



**TOWN OF WINTER PARK  
BOARD OF ADJUSTMENT  
Tuesday, November 28, 2023 8:00 AM  
Immediately Following Planning Commission**

**A G E N D A**

- I. **Call to Order**
- II. **Roll Call of BOA Members**
- III. **Minutes:** November 14, 2023
- IV. **General Business:**
  - A. RESOLUTION NO. 8, SERIES OF 2023, A RESOLUTION OF THE BOARD OF ADJUSTMENT OF THE TOWN OF WINTER PARK APPROVING A VARIANCE AND ADOPTING FINDINGS OF FACT RELATED TO APPROVAL OF A VARIANCE TO REDUCE THE MINIMUM LOT DEPTH FOR LOT A, ALPENBECK TOWNHOMES MINOR PLAT
  - B. RESOLUTION NO. 9, SERIES OF 2023, A RESOLUTION OF THE BOARD OF ADJUSTMENT OF THE TOWN OF WINTER PARK APPROVING A VARIANCE AND ADOPTING FINDINGS OF FACT RELATED TO APPROVAL OF A VARIANCE TO REDUCE THE MINIMUM LOT AREA FOR LOT A, ALPENBECK TOWNHOMES MINOR PLAT

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### **Public Hearing Process**

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**TOWN OF WINTER PARK  
BOARD OF ADJUSTMENT  
Tuesday, November 14, 2023 8:00 AM**

**MINUTES**

**DATE:** Tuesday, November 14, 2023.

**MEETING:** Winter Park Board of Adjustment

**PLACE:** Town Hall Council Chambers and Zoom Meeting Call

**PRESENT:** Chair Dave Barker, Vice Chair Brad Holzwarth, Members Doug Robbins, Angela Sandstrom and Roger Kish are present. Town Planner Hugh Bell and Assistant Town Attorney Austin Flanagan (on Zoom) are present as well.

**OTHERS**

**PRESENT:** Irene Kilburn, Planning and Building Technician II

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**I. Call to Order**

Chair Barker called the meeting to order at 8:05 a.m.

**II. Roll Call of BOA Members**

All BOA Members are present today. The two BOA Alternates attended but Planner Bell told them their attendance was optional, given a quorum existed, and both Alternates left. Community Development Director James Shockey is absent today.

**III. Conflicts of Interest.**

No one comes forward.

**IV. Minutes**

Member Kish moves and Member Sandstrom seconds the motion approving the minutes from September 12, 2023. Motion carries 5, 0.

**V. General Business:**

A. PUBLIC HEARING: Lot Depth and Lot Area Variance Requests – 137 Fir Drive – Lot 3, Block 11, Winter Park Village Subdivision (PLN23-099 and PLN23-100)

Town Planner Hugh Bell presents both variance requests to the BOA. Staff recommends approving both.

The BOA members have several questions and comments, which include:

1. How the UDC regulations differ between twin homes and townhomes.
2. Whether a different ownership type would affect the need for a variance.

The applicant, Ms. Lianne Smith, comes forward and briefly summarizes her reasoning for why the variances should be granted.

Chair Barker opens the Public Comment Period. Mr. Michael Ziehler participates via Zoom. His comments include that he supports the variance requests but that he emailed staff asking for clarification on the R-2-O dimensional standards but did not receive a response.

Chair Barker closes the Public Comment Period.

The BOA members discuss this Variance Request and how it has been handled. The BOA agrees that the product type is in accordance with the character of the neighborhood. Then, there is a brief discussion about the parking configuration. Planner Bell states they are requesting the applicant measure Lot A's uncovered parking space to confirm it meets the minimum required dimensions. Then, the conversation moves towards the role of the HOA and product type.

Member Kish moves and Member Robbins seconds the motion approving the variance for reduced lot depth for 137 Fir Drive – Lot 3, Block 11, Winter Park Village Subdivision (PLN23-099 and PLN23-100) using staff's reasoning in the staff report for how each of the four required variance criteria are being met. Motion carries 5,0.

