



**TOWN OF WINTER PARK  
BOARD OF ADJUSTMENT  
Tuesday, August 14, 2018 8:00 AM  
Following the Planning Commission Meeting**

**Minutes**

- I. Meeting called to order at 10:10 am.
- II. Roll Call indicated present: Brad Holzwarth, Dave Barker, Mike Davlin, Doug Robbins, and Roger Kish.
- III. No minutes available for approval.
- IV. Conflicts of Interest- none heard.
- V. NEW BUSINESS:
  - A. Height Variance – Hideaway Station

Planner Owen Presented the Staff Report.

The applicant is requesting to ignore the low point historic grade elevation of 8720.0' and base the 55' height limitation from the lowest design grade of 8725' as seen in the attached renderings for Building E of Hideaway Station.

Owner's Reasons Why the Variance Should Be Granted:

"This request for variance is based on an existing grade condition, which the development team believes is a unique condition that adversely affects the height restriction of the building, overall. The historical grade has a low point of (8720.0) along the North side, which is 12'-0" lower than the designed FFE of the main floor in Bldg E (8732.0.) The next lowest point in the historical grading around the building footprint is only 7.5' below the main level FFE. The new design's finished grade elevations are lowest at (8725.0,) and the overall building height from the lowest point (garage slab) to the top of the highest parapet wall is 61'-3". Therefore, our request is to ignore the low point historic grade elevation of (8720.0,) and base the 55' height limitation from the lowest design grade of 8725.0. Please note in the attached elevations that the highest point of the building is the tall parapet at an elevation of 8780.33. This elevation is actually 8" above the proposed 55' height limitation; however, we are already planning to eliminate this 8" overage by lowering the parapet height or picking up the parking garage slab elevation."

Applicable Town Code:

7-5B-4 "The maximum height for all buildings and structures permitted in the D-C district shall be fifty five feet (55') as defined in chapter 2 of this title. (Ord. 324, Series of 2002)"

Criteria to Grant Variance (Town Code § 7-8):

7-8-1A: Whereby reason of unusual narrowness, shallowness or shape of a specific piece of property at the time of the enactment hereof, or by reason of unusual topographic conditions or other extraordinary and unusual practical difficulties to, or unusual and undue hardship upon, the owner of such property, to authorize, upon an appeal relating to such property, a variance from such strict an application so as to relieve such difficulties or hardship; provided, such relief may be granted

without substantially impairing the intent and purpose of the zoning plan as embodied in this title and the master plan.

7-8-1B: No variance shall be granted unless the board of adjustment finds, based on evidence, that:

1. The property in question cannot yield a reasonable return in use or service if permitted to be used only under the conditions allowed by the regulations for the municipality.
2. The plight of the owner is due to unusual circumstances.
3. The variation, if granted, will not alter the essential character of the locality.

7-8-1C: For the purpose of implementing the above rules, the Board shall also, in making its determination whether there are practical difficulties or particular hardships, take into consideration the extent to which the following facts favorable to the applicant have been established by the evidence:

1. The particular physical surroundings, shape or topographical condition of the specific property involved would result in a particular hardship upon the owner as distinguished from a mere inconvenience, if the strict letter of the regulations were carried out.
2. The conditions upon which the petition for a variance is based would not be applicable, generally, to the other property within the same zoning classification.
3. The purpose of the variation is not based primarily upon a desire to make more money out of the property.
4. The alleged difficulty or hardship has not been created by any person presently having an interest in the property.
5. The granting of the variation would not be detrimental to the public welfare or injurious to other property or improvements in the neighborhood in which the property is located.
6. The proposed variation will not impair an adequate supply of light and air to adjacent property or substantially increase the congestion in the public streets or increase the danger of fire or endanger the public safety or substantially diminish or impair property values within the neighborhood.

#### Public Notification:

This variance request has had proper public notification pursuant to Section 7-8-3 of the Town Code. A Public Notice was published in the Sky-Hi Daily News on July 26, 2018 providing notification of the meeting and requesting comments. Mailings were sent to property owners within 300 feet of the property, and the property was posted July 20, 2018. Two public comments were received prior to the packet being sent out and are attached. The other comments were printed and presented as table settings.

#### Staff Comments:

The applicant is requesting a variance from the Town Code on Building Height which requires buildings not to exceed fifty five feet (55'). The structure proposed on the site (Building E) as currently designed exceeds this height maximum. According to the applicant, recessing the parking further to achieve the height requirement would not be feasible due to Baker Drive and the water table. Possible solutions to the height issue could be to design the building to avoid or integrate the grade change, or to lower the height of the building to fit Town Code.

However, in order to proceed with building E as it is currently designed, these buildings would need a height variance since they do not meet the height requirements of the Town Code.

**Staff Recommendation:**

Staff does not provide a recommendation for variance requests. The Board of Adjustment must prove that a hardship is applicable and must establish findings of fact as related to the particular difficulties of the site. The hardship must be determined using one of the following criteria:

1. The property in question cannot yield a reasonable return in use or service if permitted to be used only under the conditions allowed by the regulations for the municipality.
2. The plight of the owner is due to unusual circumstances.
3. The variation, if granted, will not alter the essential character of the locality.

Peter Van Dusen, Architect and Project Manager for Winter Park Development made a presentation of the variance request including several elevation exhibits.

The Public Hearing was opened to the Public for comment:

The following language represents the topics each member of the public provided to the Board.

- Robert Mercer, on the Hi Country Haus Recreation Board- Concern about heights impacting enjoyment of mountain views now and into the future.
- Rick Sutton, representing the board of Hi Country House Recreation Board – Owners at Hi Country Haus are concerned about the views and shade from this building.
- John and Katie Parkinson, owners of the adjacent property – Concerned about height being higher than original plans they were originally presented, accuracy of water table calculations, compatibility with the surrounding neighborhood and structures, impacts of light trespass, audible noise from the ventilation system, and water quality impacts.
- Randy Wright, Owner in Hi Country Haus – Concerned about the precedent being set, the shade impacts, and the impact on mountain views.
- Mike Hower, Owner of two units at Hi Country Haus – Concerned about precedent being set, the impact on the feel of the community, view of the sky, and the mountain views.
- John Grieve, Owner in Hi Country Haus – Concerned that the Town code is not being followed, does not see any adequate hardship, concerned that the design for Building E is deliberately ignoring Town Codes and could be designed to fit within those codes.

The public hearing was closed and turned over to the Board of Adjustment for review and comment.

Discussion was held by the Board

- Commissioner Davlin discussed the impact of the artificial hole on the property due to the existing man-made detention pond.
- Commissioner Kish clarified that the decision of the board was to approve or disapprove based on the criteria presented. The board has no ability to work outside of the bounds of the Town Code. Discussed that the height is completely within the bounds of the Town Code except for the existence of the man-made detention pond or the underground parking structure which the Town has tried to encourage.

Board member Davlin moved and Board member Kish seconded approval of the height variance.

The variance is approved for the following reason:

The request met variance criteria number two “the plight of the owner is due to unusual circumstances” which includes the man-made detention pond on the property, and criteria number three “the variation, if granted, will not alter the essential character of the locality”.

Motion carried 5-0.

There being no further business, upon a previously adopted motion, the meeting was adjourned at 11:10 a.m.