



**Meeting Date:** September 3, 2020

### **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)

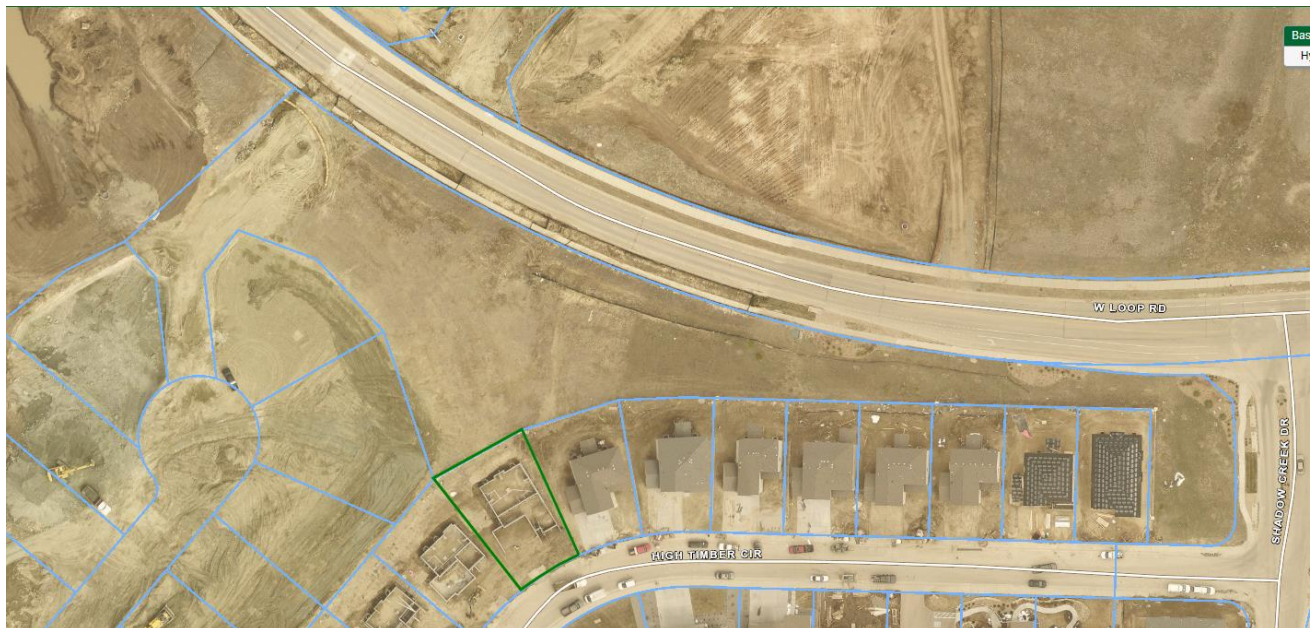
**Subject Property:** 5857 High Timber Circle

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### **Summary**

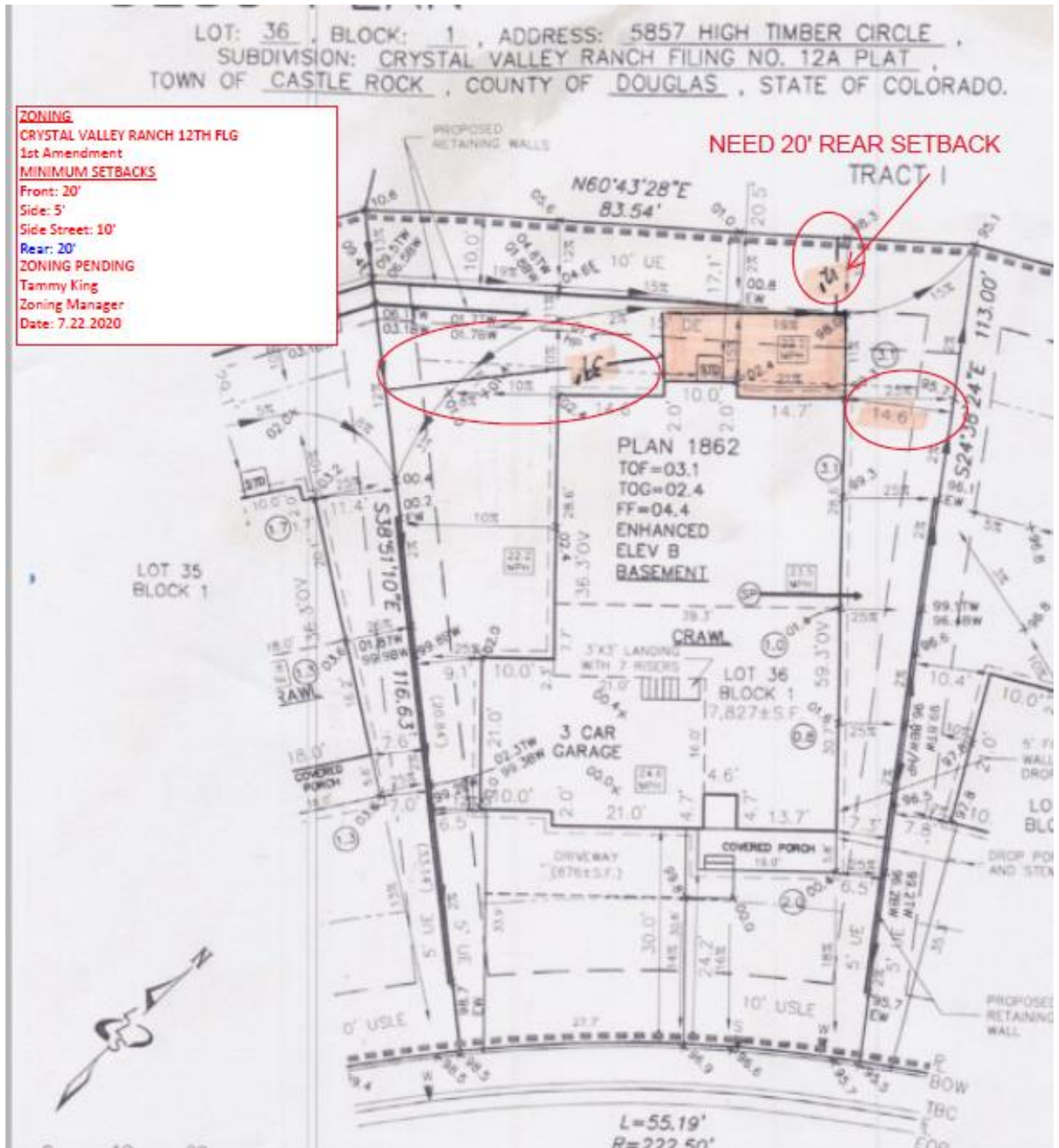
The purpose of this staff memorandum is to seek action by the Board of Adjustment on a request by Kyle Miller for variance from the minimum required rear yard setback of twenty feet (20') to build a deck on an existing single-family residence in the PD Zone (Planned Development - Single Family). The subject property is addressed as 5857 High Timber Circle, also known as Lot 36, Block 1 Crystal Valley Ranch Filing 12A.

The applicant has submitted a site plan which will constitute an approximate eight foot (8') variance to the minimum required twenty foot (20') 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 encroaches a maximum of eight feet (8') into the required twenty feet (20') rear setback.





**Discussion** (continued)

- The Crystal Valley Ranch Master Association approved the deck submittal May 18, 2020.
- The property backs to HOA Tract I and West Loop Road.
- Staff has not received objection from adjacent neighbors.
- The Applicant can not build a concrete deck due to drainage issues on the property.
- An elevated deck would not cause drainage issues.



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

### **B. 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**

- A. The strict enforcement of the provisions of this Code will result in practical difficulties or un-necessary 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 due to the topography of the lot and existing drainage issues.

- B. The practical difficulties or unnecessary hardship **were not** created by the applicant:

***Staff finds*** the practical difficulties or unnecessary hardship was created by the topography of the lot;

- C. 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 of the lot;

- 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:

**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;

- 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:

**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 staff has received no objection from neighboring properties;

- F. The variance, if granted, will not create an adverse effect on public health, safety and welfare, or cause harm to adjacent properties:

**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
- A concrete deck could cause drainage issues.

### **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** Kyle Miller's request for approval of a variance from the minimum required rear yard setback to construct a deck on a single-family residence in the PD zone; based upon the topography of the lot.

Option 2

**I MOVE THAT THE BOARD OF ADJUSTMENT DENY** Kyle Miller's request for approval of a variance from the minimum required rear yard setback to construct a deck on a 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 OCTOBER 1,2020.**

**Attachments:**

Attachment A: BOA Application Packet – BOA20-0002 – 5857 High Timber Circle

Attachment B: HOA Approval Letter

Attachment C: Drainage Plan of Property

Attachment D: Construction Plans