

Board of Adjustment Agenda

**May 15, 2019
City Hall, Council Chambers
749 Main Street
6:30 PM**

- I. Call to Order
- II. Roll Call
- III. Approval of Agenda
- IV. Approval of Minutes
 - April 17, 2019
- V. Public Comments on Items Not on the Agenda
- VI. Regular :
 - **10500 Empire Road – Variance Request** - Request for a variance from Section 17.16.120 of the Louisville Municipal Code (LMC) requirement to allow a fence up to 8 feet tall in a portion of the property at 10500 Empire Road. **Case VAR-0210-2019 – Public Hearing**
 - Applicant: Eric Hiivala
 - Case Manager: Lisa Ritchie, AICP
 - ✓ Open Public Hearing
 - ✓ Opening Statement by Chair
 - ✓ Public Notice and Application Certification
 - ✓ Disclosures
 - ✓ Staff Presentation and Questions of staff
 - ✓ Applicant Presentation and Questions of applicant
 - ✓ Public Comment
 - ✓ Applicant discussion of public comment, if any
 - ✓ Closing statement by staff and applicant and Final questions by board
 - ✓ Close public hearing and Board discussion and action
- VII. Business Items tentatively scheduled for June 19, 2019
 - Board training with the City Attorney
- VIII. Staff Comments
- IX. Board Comments
- X. Discussion Items for Next Meeting June 19, 2019
- XI. Adjourn

Board of Adjustment Meeting Minutes

April 17, 2019

City Hall, Council Chambers

749 Main Street

6:30 PM

Call to Order: **Stuart** calls the meeting to order at 6:30 PM.

Roll Call is taken and the following members are present:

Board Members Present: James Stuart
 Jessica Leedy
 Rob Levinson
 Alison Gorsevski
 Peter Briggs

Board Members Absent: John Ewy

Staff Members Present: Lisa Ritchie, Senior Planner
 Elizabeth Schettler, Senior Administrative
 Assistant

Approval of Agenda:

Levinson moves and **Briggs** seconds a motion to approve the April 17, 2019 agenda as prepared by Staff. Motion passes by voice vote.

Approval of Minutes:

Levinson moves and **Leedy** seconds a motion to approve the December 19, 2018 minutes. Motion passes by voice vote.

Public Comments on Items not on the Agenda:

None heard.

Regular Business:

- **1039 Azure Way – Variance Request** - Request for a variance from Section 17.12.040 of the Louisville Municipal Code (LMC) Residential Estate zone district front yard setback of 30-feet to allow a 2'-4" extension to the existing front porch resulting in a front setback of 18-feet on the property at 1039 Azure Way. **Case VAR-0202-2019**

City of Louisville

Department of Planning and Building Safety

749 Main Street Louisville CO 80027

303.335.4592 (phone) 303.335.4550 (fax) www.louisvilleco.gov

Public Hearing

➤ Applicant: Bruce and Cynthia Cleveland

Stuart reviews the procedures for the meeting; opens the public hearing; and states there are six criteria which must be met for the board to approve a variance request.

Stuart states that for the requested variance to be approved, four (4) of the five (5) votes would need to be affirmative.

Stuart then states that copies of the criteria are located on the table next to entryway. He asks for verification of proper public notice.

Ritchie verifies the application to be heard this evening is complete, and was mailed to surrounding property owners on March 29, 2019, published in the Boulder Daily Camera on March 31, 2019, and the property was posted on March 29, 2019.

Briggs moves and **Levinson** seconds a motion that all requirements have been satisfied and the application submitted by the applicants has been properly filed. Motion passes by unanimous voice vote.

Stuart asks if anyone at the hearing has any objections to the hearing procedures he described and asks if there were any other preliminary matters that needed to be taken care of. None are heard.

Conflict of Interest and Disclosure:

Stuart asks for disclosures from the board members for any site visits, ex parte communications, and any conflicts of interest or required disclosures on the application.

All Board members indicate they did not have any ex parte communications or any conflicts of interest for the application.

