



**TOWN OF WINTER PARK  
BOARD OF ADJUSTMENT  
Tuesday, April 14, 2020 8:00AM  
following the Planning Commission  
Online Meeting (instructions on second page)**

**A G E N D A**

- I. Meeting Call to Order
- II. Roll Call of BOA Members
- III. March 26, 2019 / June 11, 2019 / June 25, 2019 / August 13, 2019
- IV. Conflicts of Interest
- V. NEW BUSINESS:
  - A. 76 Idlewild Lane - Rear and Side Setback / Building Coverage

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**TOWN OF WINTER PARK  
BOARD OF ADJUSTMENT  
Tuesday, March 26, 2019 8:00 AM**

**MINUTE**

- I. Meeting Call to Order at 8:17 am.
- II. Roll Call of BOA Members indicated present: Chairman Holtzwarth, BOA Members Mike Davlin, David Barker, Roger Kish and Doug Robins. Community Development Director James Shockey and Town Planner Mara Owen are also present.
- III. Approval of BOA Minutes from January 22, 2019. BOA Member Davlin motions to approve them. BOA Member Robbins seconds. Motion carried 5,0.
- IV. Conflicts of Interest. – None.
- V. NEW BUSINESS:

A. Variance Request – 76 Idlewild Lane

Town Planner Owen gives a report. The applicant would like to build a one-car garage since they do not have one. This garage would also have a living space above that would connect to the second floor of the house. The property is located in a R-1 zone. The reason to ask for this variance is that, according to the Town Code, there shall be rear yard setback of at least 20 ft and a side yard setback of at least 10 ft. Planner Owen points out to the BOA Members the three criteria in order to grant variance:

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.

The variance request was made public on the Sky-Hi Daily News on February 28<sup>th</sup>, 2019 following the Section 7-8-3 of the Town Code. In addition, people living in the surrounding area (300ft) was mailed a notification of the variance request. No one sent any comments to the Planning Department.

Next, Town Planner Owen mentions some of the comments from the Staff:

1. The garage would step on the setback limits on the west and on the rear.
2. The property is located in a subdivision that was platted in the 1960's prior to the Town's incorporation. Back then, the zoning regulations allowed smaller lot sizes.
3. Taking into account what was just mentioned, the lot and the house do not conform to the R-1 Town standards.
4. In general, the Idlewild Meadows Subdivision has small lots and the setbacks that are current limit the amount of buildable space. The location of the proposed addition would not affect the overall character of the neighborhood significantly. There have been variance granted in this subdivision as well as in Old Town for similar reasons.

The Staff does not give recommendations for variance requests.

Chairman Holtzwarth asks the applicant to come forward. Ms. Shanna Lalley says that the Town Planner has presented her case in a comprehensive manner. Ms. Lalley adds that the proposed location of the garage is the only place they could think of.

BOA Member Robbins asks Ms. Lalley about the woodshed. Ms. Lalley says that the shed would go away along with other items in case the variance is approved to build the garage. Ms. Lalley says that they keep bikes, a lawnmower and other items in the shed so, with the garage, they would storage all those items inside.

Chairman Holtzwarth asks Ms. Lalley about the addition in the back of the house. Ms. Lalley responds that she thinks the main house was built in the 1940's and the addition was built in the 1980's. Another addition was made in the 1990's.

BOA Member Davlin tells Ms. Lalley that, in order to grant variance, all three criteria must be met. He mentions that criteria number one, return in use or service, is not very clear to him. He would like to listen to the reasons why the first criteria is met according to Ms. Lalley. She replies that the garage would add to the property value. Director Shockey clarifies that, financial gain cannot be taken into consideration to grant variance. BOA Member Barker interjects and says that it is reasonable for a single-family house to have a garage, especially in this environment.

Town Planner Owen points out that the applicant is not able to park in a designated zone; where they are parking right now goes against the Town Code.

BOA Member Davlin says that, when the property does not fit into the standards, the requests have to be studied on a case-by-case basis. Director Shockey mentions that the Code does not talk about lot sizes, but it does require the setbacks to be in compliance. BOA Member Kish points out the risk of fire for the next property since the garage would be very close to it; it would be necessary to install a firewall or special siding if the garage is closer to the shed on the next door property less than 5 ft. He adds that there are other options for the location of the garage. Ms. Lalley replies that if the garage were to be moved to the front, it would be necessary to eliminate the only window in the bedroom next to it. There is also a discussion about the drainage impact on the property next door and snow removal.

BOA Member Davlin wonders if the next-door neighbors have any complaint about the construction of the garage. Ms. Lalley says that she has been in touch with them and they are talking about alternatives to make their side of their property good. If the garage is built, it will provide privacy for both parts since it would block the view of the hot-tub and sauna the neighbors have without the need of building a fence.

Town Planner Owen asks the applicant about the distance of the setbacks for the foundation of the garage. Ms. Lalley is not quite sure about the distance. She thinks it might be 5 ft. but she is not a 100% sure.

There is a discussion about the roof overhang. In case the applicant can build the garage, the Building Department might have to ask for higher standards to make sure that buildings are fire protected. BOA Member Kish points out that, while the current neighbor seems not to have any complaints, a potential buyer might think that the garage is too close to the property line. That is why he is in favor of the 5 ft. setback.

BOA Member Davlin suggest the applicant to bring drawings, not to see how the garage exactly would look like but, to see the exact measurements of the foundation.

Chairman Holtzwarth opens the meeting for public comments.

Jonathan Larson from 184 Idlewild Lane comes forward. Mr. Larson does support the variance. He mentions that the proximity of the buildings to the property line is a common situation in that subdivision. Chairman Holtzwarth asks Mr. Larson about his property. Mr. Larson responds that he has a garage within setbacks.

Ms. Lalley comes back forward. She has discussed with her husband that, with a 5 ft. setback, it would be too narrow for the garage. They are asking if they could build a two-car garage in the front. Director Shockey replies that, the applicant needs to submit a new variance request for this specific front setback. He adds that, whereas there have been variances granted for decks in that subdivision, he cannot recall if variances have been granted for garages in the front.

Ms. Lalley asks if, in case they can build the garage with a firewall to protect the property next to it, there is a chance they can build the garage within a 3 ft. to make the garage wider. BOA Member Kish states that there might be issues in the future with the proximity to the property line if that is allowed.

Mr. Kelly Haverhals, owner of the property, thinks that 5 ft. setback would be enough and that he does not want to change plans.

BOA Member Davlin and Barker discuss the potential fire danger, the 5 ft. setback issue. Director Shockey makes reference to BOA Member Kish point about the maximum encroachment allowed in a single-family neighborhood for a garage. Chairman Holtzwarth mentions that a variance is forever so, in the future, some else can come forward and scrap the building, taking into account that the house itself has been there for at least 70 years.

BOA Member Davlin states that he will not make a motion for the 5 ft. setback since it would not probably be used by the applicant. BOA Member Barker says that he would be comfortable to approve something different with the appropriate firewall.

Director Shockey says that it would make sense to rezone this neighborhood and reduce the setbacks since the BOA keeps getting this kind of variance requests. Director Shockey recommends to deny so, when the applicant comes back to reapply, it will give the neighbors a chance to comment. It is better to be cautious and apply when they know exactly what variance is going to work and be used.

BOA Member Barker makes a motion to deny the variance request. BOA Member Kish seconds. There is a motion to approve.

Motion to deny variance carried 4, 1.

Upon a previously adopted motion, the meeting was adjourned at 8:54 am.



**TOWN OF WINTER PARK  
BOARD OF ADJUSTMENT  
Tuesday, June 11, 2019 8:00 AM  
following the Planning Commission**

**MINUTE**

- I. Meeting Call to Order. BOA Meeting starts at 9:21am.
- II. Roll Call of BOA Members. Chairman Brad Holtzwarth, BOA Member Jonathan Larson, Doug Robbins, and Roger Kish are present. Community Development Director James Shockey and Town Planner Mara Owen are present as well.
- III. No minutes available for review.
- IV. Conflicts of Interest. None.
- V. NEW BUSINESS:

- A. Sign Variance Request– Grand Adventures/MAD Adventures.

