

# ***Board of Adjustment Agenda***

**March 16, 2016  
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
  - Ø February 17, 2016
- V. Public Comments on Items Not on the Agenda
- VI. Regular :
  - Ø **175 Lois Dr – Variance Request** – A request for a variance from Section 17.12.040 of the Louisville Municipal Code (LMC) for relief from rear setback and maximum lot coverage requirements to allow additions to the front porch, rear deck, and second story. **Case #16-002-VA Continued from February 17, 2016 meeting**
    - Applicant & Owner: Phil Larson, 2090 Stony Hill Rd, Boulder
    - Representative: Kathleen Thorne, KTH Design
    - Case Manager: Scott Robinson, Planner II
  - ü Open Public Hearing
  - ü Opening Statement by Chair
  - ü Public Notice and Application Certification
  - ü Disclosures
  - ü Staff Presentation and Questions of staff
  - ü Applicant Presentation and Questions of applicant
  - ü Public Comment
  - ü Applicant discussion of public comment, if any
  - ü Closing statement by staff and applicant and Final questions by board
  - ü Close public hearing and Board discussion and action
- VII. Discussion Items
  - Ø Election of Officers
- VIII. Business Items tentatively scheduled for April 20, 2016
- IX. Staff Comments
- X. Board Comments
- XI. Discussion Items for Next Meeting April 20, 2016

XII. Adjourn

# ***Board of Adjustment Meeting Minutes***

**February 17, 2016  
City Hall, Council Chambers  
749 Main Street  
6:30 PM**

**Call to Order** – Chairman **Stuart** called the meeting to order at 6:30 PM.

**Roll Call** was taken and the following members were present:

|                        |  |
|------------------------|--|
| Board Members Present: | James Stuart<br>Leslie Ewy<br>Thomas DeJong<br>Lowell Campbell |
| Board Members Absent:  | Gunnar Malmquist<br>Andrew Meseck                              |
| Staff Members Present: | Scott Robinson, Planner II                                     |

**Approval of Agenda:**

**Ewy** moved and **DeJong** seconded a motion to approve the February 17, 2016 agenda as prepared by Staff. Voice vote. Motion passed 4-0.

**Approval of Minutes:**

**Ewy** made a motion to approve the December 16, 2015 minutes and **Stuart** seconded a motion. **DeJong** and **Campbell** abstain. Voice vote. Motion passes 4-0.

**Public Comments on Items not on the Agenda:**

None.

**Regular Business**

- Ø **175 Lois Drive – Variance Request** – A request for a variance from Section 17.12.040 of the Louisville Municipal Code (LMC) for relief from rear setback and maximum lot coverage requirements to allow additions to the front porch, rear deck, and second story. **Case #16-002-VA**
- Applicant & Owner: Phil Larson, 2090 Stony Hill Rd, Boulder
  - Representative: Kathleen Thorne, KTH Design
  - Case Manager: Scott Robinson, Planner II

**Stuart** reviewed the procedures for the meeting; opened the public hearing; and stated there are six criteria which must be met for the board to approve a variance request. **Stuart** then

stated copies of the criteria are located on the table next to entryway. He asked for verification of proper public notice.

**Robinson** verified the application to be heard this evening is complete, and says the notice was posted in City Hall, Public Library, Louisville Recreation Center, Courts and Police Building, and mailed to surrounding property owners on February 1, 2016, published in the Boulder Daily Camera on January 31, 2016, and the property was posted on February 1, 2016.

**Ewy** moved and **DeJong** seconded a motion that all requirements have been satisfied and the application submitted by the applicants has been properly filed. Motion passed by unanimous voice vote.

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

**Stuart** asked 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 indicated they did not have any ex parte communications or any conflicts of interest for the application.

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

**Stuart** asked the applicants if they were ready to proceed with the hearing.

The applicants indicated they were ready to proceed with the hearing.

Staff Presentation of Facts and Issues:

**Robinson** presents. This is a request for a variance from the lot coverage and rear setback requirements at 175 Lois Drive, Louisville, CO.

- Background
  - Property located on Lois Drive. It backs to the Warembourg Open Space and is in the Centennial Valley Filing 3 subdivision.
  - Existing property is 5,296 sf with a 1,623 sf building. It currently has 31% lot coverage.
  - Zoning for property is Residential Estate (RE) density which requires 12,000 sf minimum lot size, 20% maximum lot coverage, and 20' required rear setback.
  - Applicant is proposing an addition to the building. Staff is reviewing three requests.
    - § Expand rear deck. Existing deck does not comply with rear setback requirements.
      - Existing deck extends 4' into the rear setback and is 16' from rear lot line.
      - Applicant is requesting to expand the deck 3' further into the rear setback, which will be 7' into the rear setback and be 13' from the rear lot line.

- Expand deck area from 108 sf to 189 sf.
- § Cover front porch with a roof.
  - Existing front porch is uncovered.
  - Cover existing front porch with roof which will add additional 52.5 sf to lot coverage.
- § Rearrange cantilevers or overhangs on main level.
  - Front of property, no change in size, just moving it to the south to accommodate new front porch cover
  - Removing south large overhang and replacing it with a smaller overhang.
  - Net decrease of 11 sf. Existing lot coverage from 31% to 33%.

**REVIEW CRITERIA:**

The BOA has authority to hear and decide, grant or deny this application for a variance from Section 17.12.040 of the LMC by the powers granted the BOA in Section 17.48.110 of the LMC. The BOA may grant a variance only if it makes findings that all of the criteria, as established under Section 17.48.110.B.1-6, have been satisfied, insofar as applicable:

The applicant has provided a written analysis of the variance criteria, which has been included in the BOA packet materials. Following is a staff review and analysis of the variance criteria.

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.*

The unique physical circumstance in this case is that the lot is 6,704 square feet smaller than the minimum allowed lot size in the zone district. Generally, in the LMC, as minimum lot sizes get smaller, maximum lot coverage allowances increase. In this case, the maximum lot coverage is mismatched to the lot size. In addition, the house was built nearly to the rear setback line, not providing any space for a rear deck. Because of the split-level design of the house, any rear deck would need to be taller than 30 inches.

**Staff finds this criterion has been met.**

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

Section 17.48.110 of the LMC states a variance may only be granted if all criteria, "insofar as applicable," are met. In this case, where the majority of the lots in the subdivision are smaller than the minimum lot size, the unusual circumstance by definition exists throughout the neighborhood. Most of the houses in the neighborhood that back to the Warembourg Open Space are also very near the required rear setback line. Staff has determined that applying this criterion to applications of this sort is not appropriate.

**Staff finds this criterion is not applicable.**

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.*

The current zoning does not allow any expansion of the building's footprint. This includes decks above 30 inches in height and covered porches, as well as additions. The proposed deck expansion is not overly large, and is intended for a more usable rear yard experience. The cover is proposed for the existing front porch to make it more useable and inviting. The cantilever modifications are to make the interior more functional and have minimal impact on the exterior. The porch cover and cantilevers comply with setbacks. The house is so close to the rear setback line that a useable deck could not be constructed in compliance with the setbacks. The RE zone district lot coverage and PUD rear setback requirements would not enable this reasonable expansion to occur. **Staff finds this criterion has been met.**

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

The existing house was built in 1984 exceeding the allowed lot coverage of the RE zone district and with no room for expansion. The house was built two feet from the rear setback line, not providing any room for a rear deck. The applicant did not create the unnecessary hardship. **Staff finds this criterion has been met.**

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.*

The property is one of the smallest in the Centennial Valley 3 neighborhood and already has one of the highest lot coverages. Further increasing the lot coverage to 33 percent could create the impression of a crowded lot, incompatible with the neighborhood. However, these specific additions—a rear deck, covered porch, and cantilever modifications—are unlikely to create that impression, and the overall footprint of the building will still be similar to others in the neighborhood in terms of square footage. The rear deck will have minimal impact because the property backs to open space. This variance will not affect the character or the development potential of adjacent property because it meets established front and side setbacks. If the variance is granted, the area will remain a low-density single-family neighborhood. **Staff finds this criterion has been met.**

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.*

The requested variance would allow only the proposed rear deck to be built and no further expansion of the building footprint. The additional square footage requested is modest, and the requested lot coverage is still below that allowed in the RM zone district. **Staff finds this criterion has been met.**

Staff finds that five of the six criteria are met and one is not applicable. Therefore, Staff recommends of the variance request.

#### **PUBLIC COMMENTS:**

Public notice was mailed to all property owners within 500 feet of the subject property. At the time of this report's creation, Staff had not received any public comment. If comments are received prior to the hearing, that information will be presented at the hearing.

#### Questions from Board to Staff:

**Campbell** asks what are the physical dimensions of the property?

**Robinson** says no. The square footage is 5,296 sf. It is 61.4 feet wide and approximately 86 feet deep.

**Campbell** asks what are the physical dimensions of the property to the north? What about the third property north?

**Robinson** says no. It appears to be about the same size. I do not have the dimensions of the other properties.

**Stuart** says in looking at the picture, each property looks slightly larger than the lot asking for variances.

**Campbell** says you mentioned that criterion #4 was met. It is my understanding that when a person buys a property, they stand in the shoes of the previous owner and what they are purchasing is what the previous owner created. What was the underlining zoning for this development before the PUD?

**Robinson** says it was zoned Residential Estate (RE) and then the PUD was put in place when it was initially subdivided and developed.

**Campbell** says the developer requested a PUD? The PUD was granted by the City?

**Robinson** says the developer requested the PUD and it was reviewed and approved by City Council (CC).

**Campbell** says it was the developer that sited the house on this particular lot. He would be the one of the previous owners. Wouldn't this applicant be bound by those criteria?

**Robinson** says the purpose of the variance is to allow for relief from these issues. The question is whether it was applicant's actions that caused it or something inherent in the site or previous actions of an owner. In this situation, it was not the current property owner that built the house on the site or subdivided the property or put the zoning in place, which are creating the problems. Staff believes this criterion is met because when they purchased the house, all of these issues were already in place.

**Campbell** says if this owner is standing in the shoes of previous owner, then the previous owner would have been one of them that created the hardship.

**Robinson** says that is not the evaluation we use for this criterion.

**Stuart** says our precedent has been that if the owner bought the lot with that problem, he is not the cause of the hardship. That has been our precedent for interpreting this rule for a long time. He is not standing in the shoes of the other owner. If the rules change and the zoning changes, it is not present owner's fault. It was the way it was sited before he bought it, and it is not his fault.

