

**TOWN OF GRAND LAKE
BOARD OF TRUSTEES
RESOLUTION NO. 41-2024**

**A RESOLUTION APPROVING A VARIANCE TO MUNICIPAL CODE 12-2-29 REGULATING
STREAM AND LAKE SETBACKS LOCATED AT SUNNYSIDE LOTS 37-38, BLOCK 3, SUNNYSIDE
ADDITION THE TOWN OF GRAND LAKE ALSO KNOWN AS 1532 GRAND AVENUE**

WHEREAS, the Town of Grand Lake (the “Town”) requested a shoreline variance application (the “Application”) from Peter and Brenda Plowshay (collectively the “Applicant”) to construct an inclined elevator (the “Tram”) pursuant to a Conditional Use Permit as approved by Resolution 40-2024; and

WHEREAS, the Applicant is requesting a variance to the shoreline and surface water regulations construct the Tram and access the lower elevations of the Applicant’s property located at Sunnyside Lots 27-28, Block 3, Sunnyside Addition to Grand Lake Lot, also known as 1532 Grand Avenue (the “Property”); and

WHEREAS, Municipal Code 12-2-29 Shoreline and Surface Water Regulations require:

- 1. In order to help preserve the environmental quality of the water in the Grand Lake, a thirty (30) foot stream and lake setback from the mean identifiable high water mark shall be maintained for buildings, parking, snow storage areas and other improvements to a site. ...*
- 2. When activities are proposed within the 30’ setback, a variance may be requested by an Applicant.*

WHEREAS, the Applicant proposes to build a portion of the Tram within the thirty (30) foot setback of a lake shoreline and therefore requests a variance to do so pursuant to the Grand Lake Municipal Code (the “Code”); and

WHEREAS, after proper notice, the Planning Commission reviewed the Application at a Public Hearing on July 3, 2024; and

WHEREAS, the Planning Commission considered all of the following factors to determine whether to issue a variance from Shoreline Regulations:

1. The shape, size, topography, slope, soils, vegetation, and other physical characteristics of the property.
2. The locations of all bodies of water on the property, including along property boundaries.
3. The location and extent of the proposed setback intrusion.
4. Whether alternative designs are possible which require less intrusion or no intrusion.
5. Sensitivity of the body of water and affected critical habitats.
6. Intensity of land use adjacent to the body of water proposed to intrusion.
7. Impact on floodplains and stream functions (a variance shall not be approved when the reduction would result in the setback being narrower than the floodplain); and

WHEREAS, The Planning Commission found that the applicant demonstrated all of the following in regards to the Shoreline Variance:

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 submitted it’s recommendation to approve the Application to the Board of Trustees; and

WHEREAS, the Board of Trustees have reviewed the Application and the recommendation of the Planning Commission and approve the variance requested by the Application.

NOW THEREFORE BE IT RESOLVED BY THE BOARD OF TRUSTEES OF THE TOWN OF GRAND LAKE, COLORADO AS FOLLOWS:

1. The Board of Trustees finds the existing shoreline Tram location shown in Exhibit A comply with all applicable provisions from section 12-2-29 of the Town of Grand Lake Municipal Code.
2. The Board of Trustees hereby approves the Application, on the condition that the applicant submit all building permit documents and construction documentation for this project prior to approving the shoreline variance.
3. The Board of Trustees may revoke the approval of this variance upon the termination or revocation of the Conditional Use Permit granted for the benefit of the Property by Resolution 40-2024.
4. Severability: If any Article, 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.
5. Repeal: Existing Resolution 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, except that this repeal shall not affect or prevent the prosecution or punishment of any person for any act done or committed in violation of any Resolution hereby repealed prior to the taking effect of this Resolution.

INTRODUCED, PASSED AND ADOPTED AT A REGULAR MEETING OF THE BOARD OF TRUSTEES OF THE TOWN OF GRAND LAKE AND SIGNED THIS 8th DAY OF JULY, 2024.

(S E A L)

Votes Approving:
Votes Opposed:
Absent:
Abstained:

ATTEST:

Alayna Carrell
Town Clerk

**BOARD OF TRUSTEES OF THE
TOWN OF GRAND LAKE, COLORADO**

By: _____
Steve Kudron
Mayor