BOARD OF ADJUSTMENT REGULAR MEETING

City Council Chambers, 448 E. 1st Street, Salida, CO
July 24, 2023 - 6:00 PM

AGENDA

Email public comments to: planning@cityofsalida.com

Please register for the Board of Adjustment meeting: https://attendee.gotowebinar.com/rt/1909092342220683277

CALL TO ORDER BY CHAIRMAN

ROLL CALL

APPROVAL OF THE MINUTES

1. **June 26, 2023 - Draft Minutes**

UNSCHEDULED CITIZENS

AMENDMENT(S) TO AGENDA

PUBLIC HEARINGS

Public Hearings will follow the following procedure:

A.	Open Public Hearing	E.	Public Input
B.	Proof of Publication	F.	Close Public Hearing
C.	Staff Review of Application/Proposal	G.	Commission Discussion
D.	Applicant's Presentation (if applicable)	H.	Commission Decision or Recommendation

2. **Kuhn Variance request - 147 West Fourth Street -**

   The Kuhn variance request that was approved by the Board of Adjustment on June 26, 2023 did not contain a complete record at the time of consideration.

   A public comment on the variance request was emailed to the email address provided on the Board of Adjustment agenda. Staff was unaware that the email address was invalid and the comment was never received and made part of the record. Now that the record is complete the variance shall be reconsidered.

3. **P&C Enterprises, LLC Variance Request - 306 Old Stage Road - Continued from the June 26, 2023 meeting**

   The purpose of the request is to receive a variance from the minimum side yard setback for accessory structures. The minimum side yard setback is five (5) feet for accessory structures over twelve (12) feet in height.

   The applicant is requesting a minimum allowed side yard setback of 3' for the garage constructed on the western portion of the property and 3'-3" for the garage constructed on the eastern portion of the property.

   An additional request is to receive a variance from the maximum lot coverage with structures if the P & C Enterprises, LLC Minor Subdivision is approved.

BOARD COMMENTS

ADJOURN

**An alternate can only vote on, or make a motion on an agenda item if they are designated as a voting member at the beginning of an agenda item. If there is a vacant seat or a conflict of interest, the Chairman shall designate the alternate that will vote on the matter. If a Voting member shows up late to a meeting, they cannot vote on the agenda item if the alternate has been designated.

Individuals with disabilities needing auxiliary aid(s) may request assistance by contacting the City Clerk at 448 E. 1st Street, Ste. 112, Salida, CO 81201, Ph.719-530-2630 at least 48 hours in advance.

BOARD OF ADJUSTMENT REGULAR MEETING

City Council Chambers, 448 E. 1st Street, Salida, CO
June 26, 2023 - 6:00 PM

MINUTES

Please register for the Board of Adjustment meeting: https://attendee.gotowebinar.com/rt/1909092342220683277

CALL TO ORDER BY CHAIRMAN - 6:00 PM

ROLL CALL

PRESENT
Board Member Chairman Greg Follet
Board Member Co-Chair Francie Bomer
Board Member Giff Kriebel
Board Member Judith Dockery
Board Member Michelle Walker
Board Member Brian Colby
Board Member Aaron Derwingson

ABSENT
Alternate Board Member Dan Bush

APPROVAL OF THE MINUTES

1. December 13, 2022 – Board of Adjustment Draft Minutes

   Motion made by Board Member Co-Chair Bomer, Seconded by Board Member Colby.
   Voting Yea: Board Member Chairman Follet, Board Member Co-Chair Bomer, Board Member Kriebel, Board Member Dockery, Board Member Walker, Board Member Colby, Board Member Derwingson

   THE MOTION PASSED.

UNSCHEDULED CITIZENS- NA

AMENDMENT(S) TO AGENDA- NA

PUBLIC HEARINGS
Public Hearings will follow the following procedure:

A.	Open Public Hearing	E.	Public Input
B.	Proof of Publication	F.	Close Public Hearing
C.	Staff Review of Application/Proposal	G.	Commission Discussion
D.	Applicant's Presentation (if applicable)	H.	Commission Decision or Recommendation

2. **306-310 Old Stage Road Variance Request (The public hearing needs to be continued to the July 24, 2023 Board of Adjustment meeting).**

   Applicants Chris Vaith and Peter Schaefer of P&C Enterprises LLC, are requesting approval for two variances on the property located at 306 Old Stage Road, legally known as Lot 57 Two Rivers Subdivision.

   A. Open Public hearing – 6:02pm

   B. Proof of Publication –

   C. Staff Review–

   D. Applicant's Presentation-

   E. Public Input – NA

F. Close Public Hearing – 6:02pm

G. Board Discussion –

H. Board Decision –

Motion made by Board Member Co-Chair Bomer to continue the public hearing to the July 24, 2023 meeting, Seconded by Board Member Kriebel.
Voting Yea: Board Member Chairman Follet, Board Member Co-Chair Bomer, Board Member Kriebel, Board Member Dockery, Board Member Walker, Board Member Colby, Board Member Derwingson

THE MOTION PASSED.

3. Kuhn Variance request - 147 West Fourth Street - The applicants, Martin & Adriane Kuhn, are requesting approval for a variance from the minimum side yard setback for the existing accessory structure.

Accessory structures in the Medium Density Residential (R-2) zone district require a minimum side yard setback of three (3) feet. The applicants are requesting a minimum allowed side yard setback of 16" for an existing accessory building.

A. Open Public hearing – 6:03pm

B. Proof of Publication –

C. Staff Review– Planning Technician, Palumbo reviewed the application.

Commission discussed the following:

- That the accessory structure was actually observable from the street
- When the accessory structure was moved to the current location
- When the accessory structure built and whether there was an encroachment
- When the neighbor complaints were made

D. Applicant's Presentation- Martin Kuhn and Adrienne Kuhn were present and spoke on the application.

Commission asked the following:

- Whether the applicant had to get a building permit for the Master Plan of the backyard
- Whether they built a new shed or shifted the existing shed over

E. Public Input – NA

F. Close Public Hearing – 6:40pm

G. Board Discussion –

Commission discussed the following:

- That the special circumstances arose because errors were made by staff
- If the Board approved this variance, whether it would just be for the shed or would future projects be eligible.

H. Board Decision –

Motion to approve the variance made by Board Member Co-Chair Bomer, Seconded by Board Member Walker.
Voting Yea: Board Member Chairman Follet, Board Member Co-Chair Bomer, Board Member Kriebel, Board Member Dockery, Board Member Walker, Board Member Colby, Board Member Derwingson

THE MOTION PASSED.

BOARD COMMENTS

ADJOURN With no further business to come before the Board, the meeting adjourned at 6:44 p.m.

STAFF REPORT

MEETING DATE: July 24, 2023
AGENDA ITEM TITLE: Kuhn Variance Application (Reconsideration)
AGENDA SECTION: Public Hearing

UPDATE ON RECONSIDERATION:

The variance approved at the June 26th Board of Adjustments meeting did not contain a complete record at the time of consideration. A neighbor had sent electronic public comment prior to the hearing. The electronic comment was sent to an email displayed at the top of the Board of Adjustment agenda. Staff was unaware that the email address was defunct, therefore, the comment was never received. For this reason, reconsideration of the variance will preside with a now complete record.

REQUEST:

The purpose of the request is to receive a variance from the minimum side yard setback for an existing accessory building under twelve (12) feet in height. Accessory buildings in the Medium Density Residential (R-2) zone district require a minimum side yard setback of three (3) feet.

The applicant is requesting a minimum allowed side yard setback of 16" on the southwest side of the property for the existing accessory building.

APPLICANT:

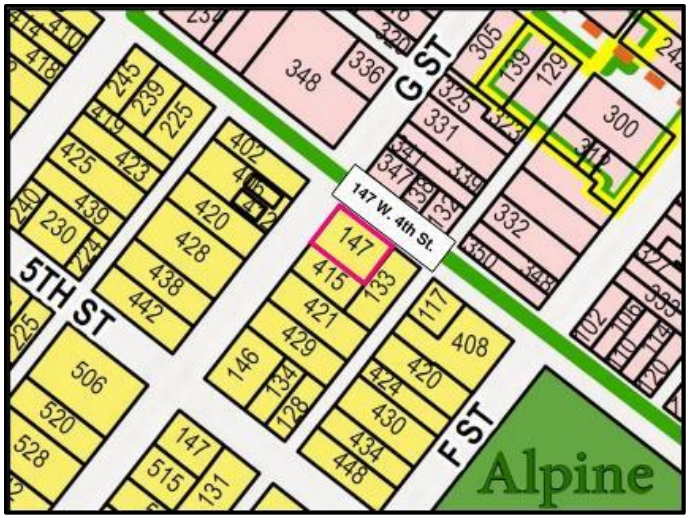
The applicants are Adriane & Martin Kuhn, 147 W. 4th Street, Salida, CO 81201.

LOCATION:

The property is legally known as Part of Lots 24, 25, & 26, Haskells Addition, City of Salida, Chaffee County, Colorado.

PROCESS:

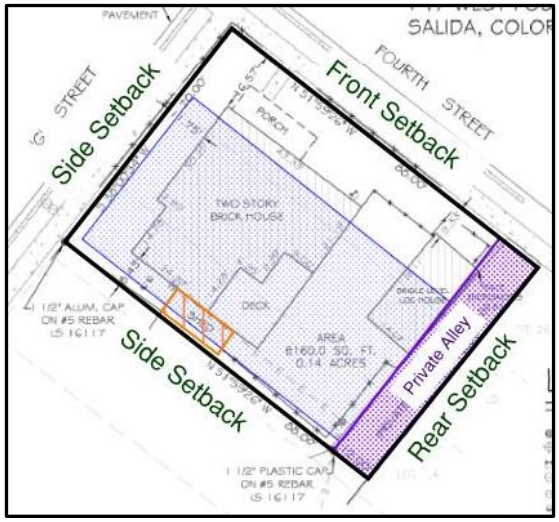
Variances are addressed in the City's Code of Ordinances, Section 16-4-180, Zoning Variances. Variances may be granted from the standards of the underlying zone district and shall be authorized only for maximum height, minimum floor area, maximum lot coverage, minimum lot size, minimum setbacks, and parking requirements.



The Board of Adjustment holds a public hearing after fifteen days advance notice of the hearing. The public hearing shall be held, at which any person may appear or be represented by an agent or attorney. The Board may describe appropriate conditions and safeguards in conformity with the Zoning title of the City Code.

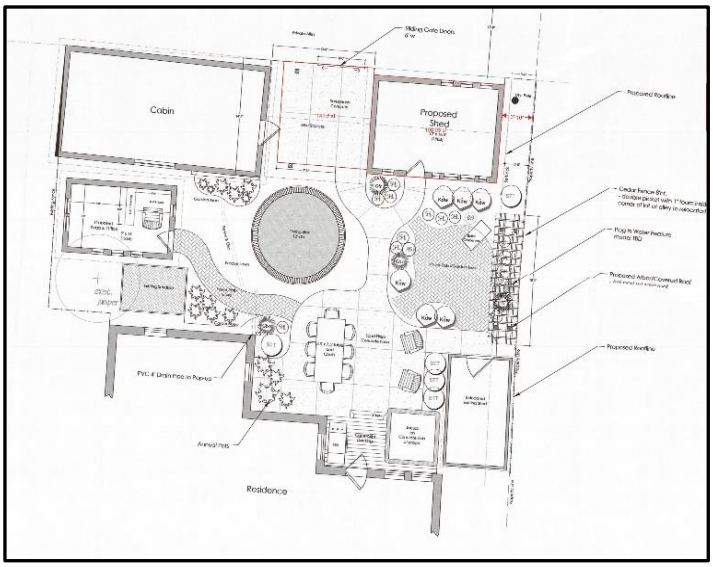
OBSERVATIONS:

1. The subject property is located in the Medium Density Residential (R-2) zone district. Directly across 4th street is the Central Business District (C-2) zone district and Historic Protection Overlay (HPO).



2. The southwesterly 12' portion of the property is a paved driveway (private alleyway easement) for the neighboring property at 415 G Street. The property is constrained by curb and gutter in all other places for on-site parking.

3. The primary building is a nonconforming building that does not meet the current front setback. The accessory building (single level log house) permitted in 1946, according to City documents, does not meet the current front setback. *On a corner lot, the front lot line shall be designated by the location of the primary entrance or front porch. On a corner lot, the owner shall choose which lot line is designated the rear lot line.*



4. A written request in October 2021 was made to the Administrator to construct an 8' fence. The request was granted and in January 2022, the owners permitted and built an 8' fence between their property and the neighboring, 415 G Street, property.

5. On May 16th, 2023, a code violation letter was sent to the owners regarding the accessory building in question. Staff was made aware, by formal grievance in March 2023, that the accessory building was encroaching on the neighboring property in 2016 and the current owners relocated the accessory building entirely on their property in its current location in 2021.


Prior to permitting 8' fence.

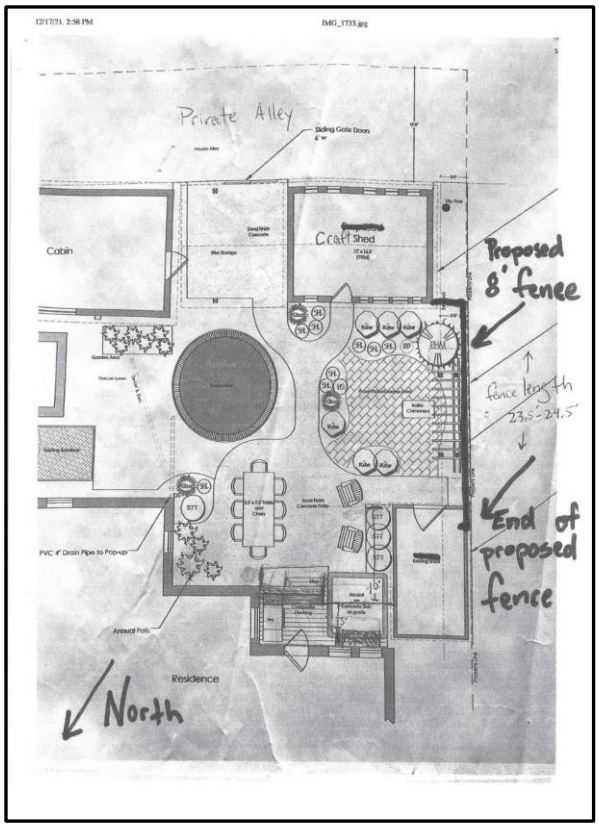
6. The request is to receive relief from the minimum 3' side yard setback for an accessory building. The applicant has relocated the building 16" from the current side yard property line. This does not include building eaves.

7. Staff have received a comment from a neighbor against the variance request. This comment was sent to the Board of Adjustment and Applicants for review prior to this hearing. Comment is attached.

Variance Approval Criteria Section 16-4-180(e): Variances from requirements of this Chapter shall be considered an extraordinary remedy. When considering, reviewing, and deciding on whether to approve a variance application, the Board of Adjustment must find that all the following criteria have been met:

1. Special Circumstances Exist. Strict application of the standards adopted in this Chapter would result in undue hardship or practical difficulties for the owner of such property. Special circumstances include, but are not limited to, exceptional or peculiar limitations to the dimension, shape, or topography of the property, such as slope, standing or moving water, wetlands, floodplain, rock features, narrowness, shallowness or irregular shape of a lot.

   Applicant's response:
   The special circumstances are:
   - *Our house is old, with limited storage. We need the storage space.*
   - *Our lot is constrained by an easement for our neighbors.*
   - *The shed has been there for many years without complaint.*
   - *Our master plan for our backyard space is now complete.*
     - *We were granted multiple permits related to this project and a site plan showing the location of the shed was submitted and approved twice. The fence permit specifically spelled out that the fence was to be attached to this shed.*
     - *Concrete has been poured right up to and adhering to the skirting of the shed on 2 sides.*
     - *A hot tub has been placed next to the shed, according to the site plan, and permitted electrical has been installed on the side of the shed.*
     - *A small deck was just completed this winter that fills up the remaining space between the house and the shed. Custom fencing attached to the shed by permit could not be extended in the same fashion if the shed were removed.*



- The existing permitted 8' fence attached to the accessory building was approved by the City on January 4th, 2022. On the site plan, the demarcation of where the 8' fence is affixed to the "Exiting Shed" and "Craft Shed" that are off the property line.

- At the time of fence permitting, staff assumed the accessory building was an existing nonconforming building as is the nature of the other buildings on the property. Therefore, we were unaware that this was indeed relocated to its current location a couple of years ago.