**Ewy** says there was a period of time in Louisville that when the PUDs were adopted, whether it was by oversight of Staff or was not done at the time, most PUDs will have a lot coverage defined. It is in keeping with the types of homes sited on the property. When the PUDs were done in the 1980s to mid 1990s, it was common that they lacked proper lot coverage. They did not change the zoning as part of the PUD adoption. The 12,000 sf minimum lot size is in conflict with most of those subdivisions from that time. The lot coverage is a significant issue. The BOA works with Staff and Staff worked with CC for a number of years to get an ability to do an administrative lot coverage variance up to 30%. What has happened on the super small lots is most of the time, they are already exceeding the 30% threshold. We saw a lot of these applications since it is a pretty common problem in the City.

**DeJong** says it is my understanding that under this criterion, it is "this applicant".

**Campbell** says I hear the answer but I am not sure I agree with it.

**Stuart** says that the criterion have been interpreted this way since I have been on the BOA for over 12 years.

**Ewy** says the City Attorney has been involved with this interpretation as well.

**Robinson** says Staff has always interpreted this criterion so that it is "this applicant" and the current property owner and applicant is not responsible for past actions or decisions by previous property owners.

**Campbell** asks if the City Attorney is present? Who is the City Attorney?

**Robinson** says no, he is not present. His name is Sam Light.

Email entered into the record:

**Ewy** makes motion to enter email from Thomas Tessier, seconded by **Stuart**, passed by voice vote.

Presentation from Applicant:

**Kathleen Thorne**, KTH Design, 2141 Wagon Way, Louisville, CO 80027

**Dani Larson**, daughter-in-law, 10293 Robb Street, Westminster, CO 80021

**Thorne** speaks. Phil Larson wanted to be here this evening. His father-in-law has had a heart attack and has undergone a massive surgery so he is not present. I do not have too much to add. I think Scott did a great job explaining what we want to do. The house was built in 1984. It is a bi-level and the rear deck counts as lot coverage because it is elevated. Some of the other houses on this street probably have decks built into the setback because they are on grade. Adding the front porch is an aesthetic thing and it will enhance the neighborhood. The one cantilever on the south side that he wants to take off is a wood-burning fireplace. Deleting that cantilever is good for energy because he will add a more energy efficient gas fireplace.

Questions from Board to Applicant:

**DeJong** asks about the proposed rear deck. Will it be wood plank construction or Trex plank construction or a solid surface? Will it be plank construction with open space between the boards?

**Thorne** says it will be made of Trex and be plank construction. The deck does face open space so I don't think it will impact the neighbors. Where he is asking for a 9' depth, I think it is a reasonable request for a minimal deck to get a table and chairs for a family.

Public Present in Favor of Application:

**Tom McAvenew**, 229 Lois Drive, Louisville, CO 80027

I live at the side of the street, just before Hoover, at the corner. I am in favor of this and have no objections. I would like to add, when talking about lot coverage and lot sizes, my lot as a corner is only 7,000 sf. When I built my deck 25 years ago, I had to squeeze it in. I am within 2" of being within that 20'. It turned out that I am not compliant because of an error made by the City. We bought the house in January 1984. When the original owner got a permit from the City to put a fence in, they put it to the wrong point on the corner. There is an extra 27' of fence along Hoover and an extra 64' causing a triangle. I gained 160 square feet. If I take that property line as it should have been, then my deck is not in compliance. I have just executed a revocable license with the City with the City recognizing that it was an error. Even though there was a permit taken out, there was no record of any inspection being made. You can assume that if an inspection was made, someone would have notice the fence was built to the wrong point and you have to fix it. But it wasn't done so I have the use of an extra 800 square footage. Squeezing in houses in that area is a problem because those lots are small. Certainly, if this property were to back up to other houses, there would be an issue. But it does not, and I don't see that it encroaches on the lovely open space. We were the first residents to get the revocable license. This has been done for commercial properties in town because of errors made in surveying and other issues. We are glad we got the license. I want to thank my Council Person, Ashley Stolzmann, for letting me know about it.

Public Present in Opposition of Application:

**Chris Larson**, 211 Lois Circle, Louisville, CO 80027

I am no relation to the applicant but I send my condolences to the applicant's family. I live at 211 Lois Circle and am kitty-corner across the way. I am here this evening because I want to make an inquiry based upon the public notice on the variance. The one thing I haven't heard is the reference to the second story. Notice was given at the public notice regarding the rear setback and maximum lot coverage requirements to allow additions to the front porch, rear deck, and second story. It is the second story piece of that notice that brings me here this evening. My concern is the vertical height of the houses in this neighborhood that create an even line at this point. My house purchased in 2010 has a very small but a wonderful view of the Front Range that comes just over the top of the houses across the street, including the one where the variance is being sought. If there were to be a change in the sight lines of the present roof structure, the height of the roof, it would encroach upon that view of the Front Range. With respect to my house's value, it would diminish it. I pose it as a question because we have not had any presentation on that. If there were to be an impact to the vertical height based upon the second story on the notice, I would oppose that.

**Stuart** says it is my understanding that we are not raising the roof, just putting things below the roof line.

**Robinson** says all of the variance requests relate to changes on the main level. It is my understanding that the applicant also intends to do a second story addition but no variance is required for that. They are allowed per the code to go up to 35' maximum height. It is my understanding that they are intending to add an addition above the garage, but it would comply with all zoning requirements. It would not require a variance.

**Chris Larson** asks that the developer be mindful that the neighbors would be concerned about any potential encroachment over what is presently code.

**Ewy** says, to clarify, in the absence of the lot coverage issue and this rear setback, the height in and of itself and the second story addition would not have come before the BOA.

**Robinson** says yes.

Public Hearing Closed / Board Discussion:

**Stuart** says I see this property backs up against open space. We have seen this before with lot coverage, and I agree on all the assessments that Staff did. I would have been biased if some of the neighbors complained that the deck would be unsightly. I am fully in favor of this.

**Ewy** says I am familiar with the neighborhood and I run the social trail on the open space. I do know, from that experience, that the homes are crowded to the rear lot lines. This particular house is set back quite a bit to the rear lot line based on how they placed the garage. It seems really awkward. I am in support of the variances. This type of topic has come up several times since I've been on the BOA. I feel that if a homeowner has purchased a house and it is still in its relatively original condition, there should be a reasonable expectation to make some amount of modifications to the home, especially when you have a home with such a small lot. The desire to enclose or cover a porch or have a deck appropriately-sized for outdoor living space, especially with the phenomenal views across that open space, is a reasonable request. This property was already legally nonconforming with the PUD at the beginning. The lot size is so minimal, it doesn't take much to bump up a couple percentage points. I think we have personally seen in this neighborhood where there are exceptionally small lots that even pushed higher than 33%. It is not out of line with the neighborhood and other cases we've seen. I also feel that the covered porch entry is a nice aesthetic modification, especially for the split level type home. I think it will enhance the street scape. With the desire to have the widened deck, because there is a ditch behind this property and the social trail is so far to the west, I don't feel like the public would have an adverse reaction to a deck that is modestly grown by 3'. I don't think it would be noticed. I am in support of the two variance requests.

**DeJong** says I want to state that Staff did a very thorough and reasoned analysis. I agree with the analysis and conclusions made by Staff. I find that there is no opposition by any immediate neighbors of the property. At this point, I find the size of the addition of the deck is not unreasonable. I am in support of the two variance requests.

**Campbell** says I was disappointed in Staff's response to my questions of not having the physical dimensions of the lots next door. That would create the unique hardship, in my mind. I am not convinced that this property is unique. For that reason, I would not support it.

**Stuart** says I would agree that the set of houses are unique, not just this one house. These were all zoned in improperly.

**Ewy** says it was a mistake during the PUD process. We have talked to the Planning Director about rectifying this problem that is pervasive through the City. We reviewed a case perhaps one-quarter mile away that was a slightly smaller lot, and the BOA did grant an exception to the case almost verbatim. We have a long precedence for this. In talking to the Planning Director, you'd have to do a PUD amendment with property owners in concert signing onto regarding lot coverage. What lot coverage would make all the homes legally compliant, and then determine whether or not it should be slightly higher to allow modest improvements? That is a very significant undertaking. If it had been just this PUD, not such a problem, but we are talking about massive amounts of properties. It is truly of the age between 1984 and mid 1990s when Louisville took off and grew. It was a common error.

**Stuart** says one house is not unique compared to the house next to it. It is these groups of houses were miss-zoned and the rules were incorrect. Property owners come to us to try and give them some lenience and relief for the bad rules. The rules were applied incorrectly to them. They should have a minimum of 12,000 sf and the lot coverage is associated with that 12,000 sf. If you have half the lot size, you should have twice the lot coverage. They were noncompliant when the City put the rules in, and that was a mistake.

**Ewy** says in this type of neighborhood with lot sizes that range from low 5,000 sf to 7,000 sf, as a whole this PUD doesn't even meet the minimum threshold of Louisville zoning. Our zoning code was never updated as a City. All these neighborhoods were platted and zoned as part of the PUD process. This house is not particularly unique and each neighbor would have an expectation to do the same. In this particular neighborhood, if we were setting the thresholds today, we would be looking at close to 35% under normal Planning expectations. We are in an awkward role where we have certain rules for variance and reading them and holding to the letter, I agree you would have a question on uniqueness. But because of the pervasive problem, the BOA is granting these variances as long as the requests are reasonable. If these folks had come in and expected to quadruple the size of their deck and really push out the front of their home, this would be a different discussion. That would change the character.

**Stuart** asks Robinson, Sam Light has concurred with these decisions we have been making over the last many years.

**Robinson** says when we first started getting a lot of these variance requests, we talked to the City Attorney. He concurred that this was the best way to handle these, going through individual variance requests. We talked through the criteria with him and he agreed with our reasoning on them. It is the same reasoning we have been using for the last 3 to 4 years because we get several requests per year. Without speaking for the City Attorney since he is not here, based on previous conversations, it is my understanding that he agrees with this interpretation.

**Campbell** says these comments don't change my concern.

**Ewy** asks a procedural question. Because tonight we must have a unanimous vote, does the applicant have any options?

**Robinson** says yes. The applicant can request a continuance to a future meeting when we either have a larger group so the requirements change, or we can get additional information for Board Member Campbell so perhaps he would be comfortable with the variance.

**Ewy** asks if the vote proceeds and it is denied, does the applicant have any recourse at that time?

**Robinson** says any challenges to a decision by the BOA go to District Court, so it would be a District Court case. These are not reviewed by City Council. The applicant can come back and reapply with a modified application or a new application, or they can challenge this decision in Court.

**Stuart** says that during this discussion period, we size each other up and see how everything is going. So Board Member Campbell, if you think you will not vote for this, I am moving that we continue this until the next meeting. Is that acceptable to the applicant? If this fails, you have to file again.

