



**VARIANCE BOARD OF ADJUSTMENTS  
AGENDA  
MAY 19, 2021  
5:30 PM**

**Call to Order**

**Roll Call**

**Approve Minutes of March 17, 2021**

**New Business- Appointment of regular member John Hatch**

**Public hearing-**

**Proposed fence at 715 Colorado Blvd. request to allow a fence up to seven feet high where the maximum allowed height is six feet**

**Move to approve #VB 21-02; A resolution approving an application for a variance at 715 Colorado Boulevard to allow a rear yard fence up to seven (7) feet high.**

**Adjourn**

**REMOTE MEETING PUBLIC ATTENDANCE INSTRUCTIONS**

The Public will be able to view and hear this meeting remotely at the following address:

<https://www.colorado.gov/pacific/idahosprings/city-council-live>

The public will be able to sign up for **Unscheduled** Public Comment by emailing the City Clerk at [cityclerk@idahospringsco.com](mailto:cityclerk@idahospringsco.com) contact information including name and phone number by 5 PM on the day of the scheduled meeting.



**VARIANCE BOARD OF ADJUSTMENTS  
MINUTES  
MARCH 17, 2021**

**CALL TO ORDER**

Chairman Smith called the meeting to order at 5:41 PM.

Board members present were: Doug Smith, Ann Zimmerman and Dru Van Doren.  
City staff present was City Clerk Diane Breece, City Administrator Andrew Marsh,  
Community Development Planner Mike Davenport and City Attorney Carmen Beery.

**APPROVAL OF MINUTES**

Dru Van Doren moved to approve the minutes of December 16, 2020. Ann Zimmerman seconded and the motion carried by unanimous voice vote.

**NEW BUSINESS**

**200 Whitewater Rd.**-RSJ Storage request to replace fence along East Idaho Springs Rd. with a material not listed in the City's Standards and Specification for Deign Construction as referenced by Municipal Code Chapter 21.

Chairman Smith opened the public hearing at 5:44 pm.

Mike Davenport presented the staff report outlining the request. The applicant had nothing further to add. There was no public comment.

Chairman Smith closed the public hearing at 5:52 p.m.

Doug Smith moved to approve Resolution #VB 21-01; A resolution approving an application for the use of rusting metal as the material for a replacement fence facing County Rd. 314 at 200 Whitewater Rd. Dru Van Doren seconded and the motion passed by a unanimous roll call vote.

Ann Zimmerman moved to approve Resolution #VB 20-05; A resolution approving an application for a variance at 1614 Wall St. to reduce the front yard setback from 20 ft. to 12 ft. Dru Van Doren seconded and the motion passed by a unanimous roll call vote.

Ann Zimmerman moved to approve Resolution #VB 20-06; A resolution conditionally approving an application for variances at 1614 Wall Street to reduce the minimum lot width from 50ft to 45ft.; and to reduce the minimum lot size from 5,000 sq. ft. to 3,900 sq. ft. Dru Van Doren seconded and the motion passed by a unanimous roll call vote.

**ADJOURN**

With no further business before the board Chairman Smith adjourned the meeting at 5:54 p.m.

IDAHO SPRINGS VARIANCE BOARD

RESOLUTION NO. VB 21 - 02

A RESOLUTION APPROVING AN APPLICATION FOR A VARIANCE AT 715 COLORADO BOULEVARD TO ALLOW A REAR YARD FENCE UP TO SEVEN (7) FEET HIGH

WHEREAS, the Idaho Springs Variance Board (the "Board") has received an application requesting approval of a variance to allow a rear yard fence up to seven (7) feet in height at 715 Colorado Boulevard, Idaho Springs, Colorado (the "Property"); and

WHEREAS, the Property is zoned Residential-Two (R-2); and

WHEREAS, the Idaho Springs Municipal Code ("Code") Section 21-210, concerning fences, walls and retaining walls, establishes a maximum fence height of seventy-two (72) inches – six (6) 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 the proposed higher fence meets the relevant variance criteria and would not do substantial harm to neighboring properties or the City in general, 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 Chris Depweg, as owner of the property known as 715 Colorado Boulevard, Idaho Springs, Colorado, proposing the location of a seven (7) foot fence in the rear yard, meets the Code criteria for variances found at Idaho Springs Municipal Code Section 21-109.

The Board finds persuasive the Staff analysis of these Code criteria as contained in the Staff Report from Planner Davenport, specifically, pages 2 and 3.

**Section 2. Decision:** Based on the findings set forth in Section 1 above, the Board hereby APPROVES the Application subject to the following CONDITION:

- 1) As required by Code, the Applicant must obtain a building permit for all portions of the fence exceeding six (6) feet in height. The building permit application must include design detail for the fence and must be reviewed and approved by the City Planner and Building Department for compliance with all applicable rules, regulations and requirements.