- The definition of setback in the Land Use Code: *the distance required by this Chapter between the face of a building or structure and the lot line opposite that building face, measured perpendicularly to the building.* According to the applicant, the accessory building was encroaching into the neighbor's property at 415 G Street and moved completely onto their property, per the ILC. Relocating the accessory building must meet the standards of the zone district for all permitted and permit exempt buildings.

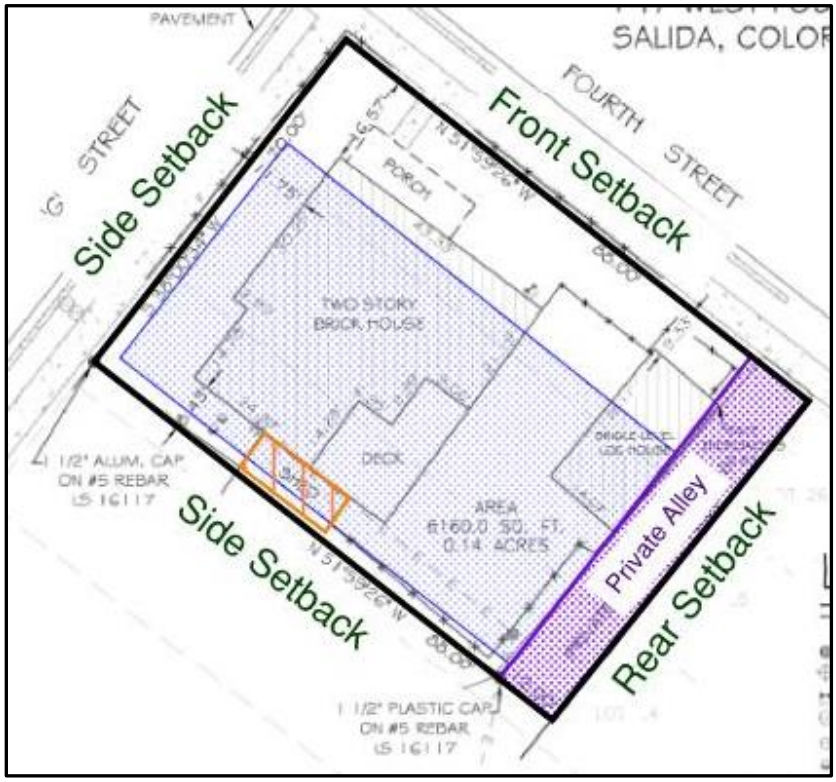
2. Substantial Detriment. The requested variance would not create a substantial detriment to the public good and would not substantially impair the intent and purpose of this Chapter, this Code or the City's Comprehensive Plan.

   Applicant's response: *No impact. The shed has been in about the same location for years and there was a shed with no setback in the same place for years before that. Many other properties in the neighborhoods around downtown have similar sheds with no setbacks, including our neighbors. We now understand that our shed is not considered nonconforming according to the Land Use code. We've learned that it was placed by the prior owner after the setback requirements went into effect. However, we believe allowing the shed to remain where it is satisfies the spirit, though not the letter, of Section 16-4-160 because there has historically been a shed in basically the same location for a long time.*

   - The applicant had removed the encroachment of the accessory building completely onto their property at the current location.

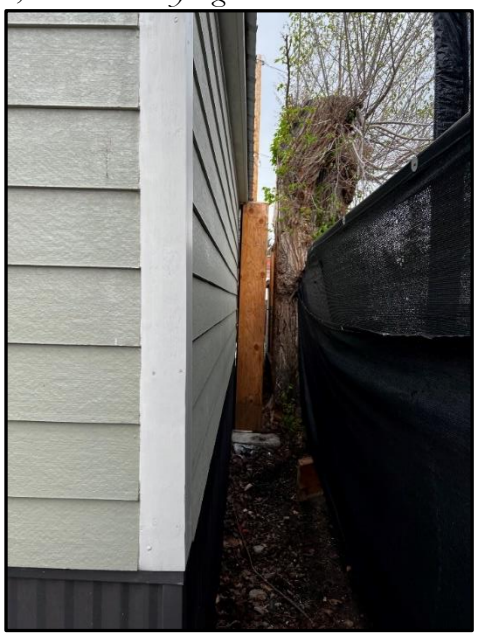
   - The accessory building is behind the primary building, not very visible to the public; if at all.

   - The area in blue (image right) describes the buildable area of an accessory building that is under 12' in height, utilizing 3' side yard setbacks in the R-2 zone district. The rear setback is hampered by the 12' private alleyway, which would typically be a 5' rear setback for accessory buildings. The accessory building is highlighted in orange.



3. Adverse Impacts. The requested variance would not result in significantly adverse impacts to the natural environment or to the surrounding properties and neighborhoods.

   Applicant's response: *No adverse impacts. The neighbors have expressed a desire for privacy at prior points in time. In addition, they approved our request to build an 8-foot-tall fence along the property line. The shed continues this line of privacy and as you can see in the attached pictures, it is minimally higher than the fence in the required setback area.*



   - A formal complaint regarding the location of the accessory building was made by a neighbor. The neighbor advised Staff in March 2023, that the accessory building was about a foot over onto their property and had been moved in 2021. It was moved without regard to the accessory building setbacks creating difficulty for the neighbor to construct a fence in that area.

   - The granting of the variance may impact the surrounding properties as it will be in close proximity to the side property line, the applicant may explain that maintaining the accessory building is feasible.

4. Minimum Variance. The granting of the request is the minimum variance necessary for reasonable use of the property or building and the least deviation required from the applicable zoning standard to afford relief.

   Applicant's response: *The minimum variance necessary for continued reasonable use is to allow the shed to stay where it is. I am unable to be as precise as I would like by placing a string line aling the lot line due to the neighbors' encroaching fence. The shed is approximately 16 inches from the lot line. The setback should be 36 inches. Please grant a variance for a setback of 16 inches and allow the shed to stay where it is.*

   - Setbacks help provide privacy and to address basic safety issues: distances between buildings decrease the potential damage in case of a fire, provide the room necessary for a homeowner to maintain his/her buildings on his/her own property and provide for solar access and ventilation. As mentioned by the Building Department Official, "If a permit was required there would have been fire rating of the structure and no projections permitted with the close vicinity of the lot line."
     - Sec. 18-2-10 of the Salida Municipal Code references the adoption of the International Residential Code (IRC) 2015 edition. In IRC 2015 section R105.2 Work Exempt from permit: "One-story detached accessory structures, provided that the floor area does not exceed 200 square feet. Although this work is exempt from permit the IRC states: "Exemption from permit requirements of this code shall not be deemed to grant authorization for any work to be done in any manner in violation of the provisions of this code or any other laws or ordinances of this jurisdiction."

Land Use Code Sec. 16-4-180(f) The Board, in approving the variance, may impose such restrictions and conditions on such approval, and the premises to be developed or used pursuant to such approval, as it determines are required to prevent or minimize adverse effects from the proposed variance on other land in the neighborhood and on the general health, safety and welfare of the City. All conditions imposed upon any variance shall be set forth in the granting of such variance.

REVIEW AGENCIES:

Fire Department – Assistant Fire Chief, Kathy Rohrich – Fire Department has no concerns at this time.

Public Works Department – David Lady – This has no impact on Public Works.

Chaffee County Building Department – Chad Chadwick – See attached comments.

REQUIRED ACTIONS BY THE BOARD:

1. The Board shall confirm that adequate notice was provided.
2. The Board shall conduct a public hearing.
3. The Board shall make the findings whether or not criteria 1 through 4 of the above section are met by the applicant.

POSSIBLE FINDINGS:

Option A: Based on the findings below, the Board of Adjustment may recommend **APPROVAL** of the variance request based on the following findings of fact:

- Special circumstances exist such that strict application of the standards adopted in this Chapter would result in undue hardship or practical difficulties for the owner of such property.

- The requested variance would not create a substantial detriment to the public good and would not substantially impair the intent and purpose of this Chapter, this Code or the City's Comprehensive Plan.

- The requested variance would not result in significantly adverse impacts to the natural environment or to the surrounding properties and neighborhoods.

- The granting of the request is the minimum variance necessary for reasonable use of the property or building and the least deviation required from the applicable zoning standard to afford relief.

Or

Option B: Based on the findings below, the Board of Adjustment may recommend **DENIAL** of the variance requests based on the following findings of fact:

- No special circumstances exist such that strict application of the standards adopted in this Chapter would result in undue hardship or practical difficulties for the owner of such property.

- The requested variance would create a substantial detriment to the public good and would substantially impair the intent and purpose of this Chapter, this Code or the City's Comprehensive Plan.

- The requested variance would result in significantly adverse impacts to the natural environment or to the surrounding properties and neighborhoods.

- The granting of the request is not the minimum variance necessary for reasonable use of the property or building and is not the least deviation required from the applicable zoning standard to afford relief.

RECOMMENDED MOTION #1: "I make a motion to reconsider the Kuhn Variance request."

If Above Motion #1 Passes:

RECOMMENDED MOTION #2 (OPTION A): "I make a motion to approve the Kuhn Variance request as the request meets all of the review criteria for Zoning Variances."

RECOMMENDED MOTION #2 (OPTION B): "I make a motion to deny the Kuhn Variance request as the request does not meet all of the review criteria for Zoning Variances."

BECAUSE THIS APPLICATION IS FOR A VARIANCE, THE SALIDA BOARD OF ADJUSTMENT SHALL MAKE THE FINAL DECISION ON THIS APPLICATION. DECISIONS BY THE BOARD SHALL BE FINAL AND MAY NOT BE APPEALED FURTHER EXCEPT IN COURT.

Attachments: Proof of Publication
Application materials
Agency reviews
Figure 16-1 Detached Accessory Building Side Lot Line Setback Parameters
Public Comment Letter

PUBLIC NOTICE
NOTICE OF A PUBLIC HEARING BEFORE THE BOARD OF ADJUSTMENT FOR THE CITY OF SALIDA CONCERNING RECONSIDERATION OF A VARIANCE APPLICATION

TO ALL MEMBERS OF THE PUBLIC AND INTERESTED PERSONS: PLEASE TAKE NOTICE: that on Monday, July 24, 2023 at or about the hour of 6:00 p.m., a public hearing will be conducted by the City of Salida Board of Adjustment at City Council Chambers, 448 East First Street, Suite 190, Salida, Colorado and online at the following link: https://attendee.gotowebinar.com/rt/1909092342220683277

The variance approved at a June 26th meeting will be reconsidered due to an internet issue that prevented the record from being complete at the time of initial consideration. The record is now complete and a hearing for the following variance presides:

The applicants, Martin & Adriane Kuhn, are requesting approval for one variance on the property located at 147 W. 4th Street, legally known as Part Lots 24, 25, & 26 Block 60 Haskells Addition, City of Salida, Chaffee County, Colorado.

The purpose of the request is to receive a variance from the minimum side yard setback for an accessory structure. Accessory structures in the Medium Density Residential (R-2) zone district require a minimum side yard setback of three (3) feet. The applicants are requesting a minimum allowed side yard setback of 16" for an existing shed.

Interested persons are encouraged to attend the public hearing. Further information on the application may be obtained from the Community Development Department at (719) 530-2638 or planning@cityofsalida.com.

*Please note that it is inappropriate to personally contact individual City Councilors, Planning Commissioners and Board Members, outside of the public hearing, while an application is pending. Such contact is considered ex parte communication and will have to be disclosed as part of the public hearings on the matter. If you have any questions/comments, you should email or write a letter to staff, or present your concerns at the public meeting via the above GoToWebinar link so your comments can be made part of the record.

Published in The Mountain Mail July 7, 2023

Thank you for sending this our way. Apologies that it did not make it into the record the first time, as Planning staff was unaware that the "publiccomment" profile had been deleted. The Board of Adjustment will take it back up at their next meeting.

Bill Almquist
Community Development Director,
Community Development Department

bill.almquist@cityofsalida.com
P: 719-530-2634
448 E First Street, Suite 112, Salida, CO 81201
cityofsalida.com

From: Lindsay Sutton <lindsaysuttonart@gmail.com>
Sent: Thursday, June 29, 2023 2:53 PM
To: Bill Almquist <bill.almquist@cityofsalida.com>; Franco Palumbo <franco.palumbo@cityofsalida.com>
Subject: Fwd: Public Comment Regarding the Variance Proposed for 147 West 4th Street

This is really upsetting that the people it directly affects were not heard. Here is original comment as directed sent on Monday, July 26th at 10:43 AM.

---------- Forwarded message ---------
From: **Lindsay Sutton** <lindsaysuttonart@gmail.com>
Date: Mon, Jun 26, 2023 at 10:43 AM
Subject: Public Comment Regarding the Variance Proposed for 147 West 4th Street
To: <publiccomment@cityofsalida.com>

In our capacity as residents bordering on the proposed variance, we strongly oppose it. Prior to the current residents acquiring the property, the structure in question was dropped about a foot onto our property. In 2020 the current residents became very volatile while trespassing onto our property to paint said structure. We allowed a construction crew hired by the Khuns to access our property to move the shed off our property in 2021. While working with an architect on new fencing and backyard remodel plans it was discovered that the shed is only 20'' from our property line which is not up to code. We expect the residents of 147 West 4th Street to be held to the same standards as we are. Allowing the current residents a variance only furthers the residents of 147 W 4th Street's entitlement.

It is expected that we will receive the same special treatment regarding set-backs in 2025, should this variance be granted. We will apply for the proper permits for construction. As a result, our neighbors will also expect this treatment.

Thank you,
Lindsay and Aaron Stephens
415 G Street

--

PLANNING DEPARTMENT
PROJECT REVIEW TRANSMITTAL FORM

ATTENTION: _____ DATE: 06/13/2023

- [x] Salida Public Works
- [x] Salida Fire Chief
- [ ] Salida Police Chief
- [ ] Salida Finance Department
- [ ] Salida Sanitation Plant Supervisor
- [ ] Salida Water Plant Supervisor
- [ ] City Consulting Engineer - Streets
- [ ] City Consulting Engineer – Water/Sewer
- [ ] City Attorney
- [ ] Centurylink Communications
- [ ] Atmos Energy
- [ ] Historic Preservation Commission
- [ ] Xcel Energy
- [ ] Charter Communications
- [ ] Chaffee Co. Planning
- [ ] Army Corps of Engineers
- [ ] U.S. Postal Service
- [ ] U.S. Forest Service
- [ ] CO Dept. of Transportation
- [x] Chaffee Co. Building Dept.
- [ ] School District R-32-J
- [ ] Division of Wildlife
- [ ] Town of Poncha Springs

Other:

APPLICANT: Adriane & Martin Kuhn PHONE: 206-769-2805 FAX: _____

EMAIL: kuhnlandia@gmail.com

PROPERTY LOCATION: 147 W. 4th Street

PROJECT DESCRIPTION: The owners have applied for one variance from the required 3' side yard setback for an accessory structure. The request is to receive a variance from the minimum side setback of three (3) feet required for a side yard setback an accessory structure under 12' in height. The applicant is requesting a minimum allowed side yard setback of 16" on the southwest side of the property for the existing accessory structure.

TENTATIVE MEETING DATES:

- [ ] Planning Commission _____ @ _____ P.M.
- [ ] City Council _____ @ _____ P.M.
- [x] Board of Adjustment 06/26/23 @ 6:00 P.M.

TRANSMITTAL INCLUDES:

- [x] Application Form/Cover Letter
- [x] Site Plan
- [ ] Plat
- [ ] Vicinity Map
- [ ] Other:

NOTE: A written response, even if only to advise that you have no concerns, is requested.

REPLY: NO CONCERNS AT THIS TIME

RESPONSE NEEDED BY: 06/20/22 RECEIVED: _____

PLANNING STAFF: Franco Palumbo

City of Salida, 448 East First Street, Suite 112, Salida, CO 81201
719-530-2626, 719-539-5271 (fax), planning@cityofsalida.com

Franco Palumbo

From: David Lady
Sent: Wednesday, June 14, 2023 4:33 PM
To: Franco Palumbo
Subject: RE: 147 W. 4th Street - Agency Review - Variance

This has no impact on public works.

