



July 8th, 2024

To: Mayor Kudron and the Board of Trustees

From: Kim White, Community Development Director

RE: Quasi-judicial (Public Hearing) Resolution 40-2024 Conditional Use Permit and Resolution 41-2024 Lake setback variance for an inclined elevator (Tram) at 1532 Grand Ave. also known as Block 3, lot 37-38, Sunnyside Addition to Grand Lake



**Attachments:**

- A) construction plans
- B) view from water
- C) examples of trams
- D) Resolution 40-2024 Resolution 41-2024
- E) Applicants presentation

**Public Hearing Process**

The public hearing should be conducted as follows:

1. Open the Public Hearing
2. Allow staff to present the matter
3. Allow the applicant to address the Board
4. Take all public comment
5. Close the Public Hearing
6. Have Board discuss amongst themselves
7. Board make a motion



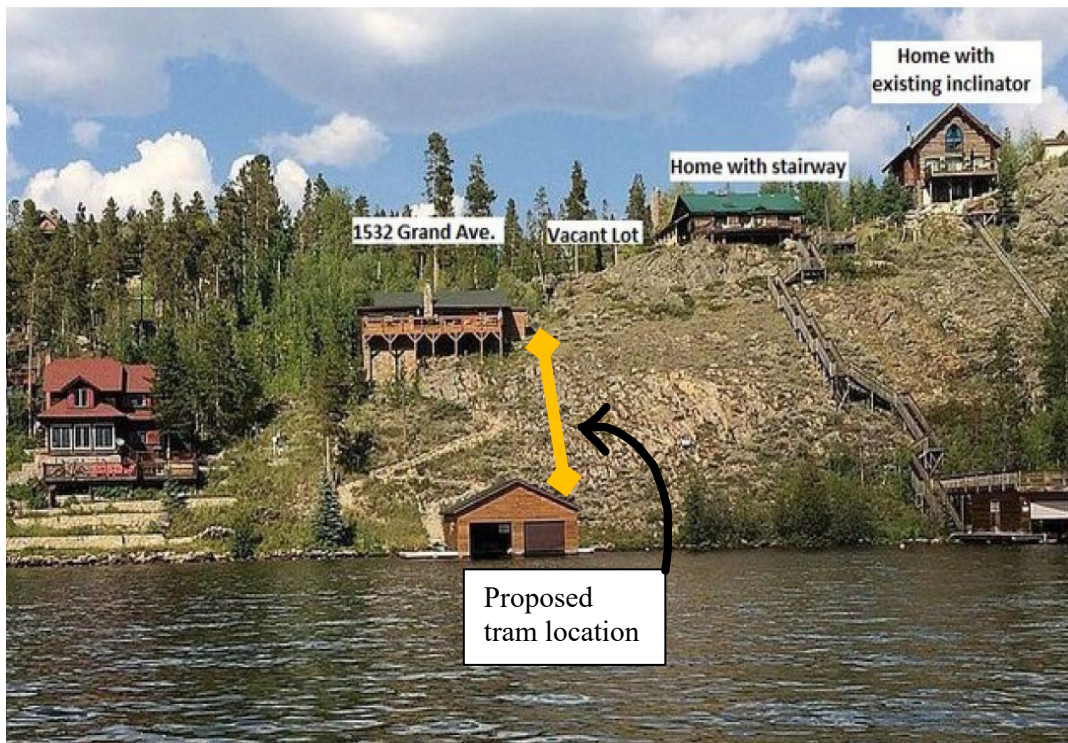
### Purpose

To request for an exception to Stream and Lake Setbacks and allow a Conditional Use permit for Sunnyside Addition to Grand Lake Lot: 37-38 Block: 3, more commonly referred to as 1532 Grand Ave. by the owners: Peter and Brenda Ploishay for the purpose of constructing a tram from the home to the shoreline.

### Background

The applicant is proposing an inclined elevator (Tram) to be built with the lower tram platform foundation to be dug into in the 30' stream setbacks. The railing is assembled on-site. Cement piers will be installed into the ground to hold the track/rail in place. The proposed Tram would run on a track system. The rail width is 3 feet. **When activities are proposed in the 30' setback, a variance may be requested from the Planning Commission with Board of Trustees final approval. Separately, since Trams are not a permitted use in the Single Family Residential, High-Density, zoned area, a conditional use permit is required. Both resolutions must be passed in order to allow this item to be built.**

The Tram is to be used for transportation from the existing house to the proposed boathouse. The applicant's request is due to the distance and steepness of grade from the main house to the boathouse. The applicants would like improved accessibility to reach the shore from their home. According to the submitted site plan the current drop in grade is about 52 feet over a run of about 84 feet, which results in the property slope of around 62%. The total length of the property is approximately 255'.