Town Planner Mara Owen starts giving a presentation of the request. Grand Adventures/MAD Adventures are requesting to install two (2) permanent signs. The businesses are located in Hideaway Station which is a new building (there are no signs at the moment of the application). Each one is a separate business with a separate business license. The reason for the sign variance request is that the signs will exceed the permitted square footage per Section 6-2-7-7 of Town Code which is 30 sq. ft. and the signs are 44 sq. ft. The type of signs the applicants would like to install are logo decal type. The applicants' goal is to use the glass surface to stick the signs on it.

Town Planner Owen mentions the criteria to grant sign variance (size, topography, shape, location and surroundings). Then, Planner Owen indicates to the BOA Members where in the packet they can find the drawings of how the signs would look like. The signs will not cover most of the surface of the glass so natural light can still go through.

Mr. Ryan Barwick is representing both Grand Adventures and Mad Adventures. He starts by describing to the BOA Members the design and the location of the signs. The signs are not backlit type. Basically, Mr. Barwick is going through the design of the signs based on the information provided in the packet to the BOA Members. Mr. Barwick also mentions to display some information about what each business offers that might be included in the signs.

BOA Member Kish mentions that one of the purposes of the signs on the main road is to provide information to the public about the kind of services the businesses offer. To BOA Member Kish, a decal sign does not offer that. He thinks that there are other design solutions. He adds that this type of signs would block the view and the light. Finally, BOA Member Kish mentions the need to have harmony and consistency on Highway 40.

Chairman Holtzwarth asks about how the sign would be wrapped up around the building. There are some clarifications about the location of the sign facing Highway 40. On the east side of the building the sign will be different. The sign will cover half of the window. There is also a discussion about the involvement of the HOA where the businesses are located.

Director Shockey mentions that each business was not aware that they need to apply for individual sign permits. They submitted a draft of a sign that would identify all of them in one single sign, similar to the one in Park Plaza. BOA Member Larson thinks that since the entire bottom of the wall is made of glass, this qualifies as a special circumstance. Director Shockey mentions that there is not a Master Plan Sign for this building (Hideaway Station). Chairman Holtzwarth interjects and states that, all the other business have the same kind of wall and they would also need a variance request for the square footage of their signs therefore, the circumstances for Grand Adventures and MAD Adventures are not unique.

There is also a discussion about the future business that will apply for sign permits; if the BOA grants this variance, the other businesses are going to assume they can install the same type of decal signs.

Mr. Barwick interjects and states that they have lost much of the signage area they used to have at their previous location, Beaver Village. Some members of the BOA suggest to approve a temporary banner or sandwich sign for the summer so the businesses would not be affected by the lack of signage.

Director Shockey agrees with that suggestion and the Staff could request a master sign plan for the entire commercial complex at Hideaway Station, grant a permit on a temporary basis and then ask the applicants to come into conformance with the redone sign code.

No further discussion.

BOA Member Larson makes a motion to deny the variance. BOA Member Kish seconds.

Motion to deny carried 4, 0.

Upon a previously adopted motion, the meeting was adjourned at 9:55am.



**TOWN OF WINTER PARK  
BOARD OF ADJUSTMENT  
Tuesday, June 25, 2019 8:00 AM**

**MINUTE**

- I. Meeting Call to Order. The BOA Meeting Starts at 10:03 am.
- II. Roll Call of BOA Members. Chairman Brad Holtzwarth, BOA Members Roger Kish, Mike Davlin, Doug Robbins. Community Development Director James Shockey and Town Planner Mara Owen are also present.
- III. No minutes available for review.
- IV. Conflicts of Interest. None.
- V. NEW BUSINESS:
  - A. Sign Variance Request– Headwaters Ecology Community Center

Director Shockey gives a staff report. The applicant is requesting to amend their master plan sign. They are requesting to add an additional monument sign at the Headwaters Ecology Community Center for the Headwater River Journey exhibit. The exhibit set to open next month on the lower level of the Community Center. Director Shockey indicates where in the electronic packet the BOA Members can find the specifications for the proposed sign.

The applicant would like to add an additional 83 sq. ft. monument sign for the Headwater River Journey exhibit on the Main Street. When the Board of Adjustment approved the original master sign plan, the one monument sign was to serve both businesses, the Ecology Center and the Community Center.

The applicant's justification for requesting the second monument sign is because the Town Code allows two monument signs if there are two primary entrances. Per Code, a second monument sign could be placed at the entrance of Baker Drive. The applicant is requesting to place the second monument sign on Main Street (Highway 40) instead of Baker Drive so it is visible from the highway, allowing visitors the opportunity to turn on Baker Drive or the Main Street entrance.

In the applicant's statement, they state that the Headwater River Journey sign could not be placed on the existing monument sign because the letters would be too small and not legible. A significantly larger sign would be required to accommodate the information. The purpose of a monument sign (per the Code) is to identify the name of the multiple use facility and the tenants therein. It is not meant to advertise just one individual tenant per monument sign as proposed by the applicant.

A variance should be granted only when, because of special circumstances applicable to the property, including size, shape, topography, location or surroundings by the Board of Adjustment.

Chairman Holtzwarth asks the applicant to come forward. Mr. Jeff Vogel, from Vogel and Associates, is representing the Spout Foundation and the Headwaters Center.

Mr. Vogel starts by explaining the intention and the support for this sign variance request. Mr. Vogel goes back to the section on the Code that was mentioned before. One of the considerations is that the main flow

of public comes from off Telemark Drive. Mr. Vogel points out that they have received some input from the public saying that the font of the sign is too little to be read accurately when you are driving.

Mr. Vogel continues his presentation by describing the importance of the Water Conservation Exhibit and River Journey Exhibit. Both facilities would have a significant impact on the residents and the tourists. The goal is to have an opening on July 13<sup>th</sup>, 2019.

The applicant wants to make sure the general public can find where to make the turn in time when they are driving. One of the arguments is that sign, if installed on Baker drive, would not be as helpful as opposed to have it installed close to the Main Street (Highway 40). Then, Mr. Vogel goes over the design of the sign. It would be similar to the sign existing today, but calls out the River Journey specifically, and calls out the directionality of where to access.

BOA Member Davlin asks Mr. Vogel if the sign variance request is because of unusual circumstances. Mr. Vogel replies that they consider they have an unusual circumstance due to the layout of the surrounding streets and access/entrances to the facility. Chairman Holtzwarth mentions that there was a wedding in the recent past where people have some trouble finding the right turn to access the facility; Chairman Holtzwarth would like to know how this proposed sign would help to avoid those kinds of situations in the future. Mr. Vogel replies that they are think about using temporary signs for those kinds of events.

Chairman Holtzwarth asks if it is possible to combine the two signs but Mr. Vogel replies that having one large sign would be too large and might block the view of the landscape and the building itself.

Director Shockey asks Mr. Vogel to explain how the banners would be integrated one more time. Mr. Vogel replies that the intent of the banners is just not to have characters but also symbols and images on them to be more effective in communicating the message. Mr. Vogel clarifies that the sign would be located in the right-of-way in the property and not on the island as Chairman Holtzwarth thought it was.

The applicant has also been in touch with Grand County Historic Society and Cozens Ranch to talk about how the banners could benefit all parties. The content of the banners would change during the winter and the summer seasons.

BOA Member Kish says that, for him, there is no difference between what is being requested today and what was approved in the original sign master plan when it was reviewed. BOA Member Davlin says that he can see the applicant's point in requesting the sign variance. Director Shockey adds that this is more an information sign that is more visible for the public going by the right-of-way.

Director Shockey clarifies that the Planning Commission does not regulate information signs like clocks or temperature type.

There is a short discussion about the square footage of similar monument signs. The sign variance request is being analyzed today is to add 83 sq. ft. to the monument sign and its location. There is also a short discussion about the banners.

BOA Member Robbins supports the sign variance request and adds that it would be worth it to have that addition. Chairman Holtzwarth states that his only concern is that they are going to install a road sign nearby.

BOA Member Robbins makes a motion to approve with the caveat of removing the three (3) banners, based on the location of the proposed sign variance request, the quality of the material it would be made of as opposed to have banners and because the square footage is less. BOA Member Davlin seconds.

BOA Member Kish votes against the sign variance request.

Motion carried 4, 1.

Upon a previously adopted motion, the BOA Meeting is adjourned at 10:39 am.



