



BOARD OF ADJUSTMENT STAFF REPORT

MEETING DATE: August 28, 2023
AGENDA ITEM TITLE: P&C Enterprises LLC. Variance Application
AGENDA SECTION: Public Hearing

REQUEST:

The purpose of the request is to receive a variance from the minimum front yard setback.

APPLICANT:

The applicant is Justin Burns of JM Burns Construction, 5949 County Road 210, Salida, CO 81201.

LOCATION:

The property is legally known as Lots 3 & 4, Block 1, Blake & Westerfields Addition, City of Salida, Chaffee County, Colorado. These two lots are part of the four lots that currently comprise 105 Park Avenue.



The applicant is proposing to construct a duplex with ADUs above the garages on lots 3 & 4. A guy wire along the alley is blocking vehicular access to lot 4. The property owner and general contractor attempted to work with Xcel Energy in order to change the location and/or orientation of the guy wire. No change was able to be made.

Variance Approval Criteria Section 16-4-180(e): Variances from requirements of this Chapter shall be considered an extraordinary remedy. When considering, reviewing, and deciding on whether to approve a variance application, the Board of Adjustment must find that all the following criteria have been met:

1. Special Circumstances Exist. Strict application of the standards adopted in this Chapter would result in undue hardship or practical difficulties for the owner of such property. Special circumstances include, but are not limited to, exceptional or peculiar limitations to the dimension, shape, or topography of the property, such as slope, standing or moving water, wetlands, floodplain, rock features, narrowness, shallowness or irregular shape of a lot.

The inability to move the guy wire is a special circumstance.

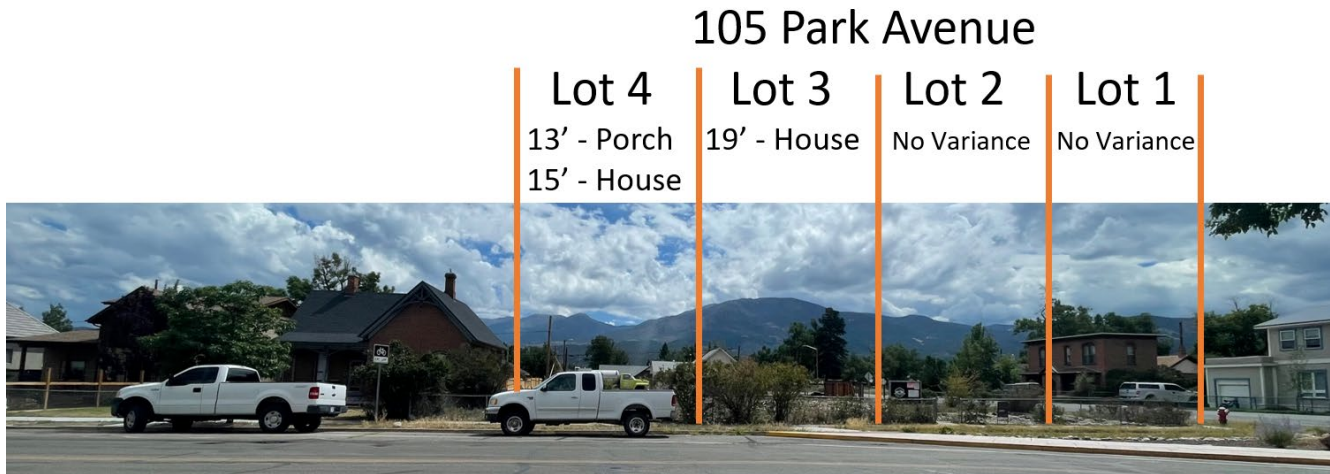


2. Substantial Detriment. The requested variance would not create a substantial detriment to the public good and would not substantially impair the intent and purpose of this Chapter, this Code or the City's Comprehensive Plan.

Staff Comments:

A front setback encroachment of one foot on Lot 3, and five feet / two feet (house/porch) on Lot 4 would not create a substantial detriment to the public good.

3. Adverse Impacts. The requested variance would not result in significantly adverse impacts to the natural environment or to the surrounding properties and neighborhoods.



Staff Comments:

No comment has been received from the surrounding neighbors. This variance will not impact the natural environment.

4. Minimum Variance. The granting of the request is the minimum variance necessary for reasonable use of the property or building and the least deviation required from the applicable zoning standard to afford relief.

Staff Comments:

The intention is to maintain what the applicant feels is a necessary size of back yard for the use of the future owners and residents and has requested what they feel is the minimum variance necessary to do that.

