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ZONING BOARD OF APPEALS

TUESDAY, JUNE 4, 2019 @ 12:00 PM

Call to Order - 12:00 PM

1. Consider a request from the Applicant, Jana Franklin, located at 703 Caleb Street, for approval of a variance to the rear yard setback in the R-4 zone district from 25 feet to 16 feet 9 inches.

Other Business

Adjournment



Grand Junction Planning Commission

Regular Session

Item #1.

Meeting Date: June 4, 2019

Presented By: Jace Hochwalt, Associate Planner

Department: Community Development

Submitted By: Jace Hochwalt, Associate Planner

Information

SUBJECT:

Consider a request from the Applicant, Jana Franklin, located at 703 Caleb Street, for approval of a variance to the rear yard setback in the R-4 zone district from 25 feet to 16 feet 9 inches.

RECOMMENDATION:

Staff recommends denial of the proposed setback variance.

EXECUTIVE SUMMARY:

The Applicant is requesting a variance for a decrease in the rear yard setback for the purpose of utilizing an existing 125 square foot addition to the single family residence that encroaches into the required 25-foot rear yard setback by 8 feet, 3 inches. The 125 square foot addition to the residence was constructed in 2018 without a Planning Clearance or building permit. The addition. The property is located at 703 Caleb Street with an R-4 (Residential, 4 units per acre) zoning designation. The R-4 zone district requires a minimum rear yard setback of 25 feet for the principal structure. The single family residence situated on the subject site was constructed in 2005 and met required setbacks until the construction of this addition in 2018.

BACKGROUND OR DETAILED INFORMATION:

The property at 703 Caleb Street currently contains a single family residence constructed in 2005. The subject property is zoned R-4 (Residential, 4 units per acre), which requires a minimum rear yard setback of 25 feet. The existing single family residence on the property met the required setbacks at time of construction. In 2010, the Applicant hired a general contractor to construct an overhang for a concrete patio in

the back yard. The overhang would have been allowed as long as it did not encroach into the rear yard setback more than 6 feet, but would have required a Planning Clearance prior to construction. However, no Planning Clearance was issued at that time. In late 2017, the Applicant hired another contractor to enclose the back patio overhang and finish the space, which is classified as an addition and would also have required a Planning Clearance from the Community Development Department. Through the Planning Clearance process, staff would have determined that the structure encroached in the rear yard setback, and would have informed the property owner that the proposed construction would not be allowed. However, no Planning Clearance was sought nor issued for the addition.

Shortly after construction of the patio enclosure, City of Grand Junction Code Enforcement Officer, Mike Ferguson, was informed of the building addition encroaching in the setback, and issued a Notice of Violation to the Applicant for the setback violation. As an effort to remedy the notice of violation for the encroachment into the required setback, the Applicant is seeking a variance to decrease the setback from 25 feet to 16 feet 9 inches.

ANALYSIS

Pursuant to Section 21.02.200 of the Zoning and Development Code, a variance may be granted only if the Applicant establishes that strict adherence to the code will result in practical difficulties or unnecessary hardships because of site characteristics that are not applicable to most properties in the same zoning district. The following criteria shall be used to consider variances from the bulk, performance and use-specific standards. A variance may only be granted if the Applicant establishes that all of the criteria have been met.

(a) Hardship Unique to Property, Not Self-Inflicted. There are exceptional conditions creating an undue hardship, applicable only to the property involved or the intended use thereof, which do not apply generally to the other land areas or uses within the same zoning district, and such exceptional conditions or undue hardship was not created by the action or inaction of the applicant or owner of the property;

Based on the General Project Report, the Applicant has stated that there are exceptional conditions creating an undue hardship on the property owner, as the owner (Jana Franklin) in good faith hired a professional to build the sunroom addition with the expectation that all aspects of the addition would be handled by the contractor.

