

BOARD OF ADJUSTMENT PUBLIC HEARING
November 9, 2023
1:00 P.M.

SUBJECT: CASE NO. BOA-2023-00005, DEBORAH MCCABE
VARIANCE

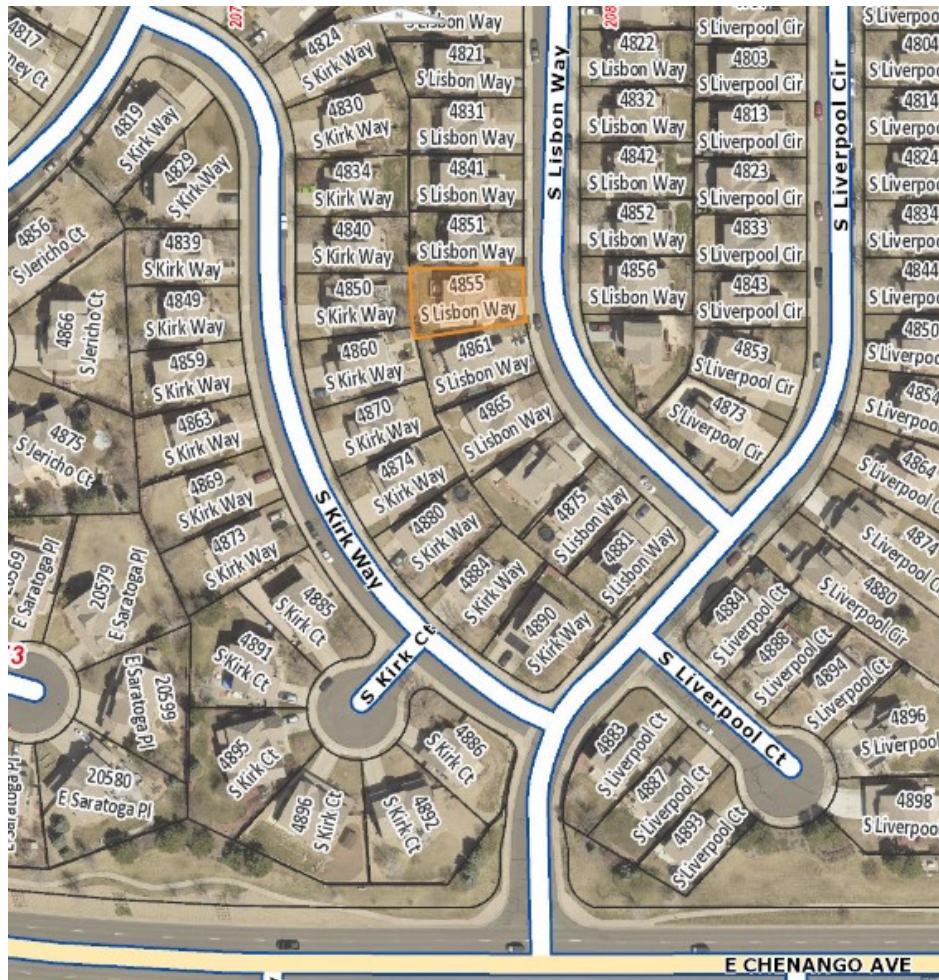
Roy W. Rimer, Zoning Inspector

November 2, 2023

PROPOSAL: The applicant and owner, Debora McCabe, is requesting approval of a variance to rear setbacks for the purpose of constructing a patio cover which will encroach seven (7) feet into the minimum 20-foot rear setback. This represents an additional 3 feet of encroachment for the patio cover beyond the 4 feet previously approved by the BOA for the existing deck encroachment.

LOCATION: The site is located at 4855 S Lisbon Way in the Willow Trace Subdivision. The property is zoned MU (Single-Family Residential Planned Unit Development) and located within Election District 3.

VICINITY MAP



ADJACENT SUBDIVISIONS, ZONING, AND LAND USES:

- North - MU (Residential/Single Family), existing fully developed subdivision
- South - MU (Residential/Single Family), existing fully developed subdivision
- East - MU (Residential/Single Family), existing fully developed subdivision
- West - MU (Residential/Single Family), existing fully developed subdivision

I. BACKGROUND

The subject property is zoned MU (Residential Planned Unit Development) which allows single-family dwelling units and Type A group Homes as principal permitted uses. Accessory uses permitted in the zone district include buildings and uses customarily appurtenant to the permitted use, home occupations, and CMRS facilities. The minimum lot area is 5000 square feet and the maximum building height is 35 feet.

