

**TOWN OF GRAND LAKE
BOARD OF TRUSTEES
RESOLUTION NO. 43-2023**

**A RESOLUTION RECOMMENDING GRANTING A VARIANCE TO HEIGHT
REGULATIONS FOR RETAINING WALL LOCATED AT A METES AND BOUNDS
PROPERTY COMMONLY REFERRED TO AS 1204 WEST PORTAL ROAD**

WHEREAS, Cynthia A. Biersdorfer and Keith Nichols (collectively the “Applicants”) are the property owners of 1204 West Portal Drive, Grand Lake, Colorado (hereinafter referred to as the “Property”); and

WHEREAS, the Town of Grand Lake (the “Town”) received a request for a variance (the “Application”) from the Applicants as required by Section 11-2-4(D)(9)(b) of the Grand Lake Municipal Code (the “Code”) which requires all retaining walls “exceeding six (6) feet” to obtain a variance; and

WHEREAS, the Applicants constructed a retaining wall in excess of six (6) feet which were not in the initial plans, but during the spring runoff, after fire damage from the East Troublesome Fire, mud slides and flooding occurred and ran into the Applicants’ home and the Applicants were force to quickly build the walls to prevent further damage to their home; and

WHEREAS, a Public Hearing was properly noticed and all notices required by the Code were timely sent and the Town received no responses against the Applicants Application; and

WHEREAS, the Applicants submitted all appropriate fees and deposits and other code requirements as well as a letter explaining the hardships for considerations associated with the variance request; and

WHEREAS, the Planning Commission has reviewed the Application pursuant to the standards set forth in the variance procedures of Town Code section 11-2-11(D)(1-5):

1. That by reason of exceptional shape, size or topography of lot, or other exceptional situation or condition of the building or land, practical difficulty or unnecessary hardship would result to the owners of said property from a strict enforcement of these Regulations;
2. That literal interpretation of the provisions of these Regulations would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of these Regulations.
3. That the special conditions and circumstances do not result from the actions of the applicant;
4. That granting the variance request will not confer on the applicant any special privilege that is denied by this ordinance to other lands, structures, or buildings in the same district;
5. That the granting of the variance does not pose a detriment to the public good and does not substantially impair the intent and purpose of the Zone Plan and these Regulations.

WHEREAS, the Planning Commission has reviewed the Application, considered Staff's recommendation as well as public comments and finds the elements required to approve a variance set forth above have been satisfied and the Application shall be recommended to the Grand Lake Board of Trustees for approval; and

WHEREAS, the Board of Trustees (the "Board") reviewed the Application request at a regularly scheduled meeting; and

WHEREAS, the Board of Trustees has reviewed the recommendation of the Planning Commission and is in agreement with the Planning Commission's findings and recommendation.

NOW THEREFORE BE IT RECOMMENDED BY THE BOARD OF TRUSTEES OF THE TOWN OF GRAND LAKE, COLORADO,

1. The Board of Trustees hereby approves the Application for a variance to the six (6) foot retaining wall height requirements required by Town Code Section 11-2-4(D)(9)(b) subject to the following conditions of approval:

- a. Payment by Applicant of all legal, engineering and administrative fees incurred by the Town in connection with review, processing, consideration and approval of the Application.
- b. Compliance by the Applicant with all representations made to the Planning Commission during all public hearings or meetings related to the Application

2. Severability. If any section, paragraph, sentence, clause, or phrase of this Resolution is held to be unconstitutional or invalid for any reason, such decision shall not affect the validity of the remaining portions of this Resolution. The Board of Trustees declares that it would have passed this Resolution and each part or parts thereof irrespective of the fact that any one part or parts be declared unconstitutional or invalid.

3. Repeal. Existing resolutions or parts of resolutions covering the same matters as embraced in this Resolution are hereby repealed and all resolutions or parts of resolutions inconsistent with the provisions of this Resolution are hereby repealed.

DULY MOVED, SECONDED AND ADOPTED BY THE BOARD OF TRUSTEES OF THE TOWN OF GRAND LAKE, COLORADO THIS 27TH DAY OF NOVEMBER, 2023.

(S E A L)

Votes Approving:
Votes Opposed:
Absent:
Abstained:

ATTEST:

TOWN OF GRAND LAKE

Alayna Carrell

Stephan Kudron

Town Clerk

Mayor