Consistent with the Code, variances should be granted only when a property owner has a unique and unusual hardship created by the physical characteristics of a particular piece of property. Staff has not identified any physical characteristic of the property that interferes with the use of the property in accordance with the bulk standards of the zone, as it is similar in characteristics to other lots in the R-4 zone

district within the neighborhood. The variance was created by the direct action of the Applicant and is not, in Staff's opinion a result of exceptional conditions related to the land area of the property. Additionally, it is the responsibility of the owner to make sure the proper clearances and permits are obtained prior to construction on their property. Thus, staff believes this criterion has not been met.

(b) Special Privilege. The variance shall not confer on the applicant any special privilege that is denied to other lands or structures in the same zoning district;

The Applicant states that they are not being granted any special privileges that are denied to others in the same zoning district by going through the formal variance process. However, Staff disagrees with this statement as the ability to encroach into an established rear setback is denied to other lands within the same zone district unless they can demonstrate (through the variance process) conformance with the relevant criteria. The proposed variance request to reduce setbacks to allow for use of an existing, unpermitted addition, does not meet the character of the other lots or properties zoned R-4 within the city limits, including specifically those within the Arcadia North Subdivision which the subject site is situated in. Therefore, staff finds that the variance would afford the Applicant a special privilege by not upholding requirements of the zone district; thus finds the criterion has not been met.

(c) Literal Interpretation. The literal interpretation of the provisions of the regulations would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district and would work unnecessary and undue hardship on the applicant;

In response to this criterion, the Applicant has stated that de-construction of the room addition is unnecessary and would create a financial hardship on the Applicant. Pursuant to the Zoning and Development Code, all properties in the R-4 zone district must adhere to the same bulk standards of lot size setback requirements. The Applicant has created the conflict with literal interpretation of the regulations by encroaching into the rear yard setback; a right that is not commonly enjoyed by other properties in the same zoning district.

Had the Applicant tried to obtain a Planning Clearance from the City for the building addition, Staff would have been able to inform the Applicant at that time that the addition was not allowed to encroach in the rear setback. However, since the Applicant did not obtain a Planning Clearance, any hardship that exists regarding de-construction is considered by staff to be self-inflicted and, in staff's opinion does not constitute a situation of unnecessary or undue hardship due to the application and interpretation of the Code. In review of this request, Staff has found the Applicant would not be deprived of the rights commonly enjoyed by others as all property owners are subject to the same setbacks within the R-4 zone district. Therefore, Staff has found this criterion has not been met.

(d) Reasonable Use. The applicant and the owner of the property cannot derive a reasonable use of the property without the requested variance;

Based on the General Project Report, the Applicant has stated that removing the sunroom addition and repairing the exterior of the home back to its original condition would create an unnecessary financial hardship on the owner. The single family residence situated on the subject property was originally constructed in 2005. In 2010, the Applicant hired a contractor to construct an overhang for a concrete patio in the backyard. In late 2017, the Applicant had that overhang enclosed and finished. Neither the overhang or the addition were permitted through the Community Development Department. Prior to the construction of the addition, the property was reasonably utilized as a single family residence, similar to other residences in the neighborhood. In addition, the overhang over the concrete patio would have been permitted via planning clearance without it being enclosed. As such, Staff has found that the Applicant can derive a reasonable use of the property without the requested variance. Based on the preceding information, this criterion has not been met.

(e) Minimum Necessary. The variance is the minimum necessary to make possible the reasonable use of land or structures;

When evaluating this criterion, staff considered reasonable use of the property to be the ability to develop and utilize a single-family home on the lot as both the zoning and future land use map consider this use appropriate. The property currently enjoys a single-family home use which, without the addition, meets the standards of the Code including setbacks. Staff has not found that continued compliance with rear yard setback standards will impede the ability of the Applicant to maintain reasonable use of the land/structures. As such, staff finds that this criterion has not been met.

