



Date: March 15th, 2023

To: Chairman Shockey and Commissioners

From: Kim White, Community Development Director

RE: **QUASI JUDICIAL**—Consideration of PC Resolution 01-2023, Resolution to Grant a Special Exception to Allow an Expansion to a Non-Conforming, Pre-Existing Single Family Residential Home located in the Water Quality Setback and Front Setback Located at Lot 2, Block 10, Grand Lake Estates 1st Filing, More Commonly Referred to as 530 Lakeside Dr.

Location Map



Purpose

The Town has received an application from Robert & Dayna Roane to permit renovations of a pre-existing, non-conforming single-family home within the required 25' front setback of their property and within the 30' Water Quality Setback zone. This request requires an exception granted by the Planning Commission upon completing the finding of fact in Municipal code 12-2-32.

Background

The property is located at 530 Lakeside Dr., on the canal between Shadow Mountain Reservoir and Grand Lake, zoned Single family residential -high density. The property was built in 1977 prior to the zoning ordinance and Water Quality Setback ordinance. The



renovation includes removing a portion of the roof and adding a second story to match the height of the existing structure. No new footings are proposed.

Municipal Code Standards:

12-2-12(C) – [Zoning Standards]

Minimum Setback Front 25' Side 10' Rear 10' Shoreline 30'

12-2-29(A) – [Shoreline and Surface Water Regulations]

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. The setback applies to a stream, creek, river, irrigation ditch (dry or wet), lake, pond, wetland, or any other body of water.

12-2-32 Nonconforming Uses and Structures.

- (A) *Nonconformance.* Certain uses of land and buildings may be found to be in existence at the time of the passage of this Article which does not meet the requirements as set forth herein. It is the intent of this Article to allow the continuance of such nonconforming use.
1. A building or use that is in violation of the requirements of this Code and was constructed or established since the adoption of this Code without the necessary approvals, permits or authorizations from the Town is considered nonconforming.

Municipal Code Variance Procedures:

Municipal Code 12-2-32 Nonconforming Uses and Structures.

- (B) *Expansion or Enlargement.* A nonconforming building or use to be extended or enlarged shall conform with the provisions of this Article.
1. A nonconforming structure may only be expanded pursuant to Section 12-2-32(c), Repairs and Maintenance, and any such expansion shall be in full compliance with this code.
- (a) *Special Exceptions to Provisions on Expansion of Nonconforming Structures and Uses.*
1. The Planning Commission may authorize, upon appeal in specific cases, an exception permitting an increase in either or both the land use area or the floor area on a nonconforming structure or buildings occupied by a nonconforming use, subject to terms and conditions fixed by the Commission. Every exception authorized hereunder shall be personal to the applicant therefore and shall not be transferable, shall run with the land only after the construction of any authorized building and only for the life of such building. No exception shall be authorized hereunder unless the Commission shall find that all the following conditions exist:
 - (i) The structure or use is nonconforming as defined by this Article and is in full compliance with all requirements of this Article applicable to nonconforming structures or uses;
 - (ii) That, owing to exceptional and extraordinary circumstances, literal enforcement of the provisions of this Article regarding nonconforming structures or uses will result in unnecessary hardship;
 - (iii) That the exception will not substantially or permanently injure the appropriate use of adjacent conforming property in the same zone district or other zone districts;



- (iv) That the exception will not alter the essential character of the district in which is located the property for which the exception is sought;
- (v) That the exception will not weaken the general purposes of this Article or the regulations established herein for the specific district;
- (vi) That the exception will be in harmony with the spirit and purposes of this Article;
- (vii) That the exception will not adversely affect the public health, safety, or welfare.

