



**TOWN OF WINTER PARK  
BOARD OF ADJUSTMENT  
Tuesday, March 11, 2025 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:** February 11, 2024
- IV. **General Business:**
  - A. Consideration to Adopt Resolution 2, Series 2024, A RESOLUTION OF THE BOARD OF ADJUSTMENT OF THE TOWN OF WINTER PARK APPROVING A VARIANCE TO REDUCE THE REQUIRED OFF-STREET PARKING SPACES FOR RAIL-WATER CONDOMINIUMS AND ADOPTING FINDINGS OF FACT THERETO
  - B. Consideration to Adopt Resolution 2, Series 2025, A RESOLUTION OF THE BOARD OF ADJUSTMENT OF THE TOWN OF WINTER PARK ADOPTING FINDINGS OF FACT RELATED TO THE DENIAL OF A VARIANCE TO INCREASE THE MAXIMUM BUILDING HEIGHT FOR 78581 HIGHWAY 40

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**TOWN OF WINTER PARK  
BOARD OF ADJUSTMENT  
Tuesday, February 11, 2025 8:00 AM  
Immediately Following Planning Commission**

**MINUTES**

**DATE:** Tuesday, February 11, 2025.

**MEETING:** Winter Park Board of Adjustment

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

**PRESENT:** Chair Dave Barker, Members Shawn Cullingford, Dale McCaw, Tom McDonald, Angela McDonough and Eric Mowrey ( Alternate) are present. Also present are Community Development Director James Shockey, Senior Planner Brian Kelly, Town Attorney Mr. Kunal Parikh and Contracted Planners Sheila Booth and Max Garcia from CPS.

**OTHERS  
PRESENT:**

**I. Call to Order**

Chair Barker called the meeting to order at 8:33 a.m.

**II. Roll Call of BOA Members**

Vice Chair Doug Robbins is absent today.

**III. Conflicts of Interest.**

No one comes forward.

**IV. Minutes**

**a. Minutes – July 9, 2024**

Commissioner McDonough moves, and Commissioner Barker seconds the motion approving the consent agenda. Motion carries 5,0.

**IV. General Business:**

**A. Election of Chair and Vice Chair (yearly)**

The BOA reelects Member Barker to be the BOA and Chair and Member Robbins as Vice Chair. Motion carries 5, 0.

**B. PUBLIC HEARING: Appeal of an Administrative Decision – New or Unlisted Use Finding (PLN24-106)**

Director Shockey presents the appeal of the administrative decision regarding the New or Unlisted Use Finding (PLN24-106) to the Board of Adjustment (BOA). This is the first time such a situation has arisen. Director Shockey provides a summary of the prior process in which the initial petition was denied. The appeal process has been handled in a timely manner by the applicant. The Staff Report includes sixteen conditions and outlines options for either confirming the original denial or reversing the

Director's decision. The Staff still considers the original denial to be valid; however, the BOA may classify the property as Condo-Hotel if specific conditions outlined in the Staff Report are made part of the approval.

The applicant, Mr. Phillip Supino from A-Frame, presents to the BOA. He outlines the key aspects of the development and how the New and Unlisted Use proposal could impact the project, specifically in areas such as taxation, maximum occupancy, and shoulder season management.

Mr. Kyle Zeppelin, owner, also speaks, explaining how the proposed model will benefit future cabin owners and provide revenue and benefits to the Town.

Chair Baker opens the Public Comment Period. No one from the public comes forward. Chair Baker closes the Public Comment Period.

The BOA considers two possible outcomes: either confirming the original denial or approving the applicant's appeal. The BOA seeks guidance from the Town Attorney, Mr. Parikh, on how to address the conditions. The BOA also discusses the option of taking a break to review the conditions further or continuing the item for more discussion.

Mr. Supino offers to engage in a dialogue with the BOA to help navigate the conditions. The BOA focuses on the second condition outlined in the UDC: *Nature and Impacts of Operation* and considers that this condition does not imply significant changes to the current hotel operations. The Staff and BOA also discuss the 90-day limitation the owners would be allowed to occupy the unit, as well as how booking would be managed once the owner exceeds that period. The BOA asks why Section 1.b. of the resolution states an owner may exceed the 90-day limit for a reasonable discount if the idea is to run this as a hotel. The applicant stated that was a wish but would remove that portion of the language.

The BOA expresses a desire to review the other fifteen conditions before making a final decision.

