



CITY OF IDAHO SPRINGS
1711 Miner Street
P.O. Box 907
Idaho Springs, CO 80452-0907
Telephone (303) 567-4421
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NOTICE AND AGENDA
VARIANCE BOARD OF ADJUSTMENTS
Idaho Springs City Hall
1711 Miner Street
Wednesday, September 21, 2022 – 5:30 p.m.

Call to Order

Roll Call

Approve Minutes of August 17, 2022

New Business- Public hearing

- 1. Variance request to the Side and Rear Yard Setbacks for a Shed (Accessory Structure) at 2122 Virginia Street.**

Adjourn

IN-PERSON AND REMOTE MEETING PUBLIC ATTENDANCE AND PARTICIPATION INSTRUCTIONS

The Public is able to view and hear this meeting remotely at the following address on the City's website:
<https://www.colorado.gov/pacific/idahosprings/city-council-live>

To provide public comment remotely please use the link below
<https://us02web.zoom.us/j/87259498432?pwd=Z2oxVXJmVEZVVVNyRkg3Ykljd0xDZz09>

Passcode: 450563

For in-person Unscheduled Public Comment, please sign-in at the entrance to the Council Chambers.

Each individual that is providing public comment is limited to three (3) minutes.



**VARIANCE BOARD OF ADJUSTMENTS
MINUTES
August 17, 2022**

CALL TO ORDER

Community Development Planner Jerad Chipman called the meeting to order at 5:35 PM. Board members present were Ann Zimmerman, John Hatch and Dru Van Doren. City staff present was City Attorney Carmen Beery (via ZOOM), Deputy City Clerk Wonder Martell and Community Development Planner Jerad Chipman. Chairman Doug Smith was absent for this meeting. City Planner Mr. Chipman asked for a nomination for an alternate chair to run this meeting. Board member Zimmerman nominated Board member Van Doren to act as chair. Board member Hatch seconded the nomination and board member Van Doren agreed to accept this nomination.

APPROVAL OF MINUTES

Ann Zimmerman moved to approve the minutes of April 20, 2022; board member Mr. Hatch seconded followed by an all-in favor roll call vote.

NEW BUSINESS

Public Hearing

Variance request to allow a pole sign to be constructed in the Historic Downtown zoning district of 1601 Colorado Boulevard.

Acting Chair Dru Van Doren opened the public hearing at 5:37 pm.

Jerad Chipman presented the staff report outlining the request and advised the board that the sign in question did not meet the zoning code as pole signs are not allowed in the Historic District. HPRC has approved the proposed sign as appropriate. Staff is recommending approval of this variance with an addition to the motion of having a five-foot setback versus the ten-foot setback that is required per the code.

Applicant testimony – Deputy City Clerk Wonder Martell swore in the applicant, Jonah Hearne. Mr. Hearne thanked staff, he advised the board that he has made arrangements for the historic, old, large Lodge sign to be taken down and given to the Historical Society so they can renew it and put it on display at the museum. Mr. Hearne also advised the board that the new sign he is asking a variance for, will reflect the heritage and the history of the old Victorian style.

PUBLIC COMMENT

There was no public comment for this public hearing.

DISCUSSION

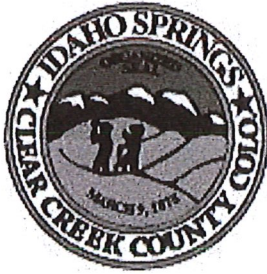
Board member John Hatch asked the applicant if the old sign was to remain on site. Mr. Hearne replied with no, its going to go to the Historical Society so they can put it into the museum to preserve the history of the historic sign. Board member Dru Van Doren asked the applicant if the 5' set back would still allow visibility of the sign. Mr. Hearne advised the board that the 5 foot setback would still allow visibility of the sign.

Acting chair Dru Van Doren closed the public hearing at 5:47 pm.

Doug Smith moved to approve the variance to allow for pole sign with a five-foot variance to be constructed at 1601 Colorado Blvd for the Club Hotel. Board member Hatch seconded followed by an all-in favor roll call vote. Variance passes 3-0.

ADJOURN

With no further business before the board, acting Chair Dru Van Doren adjourned the meeting at 5:49 p.m.