David Lady
Director of Public Works

david.lady@cityofsalida.com
P: 719-539-6257 | **C:** 719-239-0048
340 W. Hwy 291, Salida, CO 81201
cityofsalida.com

From: Franco Palumbo <franco.palumbo@cityofsalida.com>
Sent: Tuesday, June 13, 2023 9:51 AM
To: David Lady <david.lady@cityofsalida.com>
Subject: 147 W. 4th Street - Agency Review - Variance
Importance: Low

David,
Sorry for the delay, I am hoping to get your feedback by next week for an agency review of a variance at 147 W. 4th Street.
Please see the attached agency review packet. Let me know if you have any questions.
Thanks!

Franco Palumbo
Planning Technician
ph: 719-530-2638

PLANNING DEPARTMENT
PROJECT REVIEW TRANSMITTAL FORM

ATTENTION: _____ DATE: 06/13/2023

- [x] Salida Public Works
- [x] Salida Fire Chief
- [ ] Salida Police Chief
- [ ] Salida Finance Department
- [ ] Salida Sanitation Plant Supervisor
- [ ] Salida Water Plant Supervisor
- [ ] City Consulting Engineer - Streets
- [ ] City Consulting Engineer – Water/Sewer
- [ ] City Attorney
- [ ] Centurylink Communications
- [ ] Atmos Energy
- [ ] Historic Preservation Commission
- [ ] Xcel Energy
- [ ] Charter Communications
- [ ] Chaffee Co. Planning
- [ ] Army Corps of Engineers
- [ ] U.S. Postal Service
- [ ] U.S. Forest Service
- [ ] CO Dept. of Transportation
- [x] Chaffee Co. Building Dept.
- [ ] School District R-32-J
- [ ] Division of Wildlife
- [ ] Town of Poncha Springs

Other:

APPLICANT: Adriane & Martin Kuhn PHONE: 206-769-2805 FAX: _____

EMAIL: kuhnlandia@gmail.com

PROPERTY LOCATION: 147 W. 4th Street

PROJECT DESCRIPTION: The owners have applied for one variance from the required 3' side yard setback for an accessory structure. The request is to receive a variance from the minimum side setback of three (3) feet required for a side yard setback an accessory structure under 12' in height. The applicant is requesting a minimum allowed side yard setback of 16" on the southwest side of the property for the existing accessory structure.

TENTATIVE MEETING DATES:

- [ ] Planning Commission _____ @ _____ P.M.
- [ ] City Council _____ @ _____ P.M.
- [x] Board of Adjustment 06/26/23 @ 6:00 P.M.

TRANSMITTAL INCLUDES:

- [x] Application Form/Cover Letter
- [x] Site Plan
- [ ] Plat
- [ ] Vicinity Map
- [ ] Other:

NOTE: A written response, even if only to advise that you have no concerns, is requested.

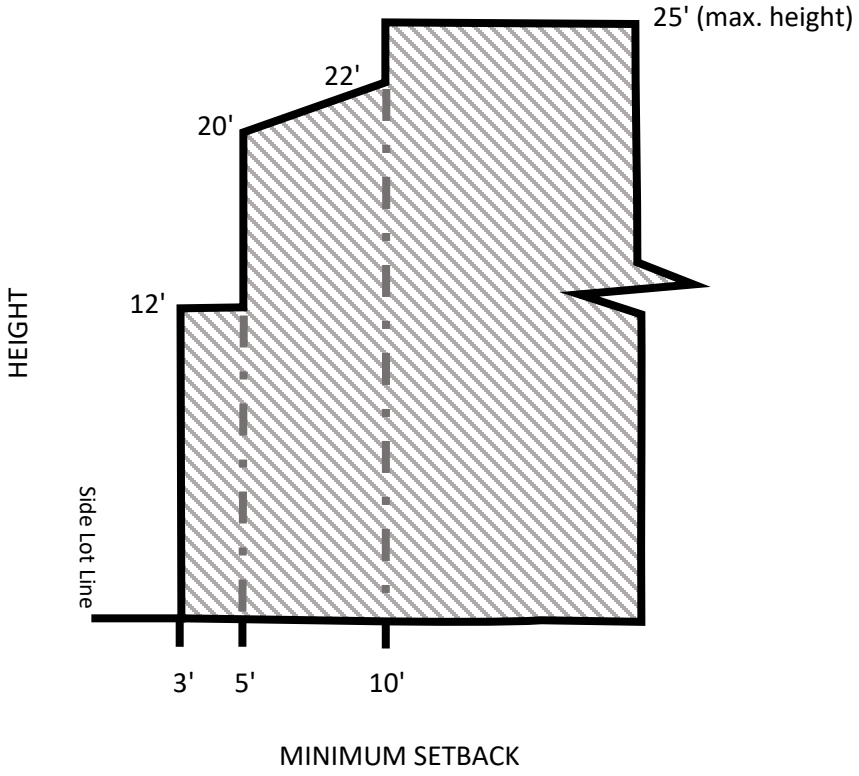
REPLY: The square footage of the shed is not included in this report, if the shed is less than 200 sq ft. it would be exempt from a building permit however it would still have to meet zoning set backs. If a permit was required there would have been fire rating of the structure and no projections permitted with the close vicinity of the lot line.

RESPONSE NEEDED BY: 06/20/22 RECEIVED: _____

PLANNING STAFF: Franco Palumbo

Building Department comments

Fig. 16-1 Accessory Buildings Side Lot Line Setback Parameters



GENERAL DEVELOPMENT APPLICATION

448 East First Street, Suite 112
Salida, CO 81201
Phone: 719-530-2626 Fax: 719-539-5271
Email: planning@cityofsalida.com

1. TYPE OF APPLICATION (Check-off as appropriate)

- ☐ Annexation
- ☐ Pre-Annexation Agreement
- ☐ Appeal Application (Interpretation)
- ☐ Certificate of Approval
- ☐ Creative Sign Permit
- ☐ Historic Landmark/District
- ☐ License to Encroach
- ☐ Text Amendment to Land Use Code
- ☐ Watershed Protection Permit
- ☐ Conditional Use
- ☐ Administrative Review: (Type)_____
- ☐ Limited Impact Review: (Type)_____
- ☐ Major Impact Review: (Type)_____
- ☒ Other: Variance

2. GENERAL DATA (To be completed by the applicant)

A. Applicant Information

Name of Applicant: Adriane and Martin Kuhn

Mailing Address: 147 W 4th ST Salida CO

Telephone Number: 206-769-2805 FAX: _____

Email Address: Kuhnlandia@gmail.com

Power of Attorney/ Authorized Representative: _____
(Provide a letter authorizing agent to represent you, include representative's name, street and mailing address, telephone number, and FAX)

B. Site Data

Name of Development: Kuhn Variance

Street Address: 147 W 4th ST

Legal Description: Lot_____ Block _____ Subdivision_____ (attach description)

Disclosure of Ownership: List all owners' names, mortgages, liens, easements, judgments, contracts and agreements that run with the land. (May be in the form of a current certificate from a title insurance company, deed, ownership and encumbrance report, attorney's opinion, or other documentation acceptable to the City Attorney)

I certify that I have read the application form and that the information and exhibits herewith submitted are true and correct to the best of my knowledge.

Signature of applicant/agent_____ Date _____

Signature of property owner Adriane Kuhn Date 6-9-23

VARIANCE APPLICATION

448 East First Street, Suite 112
Salida, CO 81201
Phone: 719-530-2626 Fax: 719-539-5271
Email: planning@cityofsalida.com

A. TYPE OF VARIANCE REQUESTED (Fill In Applicable Requests)

1. **Variance from Maximum Height:** Existing Height (in feet): N/A Proposed Height (in feet): N/A
2. **Minimum Variance from Floor Area:** Required Floor Area: N/A Proposed Floor Area: N/A
3. **Variance from Maximum Lot Coverage:** Allowed Lot Coverage: N/A Proposed Lot Coverage: N/A
4. **Variance from Parking Requirements:** Existing Spaces: N/A Required Spaces: N/A
   Total Spaces Proposed: N/A Percent Reduction Proposed: N/A
5. **Variance from Minimum Setback Requirements**
   a. Setback Variance Information:
      i. Type of setback: ☐ Front yard ☐ Rear yard ☒ Side yard
      ii. Which direction: ☐ North ☐ South ☐ East ☐ West
      ☐ Northeast ☐ Northwest ☐ Southeast ☒ Southwest
      iii. Type of Building: ☐ Principal ☒ Accessory Building
      iv. Current Setback: 16"
      v. Proposed Setback: 16"
      vi. Required Setback: 36"

   b. Second Setback Variance Information (if applicable):
      i. Type of setback: ☐ Front yard ☐ Rear yard ☐ Side yard
      ii. Which direction: ☐ North ☐ South ☐ East ☐ West
      ☐ Northeast ☐ Northwest ☐ Southeast ☐ Southwest
      iii. Type of Building: ☐ Principal ☐ Accessory Building
      iv. Current Setback: _____
      v. Proposed Setback: _____
      vi. Required Setback: _____
6. **Variance from Land Use Code Section:** 16-4-180

B. DEVELOPMENT PROCESS (City Code Section 16-4-180)

1. Pre-Application Conference. Optional.
2. Submit Application.
3. Staff Review. Schedule Hearing. Forward Report to Applicant and Board.
4. Public Notice Provided For Hearing.
5. Public Hearing Conducted by Board and Action Taken.

C. APPLICATION CONTENTS

A digital copy of all application materials is required.

☐ **1. General Development Application**

☐ **2. Site Plan**. A site plan of the subject property, showing existing and proposed features, buildings, etc. which are relevant to the review of the application. **The copies shall be accepted on 8½" x 11", 11" x 17" or 24"x 36" paper or electronically.**

☐ **3. Required Showing**. The applicant shall indicate the way the proposal meets the required showing as outlined in the application.

☐ **4. Public Notice**

a) List. A list shall be submitted by the applicant to the city of adjoining property owners' names and addresses. A property owner is considered adjoining if it is within 175 feet of the subject property regardless of public ways. The list shall be created using the current Chaffee County tax records.

b) Postage Paid Envelopes. Each name on the list shall be written on a postage-paid envelope. Postage is required for up to one ounce. Return Address shall be: City of Salida, 448 E. First Street, Suite 112, Salida, CO 81201.

c) Applicant is responsible for posting the property and submittal of proof of posting the public notice.

☐ **5. Application Fee**. $500 cash or check made out to City of Salida.

D. REQUIRED SHOWING (If necessary, attach additional sheets)

Variance Approval Criteria. Variances from requirements of this Chapter shall be considered an extraordinary remedy. When considering, reviewing and deciding on whether to approve a variance application, the Board of Adjustment must find that all of the following criteria have been met:

1. **Special Circumstances Exist.** Strict application of the standards adopted in this Chapter would result in undue hardship or practical difficulties for the owner of such property. Special circumstances include, but are not limited to, exceptional or peculiar limitations to the dimension, shape or topography of the property, such as slope, standing or moving water, wetlands, floodplain, rock features, narrowness, shallowness or irregular shape of a lot.

   See attached

2. **Substantial Detriment.** The requested variance would not create a substantial detriment to the public good and would not substantially impair the intent and purpose of this Chapter, this Code or the City's Comprehensive Plan.

   See attached

3. **Adverse Impacts.** The requested variance would not result in significantly adverse impacts to the natural environment or to the surrounding properties and neighborhoods.

   See attached

4. **Minimum Variance Necessary for Reasonable Use.** The granting of the request is the minimum variance necessary for reasonable use of the property or building and the least deviation required from the applicable zoning standard to afford relief.

See attached

Additional Information:

See attached

Additional Information:

Our house at 147 W 4th street was built in 1887. We like to say that as owners we are really just the current caretakers of this old house. As you can imagine there is not a lot of storage area. Certainly not for a modern family of 4. We have no garage and there is no room for one due a 12 ft wide easement on the SE lot line that serves as driveway access to our neighbors' lot at 435 G St. There used to be a garage but it was converted to a studio apartment by a prior owner and serves as long term affordable housing for a home-grown Salidan. This shed is very necessary for us for all the things you would expect: yard and maintenance tools, camping and rafting gear, kids' stuff. There is nowhere else practical on our lot for the shed, and we can't imagine figuring out what we would do without it.

We moved to our home in August 2017. The utility shed in question was already here. We had no idea for how long. We were concerned about the shed being over the property line and discussed this with our realtor (see attached email). An ILC was required. It showed that the shed was not encroaching. However, when the property line was surveyed in 2020, we discovered the ILC was in error and the shed did encroach by about 6 inches, more with the eve.

In early 2021 we began preparing for a backyard improvement project. We feel it is important to say that we don't have deep pockets. Someday we hope to do some remodeling to improve on the 1970s kitchen and bathroom and fixing the floors in the dining and living room. But with our beautiful weather we decided we first wanted to make our backyard space special - and secure. We put all of our available resources into this project.

We knew that first we should address the shed. At the time, we just assumed it was "grandfathered" in like all the other sheds in the neighborhood that don't have proper setbacks, including our neighbors' shed along the same property line. We did what we thought made sense at the time by shifting it about 4 feet to the SE to clear the corner of the house, enabling us to shift it 2 feet to the NE and off the property line. Any more and the shed would have been obstructing a house window. In addition to moving the shed, we improved its appearance at this time by re-siding it on all sides, to match other elements of the project.

We did this of our own accord. The neighbors had never complained or said a word about the shed. We weren't trying to circumvent the rules. We thought what we did was okay and made sense. We became aware of setback requirements during our backyard project planning process, but didn't realize they applied to the shed. Again, we thought it was "grandfathered" in. There had always been a shed there (and again, we didn't know when this shed was placed). In fact the 2017 ILC was incorrect because Landmark Survey made an assumption that the shed in question was the same shed that was present when a previous ILC was done. That previous shed, which is (incorrectly) shown in the attached 2017 ILC, was in the same location, with no setback, but was not as wide so it did not encroach. Our shed, which by 2021 had apparently been there for 5 years had never been a problem. In our conversations with the neighbors at 435 G St over the years, it had never been brought up, except in one conversation

a few years ago where Aaron Stephens said it was odd that the prior owner put his shed over the property line. Because of the incorrect ILC, we shared with him that we believed it wasn't encroaching, but regardless, he didn't indicate he had any problem with it.

As we started our backyard project we wanted to take this opportunity to fix the encroachment. We thought getting it off the neighbors' property was the only consideration, since we believe it to be "grandfathered". Our intention was to be thoughtful, considerate, and proper by doing this unasked.

All of our incorrect assumptions about the legality of this shed were further strengthened by the several permits we obtained for elements of our project. A site plan, showing the current location of the utility shed, was submitted for a permit for the new craft shed (see attached). Permitted electrical infrastructure is mounted to the shed, in 2022 the site plan was again submitted for an 8 ft fence that was permitted to be "connecting to the shed" (see attached). Speaking with Franco in late May, he admitted that he didn't know how long the shed had been there and, like us, assumed it was "grandfathered".

If the shed was a problem, and if a legitimate complaint was to be made, it should have been made when it was placed (apparently in 2016). We believe shifting the shed only had a positive impact on the neighboring property. Why is this complaint made now in 2023, after we've finished our backyard improvements? Why is this complaint made two years after the shed was shifted off their property and 7 years after it was initially placed by a previous owner with a negative setback?

Now a concrete slab and walkway to the door have been poured right up to and adhered to the shed's skirting. A hot tub was placed in early 2022 (with a permitted electrical panel connected to the shed), a permitted fence that attaches to the shed has been constructed, and the deck was just completed this past winter going between the hot tub and the house, filling the space and leaving no room to move the shed (see attached site plan). Is it fair or reasonable to uphold the Land Use Code to the letter, now that our project is complete?

If the shed were to be removed, the custom fence could not be extended in the same fashion because it is constructed with reclaimed boards from our old fence, the rest of the boards have been given away, and the fence builder just moved to Wisconsin.

We ask you to consider the practical difficulties, hardship, and cost that would obviously ensue if we are forced to adhere to the 3 foot setback.

1. Special Circumstances Exist. Strict application of the standards adopted in this Chapter would result in undue hardship or practical difficulties for the owner of such property...

The special circumstances are:

- Our house is old, with limited storage. We need the storage space.

- Our lot is constrained by an easement for our neighbors.
- The shed has been there for many years without complaint.
- Our master plan for our backyard space is now complete.
    - We were granted multiple permits related to this project and a site plan showing the location of the shed was submitted and approved twice. The fence permit specifically spelled out that the fence was to be attached to this shed.
    - Concrete has been poured right up to and adhering to the skirting of the shed on 2 sides.
    - A hot tub has been placed next to the shed, according to the site plan, and permitted electrical has been installed on the side of the shed.
    - A small deck was just completed this winter that fills up the remaining space between the house and the shed.
    - Custom fencing attached to the shed by permit could not be extended in the same fashion if the shed were removed.

