



STAFF REPORT

MEETING DATE: July 24, 2023
AGENDA ITEM TITLE: P&C Enterprises LLC. Variance Application
AGENDA SECTION: Public Hearing

REQUEST:

The purpose of the request is to receive variances from the minimum side yard setback for accessory buildings. Accessory buildings in the Two Rivers Planned Development with High - Density Residential (R-3) underlying zone district require a minimum side yard setback of five (5) feet for accessory buildings over twelve (12) feet in height.

The applicant is requesting minimum allowed side yard setback of 3' for the already constructed garage on the western portion of the property and 3'-3" for the already constructed garage on the eastern portion of the property.

An additional request is to receive variances from the maximum lot coverage at the time of subdivision for townhome lots. The maximum lot coverage is 45% in the Two Rivers Planned Development with High - Density Residential (R-3) underlying zone district.

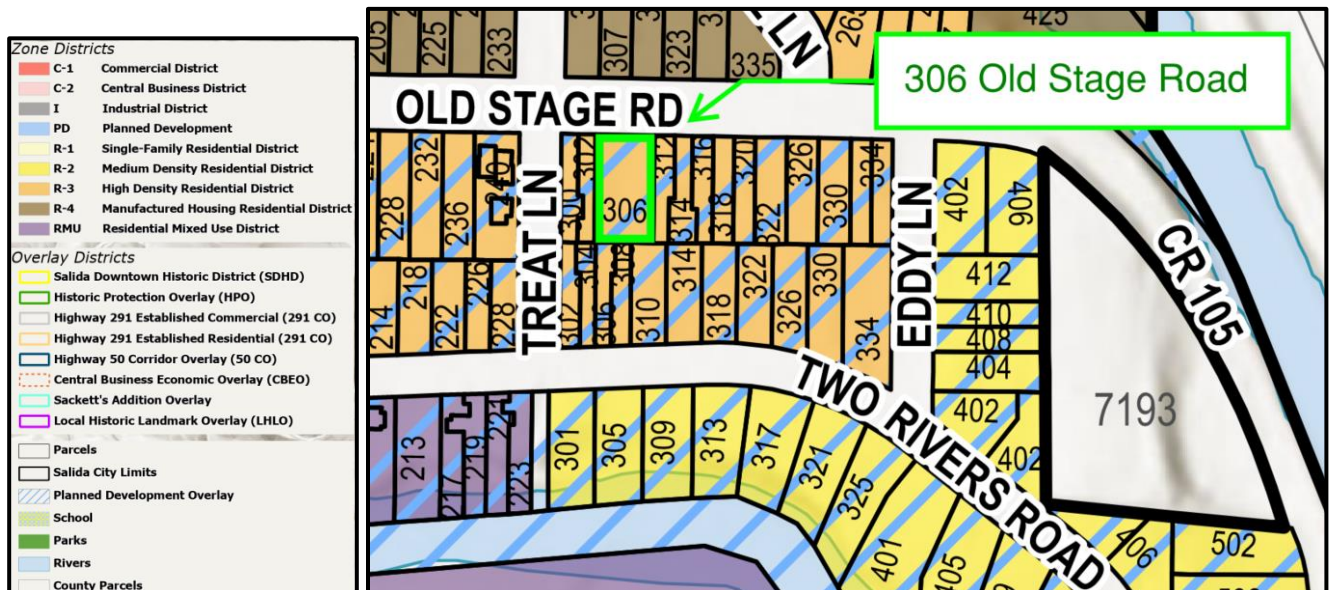
The applicant is requesting a variance of 0.3% (10.6 s.f.) for proposed Lot 57B and 2.3% (65.5 s.f.) for proposed Lot 57C in the 3-lot subdivision.

APPLICANT:

The applicants are P&C Enterprises LLC., PO Box 382, Buena Vista, CO 81211.

LOCATION:

The property is legally known as Lot 57 Two Rivers Subdivision, Phase 1, City of Salida, Chaffee County, Colorado. The address is 306 Old Stage Road.



PROCESS:

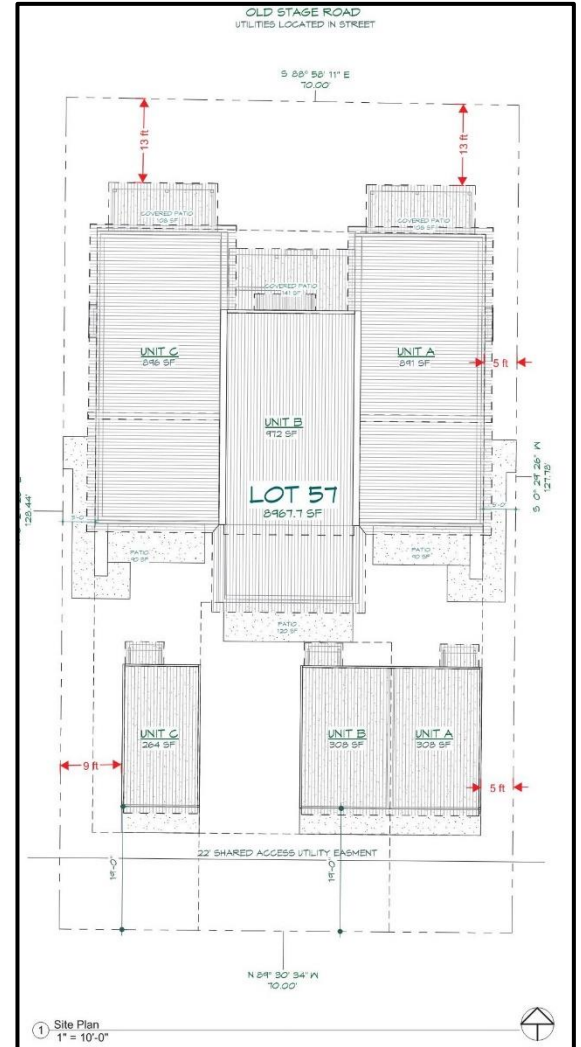
Variances are addressed in the City's Code of Ordinances, Section 16-4-180, Zoning Variances.

Variances may be granted from the standards of the underlying zone district and shall be authorized only for maximum height, minimum floor area, maximum lot coverage, minimum lot size, minimum setbacks, and parking requirements.

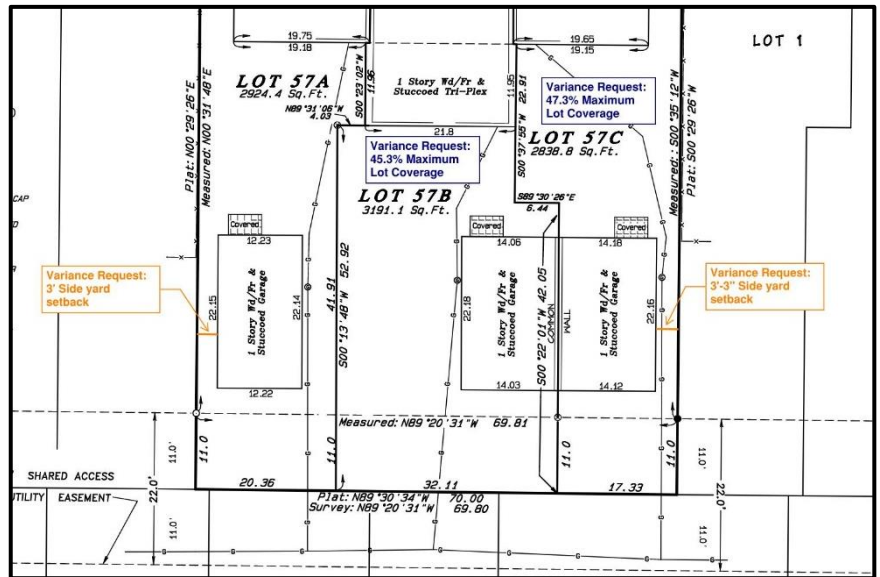
The Board of Adjustment holds a public hearing after fifteen days advance notice of the hearing. The public hearing shall be held, at which any person may appear or be represented by an agent or attorney. The Board may describe appropriate conditions and safeguards in conformity with the Zoning title of the City Code.

OBSERVATIONS:

1. The subject property is located in the Two Rivers Planned Development with High - Density Residential (R-3) underlying zone district. The Two Rivers Planned Development deviates from the Land Use Code Dimensional Standards Table 16-F, regarding minimum lot size (4,400 sq. ft.) and minimum front yard setback (10') for Lot 57.
2. At the time of building permit submittal, applicant had worked with staff to fill out Salida building permit applications. Lot coverage for all structures: garages, triplex, covered patios were calculated at 44.5%. The maximum lot coverage of structures in the zone district is 45%.
3. At the time of building permit submittal, the garage (accessory) building height was noted at 15'. The proposed setbacks were dually noted on the application at 9' from the western property line and 5' from the eastern property line.
4. The original building permit submittal displayed dashed lines on the site plan that would resemble the proposed subdivision of Lot 57. Staff do not typically review for future lots at time of building permit. Items such as lot coverage and setbacks are reviewed against the current legal lot of record. At time of subdivision application is when staff will review to assure that the proposal, in adequate detail, is drawn and submitted according to the requirements of the Land Use Code.
5. On November 2, 2022 the applicant submitted for a plan change with the Chaffee County Building Department. Due to what was thought to be a change only to the foundation type, the Building Department saw no reason for zoning approval signoff. However, an updated site plan was submitted to the Building Department that would have needed zoning sign off. See letter from the Chaffee County Deputy Building Official, Chad Chadwick.



6. A proposed subdivision, which may be viewed in a limited impact public hearing, has met the dimensional standards for minimum lot size for attached structures and lot frontage for attached structures but, after further calculations by a licensed surveyor the lot coverage is over the maximum for two of the proposed lots. Proposed Lot 57A has met the maximum lot coverage allowed for the zone district at 44.6%. Proposed Lot 57B has a lot coverage of 45.3% and proposed Lot 57C has a lot coverage of 47.3%. Proposed Lot 57B is over lot coverage by 0.3% (10.6 s.f.) and proposed Lot 57C is over lot coverage by 2.3% (65.5 s.f.).
7. The originally platted Lot 57 in the Two Rivers Subdivision was 8,967.7 sq.ft. The proposed three lot subdivision of Lot 57 has a total combined lot size of 8,945.3 sq.ft., a difference of 22.4 sq.ft. Adding up the lot coverages of all structures on Lot 57 alone (8,967.7 sq.ft.) the development is 0.6% (59.7 sq.ft.) over lot coverage.
8. As of Friday, July 21st staff has received two letters regarding the variance request. An adjacent neighbor has written a letter against the allowance of the variances. The other adjacent neighbor had questions and concerns regarding the variances, ideally wanting a “speedy close” to the entire project. Both letters are in the packet.



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.

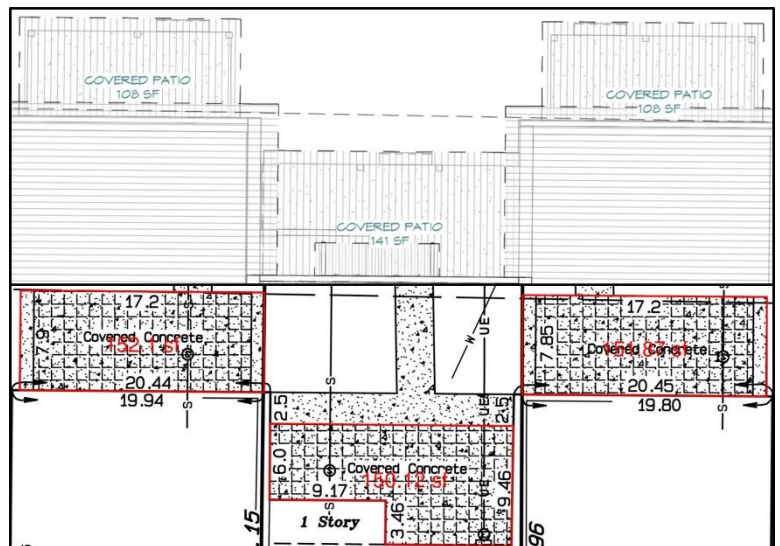
Applicant's responses:

Side setbacks. *Removal of the roof of this structure would result in hardship and undue difficulties due to the cost of additional materials and the timeframe required to acquire them, along with additional time and labor cost.*

Lot Coverage. *The increase in lot coverage was due to the adjustment of the interior lot lines to meet the required setbacks and due to the enlargement of the front covered porches to align with the front porches of neighboring properties for visual aesthetics.*

Staff Notes:

- A plan change, that was submitted to Chaffee County Building Department in November 2022 accompanied a site plan that would have triggered zoning sign off. The amended site plan was never reviewed by City Staff. The Building Department recognizes there was oversight and asks the Board to take this into consideration.
- Although, special circumstances do not specifically list development review errors in the code, this should be contemplated on behalf of the Planning & Zoning and Building Department Staffs.
- At the time of building permit submittal, in December 2020, staff reviewed the applications showing a proposed 44.5% lot coverage. The lot coverage was 0.5% less than the allowed lot coverage for the zone district. This was a tolerance of about 45 sq.ft. or 15 sq.ft per lot to be under the 45% lot coverage.
- The proposed covered patios were 108 sq.ft. for the two outer units and 141 sq.ft. for the center unit. Based on the survey, the covered patios are roughly 150 sq.ft for each unit. Neighboring covered patios, based on recorded duplex and minor subdivision plats, are around 115 sq.ft.



Top snapshot was proposed. Bottom snapshot is existing.



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.

Applicant's responses:

Side setbacks. *No detriment to the public good would be created by this structure and the height of such.*

Lot Coverage. *We do not believe this requested variance would create any detriment to the public good. This small percentage of increase does not substantially impair the intent of the code.*

Staff Notes:

- The enlarged front porches from the development plan may promote a greater use of the area. Front porches allow for casual conversations with neighbors and the public, ideally promoting the goals of the Comprehensive Plan regarding a sense of community.
- The accessory buildings are located in the rear of the lots. They are visible to the public from the front right-of-way and rear property lines via 22' shared access and utility easement.

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

Applicant's responses:

Side setbacks. *View corridors will not be impacted due to the roof design.*

Lot Coverage. *We feel there will be no adverse impact by this increase of lot coverage.*

Staff Notes:

- A complaint by a neighbor states: "It will permanently affect our view every time we look out our south facing windows." The image at the right are the accessory buildings in question. The accessory buildings were permitted at that height but would need to shift 1'-9" to the west to come into compliance with Table 16-F.



- The granting of the side yard variance may impact the surrounding properties as it will be in close proximity to the side property line.
- Staff believes 59 sq.ft. of lot coverage over the allotted amount, referencing Table 16-F, does not create a significant adverse impact to the natural environment or surrounding properties.

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.

Applicant's responses:

Side setbacks. *Granting this variance would not create any hardship to either the city or neighborhood and would be helpful to the owners by not creating any additional hardship or difficulties.*

Lot Coverage. *Needed to subdivide the lots.*

Staff Notes:

- Setbacks help provide privacy and to address basic safety issues: distances between buildings decrease the potential damage in case of a fire, provide the room necessary for a homeowner to maintain his/her buildings on his/her own property and provide for solar access and ventilation. As mentioned by the Building Department Official, "The garage meets the requirements for fire separation distances for structures less than 5' from a property line and I am confident they will meet all requirements per the adopted building codes. I feel it will also meet the requirements for a zoning variance should one be required."
- Maximum lot coverage is necessary to limit the impervious surfaces on a property to alleviate drainage issues. The site plan shows limited impervious surfaces outside the covered areas. Areas that can otherwise be considered impervious are landscaping or uncovered parking/access.

Land Use Code Sec. 16-4-180(f) The Board, in approving the variance, may impose such restrictions and conditions on such approval, and the premises to be developed or used pursuant to such approval, as it determines are required to prevent or minimize adverse effects from the proposed variance on other land in the neighborhood and on the general health, safety and welfare of the City. All conditions imposed upon any variance shall be set forth in the granting of such variance.

REVIEW AGENCIES:

Fire Department – Assistant Fire Chief, Kathy Rohrich – No concerns at this time.

Public Works Department – David Lady – This has no impact on Public Works.

Chaffee County Building Department – Chad Chadwick – No concern with the variances from a building safety standpoint. See attached.

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.

POSSIBLE FINDINGS:

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

Or

Option B: The variance request(s) do not meet all criteria 1 – 4.

RECOMMENDED MOTION (OPTION A): “I make a motion to approve the P&C Enterprises LLC. variance request(s), as they meet all the review criteria for zoning variances.”

RECOMMENDED MOTION (OPTION B): “I make a motion to deny the P&C Enterprises LLC. variance requests, as they do not meet all 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: Proof of Publication
Application Materials
Agency Reviews
Public Comment Letters
Letter from Deputy Building Official
Letter from Surveyor Regarding Proposed Structure Coverages