Staff Use Only	
Application Number:	_____
Received By:	<u>Wm</u>
Date:	<u>08/29/2022</u>

Idaho Springs Land Use

Application

1. This is the master land use form for the City of Idaho Springs. Please use to apply for:
(Please select one of the following as appropriate)

- | | | |
|---|--|---|
| <input type="checkbox"/> Administrative (Subdivision) | <input type="checkbox"/> Annexation | <input type="checkbox"/> Conditional Use Waiver |
| <input type="checkbox"/> Plat Major Subdivision | <input checked="" type="checkbox"/> Variance or Appeal | <input type="checkbox"/> RV Park |
| <input type="checkbox"/> Planned Development Overlay | <input type="checkbox"/> Minor Subdivision | <input type="checkbox"/> Site Plan |
| <input type="checkbox"/> Sign Permit | <input type="checkbox"/> Rezoning | |
| <input type="checkbox"/> Temporary Use | <input type="checkbox"/> Other: _____ | |

2. Project Name: 2122 Virginia St.
Please print or type legibly

3. Contact information: (a list of additional contacts may be attached)

Owner Name: <u>Adele Phillips</u>	Applicant Name: <u>Same</u>
Address: <u>2122 Virginia St</u>	Address: _____
Telephone: <u>970-390-4414</u> Fax: <u>4414</u>	Telephone: _____ Fax: <input checked="" type="checkbox"/>
E-mail: <u>Phillipsa310@gmail</u>	E-mail: _____

4. Property Description:

Address or Location: 2122 Virginia St - Single Family Residence
 Existing Zoning: Existing Use: old Shed
 Proposed Zoning: Proposed Use: new Shed

5. Purpose: (describe intent of this application in 1-2 sentences)

To maintain Distance of 1 foot or not more than 2 feet off back wall + west fence so as to replace existing Shed with new Shed.

6. Certification: (must be signed in blue ink)

I certify that I am the lawful owner of the parcel(s) of land affected by this application and hereby consent to this action.

Owner: Adele A Phillips Date: 8/29/22 AND

I certify that the information and attachments I have submitted are true and correct to the best of my knowledge. In filing this application, I am acting with the knowledge and consent of the property owner(s). I understand that all materials and fees required by the City of Idaho Springs must be submitted prior to processing this application.

Applicant: Adele A Phillips Date: 8/29/22
(*) Aka Coldagelli

APPLICATION FOR REQUEST FOR VARIANCE

APPLICANT NAME: Adele Phillips (aka Coddogelli.)

APPLICANT ADDRESS: 2122 Virginia St.