**TOWN OF WINTER PARK  
BOARD OF ADJUSTMENT  
Tuesday, August 13, 2019 8:00 AM**

**MINUTE**

- I. The meeting was called to order at 9:13 am.
- II. Roll Call of BOA Members indicated present Chairman Holtzwarth, BOA Members George Stevens, Jonathan Larson, Mike Davlin, Roger Kish and Davis Barker are present. BOA Member Doug Robbins is absent. Community Development Director James Shockey and Town Planner Mara Owen are present as well.
- III. No minutes available for review.
- IV. Conflicts of Interest. BOA Member Robbins indicates that he had a conversation with one of the applicants, but it was not financial. Chairman Holtzwarth mentions that he lives across the road from 359 Lionsgate; however, he does not have a final decision in this matter, and it will not impact the decision.
- V. NEW BUSINESS:
  - A. 359 Lionsgate – Expansion of a non-conforming use

Planner Mara Owen starts her presentation of the Staff report. The applicants are William MacDonald and Brittany Nudge. The applicants sent a variance application form in which they require that they can maximize the crawl space in their property (single family home). This is the result of discovering that the foundation of their home needs significant repair. They want to take advantage of the situation and convert their crawl space into a finished basement that will have two bedrooms, two bathroom and a recreational room to accommodate not only their children but also relatives when they come to visit.

The reason the applicants are requesting a variance is due to the fact that their home is located in a D-C zone. The applicants state that the footprint of the house will not be expanded since they are not adding space, they would like to alter the existing crawling space and build a finished basement. There will not be visible changes on the outside of the property. One of the points made by the applicants is that it is unusual for a family home to be located on a D-C zone.

Planner Owen concludes her presentation by saying that the Staff cannot recommend granting variance requests and that the BOA needs to support the decision of granting the variance with evidence in case the BOA decides to. The following criteria need to be met as well:

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.

All the supporting documents were included in the electronic packet sent to the BOA members on the previous days.

Chairman Holtzwarth asks what the difference is between this home and the Winter Park Cabin Club.

Director Shockey explains that the latter has a different type of ownership and it falls under commercial use. There is a short discussion about this topic among the BOA Members.

Chairman Holtzwarth asks the applicants to come forward. Mrs. Brittany Nudge and Mr. William MacDonald begin to support their case using the documentation sent to the BOA Members and the plans of the home alteration they would like to make to their home. Chairman Holtzwarth and BOA Members ask some questions about the details of the alteration.

Chairman Holtzwarth asks if there is further discussion about this topic. No one comes forward.

BOA Member Barker makes a motion to approve the variance request. BOA Member Robbins seconds.

Motion carried 5,0.

#### B. 104 Timber – Front setback variance

Director Shockey starts by giving a Staff report. The applicant, Michael Tybus who lives at 104 Timber Drive, is requesting a setback variance. The reason Mr. Tybus is requesting this variance is due to an error made by a previous land surveyor on 7/11/2018. The architectural plans placed the foundation 8' in the 25' front setback on the northeast side of the property close to Timber Drive. On 7/15/2019 the excavation was completed, and a new survey was ordered to stake placement of the house. At this point, the applicant realized that the initial survey was off 8'.

Mr. Tybus home is located in a R-1 zone which requires that the setbacks need to be 25 ft. from the property line. In this case, the setback would be at 17 ft. from the property line if the variance is granted.

As with the previous case, the BOA needs to support the decision of granting the variance with evidence in case the BOA decides to. Additionally, the following criteria must be met as well:

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.

Chairman Holtzwarth asks the applicant to come forward. Mr. Tybus recaps what Director Shockey just mentioned. Mr. Tybus makes emphasis that this was a mistake made by a previous surveyor and he is not at fault. He adds that they thought they could build on the flat portion of their property.

Although no public comments were received, the applicant states that he had a conversation with his next-door neighbor on the west side of his property (78 Timber Drive). They came to the conclusion that, his line of sight would be obstructed if the setback variance is granted but, they came to an agreement that this obstruction would be minimal.

Chairman Holtzwarth wants to make sure that, if granted, this setback variance would only apply to this building and no other including additions. Chairman Holtzwarth also mention the 5% grade. There is a short discussion about this and how moving it would mean to build a bigger retaining wall.

Chairman Holtzwarth states that there might be similar cases like this one in the future. He adds that the Planning Review approved this land survey back then. There is a short discussion about these topics and

the fulfilment of the criteria in order to grant the setback variance.

There is a recess from 9:53 am to 10:00 am.

The BOA continues to discuss the setback variance for Mr. Tybus. There is a discussion about similar situations in the Town of Winter Park i.e. Lakota.

BOA Member Davlin makes a motion to approve including the condition Chairman Holtzwarth mentioned about this setback variance being applied just for this building not including additions. BOA Member Kish seconds.

Motion carried 5, 0.

Upon a previously adopted motion, the meeting was adjourned at 10:13 am.

## MEMO

**TO** Board of Adjustment  
**FROM** Hugh Bell, Planner  
**THRU** James Shockey, Community Development Director  
**DATE** April 14, 2020  
**RE** Setback and Building Coverage Variance Request – 76 Idlewild Lane

*Note: A similar request for the property-in-question was previously brought before the Board of Adjustment on March 26, 2019.*

**Applicant:** Kelly Haverhals and Shanna Lalley

**Description of Variance Request:**

Request for 5' setback on side property line and 10' setback on rear property line for construction of a garage, and for a variance to increase the maximum building coverage limit to 45%.

**Owner's Reasons Why the Variance Should Be Granted:**

"Proposed Scope of Remodel – The current residence does not have a garage. The owner would like to add a one car garage and some additional living space above that proposed garage. Currently there is not enough space to add a garage without a variance. It would be out intention to match the building materials on the existing residence for the proposed remodel. We have included schematic floor plans and elevations for the variance submittal."

Proposed Variance Requested – The Owners would like to change the side setback to 5'-0" from property line and back setback to 10'-0" for the property line. They would propose that the limit of the roof (fascia) would extend 12" beyond the 5'-0" setback line as well. We understand that this will require that the proposed wall adjacent to the side setback line be constructed of fire protection material. The back setback would be extended for the living space above garage and a proposed future deck. To achieve the house remodel that the owners would like, we would also request a variance for the Maximum Building Coverage. We would request a coverage area of 45%, which exceeds the 40% required."

**Applicable Town Code:**

7-4A-3: LOT AREA REQUIREMENTS:

D. Minimum Yard Requirements: Except as provided for in section [7-3-7](#) of this title, minimum yard requirements in an R-1 zone shall be:

1. There shall be a front yard setback of at least twenty five feet (25') for any principal use and accessory structure.
- 2. There shall be a rear yard setback of at least twenty feet (20') for any principal use and accessory structure.**

**3. There shall be a side yard setback of at least ten feet (10') for any principal use and accessory structure.**

4. The side yard on the street side of each corner lot shall not be less than fifteen feet (15').  
(Ord. 317, Series of 2002)

**7-4A-4: BUILDING REQUIREMENTS:**

B. Maximum Building Coverage: The maximum area of a lot which may be covered by buildings (including roof overhangs), decks, patios, balconies, paths or walkways, parking areas and access drives shall not exceed forty percent (40%) of the "lot area" as described in section [7-2-3](#) of this title.  
(Ord. 423, Series of 2009)

**6-2-9: VARIANCES:**

A. Intent Of Variance Provision: Variance from the terms of this chapter shall be granted only when, because of special circumstances applicable to the property, including size, shape, topography, location or surroundings, the strict application of this chapter deprives such property privileges enjoyed by other property in the vicinity, and under identical zoning classification and other restrictions.

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

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

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 Middle Park Times on March 12, 2020, providing notification of the meeting and requesting comments. Mailings were sent to property owners within 300 feet of the property and the property posted on March 24, 2020.

No comments have been received as of 4/9/20.

**Staff Comments:**

The applicant is proposing to reduce the side setback of 10' to 5' and the rear setback of 20' to 10'. They are also proposing their addition to increase total building coverage to 45% of the site rather than the allowed 40%. As described above, the applicant is applying for this variance request in order to construct a single-stall garage with upper-floor living space and an eventual deck. See variance application form for schematic plans and elevations. The proposed garage and proposed deck would directly abut the 5' west side setback; also, the proposed deck would directly abut the 10' rear setback.