**McAviney** says the PUD was approved for this subdivision in 1978. Back at that time in the 1970s, there were a lot of mistakes made. The City of Louisville, as far as development goes, was builder-developer run. Things changed in the 1980s. Having just gone through the revocable license process with this mistake that was made by the City on my property, I don't think this owner should be penalized for that.

**Ewy** says I have concern if we as a Board do deny tonight, we have a precedence this resident can clearly look at over the last 3 to 4 years with extremely similar cases. I respect that Board Member Campbell does not approve, but I would like to give this property owner an option to have something besides District Court recourse.

**Stuart** asks Board Member Campbell if he still would not vote positively.

**Campbell** says I lived here in the 1980s and 1990s and I attended a lot of hearings that dealt with PUDs. I never heard anybody say that they were making a mistake in the zoning they were doing. After some changes in City government, there seemed to be a change in philosophy toward zoning to be more liberal. I am not sure I agree with your arguments.

**Ewy** says if this house in its current capacity was sited on a 12,000 sf, we would not have this conversation. The PUDs have a mistake and City Council has acknowledged this. It is not a liberal interpretation. It is a fact of this PUD.

**Stuart** says it is clear that the 12,000 sf minimum lot size is incorrect to apply to a lot that is only 6,000 sf. It is already in violation. It's not liberal or conservative; it's simply wrong.

**Campbell** says I would be happy to review where the City Council has said that these are mistakes, if you have a copy of that document.

**Ewy** says we can probably pull the Study Sessions we attended and had a joint session with City Council for two running years.

**Stuart** says to the applicant, I would like to not deny your application. I think if we had more people here, you might find a more positive response.

**Thorne** asks when is the next BOA meeting?

**Robinson** says on Wednesday, March 16, 2016. There would be no additional filing fees.

**Ewy** says we should not deny with all the case history. We can certainly reach out to the City Attorney and get his opinion if that might help.

**Campbell** says if the City Council has stated that past Councils have made a mistake and past Planning Boards have made a mistake, I would be happy to review that.

**Ewy** says the actual adoption of the administrative variance is most likely in the Staff memo. The only reason we are here is that the administrative variance stopped at 30%, and this lot size, being so small, is driving that.

**Dani Larson** says **Phil Larson** (contacted by text/phone) wants to know that the primary sticking point is?

**Campbell** says my issue is the deck extension into the back yard.

**Ewy** clarifies it is the setback variance. It is not the lot coverage, it's the 3' increase into the setback. How far above 30" is the deck currently?

**Thorne** says it is a split level so approximately 42" to 48" above grade.

**Robinson** says Staff interprets that if a deck is under 30", it doesn't count towards either setbacks or coverage.

**Ewy** asks if there is any potential way that the deck could be designed so it would not be considered an intrusion into the setback (such as 29.5 inches high)?

**Thorne** says there are windows out of the lower level. If a deck is built in front of the windows, we will be blocking any view of the open space but it could also block egress.

**Dani Larson** says **Phil Larson** asks if the entire permit would be on hold?

**Thorne** says I have submitted a permit for the other changes in the house, such as adding the master suite above the garage and reworking the kitchen. We want to take the old fireplace out and put in an efficient one. That impacts floor construction currently.

**Robinson** says we can issue a permit for other work that does not require the variance. We can issue a permit for internal work or other work not impacted by the variance.

**Ewy** asks **Robinson**, if it is a setback issue, can we split the vote that we continue the discussion on setback and vote on the lot coverage issue which would release them to the do the front porch and the cantilevers. We would be back to discuss the deck encroachment at a later date.

**Robinson** says yes, since they are two separate variances, you can vote on them separately.

**Stuart** asks how do we phrase this?

**Robinson** says, in your motion, treat each variance separately; a motion for the lot coverage variance request and a motion for the rear setback variance request.

**Stuart** then clarifies that Staff will interpret this for the applicant so they can proceed.

**Dani Larson** clarifies that if the variances are split, do we wait on the rear setback variance until the next meeting for the second half?

**Robinson** says yes, the BOA can vote on both of them or vote on one and continue the other one to next month.

Motion made by **Ewy** to make a friendly amendment to the original variance request to separate it into two different items. **Ewy** makes a motion on Case 16-002-VA for 175 Lois Drive, Louisville, CO to approve the lot coverage variance request for this property, seconded by **DeJong**.

Roll Call Vote:

| Name                  | Vote   |
|-----------------------|--------|
| James Stuart          | Yes    |
| Leslie Ewy            | Yes    |
| Gunnar Malmquist      | Absent |
| Andrew Meseck         | Absent |
| Thomas DeJong         | Yes    |
| Lowell Campbell       | Yes    |
|                       |        |
| Motion passed/failed: | Pass   |

Motion passed 4-0.

**Ewy** makes a motion on Case 16-002-VA for 175 Lois Drive, Louisville, CO to continue the rear setback encroachment variance for this property until the next BOA meeting, seconded by **DeJong**. Voice vote, 3-1. Variance continued until March 16, 2016.

**Dani Larson** clarifies for **Phil Larson**, property owner, that he can begin construction on the front porch roof and removal of the cantilevers, but he may not start work on the deck. **Robinson** says the applicant will need to apply for a building permit to reflect that has been approved tonight. Once it is approved, you can start work except the rear deck.

**Election of Officers:**

**Stuart** suggests election of officers be postponed to the next BOA meeting when other members are present to participate in the election.

**2016 Posting Locations:**

**Posting Locations for Meeting Notices** - By resolution or acclamation, identify the posting locations for meeting notices as follows:

- City Hall
- Library
- Recreation/Senior Center
- Police Department/Municipal Court
- Web site: [www.LouisvilleCO.gov](http://www.LouisvilleCO.gov)

**Ewy** makes motion to approve posting locations, **Stuart** seconds. Voice vote. Motion approved 4-0.

**2016 Meeting Dates.**

Board of Adjustment meeting dates are the third Wednesday of each month. March 16, April 20, May 18, June 15, July 20, August 17, September 21, October 19, November 16, December 21.

**2016 Open Government Pamphlet.**

**Open Government Pamphlet** – the 2016 Open Government Pamphlet (attached) must be included on your agenda and distributed in your meeting packet.

**Robinson** says there is no scheduled date at this time. This spring, **Sam Light**, City Attorney, will conduct the Ethics Review. Both **DeJong** and **Campbell** will have an opportunity to meet him when they attend.

**DeJong** asks if this ethics training is for all boards.

**Robinson** says it is divided between quasi-judicial and the advisory boards. It will be the Board of Adjustment, Planning Commission, Historic Preservation Commission, and local Licensing Authority.

**Staff Comments:**

At the next Board of Adjustment meeting in March, we have a one continuance.

**Susie Bye**, Minutes Secretary, has been typing the minutes for the Planning Commission for two years. She will start typing the Board of Adjustment and Historic Preservation Commission as well.

**Sean McCartney**, Principal Planner, who used to run this Board is leaving the City, and going to the City of Westminster. With Troy Russ, Directory of Planning, gone as of December 31, 2015, we will be short staffed for a couple months.

**Discussion Items for March 16, 2016 Meeting:**

- Ø **175 Lois Drive – Variance Request, Case #16-002-VA.** Variance continuance on rear setback.
- Applicant & Owner: Phil Larson, 2090 Stony Hill Rd, Boulder
  - Representative: Kathleen Thorne, KTH Design
  - Case Manager: Scott Robinson, Planner II

**Adjourn:**

**Ewy** moved and **Campbell** seconded a motion to adjourn the meeting. Motion passed unanimously by voice vote. The meeting was adjourned at 7:37 PM.

DRAFT

**CITY OF LOUISVILLE**  
**BOARD OF ADJUSTMENT**  
**STAFF REPORT**  
**March 16, 2016**

**APPLICANT:** Phil Larson, 2090 Stony Hill Road, Boulder

**OWNER:** Same

**STAFF PLANNER:** Scott Robinson, Planner II

**LOCATION:** 175 Lois Drive, Lot 6, Block 8, Centennial Valley 3

**ZONING:** Residential Estate (RE)

**REQUEST:** **Case #16-002-VA** – Approval of a variance from Section 17.12.040 of the Louisville Municipal Code (LMC) for relief from rear setback and maximum lot coverage requirements to allow additions to the front porch, rear deck, and second story. *Continued from February 17, 2016.*

**MARCH 16, 2016 UPDATE:**

At the February 17, 2016 meeting, the Board approved the lot coverage variance request and continued the rear setback variance request to the March 16 meeting for further discussion. Questions at the February meeting revolved around criterion number two: *That the unusual circumstances or conditions do not exist throughout the neighborhood or district in which the property is located.*

The attached email from Sam Light, City Attorney, provides further discussion of interpretation of the criterion. Staff has also completed some further analysis of the Centennial Valley 3 neighborhood. The lot in question is 90 feet deep, as are the three lots immediately to the north of it. Of the 105 lots in Centennial Valley 3, 18 of them are 90 feet deep or less. The average lot in Centennial Valley 3 is approximately 105 feet deep. A copy of the Centennial Valley 3 plat is attached.

Staff still finds the second criterion is met and still recommends approval of the rear setback variance. The staff report from the February meeting follows below:

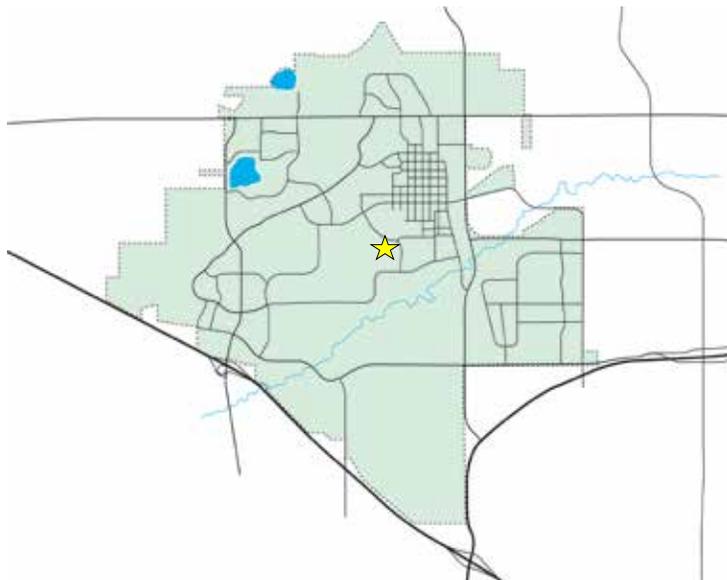
**SUMMARY OF PROPOSAL:**

The applicant, Phil Larson, is requesting variances to allow for a larger rear deck, a covered front porch, and expanded cantilevers on the main floor of the existing split-level home. The proposed changes would reduce the rear setback from 16 feet to 13 feet and increase the lot coverage from 31% to 33%. The house is located at 175 Lois Drive in the Centennial Valley 3 subdivision and is zoned Residential Estate (RE). The Centennial Valley 3 planned unit development (PUD) requires a rear setback of 20 feet and the RE zone district allows a maximum lot coverage of 20%.