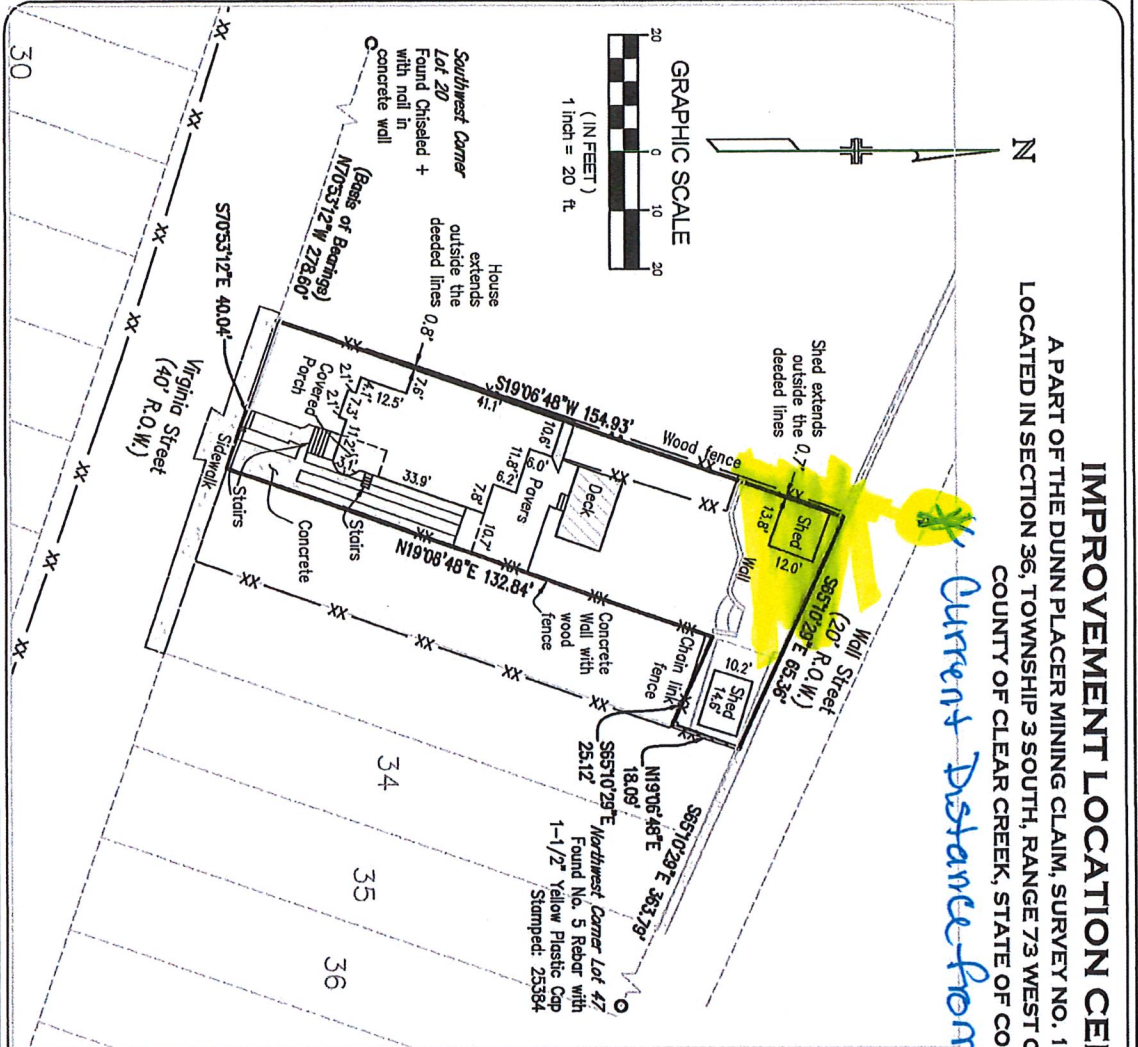
LEGAL DESCRIPTION OF THE PROPERTY: (Must attach legal from Clear Creek County) please see attached

CITATION TO OR COPY OF ORDINANCE FROM WHICH THE VARIANCE IS BEING REQUESTED, OR A COPY OF THE BUILDING OFFICIAL'S ORDER, REQUIREMENT, DECISION OR DETERMINATION FROM WHICH AN APPEAL IS TAKEN:

REASON FOR FILING AN APPEAL OR REQUEST FOR VARIANCE: (Requests for variances must describe the evidence supporting each of the conditions required in order for a variance to be granted)

Removing old shed + replacing with new shed. Old shed is one foot from wall on west fence line. In order to fit new shed we need to be as close as possible to said wall and fence.

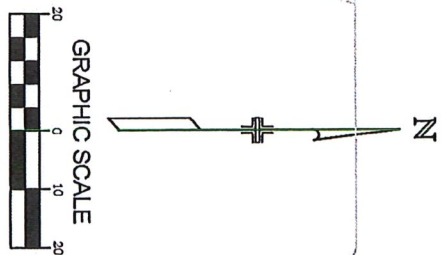
A LIST OF NAMES AND ADDRESSES OF THE OWNERS OF ALL PROPERTIES WITHIN ONE HUNDRED (100) FEET OF ANY PART OF THE AFFECTED PROPERTY:



IMPROVEMENT LOCATION CERTIFICATE

A PART OF THE DUNN PLACER MINING CLAIM, SURVEY NO. 188, IDAHO MINING DISTRICT
 LOCATED IN SECTION 36, TOWNSHIP 3 SOUTH, RANGE 73 WEST OF THE 6TH PRINCIPAL MERIDIAN
 COUNTY OF CLEAR CREEK, STATE OF COLORADO

Current Distance from Wall & Fence is one foot



DESCRIPTION:

Beginning at a point on the North Boundary line of Virginia Street, a distance of eighty-seven and one-half (87 1/2) feet from the Southeast corner of Lot Numbered twenty-six (26) Block "A", Sunnyside Addition to Idaho Springs, thence easterly along the North boundary line of said Virginia Street a distance of thirty-nine (39 1/2) feet, more or less to the Southwest corner of a tract of ground, conveyed by Mary Fitzgerald to Josephine Owens March 30, 1922, and recorded in Book 89, at Page 583 of the records of the Clerk and Recorder of Clear Creek County, Colorado; thence northerly parallel with the West boundary line of said Lot Numbered twenty-six (26) to Wall Street, thence westerly along the south boundary of Wall Street to the Northwest corner of a certain tract of ground heretofore conveyed by Mary Fitzgerald to John W. Nyberg and Hannah Nyberg July 19th, 1905, and recorded in Book 111, at Page 610 of the records of the Clerk and Recorder of said Clear Creek County; thence southerly to place of beginning, situate, lying and being in the City of Idaho Springs.

The Northerly 18 feet of that certain portion of the Dunn Placer Mining Claim, Survey Lot No. 188, now a portion of the Sunnyside Addition to the City of Idaho Springs, described as follows: Beginning at a point on the South line of Block "A", Sunnyside Addition to the City of Idaho Springs, N. 70° 57' W. 25 feet from the S. E. corner of Lot 34; thence N. 70° 57' W. Fifty (50) feet, thence N. 19° 3' E. 150 Feet more or less, to the North Line of Block "A"; thence S. 64° 56' E. 50.3 feet, thence S. 19° 3' W. 145 feet, more or less to the place of beginning, soving and excepting that portion decided by America Jarno to Jessie Williams, September 25, 1902, and recorded in Book 111, Page 274, in the records of the County Clerk and Recorder of the said Clear Creek County, in the State of Colorado.

ADDRESS:
 2122 Virginia Street
 Idaho Springs, CO 80452

IMPROVEMENT LOCATION CERTIFICATE:

I hereby certify that this Improvement Location Certificate was prepared for Donald R. Phillips that it is not a land survey plat or improvement survey plat, and that it is not to be relied upon for the establishment of fence, building, or other future improvement lines. This certificate is valid only for use by Donald R. Phillips and describes the parcel's appearance on September 23, 2020.

I further certify that the improvements on the above described parcel on this date, September 23, 2020, except utility connections, are entirely within the boundaries of the parcel, except as shown, that there are no encroachments upon the described premises by improvements on any adjoining premises, except as indicated, and that there is no opposite, evidence or sign of any easement, crossing or burdening any part of said parcel, except as noted. (C.R.S. 38-51-108)

WESTON D. SPRINGS
 PROFESSIONAL LAND SURVEYOR
 COLORADO LICENSE NUMBER 380556

WESTON SURVEYING
 P.O. BOX 3184
 IDAHO SPRINGS, CO 80452
 (303) 681-1519

CITY OF IDAHO SPRINGS

Variance Board Communication



MEETING DATE: AUGUST 21, 2022

REPORT DATE: AUGUST 15, 2022

FROM: JERAD CHIPMAN, COMMUNITY DEVELOPMENT PLANNER

THROUGH: ANDREW MARSH, CITY ADMINISTRATOR

RE: SETBACK VARIANCE AT 2122 VIRGINIA STREET: VARIANCE REQUEST TO ALLOW A SHED TO BE LOCATED WITHIN A SIDE AND REAR SETBACK.

PROPOSAL:

Adele Phillips (the Applicant), owner of 2122 Virginia Street (the Property), requests approval of a variance to allow a shed to be located within the rear and side yard setback.

BACKGROUND:

The property contains a residence with two existing sheds in the rear yard. One of the sheds is proposed to be replaced and is located one (1) foot off the side and rear property lines. The new shed is proposed to be constructed in roughly the same place as the existing shed, approximately one (1) to two (2) feet from the side and rear property lines. The side yard abuts another residential property. The rear yard abuts a retaining wall that is supporting Wall Street. Attached to this report are images of the shed taken from Wall Street. The Applicant has indicated her desire to keep the shed in the same location due to the existence of a nearby retaining wall located south, or further within the rear yard of the property. However, the attached survey plat of the property indicates that the current shed encroaches onto the neighbor's property.

