



**TOWN OF WINTER PARK
BOARD OF ADJUSTMENT
Tuesday, May 28, 2024 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:** April 14, 2024
- IV. **General Business:**
 - A. Consideration to adopt Resolution 1, Series 2024 A RESOLUTION OF THE BOARD OF ADJUSTMENT OF THE TOWN OF WINTER PARK APPROVING A VARIANCE TO REDUCE THE BUFFERYARD REQUIRMENTS FOR A PORTION OF THE EAST BUFFERYARD FOR RETREAT AT ATLAS AND ADOPTING FINDINGS OF FACT THERETO

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Public Hearing Process

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**TOWN OF WINTER PARK
BOARD OF ADJUSTMENT
Tuesday, April 23, 2024 8:00 AM
Immediately Following Planning Commission**

MINUTES

DATE: Tuesday, April 23, 2024.

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. Community Development Director James Shockey is present as well.

OTHERS

PRESENT: Irene Kilburn, Planning and Building Technician II

I. I. Call to Order

Chair Barker called the meeting to order at 9:27 a.m.

II. Roll Call of BOA Members

All BOA Members are present today.

III. Conflicts of Interest.

No one comes forward.

IV. Minutes

Member McDonough moves and Member Kish seconds the motion approving the minutes from November 28, 2023. Motion carries 5, 0.

IV. General Business:

A. Election of Chair and Vice Chair (yearly)

Member Tagseth moves and Member Kish seconds the motion approving the reelection of Chair Barker and Vice Chair Holzwarth motion carries 5, 0.

B. PUBLIC HEARING – Landscape Bufferyard Variance Request – 101-128 Atlas Circle – Retreat at Atlas Subdivision (PLN24-027)

Community Development Director presents the variance request to the BOA. Staff recommends its approval. Director Shockey emphasizes the justifications in the staff report.

The Applicant, Mr. Chris Tagseth from MA Studios comes forward. Mr. Tagseth answers questions from the BOA. There is a brief conversation about the bufferyards.

Chair Barker opens the Public Comment Period.

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 changes would enhance the character of the area. Mr. Tagseth states that the applicant is working on bringing the project into UDC Guidelines.

Member McDonough moves and Member Kish seconds the motion approving the variance Landscape Bufferyard Variance Request – 101-128 Atlas Circle – Retreat at Atlas Subdivision (PLN24-027) 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**

There are no items for discussion.

There being no further business to discuss, upon a motion regularly adopted, the meeting was adjourned at 9:41 a.m.

The next scheduled meeting of the Board of Adjustment will be Tuesday, May 28, 2024, after the Planning Commission meeting.

Irene Kilburn, Planning and Building Technician II

**TOWN OF WINTER PARK
BOARD OF ADJUSTMENT
RESOLUTION NO. 1
SERIES OF 2024**

**A RESOLUTION OF THE BOARD OF ADJUSTMENT OF THE TOWN OF
WINTER PARK APPROVING A VARIANCE TO REDUCE THE BUFFERYARD
REQUIREMENTS FOR A PORTION OF THE EAST BUFFERYARD FOR
RETREAT AT ATLAS AND ADOPTING FINDINGS OF FACT THERETO**

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-I-5 of the UDC states that in the R-2 zone district, a Type C bufferyard is required for the east lot line along a public right-of-way;

WHEREAS, on April 2, 2023, 115 Reiling, LLC (the "Applicant"), as the owner of the real property more particularly described in **Exhibit A** (the "Property"), filed an application for a variance to allow for reduced plantings for the east bufferyard, more particularly, five (5) fewer evergreen trees than required (the "Application");

WHEREAS, on April 23, 2024, 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, as further described in the Decision section below, and hereby adopts the following findings of fact in relation to the decision.

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 undue hardship that would deprive the Applicant of privileges enjoyed by the owners of other properties in the same zone district because the original site layout was approved under the previous 1997 landscaping regulations which were met at that time;
 - 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 having less landscaping is not hazardous;
 - a. 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 the site layout was approved under the previous 1997 landscaping regulations. The UDC upgraded the bufferyard intensity from Type B to Type C, which means the number of required trees doubled. The Applicant has satisfactorily added the required number

of trees in all but one section of the east bufferyard, and even in that nonconforming section, there is a surplus of deciduous trees that compensates for the five (5) fewer evergreen trees.; and

- a. That the granting of the variance will not alter the essential character of the locality because the Property exists among older developments, many of which do not comply with the current UDC landscaping requirements.

2. Decision. Based on the foregoing findings, the Board of Adjustment hereby **approves** the variance for a portion of the east bufferyard as outlined in **Exhibit B**, subject to the following conditions:

- a. A Development Improvements Agreement ("DIA") for improvements described in the Application shall be issued on or before May 28, 2025. If a DIA is not issued within such time, the variance granted herein shall automatically terminate without further action by the Town.
- 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 28th day of May, 2024.

BOARD OF ADJUSTMENT

David Barker, Chair

ATTEST:

Danielle Jardee, Town Clerk

Exhibit A

Legal Description of Property

THE RETREAT AT ATLAS FINAL PLAT, A REPLAT OF SNOW CREEK TOWNHOMES RECEPTION NUMBER 2007-013563 EXCEPT EXEMPTION No.1, SNOW CREEK TOWNHOMES RECEPTION NUMBER 2013-008466 A PART OF THE NORTHWEST QUARTER OF SECTION 33, TOWNSHIP 1 SOUTH, RANGE 75 WEST OF THE SIXTH PRINCIPAL MERIDIAN, TOWN OF WINTER PARK, COUNTY OF GRAND, STATE OF COLORADO

Exhibit B Site Plan