**BACKGROUND:**

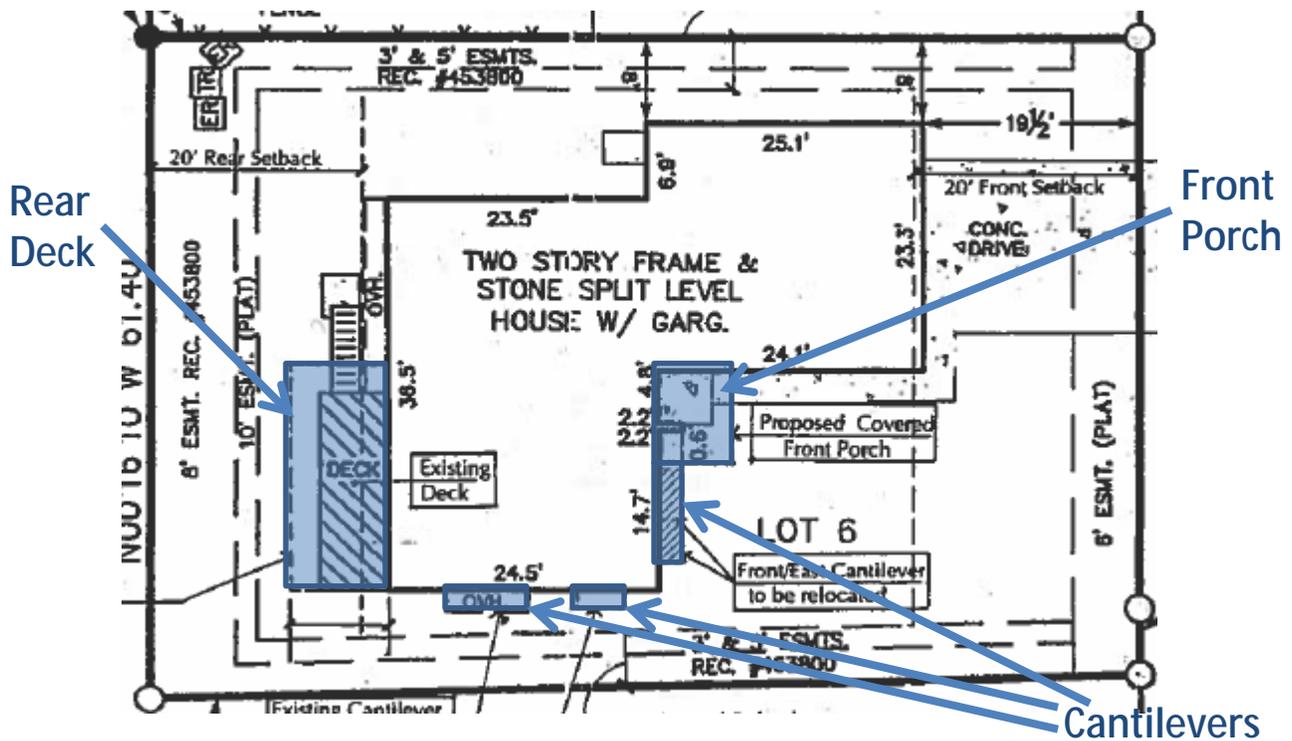
The applicant is requesting rear setback and lot coverage variances to allow for additional development of his property located at 175 Lois Drive in the Centennial Valley 3 subdivision. The PUD for the subdivision was approved in 1981 and the house was built in 1984. The property backs to the Warembourg Open Space.



The Centennial Valley 3 PUD controls setbacks for the property. The proposed modifications comply with the required setbacks, except for the rear deck. The PUD requires a 20 foot rear setback. The existing deck is 16 feet from the rear lot line, four feet into the required setback. The proposed nine foot by 21 foot deck would be 13 feet from the rear lot line, seven feet into the required setback.

The PUD does not have a specific lot coverage requirement, so under section 17.28.110 of the Louisville Municipal Code, the lot coverage requirements of the underlying zone district control. The neighborhood is zoned Residential Estate (RE), which has a minimum lot size of 12,000 square feet. The lots in Centennial Valley 3 range from about 5,000 square feet to over 11,000 square feet. The property in question is 5,296 square feet, one of the smallest in the subdivision.

The RE zone district allows a maximum lot coverage of 20 percent. 175 Lois currently has a lot coverage of 31 percent, including a 108 square foot rear deck. The applicant would like to expand the deck by approximately 80 square feet, cover the front porch, and expand the main level cantilevers, which would bring the lot coverage to 33 percent (1,746 square feet from 1,623 square feet currently). The deck is counted toward lot coverage because it is more than 30 inches above grade and the porch would be counted because it would be covered.



In the LMC, maximum allowed lot coverages generally decrease as minimum lot sizes increase across the zone districts. A 20 percent maximum lot coverage is found in the RE, RR, SF-MD, and SF-LD zone districts, which have minimum lot sizes ranging from 12,000 square feet to 21,780 square feet. The RL zone district has a minimum lot size of 7,000 square feet and a maximum lot coverage of 30 percent, while the RM zone district has a

maximum lot coverage of 35 percent with the same minimum lot size of 7,000 square feet. No zone district in Louisville has a minimum lot size of less than 7,000 square feet.

The subject property, at 5,296 square feet, is significantly smaller than the minimum lot size for the RE zone district. The 20 percent maximum lot coverage allows a building footprint of only 1,059 square feet. The adjacent properties are slightly larger (5,713 square feet and 6,631 square feet) and have lot coverages of 25 percent and 24 percent. The property immediately to the south, 151 Lois, received a variance to allow an increase in lot coverage from 23 percent to 24 percent.

There are many properties in Louisville zoned RE with lot sizes less than the 12,000 square feet required in the zone district. Lots zoned RE and smaller than 8,000 square feet are eligible for administrative variances to allow lot coverages of up to 30 percent. Because the applicant is requesting 33 percent lot coverage, the application requires a public hearing.

#### **REVIEW CRITERIA:**

The BOA has authority to hear and decide, grant or deny this application for a variance from Section 17.12.040 of the LMC by the powers granted the BOA in Section 17.48.110 of the LMC. The BOA may grant a variance only if it makes findings that all of the criteria, as established under Section 17.48.110.B.1-6, have been satisfied, insofar as applicable:

The applicant has provided a written analysis of the variance criteria, which has been included in the BOA packet materials. Following is a staff review and analysis of the variance criteria.

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.*

The unique physical circumstance in this case is that the lot is 6,704 square feet smaller than the minimum allowed lot size in the zone district. Generally, in the LMC, as minimum lot sizes get smaller, maximum lot coverage allowances increase. In this case, the maximum lot coverage is mismatched to the lot size. In addition, the house was built nearly to the rear setback line, not providing any space for a rear deck. Because of the split-level design of the house, any rear deck would need to be taller than 30 inches. **Staff finds this criterion has been met.**

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

Section 17.48.110 of the LMC states a variance may only be granted if all criteria, "insofar as applicable," are met. In this case, where the majority of the lots in the subdivision are smaller than the minimum lot size, the unusual circumstance by definition exists throughout the neighborhood. Most of the houses in the neighborhood that back to the Warembourg Open Space are also very near the required rear setback line. Staff has determined that applying this criterion to applications of this sort is not appropriate. **Staff finds this criterion is not applicable.**

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.*

The current zoning does not allow any expansion of the building's footprint. This includes decks above 30 inches in height and covered porches, as well as additions. The proposed deck expansion is not overly large, and is intended for a more usable rear yard experience. The cover is proposed for the existing front porch to make it more useable and inviting. The cantilever modifications are to make the interior more functional and have minimal impact on the exterior. The porch cover and cantilevers comply with setbacks. The house is so close to the rear setback line that a useable deck could not be constructed in compliance with the setbacks. The RE zone district lot coverage and PUD rear setback requirements would not enable this reasonable expansion to occur. **Staff finds this criterion has been met.**

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

The existing house was built in 1984 exceeding the allowed lot coverage of the RE zone district and with no room for expansion. The house was built two feet from the rear setback line, not providing any room for a rear deck. The applicant did not create the unnecessary hardship. **Staff finds this criterion has been met.**

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.*

The property is one of the smallest in the Centennial Valley 3 neighborhood and already has one of the highest lot coverages. Further increasing the lot coverage to 33 percent could create the impression of a crowded lot, incompatible with the neighborhood. However, these specific additions – a rear deck, covered porch, and cantilever modifications – are unlikely to create that impression, and the overall footprint of the building will still be similar to others in the neighborhood in terms of square footage. The rear deck will have minimal impact because the property backs to open space. This variance will not affect the character or the development potential of adjacent property because it meets established front and side setbacks. If the variance is granted, the area will remain a low-density single-family neighborhood. **Staff finds this criterion has been met.**

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.*

The requested variance would allow only the proposed rear deck to be built and no further expansion of the building footprint. The additional square footage requested is modest, and the requested lot coverage is still below that allowed in the RM zone district. **Staff finds this criterion has been met.**

## **PUBLIC COMMENTS:**

Public notice was mailed to all property owners within 500 feet of the subject property. At the time of this report's creation, staff had not received any public comment. If comments are received prior to the hearing, that information will be presented at the hearing.

**STAFF COMMENTS AND BOARD ACTION:**

Staff finds all applicable variance criteria in Section 17.48.110 of the LMC have been met and therefore recommends approval of the variance request.

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. The Board will need to make a determination based on the application as it has been submitted. If the Board desires the applicant to make changes to the application that would affect the extent of the variance requested, staff recommends the Board continue the hearing to a later date.

The Board needs to find all six variance criteria, insofar as applicable, have been met in order to grant approval of a variance. If the Board wishes to deny the variance request, staff recommends passing a motion denying the variance indicating which criteria for approval have not been met. If the Board determines that the variance meets all of the applicable criteria for approval, staff recommends passing a motion approving the variance request.

**ATTACHMENT**

1. Applicant Information
2. Site Plan

## Scott Robinson

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**From:** Sam Light <slight@lightkelly.com>  
**Sent:** Wednesday, March 09, 2016 11:31 AM  
**To:** Scott Robinson  
**Cc:** Amy Kho  
**Subject:** FW: Variance criteria interpretation  
**Attachments:** Email re Stringent Variance Criteria.pdf

Scott,

We reviewed your question about interpretation of the “unusual circumstances” variance criteria, and have provided our comments below.

