



Memorandum

TO: Planning and Environmental Commission

FROM: Community Development Department

DATE: August 12, 2019

SUBJECT: A request for the review of a variance from Section 12-6C-6 Setbacks, Vail Town Code, in accordance with the provisions of Section 12-17-1, Variances, Vail Town Code, to allow for a variance to the required rear and east side setback to facilitate building additions within the existing footprint, located at 895 Red Sandstone Circle Units A & B/Lot 2, Vail Village Filing 9, and setting forth details in regard thereto. (PEC19-0029)

Applicant: Peter Smith, represented by Mauriello Planning Group
Planner: Jonathan Spence

I. SUMMARY

The applicant, Peter Smith, represented by Mauriello Planning Group, is requesting the review of a variance from Section 12-6C-6 Setbacks, Vail Town Code, in accordance with the provisions of Section 12-17-1, Variances, Vail Town Code, to allow for a variance to the required rear and east side setback to facilitate building additions within the existing footprint, located at 895 Red Sandstone Circle Units A & B/Lot 2, Vail Village Filing 9.

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 a condition**, of this application, subject to the findings noticed in Section VIII of this memorandum.

II. DESCRIPTION OF REQUEST

The applicant, Peter Smith, represented by Mauriello Planning Group, is requesting the review of a variance from Section 12-6C-6 Setbacks, Vail Town Code, in accordance with the provisions of Section 12-17-1, Variances, Vail Town Code, to allow for a variance to the required rear and east side setback to facilitate building additions within the existing footprint, located at 895 Red Sandstone Circle. The required rear and side setbacks in the Two-Family Residential (R) District are 15 feet. The project proposes to

utilize the existing setbacks of 9 feet, ten inches (rear) and 14 feet, 4 inches east side from the original construction.

The applicant proposes an exterior remodel, second story GRFA addition within the existing footprint, new 2-car shared attached garage and associated site improvements.

A vicinity map (Attachment A), applicant's narrative (Attachment B) and project plan set (Attachment C) are attached for review.

III. BACKGROUND

The residential duplex located at 895 Red Sandstone Circle was originally constructed in 1975 under Town of Vail jurisdiction. This portion of the Town of Vail was annexed from Eagle County in 1969 via Ordinance No. 8, Series of 1969. The home was constructed towards the north or rear of the property with each side of the duplex containing 3 bedrooms and 2 bathrooms with approximately 2,200 square feet of living space each. At the time of construction, the required side and rear setbacks within the Two-Family Residential (R) District were ten (10) feet. Subsequent to the construction of the home, Ordinance No. 50, Series 1978, increased the required side and rear setbacks in this district to fifteen (15) feet rendering the home legal non-conforming.

The site is a conforming lot of 14,338 square feet and is generally rectangular in shape. The project slopes gently to the north and contains numerous existing trees. No significant site constraints exist nor is the property impacted by any known hazards.

The western half of the duplex (Unit B) received DRB approval in 2017 for new exterior windows, a project that was completed recently. No other significant improvements to the property have occurred since its original construction.

A previous proposed project that included an exterior remodel, GRFA addition and two detached garages was reviewed by the DRB as a conceptual application on March 20, 2019. As one of the two proposed garages is detached, an approval from the DRB for the separation will be required. At this meeting, the DRB expressed concern with the proposal related to the architecturally integrated structure requirement. The DRB also expressed that the separation request for the detached garage was unlikely to be approved and encouraged alternative layouts where the two residences would share a garage.

The current proposal, which has addressed the DRB member's concerns, was favorably reviewed in a second conceptual review on July 3, 2019.

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 C, Two-Family Residential (R) District (in part)

12-6C-1: PURPOSE:

The two-family residential district is intended to provide sites for low density single-family or two-family residential uses, together with such public facilities as may be appropriately located in the same zone district. The two-family residential district is intended to ensure adequate light, air, privacy and open space for each dwelling, commensurate with single-family and two-family occupancy, and to maintain the desirable residential qualities of such sites by establishing appropriate site development standards. (Ord. 29(2005) § 23: Ord. 8(1973) § 3.100)

12-6C-9: SITE COVERAGE:

Site coverage shall not exceed twenty percent (20%) of the total site area.

Chapter 12-2: Definitions (in part)

SITE COVERAGE: The ratio of the total building area of a site to the total area of a site, expressed as a percentage. For the purposes of calculating site coverage, "building area of a site" shall mean that portion of a site occupied by any building, carport, porte-cochere, arcade, and covered or roofed walkway constructed at, below, or above grade as measured from the exterior face of the sheathing of the perimeter walls or supporting columns.

For the purposes of this definition, a balcony or deck projecting from a higher elevation may extend over a lower balcony, deck or walkway, and in such case the higher balcony or deck shall not be deemed a roof or covering for the lower balcony, deck or walkway. In addition to the above, building area shall also include any portion of a roof overhang, eaves, or covered stair, covered deck, covered porch, covered terrace or covered patio that extends more than four feet (4') from the exterior face of the perimeter building walls or supporting columns.