Section 5-5.4 D APPROVAL CRITERIA FOR A VARIANCE

The establishment of a hardship shall be clearly demonstrated by the applicant for variance, and the following conditions must be shown by the applicant:

1. The strict application of these Regulations would result in practical difficulties or unnecessary hardships inconsistent with the general purpose and intent of the Regulations.
2. Any variance shall not grant special privileges inconsistent with the limitations upon other properties in the vicinity and zoning district in which the subject property is located.
3. Because of special, applicable circumstances, including size, shape, topography, or location, the strict application of these Regulations will deprive the subject property of privileges enjoyed by other properties in the vicinity and under identical zone classification; or that there are exceptional circumstances or conditions applicable to the property involved or to the intended use or development of the property that do not apply generally to other property in the same zone or neighborhood.
4. That the condition or situation for which the variance is sought is not of so general a nature that the formulation of regulations would be necessary to insure consistent application of the regulations.

5. That the granting of a variance will not be substantially detrimental to the public good and will not substantially impair the intent and purpose of these Regulations.
6. That the granting of a variance will not be contrary to the objectives of the Arapahoe County Comprehensive Plan.

II. DISCUSSION

Staff review of this application included a comparison of the proposal to the Comprehensive Plan, zoning and subdivision regulations, and an analysis of referral comments.

1. Comprehensive Plan:

The Comprehensive Plan designates this area for Urban residential / single-family detached & attached.

2. Ordinance Review and additional Background Information

The minimum rear setback in this subdivision (per Final Development Plan A00-023) is 20 feet. There is an existing deck that encroaches four feet into this rear setback. This existing encroachment was approved by the Arapahoe County Board of Adjustment on April 14, 2016, reference case # BOA-2016-00004. Increasing the extent of the variance granted in the original approval requires additional approval by the Board.

3. Referral Comments

Responses received as a result of the referral process are as follows:

- Planning: Comments Attached
- Engineering: Attached (no comment)
- County Attorney: Attached (no objection)
- Fire District: Attached (no objection)

III. STAFF FINDINGS:

Staff has visited the site, reviewed the plans and supporting documentation, referral comments, as well as citizen input in response to this application. Based upon review of applicable policies and goals in the Land Development Code and analysis of referral comments, our findings include:

1. The proposed addition of a roof in the setback requires additional review and update to the existing variance.

Attachments

1. Variance application
2. Letter of Intent
3. Permit application and Plans
4. BOA-2016-00004 Minutes
5. Referral responses



ARAPAHOE COUNTY BOARD OF ADJUSTMENT
APPLICATION FOR VARIANCE

CASE NO. BOA-2023-00005

DATE 9/22/2023 MANAGER _____

NAME OF APPLICANT Deborah Anne McCabe

ADDRESS 4855 S. Lisbon Way Aurora, CO

ZIP CODE 80015 PHONE 719-325-9890 E-MAIL coloradosprtgrl@yahoo.com

ADDRESS OF PROPERTY NEEDING VARIANCE _____

4855 S. Lisbon Way Aurora, CO 80015

LEGAL DESCRIPTION OF PROPERTY Lot 10, Block 5, Willow Trace Subdivision Filing No. 2

CURRENT ZONING _____ SURROUNDING ZONING _____

STATE VARIANCE REQUEST IN (FEET & INCHES) 7 feet 0 inches

EXPLANATION OF HARDSHIP (LIST REASON WHY VARIANCE IS NEEDED) Request variance to
construct a roof over the existing deck that was approved for a variance on
15 April 2016 (minutes attached). Plot map and contractor's drawings provided.

ZONING RESOLUTION REFERENCE:

REQUIRED HEIGHT, QUANTITY OR LOCATION:

OWNER OF PROPERTY (PLEASE PRINT)

Deborah Anne McCabe

PROPERTY OWNER'S SIGNATURE

APPLICANT'S SIGNATURE

REGULAR MEETING: SECOND THURSDAY OF EACH MONTH, 1:00 P.M. IN THE ARAPAHOE ROOM
AT ARAPAHOE COUNTY PUBLIC WORKS AND DEVELOPMENT BUILDING:
6924 S Lima Street., CENTENNIAL CO 80112 Phone: 720-874-6711

FEE: REGULAR MEETING: \$450.00

FOLLOWING

SPECIAL MEETING: \$900.00

POSTING SIGN: \$ 11.00

TO FILE APPLICATION, SUBMIT THE

COMPLETED APPLICATION FORM

PLOT PLAN (8 1/2" X 11" OR 8 1/2" X 14")

FILING FEE

OTHER SUBMITTALS-NO LARGER THAN 11" X 17"

YOU WILL RECEIVE POSTING INSTRUCTIONS FOR THE PROPERTY AFTER COMPLETED APPLICATION IS
RECEIVED.