Louisville’s second variance criteria, “[t]hat the unusual circumstances or conditions do not exist throughout the neighborhood or district in which the property is located” is also referred to in zoning treatises as “uniqueness of the hardship.” Generally, a variance is a means of correcting the occasional inequalities created by a general zoning ordinance. Therefore, *in theory*, “only an owner whose land is uniquely and severely impacted by a zoning ordinance will be entitled to a variance.” *Rathkopf’s The Law of Zoning and Planning* § 58.1; see also, *Murray v. Board of Adjustment, Larimer County*, 594 P.2d 596 (Colo. App. 1979) (in a case involving both setback and use variances, the Court observed that “[v]ariations should not be used as a way to avoid the normal processes of amending zoning resolutions... and [the hardship] must be of a type peculiar to this property owner and not shared by others.”

However, commonality of a circumstance—such as small lots within a portion of a neighborhood or district—does not itself prevent the granting of a variance where the landowner shows some individual impact. *Rathkopf*, § 58.11. While there are no Colorado court decisions directly on point, *Rathkopf* cites cases in other jurisdiction for the observation that “uniqueness does not require that only the parcel of land in question and none other be affected by the condition that creates the hardship.” Rather, what is involved “is a comparison between the entire district [or at least the larger neighborhood] and the land similar to the subject property.” *Id.* If, for example, small lots are prevalent throughout the district, such that setback variances are frequently sought for common and reasonable structures such as decks and accessory structures, then legislative changes should be considered. On the other hand, a variance can be granted where the owner shows “that his land is affected in a way different from at least most others, and that the variance will not change the nature of the surrounding area.” *Id.*

Finally, note that Louisville’s criteria uses the phrase “unusual circumstances” and not the stronger phrases “uniquely and severely” or “peculiar” that are used in the *Rathkopf* discussion or the *Murray* case. Thus, in our opinion, the City’s criteria lends itself to a less strict interpretation. In any specific case, there should be evaluation of the specific effect or impact on the subject property, and an evaluation of both the prevalence of the same problem within the context of the larger neighborhood, and whether the granting of the variance changes the area or frustrates the purpose of the particular yard or bulk requirement for the district at issue.

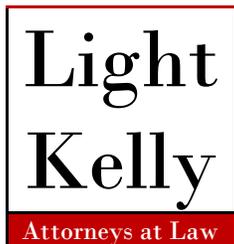
For purposes of aiding a more general discussion of potential legislative changes, I have attached an a-mail we sent a few years ago discussing pros and cons of stringent v. strict variance criteria.

We hope the above and attached are helpful. Please let us know if you have any additional questions or would like to further discuss.

Thanks.

Sam

Samuel J. Light  
Amy Wegner Kho  
Light | Kelly, P.C.  
101 University Blvd., Suite 210  
Denver, CO 80206  
P: (303) 298-1601  
F: (303) 298-1627  
E-mail: [akho@lightkelly.com](mailto:akho@lightkelly.com)



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**From:** Scott Robinson [<mailto:scottr@louisvilleco.gov>]  
**Sent:** Thursday, February 18, 2016 12:34 PM  
**To:** Sam Light  
**Cc:** Aaron DeJong  
**Subject:** Variance criteria interpretation

Sam,

We had our first Board of Adjustment meeting of the year last night, and one of our new Board members took a stricter line with the variance criteria than the other members and the Board traditionally has. The request was for relief from the rear setback to build a deck, and he didn't think the second criterion was met because all the adjacent houses were in the same position relative to the setback. There was a fair amount of discussion during the meeting about the proper way to interpret the criteria, and the Board wondered if you could provide any guidance. I couldn't remember if you had provided something in the past about interpreting the criteria. Please let me know if you have anything you can offer.

Thanks

Scott Robinson, AICP  
Planner II  
City of Louisville  
303-335-4596  
[scottr@louisvilleco.gov](mailto:scottr@louisvilleco.gov)

**Sam Light**

**From:** Sam Light  
**Sent:** Thursday, May 26, 2011 12:49 PM  
**To:** 'Gavin McMillan'  
**Cc:** Troy Russ; 'Malcolm Fleming'  
**Subject:** RE: Board of Adjustment

Gavin,

Thank you for providing us the opportunity to comment on the letter from Chairman Jasiak discussing the potential for Code amendments allowing more flexibility in the application of variance criteria. We have set out below some legal pros and cons of having stringent variance criteria as compared to flexible criteria, and some comments on whether one form or the other tends to heighten legal risks. If you would like to discuss the comments below or would like us to provide further information for the Board of Adjustment ("Board") and/or assist in a surveying effort, please let me know.

From a legal perspective, one of the pros of having stringent and mandatory variance criteria is that applicants for variances will have, in advance of submitting an application, clear notice of the specific standards and requirements that will be applied by the Board. Moreover, clear standards will help the Board to consistently review applications and will help to ensure that all applicants are treated equally. Finally, certainty in the legislative criteria to be applied will allow the Board to readily focus its deliberations on the relevant criteria, which will allow the Board to more efficiently and effectively make and issue decisions that are supported by the record developed before the Board. This lessens the risk that a decision will be set aside by a court because of an insufficient record or insufficient findings. The law in this area is that a record of proceedings before a Board of Adjustment "must contain details of the evidence presented and proper grounds and reasons to support its decision." *Murray v. Board of Adjustment, Larimer County*, 594 P.2d 596 (Colo. App. 1979), citing *Gaunt v. Board of Appeals*, 327 Mass. 380, 99 N.E.2d 60 (1951).

Further, stringent variance criteria will prevent the granting of too many variances. If one assumes the general zoning rules are as desired, it follows that the bar for relief from the rules should be high. Stated another way, boards of adjustment should exercise considerable caution in granting variances because numerous variances will prevent achievement of the general zoning purposes of protecting property values and securing the orderly development of the community. *Murray v. Board of Adjustment, Larimer County*, 42 Colo. App. 113, 594 P.2d 596 (Colo. App. 1979). Moreover, "[v]ariations should not be used as a way to avoid the normal processes of amending zoning" legislation. *Id.* (citations omitted.) Stricter and mandatory variance criteria will reduce the likelihood that the Board will overstep its power in granting variances for invalid reasons, which would usurp the power of the City Council to amend its zoning regulations.

However, a con of having too stringent of variance criteria is that it may be difficult for a Board to ever grant a variance. Variances serve an important purpose of allowing applicants to obtain relief from strict application of zoning regulations on matters such as setbacks, building heights, parking requirements, signs, and other physical and structural requirements of the zoning ordinance. Obtaining a variance "is the recognized and approved legal device by which the basic constitutional right of property is reconciled with the paramount right of government to protect by zoning the public health, safety, morals and welfare." 8 McQuillin Mun. Corp. § 25:179.37 (3rd ed.) If variance criteria are so strict that it is impossible to obtain a variance, a person could contend that their constitutional property rights have been violated.

Moreover, less stringent variance criteria may be desirable given the unique nature of property and

variance applications. There are times when the Board will find that there are practical difficulties or unnecessary hardships that prevent compliance with the strict letter of the zoning ordinance, but will be unable to grant a variance because the variance request does not meet all of the requirements in the Code. While the current criteria allow the Board to determine that a certain requirement may not be applicable, this is a less flexible system than one under which less than all applicable criteria must be met. Also, the question of whether a requirement is applicable can itself become the main issue in a legal dispute.

Regarding the question of precedent, we do not think the legal risk is materially different whether the Code requires an application to satisfy all six requirements or, for example, five of six. Under either approach, staff and the Board will still for each application analyze whether each criteria is satisfied. In a contested legal claim, litigants will look for and seek to use to their advantage inconsistencies in those analyses, irrespective of whether the criteria was one that had to be satisfied. For example, if the Code were amended to require five of six criteria be met and an application was turned down because it failed to meet the "minimum variance" and "no self-impose hardship" requirements, the applicant turned litigant would still seek to exploit any inconsistent application of both criteria in prior Board proceedings. Additionally, a requirement that an application satisfy less than all criteria flags the question of whether all criteria are of equal weight. For example, is a five-of-six standard equally acceptable when the one criteria not met is the "no self-imposed hardship" requirement as opposed to the "minimum variance" requirement. If some surveying is undertaken, we recommend looking at whether ordinances that have a less-than-all standard nonetheless require that certain criteria be met in all cases.

A final comment is whether there is any benefit to greater flexibility in the execution of variance criteria so as to lessen the likelihood that difficult cases will be forced into litigation. Frankly, in my experience I have found that the difficult cases for boards of adjustment most often involve requests for an "after-the-fact" variance under circumstances where errors exist on both sides of the issue—for example, an erroneously issued permit with the problem compounded by incorrect construction or improper placement of the structure. While these cases can be frustrating for all parties participating in the Board hearing, I do not think these cases should be resolved through greater flexibility in the variance criteria. Rather, I think the variance criteria should remain focused on analysis of physical characteristics and the impact of the variance on the neighborhood. Under this approach, the Board remains focused on its mission grounded in the zoning code and is not called upon to assess or resolve litigation risks, which is a role of City Council.

I hope the above comments are helpful; if you have any questions or would like to further discuss this issue, please contact us.