Stuart asks the applicants if they are ready to proceed with the hearing. The applicant(s) indicated they are ready to proceed with the hearing.

Staff Report of Facts and Issues:

Ritchie reviews the location of the property, notes the existing setbacks and discusses the surrounding area and summarizes the proposal.

Staff Recommendations:

Staff finds that all six criteria in Municipal code Section 17.48.110 are met and recommends the Board of Adjustment approval of the variance request.

Board Questions of Staff:

None heard.

Applicant Presentation:

Applicant: Bruce and Cynthia Cleveland
1039 Azure Way

Mr. Cleveland discusses the re-design for the porch. He tells the board that the re-design will provide a more welcoming opening for the home and provide more exterior seating for family members and guests. He hopes to use this porch for more interaction between neighbors and a place to relax and have morning coffee. He also mentions that the existing roof lines on the second story will bring alleviation. He sees that the variance is a reasonable request, seeing that it is only approximately 2.4 inches and the design will enhance the house's aesthetics.

Board Questions of Applicant:

Gorsevski asks the applicant to go more into detail about what the intent was behind the re-design for the porch. Was it for structural purposes?

Guy Stevenson, Architect
3013 Lee Hill Drive

Stevenson says the original design was to maintain the existing setbacks. The problem with the original design was that there is an existing beam carrying the load of the roof that is beside the front door in the middle of the exterior house. Any work done on the front porch would add too much load or pressure to the existing beam. It would tear through the house's structure. The design of going from one column to two columns would take the load and pressure off the existing beam.

Public Comment in Favor:

Stuart receives three additional in support emails/letters from nearby neighbors that need to be added to the agenda packet. Stuart asks the board for a motion.

Gorsevski moves and **Briggs** seconds a motion to add these three public comments to the agenda packet. Motion passes by voice vote.

Public Comment Against:

None heard.

Summary and request by Staff and Applicant:

None heard.

Closed Public Hearing and discussion by Board:

Stuart says that the staff report was easy to understand and compelling. The design is straight forward and that it meets all the six criteria. He is in favor of the variance.

Leedy states that the variance meets all criteria that staff mentioned in their report.

Gorsevski agrees that all six criteria are met.

Briggs says the application is thorough and complete and that he is in favor of the application.

Levinson says he is in agreement with the other board members.

Motion is made by **Briggs** to approve 1039 Azure Way, a request for a variance from Section 17.12.040 of the Louisville Municipal Code (LMC) Residential Estate zone district front yard setback of 30-feet to allow a 2'-4" extension to the existing front porch resulting in a front setback of 18-feet on the property. Motion is seconded by **Gorsevski**. Roll call vote.

Name	Vote
James Stuart	Yes
Peter Briggs	Yes
Jessica Leedy	Yes
Alison Gorsevski	Yes
Rob Levinson	Yes
Motion passed/failed:	Pass

Motion passes 5-0.

Discussion Items:

Election of Officers

Motion is made by **Briggs** to elect Jessica Leedy as Chairperson and Alison Gorsevski as Vice Chairperson. Motion is seconded by **Levinson**. Passed by voice vote.

2019 Posting Locations

Ritchie reminds the board that the agenda postings are located at the City Hall Lobby, 749 Main Street, Louisville Public Library Bulletin Board, 951 Spruce Street, Louisville Recreation Center, 900 West Via Appia, Police / Municipal Court building, 992 Via Appia, and the City of Louisville website, www.LouisvilleCO.gov.

Levinson moved and **Briggs** seconded a motion to approve the agenda posting locations mentioned above. Passed by voice vote.

2019 Meeting Dates

Briggs moved and **Levinson** seconded a motion to approve the 2019 meeting dates as is. Passed by voice vote.

2019 Open Government Pamphlet

Ritchie informs the board that the new open government and ethics pamphlet is attached in the packet for the board to review.

Business Items tentatively scheduled for May 15, 2019:

Ritchie informs the board that Staff has received an application for a variance request on 04/16/19. She tells the board that they should expect a case to be heard at the next meeting date.