DONE and ORDERED by a vote of \_\_\_\_ to \_\_\_\_ , on May 19, 2021.

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, Chair

ATTEST:

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Diane Breece, Clerk to the Board

# CITY OF IDAHO SPRINGS

## Variance Board Communication



**MEETING DATE:** MAY 19, 2021

**REPORT DATE:** MAY 12, 2021 **DRAFT**

**FROM:** MICHAEL DAVENPORT, COMMUNITY DEVELOPMENT PLANNER

**THROUGH:** ANDREW MARCH, CITY ADMINISTRATOR

**RE:** PROPOSED FENCE AT 715 COLORADO BOULEVARD  
VARIANCE REQUEST TO ALLOW A FENCE UP TO SEVEN FEET HIGH  
WHERE THE MAXIMUM ALLOWED HEIGHT IS SIX FEET

**PROPOSAL:**

Chris Depweg (the Applicant), owner of 715 Colorado Boulevard (the Property), requests approval of a variance to allow a fence up to seven (7) feet high where the maximum allowable height for a fence is six (6) feet. The purpose of the increased height is to contain a pet dog that is able jump over a fence that is 6 feet high.

**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 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.

**Future Approvals.** The City-adopted building codes require approval of a building permit for a fence more than 6 feet in height.

**BACKGROUND:**

**Property description.** The property has a two-story house that sits on the south side Colorado Boulevard between 7<sup>th</sup> Avenue and 8<sup>th</sup> Avenue. Center Alley along the south side of the property is approximately a story level below Colorado Boulevard at this address. South of Colorado Boulevard, Seventh Avenue changes to gravel and curves to the east where it meets Center Alley behind this property. In the rear yard, an existing privacy fence sits on top of retaining wall that runs along the east, south, and west sides of the rear yard.

**Zoning and Land Use.** This property and the properties on three sides are zoned Residential-One (R-1), with Residential-Two (R-2) zoning across Center Alley to the south. Single family homes surround this property on three sides, with manufactured or mobile homes across Center Alley to the south.

**Previous applications.** The Planning files do not contain any previous applications for this property.

**Fence height regulations.** The City has the following regulations for the height of fences.

*Sec. 21-210. - Fences; walls; retaining walls.*

- (A) *Fences, walls and retaining walls not exceeding forty-eight (48) inches in height may be erected on any part of the lot including within the front setback and, on any other part of the lot, may be erected to a height not to exceed seventy-two (72) inches; provided, however, that:*
- (1) Retaining walls abutting public rights-of-way or other lot lines may be built to any height, provided that the vision of a motor vehicle operator is not impaired; and*
  - (2) Schools, public parks and playgrounds may erect open-mesh fences to any height on the lot.*
  - (3) The height of walls, fences and retaining walls shall be determined by measurement from the ground level at the lowest grade level on either side of such. When used in any combination, the total height shall not exceed the maximum allowable height.*

The Code also has requirements for corner vision triangles where streets intersect or where an alley intersects a street. Because this is an interior and not a corner lot, the vision triangle does not apply in this case.

**Proposed fence.** The applicant proposes replacement of the existing vinyl fence with a wood fence. The letter from the Applicant refers to both stone and fence. The Applicant has modified the proposed fence to be wood only.

#### **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: Although it is possible that a dog might be able to get over a 6-foot fence in other nearby properties, this is the only property that has been brought to the attention of City staff. The current situation is inconvenient to the Applicant.

- 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 design or location for the fence likely would not solve the problem.

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: Besides being the owner of the dog, the problem does not result from an action by the Applicant.

4. *Reasonable protections are afforded adjacent properties.*

Staff Analysis: The proposed variance, if successful, provides greater protection for adjacent properties.

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

The request to allow a one-foot increase in the allowable height of the fence is a minimal change.

6. *The granting of the variance will:*

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

Staff Analysis: The purposes of Chapter 21 include promoting the safety and convenience of current and future residents, which the proposed variance would do.

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

Staff Analysis: Securing the dog would promote public safety.

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

Staff Analysis: Securing the dog would be just.

#### **REFERRALS:**

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

- City Administrator – reviews all staff reports to City boards.
- City Attorney – reviews all staff reports to City boards.
- City Clerk
- Public Works Director
- SAFEbuilt, the City's building consultant
  - *Please provide design criteria of stone portions and wood portions.*
- Fire Chief
  - *I have no objection to a higher Fence.*
  - *I cannot see an obvious gate.*

- *It would be wise to have a gate accessible without climbing for Fire Response to the back of the property.*

**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:**

As of the date of this report, no public comments were received.