Sam Light  
Laura Heinrich  
Light, Kelly & Dawes, P.C.  
1512 Larimer Street, Suite 300  
Denver, CO 80202  
(303) 298-1601

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**From:** Gavin McMillan [mailto:gavinm@louisvilleco.gov]  
**Sent:** Monday, May 16, 2011 4:55 PM  
**To:** Sam Light  
**Cc:** Troy Russ  
**Subject:** Board of Adjustment

Sam,

The Board of Adjustment recently held a study session with City Council where they presented some concerns they had

5/26/2011

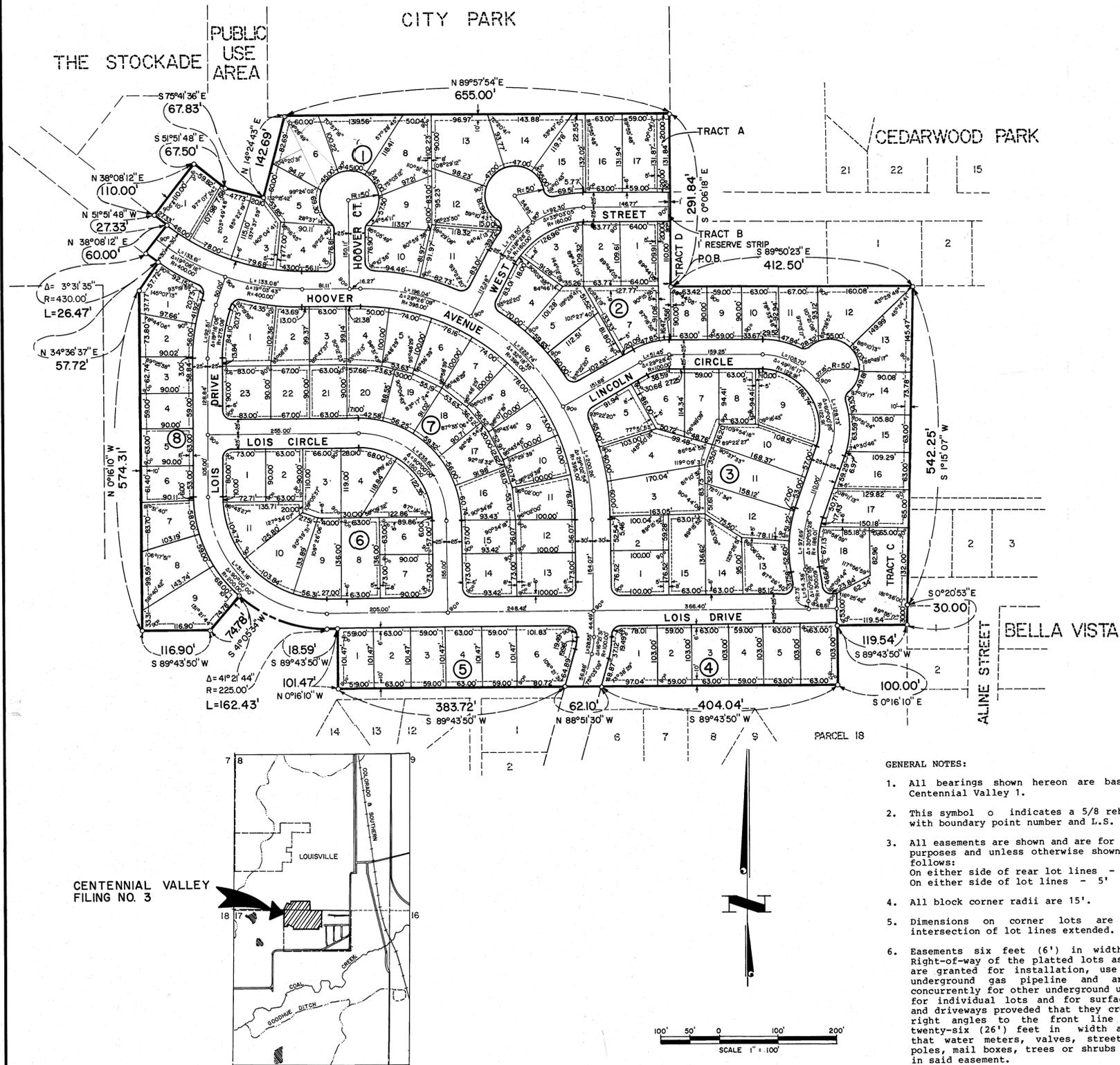
with the six criteria for approval. Council asked Planning Staff to get your opinion on the concerns raised in the attached letter from Board Chairman Erik Jasiak. If you have questions about the letter or need clarification, please let me know.

Thanks,

Gavin J. McMillan, AICP  
gavinm@louisvilleco.gov  
City Planner  
City of Louisville  
749 Main Street  
Louisville, CO 80027  
P: 303-335-4594  
F: 303-335-4550

# CENTENNIAL VALLEY SUBDIVISION FILING NO. 3

A REPLAT OF A PORTION OF CENTENNIAL VALLEY I ALSO BEING  
A PART OF SECTIONS 8 AND 17, TOWNSHIP 1 SOUTH, RANGE 69 WEST, 6th P.M.  
CITY OF LOUISVILLE, COUNTY OF BOULDER, STATE OF COLORADO



KNOW ALL MEN BY THESE PRESENTS, that the undersigned being the owners of:

A part of Centennial Valley Filing No. 1, Reception No. 39132, Film No. 1112, being a part of Sections 8 and 17 Township 1 South, Range 69 West of the Sixth Principal Meridian, City of Louisville, County of Boulder, State of Colorado, more particularly described as follows:

Beginning at the South quarter corner of said Section 8; thence S89°50'23"E along the boundary of said Subdivision, 412.50 feet; thence S1°15'07"W along the Easterly boundary of said Subdivision, 542.25 feet; thence continuing along the Easterly boundary of said Subdivision, S0°20'53"E, 30.00 feet; thence S89°43'50"W, 119.54 feet; thence S0°16'10"E, 100.00 feet; thence S89°43'50"W, 404.04 feet; thence S88°51'30"W, 62.10 feet; thence S89°43'50"W, 383.72 feet; thence N0°16'10"W, 101.47 feet; thence S89°43'50"W, 18.59 feet to a point of curve; thence along a curve to the right having a radius of 225.00 feet, a central angle of 41°21'44", 162.43 feet; thence S41°05'34"W, 74.78 feet; thence S89°43'50"W, 116.90 feet to a line 40.00 feet Easterly of and parallel to the West line of said Subdivision; thence N0°16'10"W along a line 40.00 feet Easterly of and parallel to the West line of said Subdivision, 574.31 feet; thence N34°36'37"E, 57.72 feet to a point on the Right-of-way of North Hoover Avenue; thence along the Southerly Right-of-way of North Hoover Avenue and on an angle to the left of 90°00'00" and along a curve to the right having a radius of 430.00 feet, a central angle of 3°31'35", 26.47 feet; thence N38°08'12"E, 60.00 feet to the Northerly Right-of-way of North Hoover Avenue; thence along said Northerly Right-of-way, N51°51'48"W, 27.33 feet; thence N38°08'12"E along the West line of Lot 1, Block 12, 110.00 feet; thence S51°51'48"E along the Northerly line of said Lot 1, 67.50 feet; thence S75°41'36"E along the Northerly line of Lot 2, Block 12, 67.83 feet; thence N14°24'43"E along the West line of Lot 4, Block 12, 142.69 feet to the Southerly line of Parcel 6 of said Subdivision; thence N89°57'54"E and along the Southerly line of said Parcel 6, 655.00 feet to the East line of the Southwest quarter of Section 8; thence S0°06'18"E and along said East line, 291.84 feet to the Point of Beginning, containing 24.549 acres, more or less.

have laid out, platted and subdivided the same into lots, blocks and tracts as shown on this plat, under the name and style of Centennial Valley Subdivision Filing No. 3 and by these presents do grant to the City of Louisville for the perpetual use of the public the streets and utility easements hereon shown and do similarly grant Tracts A, B, C and D.

OWNER: W.J.S. CORPORATION

*William J. Suitts*  
William J. Suitts, President

NOTARY:  
STATE OF COLORADO )  
COUNTY OF BOULDER ) SS

The foregoing instrument was acknowledged before me this 18 day of May, 1981, by William J. Suitts, President, W.J.S. Corporation.

Witness my hand and seal. My commission expires the 26 day of JANUARY, 1982.

*Dale F. Howell*  
Notary Public

I, Lyle F. Howell, a Registered Land Surveyor in the State of Colorado do hereby certify that the survey of Centennial Valley Subdivision Filing No. 3 was made under my supervision and that the accompanying plat accurately and properly shows said subdivision.

*Lyle F. Howell*  
Lyle F. Howell, Registered Land Surveyor No. 10731

PLANNING COMMISSION CERTIFICATE

Approved by the Planning Commission of the City of Louisville this 12 day of May, 1981, by Resolution No. 10.

*Eugene A. Kiebohn*  
Chairman

Attest: *Dennis W. Fucena*  
Secretary

CITY COUNCIL APPROVAL

Approved by the City Council of Louisville this 19 day of May A.D., 1981, by Resolution No. 11.

*Norman Lawson*  
Mayor

Attest: *Joyce D. McLeod*  
City Clerk

CLERK AND RECORDER'S CERTIFICATE

STATE OF COLORADO )  
COUNTY OF BOULDER ) SS

I hereby certify that this instrument was filed in my office at \_\_\_ o'clock, \_\_\_ M., this \_\_\_ day of \_\_\_ A.D. 1981, and is duly recorded in Plan File \_\_\_\_\_.

Fees \_\_\_\_\_ paid.

Recorder  
Deputy

GENERAL NOTES:

- All bearings shown hereon are based on the plat of Centennial Valley 1.
- This symbol indicates a 5/8 rebar with cap stamped with boundary point number and L.S. No. 2432.
- All easements are shown and are for utility and drainage purposes and unless otherwise shown are dimensioned as follows:  
On either side of rear lot lines - 8'  
On either side of lot lines - 5'
- All block corner radii are 15'.
- Dimensions on corner lots are to the point of intersection of lot lines extended.
- Easements six feet (6') in width along the street Right-of-way of the platted lots as shown on this plat are granted for installation, use and replacement of underground gas pipeline and are subject to use concurrently for other underground utility service lines for individual lots and for surface use and walkways and driveways provided that they cross at substantially right angles to the front line and do not exceed twenty-six (26') feet in width and provided further that water meters, valves, street lighting or power poles, mail boxes, trees or shrubs shall not be placed in said easement.
- Tracts A, B, C and D are to be dedicated to and to be maintained by the city.

**MSM CONSULTANTS INC.**  
ENGINEERING • ARCHITECTURE • SURVEYING • PLANNING  
570 West 44th Avenue • Denver, Colorado 80216 • (303) 455-7321

**LAND USE APPLICATION**

**CASE NO.** \_\_\_\_\_

**APPLICANT INFORMATION**

Firm: \_\_\_\_\_

Contact: Phil Larson

Address: 2090 Stony Hill Road  
Boulder, CO. 80305

Mailing Address: same

Telephone: 303-819-1453

Fax: \_\_\_\_\_

Email: plarsonconstruction@yahoo.com

**OWNER INFORMATION**

Firm: \_\_\_\_\_

Contact: Phil Larson

Address: 2090 Stony Hill Road  
Boulder, CO. 80305

Mailing Address: same

Telephone: 303-819-1453

Fax: \_\_\_\_\_

Email: plarsonconstruction@yahoo.com

**REPRESENTATIVE INFORMATION**

Firm: kthdesign

Contact: Kathleen Thorne

Address: 2141 Wagon Way  
Louisville, Co. 80027

Mailing Address: same

Telephone: 303-666-8907

Fax: \_\_\_\_\_

Email: kthdesign@comcast.net

**PROPERTY INFORMATION**

Common Address: \_\_\_\_\_

Legal Description: Lot U Blk B  
Subdivision Centennial Valley 3

Area: 5296 Sq. Ft.