Per the applicant, the following facts have been submitted:



- *The following video was shown to the planning commission to briefly explain the many reasons they wish to make this improvement to their property: <https://www.youtube.com/watch?v=brDGJvM9KFI>*
- *The carriage frame will be powder coated to match the cabin and boat house, by the manufacturer. The rails are dipped, galvanized steel, which the manufacturer recommends over powdered because it wears much better. The owners provided samples of the car frame and rail to see the color, etc. The landscaping plan is to leave the area in its natural state with native plants, which include shrubs and wildflowers. The hillside is solid granite, so it is not advisable to introduce new vegetation. Also, according to Hill Hiker, this is the perfect location as taller vegetation interferes with the track, yet the current vegetation is a perfect height to blend in with the track.*
- *Please see the diagram below showing the carriage structure. The materials will be a brown shade of Trex and then solid, transparent polycarbonate on the tram loading side for safety (so hands don't get caught). The gate will be framed to match the car. The railings will primarily use 10ft long steel beams that will be welded and bolted together. The specifics of which are outlined in the attached stamped engineering plans.*
- *It has an electric motor which powers a winding drum drive.*
- *There are 5 steps at the top (appx 4') and 7 steps at the bottom (appx 5'). The 5 steps at the top are so the loading deck itself is low profile and not sticking up like a rollercoaster. Hillhiker advised this approach as hitting the deck perfectly may not be possible and would require the entire structure to go much higher. Down by the lake lowering the platform would require a hole and sump pump. We wish to keep the footprint of the entire project as small as possible.*
- *The cabin itself was built in the 30s and requires stairs to access it. The goal of this design is to prevent falls by making the climb and descent to the lake MUCH easier than the existing path. However, we believe we can procure a removable ramp that could be used on these stairs and stored in the boat house until the need arises.*
- *The slope of the rail is approximately 34.5 degrees.*



- *The length of the rail is approximately 103 feet in length.*



Municipal Code Procedure for Conditional Use permit 12-2-31(B)(3)(a):

3. After taking evidence in relation to said Condition Use application, the Planning Commission shall formulate a recommendation, including such terms and conditions as it may deem necessary and appropriate. The recommendation shall be placed on the next agenda of the Board of Trustees.

(a)The Planning Commission shall take the following factors into consideration prior to making recommendation to the Town Board of Trustees:

(i)Relationship of the proposed Conditional Use to the economic development objectives of the Town and the anticipated impact of the Conditional Use on existing businesses and neighborhood residences.

(ii)Effect upon the character of the area in which the proposed Conditional Use is to be located, including the scale and bulk of the proposed Conditional Use in relation to surrounding uses and neighborhood.

(iii)Such other factors and criteria as the Commission deems applicable to the proposed Conditional Use including but not limited to: hours of operation; signage; specific businesses, land owners or other interested parties to be notified; or proposed conditions of CUP issuance.



(b) Procedure before the Board of Trustees.

1. The Board of Trustees shall vote to approve, modify or disapprove the recommendation of the Planning Commission by Resolution...

2. In the Public Hearing, the Town Board of Trustees may move to approve, modify or disapprove the recommendation of the Planning Commission by Resolution.

Staff Comment:

The Planning Commission motioned to have a public hearing at the June 3<sup>rd</sup> planning commission meeting. Staff properly noticed the hearing for July 3<sup>rd</sup>, at which time the commission heard the request for a permit to construct the Tram. The commission voted 5:0 in favor of allowing the conditional use on the property. The applicant added that they intended on planting aspen and alder to the southern edge of the lower platform to camouflage the lower platform.

Staff finds that the tram application is complete and meets the town requirements for the conditional use permit and that all fees have been submitted.

**Municipal Code Procedure for Lake Setback Variance 12-2-29(A):**

**12-2-29 Shoreline and Surface Water Regulations.**

(A) *Stream and Lake Setbacks.*

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 ... other improvements to a site. The setback applies to ...lake, pond, wetland, or any other body of water.
2. When activities are proposed within the thirty (30) foot setback, a variance may be requested by an Applicant... The Planning Commission shall review the request at a Public Hearing and make a recommendation to the Town Board of Trustees, who shall make the final determination... The Town Board of Trustees will hold a Public Hearing within forty-five (45) days from receiving a recommendation from the Planning Commission. During the public hearing the burden of the Applicant shall include but not be limited to, establishing that the activity conforms to one (1) or more of the exceptions set in Section 12-3-5(A)4(a) through (e).