This property is located in the Idlewild Meadows Subdivision, a subdivision that was platted in the 1960's, prior to the Town's incorporation. The County's zoning regulations at that time allowed for smaller lot sizes and reduced setbacks compared to the Town's current zoning regulations.

As such, this lot and structure as it was originally platted and built does not conform to the R-1 Zone District requirements or to Town Standards; it does not meet the requirement of a minimum lot area of 9,000 square feet as the lot is only 7473.72 square feet, the structure currently encroaches 1.25 feet into the side setback on the east, parking is not permitted in the front or side setbacks, and all driveways should be a minimum of 7' from adjacent property and 15' from Town ROW which theirs is not. There are unusual circumstances with this lot as well as all of the lots in the Idlewild Meadows Subdivision, as they are unusually small and the setbacks imposed by the Town after-the-fact limit the amount of buildable space. The property has created a reasonable return in use as a structure has been built on the lot but not without encroaching into the side yard setback (east side) when the structure was constructed under County regulations. The location of the proposed addition would have minimal effect on the overall character of the neighborhood as many homes in this subdivision encroach on the side, rear, and front setbacks and have been granted variances in the past to construct garages on their properties.

**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 ALL 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.



## VARIANCE APPLICATION FORM

Date: \_\_\_\_ / \_\_\_\_ / \_\_\_\_

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

Mailing Address: \_\_\_\_\_

Phone Number: \_\_\_\_\_ E-mail Address: \_\_\_\_\_

Applicant is the:  Property Owner  Other: \_\_\_\_\_

Street address of property for which variance is requested: \_\_\_\_\_

Legal description of property: \_\_\_\_\_

Detailed description of the variance requested and an explanation of why the applicant believes the variance should be granted (please attach additional sheets if necessary):

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**Indicate which conditions listed below relate to the property for which variance is requested.**

*Please note, the Board of Adjustment cannot grant a variance unless it finds, based on evidence, that ALL the following conditions exist.*

- 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\*
- The plight of the owner is due to unusual circumstances\*
- The variation, if granted, will not alter the essential character of the locality\*

*\*For each condition checked above, applicant must provide adequate supporting evidence with this application.*

**Please indicate which of the following facts favorable to your application apply to this request:**

- 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\*
- 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\*
- The purpose of the variation is not based primarily upon a desire to make more money out of the property\*
- The alleged difficulty or hardship has not been created by any person presently having an interest in the property\*
- 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\*
- 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\*

*\*For each condition checked above, applicant must provide adequate supporting evidence with this application.*

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

Please submit all materials electronically to [permits@wpgov.com](mailto:permits@wpgov.com)

Date Received: \_\_\_\_\_ \$250 Fee Received: \_\_\_\_\_ Received By: \_\_\_\_\_



February 22, 2020  
Modified March 4, 2020

Re: ***Variance Application for  
Kelly Haverhals and Shanna Lalley  
76 Idlewild Lane, Lot 9 – Idlewild Meadows***

Dear Sirs,

On behalf of Shanna and Kelly, please find attached details of their request for a Variance for their existing Residence. Specifically, they would like to remodel and add on to their existing residence.

Proposed Scope of Remodel – The current residence does not have a garage. The owner would like to add a one car garage and some additional living space above that proposed garage. Currently there is not enough space to add a garage without a variance. It would be out intention to match the building materials on the existing residence for the proposed remodel. We have included schematic floor plans and elevations for the variance submittal.

Proposed Variance Requested – The Owners would like to change the side setback to 5'-0" from property line and back setback to 10'-0" for the property line. They would propose that the limit of the roof (fascia) would extend 12" beyond the 5'-0" setback line as well. We understand that this will require that the proposed wall adjacent to the side setback line be constructed of fire protection material. The back setback would be extended for the living space above garage and a proposed future deck. To achieve the house remodel that the owners would like, we would also request a variance for the Maximum Building Coverage. We would request a coverage area of 45%, which exceeds the 40% required.

Please feel free to contact me with any questions about the proposed remodel and any addition information we may need for the variance process. Thank you for your consideration.

Respectfully submitted,

David Dresen  
Builder/Architect  
Snow Mountain Builders, Inc.  
P.O. Box 3069  
Winter Park, CO 80482  
[snowmtbuilders@aol.com](mailto:snowmtbuilders@aol.com)  
303-587-1433

L0222 Winter Park – Lot 9

**From:** [snowmtbuilders@aol.com](mailto:snowmtbuilders@aol.com)  
**To:** [Hugh Bell](#)  
**Subject:** Re: 76 Idlewild Lane: square footage  
**Date:** Wednesday, March 04, 2020 7:27:56 AM  
**Attachments:** [image001.png](#)  
[image002.png](#)

---

Morning Hugh,

Here is the square footage values;

Existing House = 1419  
Proposed Remodel Building = 385  
Driveway, parking and sidewalks = 1250  
Decks = 290  
Open space = 4129

Total area = 7,473 s.f. per survey

Let me know if you need anything else - Thanks, Dave

-----Original Message-----

From: Hugh Bell <[hbell@wpgov.com](mailto:hbell@wpgov.com)>  
To: [snowmtbuilders@aol.com](mailto:snowmtbuilders@aol.com) <[snowmtbuilders@aol.com](mailto:snowmtbuilders@aol.com)>  
Sent: Tue, Mar 3, 2020 4:44 pm  
Subject: 76 Idlewild Lane: square footage

Hi David,

I received your application on behalf of Shanna and Kelly last week. Could you please send me the square footage of the building coverage and the lot? Building coverage includes buildings, roof overhangs, decks, patios, balconies, paths or walkways, parking areas, and access drives. Please send this at your earliest convenience as this may affect the variance request.

Thank you,

**Hugh Bell**  
**Planner | Community Development**  
P.O. Box 3327  
50 Vasquez Rd.  
Winter Park, CO 80482  
970.726.8081 x 218  
[hbell@wpgov.com](mailto:hbell@wpgov.com)  
[www.wpgov.com](http://www.wpgov.com)



# IMPROVEMENT SURVEY PLAT

## LOT 9, IDLEWILD MEADOWS, RECEPTION #93161

### SECTION 33, TOWNSHIP 1 SOUTH, RANGE 75 WEST, 6TH P.M.

### TOWN OF WINTER PARK, COUNTY OF GRAND, STATE OF COLORADO

**LEGEND**

- ◆ - SET 18" LONG #5 REBAR W/ ALUMINUM CAP, PLS #31942
- - FOUND ALUMINUM CAP, PLS #31942
- △ - FOUND 1/2" PIPE
- ⊙ - FOUND SPIKE W/ PLS #3660 TAG
- ◆ - FOUND 1 INCH PIPE
- ⊗ - POWER POLE
- ⊙ - ELECTRIC METER
- ⊙ - GAS METER
- ⊙ - FIRE HYDRANT
- E — E — OVERHEAD ELECTRIC

**LINE TABLE:**

LINE	BEARING	DISTANCE
L1	N 78°31'32" E	13.78' MEAS
L1	N 78°27'17" E	13.82' PLAT
L2	N 00°58'14" W	2.58' MEAS
L2	N 00°42'32" W	2.60' PLAT

**NOTES**

- THE FOLLOWING DOCUMENTS WERE UTILIZED IN THE PREPARATION OF THIS MAP:  
A. GRAND COUNTY RECORDS, IDLEWILD MEADOWS, RECEPTION #93161.
- THIS IMPROVEMENT SURVEY PLAT WAS PREPARED WITHOUT THE BENEFIT OF A CURRENT TITLE COMMITMENT AND/OR POLICY. RECORDED EASEMENTS, RIGHTS OF WAY AND/OR AGREEMENTS MAY EXIST THAT ARE NOT DEPICTED HEREIN.
- THE SUBJECT PROPERTY IS CURRENTLY ZONED TOWN OF WINTER PARK "(R-1) SINGLE-FAMILY RESIDENTIAL DISTRICT." SAID ZONING CONSIST OF THE FOLLOWING SETBACKS:  
MINIMUM FRONT YARD = 25'  
MINIMUM SIDE YARD = 10'  
MINIMUM REAR YARD = 20'
- THE POSITION OF THE POINT OF CURVATURE (PC) WAS DETERMINED BY SINGLE PROPORTIONATE MEASUREMENT FROM THE NORTHWEST CORNER OF LOT 10 (ALUMINUM CAP, PLS #31942) TO THE NORTHEAST CORNER OF LOT 8 (1" DIAMETER STEEL PIPE) TOGETHER WITH THE PROPORTIONATE PERPENDICULAR OFFSET.
- NOTICE: ACCORDING TO COLORADO LAW, YOU MUST COMMENCE ANY LEGAL ACTION BASED UPON ANY DEFECT IN THIS SURVEY WITHIN THREE YEARS AFTER YOU FIRST DISCOVER SUCH DEFECT. IN NO EVENT MAY ANY LEGAL ACTION BASED UPON ANY DEFECT IN THIS SURVEY BE COMMENCED MORE THAN TEN YEARS FROM THE DATE OF CERTIFICATION SHOWN HEREON.