Staff Comments

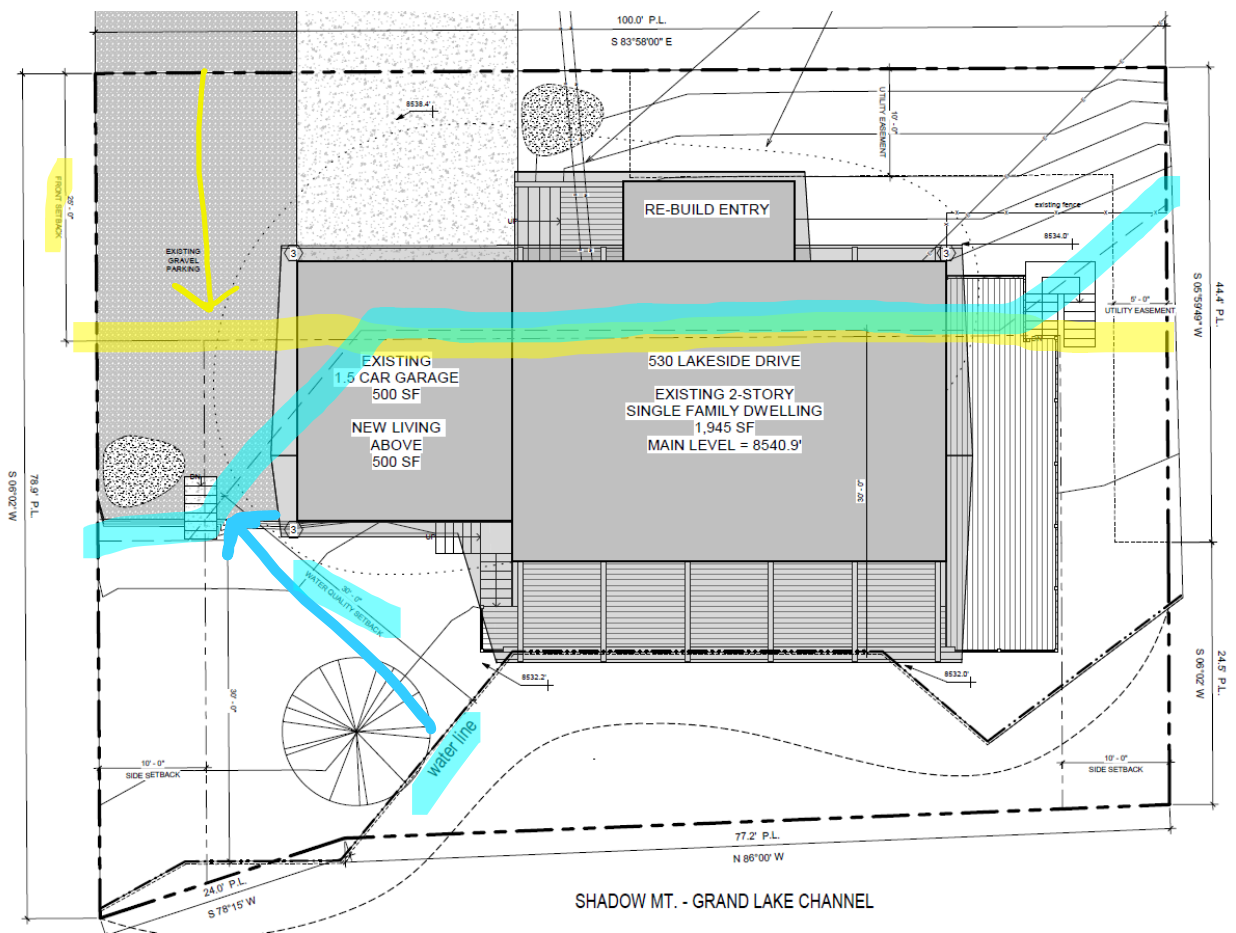
Staff sent out public notice of this meeting to Middle Park Times on, as well as letters to all 14 property owners surrounding the subject property within 200' on February 17th, 2023. Staff has received 11 confirmations of receipt, and 0 responses to date.

The applicant has requested permission to add a second story to the existing attached garage at their residence at 530 Lakeside Drive. The rear Water Quality Setback of 30' is shown in blue (figure 1), and is currently covering most of the house. The front setback of 25' overlaps the Water Quality Setback and is shown in yellow (figure 1). If the Commission finds in favor of the proposed request, staff requires that erosion control protocol to be followed on the land, as well as the placement of sediment control curtains in the water to keep any construction material from reaching the water and protect the water if such contamination occurs.

The applicants letter for the explanation of their variance request is attached.

Commission Discussion

The Commissioners should discuss the request amongst themselves, with consideration of staff, public comments, and the findings of fact from the code, in order to make a decision/recommendation. Commission must review and find that each item i-vii of municipal code 12-2-32(B)(1)(a)(1) exists in order to approve said variance.



Suggested Commission Motion

OR

Motion to deny the request.