REQUIRED ACTIONS BY THE BOARD:

1. The Board shall confirm that adequate notice was provided.
2. The Board shall conduct a public hearing.
3. The Board shall make the findings whether or not criteria 1 through 4 of the above section are met by the applicant.

RECOMMENDED FINDINGS:

The variance request(s) meet all criteria 1 – 4.

RECOMMENDED MOTION:

“I make a motion to approve the variance request for Lots 3 & 4, Blake & Westerfields Addition, City of Salida, as it meets the review criteria for zoning variances.”

BECAUSE THIS APPLICATION IS FOR A VARIANCE, THE SALIDA BOARD OF ADJUSTMENT SHALL MAKE THE FINAL DECISION ON THIS APPLICATION. DECISIONS BY THE BOARD SHALL BE FINAL AND MAY NOT BE APPEALED FURTHER EXCEPT IN COURT.

Attachments:

Application

Proof of Notice



GENERAL DEVELOPMENT APPLICATION

448 East First Street, Suite 112

Salida, CO 81201

Phone: 719-530-2626 Fax: 719-539-5271

Email: planning@cityofsalida.com

1. TYPE OF APPLICATION (Check-off as appropriate)

- | | |
|--|--|
| <input type="checkbox"/> Annexation | <input type="checkbox"/> Administrative Review:
(Type) _____ |
| <input type="checkbox"/> Pre-Annexation Agreement | |
| <input type="checkbox"/> Appeal Application (Interpretation) | <input type="checkbox"/> Limited Impact Review:
(Type) _____ |
| <input type="checkbox"/> Certificate of Approval | |
| <input type="checkbox"/> Creative Sign Permit | <input type="checkbox"/> Major Impact Review:
(Type) _____ |
| <input type="checkbox"/> Historic Landmark/District | |
| <input type="checkbox"/> License to Encroach | |
| <input type="checkbox"/> Text Amendment to Land Use Code | |
| <input type="checkbox"/> Watershed Protection Permit | <input checked="" type="checkbox"/> Other: <u>Variance Application</u> |
| <input type="checkbox"/> Conditional Use | |

2. GENERAL DATA (To be completed by the applicant)

A. Applicant Information

Name of Applicant: Jm Burns construction (Justin Burns)

Mailing Address: 5949 County Road 210 Salida, CO 81201

Telephone Number: 719-221-5464 FAX: _____

Email Address: Justin@Jmburnsconstruction.com

Power of Attorney/ Authorized Representative: _____
(Provide a letter authorizing agent to represent you, include representative's name, street and mailing address, telephone number, and FAX)

B. Site Data

Name of Development: 105 Park Ave Variance

Street Address: 105 Park Avenue Salida CO 81201

Legal Description: Lot (1-4) Block 1 Subdivision Blake & Westerfields Add (attach description)

Disclosure of Ownership: List all owners' names, mortgages, liens, easements, judgments, contracts and agreements that run with the land. (May be in the form of a current certificate from a title insurance company, deed, ownership and encumbrance report, attorney's opinion, or other documentation acceptable to the City Attorney)

I certify that I have read the application form and that the information and exhibits herewith submitted are true and correct to the best of my knowledge.

Signature of applicant/agent: [Signature] Date: 7.24.23

Signature of property owner: [Signature] Date: 7.25.23



VARIANCE APPLICATION

448 East First Street, Suite 112

Salida, CO 81201

Phone: 719-530-2626 Fax: 719-539-5271

Email: planning@cityofsalida.com

A. TYPE OF VARIANCE REQUESTED (Fill In Applicable Requests)

1. Variance from Maximum Height: Existing Height (in feet): _____ Proposed Height (in feet): _____
2. Minimum Variance from Floor Area: Required Floor Area: _____ Proposed Floor Area: _____
3. Variance from Maximum Lot Coverage: Allowed Lot Coverage: _____ Proposed Lot Coverage: _____
4. Variance from Parking Requirements: Existing Spaces: _____ Required Spaces: _____
Total Spaces Proposed: _____ Percent Reduction Proposed: _____