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: 895 Red Sandstone Circle #A and #B
 Legal Description: Vail Village Filing 9, Lot 2
 Zoning: Two-Family Residential (R) District
 Land Use Plan Designation: Low Density Residential
 Current Land Use: Two-Family Residence
 Geological Hazards: None

| Standard | Allowed / Required LDMF | Existing | Proposed |
|---------------|--|---|---|
| Site Area | Min. 14,000 sq. ft. | 14,375 sq. ft. (.329 acres) | No Change |
| Setbacks | Front – 20' Side – 15' Rear – 15' | Front – 65' Side(W) – 18' Side(E) – 14'-4"*** Rear – 9'-10"* | Front – 20' Side(W) – 15' Side(E) – 14'-4" Rear – 9'-10" |
| Height | Flat or Mansard Roof – 30' Sloping Roof – 33' | Sloping Roof – 28' | Sloping Roof – 30' |
| Density | Not more than a total of two (2) dwelling units shall be permitted on each site with only one dwelling unit permitted on existing lots less than fourteen thousand (14,000) square feet. | 2 DUs | No change |
| GRFA | Max 6,262 | 3,490 sq. ft. | 4,646 |
| Site Coverage | Max. 20% of site area or 2,875 sq. ft. | 1,982 sq. ft. | 2,864 |

| | | | |
|-----------------|---|--------------------------|--------------------------|
| Parking/Loading | ≤2,000 GRFA=2 spaces 2,000≥4,000 GRFA=3 spaces | 4 Required 4 Existing | 5 Required 5 Proposed |
| Landscaping | Min. 60% of site area or 8,624sq. ft. | 73% (10,532 sq. ft.) | 69% (9,919 sq. ft.) |

*Legal Nonconforming

VI. SURROUNDING LAND USES AND ZONING

| | <u>Existing Land Use:</u> | <u>Zoning District:</u> |
|--------|---------------------------|--|
| North: | Greenbelt | Natural Area Preservation (NAP) District |
| South: | Residential | Two-Family Residential (R) District |
| East: | Residential | Two-Family Residential (R) District |
| West: | Residential | Two-Family Residential (R) District |

VII. REVIEW CRITERIA

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

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

The proposed GRFA addition within the existing footprint results in an architectural approach that will have little effect on the building's perceived mass and scale. The proposal will not have any negative impacts to other existing or potential uses or structures within the neighborhood.

Staff finds the proposed variance does meet 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 original home was constructed within the Town of Vail in 1975 under the Two-family Residential (R) Zone District regulations. The setback regulations at that time required a 10 foot side setback that the building design and construction complied with. The home subsequently became legal nonconforming in 1978 when the side setback was increased in the Two-family Residential (R) Zone District to 15 feet. Property owners in the vicinity whose original homes were built prior to 1978, but meeting the 1978, 15 foot setback regulation, are able to pursue building additions utilizing the existing built to line. Unlike other properties in the vicinity, a variance is necessary to pursue similar building improvements on the subject property.

Staff believes the proposed variance is consistent with the goals of the Town of Vail Land

Use Plan and purposes of the Two-family Residential District as identified in Section IV of this memorandum. The proposal will improve the functionality and value of the home, an upgrade supported by Land Use Plan Goal 1.3.

Staff finds the proposed variance does meet 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 GRFA additions within the existing building footprint 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 a condition**, a variance from Section 12-6C-6 Setbacks, Vail Town Code, in accordance with the provisions of Section 12-17-1, Variances, Vail Town Code, to allow for a variance to the required rear and east side setback to facilitate building additions within the existing footprint, located at 895 Red Sandstone Circle Units A & B/Lot 2, Vail Village Filing 9, and setting forth details in regard thereto.

Should the Planning and Environmental Commission choose to **approve, with a condition**, this variance request, the Community Development Department recommends the Commission pass the following **motion**:

“The Planning and Environmental Commission approves, with a condition, the applicant’s request for a variance from Section 12-6C-6 Setbacks, Vail Town Code, in accordance with the provisions of Section 12-17-1, Variances, Vail Town Code, to allow for a variance to the required rear and east side setback to facilitate building additions within the existing footprint, located at 895 Red Sandstone Circle Units A & B/Lot 2, Vail Village Filing 9, and setting forth details in regard thereto.

Should the Planning and Environmental Commission choose to approve, with a condition, this variance request, the Community Development Department recommends the Commission applies the following condition:

1. *Approval of this variance is contingent upon the applicant obtaining Town of Vail design review approval for this proposal.*

Should the Planning and Environmental Commission choose to **approve, with a condition**, 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 August 12, 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 Two-Family Residential (R) 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 Two-Family Residential (R) District.”*

IX. ATTACHMENTS

- A. Vicinity Map
- B. Applicant’s Narrative dated March 12, 2019
- C. Plan Set dated March 11, 2019