Member Kish moves and Member Robbins seconds the motion approving the variance for reduced lot area for 137 Fir Drive – Lot 3, Block 11, Winter Park Village Subdivision (PLN23-099 and PLN23-100) using staff's reasoning in the staff report for how each of the four required variance criteria are being met. Motion carries 5,0.

## VI. **BOA Items for Discussion**

The BOA members present confirm that they can make the PC hearing on Tuesday, November 28, 2023. Commissioner Sandstrom states she may have to leave by 9:30am. Planner Bell states that only one item is currently on the agenda, a Minor Plat for the same property from today.

There being no further business to discuss, upon a motion regularly adopted, the meeting was adjourned at 8:34 a.m.

The next scheduled meeting of the Board of Adjustment will be Tuesday, December 12, 2023, after the Planning Commission meeting.

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Irene Kilburn, Planning and Building Technician II

**TOWN OF WINTER PARK  
BOARD OF ADJUSTMENT  
RESOLUTION NO. 8  
SERIES OF 2023**

**A RESOLUTION OF THE BOARD OF ADJUSTMENT OF THE TOWN OF WINTER PARK APPROVING A VARIANCE AND ADOPTING FINDINGS OF FACT RELATED TO APPROVAL OF A VARIANCE TO REDUCE THE MINIMUM LOT DEPTH FOR LOT A, ALPENBECK TOWNHOMES MINOR PLAT**

WHEREAS, pursuant to the Unified Development Code (the "UDC") § 5-A-4, the Board of Adjustment is authorized to grant variances from the requirements of Title 7 of the UDC;

WHEREAS, § 3-A-3 of the UDC states that the minimum lot depth in the Multiple Family Residential within Old Town (R-2-O) zone district shall be at least 65 feet for Twin Home dwellings;

WHEREAS, on October 23, 2023, Jamie Smith (the "Applicant"), on behalf of Firhaus LLC, the owner of the real property more particularly described in **Exhibit A** (the "Property"), filed an application for a variance to allow Lot A of Alpenbeck Townhomes Minor Plat to be platted with lot depth at 51' instead of 65' as required (the "Application");

WHEREAS, on November 14, 2023, the Board of Adjustment held a properly noticed public hearing on the Application; and

WHEREAS, after considering the Application, presentations by Town staff and the Applicant, and public comment, the Board of Adjustment approved the Application and hereby adopts the following findings of fact in support of such approval.

NOW THEREFORE BE IT RESOLVED by the Board of Adjustment as follows:

1. Findings. The Board of Adjustment hereby finds and determines that the Application meets the applicable criteria set forth in § 5-F-3(F) of the UDC, more particularly:
  - a. The strict or literal interpretation and enforcement of the specified regulation would result in practical difficulty or unnecessary physical hardship that would deprive the applicant of privileges enjoyed by the owners of other properties in the same zone district because the Applicant cannot subdivide the lot nor condominiumize airspace;
  - b. That the granting of the variance will not be detrimental to the public health, safety or welfare or materially injurious to properties or improvements in the vicinity because the structure complies with setbacks and the shallower lot depth and smaller lot area will be imperceptible to passersby;
  - c. The plight of the owner is due to unusual circumstances at the property of the variance that do not generally apply to other properties in the same zone district because of the historic nature of the plat and the new dimensional standards imposed by the UDC; and

- d. That the granting of the variance will not alter the essential character of the locality because other lots in the subdivision are unusually small and their dimensions limit the amount of buildable space enjoyed by owners in similar subdivisions.
- 2. Decision. Based on the foregoing findings, the Board of Adjustment hereby **approves** the variance, as requested in the Application, subject to the following conditions:
  - a. A plat shall be approved that creates Lot A of Alpenbeck Townhomes within one (1) year of approval.
  - b. Neither this Resolution nor the variance granted herein creates any vested rights under statute or common law.
  - c. This Resolution shall be recorded in the records of the Grand County Clerk and Recorder within 30 days of approval.