2. Substantial Detriment. The requested variance would not create a substantial detriment to the public good and would not substantially impair the intent and purpose of this Chapter, this Code or the City's Comprehensive Plan.

- No impact. The shed has been in about the same location for years and there was a shed with no setback in the same place for years before that. Many other properties in the neighborhoods around downtown have similar sheds with no setbacks, including our neighbors. We now understand that our shed is not considered nonconforming according to the Land Use Code. We've learned that it was placed by the prior owner after the setback requirements went into effect. However, we believe allowing the shed to remain where it is satisfies the spirit, though not the letter, of Section 16-4-160 because there has historically been a shed in basically the same location for a long time.

3. Adverse Impacts. The requested variance would not result in significantly adverse impacts to the natural environment or to the surrounding properties and neighborhoods.

- No adverse impact. The neighbors have expressed a desire for privacy at prior points in time. In addition they approved our request to build an 8 foot tall fence along the property line. The shed continues this line of privacy and as you can see in the attached pictures, it is minimally higher than the fence in the required setback area.

4. Minimum Variance Necessary for Reasonable Use.
The minimum variance necessary for continued reasonable use is to allow the shed to stay where it is. I am unable to be as precise as I would like by placing a string line along the lot line due to the neighbors' encroaching fence. The shed is approximately 16 inches from the lot line. The setback should be 36 inches. Please grant a variance for a setback of 16 inches and allow the shed to stay where it is.

Kuhn Residence

147 W. Fourth Street | Salida, CO 81210

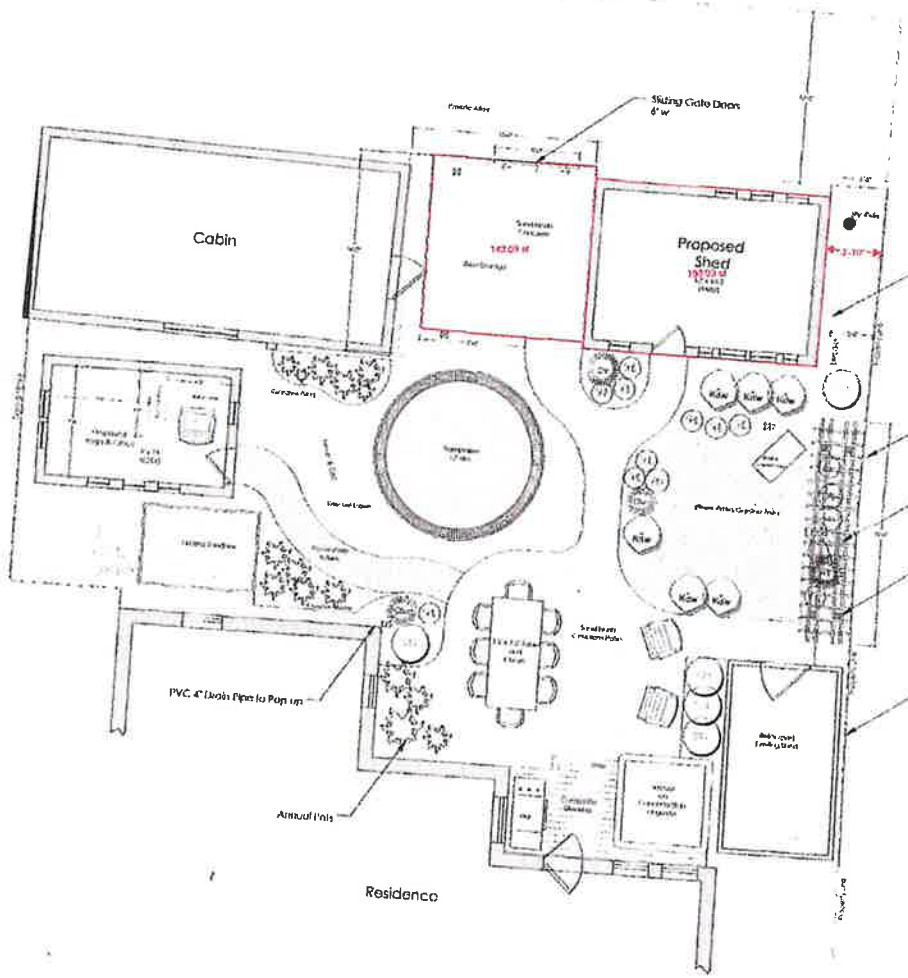
Landscape Improvement Plan - Back

Feb 4 2020 REV. 3.12.21 REV. 3.16.21

Scale: 1/4" = 1'-0" (@ 24x36 size)

Plant List

- Beebalm
- Coreopsis Zagreb
- Hyssop Double Bubble Mint
- Self Heal
- Grass - Blue Avena
- Grass - Feather Reed K.F.
- Kelsey Dogwood
- Gladiolus Butterfly
- Dianthus Maverick
- Straight Ink Pinot
- R.H. Montgomery Spruce



City of Salida requirements
Number of trees required per Section 16-8-106(6)

3 TREES REQUIRED

City of Salida requirements
All exterior light fixtures must be fully shielded per Section 16-8-100 (3)

APPROVED

FRANCO PALUMBO

08/23/2021

REVIEWED AND APPROVED FOR CODE COMPLIANCE UNDER THE 2015 I-CODES AND 2020 NEC. PLANS ARE APPROVED AS CORRECTED

09/14/2021

ChadCredwick

Approved plans shall be on site during all inspections per IRC R106.3.1

Proposed 8' fence at 147 W 4th St, Salida - Kuhn residence

This fence will be near the back (south) corner of our lot from the west corner of our recently built structure up to (but not on) the property line, and then along (but not on) the property line for 23.5 to 24.5' to a point 3 - 4' past the nearest (south) corner of the existing shed, and from there (with a right angle) connecting to the existing shed.

The fence will be constructed with 4x4 cedar posts with 8' spacing, sunk 32" below grade in concrete. It will have 1 inch foam board insulation (for sound dampening) sandwiched between some combination of metal roofing and wood boards on the inside of the fence and painted plywood on the outside. The foam board insulation will be covered with a dark fabric to prevent it from showing through with any board shrinkage.

APPROVED

FRANCO PALUMBO

01/04/2022

City of Salida requirements:
All exterior light fixtures must be fully shielded per Section 16-8-100 (2)

City of Salida requirements:
Number of trees required per Section 16-8-90(6)

3 TREE(S) REQUIRED

REVIEWED AND APPROVED FOR CODE COMPLIANCE UNDER THE 2015 I-CODES AND 2020 NEC. PLANS ARE APPROVED AS CORRECTED

01/18/2022

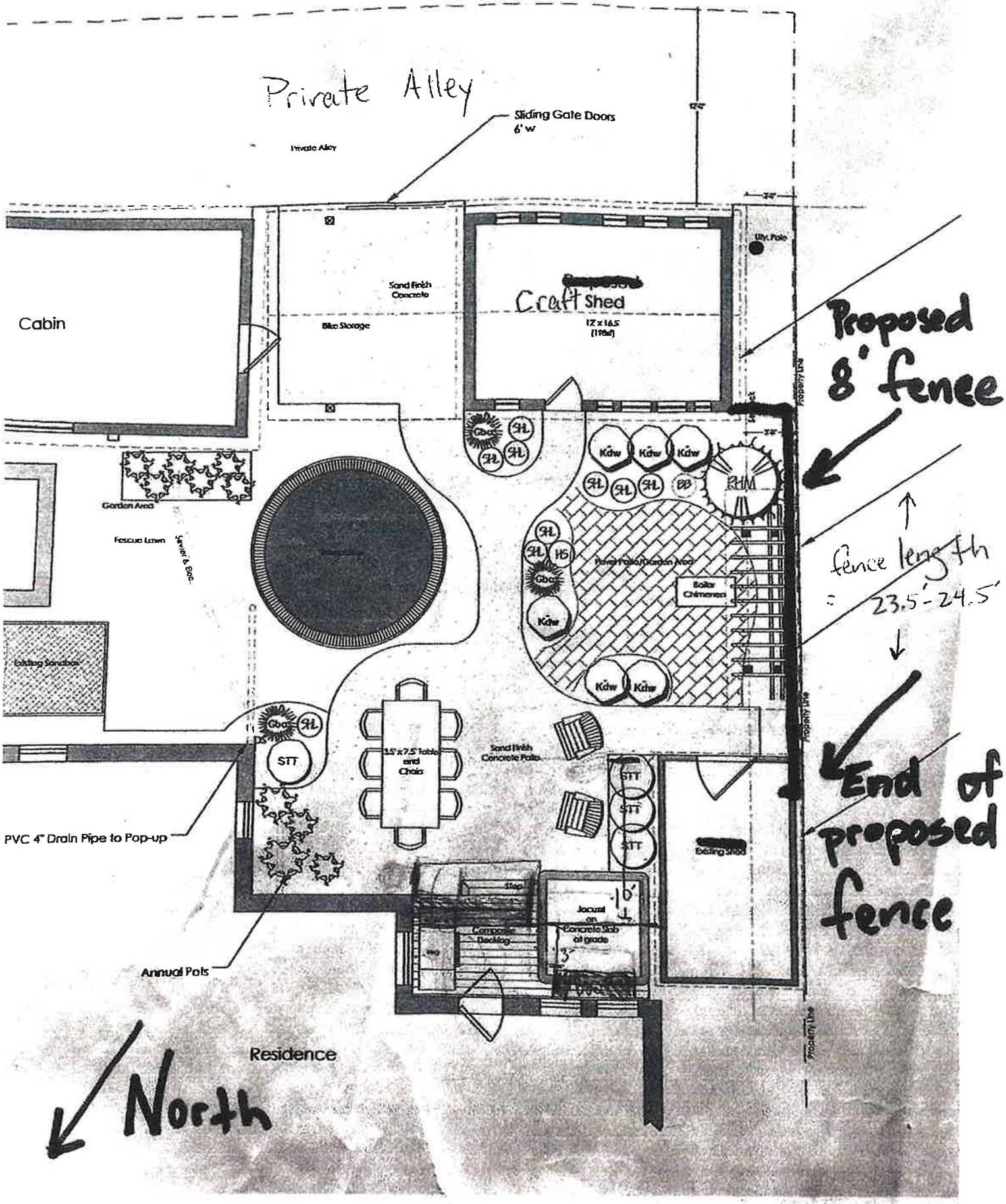
Chad Chadwick

Schedule inspection of concrete post footings prior to placing concrete

Schedule inspection of all framing connections prior to covering

Approved plans shall be on site during all inspections per IRC R106.3.1

Identity lot lines accurately from surveyor pins prior to footing inspection. Surveyor may be required to set pins prior to footing approval



29

5:13 5G

66

Kim Bouldin 5/24/17
To: Marty, Adriane >

ILC

Hi Marty and Adriane,

I've attached the ILC and Invoice. I've also forwarded to the title company. Landmark may prefer payment prior to closing since it's so far out, but generally payment can happen at settlement. Should you have any questions, you can contact Syd at Landmark Survey, at 719-539-4021. It doesn't look to me like the shed is encroaching, so that is good news!

Asked about Shed in person

Can you please send me your lender information?

Thanks,

--
Kim Bouldin, Broker Associate
kbouldin@pinonrealestate.com
www.pinonrealestate.com

Pinon Real Estate Group

From: Kim Bouldin kbouldin@pinonrealestate.com
Subject: ILC
Date: May 24, 2017 at 4:01:41 PM
To: Marty Kuhn thekuhndog@gmail.com, Adriane Kuhn adrianek@johnlscott.com

---

Hi Marty and Adriane,

I've attached the ILC and Invoice. I've also forwarded to the title company. Landmark may prefer payment prior to closing since it's so payment can happen at settlement. Should you have any questions, you can contact Syd at Landmark Survey, at 719-539-4021. It do shed is encroaching, so that is good news!

Can you please send me your lender information?

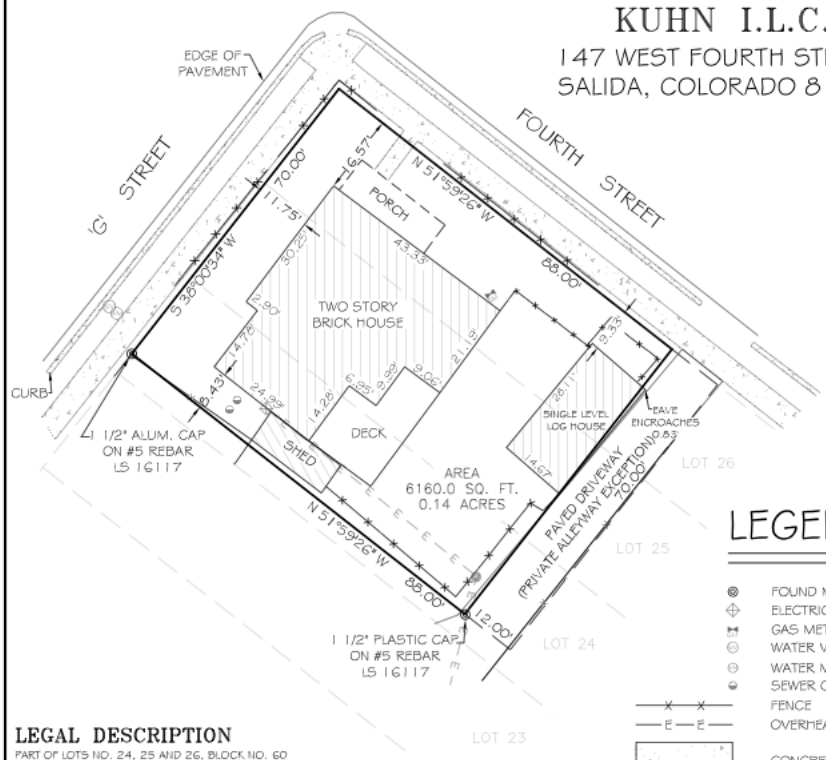
Thanks,

--
Kim Bouldin, Broker Associate
kbouldin@pinonrealestate.com
www.pinonrealestate.com

Pinon Real Estate Group
201 F Street, Salida, CO 81201 Cell: 719-539-7135
Office: 719-539-0200 Fax:719-539-0201
Toll free: 1-877-539-0200

KUHN I.L.C.

147 WEST FOURTH STREET
SALIDA, COLORADO 81201



SCALE
1"=20

LEGEND

- FOUND MONUMENT AS NOTED
- ELECTRIC METER
- GAS METER
- WATER VALVE
- WATER METER
- SEWER CLEANOUT
- FENCE
- OVERHEAD ELECTRIC
- CONCRETE

IMPROVEMENT LOCATION

I hereby certify that this improvement
prepared for Martin P. Kuhn, Adriane K
Insurance Comapany, that it is not a la
survey plat, and that it is not to be rel
of fence, building, or other future impr

I further certify that the improvements
on this date, May 24, 2017, except
within the boundaries of the parcel, ex
no encroachments upon the described
any adjoining premises, except as indic
apparent evidence or sign of any ease
part of said parcel, except as noted.

Stamp By:_____
Sydney A. Scheren PLS 37

LEGAL DESCRIPTION

PART OF LOTS NO. 24, 25 AND 26, BLOCK NO. 60
HASKELLS ADDITION TO THE TOWN (NOW CITY) OF SALIDA, CHAFFEE COUNTY, COLORADO,
DESCRIBED AS FOLLOWS:
BEGINNING AT THE NORTHWEST CORNER OF SAID BLOCK NO. 60;
THENCE IN A SOUTHEASTERLY DIRECTION ALONG 4TH STREET 100 FEET;
THENCE IN A SOUTHWESTERLY DIRECTION PARALLEL WITH "G" STREET 70 FEET;
THENCE IN A NORTHWESTERLY DIRECTION PARALLEL WITH 4TH STREET 100 FEET TO THE SOUTHWESTERLY LINE OF "G" STREET;
THENCE IN A NORTHEASTERLY DIRECTION ALONG SAID LINE OF "G" STREET 70 FEET TO THE POINT OF BEGINNING.
EXCEPTING: A PERPETUAL EASEMENT OR RIGHT-OF-WAY 12 FEET IN WIDTH ACROSS AND OVER THE REAR END OF THE ABOVE DESCRIBED PREMISES AS A PRIVATE ALLEYWAY.