5. Variance from Minimum Setback Requirements

- a. Setback Variance Information: (Lots ~~3~~ 3)
 - i. Type of setback: ☒ Front yard ☐ Rear yard ☐ Side yard
 - ii. Which direction: ☒ North ☐ South ☐ East ☐ West
☐ Northeast ☐ Northwest ☐ Southeast ☐ Southwest
 - iii. Type of Building: ☐ Principal ☐ Accessory Building
 - iv. Current Setback: ~~10' to house~~ N.A.
 - v. Proposed Setback: 19' to house
 - vi. Required Setback: 20'
- b. Second Setback Variance Information (if applicable): (Lots ~~4~~ 4)
 - i. Type of setback: ☒ Front yard ☐ Rear yard ☐ Side yard
 - ii. Which direction: ☒ North ☐ South ☐ East ☐ West
☐ Northeast ☐ Northwest ☐ Southeast ☐ Southwest
 - iii. Type of Building: ☐ Principal ☐ Accessory Building
 - iv. Current Setback: ~~10' to house~~ N.A.
 - v. Proposed Setback: 15' to house / 13' to front porch
 - vi. Required Setback: 20' to house / 15' to front porch.

6. Variance from Land Use Code Section: 16-4-180

B. DEVELOPMENT PROCESS (City Code Section 16-4-180)

1. Pre-Application Conference. Optional.
2. Submit Application.
3. Staff Review. Schedule Hearing. Forward Report to Applicant and Board.
4. Public Notice Provided For Hearing.
5. Public Hearing Conducted by Board and Action Taken.



C. APPLICATION CONTENTS

A digital copy of all application materials is required.

- ☒ 1. **General Development Application**
- ☒ 2. **Site Plan.** A site plan of the subject property, showing existing and proposed features, buildings, etc. which are relevant to the review of the application. **The copies shall be accepted on 8½" x 11", 11" x 17" or 24"x 36" paper or electronically.**
- ☒ 3. **Required Showing.** The applicant shall indicate the way the proposal meets the required showing as outlined in the application.
- ☒ 4. **Public Notice**
 - a) **List.** A list shall be submitted by the applicant to the city of adjoining property owners' names and addresses. A property owner is considered adjoining if it is within 175 feet of the subject property regardless of public ways. The list shall be created using the current Chaffee County tax records.
 - b) **Postage Paid Envelopes.** Each name on the list shall be written on a postage-paid envelope. Postage is required for up to one ounce. Return Address shall be: City of Salida, 448 E. First Street, Suite 112, Salida, CO 81201.
 - c) Applicant is responsible for posting the property and submittal of proof of posting the public notice.
- ☒ 5. **Application Fee.** \$500 cash or check made out to City of Salida.

D. REQUIRED SHOWING (If necessary, attach additional sheets)

Variance Approval Criteria. Variances from requirements of this Chapter shall be considered an extraordinary remedy. When considering, reviewing and deciding on whether to approve a variance application, the Board of Adjustment must find that all of the following criteria have been met:

1. **Special Circumstances Exist.** Strict application of the standards adopted in this Chapter would result in undue hardship or practical difficulties for the owner of such property. Special circumstances include, but are not limited to, exceptional or peculiar limitations to the dimension, shape or topography of the property, such as slope, standing or moving water, wetlands, floodplain, rock features, narrowness, shallowness or irregular shape of a lot.

Due to an existing electrical guy wire on the South East corner of the Property, access to the proposed buildings on Lot 4 will be greatly hindered. If approved the decreased set back from the front property line would improve adequacy for the access on the South east side of the lot. Lots 3 & 4 will still require an easement.

The proposed setbacks would mean the buildings structure for lots ~~3~~ 3 and lots ~~4~~ 4 would be 19' and 15' respectively. However, the covered porch would be 17' for Lots 1 & 3 and 13' for Lots 2 & 4 from front property line, all 2' from adjoined building structure.

2. **Substantial Detriment.** The requested variance would not create a substantial detriment to the public good and would not substantially impair the intent and purpose of the Chapter, this Code or the City's Comprehensive Plan.

No substantial detriment expected based on the variance request and proposed building plans.

3. **Adverse Impacts.** The requested variance would not result in significantly adverse impacts to the natural environment or to the surrounding properties and neighborhoods.

The proposed variance would result in a 5' shift of all structures to include Units 3-4 with corresponding front porches, as well as ADU's 1A-4A. Proposed variance and building plans do not include any aspect changes expected to hinder environment and/or surrounding properties. Furthest extending housing structure and porch would be 15' and 13' respectively from front property lines, while setbacks from Teller St (west side) and neighbor lot (East side) remain unchanged.

4. **Minimum Variance Necessary for Reasonable Use.** The granting of the request is the minimum variance necessary for reasonable use of the property or building and the least deviation required from the applicable zoning standard to afford relief.

