



## **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>

## **VARIANCE BOARD OF ADJUSTMENTS**

### **AGENDA**

**WEDNESDAY February 16, 2022**

**5:30 PM**

**Call to Order**

**Roll Call**

**Approve Minutes of October 21, 2021**

**New Business- Public hearing**

**1. Proposed Variance to the Setbacks and Minimum Unobstructed Open Space Requirement at 2033 Wall Street**

**Adjourn**

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  
OCTOBER 21<sup>st</sup>, 2021**

**CALL TO ORDER**

Chairman Smith called the meeting to order at 5:34 PM.

Board members present were Doug Smith, Ann Zimmerman, John Hatch and Dru Van Doren. City staff present was City Clerk Diane Breece, City Administrator Andrew Marsh, Community Development Planner Jerad Chipman, Deputy City Clerk Wonder Martell and City Attorney Carmen Beery.

**APPROVAL OF MINUTES**

Doug Smith moved to approve the minutes of May 19, 2021. Ann Zimmerman seconded, and the motion carried by unanimous roll call vote.

**NEW BUSINESS**

No new business besides the Public Hearing

**CONFLICT OF INTEREST**

Chairman Doug Smith recused himself from the public hearing because he has spoken about this project with the petitioner previously.

**PUBLIC HEARING**

**Appeal of the Historic Preservation Review Committee's (HPRC) condition that was placed on the Certificate of Appropriateness (COA) for The Club Hotel at 1601 Colorado Blvd Idaho Springs.**

Acting Chairman Dru Van Doren started the public hearing at 5:40 pm.

Acting Chairman Dru Van Doren explained the process of this Variance appeal request. The order of this hearing will be as follows; Staff report review from the City Planner Jerad Chipman, second the property owner will provide evidence and testimony in his behalf, third, the board will then ask any questions that they have, and finally the property owner will have an opportunity to give any final comments regarding his appeal of the HPRC condition of the COA. Then the hearing will be announced as closed the there will be an action taken.

**Staff Report from Jerad Chipman-** The condition that HPRC added to the COA was that the logs can be repaired but must remain visible. Petitioner is appealing the decision stating it was made in error. The building was initially built in the Victorian style, the addition was built in 1927 which is outside the period of significance which is from 1910 thru 1920. The guidelines talk about additions and that they can be seen as significant outside this period of significance. HPRC decided that the addition was significant. HPRC referenced federal guidelines and the History of Colorado did not provide an opinion but offered guidance, which was almost the same as HPRC.

**Mr. Hearne - Petitioner- Evidence and Testimony-** Thank you for your time. Been working on this project for 7 months, as you can see in the packet, we have letters from multiple business owners from the Historic District showing support for this removal of the condition. Also, the Idaho Springs Downtown Master Plan includes a Victorian hotel which is exactly what this will be. Guidelines should be used for these decisions, if you look at page 28 and page 29 there is a lot of debate on annex and additions.

The application for historic designation was filed in 1983 and mentions late Victorian architecture. Mr. Hearne has letters of support from the Historical Society. History of Colorado provided direction of where to look. Asks that everyone please go look at the logs on the building as they are in bad shape. Mr. Hearne wants to remove the logs to show the Victorian siding that is underneath which represents the Golden Age of Idaho Springs which was in the late 1800's and the early 1900's. Mr. Hearne saw pictures of this property that dated back to the 1900's and they made him fall in love with this property. He asks that the board look at the original pictures of this Hotel during the Golden Age of Idaho Springs. This hotel has been dramatically changed from its original use. It's originally a home, then a gentleman's club, then a hotel. In more recent years it has been used as a restaurant and bar.

This is the only remaining Victorian hotel in Idaho Springs. Mr. Hearne wants to bring it back to its previous valor from the 1900's. The purpose of the Historic District is to maintain late Victorian architecture from the Golden age of Idaho Springs. This appeal should be granted because there needs to be conformation to the code, removal of personal preference. Removal of bias, and more focus on the guidelines. The HPRC board members could not separate their feelings of loving the logs. The personal bias needs to be removed. Mr. Hearne's family is heavily invested, very excited to join Idaho Springs.

Mr. Hearne has meet with a lot of the community members and the community seems to be very proud of their city. Mr. Hearne has heard only positive things from the residents when they ask him about the project, and he speaks about what his ideas are. Mr. Hearne asks that the Variance board grants the appeal and corrects the COA to remove the personal bias and the condition. Wants to restore the Victorian architecture in the Historical District.

**Acting Chairman Dru Van Doren-** With the current COA, do you have permission to paint the logs?

**Mr. Hearne Petitioner-** Repair and remove some of the logs and build a bigger foundation, yes, they would paint the building.