NOTES:

1) BUILDING DIMENSIONS ARE TO THE EAVES
2) THIS IMPROVEMENT LOCATION CERTIFICATE WAS DONE IN CONJUNCTION WITH FIRST AMERICAN TITLE INSURANCE COMPANY, COMMITMENT NO. 17-04925, DATED APRIL 26, 2017

KUHN
147 WEST FO
SALIDA, COLO
JOB # 1775

LAN
SURVEYI
P.O. BOX 66
PH 719.539.4

LANDMARK
SURVEYING & MAPPING

PO Box 668
Salida, CO 81201
719-539-4021

Invoice

PROJECT #	DATE	INVOICE #
1775	5/24/2017	17-200

BILL TO

Central Colorado Title & Escrow
1055 E. Hwy 50
Salida, CO 81201

DATE	TASK	DESCRIPTION	RATE/HR	HOURS	AMOUNT
5/24/2017	I.L.C.	Improvement Location Certificate	300.00		300.00
			Total		$300.00

STAFF REPORT

MEETING DATE: July 24, 2023
AGENDA ITEM TITLE: P&C Enterprises LLC. Variance Application
AGENDA SECTION: Public Hearing

REQUEST:
The purpose of the request is to receive variances from the minimum side yard setback for accessory buildings. Accessory buildings in the Two Rivers Planned Development with High - Density Residential (R-3) underlying zone district require a minimum side yard setback of five (5) feet for accessory buildings over twelve (12) feet in height.

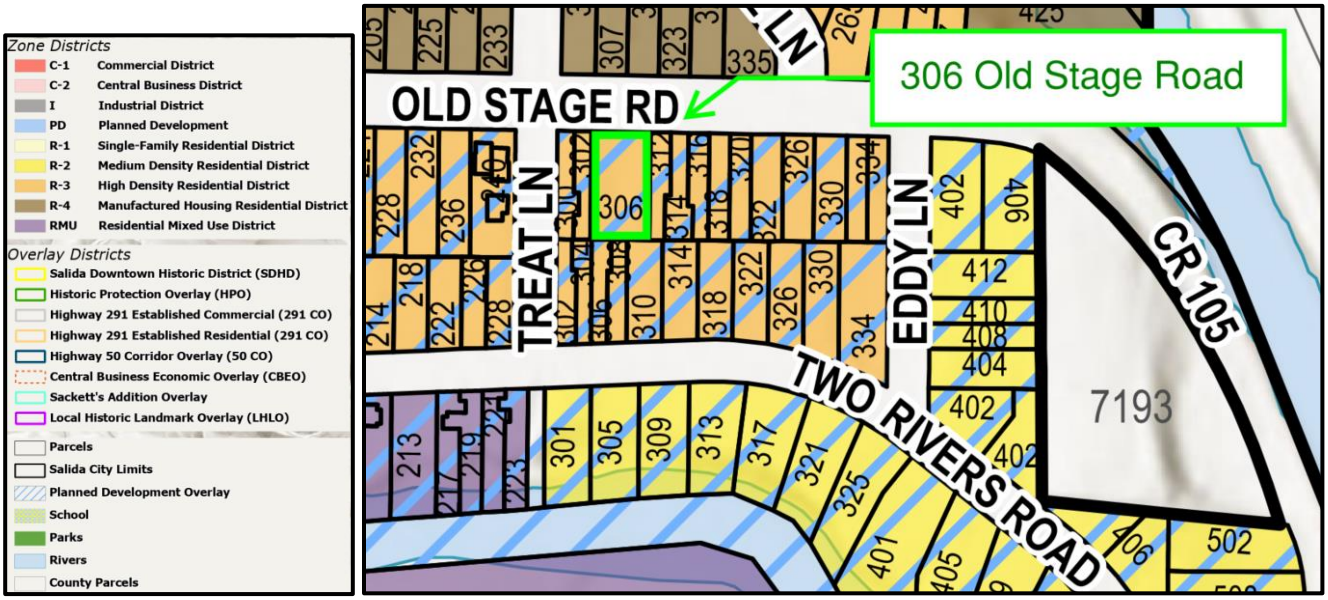
The applicant is requesting minimum allowed side yard setback of 3' for the already constructed garage on the western portion of the property and 3'-3" for the already constructed garage on the eastern portion of the property.

An additional request is to receive variances from the maximum lot coverage at the time of subdivision for townhome lots. The maximum lot coverage is 45% in the Two Rivers Planned Development with High - Density Residential (R-3) underlying zone district.

The applicant is requesting a variance of 0.3% (10.6 s.f.) for proposed Lot 57B and 2.3% (65.5 s.f.) for proposed Lot 57C in the 3-lot subdivision.

APPLICANT:
The applicants are P&C Enterprises LLC., PO Box 382, Buena Vista, CO 81211.

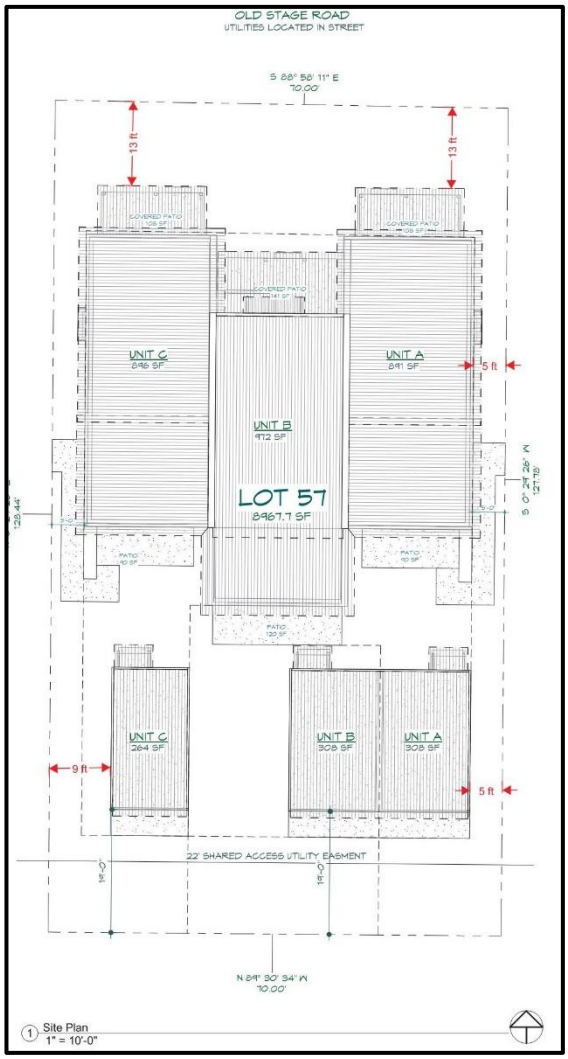
LOCATION:
The property is legally known as Lot 57 Two Rivers Subdivision, Phase 1, City of Salida, Chaffee County, Colorado. The address is 306 Old Stage Road.



PROCESS:
Variances are addressed in the City's Code of Ordinances, Section 16-4-180, Zoning Variances. Variances may be granted from the standards of the underlying zone district and shall be authorized only for maximum height, minimum floor area, maximum lot coverage, minimum lot size, minimum setbacks, and parking requirements.

The Board of Adjustment holds a public hearing after fifteen days advance notice of the hearing. The public hearing shall be held, at which any person may appear or be represented by an agent or attorney. The Board may describe appropriate conditions and safeguards in conformity with the Zoning title of the City Code.

OBSERVATIONS:



1. The subject property is located in the Two Rivers Planned Development with High - Density Residential (R-3) underlying zone district. The Two Rivers Planned Development deviates from the Land Use Code Dimensional Standards Table16-F, regarding minimum lot size (4,400 sq. ft.) and minimum front yard setback (10') for Lot 57.

2. At the time of building permit submittal, applicant had worked with staff to fill out Salida building permit applications. Lot coverage for all structures: garages, triplex, covered patios were calculated at 44.5%. The maximum lot coverage of structures in the zone district is 45%.

3. At the time of building permit submittal, the garage (accessory) building height was noted at 15'. The proposed setbacks were dually noted on the application at 9' from the western property line and 5' from the eastern property line.

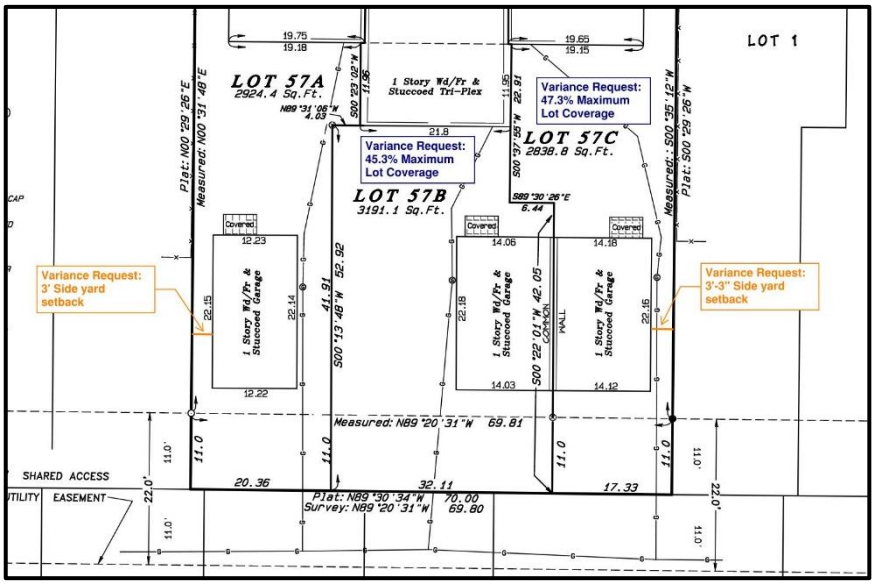
4. The original building permit submittal displayed dashed lines on the site plan that would resemble the proposed subdivision of Lot 57. Staff do not typically review for future lots at time of building permit. Items such as lot coverage and setbacks are reviewed against the current legal lot of record. At time of subdivision application is when staff will review to assure that the proposal, in adequate detail, is drawn and submitted according to the requirements of the Land Use Code.

5. On November 2, 2022 the applicant submitted for a plan change with the Chaffee County Building Department. Due to what was thought to be a change only to the foundation type, the Building Department saw no reason for zoning approval signoff. However, an updated site plan was submitted to the Building Department that would have needed zoning sign off. See letter from the Chaffee County Deputy Building Official, Chad Chadwick.

6. A proposed subdivision, which may be viewed in a limited impact public hearing, has met the dimensional standards for minimum lot size for attached structures and lot frontage for attached structures but, after further calculations by a licensed surveyor the lot coverage is over the maximum for two of the proposed lots. Proposed Lot 57A has met the maximum lot coverage allowed for the zone district at 44.6%. Proposed Lot 57B has a lot coverage of 45.3% and proposed Lot 57C has a lot coverage of 47.3%. Proposed Lot 57B is over lot coverage by 0.3% (10.6 s.f.) and proposed Lot 57C is over lot coverage by 2.3% (65.5 s.f.).

7. The originally platted Lot 57 in the Two Rivers Subdivision was 8,967.7 sq.ft. The proposed three lot subdivision of Lot 57 has a total combined lot size of 8,945.3 sq.ft., a difference of 22.4 sq.ft. Adding up the lot coverages of all structures on Lot 57 alone (8,967.7 sq.ft.) the development is 0.6% (59.7 sq.ft.) over lot coverage.

8. As of Friday, July 21st staff has received two letters regarding the variance request. An adjacent neighbor has written a letter against the allowance of the variances. The other adjacent neighbor had questions and concerns regarding the variances, ideally wanting a "speedy close" to the entire project. Both letters are in the packet.



Variance Approval Criteria Section 16-4-180(e): Variances from requirements of this Chapter shall be considered an extraordinary remedy. When considering, reviewing, and deciding on whether to approve a variance application, the Board of Adjustment must find that all the following criteria have been met:

1. <u>Special Circumstances Exist</u>. Strict application of the standards adopted in this Chapter would result in undue hardship or practical difficulties for the owner of such property. Special circumstances include, but are not limited to, exceptional or peculiar limitations to the dimension, shape, or topography of the property, such as slope, standing or moving water, wetlands, floodplain, rock features, narrowness, shallowness or irregular shape of a lot.

<u>Applicant's responses</u>:

Side setbacks. *Removal of the roof of this structure would result in hardship and undue difficulties due to the cost of additional materials and the timeframe required to acquire them, along with additional time and labor cost.*

Lot Coverage. *The increase in lot coverage was due to the adjustment of the interior lot lines to meet the required setbacks and due to the enlargement of the front covered porches to align with the front porches of neighboring properties for visual aesthetics.*

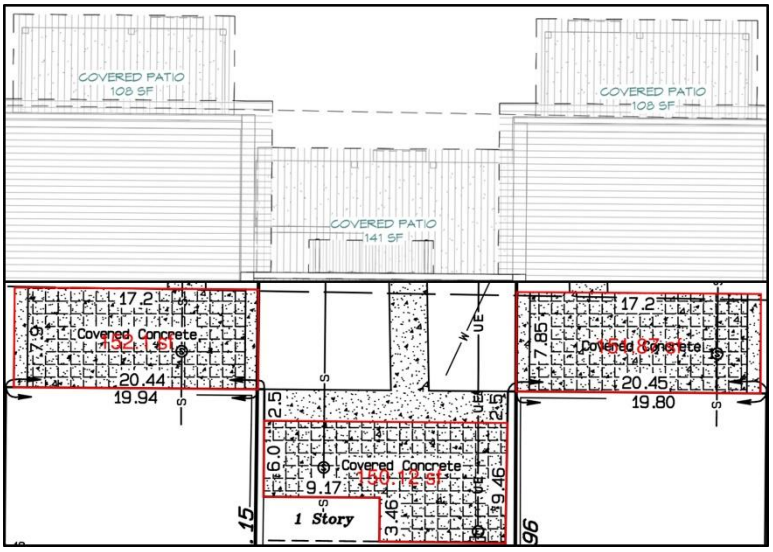
Staff Notes:

- A plan change, that was submitted to Chaffee County Building Department in November 2022 accompanied a site plan that would have triggered zoning sign off. The amended site plan was never reviewed by City Staff. The Building Department recognizes there was oversight and asks the Board to take this into consideration.

- Although, special circumstances do not specifically list development review errors in the code, this should be contemplated on behalf of the Planning & Zoning and Building Department Staffs.

- At the time of building permit submittal, in December 2020, staff reviewed the applications showing a proposed 44.5% lot coverage. The lot coverage was 0.5% less than the allowed lot coverage for the zone district. This was a tolerance of about 45 sq.ft. or 15 sq.ft per lot to be under the 45% lot coverage.

- The proposed covered patios were 108 sq.ft. for the two outer units and 141 sq.ft. for the center unit. Based on the survey, the covered patios are roughly 150 sq.ft for each unit. Neighboring covered patios, based on recorded duplex and minor subdivision plats, are around 115 sq.ft.



Top snapshot was proposed. Bottom snapshot is existing.

2. Substantial Detriment. The requested variance would not create a substantial detriment to the public good and would not substantially impair the intent and purpose of this Chapter, this Code or the City's Comprehensive Plan.

Applicant's responses:

Side setbacks. *No detriment to the public good would be created by this structure and the height of such.*

Lot Coverage. *We do not believe this requested variance would create any detriment to the public good. This small percentage of increase does not substantially impair the intent of the code.*

Staff Notes:

- The enlarged front porches from the development plan may promote a greater use of the area. Front porches allow for casual conversations with neighbors and the public, ideally promoting the goals of the Comprehensive Plan regarding a sense of community.

- The accessory buildings are located in the rear of the lots. They are visible to the public from the front right-of-way and rear property lines via 22' shared access and utility easement.

3. Adverse Impacts. The requested variance would not result in significantly adverse impacts to the natural environment or to the surrounding properties and neighborhoods.

Applicant's responses:

Side setbacks. *View corridors will not be impacted due to the roof design.*

Lot Coverage. *We feel there will be no adverse impact by this increase of lot coverage.*

Staff Notes:

- A complaint by a neighbor states: "It will permanently affect our view every time we look out our south facing windows." The image at the right are the accessory buildings in question. The accessory buildings were permitted at that height but would need to shift 1'-9" to the west to come into compliance with Table16-F.

- The granting of the side yard variance may impact the surrounding properties as it will be in close proximity to the side property line.

- Staff believes 59 sq.ft. of lot coverage over the allotted amount, referencing Table16-F, does not create a significant adverse impact to the natural environment or surrounding properties.

