



# Grand Lake Planning Commission

Wednesday, February 21, 2024 at 6:30 PM

Town Hall - 1026 Park Ave. \* Participation In-Person Only\*

*The Town of Grand Lake upholds the Six Pillars of Character:  
Citizenship, Trustworthiness, Respect, Responsibility, Fairness and Caring*

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## AGENDA

1. Call to Order
2. Roll Call
3. Consideration to approve Meeting Minutes

[Minutes](#) 02-07-2024

4. Unscheduled Citizen Participation

*This time is reserved for members of the public to make a presentation to the Commission on items or issues that are not scheduled on the agenda. The Commission will not make any decisions on items presented during this time.*

5. Conflicts of Interest
6. Items of Business

**A. PUBLIC HEARING (QUASI-JUDICIAL)** Continued from January 17th, 2024, Consideration to Adopt Resolution 01-2024; A Resolution Considering a Variance to Municipal Code 12-2-29 Regulating Stream and Lake Setbacks Located at Sunnyside Addition to Grand Lake Lot: 18 Block: 1 & A Tract East of Lot 18 to Center of N Inlet also Known as 210 Rapids Lane

7. Items for Discussion
8. Future Agenda Items
9. Adjourn Meeting

For live streaming (listening only) scan the QR code.  
You will not be able to actively participate via the web streaming.



<https://zoom.us/j/96360206519?pwd=VHcwODFTNnQ2SWNOTDA1M2d5NFYwUT09>

**You can also dial in using your phone. 1 (346) 248-7799**

**Meeting ID: 963 6020 6519**

**Access Code: 642153**



# Grand Lake Planning Commission

Wednesday, February 07, 2024 at 6:30 PM

Town Hall - 1026 Park Ave. \* Participation In-Person Only\*

*The Town of Grand Lake upholds the Six Pillars of Character:  
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## AGENDA

1. Call to Order **6:34pm**

2. Roll Call

PRESENT

Chairman James Shockey

Commissioner John Murray

Commissioner Judy Burke

Commissioner Heather Bishop

Board Liaison Mike Sobon

ABSENT

Commissioner Greg Finch

**Motion to excuse Commissioner Finch** made by Commissioner Murray, Seconded by Commissioner Bishop.  
Voting Yea: Chairman Shockey, Commissioner Murray, Commissioner Burke, Commissioner Bishop, Board Liaison Sobon **Passed 5:0**

3. Consideration to **approve Meeting Minutes: 12-06-2023 and 01-17-2024 approved 5:0**

Motion made by Commissioner Murray, Seconded by Board Liaison Sobon.

Voting Yea: Chairman Shockey, Commissioner Murray, Commissioner Burke, Commissioner Bishop, Board Liaison Sobon

4. Unscheduled Citizen Participation: NA

5. Conflicts of Interest

Voting Yea: **Commissioner Bishop conflict** with the variance request to the sign code item.

Voting Nay: Chairman Shockey, Commissioner Murray, Commissioner Burke, Board Liaison Sobon

6. Items of Business

**A. Public Hearing (Quasi-Judicial)** Resolution 02-2024; A Resolution Recommending Approval of a Lot Consolidation of Lots 3-5, Block 1, Sunnyside Addition to Grand Lake, More Commonly Referred to as 240 and 300 Hancock Street

**Approved 5:0**

Motion made by Commissioner Murray, Seconded by Commissioner Bishop.

Voting Yea: Chairman Shockey, Commissioner Murray, Commissioner Burke, Commissioner Bishop, Board Liaison Sobon

**B. Quasi-Judicial** – Variance Request to the Sign Code by Community Church of the Rockies

Sign allowed until June 4th, 2024. **Approved 4:0:1**

Motion made by Commissioner Murray, Seconded by Commissioner Burke.

Voting Yea: Chairman Shockey, Commissioner Murray, Commissioner Burke, Board Liaison Sobon

Voting Abstaining: Commissioner Bishop

**C. Motion to Recommend the Board of Trustees Amend the Town Code 12-7-3 Regarding Definitions for Accent Materials**

**Approved 5:0** with the removal of the word "windowpane"

Motion made by Commissioner Burke, Seconded by Commissioner Bishop.

Voting Yea: Chairman Shockey, Commissioner Murray, Commissioner Burke, Commissioner Bishop,

Board Liaison Sobon

7. Items for Discussion

Commissioner Bishop would like something else at the park at the front of town at the intersection of Center, Lake and Portal, not the proposed boat.

8. Future Agenda Items: Rapids deck to be at 2/21/2024 meeting

9. Adjourn Meeting

**7:29 pm**

Motion made by Commissioner Murray, Seconded by Commissioner Burke.

Voting Yea: Chairman Shockey, Commissioner Murray, Commissioner Burke, Commissioner Bishop, Board Liaison Sobon

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James Shockey, Chairman

ATTEST:

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Alayna Carrell, Town Clerk



February 21st, 2024

To: Chairman Shockey and Planning Commissioners  
From: Kim White, Town Planner

RE: **PUBLIC HEARING – Quasi-Judicial** Continued from January 17<sup>th</sup>, 2024, Consideration of Resolution 01-2024; A Resolution Considering a Variance to Municipal Code 12-2-29 Regulating Stream and Lake Setbacks Located at Sunnyside Addition to Grand Lake Lot: 18 Block: 1 & A Tract East of Lot 18 to Center of North Inlet also Known as 210 Rapids Lane

**Purpose**

The Town has received a shoreline variance request for a newly constructed deck partially in the five foot (5') non-disturbance zone and fully within the thirty (30') shoreline setback area (Fig 1). No building permit was obtained prior to construction of the deck.