**LAND SURVEYOR'S CERTIFICATION**

I, TIMOTHY R. SHENK, A DULY REGISTERED LAND SURVEYOR IN THE STATE OF COLORADO, DO HEREBY CERTIFY THAT THIS IMPROVEMENT SURVEY PLAT OF LOT 11, IDLEWILD MEADOWS TRULY AND CORRECTLY REPRESENTS THE RESULTS OF A SURVEY MADE BY ME OR UNDER MY DIRECT SUPERVISION, AND THAT SAID PLAT COMPLIES WITH THE REQUIREMENTS OF TITLE 38, ARTICLE 51, COLORADO REVISED STATUTES, 1973, AND THAT THE MONUMENTS REQUIRED BY SAID STATUTES HAVE BEEN PLACED ON THE GROUND.

DATED THIS 5TH DAY OF JULY, 2018.

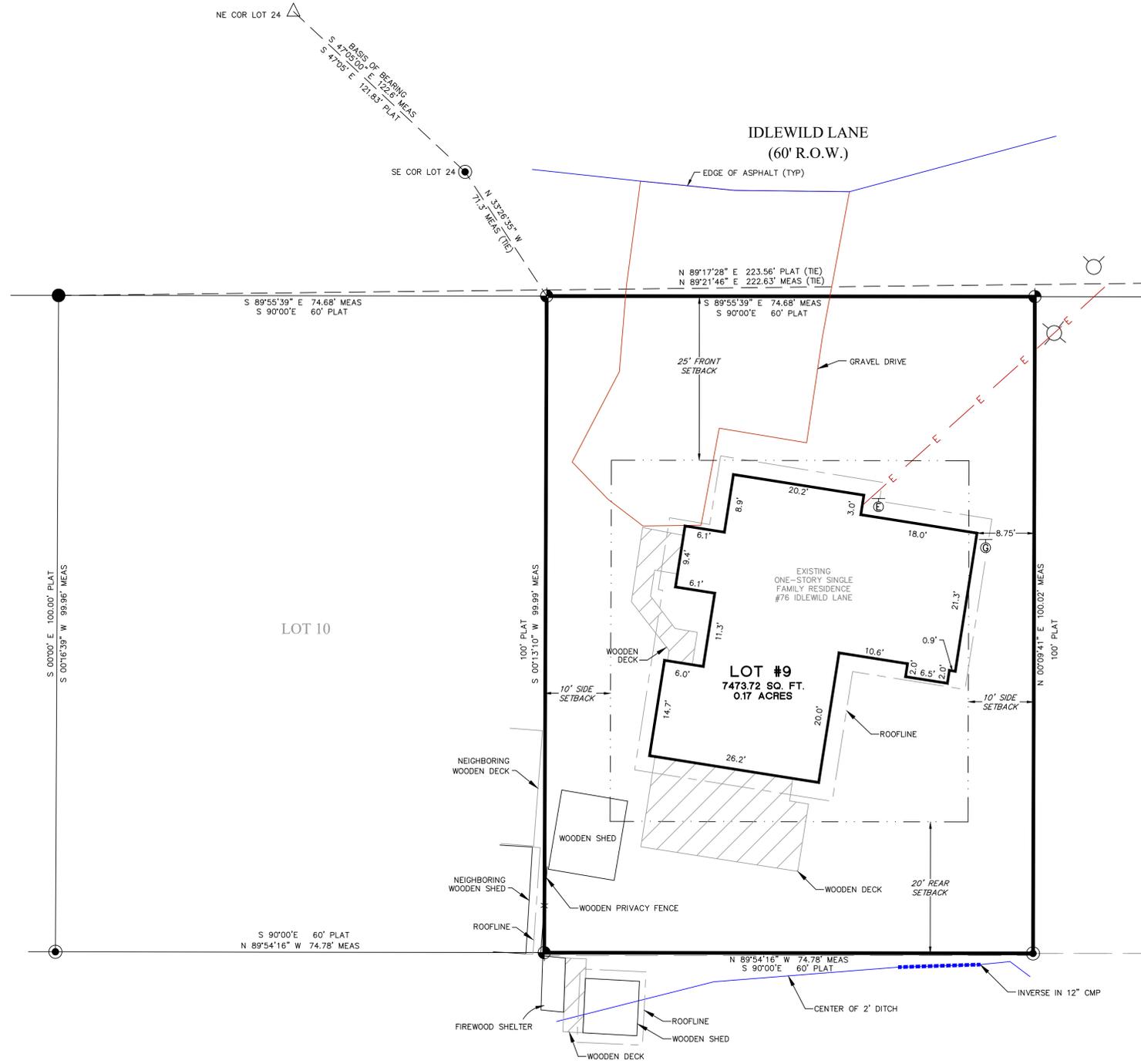
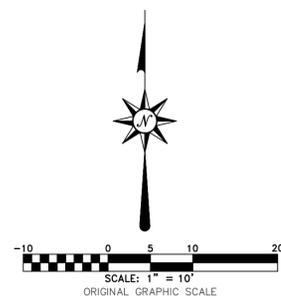


TIMOTHY R. SHENK, P.L.S. #31942  
ON BEHALF OF TIM SHENK LAND SURVEYING, INC.

**TIM SHENK**  
**LAND SURVEYING INC**  
P.O. BOX 1670  
GRANBY, CO 80446  
(970) 887-1046

SHEET 1 OF 1:

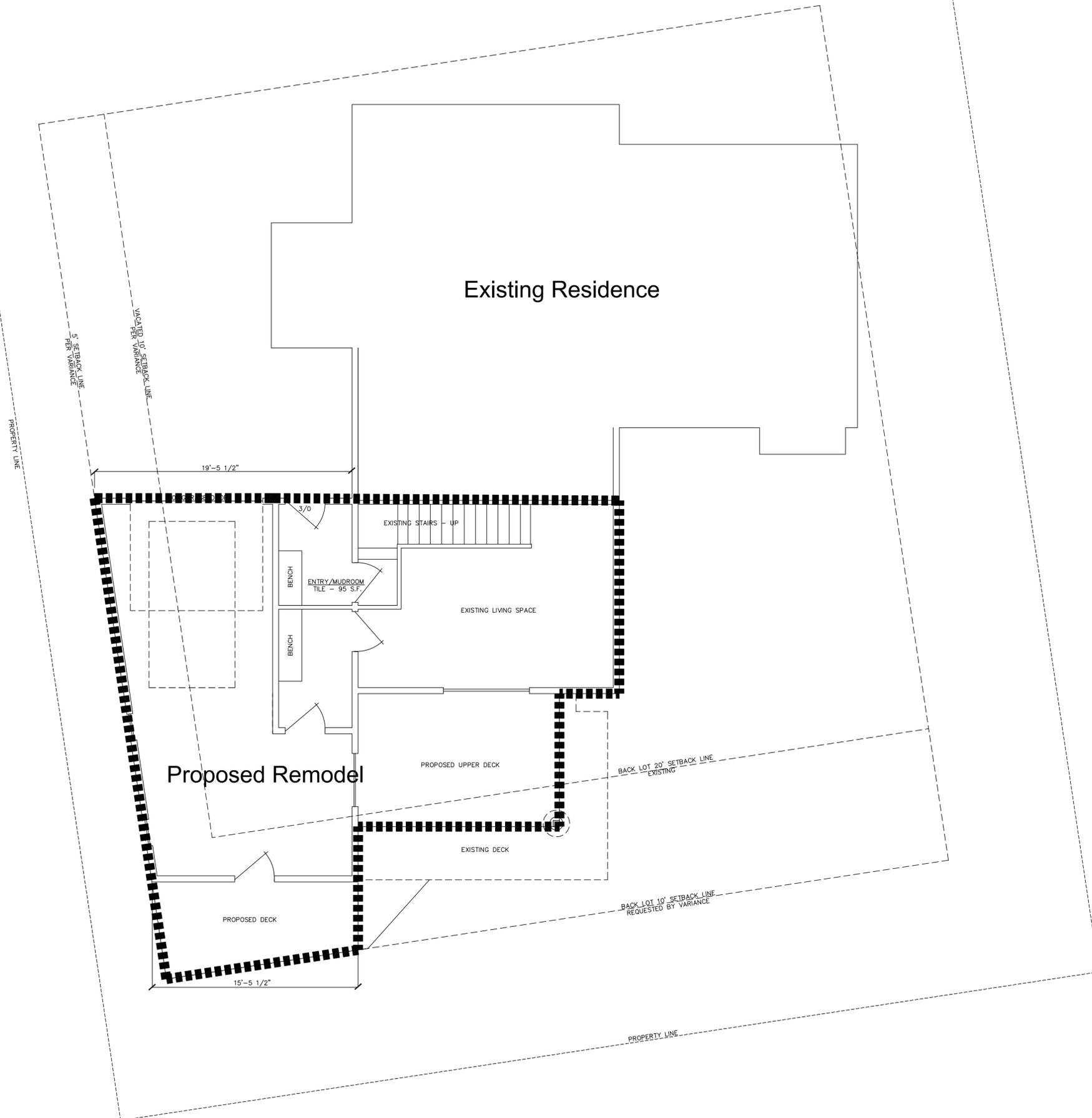
JOB: 16174	SCALE: 1" = 10'	DATE: JUL 5, 2018	CHECKED BY: TRS
DWG: 16174.02.DWG	CRD: 16174.04.CRD	DRAWN BY: TC	REVISED:



The Lalley/Haverhals Property

Lot 9  
Idlewild Meadows

76 Idlewild Lane  
Winter Park, Colorado



ISSUE DATE: February 22, 2020

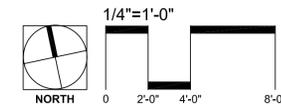
#	DATE	DESCRIPTION
1	2/22/2020	Variance Submittal

DRAWN: DD REVIEWED: SL/KH

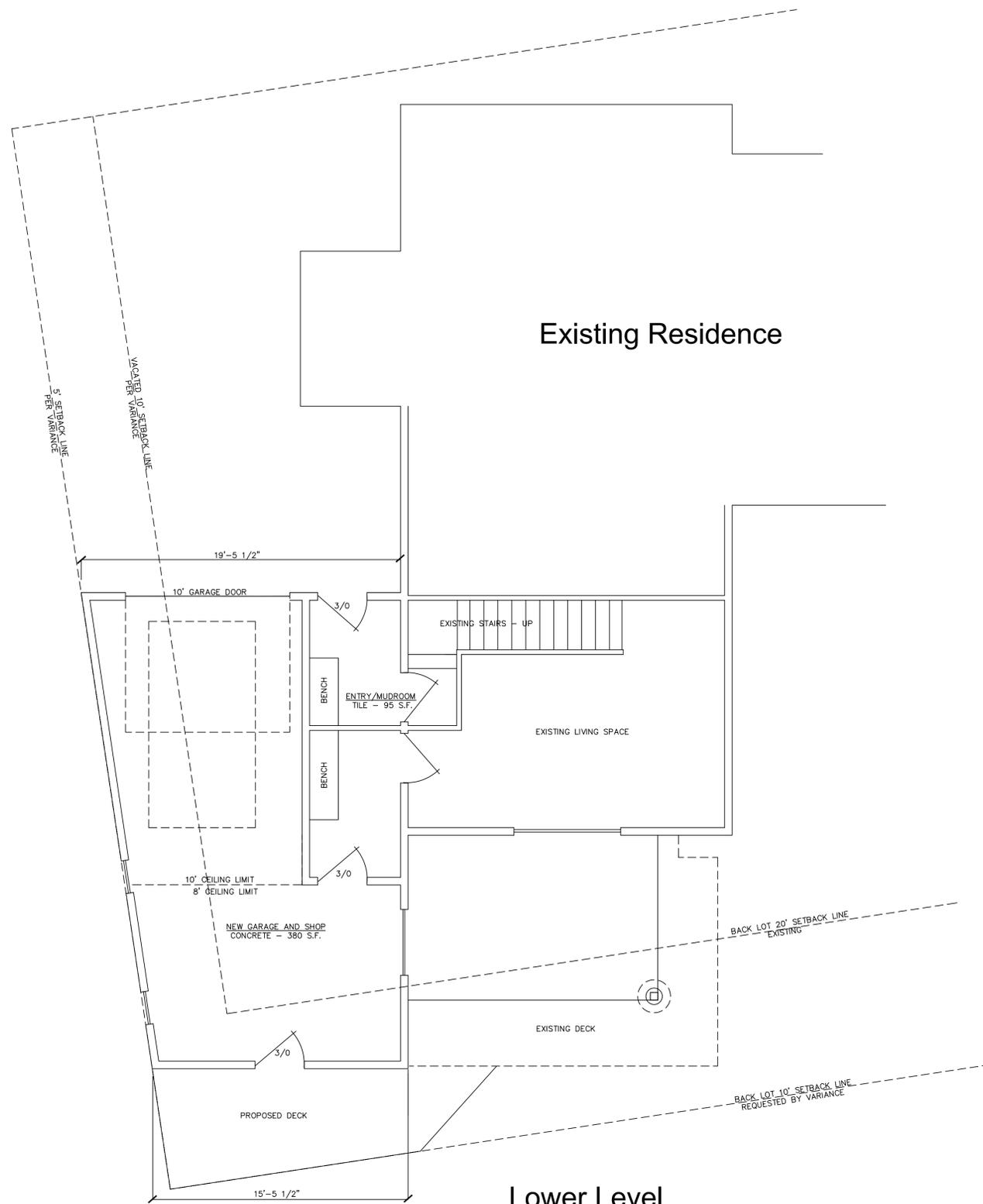
Limits of Proposed Remodel

SHEET NUMBER

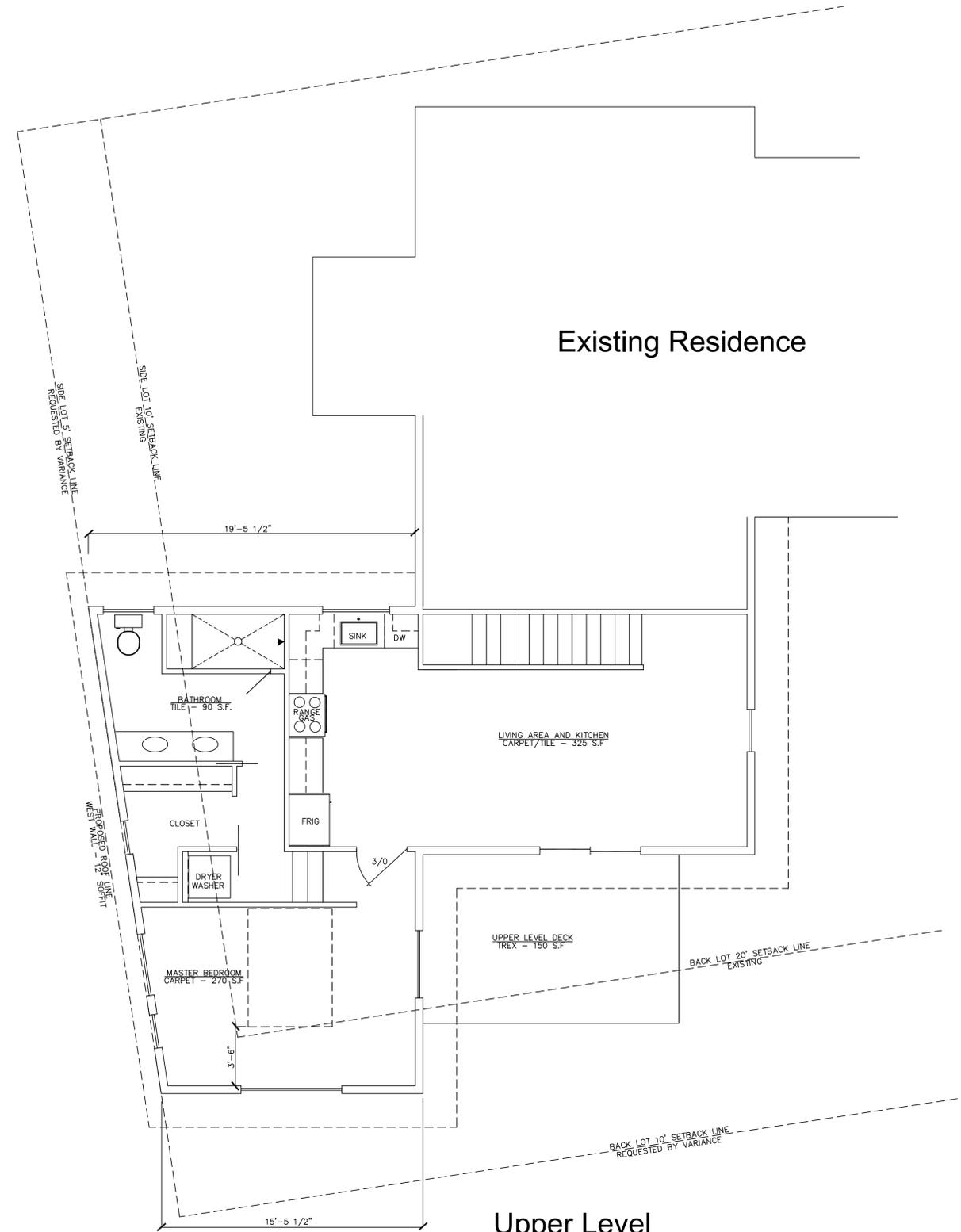
A1.1



The Lalley/Haverhals Property  
Lot 9  
Idlewild Meadows  
76 Idlewild Lane  
Winter Park, Colorado



Lower Level Floor Plan



Upper Level Floor Plan

ISSUE DATE: February 22, 2020

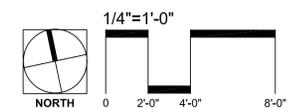
REVISIONS #	DATE	DESCRIPTION
1	2/22/2020	Variance Submittal