Without approval, the use of Lot 4's garage/ADU structure would be a significant inconvenience and potential danger to habitants due to the existing guy wire. By pushing all structures 5' to the north towards the front property line, we decrease the likelihood of an incident between the existing guy wire and the Lot habitants.

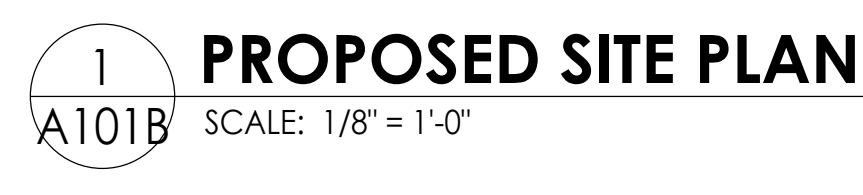
Additional Information:

Properties in question are Lots 3-4, Blk 1, Blake & Westerfields Add, Salida. Rec 485808 with Lot 4 (east side of property) as the focus issue in reference to Table 16-F, note 4.

Property owner and general contractor did attempt to work with Excel Energy in order to change the location and/or orientation of the guy wire. However, no resolution was able to be made to improve the situation. Contractor Justin Burn met with Chris of Excel Energy on May 25th, 2023.

To summarize, if approved, Lot 3 would have a setback of 19' for housing structure and 2' porch extension into the encroachment area (17' from front property line) while Lot 4 would have a setback of 15' for housing structure and 2' porch extension into encroachment area (13' from front property line). ~~Due to similarities of lots 3 & 4, owner and contractor design intentions are to keep front lines uniform on structures.~~

Proposed variance is not for alterations to building plan but for attempts to mitigate issues with habitants and guy wire near access point of Lot 4.



IMPROVEMENT SURVEY PLAT

LOTS 1 THROUGH 4, BLOCK 1, BLAKE AND WESTERFIELD'S ADDITION TO SALIDA
SECTION 5, TOWNSHIP 49 NORTH, RANGE 9 EAST OF THE NEW MEXICO P.M.
CITY OF SALIDA, COUNTY OF CHAFFEE, STATE OF COLORADO
(105 PARK AVE.)

LEGAL DESCRIPTION

LOTS 1 THROUGH 4, BLAKE AND WESTERFIELD'S ADDITION TO SALIDA, ACCORDING TO THE PLAT RECORDED AT RECEPTION NUMBER 440344, AT THE OFFICE OF THE CHAFFEE COUNTY CLERK AND RECORDER.
CITY OF SALIDA, COUNTY OF CHAFFEE, STATE OF COLORADO.

SURVEYOR'S NOTES:

- 1) SURVEY DATE: JANUARY 18, 2023
- 2) BEARINGS ARE BASED UPON GPS OBSERVATIONS ON THE NORTH LINE OF LOT 7 AND THE WESTERLY 15' OF LOT 8 ALSO BEING THE SOUTH RIGHT OF WAY LINE OF PARK AVE. SAID LINES BEARS N89°19'57" AND IS MONUMENTED ON THE EAST AND WEST BY A FOUND NUMBER 5 REBAR WITH AN ALUMINUM CAP STAMPED L.S. 37937.
- 3) LINEAL UNITS: INTERNATIONAL FEET.
- 4) LOT AREA: 0.326 ACRES ±
- 5) STREET ADDRESS: 105 PARK AVENUE, SALIDA, COLORADO.
- 6) UTILITIES ARE SHOWN APPROXIMATELY AND SHOULD BE FIELD VERIFIED PRIOR TO EXCAVATION. ONLY ABOVE GROUND UTILITIES ARE SHOWN ON THIS MAP. ADDITIONAL UTILITY EASEMENTS MY BE PRESENT OR ACQUIRED ON THE SUBJECT PROPERTY. ONLY RECORDED OR PLATTED EASEMENTS ARE SHOWN.
- 7) CENTRAL ROCKIES LAND SURVEYING, LLC DOES NOT WARRANT OR CERTIFY TO THE INTEGRITY OF ANY DIGITAL DATA SUPPLIED IN CONJUNCTION WITH THIS MAP AND SURVEY.
- 8) THIS PROPERTY IS ZONED R-2, MEDIUM DENSITY RESIDENTIAL DISTRICT.
- 9) THIS SURVEY DOES NOT CONSTITUTE A TITLE OF OWNERSHIP SEARCH BY CENTRAL ROCKIES LAND SURVEYING. ALL OWNERSHIP, EASEMENT AND PUBLIC RECORD INFORMATION WAS BASED ON BLAKE AND WESTERFIELD'S ADDITION TO SALIDA, ACCORDING TO THE PLAT RECORDED AT RECEPTION NUMBER 440344.