09/22/2023

DATE RECEIVED

RECEIVED BY ZONING DEPARTMENT

22 September 2023

Deborah A. McCabe

4855 S. Lisbon Way
Aurora, CO 80015
(719) 325-9890
coloradosprtgrl@yahoo.com

Board of Adjustment

Attn: Roy Rimer
Public Works & Development
6924 S. Lima St.
Centennial, CO 80112

Mr. Rimer,

Thank you for taking the time to meet with me today to discuss my application for variance. This is my letter of intent to file for the variance to build a roof over an existing deck which was approved for the variance back in April 2016 (board meeting minutes provided this morning with my application). My lot is very small which was the reason for my original request.

Please let me know when it would be appropriate for me to come pick up the yard sign as well as pay the \$450 variance application fee.

Your assistance in this matter is greatly appreciated.

Sincerely,

/signed

Deborah A. McCabe

IMPROVEMENT LOCATION CERTIFICATE

NO. 02-WT2-10-5

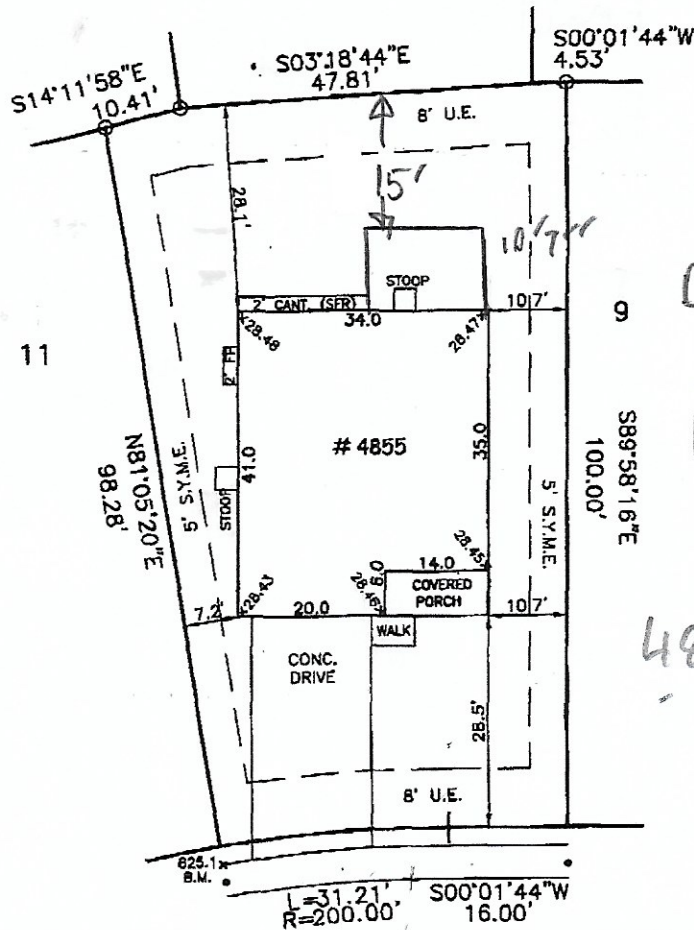


6841 S. YOSEMITE ST. #125
ENGLEWOOD, CO 80112

DESCRIPTION OF FOUND MONUMENTATION

- O- REBAR WITH YELLOW CAP. PLS # 11330 (TYPICAL)
-- DISK SET IN SIDEWALK 5' OFFSET TO LOT CORNER.

02-37031
5 Sept 02



SOUTH LISBON WAY
50' R.O.W.