**Jerad Chipman City Planner-** The current COA condition does include painting the logs.

**Acting Chairman Dru Van Doren-** Does the petitioner have any final comments?  
**Mr. Hearne Petitioner-** No

**Board Discussion**

**Board Member John Hatch-** His stance is that the condition does install a hardship on the petitioner. Appeal should be granted. Feels like the clause about the addition is more of an opinion. The logs are a facade. Having logs and the Victorian architecture will not meld together, it wouldn't make sense. Keeping the logs would kill the petitioner's vision and granting the appeal would do our town just fine.

**Board Member Ann Zimmerman-** The decision of HPRC is very vague and arbitrary. Decision seems farfetched. Rustic style, why should it be preserved. Looking up the meaning of Rustic= Natural Setting, natural area. Rustic style does not explain nor describe this Hotel.

**Acting Chairman Dru Van Doren-** If HPRC stated restored or rustic, but the logs are painted, it removes the significance of the logs.

Acting chairman closed the public hearing at 6:00pm

**Motion to remove the HPRC condition of the COA**

Acting Chairman Dru Van Doren moved to remove the condition. Board member Ann Zimmerman seconded.

**Roll Call vote to remove the COA condition**

Board member Ann Zimmerman in favor to remove condition

Board member John Hatch in favor to remove condition.

Acting Chairman Dru Van Doren in favor of removing condition.

Unanimous roll call vote, all in favor to remove condition.

**ADJOURN**

With no further business before the board Acting Chairman Dru Van Doren adjourned the meeting at 6:08 p.m.

# CITY OF IDAHO SPRINGS

## Variance Board Communication



**MEETING DATE:** FEBRUARY 16, 2022

**REPORT DATE:** FEBRUARY 10, 2022

**FROM:** JERAD CHIPMAN, COMMUNITY DEVELOPMENT PLANNER

**THROUGH:** ANDREW MARSH, CITY ADMINISTRATOR

**RE:** PROPOSED GARAGE CONSTRUCTION AT 2033 WALL STREET:  
VARIANCE REQUEST TO ALLOW THE PROPOSED GARAGE TO ENCROACH INTO THE SIDE AND REAR SETBACKS, AND TO FALL BELOW THE MINIMUM UNOBSTRUCTED OPEN SPACE REQUIREMENT.

**PROPOSAL:**

John Hatch (the Applicant), owner of 2033 Wall Street (the Property), requests approval of a variance to allow a garage to be constructed within both side yard setbacks and the rear yard setback of the Property. The proposed garage would also fall below the minimum unobstructed open space requirement in the R-1 district.

**BACKGROUND:**

**Property description.** Currently, the property does not have a garage and is on a narrow parcel in which the eastern wall of the house is located nearly on the property line. Vehicular access to the parcel is through a shared driveway with an access easement originating from Virginia Street located to the south. The property owner currently parks four (4) vehicles in the proposed garage location and would like to enclose all of those vehicles. The proposed garage would also be built at a lower level to allow for an existing southern window to continue to be utilized.

**Zoning and Land Use.** This 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
East	Residential	R-1
South	Residential	R-1
West	Residential	R-1

**Previous applications.** There has been a previous variance approved for this property to allow for a shed in the front yard.

## **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.
- Deputy City Clerk
- Public Works Superintendent
- JVA, the City's Engineering Consultant
  - The plans should be revised to show the proposed garage foundation to ascertain that it will be located entirely within the 2033 Wall Street property.
  - The Applicant needs to indicate how stormwater runoff from the garage will be handled.
- SAFEbuilt, the City's Building Consultant
- Fire Chief

## **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: The applicant has an unusual site that does lend towards a hardship if the strict application of these regulations was applied. The site is accessed through an easement located on private property. Typically, sites that are accessed through the rear yard do so through a public alley. The property is also quite narrow being 37 feet, and falls well below the minimum lot square footage within the existing Zoning Ordinance.

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 could lower the amount of encroachment into the setback; however, it is challenging to eliminate the need for a variance entirely unless a one-car garage was sought.

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.

**PLANNING STAFF SUMMARY AND RECOMMENDATION:**

Staff recommends approval of the requested variance, with conditions, as not all of the findings meet the criteria for approval.