**PLANNING STAFF SUMMARY AND RECOMMENDATION:**

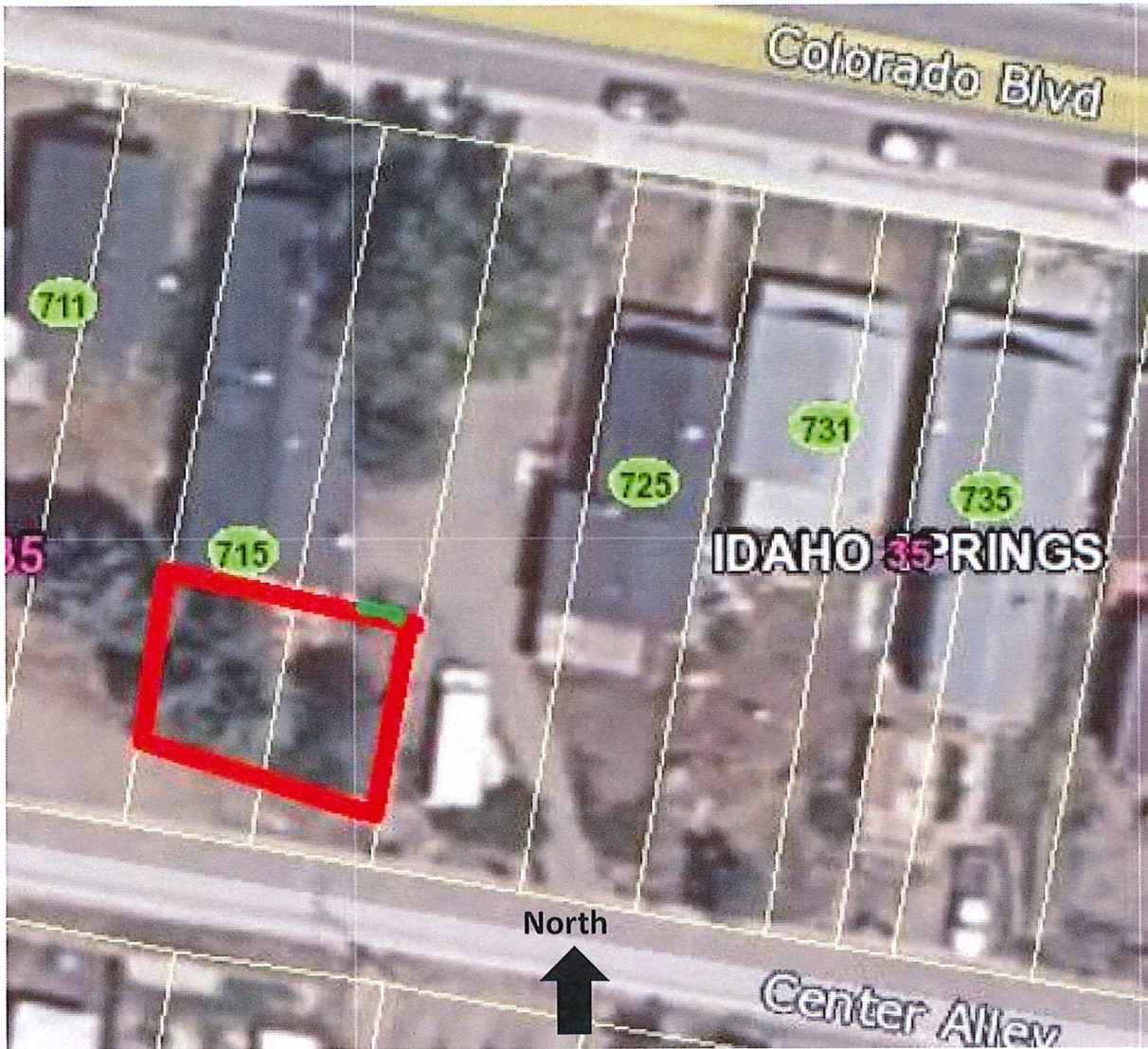
Staff recommends approval of the requested variance, based on the finding the application generally meets the criteria for approval.

**PROPOSED MOTION AND FINDINGS:**

Based on the findings made on the record of this matter and in the Resolution, I move to approve Resolution #VB 21-02; A Resolution Approving an Application for A Variance At 715 Colorado Boulevard to Allow A Rear Yard Fence Up To 7 high, subject to the following condition(s).

1. As required by Code, the Applicant must obtain a building permit for all portions of the fence exceeding six (6) feet in height. The building permit application must include design detail for the fence and must be reviewed and approved by the City Planner and Building Department for compliance with all applicable rules, regulations and requirements.