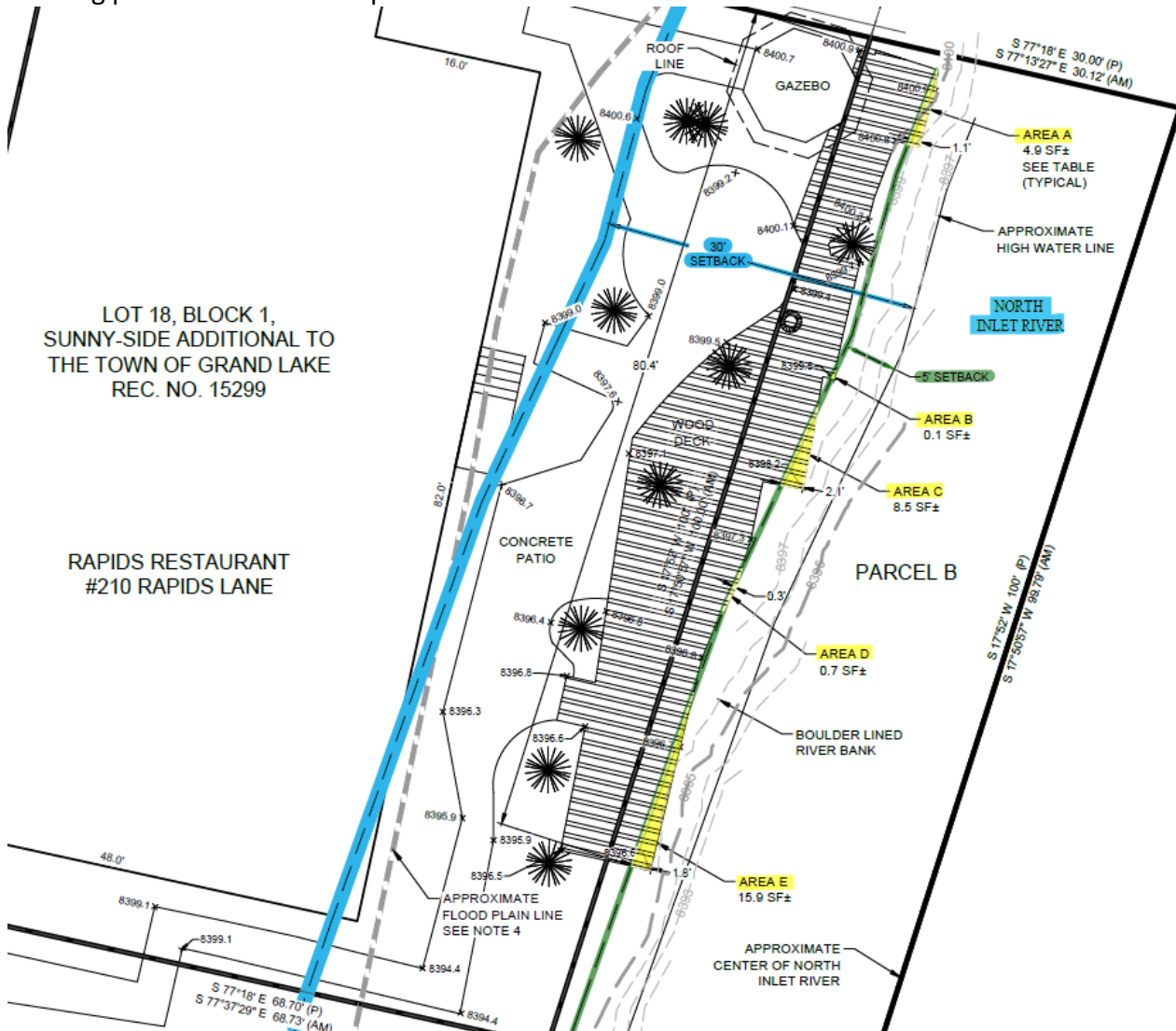


Figure 1- yellow highlighted area within the 5' non-disturbance zone



**Background:**

A gazebo has existed on the applicant’s property for a number of years upstream of the deck that is the subject of the current variance request. It is the newly built deck downstream from the gazebo that is the structure involved in this application for variance, not the gazebo. An image of the newly built deck was seen on social media and reported to staff, who investigated the matter and mailed a letter to the owner of the deck, requesting submission of a building permit and shoreline variance request (Exhibit 1). The owner of the property had Never Summer Attorneys correspond directly with the Town on the matter, stating to the Town that the deck pre-dated the shoreline setback regulation and was a floating deck, (not attached/dug into the ground), and thus did not require a shoreline variance, nor did it require a permit.

- The County Building official was notified of the deck and he informed Town Staff that according to International Building Code, since it is a commercial property and open to the public, there should have been a building permit issued and it would be in the interest of the owner to have a portion of the deck meet ADA regulations to protect the owner.
- The Town received a phone call from the State flood insurance group who stated that any items built in the flood plain require documentation to be filed with the Town.
- The Town attorney and the Owner’s attorney discussed the item via a zoom meeting and agreed to allow the Owner to provide evidence of the deck’s existence prior to the date of the shoreline setback regulations, and also gave them 45 days to provide all application documents to the Town for the shoreline setback variance.
- The Owners submitted the documents for the shoreline variance and the flood plain application but did not submit a building permit application, nor did they provide evidence of the deck as a pre-existing, non-conforming condition.

**Municipal Code**

Municipal Code 12-2-29 Shoreline and Surface Water Regulations:

(A) STREAM AND LAKE SETBACKS

1. *In order to help preserve the environmental quality of the water in the Grand Lake, a thirty (30) foot stream and lake setback from the mean identifiable high-water mark shall be maintained for buildings, parking, snow storage areas and other improvements to a site. ...*
2. *When activities are proposed within the 30’ setback, a variance may be requested by an Applicant.*
- ...
4. *The first five (5) feet of this setback shall be a non-disturbance zone, except in the cases of bridges, irrigation structures, flood control devices, boathouses, commercial marinas, boat rentals, boat repair and maintenance facilities and walkways and stairways less than four (4) feet in width leading directly from the shoreline to the principal structure.*
5. *In addition to these required stream and lake setbacks, properties contiguous to any stream, creek, river, irrigation ditch, lake, pond, or wetland area, shall be required to abide by the Erosion and Sediment Control Regulations as then in effect for Grand County, for construction projects involving ground disturbance. This requirement applies to single family, multiple family, commercial, and all other construction involving ground disturbance.*



**Staff Analysis**

Upon review of the history of this site, it was found that in 2011, the shoreline was reinforced with boulders to combat flooding on the shoreline (fig 2 & 2b). From the photos, it appears that the soil was likely compacted by the boulder-moving machinery when the boulders were put in place, which may have killed one or more of the trees. For reference, the popular stump seat shown in the photos below (fig 3) appears to be a full-sized tree in 2011 (orange arrow). The shoreline was revegetated after the shoreline reinforcement project.



**Figure 2 & 2b- Flood control 2011**



**Figure 3- Recent photo showing tree stump cut into a chair shape, for reference.**



In photos obtained from online reviews, grass along the shore appears as a thick lawn in 2014 (fig 4), but by 2019 it is sparse (fig 5), and all but gone in 2021 (fig 6).



Figure 4-2014 thick lawn after the 2011 shoreline reinforcement



Figure 5- 2019 sparse lawn



Figure 6- 2021 no deck no grass; very high water

By having dining on the shoreline without proper vegetation, erosion will continue to occur, and although none are showing yet, tree roots can be exposed, and compacted soil will increase, as captured in these images (fig 7).



Figure 7- 2020 no grass, compacted soil, no roots shown





Sometime during 2021-2023 a deck was put in place to cover the uneven dirt shoreline and possible exposed roots (fig 8). No building construction documents were submitted, so it is unclear whether it is a floating deck, how the deck will stay in place if there is a sudden increase in water level, and if the deck was built to building code standards.



**Figure 8**

Since the deck is not in the stream and is not dug into the shoreline, the Army Corp and the CDPHE approval were not required, but it is in the FEMA flood zone A and any structure built in the zone requires documentation to be filed with the Town (Figure 9).



**Figure 9**



The applicant submitted paperwork for the shoreline variance and the flood plain application required by the State Flood Plain administration (exhibit 4). Upon review of the documents, the flood plain application is viewed as incomplete by FEMA because the applicant must obtain an encroachment analysis (from an engineer or other professional) to demonstrate no more than a one-half foot (1/2') rise in base flood elevation between existing and post-construction conditions and documentation for how it is anchored is missing. Also, the applicant has not submitted construction documents or an application for a building permit. The applicants initially indicated that the deck has been in place for decades. However, once the Town provided the applicant's attorney with photos of the area as recently as 2019, 2020, and 2021 without the deck, the applicant agreed to submit a variance request to shoreline regulations to permit all of the new deck.

The existing deck is a use by right in this Commercial Transitional zone as 12-2-10 (item 13) accessory use, but there is no evidence it complies with building code regulations pertaining to decks, as no construction documents have been submitted.

Staff caused the publication of this Public Hearing in the Middle Park Times and contacted the surrounding properties owners as required by the Municipal Code with 14 of the 23 notices having been received. The Town received 2 written comments in response to this mailed notice. One comment was in favor of the variance and one comment was against allowing the variance (exhibit 2 & 3). On January 17<sup>th</sup>, 2024, due to a winter storm, the Planning Commission unanimous voted to continue until February 21<sup>st</sup>, 2024.