(f) Conformance with the Purposes of this Code. The granting of a variance shall not conflict with the purposes and intents expressed or implied in this code; and

The Applicant contends that the variance request is supported by the following statement in the Zoning and Development Code, "This code provides flexibility in dealing with situations in general, and especially those which do not fit well with typical processes and standard requirements. Not all situations will fall into easily identifiable processes and requirements." This statement is located in the Purpose section of the code. Additionally, that same section also states "The code is intended to enable the City to uniformly and consistently evaluate, improve and approve, as appropriate, development, changes to existing uses, future uses and activities and to promote the health, safety and general welfare of the citizens and residents of the City. The elements that make up this code are interrelated and cannot be taken in isolation; all provisions and regulations must be taken within the context and intent of the entire

code.” Staff finds that if this variance request were approved, it would conflict with applying the Code in both a uniform and consistent manner given there are not unique characteristics of the property that may otherwise align with the variance criteria of the Code.

Further, the intent and purpose of the setback requirements include creating and preserving space between structures. The proposed variance conflicts with that purpose in that it would result in the subject lot being non-conforming and out of character with the R-4 zoned neighborhood. Staff therefore finds that the criterion has not been met.

(g) Conformance with the Comprehensive Plan. The granting of a variance shall not conflict with the goals, policies and guiding principles of the City’s Comprehensive Plan.

The Applicant does not believe that the variance request conflicts with the goals, policies and guiding principles of the City’s Comprehensive Plan, citing that one of the Vision and Guiding Principles within the Comprehensive Plan states “ Find an appropriate balance between the residents’ respect for the natural environment, the integrity of the community’s neighborhoods, the economic needs of the residents and business owners, the rights of private property owners and the needs of the urbanizing community as a whole.”

The Comprehensive Plan does not explicitly address zoning and bulk standards on properties, therefore Staff finds that there is not an apparent conflict between the requested variance and the goals and principles of the Comprehensive Plan.

STAFF RECOMMENDATION AND FINDINGS OF FACT

After reviewing VAR-2018-359, a request for a variance to reduce the rear yard setback from 25 feet to 16 feet 9 inches at 703 Caleb Street in an R-4 zone district Staff finds the Applicant has not established that all of the required variance criteria have been met and therefore recommends denial of the request.