Conditions:

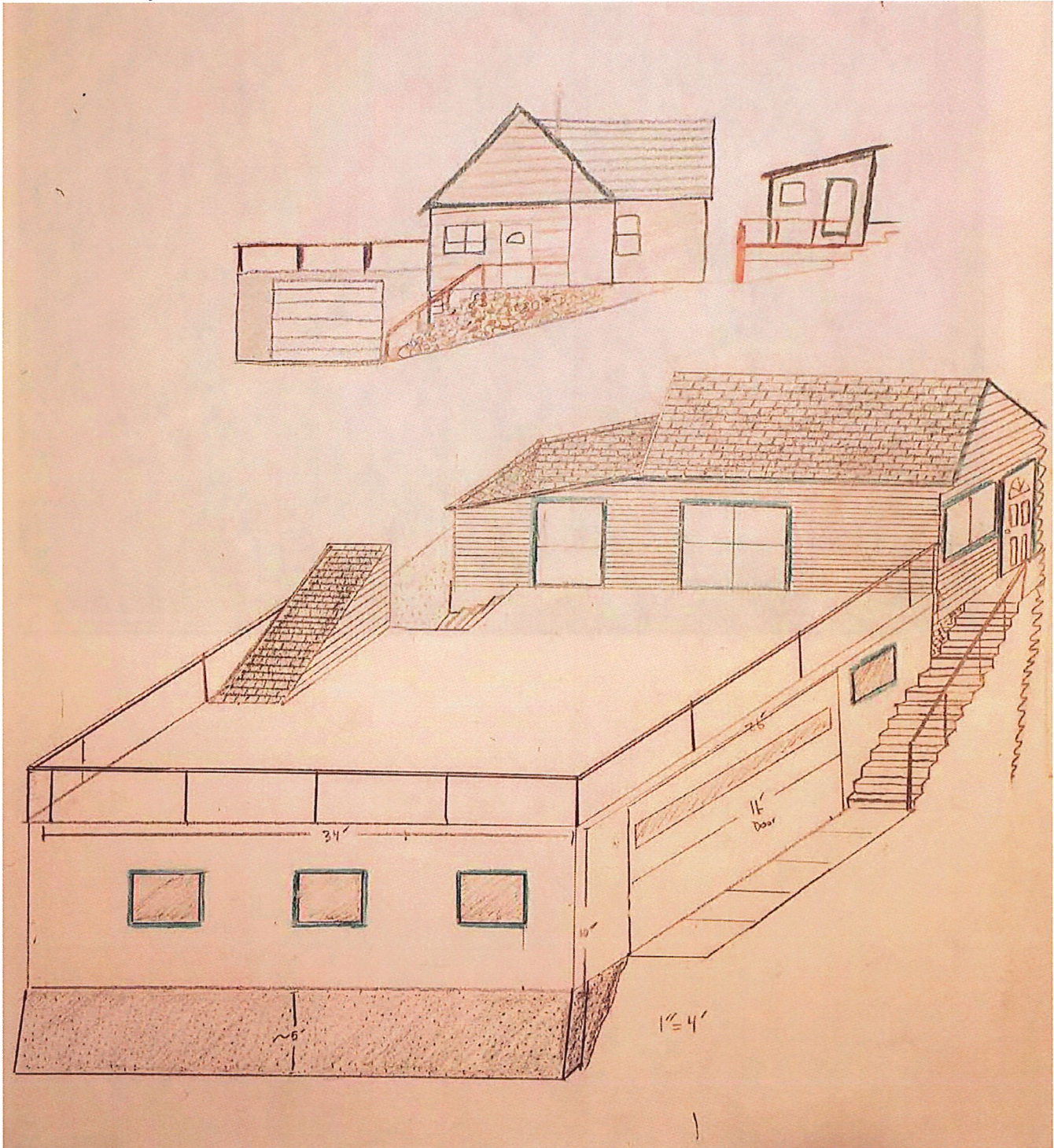
- That the southern edge of the garage be pulled back in order to accommodate for the foundation and grade change to the south.
- That the stormwater concerns described by the City Engineer be addressed as to not burden a neighboring property owner with excessive amounts of new stormwater runoff.

These two conditions will be addressed by the applicant and will be reviewed and approved by the City Engineer before a building permit is issued.

**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 22-01; A Resolution Approving an Application, with conditions, for a Variance At 2033 Wall Street to Allow a Garage to be Constructed Within the Side and Rear Setbacks and to Cover More Open Space than the Municipal Codes Minimum Regulations with the Restrictions Discussed in the Staff Report.

Sketch of the Site Plan



*Existing Condition of the parking area.*



To: Idaho Springs Variance Board

I'm requesting a setback and property coverage variance to build a garage at my home at 2033 Wall St in Idaho Springs. The property was sold to me as a real "postage stamp." My eastern property line has zero setback, as the actual wall of my house marks the boundary of my ownership. The north and west sides do meet setbacks, but just barely. Given that basis, it is hard to operate within the parameters of the building code when trying to make major improvements that will result in something truly usable. This is not something unique in our eclectic, historic town and other property owners have built similar structures on their small plots to protect their belongings and vehicles from the harsh weather of our mountain locale. I've talked with my neighbors about this idea for years and have only been met with encouragement.