If the Commission recommends granting a variance to allow the deck to remain, staff recommends that such approval be conditioned on (1) removing those portions of the deck in Areas A, C, and E that encroach into the 5 foot non-disturbance zone, as there is no avenue for a variance to this code provision, (2) submitting a building permit application including the building construction plans for review by the Town zoning and County building department and pay all applicable fees, (3) complying with all other provisions of the Grand Lake Municipal Code that relate to the deck, including but not limited to Section 12-2-29(A)(5), (4) refraining from further use of the deck until construction under the permit has been completed and approved by the building inspector, and (5) complete the floodplain application by obtaining an encroachment analysis (from an engineer or other professional) to demonstrate no more than a one-half foot (1/2') rise in base flood elevation between existing and post-construction conditions or the flood plain application and providing documentation on how the deck is anchored. It is also suggested that a condition be added that the shoreline vegetation be maintained at current level (fig 10 & 11) and that riparian vegetation is allowed to become more dense to ensure future shoreline erosion does not occur (fig 11 orange arrows). If flooding or mass die off occurs, ensure that willow sprigs will be planted, in compliance with all rules and regulations.



Figure 10 - shoreline vegetation -images from 2023 online real estate marketing



Figure 11- shoreline vegetation (orange arrows at areas with sparse vegetation proposed to be maintained)



### **Commission Discussion**

The Commission should conduct the Public Hearing as follows:

1. Open the Public Hearing
2. Allow Staff to present the matter
3. Allow the Applicant to address the Commission
4. Open the meeting for public comment
5. Close the Public Hearing
6. Have a discussion among the Commissioners, including any clarifying questions of staff or the applicant.
7. Adopt a resolution reflecting the Commission's recommendation to the Board of Trustees

### **Shoreline setback discussion:**

Section 12-2-29(A)(4):

(4) The first five (5) feet of this setback shall be a non-disturbance zone, except in the cases of bridges, irrigation structures, flood control devices, boathouses, commercial marinas, boat rentals, boat repair and maintenance facilities and walkways and stairways less than four (4) feet in width leading directly from the shoreline to the principal structure. **(Figure 1- highlights areas that are within the 5' zone)**

Section 12-2-29(A)(2):

...During the public hearing the burden on the Applicant shall include but not be limited to, establishing the activity conforms to one (1) or more of the exceptions set forth in Section 12-3-5(A)(4)(a) through (e) **(Applicant submitted exhibit 4 as proof of conformity to exceptions)**

The exceptions in Section 12-3-5(A)(4)(a) through (e) are:

- (a) By reason of exceptional shape, size or topography of lot, or other exceptional situation or condition of the building or land, practical difficulty or unnecessary hardship would result to the owners of said property from a strict enforcement of these Regulations;
- (b) Literal interpretation of the provisions of these Regulations would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of these Regulations.
- (c) The special conditions and circumstances do not result from the actions of the applicant;
- (d) Granting the variance request will not confer on the applicant any special privilege that is denied by this ordinance to other lands, structures, or buildings in the same district;
- (e) That the granting of the variance does not pose a detriment to the public good and does not substantially impair the intent and purpose of the Zone Plan and these Regulations.



**Commission shall consider the following 7 factors:**

Section 12-2-29(A)(2)(b): The following factors will be considered in determining whether to issue a variance from the 30' shoreline regulations:

1. The shape, size, topography, slope, soils, vegetation, and other physical characteristics of the property.
2. The locations of all bodies of water on the property, including along property boundaries.
3. The location and extent of the proposed setback intrusion.
4. Whether alternative designs are possible which require less intrusion or no intrusion.
5. Sensitivity of the body of water and affected critical habitats.
6. Intensity of land use adjacent to the body of water proposed to intrusion.
7. Impact on floodplains and stream functions (a variance shall not be approved when the reduction would result in the setback being narrower than the floodplain)

**Commission Suggested Motion**

1. **I Move to Adopt Resolution 01-2024; Recommending the Approval of the Variance to Shoreline and Surface Water Regulations with conditions, as presented.**

Or

1. **I Move to Adopt Resolution 01-2024; Recommending the Approval of the Variance to Shoreline and Surface Water Regulations with the following additional conditions**  
\_\_\_\_\_.

Or

2. **I Move to recommend denial of the variance for the following reasons:** \_\_\_\_\_



1026 Park Ave · PO Box 99  
 Grand Lake, CO 80447  
 970-627-3435  
[www.townofgrandlake.com](http://www.townofgrandlake.com)

Section 6, Item A.

6/28/2023  
 Tomlynson, INC  
 P.O. Box 1400  
 Grand Lake, CO 80447-1400

Hello Tomlynson, INC.,

It has come to our attention that you have built a deck on the east side of your property abutting the Tonahutu Creek. This action requires a building permit based on the following municipal code 9-1-2 and international residential building code 105.2. This also requires a shoreline variance for building items within 30' of any water body per MC. 12-2-29. All contractors and subcontractors also are required to have current business licenses with the Town at the time of work and contractor licenses with the County (M.C. 6-4-3). You will need to apply for the building permit, the shoreline variance, and provide the business license numbers for the contractors that worked on this project. Please contact Town Hall with the proper paperwork to remedy this as soon as possible.

Thank you,

Code Compliance



Grand Lake To - Go is with The Historic Rapids Lodge and Restaurant in Grand Lake, CO.

2d · 🌐

In the heart of Grand Lake, Colorado, you'll find this hidden gem offers an unforgettable brunch experience that will leave you enchanted!

Indulge at Grand Lake's only creekside dining option. From delicious appetizers like baked brie to scrumptious sandwiches like the Pulled Duck Sandwich, the menu at [The Historic Rapids Lodge and Restaurant](#) boasts an array of mouthwatering options to satisfy every palate.

If you happen to find yourself in Grand Lake, Colorado this summer, make it a priority to visit the Historic Rapids Lodge. Whether you're seeking a leisurely lunch or a special occasion, this destination is not to be missed. Lunch is served from 11-3pm Wednesday through Sunday. Dinner starts at 4:45pm. Dinner reservations are strongly encouraged. Visit <https://gograndlake.com/.../the-historic-rapids-restaurant/> to reserve a table at the Rapids!

January 9, 2024

Town of Grand Lake  
PO Box 99  
Grand Lake, CO. 80445-0099

RE: 210 Rapids Lane Request for Exception

Grand Lake Planning Commission & Board of Trustees,

We are owners of unit #1 in the Rapids Condominiums, 220 Rapids Lane, located to the immediate south of the property requesting an Exception. We appreciate the opportunity to provide our input regarding the applicant's request.

We were fortunate to have scheduled a stay in our unit shortly after receiving your notice. We viewed the new decks from our landing just outside of our riverside exterior door, then walked the decks for a close-up inspection. To us, it was a vast improvement over the previous dirt surface.

Shortly after emailing pictures of the new decks to our fellow owners and passing on our observations, we received a copy of a letter to the planning commission signed by several owners voicing what seemed to be legitimate concerns.

We spoke with the owners of the Rapids Restaurant as well as to Kimberly White to better understand whether our fellow owner's concerns were one's that we should share. What we learned from these conversations satisfied us that the City, with its professional planning and building staff, will insure:

- The construction meets building codes and will be safe for diners.
- There will be no possibility of decks floating down stream onto our property.
- The decks will not be allowed to damage the shoreline.

Finally, Ms. White indicated this would not be the first Exception granted, so it would not be setting a precedent.

With those concerns satisfied, we fully support the allowance of an Exception. Please feel free to contact us at 303-908-6070 or [greg@ggulley.com](mailto:greg@ggulley.com).

Sincerely,



**Greg Gulley**



**Karen Gulley**

Grand Lake Planning Commission,

Thank you for your notice regarding a deck project completed at 210 Rapids Ln. While we do not wish any harm or inconvenience to the owners of this property, we are writing to express our strong concern and opposition to this project. This letter is signed by three separate owners whose names and addresses are identified at the end of this letter.

