

**A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF MOUNTAIN VILLAGE,
COLORADO APPROVING A VARIANCE OF THE MAXIMUM HEIGHT LIMITATIONS OF THE
COONSKIN VIEW PLANE TO UNIT 6, LOT 161A-4**

RESOLUTION NO. 2023-0420-08

WHEREAS, Carl and Patti Merzi (together, the “Owner”) are the owners of certain real property described as Unit 6, The Ridge at Telluride on Lot 161A-4, Mountain Village, Colorado, Assessor Parcel No. 477902202110, and commonly known as TBD Bridge Lane (the “Property”); and

WHEREAS, Mark Bertelsen of Centre Sky (the “Applicant”), with the Owner’s consent, has submitted a request to the Town of Mountain Village (the “Town”) for a variance to the maximum height limitations pertaining to the Coonskin View Plane (the “Variance Request”), recorded as Reception No. 328113 in the records of San Miguel County and required by Section 17.5.16 of the Town’s Community Development Code (“CDC”) for the purpose of developing a single-family detached condominium on the Property; and

WHEREAS, the Variance Request consists of the materials submitted to the Town, plus all statements, representations, and additional documents of the Applicant and its representatives made or submitted at the public hearings before the DRB and Town Council; and

WHEREAS, the DRB held a public hearing on March 30, 2023, to consider the Variance Request and testimony and comments from the Applicant, Town Staff, and members of the public, and voted unanimously to issue a recommendation of approval to Town Council of the Variance Request; and

WHEREAS, the Town Council held a public hearing on April 20, 2023 to consider the Variance Request, the DRB’s recommendations, and testimony and comments from the Applicant, Town Staff, and members of the public, and voted unanimously to approve this Resolution (“Variance Approval”); and

WHEREAS, the public hearings and meetings to consider the Variance Request were duly noticed and held in accordance with the CDC; and

WHEREAS, the Town Council has considered the criteria set forth in Section 17.4.16 of the CDC and finds that each of the following have been satisfied or will be satisfied upon compliance with the conditions of this Resolution set forth below:

1. The strict development application of the CDC regulations would result in exceptional and undue hardship upon the property owner in the development of property lot because of special circumstances applicable to the lot such as size, shape, topography or other extraordinary or exceptional physical conditions;
2. The variance can be granted without substantial detriment to the public health, safety and welfare;
3. The variance can be granted without substantial impairment of the intent of the CDC;
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 same zone 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; and
8. The proposed variance meets all applicable Town regulations and standards unless a variance is sought for such regulations or standards.

WHEREAS, the Town Council now desires to approve the Variance Request, subject to the terms and conditions set forth below.

NOW, THEREFORE, BE IT RESOLVED by the Town Council of the Town of Mountain Village, Colorado, that:

Section 1. Recitals. The above recitals are hereby incorporated as findings of the Town Council in support of the enactment of this Resolution.

Section 2. Approval. The Town Council hereby approves a variance of 13.5' feet above the allowable maximum height pertaining to the Coonskin View Plane for portions of a new single-family detached condominium to be constructed on the Property, as described in the Variance Request.

Section 3. Conditions. The Variance Approval is subject to the following terms and conditions:

3.1. The Owner shall indemnify, defend, and hold harmless the Town, its members, affiliates, officers, employees, and agents from and against all claims, damages, losses, and expenses, including but not limited to reasonable attorney's fees, arising out of the Variance Approval. The Owner shall sign this Resolution below acknowledging this agreement.

3.2. A monumented land survey shall be prepared by a Colorado public land surveyor to establish the maximum building height and maximum average building height.

3.3. If the approval of the Initial Architectural and Site Review for the Property expires, the Variance Approval also expires.

3.4. The approved height variance is valid only with the design presented for Initial DRB review on March 30, 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.

3.5. The height variance is specific to the area described in the staff memo and represented in the DRB approved drawings. Should any modifications to the building design occur, including future expansion, the variance would not cover portions of the building that are not thus described.

Section 4. Effective Date. This Resolution shall be in full force and effect upon its passage and adoption.

ADOPTED AND APPROVED by the Town of Mountain Village Town Council at a regular public meeting held on April 20, 2023.

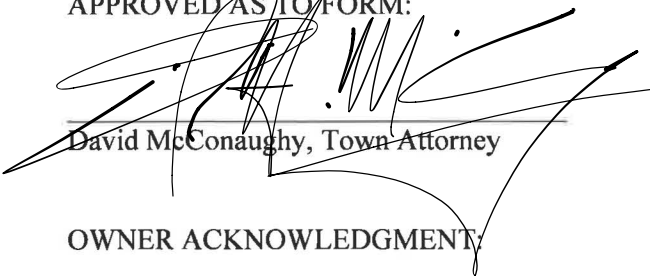
TOWN OF MOUNTAIN VILLAGE, COLORADO

By: 
Laila Benitez, Mayor

ATTEST:


Kim Schooley, Deputy Town Clerk

APPROVED AS TO FORM:


David McConaughy, Town Attorney

OWNER ACKNOWLEDGMENT

As the Owners of the Property, I agree to the terms and conditions contained in this Resolution.

Carl Merzi

Patti Merzi