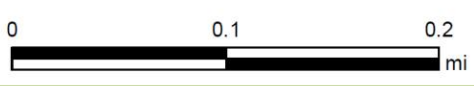
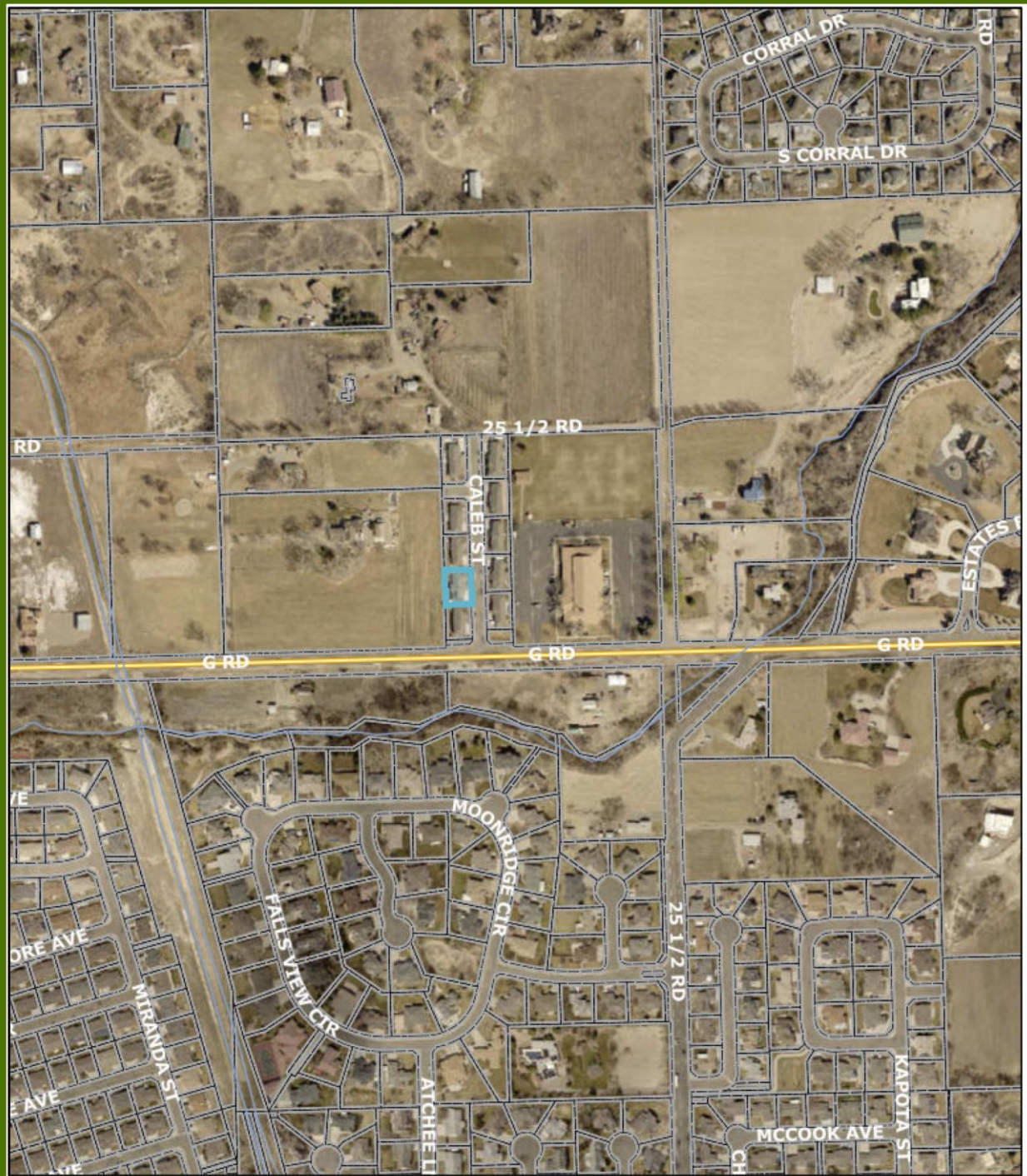
SUGGESTED MOTION:

Madam Chairman, on the request for a setback variance, VAR-2018-359, I move to deny the request with findings of fact as included in the staff report.

Attachments

1. Attachment 1 - Maps
2. Attachment 2 - Application Packet

Vicinity Map

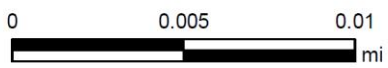


Printed: 8/10/2018

1 inch = 376 feet



Site Map



Printed: 8/15/2018

1 inch = 24 feet

Development Application

We, the undersigned, being the owner's of the property adjacent to or situated in the City of Grand Junction, Mesa County, State of Colorado, as described herein do petition this:

Petition For:

Please fill in blanks below ***only*** for Zone of Annexation, Rezones, and Comprehensive Plan Amendments:

Existing Land Use Designation <input type="text"/>	Existing Zoning <input type="text"/>
Proposed Land Use Designation <input type="text"/>	Proposed Zoning <input type="text"/>

Property Information

Site Location: <input type="text" value="703 Caleb St"/>	Site Acreage: <input type="text" value=".184"/>
Site Tax No(s): <input type="text" value="2701-343-30-002"/>	Site Zoning: <input type="text" value="R-4"/>
Project Description: <input type="text" value="Request a variance to the rear yard setback for a single family home sunroom addition"/>	

Property Owner Information

Name:

Street Address:

City/State/Zip:

Business Phone #:

E-Mail:

Fax #:

Contact Person:

Contact Phone #:

Applicant Information

Name:

Street Address:

City/State/Zip:

Business Phone #:

E-Mail:

Fax #:

Contact Person:

Contact Phone #:

Representative Information

Name:

Street Address:

City/State/Zip:

Business Phone #:

E-Mail:

Fax #:

Contact Person:

Contact Phone #:

NOTE: Legal property owner is owner of record on date of submittal.