Our objections to this deck project are for the following reasons:

- First, this project violates current laws for stream and lake setbacks, which we believe are helpful regulations both for public safety and not disturbing water shorelines. We hold there is *not* good reason(s) to give an exception to these laws in the case of this project (see below).
- Second, this deck was built without a permit. That is a significant oversight that gives us no confidence it was built properly or is certified to be safe.
- Next, we have concerns that a “floating” deck (which we assume means that it is not attached to a structure or the ground) located directly on the shoreline and in some spots over the river is unsafe. This concerns us both for those who will use the deck and concerns us as neighbors downstream from the deck. We all know river water levels are not consistent (e.g., after the recent fires we used sandbags to protect our property from rising river levels) and this is where current ordinances are important to maintain public safety. In addition, both for our property and 210 Rapids Ln. people come on to our properties to view and enjoy the river front that are not residents or customers at the restaurant. This floating deck creates a liability for unsupervised people.
- Finally, and most importantly, if this project is approved by the Planning Commission, it will invite a slippery slope scenario where other property owners with waterfront access (including us as owners) will be emboldened to follow suit and cite this exception as precedence.

We would strongly encourage you to protect our current ordinances and not allow this project to be maintained. For the owners of 210 Rapids Ln., while I’m sure it would be a disappointment, I believe moving the decking back toward their building and out the non-disturbance and shoreline protection zones would still provide excellent seating areas for their guests.

Thank you for considering our comments. If we can provide any additional input, please do not hesitate to contact us.

Sincerely,

Ryan and Laura Whitson, Owners  
220 Rapids Ln. #3 - 303-335-7988

Tim and Janet Leyden, Owners  
220 Rapids Ln. #6 - 832-722-3465

Steve & Linda Schell, Owners  
220 Rapids #2 - 620-384-9605





1026 Park Ave · PO Box 99  
Grand Lake, CO 80447  
970-627-3435  
www.townofgrandlake.com

**REQUEST FOR VARIANCE** Section 6, Item A.  
**STREAM AND LAKE SETBACK**  
**ZONING REGULATIONS**

PLEASE FILL OUT THE FOLLOWING INFORMATION.

Property Legal Description: Subd: Sunnyside addition Lot: 18 Block 1

Property Street Address: 210 Rapids Lane

Property Owner: Tomlynson, Inc

Applicant's Name: Max Ludwig Day Phone: [REDACTED]

Applicant's Mailing Address: [REDACTED]

Variance Requested:

825 sq/ft of patio at issue located on the east side. See exhibit A

At a minimum, a variance request shall include the following information:

**I. Application Deposit and executed Agreement for Development Fees**

**II. Documentation of unusual hardship via answers to the criteria listed below (only need to prove ONE)**

- a. By reason of exceptional shape, size or topography of lot, or other exceptional situation or condition of the building or land, practical difficulty or unnecessary hardship would result to the owners of said property from a strict enforcement of Municipal Code 12-2-29 [Shoreline and Surface Water Regulations]
- b. Literal interpretation of the provisions would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of Municipal Code 12-2-29
- c. The special conditions and circumstances do not result from the actions of the applicant
- d. Granting the variance request will not confer on the applicant any special privilege that is denied by this ordinance to other lands, structures, or buildings in the same district
- e. The granting of the variance does not pose a detriment to the public good and does not substantially impair the intent and purpose of Municipal Code 12-2-29

**III. A topographic survey that includes locations of all streams, wetlands, floodplain boundaries, slope, topography, and other natural features**

**IV. A detailed site plan that shows the locations of all existing and proposed activities/improvements, both inside and outside the setback.**

- a. A calculation of the total area (square footage) of the proposed improvements shall be indicated
- b. The exact area of the 30' setback to be affected shall be accurately and clearly indicated.

**V. At least one alternative plan, which does not include a setback intrusion, or an explanation of why such a plan is not possible**

**VI. An erosion and sedimentation control plan (i.e. temporary and permanent interventions such as retaining walls, straw wattles and silt fencing, french drains, or other practices)**

**VII. A stormwater control plan, if applicable.**

STATEMENT OF AUTHORITY

1. This Statement of Authority relates to an entity<sup>1</sup> named Tomlynson, Inc. and is executed on behalf of the entity pursuant to the provisions of Section 38-30-172, C.R.S.

2. The type of entity is a:
 trust
 registered limited liability partnership
 nonprofit corporation
 registered limited liability limited partnership
 limited liability company
 limited partnership association
 general partnership
 government or governmental subdivision or agency
 limited partnership
 corporation

3. The entity is formed under the laws of Colorado

4. The mailing address for the entity is P.O. 1400 Grand Lake, CO

5. The  name  position of each person authorized to execute instruments conveying, encumbering, or otherwise affecting title to real property on behalf of the entity is Maxwell G Ludwig

6.2 The authority of the foregoing person (s) to bind the entity is  not limited  limited as follows:

7. Other matters concerning the manner in which the entity deals with interests in real property: variance request and any other permits required

Executed this 26<sup>th</sup> day of October, 2023

Signature [Handwritten Signature]
Signature

STATE OF COLORADO
COUNTY OF Grand } SS:

The foregoing instrument was acknowledged before me this 26<sup>th</sup> day of October, 2023 by Maxwell Ludwig

Witness my hand and official seal.
[Handwritten Signature]
Notary Public

My commission expires: 12/26/2026

<sup>1</sup>This form should not be used unless the entity is capable of holding title to real property.
<sup>2</sup>The absence of any limitation shall be prima facie evidence that no such limitation exists.
<sup>3</sup>The statement of authority must be recorded to obtain the benefits of the statute.



Attachment A

Request for Variance from Stream and Lake Setback Zoning Regulations

Town of Grand Lake Planning Commission

RE: 210 Rapid Lane

Grand Lake, CO 80447

1. Site Map: see attached survey.
  
2. The Rapids Lodge, completed in 1915, is located on Lot #18, Block #1, Sunny-Side Addition (Aka: 210 Rapids Lane) in the Town of Grand Lake., Colorado. Lot #18 covers 7315.89 SQ Ft (not including Parcel B which covers half of the river) and is situated on the bank of the Tonahutu River (North Inlet). It is a relatively flat property with mature trees and stable soils. At issue is the patio added below the gazebo and the original deck that pre-date the set-back ordinance. The patio at issue is between the building with its cement walkway and the river bank. The 10'x10' Gazebo sits at the North East corner of the lot. The west wide of the river-bank of the North inlet is reinforced with medium sized boulders that serve as flood control. The vegetation consists of ten mature lodgepole pine trees, aspen trees and wild rose bushes. The property is operated as a lodge and restaurant. The operation of the business and use of the property does involve the storage or handling of hazardous or toxic materials.
  
3. Site plan evidences that the patio was build around the trees and did not cause any disturbances. See attached survey.
  
4. Documentation of unusual hardship should the setback be maintained:
  - a. See Exhibit B;
  - b. As evidenced by the survey, enforcement of the setback would render the property, which is a lodge and restaurant almost unusable. The setback comes to the eastern wall of the building – a building that was built in 1915 that predates the setback ordinances. The enforcement of the setback would defacto make the owner, guests and residents prisoner's of the building.

5. An alternative plan that does not include a setback intrusion is not possible because there is other land on which the outdoor patio space that is essential to the business can be built. The building abuts the road on the west side of the building, the east the of the building is just thirty feet (or less) from the river. And not having the patio as depicted on the survey would put owners, staff and guests at risk of tripping and falling on the roots, rocks and uneven terrain. Also, as the only usable open space to the building, the area at issue is a high foot traffic area. Thus, the patio is also the best solution to protect the trees and ground from destruction and erosion from the heavy foot traffic. No plantings were removed or destroyed by the installation of the patio.

6. A calculation of the total areas and length of intrusion:

See attached survey.

