



Memorandum

TO: Planning and Environmental Commission

FROM: Community Development Department

DATE: January 14, 2019

SUBJECT: A request for the review a variance from Section 12-6F-6, Setbacks, Vail Town Code, pursuant to Title 12, Chapter 17, Variances, Vail Town Code, to allow for a rear setback of zero feet (0') where twenty feet (20') is required for a detached garage, located at 4722 Meadow Drive (Bighorn Townhouses "Parking Easement" Parcel, as shown on the plat of Bighorn Townhouses recorded November 13, 1968), and setting forth details in regard thereto. (PEC18-0038)

Applicant: Bighorn Townhouse Association, represented by Mauriello Planning Group

Planner: Jonathan Spence

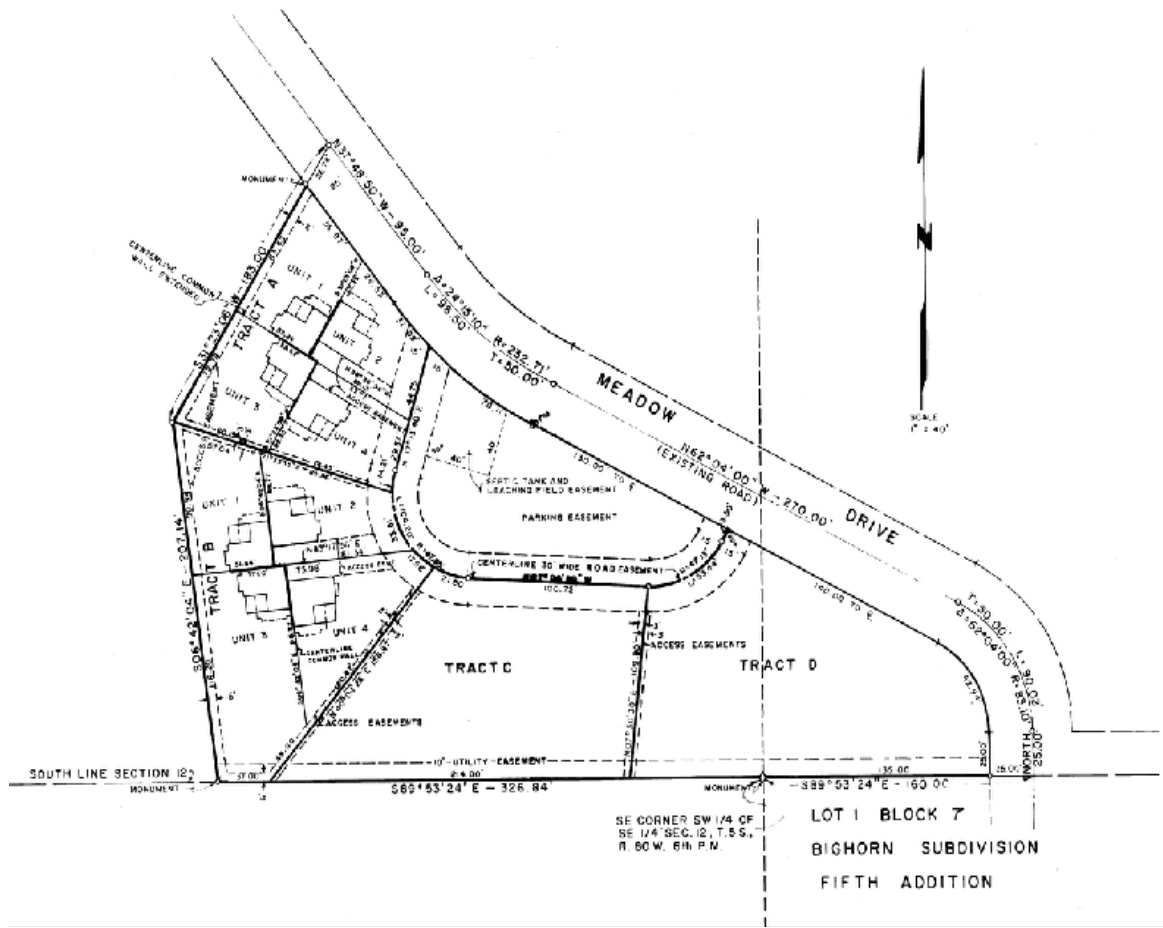
I. SUMMARY

The applicant, Bighorn Townhouse Association, represented by Mauriello Planning Group, is requesting a review of a variance from Section 12-6F-6, Setbacks, Vail Town Code, pursuant to Title 12 Chapter 17, Variances, Vail Town Code, to allow for a rear setback of zero feet (0') where twenty feet (20') is required for a detached garage, located at 4722 Meadow Drive (Bighorn Townhouses "Parking Easement" Parcel, as shown on the plat of Bighorn Townhouses recorded November 13, 1968).

