00</u> |
| | | Linear Park | <u>287.00</u> |
| | | Comm Park | <u>1783.00</u> |
| | | Neigh Park | <u>1104.00</u> |
| | | Other <u>500</u> | <u>534.00</u> |
| | | Water-C Fee | <u>7400.00</u> |
| | | Sewer-C Fee | <u>3900.00</u> |
| | | Meter Fee | <u>211.00</u> |
| | | TOTAL \$ | <u>22494.39</u> |

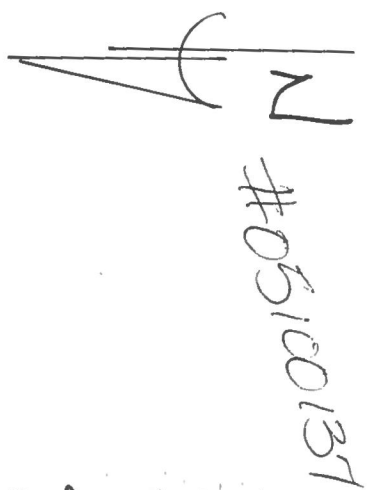
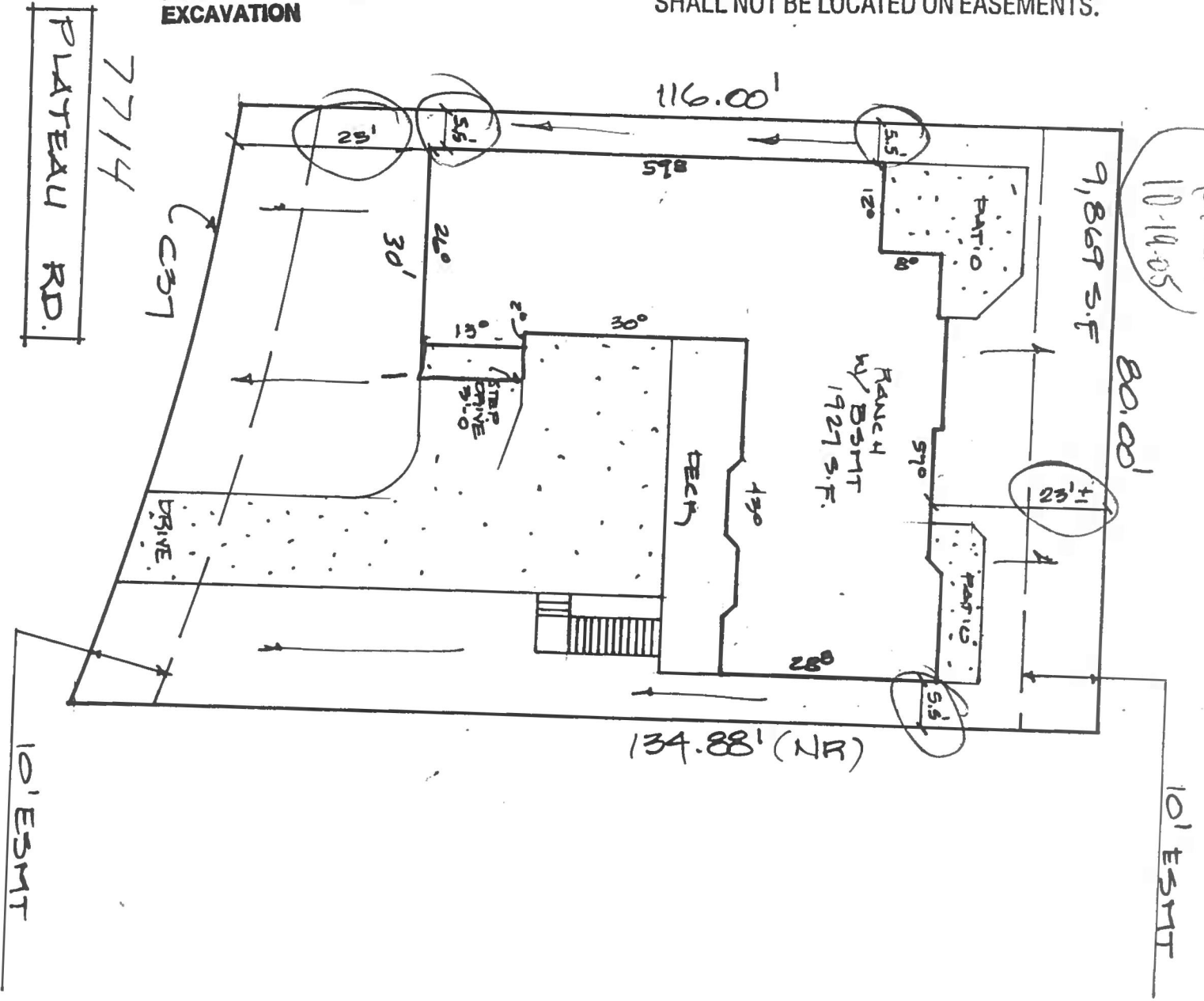
Fees Not Deferred \$ 2182.00