7. An erosion and sedimentation control plan:

To prevent overflow, the west side riverbank has been built-up with medium sized boulders. Since the time of this improvement, the river has not run over the banks into the property. The patio offers protection from the high traffic area from erosion and protects the tree roots. Deep tree roots from the mature trees stabilizes the land.

8 NA

9 NA

**Attachment B**

**Request for Variance from Stream and Lake Setback Zoning Regulations**

**Hardship**

At the public hearing the applicant can prove that the activity conforms to all five of the hardship criteria. Per municipal code, documentation of unusual hardship via criteria listed only requires that ONE of the five criteria set in Section 12-3-5(A)(4)(a) through (e) be proven, here the applicant can establish that the activity conforms with all five of the exceptions:

- a. Practical difficulties or unnecessary hardship would result to the owners of said property from a strict enforcement of MC 12-2-29:
  - i. Strict enforcement of 12-2-29 would cause extreme financial hardship for The Rapids. The Rapids, like many other businesses in Grand Lake, conducts @80% of its business in the summer months. In the summer season the vast majority of the restaurant revenue come from customers dining on the patio outside along the riverbank;
  - ii. The exposed roots were being damaged without the protection of the patio;
  - iii. The liability from risk of fall and injury without a platform was significant. Customers and employees ran the risk of injury by tripping over the roots of the trees and uneven ground.

**b. Literal interpretation of the provision would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of 12-2-29:**

i. As the Rapids was built in 1915 long before the setback ordinance was adopted, enforcing the 30-foot setback now deprive the owners and guests their right to quiet enjoyment of the property as it would render the property without any meaningful outdoor space - the west side of the building abuts the road and the 30-foot setback would leave marginal outdoor space for owners and guests.

**c. Special conditions and circumstances do not result from actions of the applicant:**

i. The applicant did not build the Rapids lodge and restaurant or site it on the lot. It was built in 1915. As built, it partially encroaches in the later adopted 30-foot set back. Enforcing the 30-foot setback would render the property without any meaningful outdoor space that can safely be used by owners, guests and staff: the west side of the building abuts the road and enforcement of the 30-foot setback would deny the owners, guests and staff use of the outdoor space.

**d. Granting the variance request will not confer an applicant any special privilege that is denied to the lands ,structures or buildings in the same district:**

No special privilege would be conferred by this variance that is denied to the lands, structures or buildings in the same district. The patio at issue is core to the business and allows use and

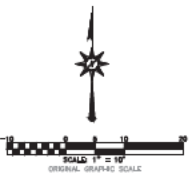
enjoyment of the waterfront. Docks, boat houses, and commercial marinas and businesses in the same district. The applicant should not be put at an unfair disadvantage and be deprived of similar water-front enjoyment. Furthermore, the assessed tax value is higher for water-front property, yet this set-back would deprive the applicant of the enjoyment and use of that water-front property for which it pays taxes.

**e. Granting of variance does not pose a detriment to the public good and does not substantially impair the intent and purpose of MC 12-2-29:**

The stated purpose of the 30 foot setback is to “help preserve the environmental quality of the water in Grand Lake”. The ordinance goes on the address that it is applicable to buildings, parking, snow storage, etc. Clearly, the oil and contamination from snow storage and parking is obvious. Whereas the patio at the Rapids does not pose such risk or contaminants. Furthermore, the patio protects the trees which are essential to help prevent erosion.

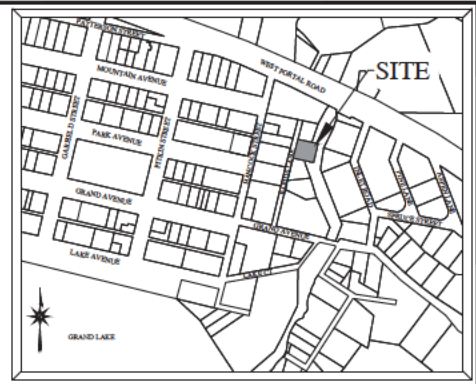
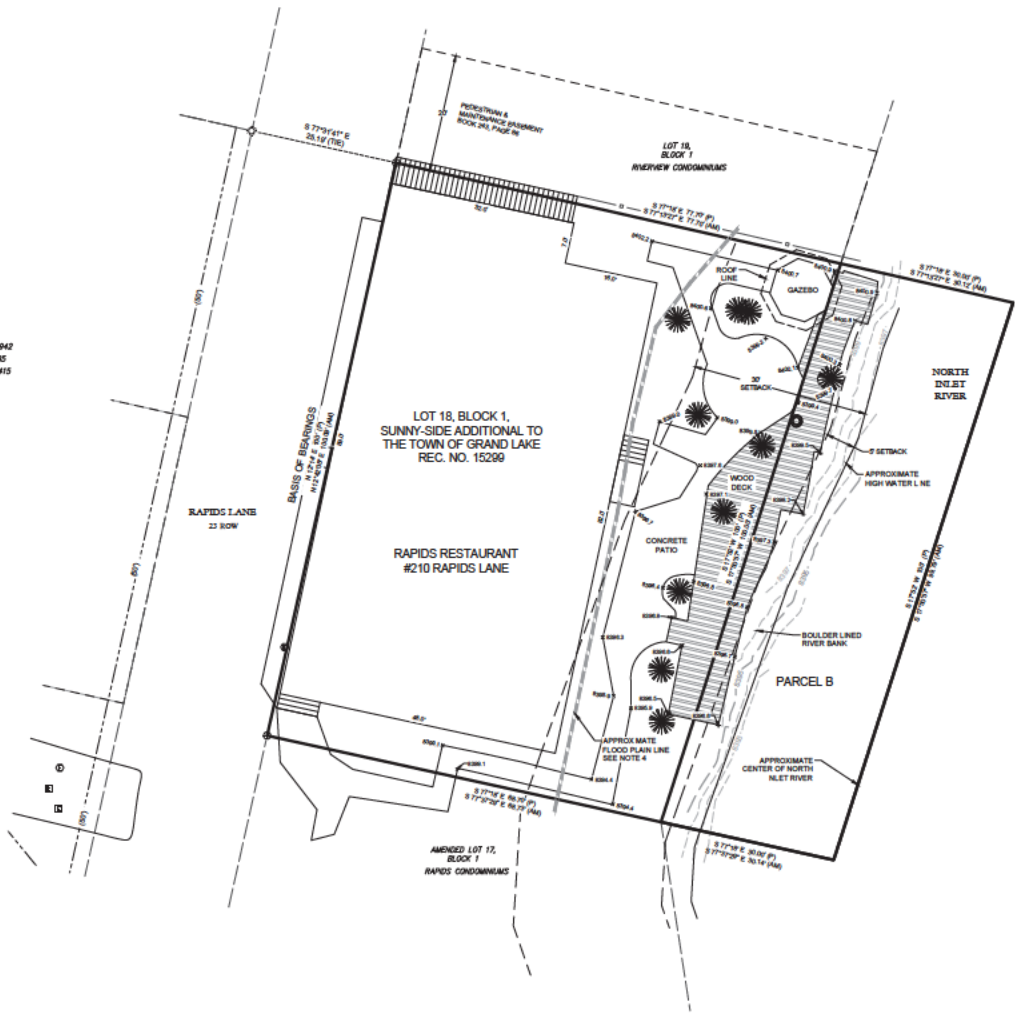
Most importantly, the patio affords the owners, guests and staff safety. Previously, the exposed tree roots and uneven terrain caused falls and posed a safety risk.

