

**BOARD OF ADJUSTMENT MEETING
PUBLIC HEARINGS ON VARIANCE REQUESTS
MORRISON TOWN HALL
THURSDAY, JULY 21, 2022
6:00 PM**

1. CALL TO ORDER

2. OATH OF OFFICE – Wyatt Blassingame
Kyle Burris
Maja Stefansdottir
Kathy Wolfe
Ann Pitinga

3. ROLL CALL

- Members: Wyatt Blassingame
Kyle Burris
Margaretta Caesar
Ann Pitinga
Shari Raymond
Maja Stefansdottir
Kathy Wolfe

4. APPROVALS

- a) Minutes of December 10, 2020

5. PROCEDURES

6. PUBLIC HEARING - On behalf of Embury Etcetera Trust, the applicant, Chad Guinn, is requesting relief from Article 10-1E-6, Uses, Yard and Bulk Requirements to allow for a 6.2-foot reduction of the 20-foot front setback to construct new single-family home at 101 South Park Avenue.
- i. Staff Report
 - ii. Public Comment
 - iii. Board Discussion
 - iv. Close Public Hearing
 - v. Decision

6. ADJOURNMENT

Memorandum

To: Chairperson, Members of the Board of Adjustment

Date: 7/21/2022

Re: Hearing Procedure, Variance Applications

1. **Purpose.** To briefly state procedures for conduct of a public hearing on an application for a variance.

2. **Discussion.**

a. **Quasi-Judicial Proceeding.** A variance hearing is a quasi-judicial proceeding. The quasi-judicial decision-maker is held to the same standard of impartiality as a judge. There are several recognized grounds on which the neutrality and impartiality of a decision maker may be challenged:

- i. Financial or other personal interest in the matter;
- ii. Prejudgment of the matter;
- iii. Relationship to a party or witness such as familial or employment;
- iv. Ex parte communication regarding the matter. In the context of a quasi-judicial proceeding, these are communications with an applicant, witness, or opponent outside the hearing concerning the matter at issue; and
- v. Bias or prejudice against, or in favor of, a party.

This is the typical list of disqualifying grounds; however, the essence of each is that it demonstrates lack of impartiality or neutrality or compromises the appearance of fairness and impartiality such that parties or the public are left with a substantial doubt regarding fairness or impartiality.

The Board of Adjustment will decide the matter by applying the standards contained at §10-1C-1 of the Morrison Town Code to the evidence presented at the hearing. The evidence consists of the material provided by the Town's consultants, the material presented by the applicant, and the information and testimony provided by residents of the neighborhood, if any. The burden is upon the applicant to present evidence to support the application. Four votes are necessary to approve a request.

b. **Procedure.** The Board of Adjustment has previously adopted Rules and Procedures. These should be reviewed and may be modified, as the Board desires. The general order for presentation of a case for a variance would be as follows:

- i. Announce the agenda item and title; declare the public hearing open.

- ii. Ask the Secretary if appropriate notices have been posted.
- iii. Determine if everyone is present who wishes to testify has signed the roster.
- iv. Board members who received any information outside the public hearing regarding the application should disclose at this time, including any potential conflicts of interest. The Board should determine if the member should recuse or not at this time.
- v. Administer oath to all witnesses (can be a group oath: *“If you intend to testify, please stand and raise your right and. If you agree that your testimony will be the truth as you know it, please say yes.”*)
- vi. Determine who is present to represent the applicant. Ask them to introduce themselves by stating their name and address.
- vii. Ask the applicant to present its case through his/her testimony, testimony of witnesses, photographs, illustrations, etc.
- viii. Board questions of the applicant.
- ix. If the Town is appearing it would present its case next, followed by Board questions of the town’s representative.
- x. Public may comment and ask questions. These witnesses should state their name and address. Questions and comments should be addressed to the Chairperson not the applicant.
- xi. The Board may have questions for the public speakers.
- xii. The applicant may submit testimony or exhibits in “rebuttal” of these statements.
- xiii. The public portion of the hearing may be closed or continued for additional information.
- xiv. If the hearing is closed, the Board may discuss the evidence and applicable standards and law. Public testimony is concluded. The Board may address questions to staff only, not the applicant or other witnesses at this time.
- xv. The Board may continue the matter for a decision by written resolution.
- xvi. In simpler matters, a motion may be introduced, discussed, and voted upon. The decision of the Board should ultimately be reduced to a written form with a copy to the applicant and to the Town Clerk. The written decision should set forth the decision and the findings and conclusions of the Board.