4. Minimum Variance. The granting of the request is the minimum variance necessary for reasonable use of the property or building and the least deviation required from the applicable zoning standard to afford relief.

Applicant's responses:

Side setbacks. *Granting this variance would not create any hardship to either the city or neighborhood and would be helpful to the owners by not creating any additional hardship or difficulties.*

Lot Coverage. *Needed to subdivide the lots.*

Staff Notes:

- Setbacks help provide privacy and to address basic safety issues: distances between buildings decrease the potential damage in case of a fire, provide the room necessary for a homeowner to maintain his/her buildings on his/her own property and provide for solar access and ventilation. As mentioned by the Building Department Official, "The garage meets the requirements for fire separation distances for structures less than 5' from a property line and I am confident they will meet all requirements per the adopted building codes. I feel it will also meet the requirements for a zoning variance should one be required."

- Maximum lot coverage is necessary to limit the impervious surfaces on a property to alleviate drainage issues. The site plan shows limited impervious surfaces outside the covered areas. Areas that can otherwise be considered impervious are landscaping or uncovered parking/access.

Land Use Code Sec. 16-4-180(f) The Board, in approving the variance, may impose such restrictions and conditions on such approval, and the premises to be developed or used pursuant to such approval, as it determines are required to prevent or minimize adverse effects from the proposed variance on other land in the neighborhood and on the general health, safety and welfare of the City. All conditions imposed upon any variance shall be set forth in the granting of such variance.

REVIEW AGENCIES:

Fire Department – Assistant Fire Chief, Kathy Rohrich – No concerns at this time.

Public Works Department – David Lady – This has no impact on Public Works.

Chaffee County Building Department – Chad Chadwick – No concern with the variances from a building safety standpoint. See attached.

REQUIRED ACTIONS BY THE BOARD:

1. The Board shall confirm that adequate notice was provided.
2. The Board shall conduct a public hearing.
3. The Board shall make the findings whether or not criteria 1 through 4 of the above section are met by the applicant.

POSSIBLE FINDINGS:

Option A: The variance request(s) meet all criteria 1 – 4.

Or

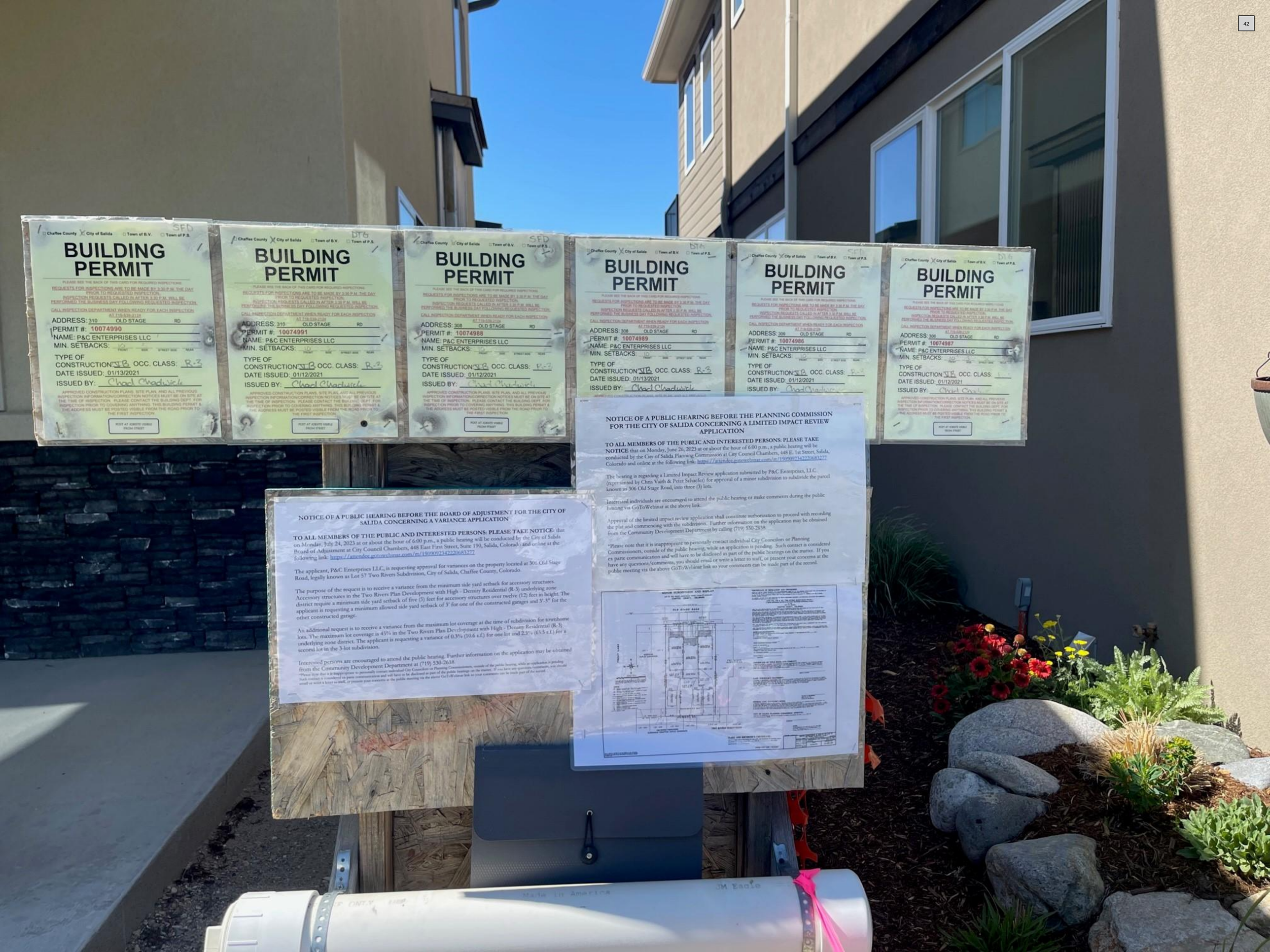
Option B: The variance request(s) do not meet all criteria 1 – 4.

RECOMMENDED MOTION (OPTION A): "I make a motion to approve the P&C Enterprises LLC. variance request(s), as they meet all the review criteria for zoning variances."

RECOMMENDED MOTION (OPTION B): "I make a motion to deny the P&C Enterprises LLC. variance requests, as they do not meet all the review criteria for zoning variances."

BECAUSE THIS APPLICATION IS FOR A VARIANCE, THE SALIDA BOARD OF ADJUSTMENT SHALL MAKE THE FINAL DECISION ON THIS APPLICATION. DECISIONS BY THE BOARD SHALL BE FINAL AND MAY NOT BE APPEALED FURTHER EXCEPT IN COURT.

Attachments: Proof of Publication
Application Materials
Agency Reviews
Public Comment Letters
Letter from Deputy Building Official
Letter from Surveyor Regarding Proposed Structure Coverages


BUILDING PERMIT
ADDRESS: 310 OLD STAGE RD
PERMIT #: 10074990
NAME: P&C ENTERPRISES LLC
MIN. SETBACKS: 10
TYPE OF CONSTRUCTION: VB OCC. CLASS: R-3
DATE ISSUED: 01/13/2021
ISSUED BY: Chad Chadwick
BUILDING PERMIT
ADDRESS: 310 OLD STAGE RD
PERMIT #: 10074991
NAME: P&C ENTERPRISES LLC
MIN. SETBACKS: 10
TYPE OF CONSTRUCTION: VB OCC. CLASS: R-3
DATE ISSUED: 01/12/2021
ISSUED BY: Chad Chadwick
BUILDING PERMIT
ADDRESS: 308 OLD STAGE RD
PERMIT #: 10074988
NAME: P&C ENTERPRISES LLC
MIN. SETBACKS: 10
TYPE OF CONSTRUCTION: VB OCC. CLASS: R-3
DATE ISSUED: 01/12/2021
ISSUED BY: Chad Chadwick
BUILDING PERMIT
ADDRESS: 308 OLD STAGE RD
PERMIT #: 10074989
NAME: P&C ENTERPRISES LLC
MIN. SETBACKS: 10
TYPE OF CONSTRUCTION: VB OCC. CLASS: R-3
DATE ISSUED: 01/13/2021
ISSUED BY: Chad Chadwick
BUILDING PERMIT
ADDRESS: 306 OLD STAGE RD
PERMIT #: 10074986
NAME: P&C ENTERPRISES LLC
MIN. SETBACKS: 10
TYPE OF CONSTRUCTION: VB OCC. CLASS: R-3
DATE ISSUED: 01/12/2021
ISSUED BY: Chad Chadwick
BUILDING PERMIT
ADDRESS: 306 OLD STAGE RD
PERMIT #: 10074987
NAME: P&C ENTERPRISES LLC
MIN. SETBACKS: 10
TYPE OF CONSTRUCTION: VB OCC. CLASS:
DATE ISSUED: 01/12/2021
ISSUED BY: Chad Chadwick
NOTICE OF A PUBLIC HEARING BEFORE THE PLANNING COMMISSION FOR THE CITY OF SALIDA CONCERNING A LIMITED IMPACT REVIEW APPLICATION
TO ALL MEMBERS OF THE PUBLIC AND INTERESTED PERSONS: PLEASE TAKE NOTICE that on Monday, June 26, 2023 at or about the hour of 6:00 p.m., a public hearing will be conducted by the City of Salida Planning Commission at City Council Chambers, 448 E. 1st Street, Salida, Colorado and online at the following link: https://attendee.gotowebinar.com/rt/1909909234222063277
The hearing is regarding a Limited Impact Review application submitted by P&C Enterprises, LLC. (represented by Chris Vaith & Peter Schaefer) for approval of a minor subdivision to subdivide the parcel known as 306 Old Stage Road, into three (3) lots.
Interested individuals are encouraged to attend the public hearing or make comments during the public hearing via GoToWebinar at the above link.
Approval of the limited impact review application shall constitute authorization to proceed with recording the plat and commencing with the subdivision. Further information on the application may be obtained from the Community Development Department by calling (719) 530-2638.
*Please note that it is inappropriate to personally contact individual City Councilors or Planning Commissioners, outside of the public hearing, while an application is pending. Such contact is considered ex parte communication and will have to be disclosed as part of the public hearings on the matter. If you have any questions/comments, you should email or write a letter to staff, or present your concerns at the public meeting via the above GoToWebinar link so your comments can be made part of the record.
NOTICE OF A PUBLIC HEARING BEFORE THE BOARD OF ADJUSTMENT FOR THE CITY OF SALIDA CONCERNING A VARIANCE APPLICATION
TO ALL MEMBERS OF THE PUBLIC AND INTERESTED PERSONS: PLEASE TAKE NOTICE: that on Monday, July 24, 2023 at or about the hour of 6:00 p.m., a public hearing will be conducted by the City of Salida Board of Adjustment at City Council Chambers, 448 East First Street, Suite 190, Salida, Colorado and online at the following link: https://attendee.gotowebinar.com/rt/1909909234222063277
The applicant, P&C Enterprises LLC, is requesting approval for variances on the property located at 306 Old Stage Road, legally known as Lot 57 Two Rivers Subdivision, City of Salida, Chaffee County, Colorado.
The purpose of the request is to receive a variance from the minimum side yard setback for accessory structures. Accessory structures in the Two Rivers Plan Development with High - Density Residential (R-3) underlying zone district require a minimum side yard setback of five (5) feet for accessory structures over twelve (12) feet in height. The applicant is requesting a minimum allowed side yard setback of 3' for one of the constructed garages and 3'-3" for the other constructed garage.
An additional request is to receive a variance from the maximum lot coverage at the time of subdivision for townhome lots. The maximum lot coverage is 45% in the Two Rivers Plan Development with High - Density Residential (R-3) underlying zone district. The applicant is requesting a variance of 0.3% (10.6 s.f.) for one lot and 2.3% (65.5 s.f.) for a second lot in the 3-lot subdivision.
Interested persons are encouraged to attend the public hearing. Further information on the application may be obtained from the Community Development Department at (719) 530-2638.
*Please note that it is inappropriate to personally contact individual City Councilors or Planning Commissioners, outside of the public hearing, while an application is pending. Such contact is considered ex parte communication and will have to be disclosed as part of the public hearings on the matter. If you have any questions/comments, you should email or write a letter to staff, or present your concerns at the public meeting via the above GoToWebinar link so your comments can be made part of the record.
JM Eagle
Made in America

PUBLIC NOTICE
NOTICE OF A PUBLIC HEARING BEFORE THE BOARD OF ADJUSTMENT FOR THE CITY OF SALIDA CONCERNING A VARIANCE APPLICATION

TO ALL MEMBERS OF THE PUBLIC AND INTERESTED PERSONS: PLEASE TAKE NOTICE: that on Monday, July 24, 2023 at or about the hour of 6:00 p.m., a public hearing will be conducted by the City of Salida Board of Adjustment at City Council Chambers, 448 East First Street, Suite 190, Salida, Colorado and online at the following link: https://attendee.gotowebinar.com/rt/1909092342220683277

The applicant, P&C Enterprises LLC, is requesting approval for variances on the property located at 306 Old Stage Road, legally known as Lot 57 Two Rivers Subdivision, City of Salida, Chaffee County, Colorado.

The purpose of the request is to receive a variance from the minimum side yard setback for accessory structures. Accessory structures in the Two Rivers Plan Development with High - Density Residential (R-3) underlying zone district require a minimum side yard setback of five (5) feet for accessory structures over twelve (12) feet in height. The applicant is requesting a minimum allowed side yard setback of 3' for one of the constructed garages and 3'-3" for the other constructed garage.

An additional request is to receive a variance from the maximum lot coverage at the time of subdivision for townhome lots. The maximum lot coverage is 45% in the Two Rivers Plan Development with High - Density Residential (R-3) underlying zone district. The applicant is requesting a variance of 0.3% (10.6 s.f.) for one lot and 2.3% (65.5 s.f.) for a second lot in the 3-lot subdivision.

Interested persons are encouraged to attend the public hearing. Further information on the application may be obtained from the Community Development Department at (719) 530-2638.

*Please note that it is inappropriate to personally contact individual City Councilors or Planning Commissioners, outside of the public hearing, while an application is pending. Such contact is considered ex parte communication and will have to be disclosed as part of the public hearings on the matter. If you have any questions/comments, you should email or write a letter to staff, or present your concerns at the public meeting via the above GoToWebinar link so your comments can be made part of the record.

Published in The Mountain Mail July 7, 2023

PLANNING DEPARTMENT
PROJECT REVIEW TRANSMITTAL FORM

ATTENTION: _____ DATE: 06/13/2023

- [x] Salida Public Works
- [x] Salida Fire Chief
- [ ] Salida Police Chief
- [ ] Salida Finance Department
- [ ] Salida Sanitation Plant Supervisor
- [ ] Salida Water Plant Supervisor
- [ ] City Consulting Engineer - Streets
- [ ] City Consulting Engineer – Water/Sewer
- [ ] City Attorney
- [ ] Centurylink Communications
- [ ] Atmos Energy
- [ ] Historic Preservation Commission
- [ ] Xcel Energy
- [ ] Charter Communications
- [ ] Chaffee Co. Planning
- [ ] Army Corps of Engineers
- [ ] U.S. Postal Service
- [ ] U.S. Forest Service
- [ ] CO Dept. of Transportation
- [x] Chaffee Co. Building Dept.
- [ ] School District R-32-J
- [ ] Division of Wildlife
- [ ] Town of Poncha Springs

Other:

APPLICANT: P&C Enterprises LLC PHONE: 719-239-1757 FAX: _____

EMAIL: antero.electric@icloud.com

PROPERTY LOCATION: 306 Old Stage Road

PROJECT DESCRIPTION: The owners have applied for two variances from the required 5' side yard setback for an accessory structure. The request is to receive a variance from the minimum side setback of five (5) feet for the constructed garages being over 12' in height. The applicant is requesting a minimum allowed side yard setback of 3' for one of the constructed garages and 3'-3" for the other constructed garage.

TENTATIVE MEETING DATES:

- [ ] Planning Commission _____ @ _____ P.M.
- [ ] City Council _____ @ _____ P.M.
- [x] Board of Adjustment 06/26/23 @ 6:00 P.M.

TRANSMITTAL INCLUDES:

- [x] Application Form/Cover Letter
- [x] Site Plan
- [x] Plat
- [ ] Vicinity Map
- [ ] Other:

NOTE: A written response, even if only to advise that you have no concerns, is requested.