Based upon staff's review of the criteria outlined in Section VII of this memorandum and the evidence and testimony presented, the Community Development Department recommends **approval, with conditions**, of this application, subject to the findings noticed in Section VIII of this memorandum.

II. DESCRIPTION OF REQUEST

The applicant, Bighorn Townhouse Association, represented by Mauriello Planning Group, is requesting the review of variances from Section 12-6F-6 Setbacks, Vail Town Code, to allow for the construction of a detached residential garage, intended for a single vehicle, which would result in a zero foot (0') setback. The site plan below illustrates the proposed garage project and the variance request:



As part of a larger annexation, the subject property and the surrounding areas were annexed into the Town of Vail via Ordinance No. 13, Series of 1974. Due to the presence of the King Arthur's Court Avalanche area located directly to the south and the consensus that the parcels were undevelopable, tracts C and D were deeded to the Town of Vail for one dollar in 1977. The Bighorn Townhouse Association retained ownership of the "Parking Easement" parcel although there was some confusion that the Town of Vail might be the owner. This issue was resolved by court order in 2013 that decreed the association as the rightful owner.

In May of 2017, an application for a setback variance for the construction of an addition and deck was reviewed and approved by the PEC for the residence B-4. Factors cited in support of the approval include the 1979 zoning amendment that increased the side setback in the Low Density Multiple-Family (LDMF) District from ten feet (10') to twenty feet (20'), unusual lot shape and the town ownership of the adjacent property.

IV. APPLICABLE PLANNING DOCUMENTS

Staff finds that the following provisions of the Vail Town Code are relevant to the review of this proposal:

Title 12 – Zoning Regulations, Vail Town Code

Chapter 6, Article D, Two-Family Primary/Secondary Residential (PS) District (in part)

12-6F-1: PURPOSE:

The low density multiple-family district is intended to provide sites for single-family, two-family and multiple-family dwellings at a density not exceeding nine (9) dwelling units per acre, together with such public facilities as may appropriately be located in the same zone district. The low density multiple-family district is intended to ensure adequate light, air, privacy and open space for each dwelling, commensurate with low density occupancy, and to maintain the desirable residential qualities of the zone district by establishing appropriate site development standards

12-6F-6: SETBACKS:

In the LDMF district, the minimum front setback shall be twenty feet (20'), the minimum side setback shall be twenty feet (20'), and the minimum rear setback shall be twenty feet (20').

Chapter 12-17, Variances (in part)

12-17-1: PURPOSE:

- A. Reasons For Seeking Variance: In order to prevent or to lessen such practical difficulties and unnecessary physical hardships inconsistent with the objectives of this title as would result from strict or literal interpretation and enforcement, variances from certain regulations may be granted. A practical difficulty or unnecessary physical hardship may result from the size, shape, or dimensions of a site or the location of existing structures thereon; from topographic or physical conditions on the site or in the immediate vicinity; or from other physical limitations, street locations or conditions in the immediate vicinity. Cost or inconvenience to the applicant of strict or literal compliance with a regulation shall not be a reason for granting a variance.*
- B. Development Standards Excepted: Variances may be granted only with respect to the development standards prescribed for each zone district, including lot area and site dimensions, setbacks, distances between buildings, height, density control, building bulk control, site coverage, usable open space, landscaping and site development, and parking and loading requirements; or with respect to the provisions of chapter 11 of this title, governing physical development on a site.*
- C. Use Regulations Not Affected: The power to grant variances does not extend to the use regulations prescribed for each zone district because the flexibility necessary to avoid results inconsistent with the objectives of this title is*

provided by chapter 16, "Conditional Use Permits", and by section 12-3-7, "Amendment", of this title.