Staff Comments:

None heard.

Board Comments:

None heard.

Discussion Items for May 15, 2019 Meeting:

None heard.

Adjourn:

Briggs moves and **Levinson** seconds a motion to adjourn the meeting. Motion passes unanimously by voice vote. Meeting adjourns at 7:01 PM.

DRAFT

CITY OF LOUISVILLE
BOARD OF ADJUSTMENT
STAFF REPORT
May 15, 2019

APPLICANT: Eric Hiivala

OWNER: Eric Hiivala

STAFF PLANNER: Lisa Ritchie, Senior Planner

LOCATION: 10500 Empire Road (SH 42); A portion of the NW ¼ NE ¼ of Section 16, Township 1 South, Range 69 West of the 6th P.M.

ZONING: Industrial (I)

REQUEST: **Case #VAR-0210-2019** – Request for a variance from Section 17.16.120 of the Louisville Municipal Code (LMC) Requirement to allow a fence up to 8-feet tall in a portion of the property at 10500 Empire Road (SH 42).



SUMMARY:

The applicant requests a variance from Section 17.16.120 of the Louisville Municipal Code, which limits the maximum fence height to 4-feet in the front yard and 6-feet on the remainder of the property, to allow a fence up to 8-feet on a portion of the property at 10500 Empire Rd (SH42).

BACKGROUND: The subject property is zoned Industrial (I) and is used as a single-family residence. The property was annexed in 1977 and is not platted. It was annexed along with a portion of what is now The Business Center at CTC. The property was zoned Industrial (I) at the time of annexation. The home was constructed prior to annexation and is now considered legally nonconforming.

The LMC allows fences up to 4-feet tall in front yards, and up to 6-feet tall on the remainder of property throughout the City. On property that is not residentially zoned, fences are typically approved through the Planned Unit Development (PUD) process and subject to standards in the Commercial or Industrial Design Standards and Guidelines, along with the remainder of the site development. This property is not part of a PUD.

Existing Conditions – 10500 Empire Rd, looking west along Empire Rd



The applicant proposes to construct a new fence along a portion of the northeast of the property oriented to Empire Rd. As shown in the image above, the elevation of Empire Rd falls away from the property as it travels to the west.