Member Cullingford moves, and Member McCaw seconds, a motion to approve the appeal of the Administrative Decision – New or Unlisted Use Finding (PLN24-106), based on the conditions that will be placed on the property with the approval resolution. In addition, the last sentence of Section 1.b shall be deleted from the approval resolution prior to the Chair signing it. The motion carries 5-0.

#### C. PUBLIC HEARING: Building Height Variance Request – 78581 US Highway 40 (PLN25-006)

Senior Planner Brian Kelly presents the Building Height Variance Request – 78581 US Highway 40 (PLN25-006) to the BOA. Both applicants are present today. The applicant requests a height variance for a hotel project due to significant hardship related to natural physical constraints of the site subjecting the project to further economic feasibility challenges. The Project consists of a Four (4) story hotel over a two (2) story parking “podium”. The parking “podium” is partially recessed into the ground. Specifics of the future Mixed-Use space allocation and Hotel density will be addressed during a future Major Site Plan Review.

The proposed future hotel qualifies as an approved use within the Destination Center (D-C) zoning district. Overnight accommodations, defined as a hotel, is a permitted use set out in Unified Development Code (UDC) § 2-B-1 *Use Tables*, Table 2-B-1-2, *Nonresidential and Mixed Uses by Districts*.

Senior Planner Kelly emphasizes that it is the responsibility of the property owner to design a structure that will fit the natural or existing contours of a site. No excessive fill or excavation will be permitted to create an exaggerated building site to enhance view corridors. When calculating building height, the applicants must adhere the UDC definition for building height.

Later, Senior Planner Kelly has some visual aids that compare the previous approved variance with the most recent one the applicant is requesting today. There is also a slide that illustrates the elevations. Senior Planner Kelly details the measurements for both elevations. Lastly, Senior Planner Kelly reads the Approval Criteria that the BOA must use in making a decision.

Staff finds the applicant has submitted all required materials within the timeframe required and all other materials comply with the conditions of § 5-F-3 *Variance* of the UDC and conform to all applicable policies and regulations of the UDC. Staff is recommending approval of the variance.

The BOA has a discussion about the expiration date for this variance if granted and also the timeframe in which the applicant needs to submit the permit application. There is also mention of the time the original variance was approved.

The Applicant, Mr. Nathan Hinson, representing the owner Sudah Tokala comes forward. Mr. Hinson answers questions from the BOA. There is a brief conversation about the reasons why they are requesting this new height variance. They would like to have this variance approved so they can go back to the design phase of the project. Mr. Hinson also mentions the amount of time they need to invest to move this project forward. The applicant is requesting a two-year period before they can submit the permit application.

Chair Barker opens the Public Comment Period.

Mr. Craig Finley from 153 Ski Idlewild Rd. comes forward and states that the height proposed will affect the view from his property and considers this would alter the character of the area. He opposes this height variance to be granted.

Mr. Mitch Moffett (online) comes forward. Mr. Moffett owns a property at 180 Willows Way. Mr. Moffett echoes what Mr. Finley stated previously for the same reasons. Mr. Moffett adds that the applicant should have done their due diligence regarding the topography of the terrain.

Senior Planner Kelly reads a letter from Paul Domich from 104 Willows Way. His letter was not able to arrive on time to be included in the Staff Report. Mr. Domich. states that the applicant did not take into account the effects shadowing could have on the adjacent property. Mr. Domich opposes the new height variance to be granted.

Mr. David Treece comes forward. Mr. Treece mentions the height elevations that the applicant proposes are excessive. He also opposes the variance.

Chair Barker closes the Public Comment Period.

The applicant, Mr. Nate Hinson comes back forward. Mr. Hinson states that they have taken the public comments into account. He argues that any type of construction will block the view from the duplexes regardless. The BOA asks if the building elevation presented today by the applicant is the same one as presented previously. Mr. Hinson says that it is not exactly the same building.

The BOA would like to see the elevation with the exact measurements. The presented elevation has some areas that are over the dashed black line that represents 55 ft. height limit. The BOA and the Staff have a conversation regarding the foundation. They also analyze the exact measurements for different components of the updated elevation presented today.

The BOA discusses the topography of the terrain. Some BOA Members do not consider that the topography is that extreme that it represents a hardship for the applicant. Additionally, some BOA

Members do consider that the character would be altered. The BOA might consider granting the height variance as long as the applicant provides architectural elements that mitigate the elevations. The BOA also discusses the time frame the applicant is requesting to start construction (two years). The BOA considers that a two-year period is excessive.

The BOA and the Staff also talk about the parking configuration. Director Shockey consults with the Town Attorney that amendments can be made. The BOA considers that criteria 1 and 4 have not met.