c. **Executive Session.** If a Board member has specific questions to ask of the Town Attorney, a request may be made for an executive session. An executive session requires approval by four of the five Board members.

3. **Criteria.** The powers of the Board of Adjustment and the criteria for variances are set forth in §10-C-1 et seq. “Zoning Regulations” of the Morrison Town Code. The State statute which authorizes a Board of Adjustment and establishes the use variance authority, states that the Board has the authority to modify use regulations where there

are “practical difficulties” or “unnecessary hardships” in carrying out the strict letter of the ordinance while insuring that the spirit of the ordinance is observed, public safety and welfare served, and substantial justice done.

a. Our ordinance requires that, in order to grant a variance, the Board may vary the application of the regulations set forth in the zoning ordinance, to the extent they are applicable in a particular case, only if the Board finds that:

- i. By reason of exceptional narrowness, shallowness or shape of a specific piece of property or by reason of exceptional topographic conditions or other extraordinary and exceptional situation or condition of the piece of property, the strict application of the regulation would result in peculiar and undue practical difficulties for, or peculiar and unnecessary hardship on, the owner of the property;
- ii. The variance, if granted, will observe the spirit of this article, secure the public safety and welfare, and achieve substantial justice;
- iii. The variance, if granted, will not adversely affect the adjacent property or the neighborhood;
- iv. The variance, if granted, will not substantially or permanently impair the appropriate use or development of adjacent property
- v. The variance, if granted, is the minimum variance that will afford relief with the least modification possible of the provisions of this chapter; and

b. In deciding variance applications, the Board may consider whether the alleged difficulty or hardship was self-imposed.

c. The Board may not grant any variance relating to the use of property.



TOWN OF MORRISON

321 HIGHWAY 8 ● MORRISON, CO 80465 ● PHONE: (303) 697-8749
FAX: (303) 697-8752

Board of Adjustment Staff Report

Date: July 21, 2022
From: Carrie McCool, Town Planner
Through: Kara Winters, Town Manager
Applicant: Chad Guinn, Land Design Collaborative, LLC
Agenda Item: Variance from the 20-foot front setback requirement

REQUEST:

On behalf of Embury Etcetera Trust, the applicant, Chad Guinn, is requesting relief from Article 10-1E-6, Uses, Yard and Bulk Requirements to allow for a 6.2-foot reduction of the 20-foot front setback to construct a new single-family home at 101 South Park Avenue.

BACKGROUND:

The subject property is 0.672 acres and contains four (4) lots at the corner of Cañon Street and South Park Avenue. Two existing structures on the property are on the list of Morrison's historic district properties: 1) Stagecoach Building #36 and 2) Abbo's Livery #37. The original primary structure, Horton House Bed and Breakfast (Abbo's Dwelling #39) was also a historic structure but was severely damaged in a fire and was ultimately demolished. The owner intends to maintain the two existing historic structures.

The property is zoned R-1 Low Density Residential and is encumbered by both 100-year floodway and floodplain with over half the property located within the Zone AE Floodway. As such, the applicant is proposing to construct a new single-family home outside of the floodway wherein a floodplain development permit is under review.

The applicant has submitted a Minor Resubdivision application to vacate the four (4) internal lot lines and twenty (20) feet of the existing eighty (80) foot South Park Avenue right-of-way. The Planning Commission considered the Minor Resubdivision request on July 12, 2022 and unanimously approved the Minor Resubdivision and recommended approval of the right-of-way vacation. The right-of-way vacation Ordinance is scheduled on August 2, 2022, Board agenda for final action.