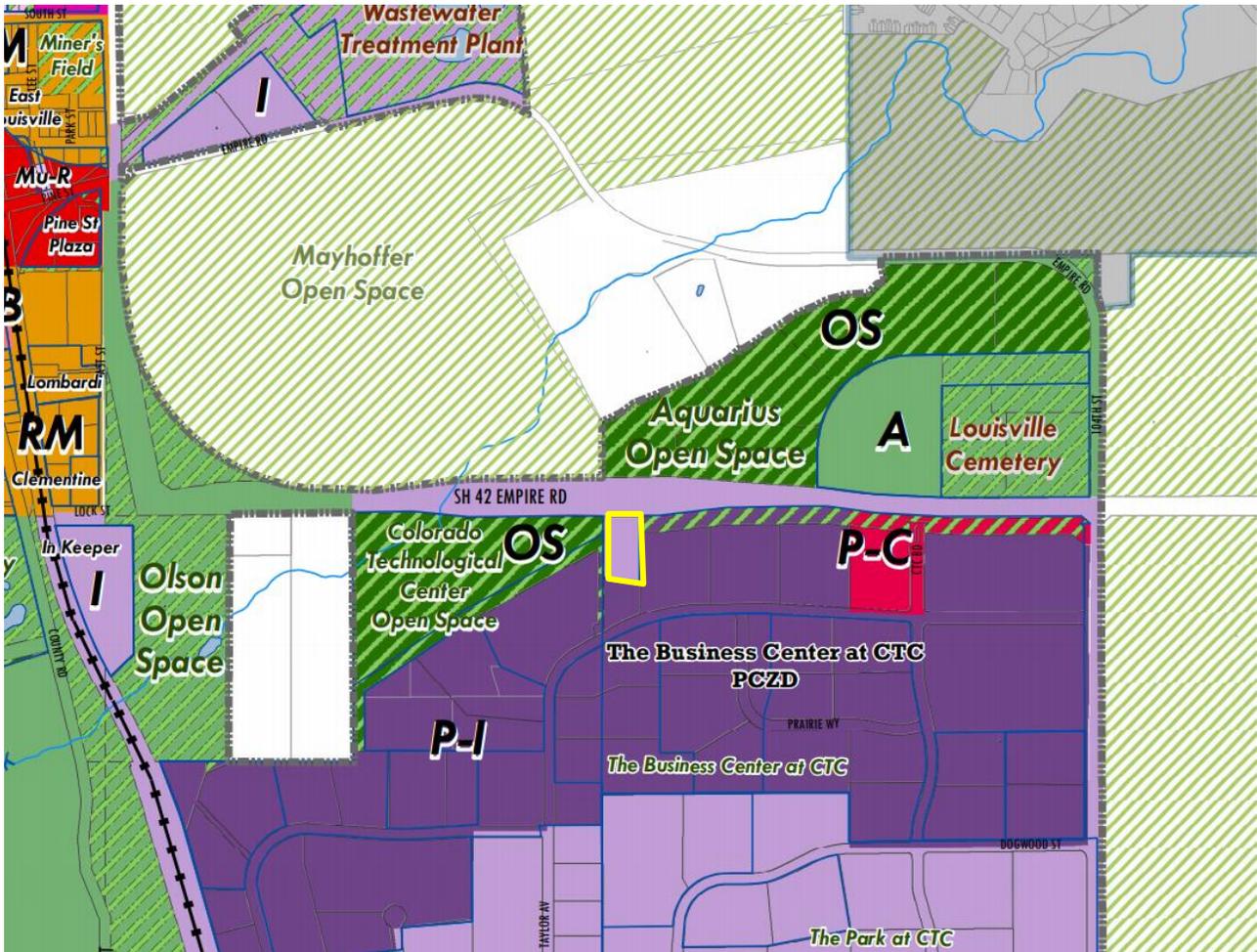
Existing Conditions – 10500 Empire Rd, looking east along Empire Rd



Proposed Fence Location



The property to the west of the subject property is zoned Open Space. The property to the east of the subject property is zoned Industrial, however the northern-most 110 feet of the properties are not eligible for improvements, including fencing. The first 55 feet south of the Empire Road right-of-way is an outlier owned by the City of Louisville, and the next 55 feet is privately owned, but is encumbered by a conservation easement that restricts development. The intent of the development restrictions within the conservation easement are to create an open and natural buffer between the industrial development and surrounding open space properties. The properties across Empire Road are a mix of open spaces, including the Mayhoffer and Aquarius Open Spaces.



REVIEW CRITERIA:

The BOA has authority to grant or deny a variance request based on the review criteria found in Municipal Code Sections 17.48.110.B.1-6. Following is staff’s analysis of the criteria with recommended findings on each.

1. *That there are unique physical circumstances or conditions such as irregularity, narrowness or shallowness of lot, or exceptional topographical or other physical conditions peculiar to the affected property.*

Staff finds that there are no unique physical circumstances or conditions related to the property as it pertains to this variance request. Numerous properties throughout Louisville are adjacent to high speed and/or high volume roadways in a similar manner to this property. These properties are restricted to 4 or 6-foot tall fences depending on the orientation of the lot. **Staff finds the proposal does not meet this criterion.**

- 2. That the unusual circumstances or conditions do not exist throughout the neighborhood or district in which the property is located.*

Staff finds there is no unusual circumstance or conditions in this request and 8-foot tall fences are not commonly found on the surrounding open space properties. As previously stated, many residential properties are adjacent to high speed and/or high volume roads and do not have 8-foot tall fences. In addition, the surrounding open spaces only contain short, open fencing and the industrial park has a perimeter open space conservation easement where fencing is not allowed. **Staff finds the proposal does not meet this criterion.**

- 3. That because of such physical circumstances or conditions, the property cannot reasonably be developed in conformity with the provisions of Title 17 of the Louisville Municipal Code.*