BI Eng Fire Plan W&S Issue Date 10/31/05

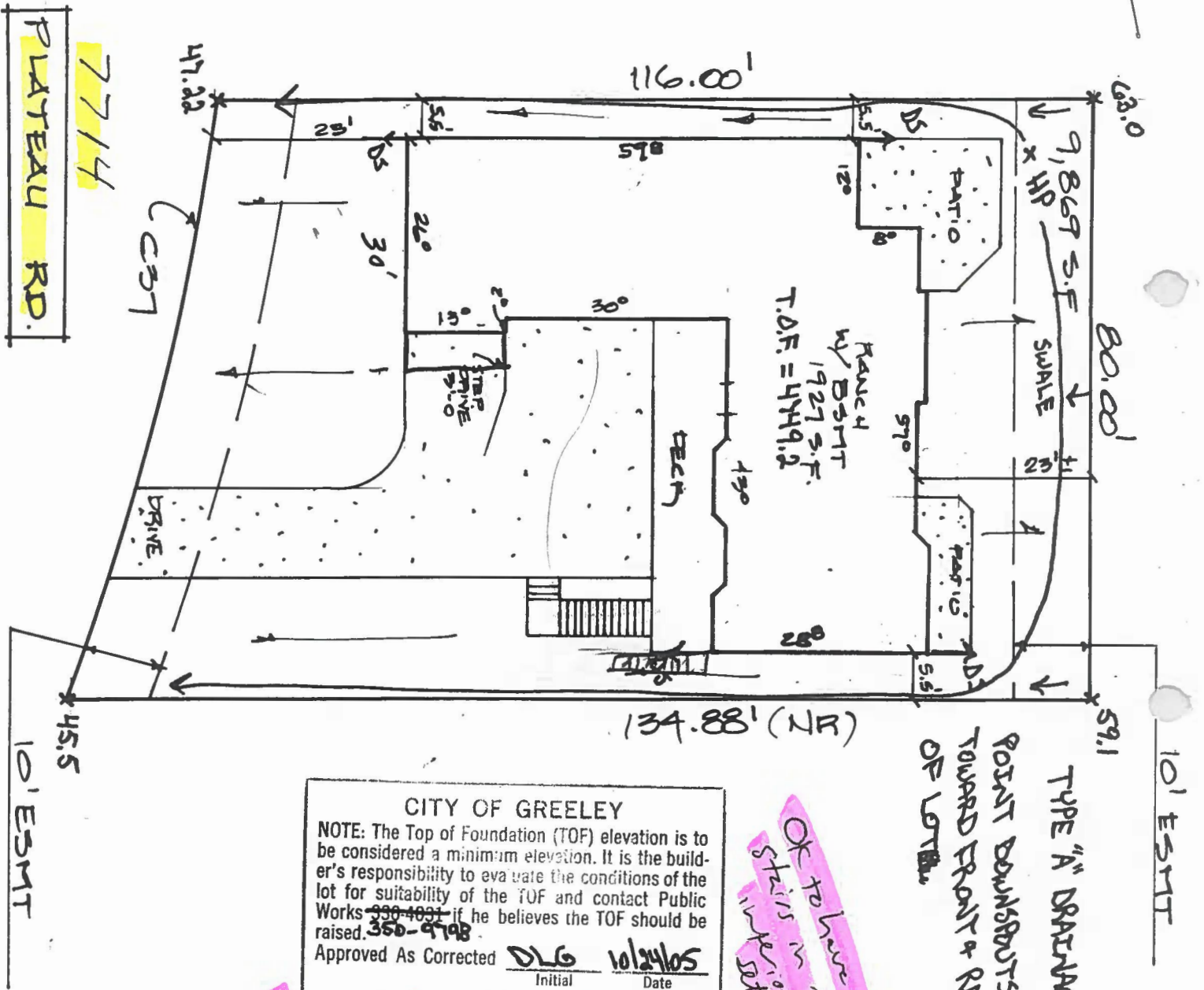
CONTRACTOR IS RESPONSIBLE FOR CONTACTING UNCO AT 1-800-922-1987 FOR UTILITY LOCATIONS PRIOR TO EXCAVATION

PROPERTY OWNER IS RESPONSIBLE FOR LOCATION OF ANY EASEMENTS. STRUCTURES SHALL NOT BE LOCATED ON EASEMENTS.