Deb
McCabe
Home Owner

4855 S Lisbon
Way

2021 IRC
Compliance

0 20 40
SCALE: 1"=20'

IMPROVEMENT LOCATION CERTIFICATE

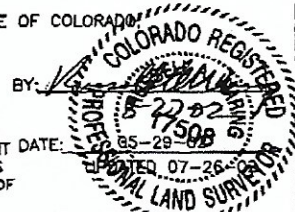
I HEREBY CERTIFY THIS IMPROVEMENT LOCATION CERTIFICATE WAS PREPARED FOR RICHMOND AMERICAN HOMES OF THE PROPERTY DESCRIBED AS:

LOT 10, BLOCK 5, WILLOW TRACE SUBDIVISION FILING NO. 2, COUNTY OF ARAPAHOE, STATE OF COLORADO
ALSO KNOWN AS: 4855 SOUTH LISBON WAY

AND 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. I FURTHER CERTIFY THAT THE IMPROVEMENTS ON THE ABOVE DESCRIBED PARCEL ON THIS DATE: 05-29-02, 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 APPARENT DATE: 05-29-02, EVIDENCE OR SIGN OF ANY EASEMENTS CROSSING OR BURDENING ANY PART OF SAID PARCEL. EASEMENTS SHOWN HEREON WERE TAKEN FROM THE RECORDED PLAT DESCRIBED ABOVE, AND NO OTHER RESEARCH OF TITLE WAS PERFORMED IN CONNECTION WITH THIS CERTIFICATE.

EASEMENTS AND RIGHTS-OF-WAY SHOWN HEREON WERE TAKEN FROM THE RECORDED SUBDIVISION PLAT REFERRED TO ABOVE. NO OTHER RESEARCH OF TITLE WAS PERFORMED FOR THIS SURVEY. NOTICE: ACCORDING TO COLORADO LAW YOU MUST COMMENCE ANY LEGAL ACTION BASED UPON ANY DEFECT IN THIS SURVEY WITHIN THREE YEARS FROM WHEN YOU FIRST DISCOVER SUCH DEFECT. IN NO EVENT MAY ANY ACTION BE COMMENCED MORE THAN TEN YEARS FROM THE DATE OF THE CERTIFICATION HEREON.