REPLY: NO CONCERNS AT TIME

RESPONSE NEEDED BY: 06/20/23 RECEIVED: _____

PLANNING STAFF: Franco Palumbo

Franco Palumbo

From: David Lady
Sent: Wednesday, June 14, 2023 4:38 PM
To: Franco Palumbo
Subject: RE: 306 Old Stage Rd - Agency Review - Variance

This one also does not affect PW. Have you ran this by Bill? I know there were PC comments/concerns related to garage / ADU's elevation profiles a few years back. There are also fire code issues that come into play when side setbacks are reduced.

David Lady
Director of Public Works

david.lady@cityofsalida.com
P: 719-539-6257 | **C:** 719-239-0048
340 W. Hwy 291, Salida, CO 81201
cityofsalida.com

From: Franco Palumbo <franco.palumbo@cityofsalida.com>
Sent: Tuesday, June 13, 2023 10:09 AM
To: David Lady <david.lady@cityofsalida.com>
Subject: 306 Old Stage Rd - Agency Review - Variance
Importance: Low

David,
Another agency review for a variance at 306 Old Stage Road.
Owner built the garages too high for the 3' side yard setback minimum.
The requirement is 5' for accessory structures over 12'.
Please see the attached agency review. I am hoping for responses next week.
Thanks!

Franco Palumbo
Planning Technician
ph: 719-530-2638

PLANNING DEPARTMENT
PROJECT REVIEW TRANSMITTAL FORM

ATTENTION: _____ DATE: 06/13/2023

- [x] Salida Public Works
- [x] Salida Fire Chief
- [ ] Salida Police Chief
- [ ] Salida Finance Department
- [ ] Salida Sanitation Plant Supervisor
- [ ] Salida Water Plant Supervisor
- [ ] City Consulting Engineer - Streets
- [ ] City Consulting Engineer – Water/Sewer
- [ ] City Attorney
- [ ] Centurylink Communications
- [ ] Atmos Energy
- [ ] Historic Preservation Commission
- [ ] Xcel Energy
- [ ] Charter Communications
- [ ] Chaffee Co. Planning
- [ ] Army Corps of Engineers
- [ ] U.S. Postal Service
- [ ] U.S. Forest Service
- [ ] CO Dept. of Transportation
- [x] Chaffee Co. Building Dept.
- [ ] School District R-32-J
- [ ] Division of Wildlife
- [ ] Town of Poncha Springs

Other:

APPLICANT: P&C Enterprises LLC PHONE: 719-239-1757 FAX: _____

EMAIL: antero.electric@icloud.com

PROPERTY LOCATION: 306 Old Stage Road

PROJECT DESCRIPTION: The owners have applied for two variances from the required 5' side yard setback for an accessory structure. The request is to receive a variance from the minimum side setback of five (5) feet for the constructed garages being over 12' in height. The applicant is requesting a minimum allowed side yard setback of 3' for one of the constructed garages and 3'-3" for the other constructed garage.

TENTATIVE MEETING DATES:

- [ ] Planning Commission _____ @ _____ P.M.
- [ ] City Council _____ @ _____ P.M.
- [x] Board of Adjustment 06/26/23 @ 6:00 P.M.

TRANSMITTAL INCLUDES:

- [x] Application Form/Cover Letter
- [x] Site Plan
- [x] Plat
- [ ] Vicinity Map
- [ ] Other:

NOTE: A written response, even if only to advise that you have no concerns, is requested.

REPLY: This is new construction and required fire wall assemblies are installed, inspected and approved. There is no concern with this variance from a building safety stand point.

RESPONSE NEEDED BY: 06/20/23 RECEIVED: _____

PLANNING STAFF: Franco Palumbo

Building Department Comments

June 19, 2023

Dear City of Salida,

This letter is in regard to the request for a variance on the property being built at 306 Old Stage Road by P&C Enterprises LLC.

Thank you so much for requesting input from those who are bearing the brunt of the primary impact of these variances. As we understand it, the request is for two variances—the first is to build their garage 2 feet closer to our property line and the second is to build that garage two feet higher than the current building codes allow.

We knew when we moved into our home at 312 Old Stage Road that anytime there is an empty lot next door, something eventually would be built and that there would be dust and dirt and a direct impact on our adjacent property. For over two years we have been experiencing the impact of the construction next door. And we have wondered as other homes in our neighborhood were completely constructed, moved into and landscaped why it was taking so long to build this one.

Each time there were flecks of paint or stucco on the side of our house we thought, "This is only temporary." When the landscaping rocks and mulch in the front of our house blew full of dirt we thought, "This is only temporary." When the water ran off the top of their building, splashing dirt onto the side of our home and even causing some settling of the soil against our home we thought, "This is only temporary."

Before the garage was built, no one asked us if we were OK with building their garage 2 feet closer to our property line. We figured that someone, somewhere approved that variance. I know we were not asked what we thought about the height of the garage when it was being constructed—even though it violated the city's height restriction. We did wonder why it had to be built so tall—especially adding a parapet above the actual roof. We wondered why it was even necessary, but we figured that someone, somewhere approved the height.

Up to now I think we have been very patient and kind with the builders because we thought, "All of this is only temporary." But now we're being asked to deal with a code violation that is not temporary, it is permanent. And will permanently affect us as long as we own the home. It will permanently affect us every time we sit on our back deck and look south. It will permanently affect our view every time we look out our south facing windows. And it will permanently affect this situation for the next 100 years—or however long these buildings are there.

We oppose the variance to allow that garage to violate the height restriction for the following reasons.

1) It violates the current city code.
2) We're fine with allowing one variance (set back) even though it really crowds the space between our garages. But two variances on the same building! That just seems like too much.
3) This is rather subjective, but in a city and neighborhood that is striving to construct buildings with some aesthetic beauty and elegance, we think the garage is simply ugly. See attached pictures. I know beauty if often in the eye of the beholder but…. We're the ones who must look at that garage every single time that we step out the back of our master bedroom and onto our deck. Every time we eat dinner and entertain our friends, that garage looms. I wonder if the builders would approve of this type of a variance on the homes where they reside—if they had to look at this garage every time they tried to enjoy their back yard.
4) If this variance is approved, that garage will forever be that height and (in my opinion) remain an eyesore to anyone who has to deal with it in their line of sight—including the residents of that building.
5) If we ever sell our property, having that very tall garage looming over our property will reduce the value as well as the attractiveness of our home.

We're very sorry that this wasn't caught before the garage was constructed. It could easily have been built in compliance with city codes. We're very sorry that reducing the height of this garage will delay the completion of this project. Believe me, we're VERY anxious for this project to be completed!! And we're very sorry that fixing this may be expensive. Sometimes our mistakes do cost money—especially for those who made the mistake. In this case those of us who are being asked to permanently deal with the impact of this mistake are now being asked to pay the long term price/impact for it. We just don't think we should have to do this.

There is only one chance to fix this. And it's now. And if it is fixed, we will be permanently grateful. Anyone who buys that property or our property in the future will be grateful. Thanks again for asking us to weigh in on this situation. We sincerely appreciate it.

Sincerely,

Dennis & Barbara Anderson
Homeowners and residents of 312 Old Stage Road

Franco Palumbo

From: Dennis Anderson <danderson@crossroadscolorado.com>
Sent: Thursday, June 22, 2023 1:57 PM
To: Franco Palumbo
Subject: Re: Dennis & Barbara Anderson, 312 Old Stage Road

Importance: Low

> You don't often get email from danderson@crossroadscolorado.com. Learn why this is important

Thank you Franco! We really appreciate your quick response. I didn't put this in the letter but every time a variance is granted, it potentially sets a precedence that other builders will site in order to obtain more and more variances—which will ultimately create pressure for new policies and lower the quality of life that we all hope for.

Thanks again.

Dennis

On Jun 22, 2023, at 12:55 PM, Franco Palumbo <franco.palumbo@cityofsalida.com> wrote:

Barbara & Dennis,

I will put this in my staff report, specifically for the variance.
Because we had a noticing issue, the public hearing will now be on July 24th instead. You will receive a new letter in the mail.
Please let me know if you have any questions.
Thanks!
Franco Palumbo
Planning Technician
<image001.png>
ph: 719-530-2638

From: Dennis Anderson <danderson@crossroadscolorado.com>
Sent: Thursday, June 22, 2023 11:57 AM
To: Franco Palumbo <franco.palumbo@cityofsalida.com>
Subject: Dennis & Barbara Anderson, 312 Old Stage Road

[You don't often get email from danderson@crossroadscolorado.com. Learn why this is important at https://aka.ms/LearnAboutSenderIdentification]

Hi Franco,

Here are our comments about the variance that P&C Enterprises LLC has applied for at 306 Old Stage Road. We are out of town and won't be able to attend the meeting on Monday either online or in person. Thanks for your consideration.

Please let me know that you received this letter along with the pictures.

Sincerely,

Franco Palumbo

From: Graceann Mayo <katunagrace@yahoo.com>
Sent: Thursday, June 22, 2023 9:09 AM
To: Franco Palumbo
Cc: Graceann Mayo
Subject: Two Rivers Variance Requests @ 306 Old Stage Rd. in Salida

Follow Up Flag: Follow up
Flag Status: Flagged

[You don't often get email from katunagrace@yahoo.com. Learn why this is important at https://aka.ms/LearnAboutSenderIdentification]

First Draft on June 18, 2023

Greetings Franco! It is Grace Mayo of Two Rivers!

On 6/12/2023 I received the two letters from City of Salida for the 2 Variance requests @ 306 Old Stage Rd. I am only commenting on the Variance of Garage Wall Height in this letter. It seems that the Variance addressing the question of Lot split and Minor Subdivision should have been dealt with in 2021 before Permits were issued.

In the way of context for the Board of Adjusters, I am an owner and full-time resident of Two Rivers and have owned my home and lived in TR since February, 2020. I have lived in my home 365 days a year every year since 2020, so it is difficult to not observe and question the process. The six permits (3 for SFD and 3 for DTG) are dated January 12 and 13, 2021.

The ongoing, longterm construction @ 306, 308 and 310 Old Stage Rd. has been challenging. Chris has done well in learning to communicate with me and treat me like a neighbor. Nonetheless, the process seems endless and the Garage @ 306 is 3 feet away from my fenced in back yard.

Yet, I am on another Lot in separate DuplexConversion. My 2nd story Balcony now looks out at a Garage with a High Rear Wall and only 3 Feet between the West facing 306 Garage Wall and my Fence and Back Yard. This is the emotional side of this whole experience for me.

I do not plan to attend the June 26th Hearing. As I mentioned to Kristie, at age 73, I no longer do meetings!

The instructions in the letters say to address questions/concerns to the City, so that is what I am doing. I have many questions, some of which seem like they need to be addressed to the County Building Department. Whilemy concerns reference 306 Old Stage Rd. this is simply because it is the Garage in view of my Balcony that overlooks the Garage. In other words, my questions/concerns could also be made about the Garage belonging to 310 Old Stage Rd.

I am not a contractor or a lawyer, hence the many questions to learn about how the changes may impact my property and me:

1). What is the Rear Wall Height of the already constructed Garage @ 306?
2). What is the allowable Height of the Rear Garage Wall @ 306, given the fact that the 3 foot Setback was already in place?

3). Does this Wall Height pose any safety concerns with only a 3 foot Setback instead of the Permitted 5 foot Easement originally posted on the Construction Permits for 306, 308 and 310 Garages?
4). It seemed while this Garage was under construction, that the West Facing Side Wall (the Wall opposite my Garage Wall) was/is a Firewall. Are the other Walls in the Garage @ 306 Firewalls? Are they supposed to be Firewalls or are they allowed to only be Drywall?
5). Do any of the changes to the original planned construction @ 306 affect anything on my Recorded Survey and Plat (Lot 2 of Lot 58)?
6). Will anything change in the General Notes Section of my Recorded Survey, to reflect the Variance for the 3 foot setback and Higher Rear Garage Wall @ 306 Lot 57A?
7). Do approved Variances of these types affect adjacent Property Appraisals?

Chris tells me that the County solution is to have P & C Enterprises have the roof torn off the Garage @ 306, have roof trusses torn out, and have the Garage roof fabricated into a pitched roof that slopes East and West, instead of the current North to South. I have a strong sense that all of this will be costly, and much time will elapse to order the needed trusses and line up the needed trades people to complete the work.

While I am not happy about the existing situation and the way it evolved, I do not want to partake in a decision that means it will cost a lot more time and money to the Lot owners. If possible, I would like to see a plan of what else needs to be done (landscaping and fences, for example) with a project plan that assigns firm dates to its progress, bringing the entire project to a speedy close. This seems like a more rational plan and one that will bring more peaceful closure to the endeavor.

I would like written responses to my above questions, from someone authorized and sufficiently well-versed in the issues, for my future reference and my property records.

Thank you for listening.

Sincerely,

Graceann T. Mayo

55

Chaffee County

Pat Green <pgreen@chaffeecounty.org>

Fwd: 306, 308, 310 Old Stage Road Plan Change

1 message

Chad Chadwick <cchadwick@chaffeecounty.org> Wed, Apr 26, 2023 at 1:57 PM
To: Pat Green <pgreen@chaffeecounty.org>

Chad Chadwick
Chaffee County Building Safety Department
Deputy Building Official
Combination Plans Examiner/ Combination Inspector
Phone: 719-530-5618
Cell: 719-221-2252

---------- Forwarded message ---------
From: **Chad Chadwick** <cchadwick@chaffeecounty.org>
Date: Wed, Apr 26, 2023 at 10:28 AM
Subject: 306, 308, 310 Old Stage Road Plan Change
To: Kristi Jefferson <kristi.jefferson@cityofsalida.com>

Good morning Kristi,

I had the owner of the property at 306, 308, 310 OLd Stage Rd reach out about a zoning violation concerning the height of detached garages in reference to proximity to the property line.

After looking back through the file I realized the contractor did not fill out the plan change form completely and I had it as a type of foundation change only which I did approve back in November not aware they were moving the garage locations as well which would have required zoning approval. Normally with just a change in foundation type I do not send those to the city for zoning approval. However I found a sheet that was submitted showing the change in location although it does not appear to have been part of the plan change. I have attached the plan change and sheet I found that was not reviewed.

Since the structures are complete I'm wondering what options the owner has at this point to come into compliance. I do realize there is some oversight on the Building Departments behalf to be taken into consideration. However from a building safety standpoint the structures are compliant with complete fire walls installed with the proximity to the property lines.

In this situation is a variance a viable option or is there another path forward that would make sense to all parties involved. I apologize for the mistake made here.

Chad Chadwick
Chaffee County Building Safety Department

Deputy Building Official
Combination Plans Examiner/ Combination Inspector
Phone: 719-530-5618
Cell: 719-221-2252

---

2 attachments

091522_VAITH SHAEFER_Site Updates.pdf
204K

306 Old Stage Rd Plan Change 11-2-2022.pdf
107K

CHAFFEE COUNTY

DEVELOPMENT SERVICES DEPARTMENT
104 Crestone Ave., Room 125
P.O. Box 699
Salida, Colorado 81201
(719) 539-2124 FAX: (719) 530-9208
bdepartment@chaffeecounty.org

PLAN CHANGE APPLICATION

OWNER:
NAME P&C Enterprise LLC PHONE # 719-239-1757

JOB ADDRESS: 306 Old Stage Road

CONTRACTOR / PERMIT APPLICANT INFORMATION:
NAME: Same PHONE #

ADDRESS: EMAIL:

CITY: STATE: ZIP CODE:

TYPE OF CHANGE:
From Monolithic Foundation to stem wall Per Chaffee County Ins.

This plan change is not approved until a copy of the submitted drawing is returned or you receive verbal approval from this office. Inspections will not be performed on this submitted plan change until it has been approved. A copy of the approved plan change form and all associated documents must remain onsite for ALL inspections. Any change of use, additional square footage or exterior alterations will require Zoning approval prior to Building Department approval.

Applicant Signature: Chris O Veith Date: 11/2/22
If submitting electronically, digital signature required.

Zoning Approval: N/A Date:

Additional Square Footage: Additional Valuation:

FEE INFORMATION:
Time required for review will be dependent on current work load in addition to the complexity of the plan change. The minimum fee is $50.00 and is due at submittal. Fees for additional time worked will be charged at $50.00 per hour and will be collected prior to issuing the plan change.