We hereby acknowledge that we have familiarized ourselves with the rules and regulations with respect to the preparation of this submittal, that the foregoing information is true and complete to the best of our knowledge, and that we assume the responsibility to monitor the status of the application and the review comments. We recognize that we or our representative(s) must be present at all required hearings. In the event that the petitioner is not represented, the item may be dropped from the agenda and an additional fee may be charged to cover rescheduling expenses before it can again be placed on the agenda.

Signature of Person Completing the Application <input type="text" value="Kim Kerk"/>	Date <input type="text" value="March 28, 2019"/>
Signature of Legal Property Owner <input type="text" value="Jana Franklin"/>	Date <input type="text" value="March 28, 2019"/>

OWNERSHIP STATEMENT - NATURAL PERSON

I, (a) Jana L. Franklin, am the owner of the following real property:

(b) Lot 2, Block 2, Arcadia North Subdivision.

A copy of the deed evidencing my interest in the property is attached. All documents, if any, conveying any interest in the property to someone else by the owner, are also attached.

I am the sole owner of the property.

I own the property with other(s). The other owners of the property are (c):

[Empty box for other owners]

I have reviewed the application for the (d) Variance Request pertaining to the property.

I have the following knowledge and evidence concerning possible boundary conflicts between my property and the abutting property(ies): (e) None

I understand that I have a continuing duty to inform the City planner of any changes in interest, including ownership, easement, right-of-way, encroachment, lienholder and any other interest in the property.

I swear under penalty of perjury that the information contained in this Ownership Statement is true, complete and correct.

Owner signature as it appears on deed:

Jana L. Franklin

Printed name of owner: Jana L. Franklin

State of Colorado)

County of Mesa) ss.

Subscribed and sworn to before me on this 27th day of June, 20 18

by Jana L. Franklin

Witness my hand and seal.

My Notary Commission expires on May 19, 2021



Moraima Miranda
Notary Public Signature

WARRANTY DEED

THIS DEED, made this February 10, 2011, between DEAN H. VANGUNDY, whose address is 645 4th Avenue, Grand Junction, County of Mesa, State of Colorado, grantor, and Jana L. Franklin, whose legal address is 703 Caleb Street, Grand Junction, CO 81506, grantee:

WITNESSETH, that the grantor, for and in consideration of the sum of TEN and no/100 DOLLARS, and other good and valuable consideration, has granted, bargained, sold and conveyed, and by these presents does grant, bargain, sell, convey, and confirm, unto the grantee and her heirs and assigns forever, all the real property, together with improvements, if any, situate, lying and being in the County of Mesa, State of Colorado, described as follows:

Lot 2, Block 2, Arcadia North Subdivision, County of Mesa, State of Colorado

also known by street and number as: 703 Caleb Street, Grand Junction, CO 81506.

TOGETHER with all and singular the hereditaments and appurtenances thereto belonging, or in anywise appertaining, and the reversion and reversions, remainder and remainders, rents, issues and profits thereof, and all the estate, right, title, interest, claim and demand whatsoever of the grantor either in law or equity, of, in and to the above bargained premises, with the hereditaments and appurtenances.

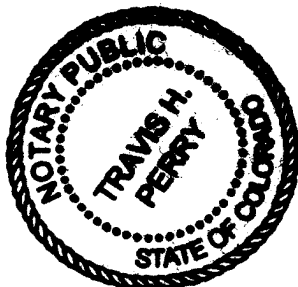
TO HAVE AND TO HOLD the said premises above bargained and described with the appurtenances, unto the grantee and her heirs and assigns forever. The grantor, for himself, his heirs and personal representatives or successors, does covenant and agree that he shall and will **WARRANT AND FOREVER DEFEND** the above-bargained premises in the quiet and peaceable possession of the grantee and her heirs and assigns, against all and every person or persons claiming the whole or any part thereof, except subject to covenants, easements and restrictions of record, and subject to general property taxes for the year in which this deed was executed.