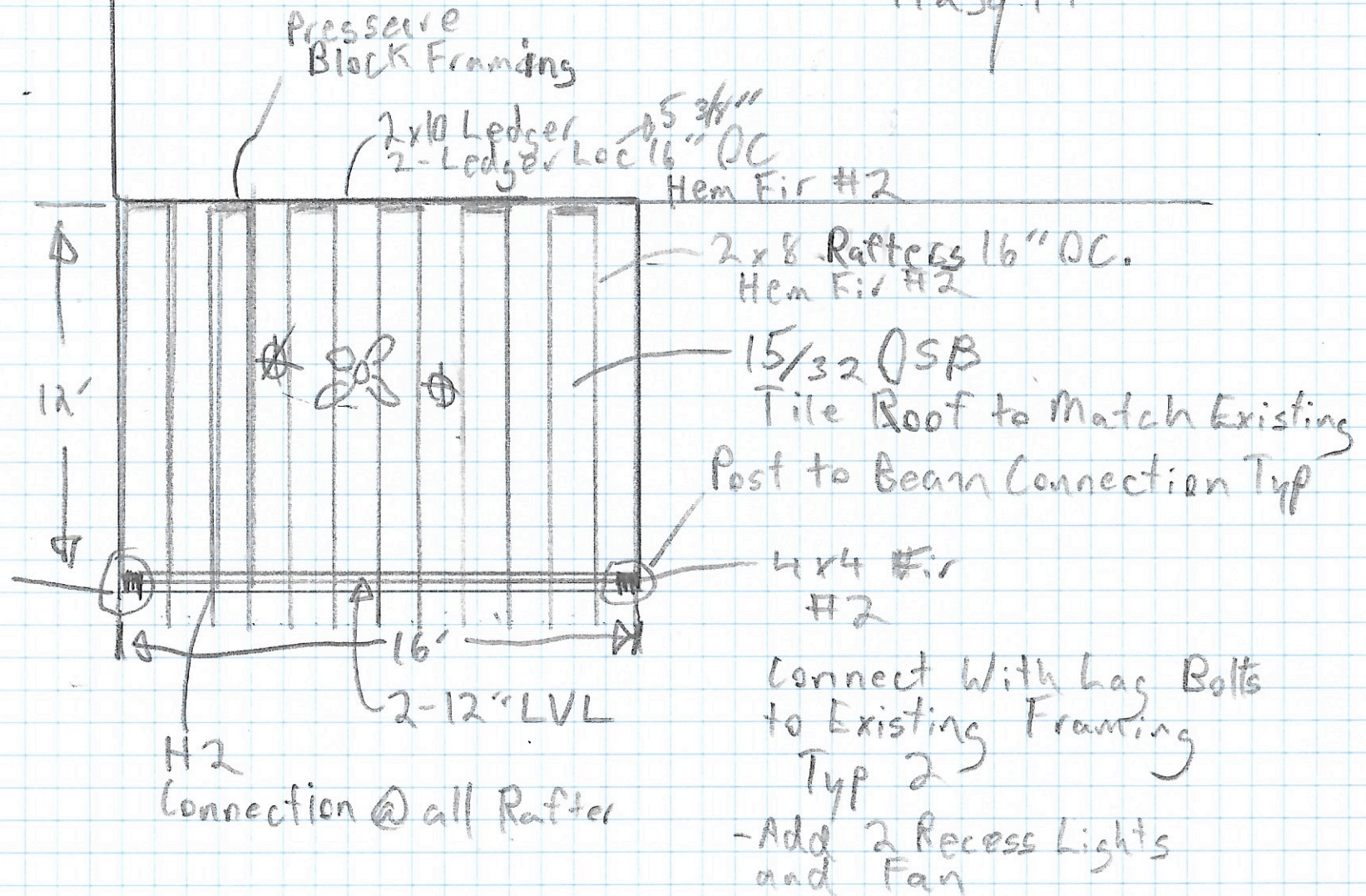


Deb McCabe
Home Owner

4855 S Lisbon Way

2021 IRC
Compliance

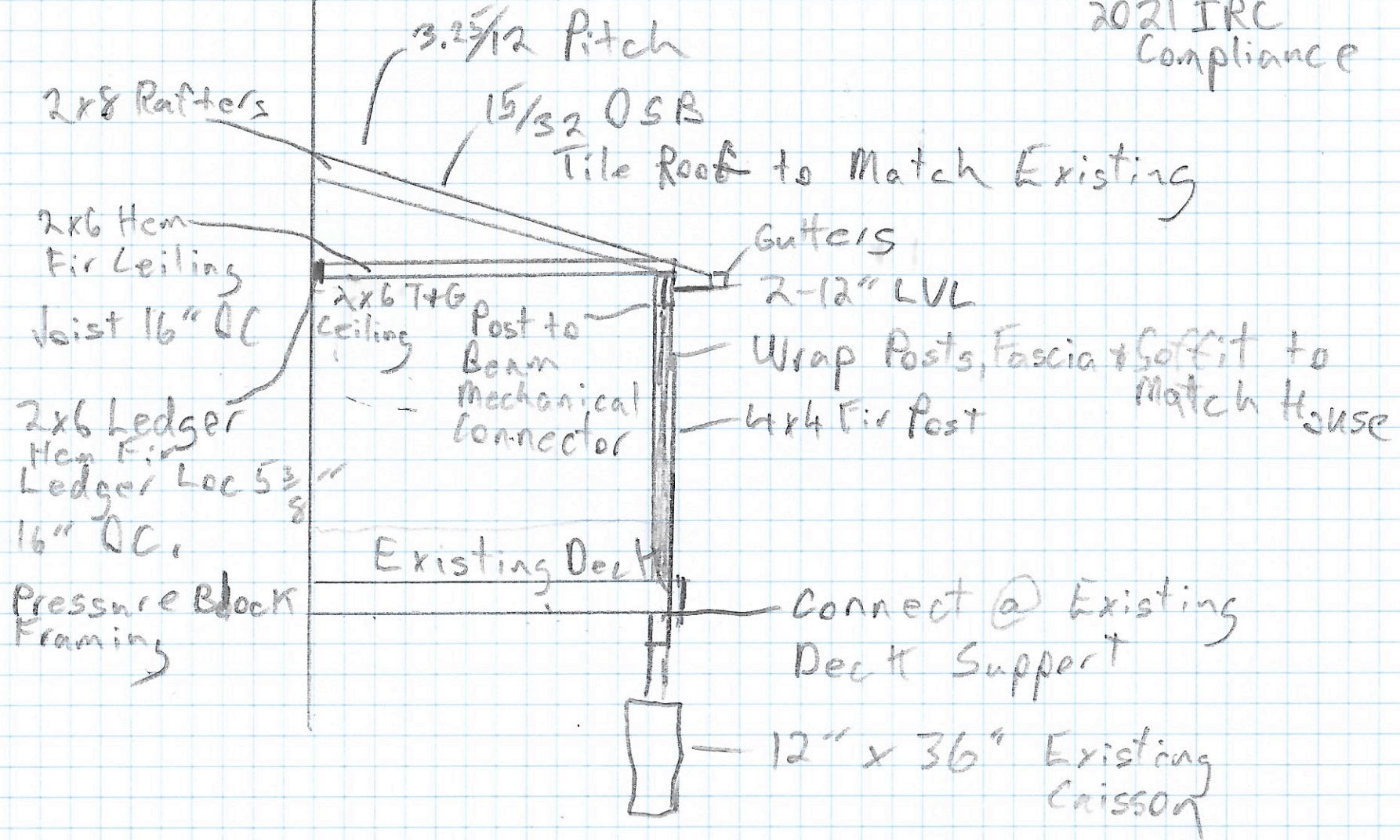
192 sq. Ft



Deb McCabe
Home Owner

4855 S Lisbon Way

2021 IRC
Compliance



**MINUTES OF THE REGULAR MEETING OF THE
ARAPAHOE COUNTY BOARD OF ADJUSTMENT
THURSDAY, 14 April 2016**

ATTENDANCE

A regular meeting of the Arapahoe County Board of Adjustment was called and held in accordance with the statutes of the State of Colorado and the Arapahoe County Land Development Code. The following Board members confirmed their continued qualification to serve:

Howard Buchalter, Chair; Ken Dingman, Chair Pro-Tem;
Ronald Lombardo; Stephen Sholler; Beth Kinsky

CALL TO ORDER

Also present were: Tammy King, Recording Secretary; Alan Snyder, Community Compliance Officer; Michelle Lantz, Community Compliance Officer; Robert Hill, Assistant County Attorney

Chair Buchalter noted a quorum of the Board was present and Board members confirmed their continuing qualifications to serve.

DISCLOSURE MATTERS

There were no Board member conflicts with the matters before the Board.

**APPROVAL OF THE
MINUTES**

The motion to approve the minutes from the 11 February 2016 meeting was made by Ms Kinsky, duly seconded by Mr. Lombardo

The motion passed unanimously.

CASE NO. BOA2016-00002

Elias Loya presented for the property at 5901 S County Road 181, Byers located in the A-E Zone. The Board was presented with a request for a **Variance** to construct a single family dwelling and a detached garage that will encroach 75' into the required 100' setback to the south property line. Jurisdiction for the Board to hear the case was established as verified by legal counsel to the Board. The Board heard testimony on the matter. The Board, after discussion and consideration of the evidence and testimony provided at the hearing, found that the property was eligible under the Arapahoe County regulations, due to:

- Topography

- Existing oil and gas easement

Upon motion duly made by Ms. Kinsky and seconded by Mr. Buchalter, the **Variance** was APPROVED, as requested.

The motion passed unanimously.

CASE NO. BOA-2016-00003

Lawrence Blauweiss presented for the property at 1735 S Uinta Way located in the R-3 Zone. The Board was presented with a request for a **Variance** to build an 8' fence around the rear perimeter of the yard. Jurisdiction for the Board to hear the case was established as verified by legal counsel to the Board. The Board heard testimony on the matter. The Board, after discussion and consideration of the evidence and testimony provided at the hearing, found that the property was eligible under the Arapahoe County regulations due to:

- Property is 1/3 acre in size
- The need for privacy, safety and security

Upon motion duly made by Mr. Lombardo and seconded by Ms. Kinsky, the **Variance** was APPROVED, as requested.

The motion passed unanimously.

CASE NO. BOA-2016-00004

Deborah McCabe presented for the property at 4855 S Lisbon Way located in the MU Zone. The Board was presented with a request for a **Variance** to construct a deck that will encroach 4' into the required 20' rear setback. Jurisdiction for the Board to hear the case was established as verified by legal counsel to the Board. The Board heard testimony on the matter. The Board, after discussion and consideration of the evidence and testimony provided at the hearing, found that the property was eligible under the Arapahoe County regulations, due to:

- The lot is small

Upon motion duly made by Mr. Lombardo and seconded by Ms. Kinsky, the **Variance** was APPROVED, as requested. The motion passed unanimously.

ADJOURNMENT

There being no further business to come before the Board the meeting was adjourned.