The property's original address was 105 Cañon Street. The owner's requested to change the property address to 101 South Park Avenue was approved and went into effect as of May 1, 2022.

PUBLIC NOTICE:

The proposed variance request was publicly noticed in accordance with the public notification requirements outlined in the *Morrison Town Code, Title 10: Zoning and Land Development*.

VARIANCE REVIEW STANDARDS:

The front setback requirement in the R-1 zone district is 20 feet. Pursuant to the definition of front lot line, the shortest street right-of-way line is considered the front for corner lots. The frontage on South Park Avenue is 168.27 feet, while the frontage on Cañon street is 149.32 feet. Since the Cañon street frontage is the shortest street right-of-way line, a 20-foot setback from Cañon street is required. In passing upon appeals and variance requests, the Board of Adjustment may vary the application of the regulations set forth in the Zoning Ordinance only if the Board finds that:

1. By reason of exceptional narrowness, shallowness or shape of a specific piece of property or by reason of exceptional topographic conditions or other extraordinary and exceptional situation or condition of the piece of property, the strict application of the regulation would result in peculiar and undue practical difficulties for, or peculiar and unnecessary hardship on, the owner of the property.

Staff Finding: The subject property is a corner lot with two exceptional conditions stemming from the floodway/floodplain encumbrance and two existing historic structures on the property.

As depicted on the floodway/floodplain overlay graphic (Figure 1), the property is encumbered by both 100-year floodway and floodplain. The existing historic Stagecoach Building and Abbo's Livery are within the floodway, while the proposed new home would be within the 100-floodplain.

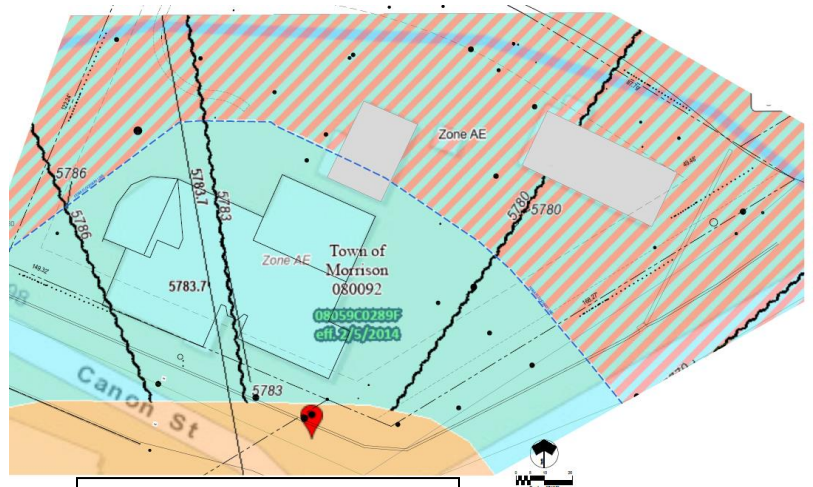


Figure 1: Floodway/Floodplain Overlay

The siting of the proposed new home is limited to the portion of the property that is outside the floodway. If the home was moved back 6.2 feet to adhere to the 20-foot front setback requirements, the home would not provide adequate separation from the historic Abbo's Livery structure.

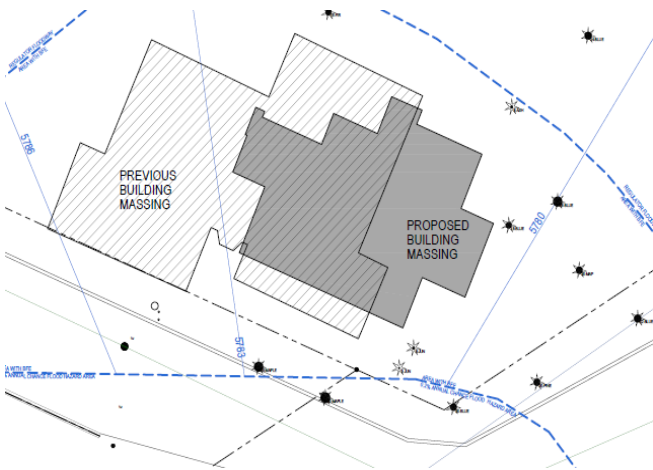
Staff finds by reason of these exceptional conditions of the property, the encumbrance of the 100-year floodway/floodplain and two historic structures on the property, the strict application of 20-foot front setback would result in peculiar and undue practical difficulties for the property owner.