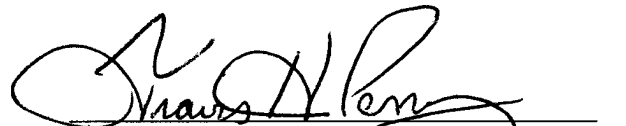
IN WITNESS WHEREOF, the grantor has executed this deed on the date set forth above.


DEAN H. VANGUNDY

STATE OF COLORADO
COUNTY OF MESA

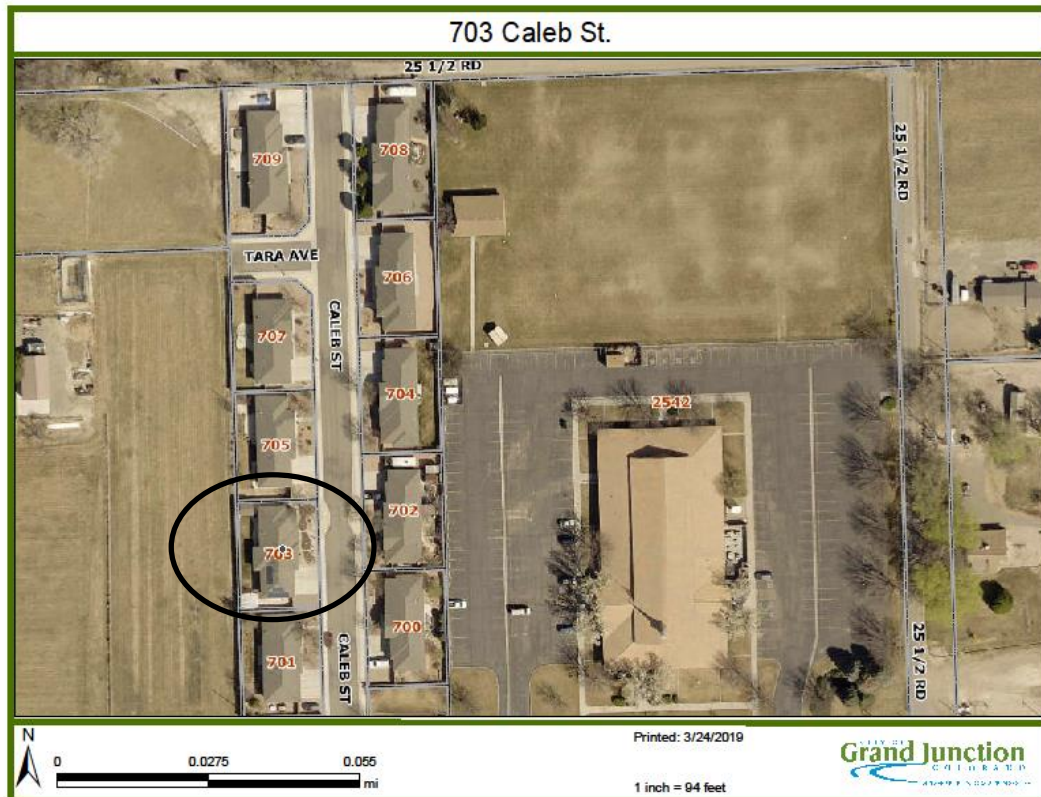
The foregoing instrument was acknowledged before me by DEAN H. VANGUNDY on February 10, 2011.




NOTARY PUBLIC
My Commission expires: October 31, 2013

Date: March 22, 2019
Prepared by: Kim Kerk, PM
Submitted to: Grand Junction Planning Department

Franklin Variance Application Request
General Project Report



Kim Kerk, Land Consulting & Development, LLC

Project description, location and acreage:

This request is for a variance to the rear yard setback requirement in accordance with Section 21.02.200, Variance, in the Grand Junction Municipal Code.

During the spring of 2018 the applicant enclosed an existing covered patio and constructed a 125 square foot sun-room that extends into the rear yard setback 8.2 feet.