Arapahoe County Public Works and Development

Zoning

6924 S. Lima Street
Centennial, Colorado 80112
Phone: (720) 874-6711
www.arapahoegov.com

Zoning Referral Routing

Case Type: Variance

Sent Date: 10/19/23

Case Number: BOA-2023-00005

Return Date: 10/20/23

Address: 4855 S Lisbon Way

Case Manager: Roy Rimer; 720-874-6752; rrimer@arapahoegov.com

The enclosed case has been submitted to the Arapahoe County Zoning Office for consideration. Because of the possible effect of the proposed development upon your area, the case is being referred for your comment. Please examine this request and, after review, check the appropriate line and return to the Arapahoe County Planning Office on or before the date indicated above.

Arapahoe County Agencies

- ☒ Attorney's Office
- ☐ Board of County Commissioners
- ☒ Building
- ☒ Engineering
- ☐ Engineering (Access)
- ☐ Mapping
- ☐ Transportation/Traffic
- ☐ Open Space
- ☒ Planning
- ☐ Road & Bridge
- ☐ Sheriff's Department
- ☐ Weed Control

Referral Agencies

- ☒ Public Health
- ☒ Fire District South Metro
- ☐ East End Advisory
- ☐ Colorado Department of Transportation
- ☐ Colorado State Patrol
- ☐ _____
- ☐ _____
- ☐ _____
- ☐ _____
- ☐ _____
- ☐ _____

-
- ☒ Have NO Comments to make on the case as submitted.
☐ Have the following comments to make related to the case:

COMMENTS:

Arapahoe County Planning Division has reviewed this application and does not have any concerns regarding the proposed variance. The Board of Adjustment previously approved the deck encroachment in 2016 and this request is simply to place a roof over the existing deck, thus, not expanding the nonconformity.

NAME Ava Pecherzewski DATE 10/20/23

AGENCY Arapahoe County Planning Division



Arapahoe County Public Works and Development

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6924 S. Lima Street
Centennial, Colorado 80112
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- ☐ Colorado Department of Transportation
- ☐ Colorado State Patrol
- ☐ _____
- ☐ _____
- ☐ _____
- ☐ _____
- ☐ _____
- ☐ _____

☒ Have NO Comments to make on the case as submitted.

☐ Have the following comments to make related to the case:

COMMENTS:

NAME Ceila Rethamel DATE 10/24/23

AGENCY Arapahoe County PWD/ESD

Roy Rimer

From: Robert Hill
Sent: Friday, October 20, 2023 12:14 PM
To: Roy Rimer
Subject: RE: Setback Variance Referral - 4855 S Lisbon Way

No comments.

Robert J. Hill
Senior Assistant County Attorney
Arapahoe County, Colorado
5334 S. Prince St.
Littleton, CO 80120-1136
303-795-4639
Direct dial: 303-795-4563
rhill@arapahoegov.com

From: Roy Rimer <RRimer@arapahoegov.com>
Sent: Thursday, October 19, 2023 3:00 PM
To: Roy Rimer <RRimer@arapahoegov.com>
Subject: Setback Variance Referral - 4855 S Lisbon Way

Good afternoon,

Attached is a variance application concerning a request to build a patio cover into rear setbacks at 4855 S Lisbon Way. Please review the application and use the attached referral form to return comments (if any) to me **by October 30, 2023**.

Thank you,



ARAPAHOE COUNTY

Roy W. Rimer

Zoning Inspector
Public Works & Development
6924 S Lima St. | Centennial, CO 80112
Direct: 720-874-6752 | Zoning: 720-874-6711
www.arapahoegov.com

Please Note: Under the Colorado Open Records Act (CORA), messages sent by or to me on this Arapahoe County owned e-mail account may be subject to public disclosure.

SOUTH METRO FIRE RESCUE

FIRE MARSHAL'S OFFICE



Roy Rimer, Zoning Inspector
Arapahoe County Public Works – Planning Division
6924 S. Lima St, Centennial CO 80112
720-874-6752
RRimer@arapahoegov.com

Project Name: 4855 S Lisbon Way
Project File #: **BOA-2023-00005**
S Metro Review # REFOTH23-00211

Review date: October 23, 2023

Plan reviewer: Jeff Sceili
720-989-2244
Jeff.Sceili@Southmetro.org

Project Summary: Applicant is seeking a variance to build a patio cover into rear setbacks

Code Reference: 2021 Fire Code Edition, 2021 Building Code Edition

South Metro Fire Rescue (SMFR) has reviewed the above project and has no objections to the proposed setback variance.