**EXHIBIT**  
**PATIO \ WOOD DECK, RAPIDS RESTAURANT**  
**LOT 18, BLOCK 1, SUNNY-SIDE ADDITION TO THE TOWN OF GRAND LAKE, RECEPTION NO. 15299 AND**  
**PARCEL B, AS DESCRIBED IN WARRANTY DEED RECEPTION NO. 98007171**  
**SITUATED IN SECTION 5, TOWNSHIP 3 NORTH, RANGE 75 WEST OF THE 6TH PRINCIPAL MERIDIAN,**  
**TOWN OF GRAND LAKE, GRAND COUNTY, COLORADO**  
**#209 RAPIDS LANE**



**LEGEND**

- REC. NO. RECEPTION NUMBER
- SP SQUARE FEET
- AC ACREAGE
- PLATED AS MEASURED
- (AM) FOUND ALUMINUM CAP, PLS #21942
- FOUND PLASTIC CAP, PLS #26685
- FOUND ALUMINUM CAP, PLS #11415
- ELECTRICAL PEDESTAL
- TREE STRIP
- MATURE TREE
- PROPERTY LINE
- ADJACENT LOT
- EASEMENT LINE



VICINITY MAP  
SCALE: 1" = 300'

**NOTES**

1. FOLLOWING IS A PARTIAL LIST OF SURVEY PLATS UTILIZED IN THE PREPARATION OF THIS SURVEY:  
 A. GRAND COUNTY RECORDS, TOWN OF GRAND LAKE, RECEPTION NO. 9086.  
 B. GRAND COUNTY RECORDS, SUNNY-SIDE ADDITION TO THE TOWN OF GRAND LAKE, RECEPTION NO. 15299.
2. BASIS OF BEAR NG IS N 12°42'00" E (ASSUMED) AS MEASURED FROM THE SOUTHWEST CORNER OF LOT 18, BLOCK 1 (ALUMINUM CAPPED REBAR, PLS #11415) TO THE NORTHWEST CORNER OF LOT 18, BLOCK 1 (ALUMINUM CAPPED REBAR, PLS #11415) WITH ALL BEAR NG'S SHOWN HEREIN BE NG RELATIVE THERETO.
3. THE BASIS OF ELEVATION IS 8441.34 (PER NAVD 83 DATUM) AS MEASURED FROM THE BUREAU OF RECLAMATION BRASS CAP "1.584" WHICH IS SITUATED ON THE BRIDGE OVER THE NORTH INLET RIVER ON THE WEST PORTAL ROAD WITH ALL ELEVATIONS SHOWN HERE IN RELATIVE THERETO.
4. THE FLOOD PLAIN DEPICTED HERE IN IS REFERENCED FROM THE FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA) FLOOD INSURANCE RATE MAP (FIRM) NUMBER 0804001AC HAVING AN EFFECTIVE DATE OF JANUARY 2, 2009. SAND MAP CLASS F IS THE NORTH INLET RIVER AS "ZONE A" WHICH HAS "NO BASE FLOOD ELEVATIONS DETERMINED". CONSEQUENTLY, DEPICTED HEREIN IS AN APPROXIMATE LOCATION OF THE WETTEST LIMIT OF SAND ZONE A.
5. THIS EXHIBIT IS NOT A LAND SURVEY PLAT, IMPROVEMENT SURVEY PLAT OR FLOOD PLAIN SURVEY. IT IS PREPARED TO GRAPHICALLY DEPICT THE HIGH WATER MARK OF NORTH INLET RIVER RELATIVE TO THE WOOD DECK NG AND CONCRETE PATIO AREA OF RAPIDS RESTAURANT.

**LAND SURVEYOR'S CERTIFICATE**

I, T MOTHY R. SHENK, A DAILY LICENSED LAND SURVEYOR, IN THE STATE OF COLORADO, DO HEREBY CERTIFY THAT THIS EXHIBIT REPRESENTS THE RESULTS OF FIELD SURVEYING AND DRAFTING MADE BY ME OR UNDER MY DIRECT SUPERVISION. THIS IS NOT A LAND SURVEY PLAT, IMPROVEMENT SURVEY PLAT OR FLOOD PLAIN SURVEY.



T MOTHY R. SHENK, COLORADO P.L.S. #81942  
 PREPARED ON BEHALF OF TIM SHENK LAND SURVEY NG, INC.

TIM SHENK  
 LAND SURVEYING, INC.  
 P.O. BOX 1670  
 GRANBY, CO 80446  
 (970) 887-1046

**EXHIBIT**  
 PATIO \ WOOD DECK, RAPIDS RESTAURANT  
 LOT 18, BLOCK 1, SUNNY-SIDE ADDITION TO THE  
 TOWN OF GRAND LAKE AND PARCEL B  
 SECTION 5, TOWNSHIP 3 NORTH, RANGE 75 WEST OF THE 6TH PRINCIPAL MERIDIAN,  
 TOWN OF GRAND LAKE, GRAND COUNTY, COLORADO

JOB: 01146 SCALE: 1" = 20' DATE: 10/09/2023 DRAWN BY: JAN  
 DWG: 01146\_PATIO EXH-B ORD: 01146 CHECKED: TRS SHEET: 1 OF 1

**Fwd: Riverside safety**

Tatyana Ludwig &lt;rapids@rapidslodge.com&gt;

Wed 9/27/2023 10:20 PM  
[REDACTED][Get Outlook for Android](#)

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**From:** ROBERT BALINK [REDACTED]  
**Sent:** Wednesday, September 27, 2023 6:08:58 PM  
**To:** Tatyana Ludwig <rapids@rapidslodge.com>  
**Subject:** Riverside safety

Dear Max and Tatiana,

We want to thank you for the improvements you have made to the Rapids outdoor dining experience.

There wasn't much, if anything, to improve with the meals and service guests regularly receive- but the outside dining in the past, on uneven ground, was somewhat difficult to maneuver...as desirable as most guests found outside dining at The Rapids was.

The new decks added in the last two years ensured not only an un-paralleled Grand Lake dining experience but they added greatly to the safety of your guests.

Sadly, during a walk along another waterway trail in Grand Lake this summer, a family member fell on uneven ground along a relatively flat trail and suffered a concussion after a face-plant into the ground.

Thank you for improving the safety measures at your outside dining tables...that was very thoughtful and much appreciated by your patrons.

Bob and Adele

Getsafetynow.com



Town of Grand Lake, Colorado  
**FLOODPLAIN DEVELOPMENT PERMIT**  
(See Terms and Conditions)  
Grand Lake Planning Department  
Phone: 970-627-3435  
Email: kwhite@togleo.com

Issue Date: \_\_\_\_\_  
Expiration Date: \_\_\_\_\_

Permit# \_\_\_\_\_  
\*Permit becomes void if there are changes to the effective Flood Insurance Rate Map.\*

Owner: Maxwell Ludwig  
\_\_\_\_\_  
Grand Lake City CO State  
80447 Zip Code  
Telephone# \_\_\_\_\_  
Contact Name Maxwell Ludwig cell  
Emergency Telephone # \_\_\_\_\_  
E-mail \_\_\_\_\_

Contractor/Developer \_\_\_\_\_  
Address \_\_\_\_\_  
City \_\_\_\_\_ State \_\_\_\_\_  
Zip Code \_\_\_\_\_  
Telephone# \_\_\_\_\_ Fax# \_\_\_\_\_  
Contact \_\_\_\_\_ Name \_\_\_\_\_  
Emergency# \_\_\_\_\_  
E-mail \_\_\_\_\_

Development Address 210 Rapids LN, Grand Lake, CO 80447 C  
Legal Description: Lot #18 Block #1 Parcel B Latitude/Longitude # \_\_\_\_\_

**Development Overview**

Description of development: Wooden Flooring to protect flood plain soil and improve safety by River.

Estimated Cost of development: \$3000  
If development is on, within or connected to an existing structure:  
Valuation of existing structure: Source of valuation:  
When was the existing structure built: 1915

\* If the value of an addition, remodel or alteration to a structure equals or exceeds 50% of the value of the structure before the addition, remodel or alteration, the entire structure must be treated as a substantially improved structure and is required to comply with the relevant Floodplain Damage Prevention Ordinance. A relocated structure, including mobile homes, manufactured home, or cabins, must be treated as a new construction.

