



**Meeting Date:** June 7, 2018

### **AGENDA MEMORANDUM**

**To:** Board of Adjustment

**From:** Tammy King  
Zoning Manager

**Title:** Request for Approval of Variance from the Minimum Rear Yard Setback PD (Planned Development - Single Family)

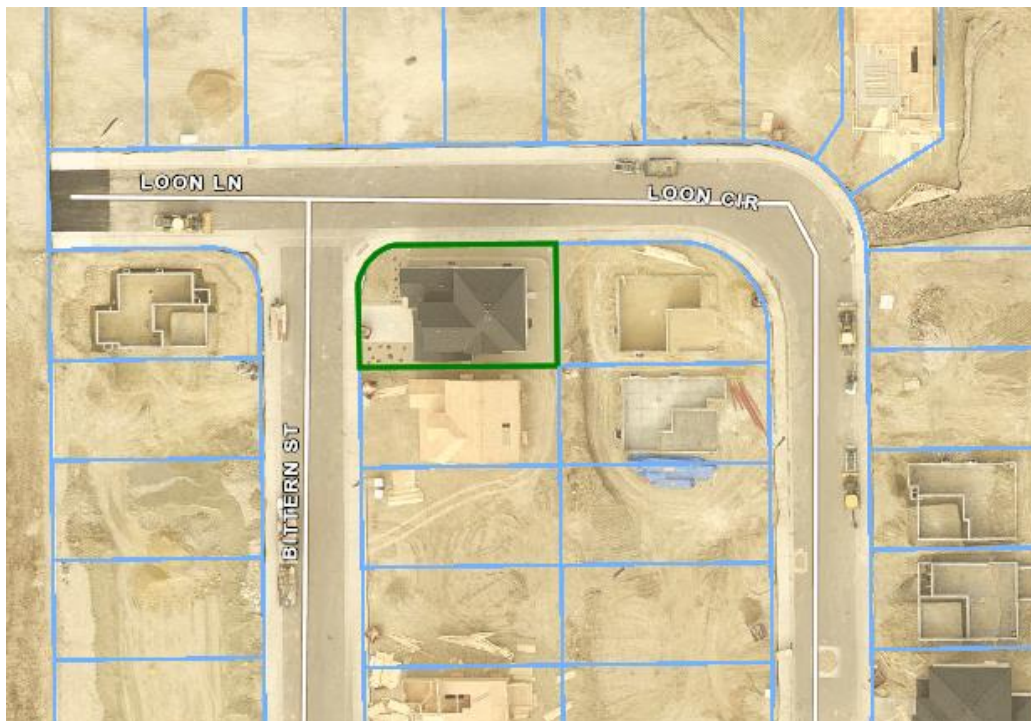
**Subject Property:** 2752 Bittern Street

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### **Summary**

The purpose of this staff memorandum is to seek action by the Board of Adjustment on a request by Mikel Joe Burroughs and Jodi Bates for variance from the minimum required rear yard setback of fifteen feet (15') to build a deck on an existing single-family residence in the PD Zone (Planned Development - Single Family). The subject property is addressed as 2752 Bittern Street, also known as Lot 51 Block 1, Crystal Valley Ranch 14<sup>th</sup> Filing.

The applicant has submitted a site plan which will constitute an approximate six foot (6') variance to the minimum required fifteen foot (15') REAR yard setback in the PD zone district, if approved by the Board.



## **Discussion**

The applicant is requesting consideration by the Board for approval of a variance from strict enforcement of the zoning regulations for the minimum setback from the rear property line to build a deck to the existing single family dwelling that will encroach a maximum of six feet (6') into the required fifteen feet (15') rear setback.

- There is a significant slope to the property and the entire landscaping is rock and retaining walls.





The existing single-family residential structure was issued a Certificate of Occupancy December 11, 2017 and the request does not meet the current zoning regulations and development standards for the PD zone district. Any and all new construction for improvement is required to meet the current development regulations.

- The Crystal Valley Ranch Master Association approved the deck submittal November 14, 2017 (**Attachment B**).
- The neighboring properties have a rear setback from the home of 19' to 31' (**Attachment D**).



- The current home has no front patio.



### **Town of Castle Rock Municipal Code 17.06.020 Powers and Duties**

#### **Variances**

1. Following proper notice, the Board shall hear and decide an appeal on specific cases for a variance to the following: Minimum rear yard.
2. In making its decision on a variance application, the Board shall consider the following and find:
  - a. The strict enforcement of the provisions of this Code will result in practical difficulties or unnecessary hardship to the applicant, inconsistent with the intent and purpose of this Code;
  - b. The practical difficulties or unnecessary hardship were not created by the applicant;
  - c. Unique physical conditions or exceptional topography exist on the subject property and similar unique conditions do not exist on neighboring properties;
  - d. The property is unable to be reasonably developed in conformity with the provisions of this Code due to unique physical conditions or exceptional topography;
  - e. The variance, if granted, will not substantially alter the character of the neighborhood in which the property is located, or impair the use or development on adjacent property; and
  - f. The variance, if granted, will not create an adverse effect on public health, safety and welfare or cause harm to adjacent properties.

3. The Board may impose reasonable conditions on the grant of a variance. In addition, upon approval of a variance, the Board shall determine whether the variance is limited to the condition existing on the property at the time of approval, or whether the variance runs with the land regardless of whether the conditions on the property change.
4. The decision of the Board shall be final, subject to judicial review.

### **Staff Findings**

1. The strict enforcement of the provisions of this Code will result in practical difficulties or unnecessary hardship to the applicant, inconsistent with the intent and purpose of this Code;  
***Staff finds** that strict enforcement of the Code may result in practical difficulties contrary to the intent and purpose of the Code because the home is at the minimum setback requirement, due to the addition of a 1st floor master bedroom.*
2. The practical difficulties or unnecessary hardship was not created by the applicant;  
***Staff finds** the practical difficulties or unnecessary hardship was created by the added footprint for the 1st floor master bedroom.*
3. Unique physical conditions or exceptional topography exist on the subject property and similar, unique conditions do not exist on neighboring properties;  
***Staff finds** that unique physical conditions may exist for this property due to the topography.*
4. The property is unable to be reasonably developed in conformity with the provisions of this Code due to unique physical conditions or exceptional topography;  
***Staff has** information to support the concept that unique physical conditions or exceptional topography exist on the subject property that would prevent the property from being developed in conformity with the provisions of the current Town code.*
5. The variance, if granted, will not substantially alter the character of the neighborhood in which the property is located, or impair the use or development on adjacent property;  
***Staff finds** that the variance, if granted, will not substantially alter the character of the surrounding neighborhood; and the construction of the deck on the single-family residence will generally be harmonious with other surrounding neighboring properties. The HOA has approved the deck and no negative feedback has been received by the Town since the public hearing posting and mailing. Decks/Patio Covers are present on other properties in the new neighborhood.*
6. The variance, if granted, will not create an adverse effect on public health, safety and welfare, or cause harm to adjacent properties; and  
***Staff finds** that the variance, if granted, will not create an adverse effect on public health, safety and welfare or cause harm to adjacent property if the proposed new construction meets all current building code requirements.*

### **Staff Recommendation**

Staff recommends approval due to:

- Topography of the property
- HOA approval
- No Neighborhood Objection
- The footprint of the home with the addition of a 1<sup>st</sup> floor master bedroom, places the home at minimum setbacks requirements.
- All other homes on Bittern Street and adjacent streets have a rear yard setback of 19' to 31', allowing room for a deck/patio

### **Motion Options**

In accordance with criteria as stated in the Town of Castle Rock Municipal Code Section 17.06.020 BOARD OF ADJUSTMENT:

#### **Option 1**

**I MOVE THAT THE BOARD OF ADJUSTMENT APPROVE** Mikel Joe Burroughs and Jodi Bates' request for approval of a variance from the minimum required rear yard setback to build a deck on an existing single-family residence in the PD zone; based upon the topography and existing conditions.

#### **Option 2**

**I MOVE THAT THE BOARD OF ADJUSTMENT DENY** Mikel Joe Burroughs and Jodi Bates' request for approval of a variance from the minimum required rear yard setback to build a deck on an existing single-family residence in the PD zone; based on the required hardship has not been demonstrated.

#### **Option 3**

**I MOVE THAT THE BOARD OF ADJUSTMENT CONTINUE** the public hearing to the next regular meeting on July 5, 2018.

### **Attachments:**

Attachment A: BOA Application Packet – BOA18-0002 –2752 Bittern Street

Attachment B: HOA Approval Letter

Attachment C: Adjacent Neighbors Letters of Support

Attachment D: Adjacent Homes Plot Plans/ILC's