12-17-6: CRITERIA AND FINDINGS:

A. Factors Enumerated: Before acting on a variance application, the planning and environmental commission shall consider the following factors with respect to the requested variance:

- 1. The relationship of the requested variance to other existing or potential uses and structures in the vicinity.*
- 2. The degree to which relief from the strict or literal interpretation and enforcement of a specified regulation is necessary to achieve compatibility and uniformity of treatment among sites in the vicinity, or to attain the objectives of this title without grant of special privilege.*
- 3. The effect of the requested variance on light and air, distribution of population, transportation and traffic facilities, public facilities and utilities, and public safety.*
- 4. Such other factors and criteria as the commission deems applicable to the proposed variance.*

B. Necessary Findings: The planning and environmental commission shall make the following findings before granting a variance:

- 1. That the granting of the variance will not constitute a grant of special privilege inconsistent with the limitations on other properties classified in the same zone district.*
- 2. That the granting of the variance will not be detrimental to the public health, safety, or welfare, or materially injurious to properties or improvements in the vicinity.*
- 3. That the variance is warranted for one or more of the following reasons:*
 - a. The strict or literal interpretation and enforcement of the specified regulation would result in practical difficulty or unnecessary physical hardship inconsistent with the objectives of this title.*
 - b. There are exceptional or extraordinary circumstances or conditions applicable to the site of the variance that do not generally apply to other properties in the same zone district.*

- c. *The strict or literal interpretation and enforcement of the specified regulation would deprive the applicant of privileges enjoyed by the owners of other properties in the same zone district.*

V. ZONING AND SITE ANALYSIS

Address: 4722 Meadow Drive

Legal Description: Bighorn Townhouses "Parking Easement" Parcel, as shown on the plat of Bighorn Townhouses recorded November 13, 1968

Zoning: TBD (See PEC18-0039)

Land Use Plan Designation: TBD (See PEC18-0046)

Current Land Use: Surface Parking

Geological Hazards: None (Formerly impacted by avalanche hazard prior to hazard map amendment)

Development Lot: 4708, 4718 and 4722 Meadow Drive

Standard	Allowed / Required LDMF	Existing	Proposed
Site Area	Min. 10,000 sq. ft.	48,458 sq. ft. (1.112 acres)	No Change
Setbacks	Front – 20' Side – 20' Rear – 20'	Front – 20' Side(W) – 20' Side(E) – 20' Rear – 20'	Front – 20' Side(W) – 20' Side(E) – 20'+ Rear – 0'
Height	Flat or Mansard Roof – 35' Sloping Roof – 38'	Sloping Roof – 23'	TBD
Density	9 DUs/ per acre of buildable site area, or 10 units on a 1.112 acre parcel.	8 DUs	No change
GRFA	Max. 44/100 Buildable Site Area or 21,321 sq. ft. *	9,644 sq. ft.	No Change
Site Coverage	Max. 35% of site area or 17,024 sq. ft.	9,108 sq. ft.	TBD.
Parking/Loading	≤2,000 GRFA=2 spaces ≥2,000 GRFA= 2.5 spaces	17 Required	17 spaces
Landscaping	Min. 40% of site area or 19,455 sq. ft.	84% (15,982 sq. ft.)	TBD

VI. SURROUNDING LAND USES AND ZONING

	<u>Existing Land Use:</u>	<u>Zoning District:</u>
North:	Residential	Low Density Multiple-family (LDMF)
South:	Undeveloped	US Forest (County)
East:	Undeveloped	Outdoor Recreation (OR) (Town Owned)
West:	Residential	Residential Cluster (RC)

VII. REVIEW CRITERIA

The review criteria for a variance request are prescribed in Title 12, Chapter 17, Variances, Vail Town Code.

Note Staff's analysis is based on an assumption that the Rezoning is recommended for approval and adopted by ordinance.*

1. The relationship of the requested variance to other existing or potential uses and structures in the vicinity.

The proposed residential eight (8) unit garage project includes seven (7) garage bays in one structure along Meadow Drive and one standalone unit. The proposed setback variance will allow each of the units to have an enclosed garage. The encroachment into the rear setback will not adversely affect any uses on the adjacent Town-owned open space parcel.

Therefore, Staff finds this proposal will not negatively affect the other existing or potential uses and structures in the vicinity in comparison to existing conditions. Staff finds the proposed variance meets this criterion.

2. The degree to which relief from the strict or literal interpretation and enforcement of a specified regulation is necessary to achieve compatibility and uniformity of treatment among sites in the vicinity, or to attain the objectives of this title without grant of special privilege.

The proposed variance will facilitate the applicant's desire to build an enclosed garage for each unit in the Bighorn Townhouse complex. The applicant has demonstrated with the provided site plan that all options to construct the eight (8) garages without a variance have been exhausted.