Compared to most adjacent properties between Clear Creek and Wall Street, my parcel exhibits several hardships and compromises. Besides the property lines being tight, my driveway is an easement that goes through three other properties, the southern boundary is in the middle of an eroding hillside that sees demise with each passing season and the available open land is limited to parking area only. There's really no yard or any extra space.

There are no design alternatives or alternative locations available to build this garage. This is the only land I have and there are no other suitable building sites on it. The driveway only enters the property at one location and that's where the garage must go. Due to the exact measurements of the land, it's an all-or-nothing situation. Without setback and property coverage variances, a very small garage holding one car could be built without enough room to park alongside it, therefore creating a new hardship in the form of inadequate parking for the three bedroom home (from four spots down to one). Even if there were four feet on either side, per setback code, there's no advantage to anyone that I can see. On the west side, there is a retaining wall, on the south, the eroding hillside, and on the east, a portion of my neighbor's land that is only used as the driveway easement to my property.

Building a garage and robust foundation system will allow me to fully utilize and improve my property, stabilize the southern property line and create a space to protect my vehicles from the elements. I enjoy building and repairing things, whether out of necessity, or recreation. It is difficult to maintain quality of work and enjoyment of tasks with winds howling, snow blowing and dirt flying. Not to mention, my sawhorses, car restoration project and etc would make the property look a lot cleaner if they were inside. I care about my property looking clean and right now that's very hard to do. The roof will double as a patio space and the southern foundation wall will be fortified and designed as a retaining wall to stabilize the mentioned erosion.

Being on the downhill side of a downhill property, this structure would not impede the views of any neighboring properties nor cause any alteration in behavior for those property owners. The base would be excavated a number of feet below the site's current elevation and the roofline would be set below the window sills of the southern living room window. There is nothing I have done or neglected in my ownership of this home that would have relieved the need for this variance. It's been a dream and long-term plan of mine to build this garage to work and park in. Without the variances, I can't construct something worthwhile in that space.

Sincerely,  
John Hatch

IDAHO SPRINGS VARIANCE BOARD

RESOLUTION NO. 1 VB 22 - 01

A RESOLUTION APPROVING AN APPLICATION FOR VARIANCES AT 2033 WALL STREET TO CONDITIONALLY ALLOW A GARAGE TO BE CONSTRUCTED IN VIOLATION OF SIDE AND REAR YARD SETBACKS AND MAXIMUM LOT COVERAGE ALLOWANCE IN THE R-1 ZONE DISTRICT

WHEREAS, the Idaho Springs Variance Board (the "Board") has received an application requesting approval of the variances necessary to construct a proposed garage at 2033 Wall Street, Idaho Springs, Colorado (the "Property") in violation of both side yard setbacks, the rear yard setback and the maximum lot coverage allowance; and

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

WHEREAS, Idaho Springs Municipal Code ("Code") Section 21-63 establishes the minimum required side yard setback, rear yard setback and lot coverage standard for the Property; 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 garage 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 John Hatch (the "Applicant"), as owner of the property known as 2033 Wall Street, Idaho Springs, Colorado, proposing the construction of a new garage in violation of both side yard setbacks, the rear yard setback and the lot coverage standards for the R-1 zone district established under Code Section 21-63, meets the Code criteria for variances found at Code Section 21-109 only upon the imposition of the following conditions:

1. Prior to the issuance of a building permit, the Applicant shall file with the City a stormwater drainage plan reflecting post-construction stormwater drainage flow that is acceptable to and approved by the City Engineer.
2. Prior to the issuance of a building permit, the Applicant shall file with the City any amended plans and reports necessary, as determined by the City Engineer, to ensure that the garage is located entirely within the Property boundaries and that the southern end of the garage is safely engineered and constructed to accommodate the slope of the southern portion of the Property – including but not limited to potentially reducing the size of the southern portion of the garage and the construction of a retaining wall.

In addition to the live testimony given during the hearing conducted on February 16, 2022, the Board finds persuasive the Staff analysis of these Code criteria and recommendation as contained in the Staff Report from Planner Chipman, specifically, pages 3 – 5.

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

DONE and ORDERED by a vote of \_\_\_\_ to \_\_\_\_, on February 16, 2022.

\_\_\_\_\_  
Doug Smith, Chair

ATTEST:

\_\_\_\_\_  
Wonder Martell, Clerk to the Board