/mjd



*Site Plan – red indicates area enclosed by fence, green indicates approximate location of a gate*



*Fence design*



*Existing west side of rear yard*



*Existing south side of rear yard*



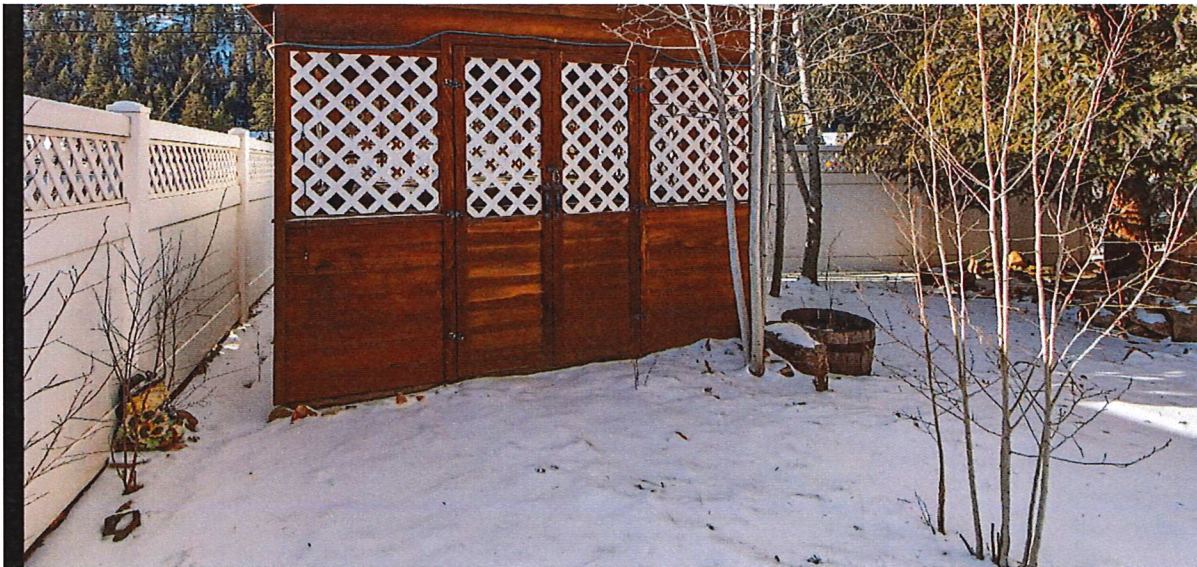
*Existing east side of rear yard*



*Existing privacy and chain link fences facing west*



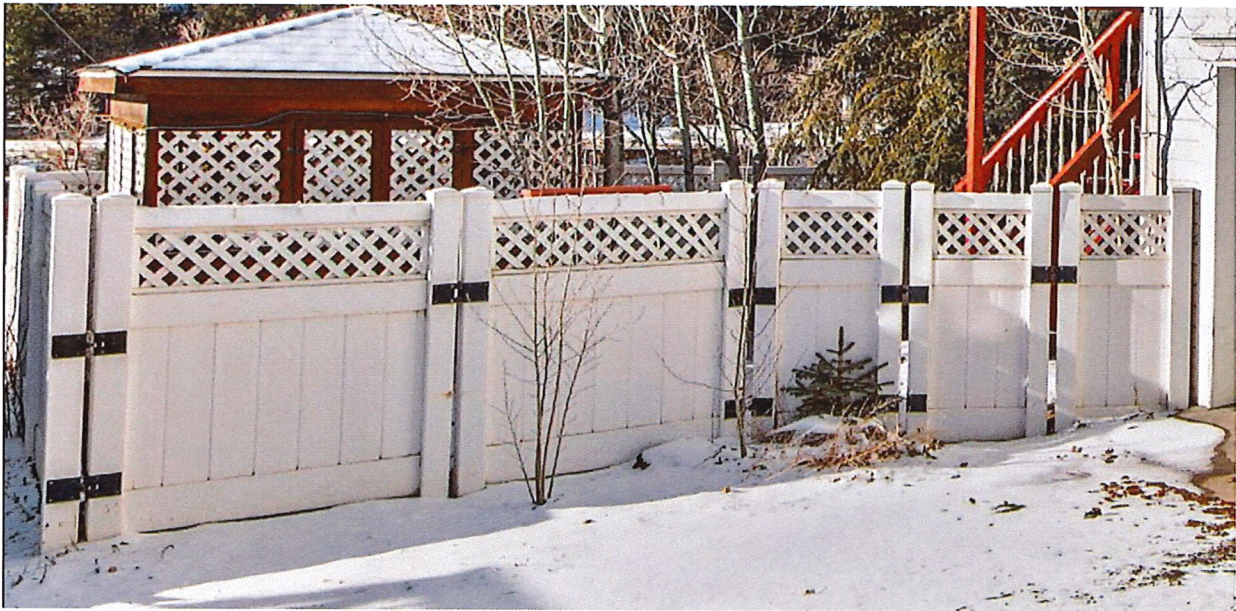
*Inside of the existing fence*



*Inside of existing fence*



*Existing fence facing rear*



*Existing fence facing towards Colorado Boulevard*