The proposed garages will improve the functionality and value of the homes, an upgrade supported by Land Use Plan Goal 1.3. Staff believes the proposed variances are consistent with the goals of the Town of Vail Land Use Plan and purposes of the Low Density Multiple-Family (LDMF) District as identified in Section IV of this memorandum.

The Town of Vail has consistently found that the lack of enclosed parking is a valid hardship and not a grant of special privilege because of the climate.

Staff finds the proposed variance meets this criterion.

3. The effect of the requested variance on light and air, distribution of population, transportation and traffic facilities, public facilities and utilities, and public safety.

The proposed variance will facilitate the construction of an additional garage unit that will not alter population; will not affect any existing transportation or traffic facilities, public facilities, or utilities; and will not affect public safety in comparison to existing conditions.

Therefore, Staff finds the proposed variance conforms to this criterion.

4. Such other factors and criteria as the commission deems applicable to the proposed variance.

VIII. STAFF RECOMMENDATION

Based upon the review of the criteria outlined in Section VII of this memorandum and the evidence and testimony presented, the Community Development Department recommends the Planning and Environmental Commission **approve, with conditions**, a variance from Section 12-6F-6, Setbacks, Vail Town Code, pursuant to Title 12 Chapter 17, Variances, Vail Town Code, to allow for a rear setback of zero feet (0') where twenty feet (20') is required for a detached garage, located at 4722 Meadow Drive (Bighorn Townhouses "Parking Easement" Parcel, as shown on the plat of Bighorn Townhouses recorded November 13, 1968) and setting forth details in regard thereto .

Should the Planning and Environmental Commission choose to **approve, with conditions**, these variance requests, the Community Development Department recommends the Commission pass the following **motion**:

"The Planning and Environmental Commission approves the applicant's request for a variance from Section 12-6F-6, Setbacks, Vail Town Code, pursuant to Title 12 Chapter 17, Variances, Vail Town Code, to allow for a rear setback of zero feet (0') where twenty feet (20') is required for a detached garage, located at 4722 Meadow Drive (Bighorn Townhouses "Parking Easement" Parcel, as shown on the plat of Bighorn Townhouses recorded November 13, 1968) and setting forth details in regard thereto .

Should the Planning and Environmental Commission choose to **approve, with conditions**, these variance requests, the Community Development Department recommends the Commission applies the following **conditions**:

1. *"Approval of this variance is contingent upon the applicant obtaining Town of Vail design review approval for this proposal; and*
2. *The applicant shall clearly demonstrate, via an Improvement Location Certificate (ILC), to the Community Development Department prior to requesting a final planning inspection that improvements have been constructed per plan."*

3. *Prior to submitting an application for a building permit, the applicant shall record with the Eagle County Clerk and Recorder an amended plat for the subject property which removes the 30' wide road easement that currently encumbers the property. This plat shall include a note that conveys that the subject parcel is not a stand alone development site but rather a part of the Bighorn Townhouse Development Lot.*

Should the Planning and Environmental Commission choose to **approve, with conditions**, this variance, the Community Development Department recommends the Commission make the following **findings**:

“Based upon the review of the criteria outlined in Section VII of the staff memorandum to the Planning and Environmental Commission dated January 14, 2019, and the evidence and testimony presented, the Planning and Environmental Commission finds:

1. *The granting of this variance will not constitute a granting of special privilege inconsistent with the limitations on other properties classified in the Low Density Multiple-Family (LDMF) District.;*
2. *The granting of these variances will not be detrimental to the public health, safety, or welfare, or materially injurious to properties or improvements in the vicinity; and*
3. *This variance is warranted for the following reasons:*
 - a. *The strict literal interpretation or enforcement of the specified regulation will result in practical difficulty or unnecessary physical hardship inconsistent with the objectives of Title 12, Zoning Regulations, Vail Town Code;*
 - b. *There are exceptions or extraordinary circumstances or conditions applicable to the same site of the variance that do not apply generally to other properties in the Low Density Multiple-Family (LDMF) District.; and*
 - c. *The strict or literal interpretation and enforcement of the specified regulation would deprive the applicant of privileges enjoyed by the owners of other properties in the Low Density Multiple-Family (LDMF) District.”*

IX. ATTACHMENTS

- A. Vicinity Map
- B. Bighorn Townhouses Rezoning and Setback Variance narrative dated December 15, 2018
- C. Plan Set