Total Fee: 50- Payment Method: Cash _____ Check # 3349 Credit Card _____

Plan Change # 10086647

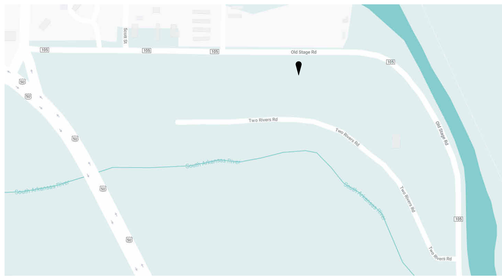
This plan change is not approved without the proper signoff below.

Approved: Chaffee County Building Department 2 Nov 22 Date

Updated 10-18-18

VICINITY MAP

NOT TO SCALE

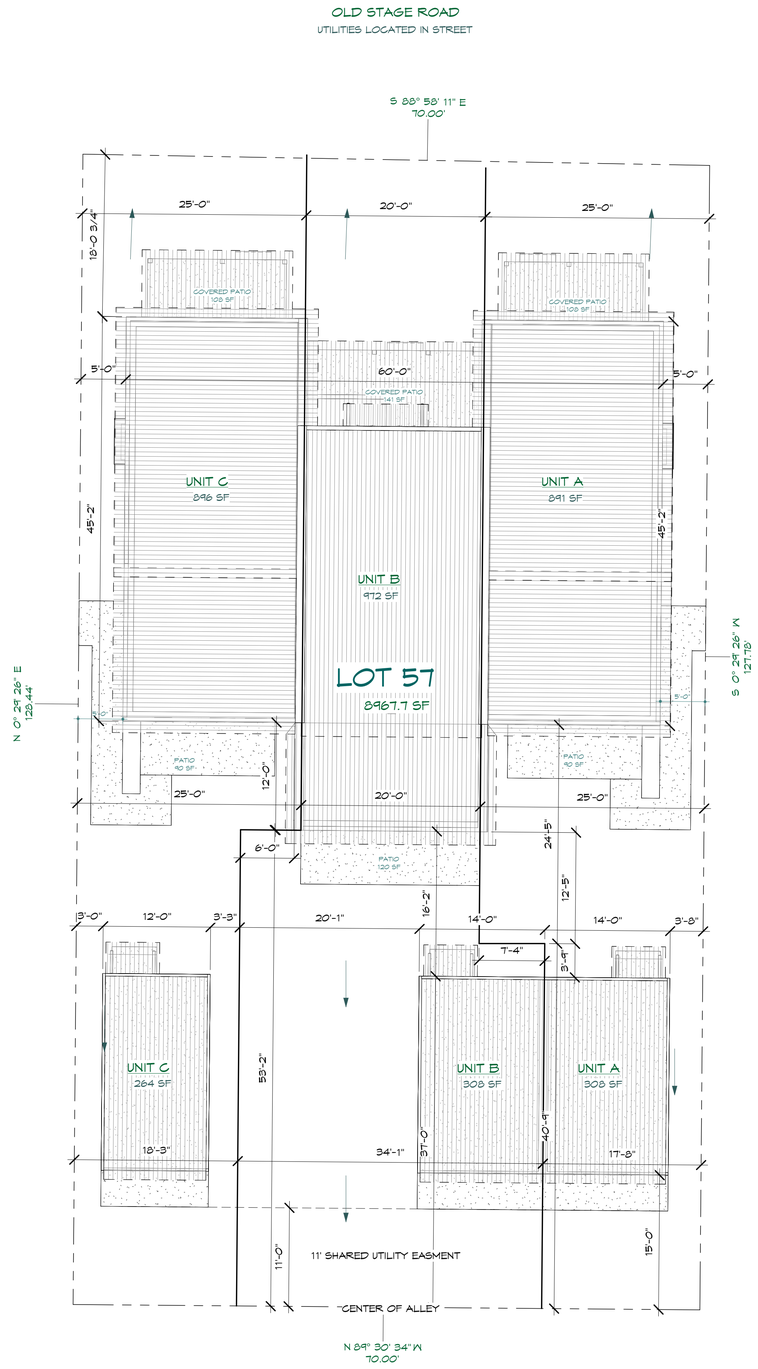


309 OLD STAGE RD.
SALIDA, CO

LOT SIZE:	8,967.7 SF
BUILDING FOOTPRINT:	2,759 SF
LANDSCAPED (30% of 6,208.7 SF)	1,862.61 SF (MIN.)

PROJECT AREA

	UNIT A	UNIT B	UNIT C
TOTAL LIVABLE	1,996 SF	1,548 SF	1,401 SF
MAIN FLOOR	891 SF	972 SF	896 SF
SECOND FLOOR	505 SF	576 SF	505 SF
PORCHES	198 SF	261 SF	198 SF
GARAGE	308 SF	308 SF	264 SF
LOT SIZE	2,898 SF	3,219 SF	2,849 SF
FOOTPRINT	1,184 SF	1,257 SF	1,152 SF
SITE COVERAGE	40%	40%	40%



1 Site Plan
1/8" = 1'-0"

UNLINED DESIGN, LLC.

Julia R. Fuller
juliafuller.design@gmail.com
701.936.4614

CO ENGINEER

Tim Vrudny, PE
720.926.7056
lonefox56@msn.com

VAITH SCHAEFER TRI-PLEX

306 OLD STAGE ROAD,
SALIDA, CO

PROJECT NUMBER	VAI2008
DATE	21.04.08
DRAWN BY	JRF

SITE PLAN

A1

SCALE	1/8" = 1'-0"

9/15/2022 3:52:15 PM

Franco Palumbo

From: Mike Henderson <hlsco1001@qwestoffice.net>
Sent: Wednesday, June 14, 2023 4:59 PM
To: Franco Palumbo
Subject: FW: LOT 57, TWO RIVERS MINOR SUBDIVISION
Attachments: L-23-19.pdf

You don't often get email from hlsco1001@qwestoffice.net. Learn why this is important

---

From: Mike Henderson [mailto:hlsco1001@qwestoffice.net]
Sent: Wednesday, June 14, 2023 4:28 PM
To: Franco Polumbo
Subject: LOT 57, TWO RIVERS MINOR SUBDIVISION

Franco
Attached is the revised plat with 5' garage set-backs. The plat contains the area of each proposed new lot.
I have calculated the improvement lot coverage as follows:
Lot 57A, Lot area = 2924.4 Sq.Ft.. Lot coverage = 1305.6 Sq.Ft = 44.6%
Lot 57B, Lot area = 3191.1 Sq.Ft., Lot coverage = 1446.6 Sq.Ft. = 45.3%
Lot 57C, Lot area = 2838.8 Sq.Ft., Lot coverage = 1343.0 Sq.Ft. = 47.3%
Lot coverage includes the Townhouse footprint, the covered porch and the garage for each unit.
Mike Henderson
For Henderson Land Surveying Co., Inc.

GENERAL DEVELOPMENT APPLICATION

448 East First Street, Suite 112
Salida, CO 81201
Phone: 719-530-2626 Fax: 719-539-5271
Email: planning@cityofsalida.com

1. TYPE OF APPLICATION (Check-off as appropriate)

- ☐ Annexation
- ☐ Pre-Annexation Agreement
- ☐ Appeal Application (Interpretation)
- ☐ Certificate of Approval
- ☐ Creative Sign Permit
- ☐ Historic Landmark/District
- ☐ License to Encroach
- ☐ Text Amendment to Land Use Code
- ☐ Watershed Protection Permit
- ☐ Conditional Use
- ☐ Administrative Review: (Type)_____
- ☐ Limited Impact Review: (Type)_____
- ☐ Major Impact Review: (Type)_____
- ☒ Other: Variance

2. GENERAL DATA (To be completed by the applicant)

A. Applicant Information

Name of Applicant: P & L Enterprises LLC

Mailing Address: P.O. Box 382 Buena Vista Co 81211

Telephone Number: 719.239.1757 FAX: _____

Email Address: antero.electric@gmail.com

Power of Attorney/ Authorized Representative: _____
(Provide a letter authorizing agent to represent you, include representative's name, street and mailing address, telephone number, and FAX)

B. Site Data

Name of Development: _____

Street Address: 306 Old Stage Rd Salida, Co 81201

Legal Description: Lot 57 Block ____ Subdivision Two Rivers Phase I (attach description)

Disclosure of Ownership: List all owners' names, mortgages, liens, easements, judgments, contracts and agreements that run with the land. (May be in the form of a current certificate from a title insurance company, deed, ownership and encumbrance report, attorney's opinion, or other documentation acceptable to the City Attorney)

I certify that I have read the application form and that the information and exhibits herewith submitted are true and correct to the best of my knowledge.

Signature of applicant/agent [signature] Date 6/5/23

Signature of property owner [signature] Date 6/5/23

VARIANCE APPLICATION

448 East First Street, Suite 112
Salida, CO 81201
Phone: 719-530-2626 Fax: 719-539-5271
Email: planning@cityofsalida.com

A. TYPE OF VARIANCE REQUESTED (Fill In Applicable Requests)

1. **Variance from Maximum Height:** Existing Height (in feet): 15'6" Proposed Height (in feet): X
2. **Minimum Variance from Floor Area:** Required Floor Area:_____ Proposed Floor Area:_____
3. **Variance from Maximum Lot Coverage:** Allowed Lot Coverage: 45% Proposed Lot Coverage: 45.3% + 47.3%
4. **Variance from Parking Requirements:** Existing Spaces:_____ Required Spaces:_____
   Total Spaces Proposed:_____ Percent Reduction Proposed:_____
5. **Variance from Minimum Setback Requirements**
   a. Setback Variance Information:
      i. Type of setback: ☐ Front yard ☐ Rear yard ☐ Side yard
      ii. Which direction: ☐ North ☐ South ☒ East ☐ West
      ☐ Northeast ☐ Northwest ☐ Southeast ☐ Southwest
      iii. Type of Building: ☐ Principal ☒ Accessory Building
      iv. Current Setback: 3'-3"
      v. Proposed Setback: _____
      vi. Required Setback: 5'

   b. Second Setback Variance Information (if applicable):
      i. Type of setback: ☐ Front yard ☐ Rear yard ☐ Side yard
      ii. Which direction: ☐ North ☐ South ☐ East ☒ West
      ☐ Northeast ☐ Northwest ☐ Southeast ☐ Southwest
      iii. Type of Building: ☐ Principal ☐ Accessory Building
      iv. Current Setback: 3'
      v. Proposed Setback: _____
      vi. Required Setback: 5'
6. **Variance from Land Use Code Section:** 16-4-180

B. DEVELOPMENT PROCESS (City Code Section 16-4-180)

1. Pre-Application Conference. Optional.
2. Submit Application.
3. Staff Review. Schedule Hearing. Forward Report to Applicant and Board.
4. Public Notice Provided For Hearing.
5. Public Hearing Conducted by Board and Action Taken.

C. APPLICATION CONTENTS

A digital copy of all application materials is required.

☐ **1. General Development Application**

☐ **2. Site Plan**. A site plan of the subject property, showing existing and proposed features, buildings, etc. which are relevant to the review of the application. **The copies shall be accepted on 8½" x 11", 11" x 17" or 24"x 36" paper or electronically.**

☐ **3. Required Showing**. The applicant shall indicate the way the proposal meets the required showing as outlined in the application.

☐ **4. Public Notice**

a) List. A list shall be submitted by the applicant to the city of adjoining property owners' names and addresses. A property owner is considered adjoining if it is within 175 feet of the subject property regardless of public ways. The list shall be created using the current Chaffee County tax records.

b) Postage Paid Envelopes. Each name on the list shall be written on a postage-paid envelope. Postage is required for up to one ounce. Return Address shall be: City of Salida, 448 E. First Street, Suite 112, Salida, CO 81201.

c) Applicant is responsible for posting the property and submittal of proof of posting the public notice.

☐ **5. Application Fee**. $500 cash or check made out to City of Salida.

D. REQUIRED SHOWING (If necessary, attach additional sheets)

Variance Approval Criteria. Variances from requirements of this Chapter shall be considered an extraordinary remedy. When considering, reviewing and deciding on whether to approve a variance application, the Board of Adjustment must find that all of the following criteria have been met:

1. **Special Circumstances Exist.** Strict application of the standards adopted in this Chapter would result in undue hardship or practical difficulties for the owner of such property. Special circumstances include, but are not limited to, exceptional or peculiar limitations to the dimension, shape or topography of the property, such as slope, standing or moving water, wetlands, floodplain, rock features, narrowness, shallowness or irregular shape of a lot.

See Attached

2. **Substantial Detriment.** The requested variance would not create a substantial detriment to the public good and would not substantially impair the intent and purpose of this Chapter, this Code or the City's Comprehensive Plan.

See attached

3. **Adverse Impacts.** The requested variance would not result in significantly adverse impacts to the natural environment or to the surrounding properties and neighborhoods.

See Attached

4. **Minimum Variance Necessary for Reasonable Use.** The granting of the request is the minimum variance necessary for reasonable use of the property or building and the least deviation required from the applicable zoning standard to afford relief.

See Attached

Additional Information:

See Attached

CHAFFEE COUNTY
Building Safety Department
P.O. BOX 699 PHONE (719) 539-2124
SALIDA, CO 81201 FAX (719) 530-9208
WEBSITE www.chaffeecounty.org

04/26/2023

RE: 306-308-310 Old Stage Road Detached Garage height variance

Kristi,
The previous email from Chad Chadwick outlined the scope of the plan change associated with this address for a change to the foundation design. The accompanying paperwork work identifying the location change was inadvertently omitted as it was not included in the plan change paperwork. The garage meets the requirements for fire separation distances for structures less than 5' from a property line and I am confident they will meet all requirements per the adopted building codes. I feel it will also meet the requirements for a zoning variance should one be required.

1. Special circumstances exist such that strict application of the standards of the standards adopted in this Chapter would result in undue hardship or practical difficulties for the owner of such property. **Removal of the roof of this structure would result in hardship and undue difficulties due to the cost of additional materials and the timeframe required to acquire them, along with additional time and labor costs.**

2. The requested variance would not create a substantial detriment to the public good and would not substantially impair the intent and purpose of this Chapter, this Code or the City's Comprehensive Plan. **No detriment to the public good would be created by this structure and the height of such.**

3. The requested variance would not result in significantly adverse impacts to the natural environment or to the surrounding properties and neighborhoods. **View corridors will not be impacted due to the roof design.**

4. The granting of the request is the minimum variance for reasonable use of the property or building and the least deviation required from the applicable zoning standards to afford relief. **Granting this variance would not create any hardship to either the city or neighborhood and would be helpful to the owners by not creating any additional hardship or difficulties.**

I hope you can look favorably upon this request. While the Chaffee County Building Safety Department strives to do a thorough and complete job with regard to plan review and inspection, we are by no means infallible. We do accept our part in this procedural error and are willing to do whatever we can to help remedy this situation.

Thank you,

G, Patrick Green
Building Official
Chaffee County Building Safety Department
pgreen@chaffeecounty.org
(719) 207-1333

1. **Special Circumstances Exist.** Strict application of the standards adopted in this Chapter would result in undue hardship or practical difficulties for the owner of such property. Special circumstances include, but are not limited to, exceptional or peculiar limitations to the dimension, shape or topography of the property, such as slope, standing or moving water, wetlands, floodplain, rock features, narrowness, shallowness or irregular shape of a lot.

THE INCREASE IN LOT COVERAGE WAS DUE TO THE ADJUSTMENT OF THE INTERIOR LOT LINES TO MEET THE REQUIRED SETBACKS & DUE TO THE ENLARGEMENT OF THE FRONT COVERED PORCHES TO ALIGN WITH THE FRONT PORCHES OF NEIGHBORING PROPERTIES FOR VISUAL AESTETICS.

2. **Substantial Detriment.** The requested variance would not create a substantial detriment to the public good and would not substantially impair the intent and purpose of this Chapter, this Code or the City's Comprehensive Plan.

WE DO NOT BELIEVE THIS REQUESTED VARIANE WOULD CREATE ANY DETRIMENT TO THE PUBLIC GOOD. THIS SMALL PERCENTAGE OF INCREASE DOES NOT SUBSTANTIALLY IMPAIR THE INTENT OF THE CODE.

3. **Adverse Impacts.** The requested variance would not result in significantly adverse impacts to the natural environment or to the surrounding properties and neighborhoods.

WE FEEL THERE WILL BE NO ADVERSE IMPACT BY THIS INCREASE OF LOT COVERAGE.

4. Minimum Variance Necessary for Reasonable Use. The granting of the request is the minimum variance necessary for reasonable use of the property or building and the least deviation required from the applicable zoning standard to afford relief.

Needed to Subdivide the lots.

Additional Information: