



Meeting Date: November 5, 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: **5943 High Timber Circle**

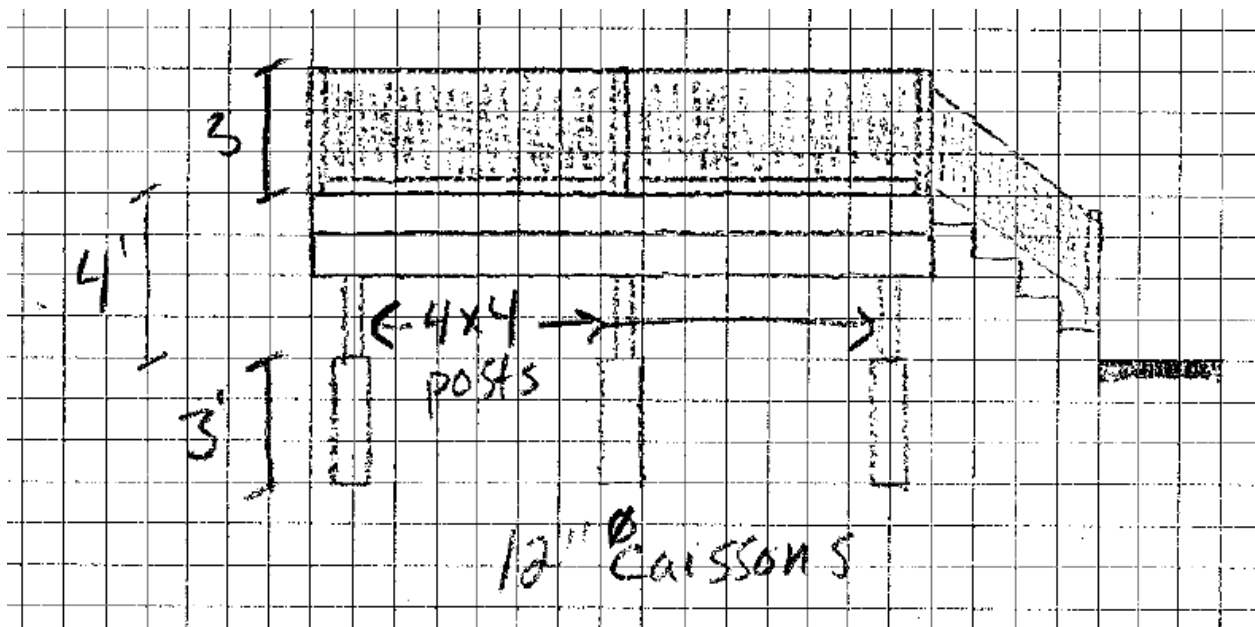
Summary

The purpose of this staff memorandum is to seek action by the Board of Adjustment on a request by the Cogburn Family Trust 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 5943 High Timber Circle, also known as Lot 28, Block 1 Crystal Valley Ranch Filing 12A .

The applicant has submitted a site plan which will constitute an approximate nine and a one half foot (9.5') variance to the minimum required twenty foot (20') REAR yard setback in the PD zone district, if approved by the Board.



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 nine and one half feet (9.5') into the required twenty feet (20') rear setback.



Discussion (continued)

- The Crystal Valley Ranch Master Association approved the deck submittal September 21, 2020.
- The grade difference on this property is from 5% to 13%
- Staff has not received objection from adjacent neighbors.
- The Applicants are an elderly couple and the husband is handicapped.
- The request for 10' deck is to be able to have a grill and some limited furniture, as this deck area will be the yard area for this elderly couple. They are required by the HOA to keep a percentage of grass and the steps off the deck are only to provide a second access out of house in the event of an emergency,
- An elevated deck would not cause drainage issues and would allow the applicant easy access to a usable deck and their back yard.







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 the lack of safe accessibility to the back yard.

- 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 and the house placement on 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 and the house placement on 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 at 5% to 13% grade difference
- The need for safe accessibility to the back yard.

In addition, the HOA has approved this project and we have no neighborhood objection.

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 the Cogburn Family Trust'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 the Cogburn Family Trust'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 DECEMBER 3, 2020.

Attachments:

Attachment A: BOA Application Packet – BOA20-0004 – 5943 High Timber Circle

Attachment B: HOA Approval Letter

Attachment C: ILC and Drainage Plan of Property

Attachment D: Construction Plans