Staff finds that the property is already developed in a reasonable manner and has been occupied as a single-family home since its construction in 1975. Additionally, there are other alternatives that could mitigate impacts from noise from Empire Rd, such as landscaping, which is not subject to a maximum height. **Staff finds the proposal does not meet this criterion.**

- 4. That such unnecessary hardship has not been created by the applicant.*

Staff does not find an unnecessary hardship in this case. The design and use of the road has not changed since the applicant purchased the property in 2014. **With no finding of unnecessary hardship, staff finds the proposal does not meet this criterion.**

- 5. That the variance, if granted, will not alter the essential character of the neighborhood or district in which the property is located, nor substantially or permanently impair the appropriate use or development of adjacent property.*

Staff finds that the proposal will alter the essential character of the neighborhood in which the property is located. The subject property is surrounded by protected open space property that is maintained in a naturalized state with a rural character. While the CTC property is immediately to the southeast, the property has a perimeter conservation easement where development, including fencing, is not allowed in order to buffer between the development and the preserved open space. An 8-foot tall fence on this property located adjacent to Empire Road is not consistent with the surrounding area and will have a negative impact. **Staff finds the proposal does not meet this criterion.**

6. *That the variance, if granted, is the minimum variance that will afford relief and is the least modification possible of the provisions of Title 17 of the Louisville Municipal Code that is in question.*

Staff finds the applicant has alternatives that are available to mitigate the impact of noise from Empire Road. This includes landscaping, or a fence up to 4-feet tall as allowed in the LMC. The request is not the minimum that will afford relief. **Staff finds the proposal does not meet this criterion.**

PUBLIC COMMENTS:

To date, no public comments have been received on this application.

STAFF RECOMMENDATION:

Staff finds the proposal does not meet the applicable variance criteria in Section 17.48.110 of the LMC, and therefore, recommends denial of the variance request.

BOARD ACTION:

The Board may approve (with or without condition or modification), deny, or continue the application to a future meeting for additional consideration. The Board may also request additional information if they feel it is needed for their proper consideration of the variance application. In approving an application, the Board must find that all six variance criteria, insofar as applicable, have been met. The Board should adopt specific findings for each review criterion in support of any motion.

ATTACHMENTS:

1. Application
2. Fence Plan
3. Applicant photo simulations

1. That there are unique physical circumstances or conditions such as irregularity, narrowness or shallowness of lot, or exceptional topographical or other physical conditions peculiar to the affected property;

>>>>> This lot and house are located next to a 55+mph hwy with a distance of 80' from the lot line to the road which directs road noise up the driveway. Many cities build much larger sound walls on a regular basis. Hwy/287 is a very close example.

2. That the unusual circumstances or conditions do not exist throughout the neighborhood or district in which the property is located;

>>>>> There are no neighbors that would be affected by this fence. Pearl Izumi has mountain views to the west and over the top of the proposed site.

3. That because of such physical circumstances or conditions, the property cannot reasonably be developed in conformity with the provisions of this title;

>>>>> Not Applicable

4. That such unnecessary hardship has not been created by the applicant;

>>>>> Hardship is that a normal house setting in a neighborhood with a 20' setback fence distance requirement for taller fence (4'+) would make sense. In this setting the proportions of 80' back from car traffic @ 55+mph would make sense to allow an exception to this general rule.

5. That the variance, if granted, will not alter the essential character of the neighborhood or district in which the property is located, nor substantially or permanently impair the appropriate use or development of adjacent property;

>>>> It is my belief that with the provided photo renderings of what is proposed, will in no way deter or create a negative characteristic of the property, site line of mountain range, etc.. Much thought and effort have been placed on the design to appeal to both public aesthetics and homeowner enjoyment.

6. That the variance, if granted, is the minimum variance that will afford relief and is the least modification possible of the provisions on this title which are in question.

>>>>> Due to the shape of the rolling hillsides, the proposed fence size, length & height seem to be appropriate and tasteful for the location in consideration.