(a) 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 Municipal Code Sections 12-2-8 to 12-2-24 and Section 12-2-29 (if applicable) Zoning Regulations; and

(b) Literal interpretation of the provisions of Municipal Code Sections 12-2-8 to 12-2-24 and Section 12-2-29 (if applicable) Zoning Regulations would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of Municipal Code Sections Section 12-2-8 to 12-2-24 and Section 12-2-29 (if applicable) Zoning Regulations; and

(c) The special conditions and circumstances do not result from the actions of the applicant; and



(d) 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; and

(e) The granting of the variance does not pose a detriment to the public good and does not substantially impair the intent and purpose of Municipal Code Sections 12-2-8 to 12-2-24 and Section 12-2-29 (if applicable) Zoning Regulations.

The applicant has submitted the following hardship narrative:

Our home is built on a steep incline hill. The ascent is over 60 ft from the lake to our cabin and incline is 38 degrees. It is currently only accessible via a rough stone path that zig zags down the hill. The Hill Hiker will greatly improve accessibility and safety for our oldest and youngest visitors. Further, the installation of the Hill Hiker is consistent with the exceptions set forth in Section 12-3-5(A)4. Specifically a, c, d and e. Our situation is the result of exceptional topography and not due to any of our own actions. Granting this variance will not confer a special privilege as there is already a house with a tram on the lake and it does not pose a detriment to public good.

The planning commission took the following into consideration when making the recommendation of approval to the board

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)
- (c) The Town of Grand Lake shall not review requests of this nature unless the applicant (its constituents or members) are current with the Town and all Town enterprises for all fees, assessments, charges, taxes, or amount due of any type.
3. A setback of greater than thirty (30) feet may be required if one (1) of the following is present on the site:
- (a) Slope equals or exceeds thirty percent (30%);
  - (b) Highly erodible soils are present;
  - (c) The proposed use of the property presents a special hazard to water quality (e.g., storage or handling of hazardous or toxic materials);
  - (d) Floodplains or floodways;
  - (e) Riparian vegetation within a designated habitat;
  - (f) Wetlands are present.

The increased setback to be required in such cases shall be determined by the Board of Trustees upon recommendation of the Planning Commission. In these cases, a setback of greater than thirty feet (30') may be required in order to protect the public health, safety and welfare... Provisions for channeling runoff to retention areas will need to be provided in any drainage plans for the development.



4. The first five (5) feet of this setback shall be a non-disturbance zone, except in the cases of ... walkways and stairways less than four (4) feet in width leading directly from the shoreline to the principal structure.
5. In addition to these required stream and lake setbacks, properties contiguous to any stream, creek, river, irrigation ditch, lake, pond, or wetland area, shall be required to abide by the Erosion and Sediment Control Regulations as then in effect for Grand County, for construction projects involving ground disturbance. This requirement applies to single family...and all other construction involving ground disturbance.

#### **Staff Comments:**

The decision to hold a Public Hearing is at the discretion of the Planning Commission. At the May 15<sup>th</sup>, 2024 planning commission meeting, the commission voted to have staff notice a public hearing for the conditional use permit and the shoreline variance. Ten (10) public notices were mailed to the surrounding neighbors. Six (6) have been received, one (1) was returned unopened, and three (3) are not yet received. It was also properly noticed in the local newspaper, with no responses for or against the request. The previous neighboring tram approval was passed with an additional covenant and agreement which required that the tram be maintained properly. This should be recorded with the resolution, if it is passed.

The Planning Commission voted in favor of the lake setback variance to allow the activity in the 30 foot rear setbacks and did not recommend an increase in setback as per 12-29-(A)(3)(a).

#### **Staff finds:**

- The applicant has submitted the proper documentation as required by the code and paid the proper fees.
- Has presented a case for hardship based on topography with a lot that has slopes from 35-60%.

#### **Resolution 40-2024 Suggested Motions:**

1. **I motion to approve Resolution 40-2024; A conditional use permit allowing the use of an inclined elevator on the single-family residential zoned private property at 1532 Grand Ave.**

**OR**

2. **I motion to approve Resolution 40-2024; A conditional use permit allowing the use of an inclined elevator on the single-family residential zoned private property at 1532 Grand Ave. with the following conditions.**

**OR**

3. **I motion to deny Resolution 40-2024.**

#### **Resolution 41-2024 Suggested Motions:**

1. **I motion to approve Resolution 41-2024; A shoreline variance to allow the footers and rails to be placed in the 30' lakefront setback for property at 1532 Grand Ave.**

**OR**

2. **I motion to approve Resolution 41-2024; A shoreline variance to allow the footers and rails**



to be placed in the 30' lakefront setback for property at 1532 Grand Ave.

3. with the following conditions.

**OR**

4. I motion to deny Resolution 41-2024.