PASSED, ADOPTED, AND APPROVED this 28<sup>th</sup> day of November, 2023.

BOARD OF ADJUSTMENT

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David Barker, Chair

ATTEST:

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Danielle Jardee, Town Clerk

**Exhibit A**

Legal Description of Property

Lot 3, Block 11, WINTER PARK VILLAGE according to the Plat filed October 9, 1958 at Reception No. 90263, Town of Winter Park, County of Grand, State of Colorado.

**TOWN OF WINTER PARK  
BOARD OF ADJUSTMENT  
RESOLUTION NO. 9  
SERIES OF 2023**

**A RESOLUTION OF THE BOARD OF ADJUSTMENT OF THE TOWN OF  
WINTER PARK APPROVING A VARIANCE AND ADOPTING FINDINGS OF  
FACT RELATED TO APPROVAL OF A VARIANCE TO REDUCE THE  
MINIMUM LOT AREA FOR LOT A, ALPENBECK TOWNHOMES MINOR  
PLAT**

WHEREAS, pursuant to the Unified Development Code (the "UDC") § 5-A-4, the Board of Adjustment is authorized to grant variances from the requirements of Title 7 of the UDC;

WHEREAS, § 3-A-3 of the UDC states that the minimum lot area in the Multiple Family Residential within Old Town (R-2-O) zone district shall be at least 2,178 sq. ft. for Twin Home dwellings;

WHEREAS, on October 23, 2023, Jamie Smith (the "Applicant"), on behalf of Firhaus LLC, the owner of the real property more particularly described in **Exhibit A** (the "Property"), filed an application for a variance to allow Lot A of Alpenbeck Townhomes Minor Plat to be platted with lot area of 1,829 sq. ft. instead of 2,178 sq. ft. as required (the "Application");

WHEREAS, on November 14, 2023, the Board of Adjustment held a properly noticed public hearing on the Application; and

WHEREAS, after considering the Application, presentations by Town staff and the Applicant, and public comment, the Board of Adjustment approved the Application and hereby adopts the following findings of fact in support of such approval.

NOW THEREFORE BE IT RESOLVED by the Board of Adjustment as follows:

1. Findings. The Board of Adjustment hereby finds and determines that the Application meets the applicable criteria set forth in § 5-F-3(F) of the UDC, more particularly:
  - a. The strict or literal interpretation and enforcement of the specified regulation would result in practical difficulty or unnecessary physical hardship that would deprive the applicant of privileges enjoyed by the owners of other properties in the same zone district because the Applicant cannot subdivide the lot nor condominiumize airspace;
  - b. That the granting of the variance will not be detrimental to the public health, safety or welfare or materially injurious to properties or improvements in the vicinity because the structure complies with setbacks and the shallower lot depth and smaller lot area will be imperceptible to passersby;
  - c. The plight of the owner is due to unusual circumstances at the property of the variance that do not generally apply to other properties in the same zone district because of the



historic nature of the plat and the new dimensional standards imposed by the UDC;  
and

- d. That the granting of the variance will not alter the essential character of the locality because other lots in the subdivision are unusually small and their dimensions limit the amount of buildable space enjoyed by owners in similar subdivisions.
2. Decision. Based on the foregoing findings, the Board of Adjustment hereby **approves** the variance, as requested in the Application, subject to the following conditions:
- a. A plat shall be approved that creates Lot A of Alpenbeck Townhomes within one (1) year of approval.
  - b. Neither this Resolution nor the variance granted herein creates any vested rights under statute or common law.
  - c. This Resolution shall be recorded in the records of the Grand County Clerk and Recorder within 30 days of approval.

PASSED, ADOPTED, AND APPROVED this 28<sup>th</sup> day of November, 2023.

BOARD OF ADJUSTMENT

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David Barker, Chair

ATTEST:

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Danielle Jardee, Town Clerk

**Exhibit A**

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