Zoning and Land Use. The property is zoned Residential One (R-1). The neighboring properties are zoned and used per the below table:

<u>Location</u>	<u>Adjacent Land Use</u>	<u>Adjacent Zoning</u>
North	Residential	R-1 and R-2
East	Residential	R-1
South	Residential	R-1
West	Residential	R-1

Applicable Zoning Ordinance regulations. The variance is being requested to Section 21-63 "Development Standards" of the Idaho Springs Municipal Code. The notes located below the table include restrictions to accessory structures. An excerpt from the Municipal Code is as follows:

(e) Side and rear setbacks for accessory structures shall be five (5) feet.

ROLE OF THE VARIANCE BOARD:

The Board’s Authority. Per Section 21-109 of the City of Idaho Springs Land Development Regulations (LDR), the Variance Board may authorize variances from the requirements of the Municipal Code. A variance must be considered an extraordinary remedy. When considering a variance from a standard in the LDR, the Variance Board shall apply the criteria listed later in this staff report.

Conditions. In granting any variance, the Variance Board may prescribe appropriate conditions and safeguards in conformity with this Chapter and the Comprehensive Plan.

REFERRALS:

The application was referred to the following, with specific comments noted.

- City Administrator
- City Attorney
- Deputy City Clerk
- Director of Public Works
- SafeBuilt – A structure within five (5) feet of the property line or another structure is required to be constructed with a one (1) hour fire resistant construction. Plans indicating the one (1) hour fire resistant construction are required to be submitted prior to permit issuance.
- Clear Creek Fire Authority - As long as the new structure does not cause parking to further impinge on Wall Street, I have no objection. Wall Street is narrow and parking affects Emergency Vehicle Response.

STAFF ANALYSIS OF VARIANCE CRITERIA:

Per Section 21-109 of the Land Development Regulations, the Variance Board may authorize variances from the requirements of the Code. A variance shall be considered an extraordinary remedy. When considering a variance from the requirements of this Chapter, the Variance Board shall apply the criteria set forth below:

1. *The Applicant would suffer hardship as a result of the strict application of these regulations, which hardship is not generally applicable to other lands or structures in the same zone district because of considerations relating to the preservation of historic structures, the unusual configuration of the Applicant’s property boundaries, or unique circumstances related to existing structures or topographic conditions.*

Staff Analysis: To meet the strict application of these regulations, the applicant would need to relocate the existing retaining wall, as constructing the concrete floor for the new shed would disturb the wall. This circumstance is not entirely unique as other properties within the City may have short rear yard retaining walls due to the nature of the topography in Idaho Springs.

2. *There are no reasonable design alternatives or alternative locations for structures that would eliminate or reduce the need for the requested variance, or decrease the scope or extent of the variance required, that do not involve unreasonable expense under the circumstances.*

Staff Analysis: A change in the design, such as moving the shed a few feet to the east and south, could reduce the need or severity of the variance. The structure could be moved out a few additional feet from the property lines without interfering with the retaining wall. This alteration would reduce the scope of the variance, but may not completely alleviate the need for it.

3. *The need for the variance does not result from the intentional, reckless or negligent actions of the Applicant or his or her agent, a violation of any provision of this Chapter, this Code, any other code or ordinance adopted and in effect in the City or a previously granted variance.*

Staff Analysis: The need for the variance is not a result of intentional, reckless or negligent actions on the part of the Applicant. The applicant placed the retaining wall in a location that suited the layout of the site at the time.

4. *Reasonable protections are afforded adjacent properties.*

Staff Analysis: The proposed variance is unlikely to have a large impact on neighboring properties as the proposed shed is replacing an existing shed and fire separation measures are required through the Building Department. However, the new shed shall not be allowed to encroach on neighboring property.

5. *The variance is the minimum variance that will make possible the reasonable use of the land or structure.*

Staff Analysis: As stated in answer number #2, the severity of the variance could be reduced by moving the shed out a few feet and not disturbing the retaining wall.