DRAWN: DD REVIEWED: SL/KH

Main and Upper Floor Plans

SHEET NUMBER

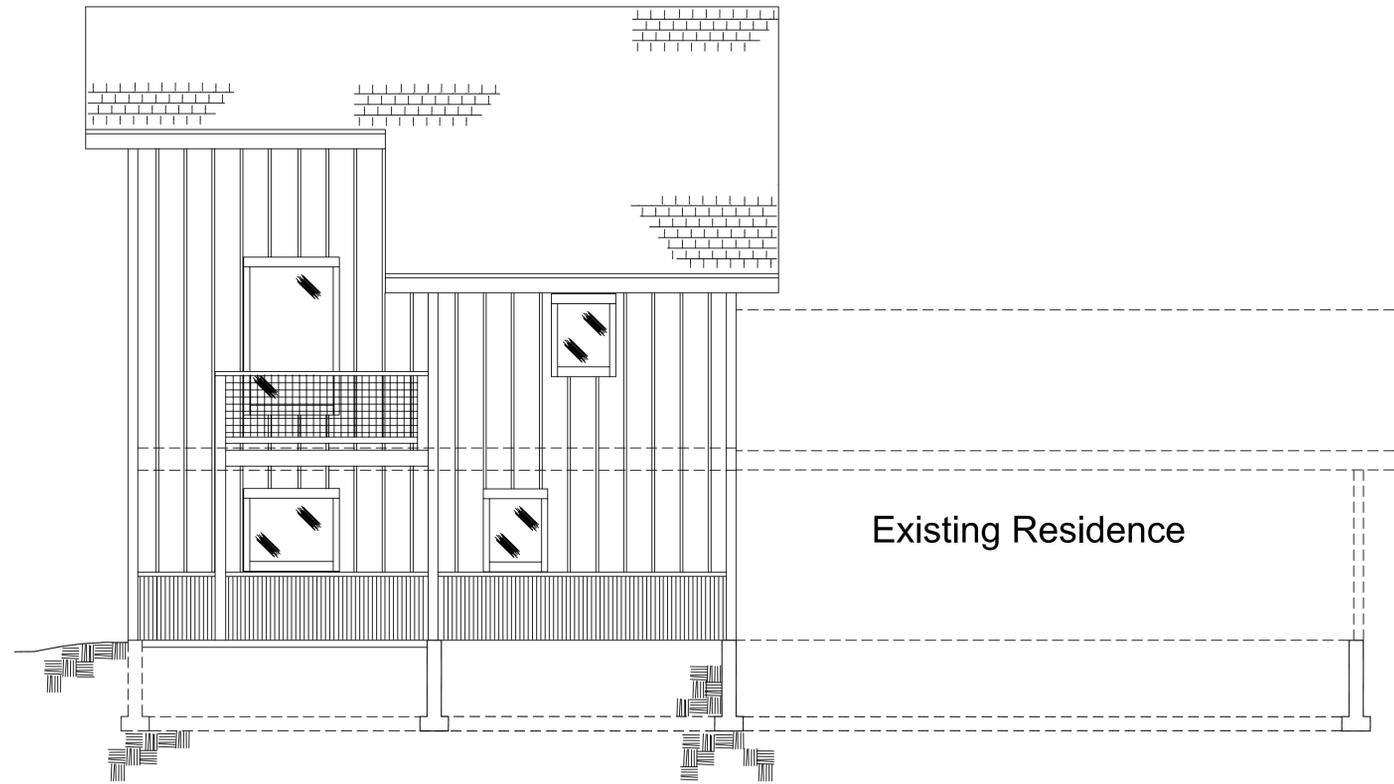
A1.2



The Lalley/Haverhals Property

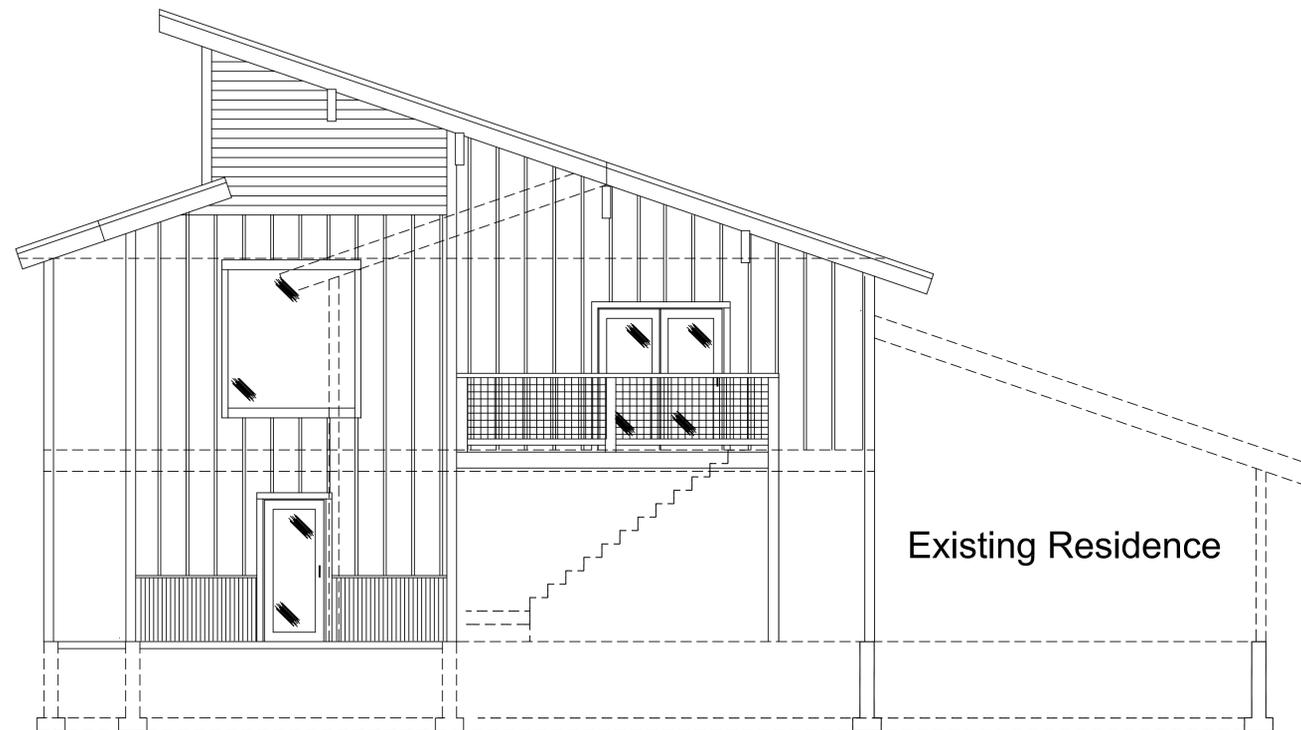
Lot 9  
Idlewild Meadows

76 Idlewild Lane  
Winter Park, Colorado



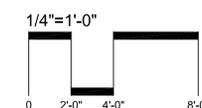
Existing Residence

East Elevation



Existing Residence

South Elevation



ISSUE DATE: February 22, 2020

REVISIONS		
#	DATE	DESCRIPTION
1	2/22/2020	Variance Submittal

DRAWN: DD REVIEWED: SL/KH

South and East Elevations

SHEET NUMBER

A1.3





**TOWN OF WINTER PARK  
BOARD OF ADJUSTMENT  
Tuesday, March 26, 2019 8:00 AM**

**MINUTE**

- I. Meeting Call to Order at 8:17 am.
- II. Roll Call of BOA Members indicated present: Chairman Holtzwarth, BOA Members Mike Davlin, David Barker, Roger Kish and Doug Robins. Community Development Director James Shockey and Town Planner Mara Owen are also present.
- III. Approval of BOA Minutes from January 22, 2019. BOA Member Davlin motions to approve them. BOA Member Robbins seconds. Motion carried 5,0.
- IV. Conflicts of Interest. – None.
- V. NEW BUSINESS:

A. Variance Request – 76 Idlewild Lane

Town Planner Owen gives a report. The applicant would like to build a one-car garage since they do not have one. This garage would also have a living space above that would connect to the second floor of the house. The property is located in a R-1 zone. The reason to ask for this variance is that, according to the Town Code, there shall be rear yard setback of at least 20 ft and a side yard setback of at least 10 ft. Planner Owen points out to the BOA Members the three criteria in order to grant variance:

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.

The variance request was made public on the Sky-Hi Daily News on February 28<sup>th</sup>, 2019 following the Section 7-8-3 of the Town Code. In addition, people living in the surrounding area (300ft) was mailed a notification of the variance request. No one sent any comments to the Planning Department.

Next, Town Planner Owen mentions some of the comments from the Staff:

1. The garage would step on the setback limits on the west and on the rear.
2. The property is located in a subdivision that was platted in the 1960's prior to the Town's incorporation. Back then, the zoning regulations allowed smaller lot sizes.
3. Taking into account what was just mentioned, the lot and the house do not conform to the R-1 Town standards.
4. In general, the Idlewild Meadows Subdivision has small lots and the setbacks that are current limit the amount of buildable space. The location of the proposed addition would not affect the overall character of the neighborhood significantly. There have been variance granted in this subdivision as well as in Old Town for similar reasons.

The Staff does not give recommendations for variance requests.

Chairman Holtzwarth asks the applicant to come forward. Ms. Shanna Lalley says that the Town Planner has presented her case in a comprehensive manner. Ms. Lalley adds that the proposed location of the garage is the only place they could think of.

BOA Member Robbins asks Ms. Lalley about the woodshed. Ms. Lalley says that the shed would go away along with other items in case the variance is approved to build the garage. Ms. Lalley says that they keep bikes, a lawnmower and other items in the shed so, with the garage, they would storage all those items inside.

Chairman Holtzwarth asks Ms. Lalley about the addition in the back of the house. Ms. Lalley responds that she thinks the main house was built in the 1940's and the addition was built in the 1980's. Another addition was made in the 1990's.

BOA Member Davlin tells Ms. Lalley that, in order to grant variance, all three criteria must be met. He mentions that criteria number one, return in use or service, is not very clear to him. He would like to listen to the reasons why the first criteria is met according to Ms. Lalley. She replies that the garage would add to the property value. Director Shockey clarifies that, financial gain cannot be taken into consideration to grant variance. BOA Member Barker interjects and says that it is reasonable for a single-family house to have a garage, especially in this environment.

Town Planner Owen points out that the applicant is not able to park in a designated zone; where they are parking right now goes against the Town Code.