- |   |   |   |   |
|---|---|---|---|
| <b>CHANNEL IMPROVEMENTS</b>                 | <b>STRUCTURAL DEVELOPMENT</b>                           | <b>MISCELLANEOUS</b>                          | <b>TYPE</b>   |
| <input type="checkbox"/> Bank Stabilization | <input checked="" type="checkbox"/> New Construction    | <input type="checkbox"/> Bridge               | <input type="checkbox"/> Temporary                          |
| <input type="checkbox"/> Grade Control      | <input type="checkbox"/> Residential Building           | <input type="checkbox"/> Culvert              | <input type="checkbox"/>                                    |
| <input type="checkbox"/>                    | <input type="checkbox"/> Permanent Drop Structure       | <input type="checkbox"/> Non-Residential      | <input type="checkbox"/> Demolition                         |
| <input type="checkbox"/>                    | <input type="checkbox"/> Rehabilitation                 | <input type="checkbox"/>                      | <input type="checkbox"/>                                    |
| <input type="checkbox"/> Outfall            | <input type="checkbox"/> Manufactured Home              | <input type="checkbox"/> Fence                | <input type="checkbox"/> Emergency Repair                   |
| <input type="checkbox"/> Fill               | <input type="checkbox"/> Rehabilitation (<50%)          | <input type="checkbox"/> Grading/ Parking Lot | <input type="checkbox"/> Maintenance                        |
| Other _____                                 | <input type="checkbox"/> Substantial Improvement (≥50%) | Other _____                                   | <input checked="" type="checkbox"/> Other <u>Wood Floor</u> |
|   | Other _____   |   |   |

**Flood Hazard Data**

**TO BE COMPLETED BY FLOODPLAIN ADMINISTRATOR**

Watercourse Name: Effective FIRM Panel Number and Date: \_\_\_\_\_  
Is the development in or impacts a floodplain? \_\_\_\_\_  
Is the development in the floodway? If yes, a No-Rise Certification is required.  
Special Flood Hazard Zone: Base Flood Elevation: \_\_\_\_\_  
Method used to determine Base Flood Elevation: \_\_\_\_\_  
Vertical Datum: Must be either NGVD 29 or NAVD 88 and the same vertical datum of the effective FIRM: \_\_\_\_\_  
Elevation of lowest floor, including basement or crawlspace\*: Elevation of lowest, habitable floor\*: \_\_\_\_\_  
Elevation of floodproofing (non-residential structures only)\*: \_\_\_\_\_  
\*Source of Elevation and/or floodproofing Information: \_\_\_\_\_  
Does the development require that a CLOMR be processed?: \_\_\_\_\_ Is a LOMR required?: \_\_\_\_\_

Issue Date:
Expiration Date:

Town of Grand Lake, Colorado  
**FLOODPLAIN DEVELOPMENT PERMIT**  
 (See Terms and Conditions)  
 Grand Lake Planning Department  
 Phone: 070-627-3435

Permit#	Section 6, Item A.
<i>*Permit becomes void if there are changes to the effective FIRM*</i>	

**Floodplain Development Permit Checklist (THIS PAGE TO BE COMPLETED BY FLOODPLAIN ADMINISTRATOR)**

The following documents may be required at the discretion of the approving community official:

- Tax assessor map
- Maps and/or plans showing the location, scope and extent of the development
- Floodproofing Certificate: Certificate and supporting documentation used to provide the certification
- Documentation showing compliance with the Endangered Species Act
- No-Rise Certificate: Certificate and supporting documentation used to provide the certification
- Elevation Certificate
  - Constructional Drawing
  - Building Under Construction
  - Finished Construction
- Grading plans
- Detailed hydraulic and hydrology model for development in a Zone A
- Conditional Letter of Map Revision (CLOMR)
- Structure valuation documentation
- Non-conversion agreement: Required for all structures that are constructed with an enclosure
- Wetland Permit from the U.S. Army Corps of Engineers
- Copies of all federal, local and state permits that may be required.
- Manufactured home anchoring certificate: Certificate and supporting documentation used to provide the certification
- Other documents deemed necessary by the Floodplain Administrator

**Permit Action**

                     **PERMIT APPROVED:** The information submitted for the proposed development was reviewed and complies with approved floodplain management standards.

                     **PERMIT APPROVED WITH CONDITIONS:** The information submitted for the proposed development was reviewed. For the proposed development to be approved, certain restrictions or conditions must be met. These restrictions or conditions are attached.

                     **PERMIT DENIED:** The proposed development does not meet approved floodplain management standards (explanation on file).

                     **VARIANCE GRANTED:** A variance was granted from the base (1%) flood elevation established by FEMA consistent with variance requirements of Title 44 of the Code of Federal Regulations part 60.6 (Variance action documentation is on file).

Signature of Community Official: \_\_\_\_\_ Date: \_\_\_\_\_

Print Name and Title of Community Official: \_\_\_\_\_

Issue Date:
Expiration Date:

Town of Grand Lake, Colorado  
**FLOODPLAIN DEVELOPMENT PERMIT**  
 (See Terms and Conditions)  
 Town of Grand Lake Planning  
 Department  
 Phone: 970-627-3435  
 Email: [kwhite@toglco.com](mailto:kwhite@toglco.com)

Permit#	Section 6, Item A.
*Permit becomes void if there are changes to the effective Flood Insurance Rate Maps*	

The Floodplain Development Permit is used to help our community evaluate all impacts of activities proposed within our regulated floodplains. All activities— work, projects, development, construction, modifications, or additions heretofore referred to as "development"— must comply with Article 5 of Chapter 12 of the Grand Lake Town Code, the Floodplain Damage Prevention Ordinance (FDPO), of the Town, as well as all applicable regional or state regulations. Compliance with the FDPO is required for eligibility in the National Flood Insurance Program (NFIP), which provides flood insurance to individuals at reduced premiums than could otherwise be purchased through private insurers, and makes certain federal funds available to communities. For citizens to be eligible for the national flood insurance policies, or for communities to receive certain kinds of federal funds, the community must agree to meet minimum floodplain standards such as the FDPO. This application is a tool to ensure that development in our community complies with those standards.

Any party undertaking development within a designated floodplain must obtain a Floodplain Development Permit prior to commencing development. FEMA defines development in Title 44 of the Code of Federal Regulations part 59.1 as: *Any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials.* Other human activities that are considered "development" include the following: alterations of a structure through additions, demolition and remodeling, fences, retaining walls, moving/placement of remanufactured or mobile homes, campgrounds, storage of equipment, vehicles, or materials (e.g., storage yards, salvage yards).

**General Provision of the Floodplain Development Permit Terms** (applicant to read and sign):

1. No development may start until a permit has been issued.
2. The permit may be revoked if:
  - a. Any false statements are made herein;
  - b. The effective Flood Insurance Rate Map has been revised;
  - c. The development is not done in accordance with the FDPO of the Town or other local, state and federal regulatory requirements.
  - d. The development is different than what is described and submitted to the Town as part of the Floodplain Development Permit application.
3. If revoked, all development must cease until a permit is reissued.
  - a. If the permit cannot be reissued, applicant acknowledges that they will be responsible to correct the issue, which may require removal of any development that may have occurred.
4. Development shall not be used or occupied until the development has received a final inspection, a final elevation and approval by the Town.
5. The permit will expire if the development has not been completed and approved by the Town by the expiration date noted on the permit.
6. Applicant is hereby informed that other permits may be required to fulfill local, state and federal regulatory requirements and acknowledges that it is their responsibility to ensure that all necessary permits are obtained.
  - a. This includes documentation showing compliance with the Endangered Species Act.
7. Applicant hereby gives consent to the local floodplain administrator or their representative (including state and federal agencies) to make reasonable inspections required to verify compliance.
8. Applicant acknowledges that the development will be designed to minimize any potential drainage onto surrounding properties and will be responsible for any drainage issues that may arise.
9. I, the applicant, certify that all statements herein and in attachments to this application are, to the best of my knowledge, true and accurate. Furthermore, I have read and understand the relevant FDPO for the Town of Grand Lake, and will adhere to the ordinance and will or have already obtained all necessary state, federal and local permits for the proposed development.