2. The variance, if granted, will observe the spirit of this article, secure the public safety and welfare, and achieve substantial justice.

Staff Finding: Staff finds that the setback variance if granted, would observe the spirit of this article, secure the public safety and welfare in keeping the construction of the new house outside the floodway and preserving the historic structures on site. Additionally, granting of the variance would achieve substantial justice in that the use is consistent with the intent of the R1 zone district by providing a purely residential environment and all other zone district requirements will be met.

3. The variance, if granted, will not adversely affect the adjacent property or the neighborhood.

Staff Finding: During the public notification period, no objections were received regarding the variance request. Regulations that establish minimum setbacks are used as a tool to maintain desired densities and preserve neighborhood character; in this instance, the R1 zone district requirements seek to maintain a low-density neighborhood with adequate separation between structures.



The original primary structure, Horton House Bed and Breakfast (Abbo’s Dwelling #39) had no setback from Cañon Street and was a larger building used for commercial purposes. The new home is proposed to be setback 13.8-feet from the property line, which is a significant increase from the previous structure that did not have adverse effects on adjacent properties or the neighborhood during the life of the commercial use.

Staff finds granting the 6.2-foot front yard setback would have a positive affect on adjacent property and the neighborhood by preserving historic structures in the neighborhood and protecting people and property by siting the new home in the safest location on the property.

4. The variance, if granted, is the minimum variance that will afford relief with the least modification possible of the provisions of this chapter.

Staff Finding: The applicant evaluated moving the new home back to meet the 20-foot front setback requirement to find there would not be adequate separation between the new house and the historic Abbo’s Livery structure. Staff finds the applicant is requesting the minimum variance possible to allow the applicant to construct a new home on site while providing adequate separation between the historic structures and respecting the floodway/floodplain boundaries.

5. In deciding variance applications, the Board may consider whether the alleged difficulty or hardship was self-imposed.

Staff Finding: The existing historic structures were built in the early 1870s before the Town was platted in 1874. The property is encumbered by both 100-year floodway and floodplain. Staff thus finds that these site development difficulties were not created by the applicant.

STAFF RECOMMENDATION:

Approval of the variance request, finding that it substantially meets the variance review standards listed above.

BOARD OF ADJUSTMENT MOTIONS:

Below are potential motions that the Board of Adjustment could consider regarding the variance application:

1. The Board of Adjustment could **approve** the variance request, finding that it substantially meets the standards listed above.
2. The Board of Adjustment could **approve** the variance request, finding that it substantially meets the standards listed above **with condition(s)** outlined by the Board.

[The Board may insert conditions.]

3. The Board of Adjustment could **deny** the variance request, finding that it does not substantially meet the standards listed above.

ATTACHMENTS:

1. Application
2. Site Plan

LAND DEVELOPMENT APPLICATION

Town of Morrison

321 Colorado Highway 8, Morrison, Colorado 80465

Telephone: 303-697-8749

Fax: 303-697-8752

Project Name: Embassy Fk Home Case No.:

Property Address: 101 South Park Ave (105 Carver St)

Project Description: Front setback variance

Is property within Town limits? [X] Yes [] No Present Zoning: R1

Name of existing Official Development Plan:

Name of existing Subdivision Plat:

Parcel Size: 0.59 acres / 25,555 sq ft Acres/Square Feet Jefferson County Assessor's I.D. No.(s): 40-354-013-001 / 300916887

Existing Use: vacant land with historic structures

Application Fee Attached: [] Yes [] No Amount: \$

ACTION REQUESTED:

Annexation _____ acres of land and _____ acres of right-of-way [] Flood Plain Development Permit

Zoning / Rezoning from: _____ to: _____ [] Building Permit

Subdivision: [] Preliminary Map [] Major or [] Minor _____ existing lots _____ proposed lots

[] Final Plat [] Major or [] Minor _____ existing lots _____ proposed lots

Proposed Subdivision Name: _____

[] Lot Line Adjustment [] Error Correction [] Special Use Permit [] Utility Review

[] Vacation of [] Easement [] Right-of-Way [X] Variance

[] Final Site Plan Existing Building Square footage: _____ Total Proposed Building Sq. Ft.: _____

[] Site Plan Amendment Existing Building Square footage: _____ Total Proposed Building Sq. Ft.: _____

[] Official Development Plan Modification: [] Minor [] Major [] Business License [] Sales Tax License

[] Land Disturbance Permit [] Alcohol Beverage License [] Health Certificate [] Temporary Use

[] Site Improvement- Historic Overlay District

APPLICATION INFORMATION: Property Owner? [] Yes [X] No

Name: Chad Gunn Phone: 970-485-1898

Firm: Land Design Collaborative, LLC Email: chad.gunn@lscoll.com Fax:

Address: 3541 Aloha Dr, Sarasota, FL 34232

ARCHITECT / PLANNING CONSULTANT INFORMATION

Contact Person's Name: Phone:

Firm: Email: Fax:

Address:

ENGINEERING CONSULTANT INFORMATION

Contact Person's Name: Phone:

Firm: Email: Fax:

Address:

PROPERTY OWNER INFORMATION: List legal name and address of all persons and/or entities holding any sort of interest in the property which is the subject of the land development application. Attach additional sheets if necessary. Please see reverse side of this application for ownership documents to be submitted along with application.

INDIVIDUAL OWNERSHIP

Name: Phone:

Fax: Email:

Address:

CORPORATE OWNERSHIP

Name of Corporation:

Address:

State of Registration: Phone Number:

Name of Officers: _____

President Vice President Secretary

PARTNERSHIP

Name of Partnership:

Address:

State of Registration: Phone Number:

List of Partners: Name: _____

Address: _____

Name: _____

Address: _____

CERTIFICATION: I hereby certify that to the best of my knowledge and belief, all information supplied with this application is true and accurate and that consent of the property owner listed above, without which the requested action cannot lawfully be accomplished, has been granted. Permission is also hereby granted to the Town of Morrison staff to physically enter upon and inspect the subject property and take photographs as necessary for preparation of the case.