BOA Member McDonough moves to deny the request for the reasons discussed and as set forth in the staff report, finding Applicant failed to meet all four (4) criteria required by the UDC, § 5-F-3 in that:

1. The Applicant has not shown that the property in question creates an undue hardship related to the cost of engineering and construction methodology to effectively yield a reasonable return in use or service if permitted to be used only under the conditions allowed by the regulations for the municipality because it is not relevant.
4. The variation, if granted, will alter the essential character of the locality.

Member Cullingford seconds. Motion carries 4,1.

There being no further business to discuss, Member McDonough makes motion to adjourn, Member Mowery seconds motion, by unanimous “aye”, the meeting is adjourned at 10:54 a.m.

The next scheduled meeting of the Board of Adjustment will be Tuesday, March 11, 2025, 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. 2  
SERIES OF 2024**

**A RESOLUTION OF THE BOARD OF ADJUSTMENT OF THE TOWN OF  
WINTER PARK APPROVING A VARIANCE TO REDUCE THE REQUIRED  
OFF-STREET PARKING SPACES FOR RAIL-WATER CONDOMINIUMS 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-H-3(E) of the UDC establishes the required off-street parking for residential and agricultural uses;

WHEREAS, on June 11, 2024, LXXTWO, 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 reduce the required parking spaces for the residential condominiums from 13 parking spaces to 10 parking spaces (the "Application");

WHEREAS, on July 9, 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 of the size and shape of the property in relation to the three public rights-of-way adjacent to the property;
  - 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 there is a minimum of one parking space per condominium unit;
    - 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 of access and lot shape.; and

- a. That the granting of the variance will not alter the essential character of the locality because there is a minimum of one parking space per condominium unit.
2. Decision. Based on the foregoing findings, the Board of Adjustment hereby **approves** the variance, subject to the following conditions:
- a. A Building Permit for improvements described in the Application shall be issued on or before July 9, 2025. If a building permit 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 11<sup>th</sup> day of March, 2025.

BOARD OF ADJUSTMENT

\_\_\_\_\_  
David Barker, Chair

ATTEST:

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Danielle Jardee, Town Clerk



**Exhibit A**

Legal Description of Property

Lot A, Block 3, Winter Park Village  
Town of Winter Park  
County of Grand  
State of Colorado

**TOWN OF WINTER PARK  
BOARD OF ADJUSTMENT  
RESOLUTION NO. 2  
SERIES OF 2025**

**A RESOLUTION OF THE BOARD OF ADJUSTMENT OF THE TOWN OF  
WINTER PARK ADOPTING FINDINGS OF FACT RELATED TO THE DENIAL  
OF A VARIANCE TO INCREASE THE MAXIMUM BUILDING HEIGHT FOR  
78581 HIGHWAY 40**

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, pursuant to § 3-A-3 and Table 3-A-3 of the UDC, there shall be a maximum height of 55 feet for all structures in the D-C zone district;

WHEREAS, on January 14, 2025, Winter Park FBIT, 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 a new structure to exceed the 55 feet maximum height limit by approximately 14 feet for a total height of 69 feet (the "Application");

WHEREAS, on February 11, 2025, 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 denied the Application and hereby adopts the following findings of fact in support of such denial.

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 fails to meet the criteria set forth in § 5-F-3(F) of the UDC that would justify a variance, more particularly:
  - a. Applicants did not provide evidence to demonstrate that the Property cannot yield a reasonable return in use or service by adhering to the height limit. No evidence was presented to demonstrate that the UDC requirements for height created an unreasonable return in use or service; and
  - b. Applicants did not demonstrate an unusual circumstance preventing the building from adhering to the building height limitation. The Applicant did not demonstrate evidence of an unusual circumstance to justify why this development could not adhere to the UDC requirements for building height.
  - c. Applicants did not provide evidence to demonstrate that the Application would not alter the essential character of the locality. The downtown consists of three- and four-

story structures with a maximum height of 55 feet while the Applicants design is nearly 70 feet essentially altering the character of the downtown.

2. Decision. The Board of Adjustment hereby adopts the foregoing findings of fact in its **denial** of the variance requested in the Application.

PASSED, ADOPTED, AND APPROVED this 11<sup>th</sup> day of March 2025.

BOARD OF ADJUSTMENT

\_\_\_\_\_  
David Barker, Chair

ATTEST:

\_\_\_\_\_  
Danielle Jardee, Town Clerk

**Exhibit A**

Legal Description of Property

Lot A, Block 3, Winter Park Village  
Town of Winter Park  
County of Grand  
State of Colorado