Applicant's Name:

Maxwell Ludwig (DBA The Rapids)

Applicant's Signature:



Date:

10/26/2023

**TOWN OF GRAND LAKE  
PLANNING COMMISSION  
RESOLUTION NO. 01-2024**

**A RESOLUTION RECOMMENDING APPROVAL OF A VARIANCE TO THE STREAM AND LAKE SETBACK REQUIREMENTS FOR PROPERTY LOCATED AT 210 RAPIDS LANE, WITH CONDITIONS**

**WHEREAS**, Tomlynson, Inc., (the “Applicant”) is the owner of certain real property located at 210 Rapids Lane, more particularly described as follows:

Sunnyside Addition to Grand Lake Lot: 18 Block: 1 & A Tract East of Lot 18 to Center of North Inlet,

(the “Property”); and

**WHEREAS**, Municipal Code 12-2-29 Shoreline and Surface Water Regulations provides:

- 1. In order to help preserve the environmental quality of the water in the Grand Lake, a thirty (30) foot stream and lake setback from the mean identifiable high water mark shall be maintained for buildings, parking, snow storage areas and other improvements to a site. ...*
- 2. When activities are proposed within the 30’ setback, a variance may be requested by an Applicant.*

**WHEREAS**, Municipal Code 12-2-29 further provides in subpart 4:

- 4. The first five (5) feet of this setback shall be a non-disturbance zone, except in the cases of bridges, irrigation structures, flood control devices, boathouses, commercial marinas, boat rentals, boat repair and maintenance facilities and walkways and stairways less than four (4) feet in width leading directly from the shoreline to the principal structure; and*

**WHEREAS**, there is no provision in the Municipal Code for variance of the five feet non-disturbance zone; and

**WHEREAS**, within the 30-foot setback zone, and to a much lesser extent within the 5-foot non-disturbance zone, the Applicant has constructed a deck along the shore of North Inlet adjacent to the Property (the “Deck”); and

**WHEREAS**, the Applicant did not obtain a building permit prior to constructing the Deck; and

**WHEREAS**, the Applicant has submitted a request for a setback variance to allow the Deck to remain, as shown on Exhibit A, attached; and

**WHEREAS**, following proper notice, the Planning Commission held a Public Hearing of the Application on January 17<sup>th</sup>, 2024; and

**WHEREAS**, the Planning Commission moved to continue the Public Hearing of the Application to February 21<sup>st</sup>, 2024; and

**WHEREAS**, Section 12-2-29(A)(2) requires that at the hearing it is the burden of the Applicant to establish that the proposed activity conforms to one or more of the following exceptions set forth in Section 12-3-5(A)4(a) through (e) of the Municipal Code:

- (a) By reason of exceptional shape, size or topography of lot, or other exceptional situation or condition of the building or land, practical difficulty or unnecessary hardship would result to the owners of said property from a strict enforcement of these Regulations;
- (b) Literal interpretation of the provisions of these Regulations would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of these Regulations.
- (c) The special conditions and circumstances do not result from the actions of the applicant;
- (d) Granting the variance request will not confer on the applicant any special privilege that is denied by this ordinance to other lands, structures, or buildings in the same district;
- (e) That the granting of the variance does not pose a detriment to the public good and does not substantially impair the intent and purpose of the Zone Plan and these Regulations.

**WHEREAS**, Section 12-2-29(A)(2)(b) requires that at the hearing the Planning Commission consider all of the following factors to determine whether to issue a variance to the 30 foot setback requirement:

- 1. The shape, size, topography, slope, soils, vegetation, and other physical characteristics of the property.
- 2. The locations of all bodies of water on the property, including along property boundaries.
- 3. The location and extent of the proposed setback intrusion.
- 4. Whether alternative designs are possible which require less intrusion or no intrusion.
- 5. Sensitivity of the body of water and affected critical habitats.
- 6. Intensity of land use adjacent to the body of water proposed to intrusion.
- 7. Impact on floodplains and stream functions (a variance shall not be approved when the reduction would result in the setback being narrower than the floodplain);

**FINDINGS OF THE PLANNING COMMISSION**

**HAVING CONSIDERED THE MATTERS PRESENTED TO IT AND THE APPLICABLE STANDARDS, THE PLANNING COMMISSION MAKES THE FOLLOWING FINDINGS:**

- 1. The Planning Commission considered each of the factors required by Section 12-2-29((2)(b).
- 2. The Applicant established the following exception(s) under Section 12-3-5(a)4(a) through (e): [Planning Commission must find at least one in order to satisfy this requirement. Select all that apply:]
  - 1. That by reason of exceptional shape, size or topography of lot, or other exceptional situation or condition of the building or land, practical difficulty or unnecessary hardship would result to the owners of said property from a strict enforcement of these Regulations;
  - 2. That literal interpretation of the provisions of these Regulations would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of these Regulations.
  - 3. That the special conditions and circumstances do not result from the actions of the applicant;
  - 4. That granting the variance request will not confer on the applicant any special privilege that is denied by this ordinance to other lands, structures, or buildings in the same district;

5. That the granting of the variance does not pose a detriment to the public good and does not substantially impair the intent and purpose of the Zone Plan and these Regulations.

**NOW THEREFORE BE IT RESOLVED BY THE PLANNING COMMISSION OF THE TOWN OF GRAND LAKE, COLORADO,**

- 1. The Planning Commission recommends to the Board of Trustees that the variance requested by the Applicant to reduce the 30-foot setback requirements provided for in Section 12-29-20(A)(1) of the Municipal Code be granted on the following terms and conditions:
  - a. That the portions of the Deck that encroach into the Non-Disturbance Zone as shown in Areas A, C, and E on Exhibit A be removed. Although Areas B and D encroach into the Non-Disturbance Zone, they are *de minimis* in size (0.1 square feet and 0.7 square feet, respectively), and are measured from an approximate high water line, and therefore need not be removed.
  - b. That the Applicant obtain a building permit for the remaining portions of the Deck, including the submission of construction drawings and other required documentation, and pay the requisite fees for such permit.
  - c. That the Applicant maintain or increase the riparian vegetation, in compliance with all rules and regulations, to prevent erosion of the shoreline in the areas between the Deck and the stream.
  - d. That the remaining portions of the Deck comply with all other provisions of the Grand Lake Municipal Code, including but not limited to Section 12-2-29(A)(5).
  - e. That the Applicant refrain from further use or occupancy of the Deck until the foregoing conditions have been fulfilled as certified by the Town Manager.
  - f. That the Applicant finalize flood plain application requirements, including providing documentation on deck anchoring system, and providing evidence in the form of a certified encroachment analysis to demonstrate no more than a one-half foot rise in base flood elevation between existing and post-construction.

**DULY MOVED, SECONDED AND ADOPTED BY THE PLANNING COMMISSION OF THE TOWN OF GRAND LAKE, COLORADO THIS 21st DAY OF FEBRUARY, 2024**

( S E A L )

Votes Approving:  
 Votes Opposed:  
 Absent:  
 Abstained:

ATTEST:

TOWN OF GRAND LAKE

---

Alayna Carrell  
 Town Clerk

---

James Shockey  
 Planning Commission Chairman