**TYPE (S) OF APPLICATION**

- Annexation
- Zoning
- Preliminary Subdivision Plat
- Final Subdivision Plat
- Minor Subdivision Plat
- Preliminary Planned Unit Development (PUD)
- Final PUD
- Amended PUD
- Administrative PUD Amendment
- Special Review Use (SRU)
- SRU Amendment
- SRU Administrative Review
- Temporary Use Permit: \_\_\_\_\_
- CMRS Facility: \_\_\_\_\_
- Other: (easement / right-of-way; floodplain; variance; vested right; 1041 permit; oil / gas production permit)

**PROJECT INFORMATION**

Summary: \_\_\_\_\_

1. ADD Front Porch of 62.5 sq. feet
2. Relocate 2 main level cantilevers
3. Enlarge rear deck to 189<sup>0</sup> sq. Ft.

Current zoning: \_\_\_\_\_ Proposed zoning: \_\_\_\_\_

**SIGNATURES & DATE**

Applicant: \_\_\_\_\_

Print: PHIL LARSON

Owner: \_\_\_\_\_

Print: PHIL LARSON

Representative: Kathleen Thorne

Print: KATHLEEN THORNE

**CITY STAFF USE ONLY**

- Fee paid: \_\_\_\_\_
- Check number: \_\_\_\_\_
- Date Received: \_\_\_\_\_

Kathleen Thome  
2141 Wagon Way  
Louisville, CO  
80027

January 20, 2016

Re: 175 Lois Drive  
Zoning Variance

Dear City of Louisville Planning,

Phil Larson owner of 175 Lois Drive proposes four additions/changes to the existing property:

1. Adding a Covered Front Porch of 52.5 Square Feet, within the existing setback.
2. A repositioned fireplace cantilever on the South wall. The existing cantilever to be removed is 18 square feet and the proposed cantilever 7 square feet, within the existing side yard setback.
3. Reposition the existing front or east facing cantilever, within the front yard setback.
4. Enlarge the rear deck to a 9' depth and increasing the square footage to 189 square feet from currently 108 square feet. The existing deck encroaches into the rear yard setback approximately four feet and the proposed deck would encroach approximately seven feet.

#### Project Information:

Lot Square Footage: 5296 square feet (as per Boulder County Assessors Report)  
Maximum Lot Coverage: 20% or 1059 square feet

#### Existing Square Footage:

| Location        | Square Feet |
|-----------------|-------------|
| Main Floor Plan | 916         |
| Two Car Garage  | 559         |
| Elevated Deck   | 108         |
| <b>TOTAL</b>    | <b>1623</b> |

Currently the Single Family Residence exceeds the maximum lot coverage by 564 Square Feet.

The proposed additions and remodel would delete 11 square feet from the main level, add 81 square feet of Rear Deck, and 52.5 square feet of Front Porch.

**PROPOSED TOAL: 1745.5 Square Feet of lot coverage**

#### Zoning Variance Criteria Study

1. The lot at 175 Lois Drive is rectangular and primarily level. The existing residence is centered side to side on the lot with a large two car garage projecting from the front of the residence making it a predominant feature and pushing the residence to the rear lot setback. The rear or west side of the lot backs to open space.

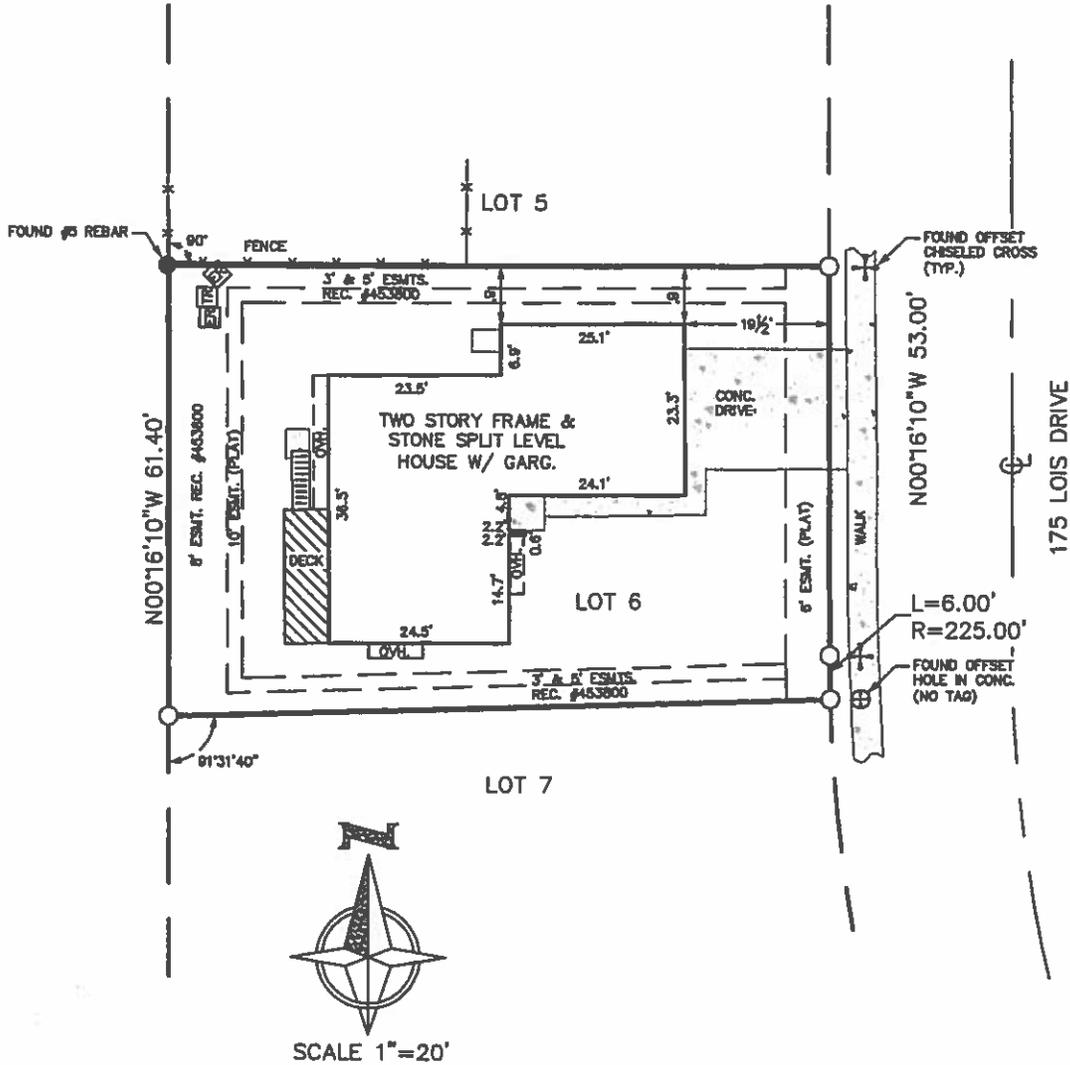
2. The lot conditions are somewhat common within the neighborhood as there are other models of the same floor plan. However, not many of the residences back to the open space.
3. The architecture of the existing residence with a dominating garage prove difficult to augment and enhance the current residence within the existing provisions of the current zoning code. The existing garage is 55 percent of the existing lot coverage.
4. Unnecessary hardship has not been created by the owner. The original siting of the residence was planned for a predominant garage thus decreasing the rear lot size.
5. The variance if granted will not alter the essential character of the neighborhood but enhance the character with a front porch conducive to social exchanges and more inviting appearance. The fireplace cantilever and front/east cantilever are designed to enhance the architecture and are not contributing to a square footage increase or setback encroachment. The larger rear deck faces the open space and the greater depth will not be encroaching into other neighbor's rear yards. None of the proposed features should adversely affect the surrounding properties but rather enhance them.
6. The variance if granted is the minimum that will allow for a updated home with a better appearance, enhancing and upgrading the surrounding homes.

LEGAL DESCRIPTION  
 (PROVIDED BY THE CLIENT)  
 DEED RECORDED ON 09/07/1984  
 AT REC. NO. 648215



**Flatirons, Inc.**  
 Surveying, Engineering & Geomatics  
 3825 IRIS AVE, Ste 395  
 BOULDER, CO 80301  
 PH: (303) 443-7001  
 FAX: (303) 443-9830  
 www.FlatironsInc.com

LOT 6,  
 BLOCK 8,  
 CENTENNIAL VALLEY SUBDIVISION FILING NO. 3,  
 COUNTY OF BOULDER,  
 STATE OF COLORADO.



**Notes:**

- 1—THIS CERTIFICATE DOES NOT CONSTITUTE A TITLE SEARCH BY FLATIRONS, INC. TO DETERMINE OWNERSHIP, RIGHTS OF WAY, EASEMENTS OR ENCUMBRANCES NOT SHOWN BY THE PLAT THAT MAY AFFECT THIS TRACT OF LAND. THERE MAY BE EASEMENTS OR RIGHTS OF WAY OF THE PUBLIC RECORD THAT MAY AFFECT THIS TRACT OF LAND THAT ARE NOT SHOWN ON THIS CERTIFICATE.
- 2—AN IMPROVEMENT SURVEY PLAT IS RECOMMENDED TO DEPICT MORE PRECISELY THE LOCATION OF THE IMPROVEMENTS SHOWN HEREON.