BOA Member Davlin says that, when the property does not fit into the standards, the requests have to be studied on a case-by-case basis. Director Shockey mentions that the Code does not talk about lot sizes, but it does require the setbacks to be in compliance. BOA Member Kish points out the risk of fire for the next property since the garage would be very close to it; it would be necessary to install a firewall or special siding if the garage is closer to the shed on the next door property less than 5 ft. He adds that there are other options for the location of the garage. Ms. Lalley replies that if the garage were to be moved to the front, it would be necessary to eliminate the only window in the bedroom next to it. There is also a discussion about the drainage impact on the property next door and snow removal.

BOA Member Davlin wonders if the next-door neighbors have any complaint about the construction of the garage. Ms. Lalley says that she has been in touch with them and they are talking about alternatives to make their side of their property good. If the garage is built, it will provide privacy for both parts since it would block the view of the hot-tub and sauna the neighbors have without the need of building a fence.

Town Planner Owen asks the applicant about the distance of the setbacks for the foundation of the garage. Ms. Lalley is not quite sure about the distance. She thinks it might be 5 ft. but she is not a 100% sure.

There is a discussion about the roof overhang. In case the applicant can build the garage, the Building Department might have to ask for higher standards to make sure that buildings are fire protected. BOA Member Kish points out that, while the current neighbor seems not to have any complaints, a potential buyer might think that the garage is too close to the property line. That is why he is in favor of the 5 ft. setback.

BOA Member Davlin suggest the applicant to bring drawings, not to see how the garage exactly would look like but, to see the exact measurements of the foundation.

Chairman Holtzwarth opens the meeting for public comments.

Jonathan Larson from 184 Idlewild Lane comes forward. Mr. Larson does support the variance. He mentions that the proximity of the buildings to the property line is a common situation in that subdivision. Chairman Holtzwarth asks Mr. Larson about his property. Mr. Larson responds that he has a garage within setbacks.

Ms. Lalley comes back forward. She has discussed with her husband that, with a 5 ft. setback, it would be too narrow for the garage. They are asking if they could build a two-car garage in the front. Director Shockey replies that, the applicant needs to submit a new variance request for this specific front setback. He adds that, whereas there have been variances granted for decks in that subdivision, he cannot recall if variances have been granted for garages in the front.

Ms. Lalley asks if, in case they can build the garage with a firewall to protect the property next to it, there is a chance they can build the garage within a 3 ft. to make the garage wider. BOA Member Kish states that there might be issues in the future with the proximity to the property line if that is allowed.

Mr. Kelly Haverhals, owner of the property, thinks that 5 ft. setback would be enough and that he does not want to change plans.

BOA Member Davlin and Barker discuss the potential fire danger, the 5 ft. setback issue. Director Shockey makes reference to BOA Member Kish point about the maximum encroachment allowed in a single-family neighborhood for a garage. Chairman Holtzwarth mentions that a variance is forever so, in the future, some else can come forward and scrap the building, taking into account that the house itself has been there for at least 70 years.

BOA Member Davlin states that he will not make a motion for the 5 ft. setback since it would not probably be used by the applicant. BOA Member Barker says that he would be comfortable to approve something different with the appropriate firewall.

Director Shockey says that it would make sense to rezone this neighborhood and reduce the setbacks since the BOA keeps getting this kind of variance requests. Director Shockey recommends to deny so, when the applicant comes back to reapply, it will give the neighbors a chance to comment. It is better to be cautious and apply when they know exactly what variance is going to work and be used.

BOA Member Barker makes a motion to deny the variance request. BOA Member Kish seconds. There is a motion to approve.

Motion to deny variance carried 4, 1.

Upon a previously adopted motion, the meeting was adjourned at 8:54 am.