6. *The granting of the variance will:*

- a. *Observe the spirit of this Chapter;*

Staff Analysis: The proposed variance does not reflect the spirit of this chapter. It is staff's opinion that the request is understandable and would allow for the Applicant to more easily locate a new shed on the property. However, this is a case where there is space in the rear yard to more closely meet the Zoning Ordinance accessory structure setback of five (5) feet.

- b. *Secure the public safety and welfare; and,*

Staff Analysis: The proposed variance will have little effect on the public safety and welfare of the residents and visitors of Idaho Springs. The comment from the SafeBuilt further ensures the safety of adjacent people and structures.

- c. *Ensure that substantial justice is done.*

Staff Analysis: The existing retaining wall provides a semi-unique circumstance for which few properties will be similar. However, as indicated in answer #1, the situation is not completely unique due to the topographical features of many residential properties within the City.

PUBLIC NOTICE:

A sign is posted on the property, and letters were sent to the owners of properties within 300 feet of this property, using information from the Assessor listed on the County’s “Clear Map” website.

PUBLIC COMMENT:

No public comments have been received.

PLANNING STAFF SUMMARY AND RECOMMENDATION:

Staff recommends approval of the requested variance, with the condition that the new shed be located as close as possible to the retaining wall without undermining the stability of the wall and be located a minimum of three (3) feet away from the western property line. The proposed condition would reduce the non-conformity of the shed on the site, and move the property closer into compliance without the costly relocation of the retaining wall.

PROPOSED MOTION AND FINDINGS:

Based on the findings made on the record of this matter and in the Resolution, I move to (approve or deny) Resolution #VB 22-04; for a Variance at 2122 Virginia Street to allow a shed to encroach within the side and rear setback with the condition that it be located as close as possible to the retaining wall without undermining the stability of the wall and be located a minimum of three (3) feet away from the western property line.

Images of the existing shed from Wall Street.



Site Map



IDAHO SPRINGS VARIANCE BOARD

RESOLUTION NO. VB 22 - 04

A RESOLUTION APPROVING AN APPLICATION FOR A VARIANCE AT 2122 VIRGINIA STREET TO ALLOW THE LOCATION OF A SHED WITHIN THE REAR AND SIDE YARD SETBACKS WITH CONDITIONS

WHEREAS, the Idaho Springs Variance Board (the "Board") has received an application (the "Application") requesting approval of a variance to replace an existing legal nonconforming shed located within the rear and side yard setbacks at 2122 Virginia Street, Idaho Springs, Colorado (the "Property"); and

WHEREAS, the Property is zoned Residential One (R-1); and

WHEREAS, pursuant to Idaho Springs Municipal Code ("Code") Sec. 21-63(e), the side and rear yard set backs for accessory structures is five (5) feet; and

WHEREAS, after conducting a public hearing on the Application after due and proper notice of the same was given, and after reviewing all the evidence and testimony given at the hearing, the Board finds that replacing the existing shed within the rear and western side yard setbacks in *approximately* the same location meets the relevant variance criteria on balance and would not do substantial harm to neighboring properties or the City in general, only upon the imposition of conditions, as further set forth herein.

NOW, THEREFORE, BE IT RESOLVED BY THE VARIANCE BOARD OF THE CITY OF IDAHO SPRINGS, COLORADO, THAT:

Section 1. Findings: The application filed by Adele Phillips (the "Applicant"), as owner of the property known as 2122 Virginia Street, Idaho Springs, Colorado, proposing the replacement of an existing nonconforming shed located within the rear and side yard setbacks with a new shed in approximately the same location, as reflected and proposed on the plans filed with the Application, meets the Code criteria for variances found at Code Section 21-109 on balance, upon the imposition of certain CONDITIONS as follows:

1. The new shed shall be located as close as possible to the existing retaining wall to the south without undermining the stability of that wall; and
2. The new shed shall be located a minimum of three (3) feet from the western lot line.

Section 2. Decision: Based on the findings and conditions set forth in Section 1 above, the Board hereby APPROVES the Application.

DONE and ORDERED by a vote of ____ to ____ , on September 21, 2022.

Doug Smith, Chair

ATTEST:

Wonder Martell, Clerk to the Board