SIGNATURE OF APPLICANT: [Signature] DATE: 7/1/22

Attachment 2: Site Plan

LOT INFORMATION

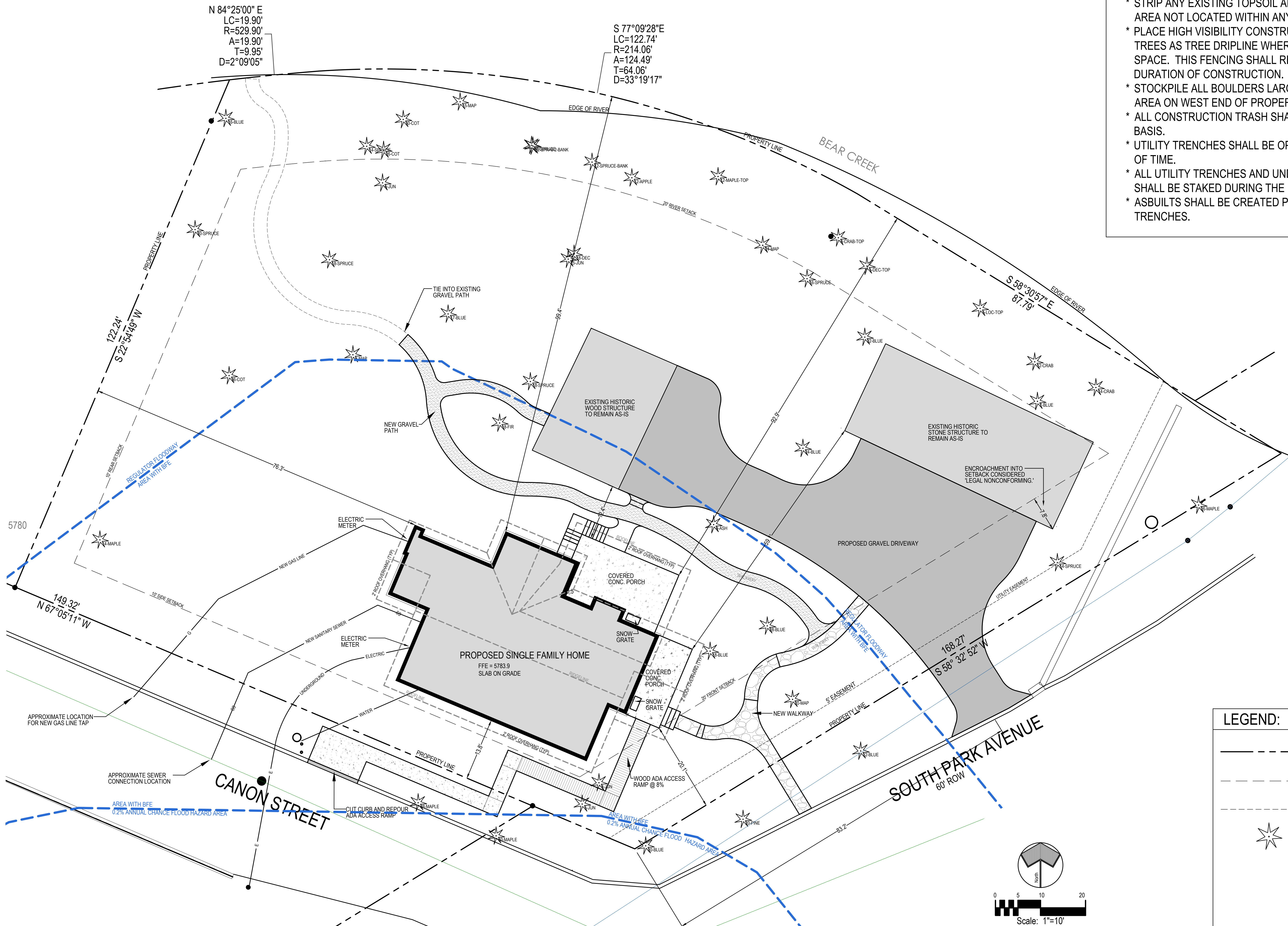
25,960 S.F.
0.59 AC.

NOTES:

- * INSTALL A CONTINUOUS SILT FENCE OR STRAW WADDLES 1'-2' ABOVE TOP OF STREAM BANK.
- * STRIP EXISTING CLAY SOIL FROM GRADE AND REMOVE FROM SITE.
- * STRIP ANY EXISTING TOPSOIL AND STOCKPILE ON SITE IN AN AREA NOT LOCATED WITHIN ANY TREE DRIPLINES.
- * PLACE HIGH VISIBILITY CONSTRUCTION FENCE AROUND ALL TREES AS TREE DRIPLINE WHERE THERE IS SUFFICIENT SPACE. THIS FENCING SHALL REMAIN IN PLACE FOR THE DURATION OF CONSTRUCTION.
- * STOCKPILE ALL BOULDERS LARGER THAN 1' IN DESIGNATED AREA ON WEST END OF PROPERTY.
- * ALL CONSTRUCTION TRASH SHALL BE PICKED UP ON A DAILY BASIS.
- * UTILITY TRENCHES SHALL BE OPEN FOR A MINIMUM AMOUNT OF TIME.
- * ALL UTILITY TRENCHES AND UNDERGROUND IMPROVEMENTS SHALL BE STAKED DURING THE BACK FILL PROCESS
- * ASBULTS SHALL BE CREATED PRIOR TO BACK FILL OF UTILITY TRENCHES.