OK 5/17
10-14-05



NOT PLAN
SCALE 1" = 20.00'
LOT 4, BLK 6
POUDRE RIVER RAUCH
SECOND PHASE
SNEELEY COLORADO
WELD COUNTY, COLORADO



CITY OF GREELEY

NOTE: The Top of Foundation (TOF) elevation is to be considered a minimum elevation. It is the builder's responsibility to evaluate the conditions of the lot for suitability of the TOF and contact Public Works 380-4031 if he believes the TOF should be raised. 350-9198

Approved As Corrected DLG 10/24/08

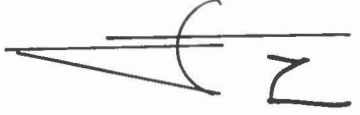
Initial Date

OK to have the stairs in the side of the house as long as they only provide access to the main floor as per set back 18, 28.00' i.e. main 7/6/08

10' ESMT

TYPE "A" DRAINAGE POINT DOWNDROPS TOWARD FRONT + REAR OF LOT

05000137
381-5549



7714
PLATEAU RD.

NOT PLAN

SCALE 1" = 20.00'

LOT 4, BLK 6
TOUDRE RIVER RAUCH
SECOND PHASE
GREELEY, COLORADO
WELD COUNTY, COLORADO

Sensen

CERTIFICATE OF OCCUPANCY APPROVAL

PERMIT NO: 05100136

DATE OF FINAL APPROVAL APRIL 18, 2007

CITY OF GREELEY
BUILDING INSPECTION DEPT.

LEGALLY DESCRIBED AS LOT 4 BLOCK 6

COMPLIANCE WITH APPLICABLE
PROVISION OF UNIFORM BUILDING
CODE.

ADDITION/SUBDIVISION POUDRE RIVER RANCH 2ND

PROPERTY ADDRESS 7714 PLATEAU ROAD

To:

JENSEN CUSTOMHOMES

CERTIFIED BY:

[Signature]
CITY INSPECTOR
GREELEY, COLORADO

JAN 2020

Follow-up on Jan 12, 2020

Account: R0696301

Building 1





7714

GO

Advanced Search

Workspace

Favorites

History

DARRELL GESICK

Relationships

- Tree Site
- Permit # BRX2001-0355
- No Parent Activities
- No Permits
- No Cases
- No Issues
- No Licenses

- Print
- Attachments 4
- Internet Links
- Imaging
- Plan Location
- View Notes

- BRX2001-0355
- VAR2021-0015
- BRN2112-0067
- BRN2112-0035
- BRN2112-0036

Permitting

BRX2001-0355

| | | | |
|-------------|-----------------------------|----------|-----------------|
| Status | SUBMITTED | | |
| Applicant | David Strauss | Applied | 01/29/2020 EPRS |
| Type | RESIDENTIAL EXISTING | Approved | Other |
| SubType | STORAGE SHED | Issued | Expired |
| Description | Enclosing porch for storage | | |

R0696301

| | | | |
|-------------|---------------------------|-------|-------|
| Type | ADDRESS | | |
| Address | 7714 PLATEAU RD | | |
| City | GREELEY | State | CO |
| PARCEL ID | 080532416004 | Zip | 80634 |
| SUBDIVISION | POUDRE RIVER RANCH 2ND FG | BLOCK | 6 |
| | | LOT | 4 |

Contacts (3)

Owner: David Str

7714

GO

Advanced Search

Workspace

Favorites

History

DARRELL GESICK

Relationships

- Tree Site
- ACCOUNT NO: R0696301
- Parent Site (1)
- No Sub Sites
- Permits (6)
- Projects (1)
- No Cases
- No Licenses
- No Issues
- No Additional Sites

- Print
- Attachments 2
- Internet Links
- Imaging
- Plan Location
- View Notes

- SWO2001-0208
- BRX2001-0355
- VAR2021-0015
- BRN2112-0067
- BRN2112-0035

Permitting

SWO2001-0208

| | | | | |
|-------------|------------------------------------|------------|------------|-------------------------|
| Status | ISSUED | | | Finalized |
| Applicant | Applied | 01/21/2020 | KHAR | Other |
| Type | STOP WORK ORDER | Approved | 01/21/2020 | KHAR |
| SubType | Issued | 01/21/2020 | KHAR | Expired 02/20/2020 KHAR |
| Description | Construction on west side of house | | | |

