

Date: September 12th, 2022

To: Mayor Kudron and the Board of Trustees
From: Kim White, Community Development Director

RE: Request to Allow a Variance to Street Development Policies, Standards, and Specifications 11-2-6 for Access to Lots 9-11, Block 36, Town of Grand Lake



The Board should first determine if they would opt to hold a Public Hearing:

Planning Commission held a public hearing on August 3rd, 2022 and motioned to recommend the approval of Planning Commission Resolution 10-2022 allowing the driveway variance with conditions.

Purpose:

To request certain variances to Driveway standards to permit access to lots 9-11, Bl 36, Town of Grand Lake. The Applicant has asked to create a driveway off the 2016-approved "service" road. The driveway does not meet all of the requirements of the Town Code and thus the following variances have been requested for this item:

- Private driveway for 3 lots - exceeds the maximum allowable two (2) single family residences via one access.
- Private driveway to be at 10% max grade - exceeds allowable first 25' of drive at 4% and remainder of drive to be at 10%
- Grade of ditch at 2:1 - exceeds the max of 3:1.
- Driveway to access through side yards- a 25' separation of driveways is required by the code, unless lot conditions make it impossible.
- 150' long drive requires an emergency vehicle turn around.

Background:

June 23, 2017- Letter of intent to build the Lake avenue “service” road was sent to Town of Grand Lake Planning office stating that the “service” road was approved in 2016 and plans for the construction of the road and future log homes.

Spring 2017- construction began on the road, utilities were installed. It was noted during construction that the grade was too steep from the “service” road to enter the lots 9 & 10 from the south.

October 18, 2017 – Planning Commission directed staff to discuss best way to proceed with the applicant in order to access lots 9-11, Bl 36. The applicant requested the 2016 “service road” variance to be changed to add the driveway access from Walden St.

Sept, 13th, 2019 – Planner Shull emailed Mr. Jenkins and stated that Mr. Jenkins chose to put off construction of Lake Ave in lieu of working on the Gateway Inn, and that he had not had discussions with Mr. Jenkins on driveway access plans.

July 20th, 2022 – Planning Commission discussed the current status of the 2016 variance and tabled the motion until August 17th, 2022 to determine the status. The Commission requested that the applicants prepare the following items:

- Update the signatures on the variance and easement documents for the Lots 9-12, Bl 36, ToGL.
- The applicants agree to provide a new survey of the road (centerline and up through the lots) prior to receiving a building permit.
- Provide existing condition photos during the permitting process.
- Provide an updated timeline for completion once the permit is approved.

Per the Town Attorney, as long as the original conditions of the 2016 Variance are met, the Town will consider the 2016 variance executed.

July 20th, 2022- Public Hearing for a variance request to allow certain driveway parameters. Motion to table the vote until August 17th, 2022 when applicant could update the following:

- Driveway access easement agreement to be drafted for recording (ie. Lot 9 gives permission for lot 10 and 11 to access, and lot 10 gives lot 11 access)
- Update the resolution to equip structures with fire suppression systems.
- Include requirement for improved erosion control, geogrid system to stabilize the 2:1 slope and revegetate.

The draft resolution 10-2022 from 7/20/2022 has been updated to include the items requested by the PC.

August 3rd, 2022, Planning Commission motioned to recommend the approval of the variance request for the 3 driveways, due to geographic hardship, with conditions listed in PC resolution 10-2022.

Municipal Code:

Municipal Code 11-2-11 [Street Development Policies, Standards, and Specifications Variance Request] Hardships for Consideration states:

(B) Variances from [these standards] shall be reviewed by the Planning Commission at a Public Hearing and make a recommendation to the Board of Trustees.

*(C) The Board of Trustees shall grant no variance without first receiving a recommendation from the Planning Commission. **The Board may opt to hold a Public Hearing before granting the***

variance.

(D) Variance requests will only be granted if the applicant can demonstrate all of the following:

- 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.**

Staff Comments:

- The applicant has addressed all 5 hardship items:
 - There is major hardship for the topography of these lots as per access to the lots.
 - The literal interpretation of the code will deprive the applicant of rights commonly enjoyed by others, specifically access to the lots 9-11, Bl 36.
 - If future landowners propose to gain access to other lots in this area, similar access questions would be reviewed.
 - Granting the variance does not substantially impair the intent and purpose of the Zone plan, however it is unknown if it poses a detriment to the public good, due to the shoulder grade of 2:1.
- The applicant has previously been granted a variance to build a “service” road adjacent to the southern edge of his lots 9-11, Bl 36, but it did not include these driveways. The 2016 variance required drainage easement and construction easement documents to be signed and recorded.
- The applicant has agreed to equip structures with fire suppression systems.
- The applicant has agreed to provide improved erosion control, geogrid system to stabilize the 2:1 slope and revegetate.
- The applicant has agreed to provide a new survey of the road (centerline and up through the lots)
- The applicant has agreed to provide existing condition photos.
- The applicant has agreed to provide an updated timeline for completion.
- The retaining walls proposed on the southern edge of the continuous driveway is stated to not be greater than 4’, which is allowed by code.
- The private driveway code stated that the drives are recommended to allow access to no more than 2 properties. An easement agreement should be required to run with the land for future landowners to understand the shared driveway.
 - The applicant has agreed to have access easement agreements to be drafted for recording (ie. Lot 9 gives permission for lot 10 and 11 to access, and lot 10 gives lot 11 access)

Suggested Motion:

1. Recommend granting the variance as presented by adopting the resolution; or
2. Recommend granting the variance with certain conditions, by adopting the resolution with modifications; or,
3. Recommend denial of the variance request; or,
4. Continue to a date certain for the applicant to revise their application.