I, KEVIN L. DEAN, A PROFESSIONAL LAND SURVEYOR LICENSED TO PRACTICE IN THE STATE OF COLORADO, DO HEREBY CERTIFY THAT THIS PLAT WAS CREATED BY ME AND UNDER MY SUPERVISION AND THAT THIS PLAT REPRESENTS THE RESULTS OF A SURVEY PERFORMED BY ME AND IS TRUE AND ACCURATE TO BEST OF MY KNOWLEDGE.

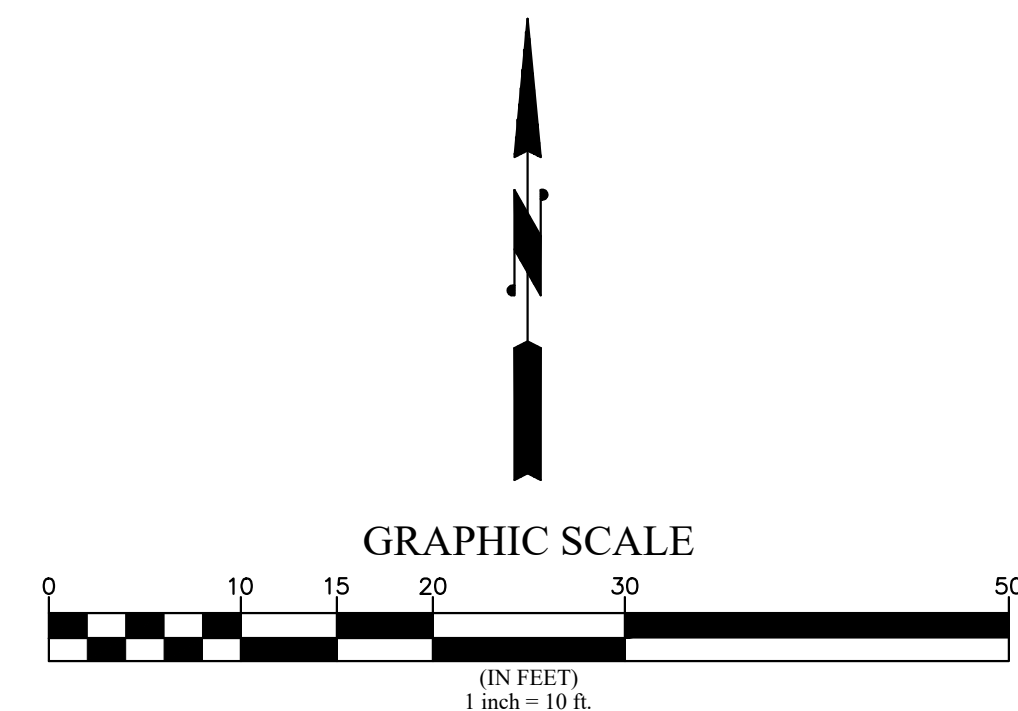
KEVIN L. DEAN, PLS 38639
COLORADO PROFESSIONAL LAND SURVEYOR



NOTICE: ACCORDING TO COLORADO LAW YOU MUST COMMENCE ANY LEGAL ACTION BASED UPON ANY DEFECT IN THIS SURVEY WITHIN THREE YEARS AFTER YOU FIRST DISCOVERED SUCH DEFECT. IN NO EVENT, MAY ANY ACTION BASED UPON ANY DEFECT IN THIS SURVEY BE COMMENCED MORE THAN TEN YEARS FROM THE DATE OF CERTIFICATION SHOWN HEREON.

LEGEND

	WATER METER
	FIRE HYDRANT
	GAS METER
	SANITARY MANHOLE
	COMMUNICATIONS PEDESTAL
	UTILITY POLE
	GUY WIRE
	OVERHEAD UTILITY
	OVERHEAD ELECTRIC
	WOOD FENCE
	CHAIN LINK FENCE
	CONCRETE



**CENTRAL ROCKIES
LAND SURVEYING, LLC**
7405 HWY 50 W. SUITE 130
SALIDA, COLORADO 81201
719-850-1802

DRAWN BY: RME
DATE: 01/26/2023
JOB NAME: 105 PARK AVE
JOB No. 23-006