R0696301

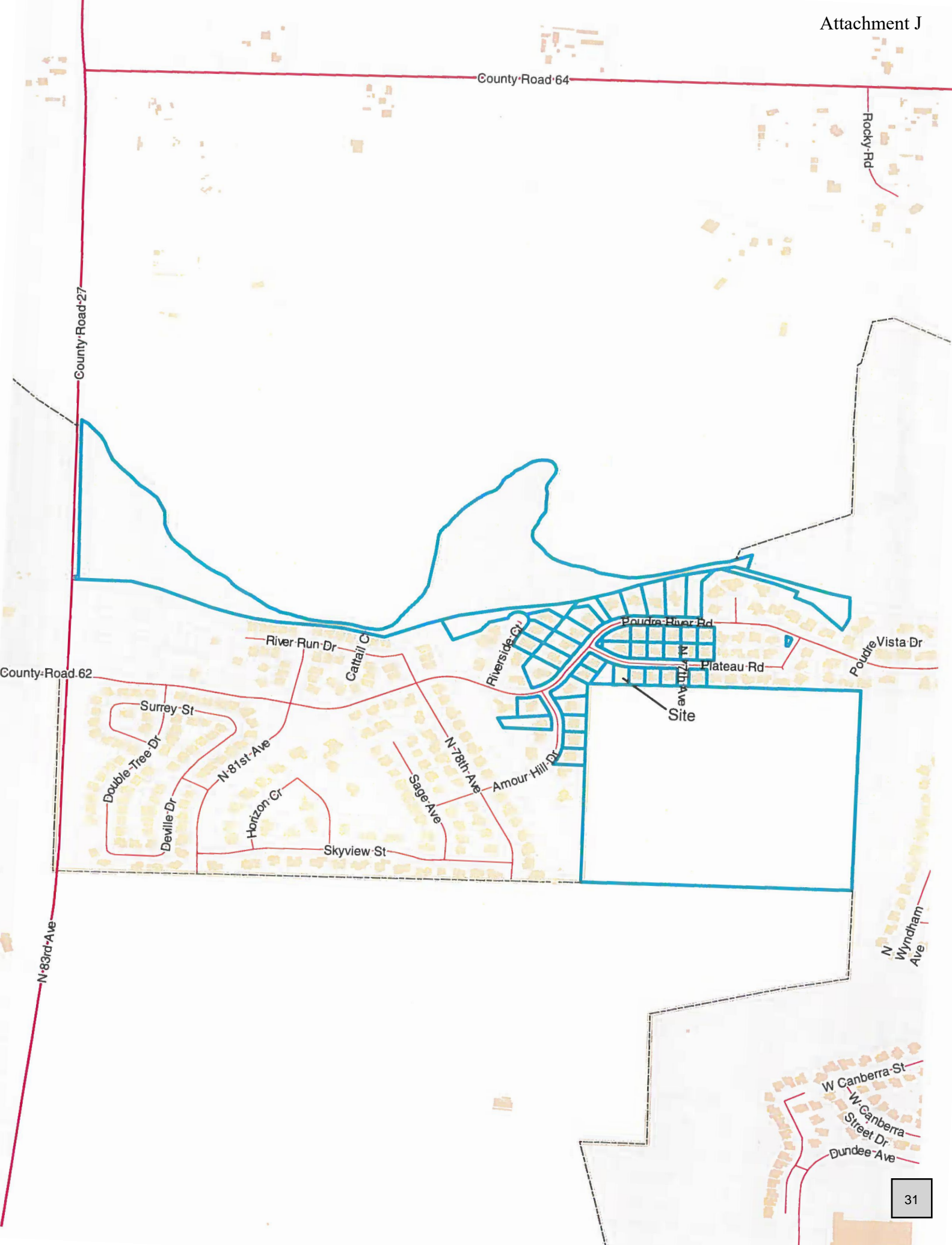
| | | | | | |
|-------------|---------------------------|-------|----|-----|-------|
| Type | ADDRESS | | | | |
| Address | 7714 PLATEAU RD | | | | |
| City | GREELEY | State | CO | Zip | 80634 |
| PARCEL ID | 080532416004 | BLOCK | 6 | LOT | 4 |
| SUBDIVISION | POUDRE RIVER RANCH 2ND FG | | | | |

Contacts (2)

Owner: STRAUSS D/







Darrell Gesick

From: WILLIAM GASKILL <djgaskill@comcast.net>
Sent: Tuesday, December 28, 2021 3:03 PM
To: Darrell Gesick; WILLIAM GASKILL
Subject: [EXTERNAL] Case # VAR2021-0015

Hi Darrell,

This e-mail is in response to the notice we received for considering a variance request to reduce the side setback of the west property line from 5 feet to 0 feet to accommodate an existing shed for a residential property located at 7714 Plateau Road.

We do not agree with the variance to reduce the required feet from the property line. Was the shed build without a permit as to why it does not meet code? If the shed was built within 5 feet of the property line it is not within City code as when we built our home we had to follow the building codes and had to reduce our patio by two feet to meet the setback requirements to meet the city ordinance.

The shed not build to code also presents to be an insurance and liability issue. An exception should not be made and if you do so you are just opening up the door for everyone else.

We agree that the shed should be move or torn down so that it is at a minimum of 5 feet from the property line.

Sincerely,

Randy & Debbie Gaskill

CAUTION: This email is from an external source. Ensure you trust this sender before clicking on any links or attachments.