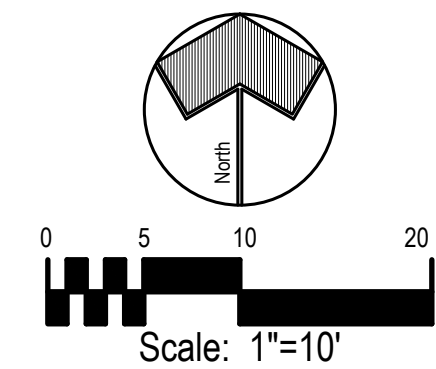
Dates:

2/25/2022
5/6/2022
6/29/2022



LEGEND:

- — — — — PROPERTY LINE
- - - - - SETBACK LINE
- - - - - EASEMENT LINE
- ★ EXISTING TREE



MINUTES FOR BOARD OF ADJUSTMENT
MORRISON TOWN HALL
110 STONE STREET
Thursday, December 10, 2020
4:00 P.M.

Call to Order: Wyatt Blassingame called the meeting to order at 4:00 P.M.

Oath of Office: Charla Bryant administered the Oath of Office to Ann Pitinga.

Roll Call: Board members Wyatt Blassingame (Chair), Kyle Burris, Margaretta Caesar (who appeared by phone), Ann Pitinga, Maja Stefansdottir, and Kathy Wolfe were present. Shari Raymond was not present. A quorum was established.

Staff Present: Gerald Dahl (Town Attorney), Carrie McCool (Planner), Kara Winters (Town Manager) and Charla Bryant (Deputy Town Clerk). Also present were Sarah Faville (Applicant), and Randall Look (Architect).

Approvals. Stefansdottir moved to approve the Minutes of August 22, 2019. Burris seconded the motion. All present voted in favor with the exception of Ann Pitinga who abstained, as she was not present at said meeting.

Posting. Blassingame asked if Notices had been posted. Bryant stated they had.

Conflicts of Interest. Blassingame asked if there were any conflicts of interests. There were no conflicts of interest.

Administer to Witnesses: Blassingame had all witnesses take an oath that they would state the truth, as they knew it. All witnesses agreed.

Public Hearing Opened.

Hearing Procedures. Blassingame stated a packet was sent to the Board of Adjustment members describing hearing procedures. This meeting is to discuss 211 S. Park Avenue, Morrison, CO 80465. There will be staff presentation, applicant presentation and a general public presentation to the Board. This is a formal hearing and persons testifying will be under oath. There were no questions or concerns by the Board of Adjustments regarding the procedures.

Presentation by Staff. Carrie McCool presented a Power Point Presentation and a written Staff Report. McCool stated that there was a request for a side setback variance from the 10' requirement for 211 S. Park Avenue, Morrison, CO 80465. This is a building addition planned for 749 square feet. It is a basement/deck in the form of the style of the house. There are five standards for review: Exceptional Conditions; Variance will observe spirit of article; Variance will not adversely affect adjacent properties; Variance is the minimal variance that will afford relief; and the Board should consider if there is a difficulty or hardship that was self-imposed.

Presentation by Applicant. Sarah Faville described her request for the variance. Randy Look is the Architect. Faville stated the Schneiders who are neighbors to the north, indicated they supported the side setback variance request.

Presentation by Public. There were two letters sent in; One letter from Emilie Kelly and one letter from Kathleen Dichter. Both letters were supportive of the side setback variance request. The Schneiders, who are neighbors to the north, also indicated to the Applicant that they supported the side setback variance. There were

no questions by the public. No one signed up for Public Comment.

Blassingame closed the Public hearing.

Burriss moved to approve the variance request, finding that it substantially meets the standards listed in the staff report. Stefansdottir seconded the Motion. All Board members voted in favor of the Motion. The Motion passed with 6 ayes.

Adjournment: There being no further business, the Board of Adjustment Meeting was adjourned at 4:47 p.m.

TOWN OF MORRISON

Wyatt Blassingame, Chairman

ATTEST:

Ariana Neverdahl, Town Clerk