

**RESOLUTION APPROVING A VARIANCE TO INCREASE THE MAXIMUM HEIGHT AS
REQUIRED BY THE COMMUNITY DEVELOPMENT CODE FROM 35 FEET TO
APPROXIMATELY 46.58 FEET FOR LOT 927R2, 125 SUNDANCE LANE.**

Resolution No. 2022-0818-12

RECITALS:

- A. Bryan Greer ("Owner") is the owner of record of real property described as Lot 927R2 ("Property").
- B. The Owner has authorized Kristine Perpar, Principal of Shift Architects, LLC to submit application for a Class 4 Variance to allow the maximum height for Lot 927R2 to be approximately 46.58 feet where 35 feet is the applicable maximum height ("Application 1").
- C. Application 1 was submitted in compliance with the provisions of section 17.4.16 of the Community Development Code ("CDC").
- D. The Owner has authorized Kristine Perpar, Principal of Shift Architects, to submit a Class 3 Design Review application for a new home on Lot 927R2 for approval by the Design Review Board ("Application 2"). Application 1 and Application 2 are collectively referred to as the "Applications".
- E. The Application 2 was submitted in compliance with the provisions of section 17.4.11 of the CDC.
- F. The Design Review Board ("DRB") considered Application 1, along with evidence and testimony, at a public meeting held on August 4, 2022. Upon concluding their review, the DRB recommended approval of Application 1 by a unanimous vote to the Town Council.
- G. The DRB considered Application 2, along with evidence and testimony, at a public meeting held on September 1, 2022. Upon concluding their review, the DRB approved Application 2 by a unanimous vote, subject to conditions including the Town Council's approval of Application 1.
- H. The Town Council considered and approved Application 1, along with evidence and testimony, at a public hearing on August 18, 2022.
- J. The public hearings referred to above were preceded by publication of public notice of such hearings on such dates and/or dates from which such hearings were continued on the Town website, and by mailing of public notice to property owners within four hundred feet (400') of the Property, as required by the public hearing noticing requirements of the CDC.
- J. After the public hearings referred to above, the DRB and the Town Council each individually considered the Applications' submittal materials, and all other relevant materials, public letters and public testimony, and approved the Applications with conditions as set forth in this Resolution.

- K The Owner has addressed, or agreed to address, all conditions of approval of the Applications imposed by Town Council and Design Review Board.
- L The Town Council finds the Applications meets the variance criteria for decision contained in CDC Section 17.4.16(D) as follows:

Variance Findings

1. The strict application of the CDC regulations would result in exceptional and undue hardship upon the property owner in the development of property because of special circumstances applicable to the lot such as size, shape, topography or other extraordinary or exceptional physical conditions which in this case includes that the topography of Lot 927R2 is all above a 30 percent grade, except for a small portion of the northwest corner which has earth work. Staff believes the steep topography of the site could constitute a special circumstance.
2. The variance can be granted without substantial detriment to the public health, safety and welfare; excess height poses no threat to public health, safety and welfare. Approval of the variance itself will not create any additional traffic, solar impacts, or stormwater impacts to neighboring properties above what would otherwise occur with the construction of a single-family home in this location.
3. The variance can be granted without substantial impairment of the intent of the CDC, because the variance is for a small portion of the home and, staff does not believe this represents a “substantial impairment” of the intent of the Community Development Code.
4. Granting the variance does not constitute a grant of special privilege in excess of that enjoyed by other property owners in the same zoning district, such as without limitation, allowing for a larger home size or building height than those found in the Single-Family District;
5. Reasonable use of the property is not otherwise available without granting of a variance, and the variance being granted is the minimum necessary to allow for reasonable use.
6. The lot for which the variance is being granted was not created in violation of Town regulations or Colorado State Statutes in effect at the time the lot was created.
7. The variance is not solely based on economic hardship alone as the variance is not based on any economic hardship; and
8. The proposed variance meets all applicable Town regulations and standards.

And, conditions of approval:

1. The approved height variance is valid only with the design presented for Initial DRB review on August 4, 2022 and is valid only for the 18 month period of that design approval. One 6-month extension of the original design review approval is allowable.
2. The height variance is specific to the area described in the staff memo on figures 2-5 and represented in the DRB approved drawings. Should any modifications to the building design occur, including future expansion, that the variance would not cover portions of the building that are not highlighted in red.

NOW, THEREFORE, BE IT RESOLVED THAT THE TOWN COUNCIL HEREBY APPROVES A VARIANCE TO ALLOW FOR THE MAXIMUM HEIGHT FOR A SINGLE-FAMILY HOME TO BE LOCATED ON LOT 927R2 TO BE APPROXIMATELY 46 FEET AND 6.96 INCHES WHERE 35 FEET IS THE APPLICABLE MAXIMUM HEIGHT AND AUTHORIZES THE MAYOR TO SIGN THE RESOLUTION SUBJECT TO DEVELOPMENT OF THE HOME BEING IN SUBSTANTIAL CONFORMANCE TO THE APPROVAL OF APPLICATION 2 BY THE DESIGN REVIEW BOARD.

Be It Further Resolved that Lot 927R2 may be developed as submitted in accordance with Resolution No. 2022-0818-12.

Section 1. Resolution Effect

- A. This Resolution shall have no effect on pending litigation, if any, and shall not operate as an abatement of any action or proceeding now pending under or by virtue of the resolutions repealed or amended as herein provided and the same shall be construed and concluded under such prior resolutions.
- B. All resolutions, of the Town, or parts thereof, inconsistent or in conflict with this Resolution, are hereby repealed, replaced and superseded to the extent only of such inconsistency or conflict.

Section 2. Severability

The provisions of this Resolution are severable and the invalidity of any section, phrase, clause or portion of this Resolution as determined by a court of competent jurisdiction shall not affect the validity or effectiveness of the remainder of this Resolution.

Section 3. Effective Date

This Resolution shall become effective on August 18, 2022 (the "Effective Date") as herein referenced throughout this Resolution.

Section 4. Public Hearing

A public meeting on this Resolution was held on the 18th Day of August, 2022 in the Town Council Chambers, Town Hall, 455 Mountain Village Blvd, Mountain Village, Colorado 81435.

Approved by the Town Council at a public hearing held on August 18, 2022.

Town of Mountain Village, Town Council




Laila Benitez, Mayor

Attest:

By: 

Susan Johnston, Town Clerk

Approved as to Form:



David McConaughy, Town Attorney