John B. Guyton, Colorado L.S. #16406

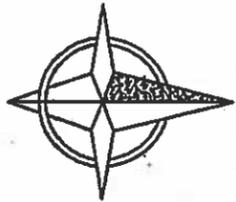
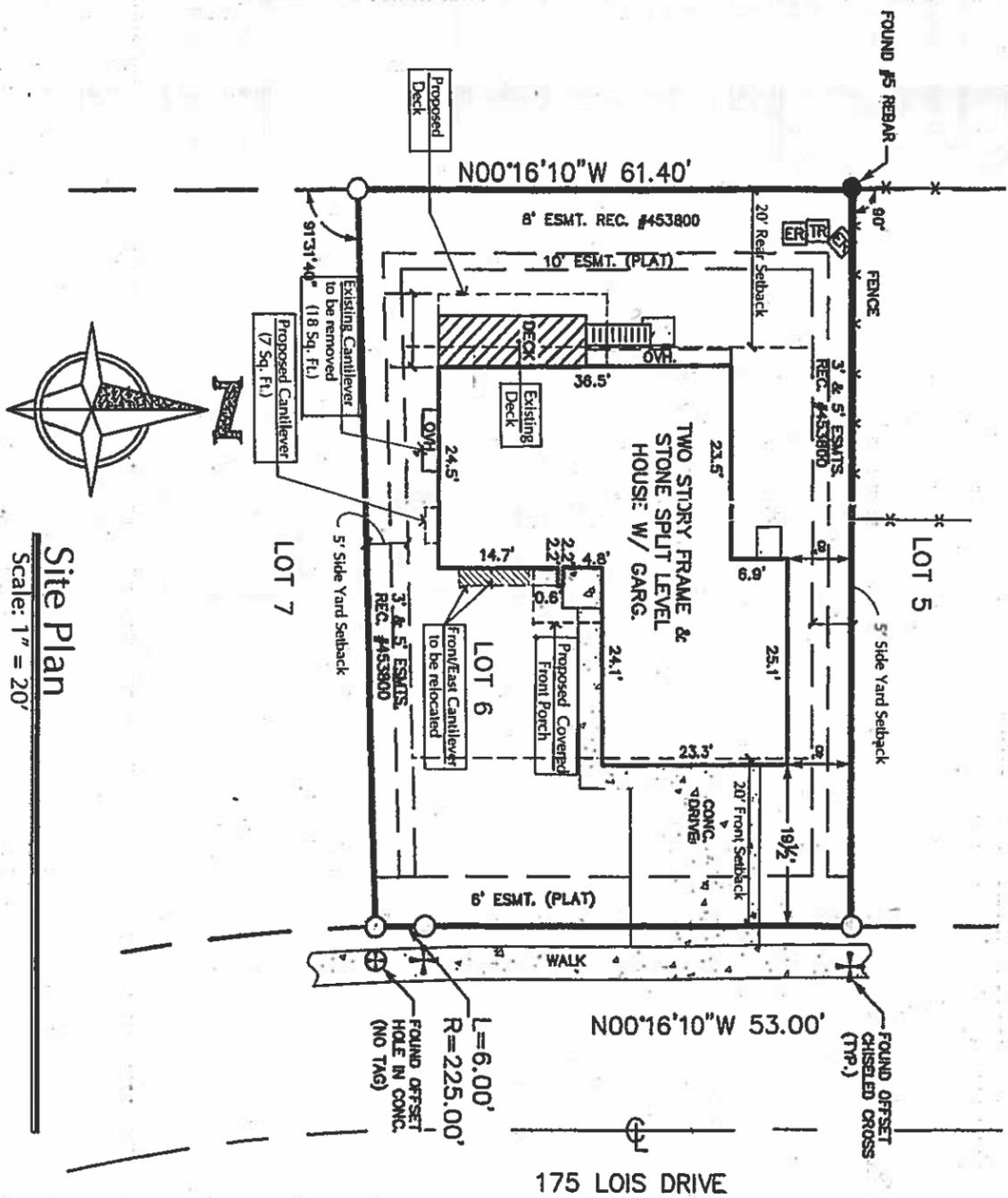
**IMPROVEMENT LOCATION CERTIFICATE**

I hereby certify that this Improvement Location Certificate was prepared for LARSON CONSTRUCTION, that it is not a Land Survey Plat or Improvement Survey Plat, and that it is not to be relied upon for the establishment of fence, building or other future improvement lines. This certificate is valid only for use by LARSON CONSTRUCTION and describes the parcel's appearance on NOVEMBER 10, 2015. I further certify that the improvements on the above described parcel on this date, NOVEMBER 10, 2015, except utility connections, are entirely within the boundaries of the parcel, except as shown, that there are no encroachments upon the described premises by improvements on any adjoining premises, except as indicated, and that there is no apparent evidence or sign of any easement crossing or burdening any part of said parcel, except as noted.

**NOTICE:** This Improvement Location Certificate is prepared for the sole purpose of use by the parties stated hereon. The use of this Improvement Location Certificate by any person or entity other than the person or entity certified to without the express permission of Flatirons, Inc. is prohibited. This certificate is only valid for 90 days from the signature date. It is not a Land Survey Plat as defined by C.R.S. 38-81-102(12) or an Improvement Survey Plat as defined by C.R.S. 38-81-102(9). It does not establish property corners. A more precise relationship of the improvements to the boundary lines can be determined by a Land Survey or Improvement Survey. The improvements are generally situated as shown and only apparent (visible at the time of fieldwork) improvements and encroachments are noted. Flatirons, Inc. and John B. Guyton will not be liable for more than the cost of this Improvement Location Certificate, and then only to the parties specifically shown hereon. Acceptance and/or use of this Improvement Location Certificate for any purpose constitutes acknowledgment and agreement to all terms stated hereon.

Flatirons No. 15-08,895  
 Drawn By: S. ACERRA  
 Title Co. No.

Borrower: **COPYRIGHT 2015 FLATIRONS, INC.**



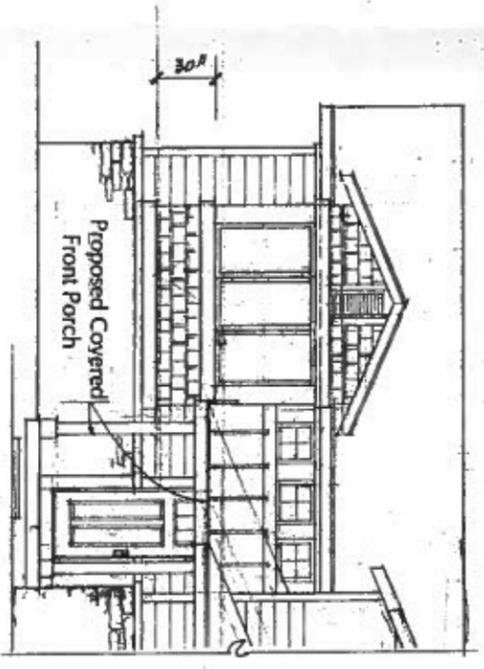
Site Plan  
Scale: 1" = 20'

Date:  
Jan. 20, 2016  
Revisions:

175 Lois Drive, Louisville • Remodel  
Lot 6, Block 8, Centennial Valley 3

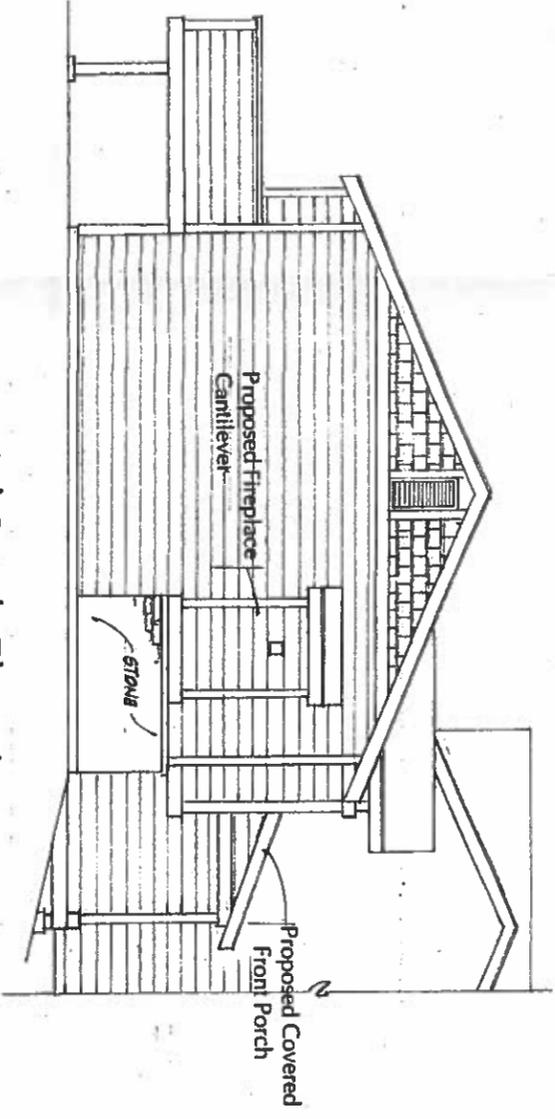
Sheet  
of: A-1.0





**Partial East Elevation**

Scale: 1/8" = 1'-0"



**Partial South Elevation**

Scale: 1/8" = 1'-0"

Date:  
Jan. 20 2016  
Revisions:

175 Lois Drive, Louisville • Remodel  
Lot 6, Block 8, Centennial Valley 3

Sheet  
of  
A-3.0

## Scott Robinson

---

**From:** Monica Garland on behalf of Planning  
**Sent:** Monday, February 15, 2016 7:58 AM  
**To:** Scott Robinson  
**Subject:** FW: Case Number: 16-002-VA

### *Monica Garland*

Senior Administrative Assistant  
Planning & Building Safety Division  
City of Louisville  
Phone: 303.335.4592  
Fax: 303.335.4588  
[monicag@louisvilleco.gov](mailto:monicag@louisvilleco.gov)

**From:** Thomas Tessier [<mailto:tomt@systemc4u.com>]  
**Sent:** Sunday, February 14, 2016 1:45 PM  
**To:** Planning  
**Cc:** Terry Tessier  
**Subject:** Case Number: 16-002-VA

Planning and Board of Adjustments,

I live at 249 Lois Drive and received notice of this Variance Request 16-002-VA. I have reviewed the application online and don't have any objections. In the 1980's Louisville was very pro growth which is why we have PUC issues like this one. I moved into my home in 1984 in the same subdivision, and have remodelled it extensively through the 30 years.

I was concerned that the applicant wanted to increase the house's square footage but exceeding a reasonable lot coverage; given that the applicant is looking for reasonable relief, as found by the Staff, for external deck's and a front porch I see no concerns and this is keeping within the character of the neighborhood.

Sincerely

Thomas D. Tessier and Terry J.P. Tessier  
303.665.6401

## **MEMORANDUM**

**To:** Board of Adjustment Members

**From:** Department of Planning and Building Safety

**Subject:** Election of Officers and Appointment of Secretary

**Date:** **March 16, 2016**

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The Louisville Board of Adjustment (BOA) is required by its Bylaws to annually elect the following officers: Chair, Vice Chair and Secretary. The BOA shall also appoint a City Employee to serve as the Secretary of meeting minutes for the board.

The Bylaws do not establish a formal manner in which to establish officers. However, in the past, the officers and secretary have been elected / appointed either 1) at the first regular meeting in January, or 2) at the first meeting of the BOA after the effective date of appointment of new members of the BOA.

### **Board of Adjustment Action:**

The BOA could either:

- 1) discuss and take action at this meeting or
- 2) accept nominations and letters of interest that could then be considered at the next BOA meeting

If the BOA wishes to submit letters of interest or letters of nomination in advance of the meeting, staff could include those in your packets for that meeting. We would need to receive those by end of business fifteen (15) days prior to the meeting in order to forward in your packets.