Property Address: 703 Caleb St Grand Junction, CO 81505

Legal Description: LOT 2 BLK 2 ARCADIA NORTH SUB SEC 34 1N 1W & AN
UNDIV INT IN TRACT A BLK 1 AND TRACT B BLK 2 - 0.18AC

Tax Schedule No.: 2701-343-30-002

Proposed use and Public Benefit:

The proposed use of the property is to remain as a single-family home in an R-4 zone district.

The neighborhood and public benefit by having a well-cared for and maintained home consistent with the subdivision and the HOA.

D. Project Compliance, Compatibility, and Impact

1. Adopted plans and/or policies (for rezones, variances, conditional and special use, revocable permits, and vacations, discuss the circumstances that justify this request is for a variance to the rear yard setback requirement in accordance with Section 21.02.200, Variance, in the Grand Junction Municipal Code.

The purpose of this section, 21.01.200 is to provide a process for consideration of variances from certain standards of the Code.

(1) A variance may be requested for a departure from bulk standards, performance or use specific standards of Chapter 21.04 GJMC, all overlay district regulations of Chapter 21.07 GJMC, excluding corridor overlay districts, and the sign regulations of Chapter 21 .06 GJMC

2. Land use in the surrounding area

The surrounding land uses in the vicinity of the subject property are considered to be "medium-low" intensity. The site is located within a ten-lot single family platted subdivision having a density of 3.5 dwelling units per acre. Other than the subdivision, surrounding land consists of larger sized parcels occupied by single family dwellings and out buildings. Other land uses include a Church and the Leach Creek natural drainage channel.

General Project Report Items D3 through D11 , and F are not applicable as the home is existing.

3. Site access and traffic patterns

4. Availability of utilities, including proximity of fire hydrants

5. Special or unusual demands on utilities (high water or sewage quantities, grease, or sediment contribution, pre-treatment needs, etc.)

Kim Kerk, Land Consulting & Development, LLC

6. *Effects on public facilities (fire, police, sanitation, roads, parks, schools, irrigation, etc.)*
 7. *Hours of operation*
 8. *Number of employees*
 9. *Signage plans (required with Conditional Use Permits and Planned Development)*
 10. *Site soils and geology (such as Soils Conservation Service (SCS) soils mapping)*
 11. *Impact of project on site geology and geological hazards, if any*
- E. *Must address the review criteria contained in the Zoning and Development Code for the type of application being submitted. 21.02.200 is being addressed in this submittal*
- F. *Development Schedule and Phasing*

21.02.200 Variance

A variance may be granted only if the applicant establishes that all of the following criteria have been met:

1. There are exceptional conditions creating an undue hardship, applicable only to the property involved or the intended use thereof, which do not apply generally to the other land areas or uses within the same zoning district, and such exceptional conditions or undue hardship was not created by the action or inaction of the applicant or owner of the property;

There are exceptional conditions creating an undue hardship on the property owner. Ms. Franklin in good faith hired a professional to build her sunroom with the expectation that all aspects of the addition would be handled by the contractor. This hardship was not created by an action or inaction on the owner's part.

2. The variance shall not confer on the applicant any special privilege that is denied to other lands or structures in the same zoning district;

The proposal is in conformance within the Variance Request requirements contained within the code. Other land owners within the same zoning district have the same option to apply for a variance request as well.

3. The literal interpretation of the provisions of the regulations would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district and would work unnecessary and undue hardship on the applicant;

Other land owners within the same zoning district have the same option to apply for a variance request. Removing the sun room and repairing the exterior of the home back to its original condition would create an unnecessary additional financial hardship on the owner.

4. The applicant and the owner of the property cannot derive a reasonable use of the property without the requested variance;

Removing the sun room would cause damage to the exterior of the home and cause an unnecessary additional financial hardship on the owner

Kim Kerk, Land Consulting & Development, LLC

5 The variance is the minimum necessary to make possible the reasonable use of land or structures;
The request is for the *minimum* setback distance necessary for the room addition to remain on the property.

6 The granting of a variance shall not conflict with the purposes and intents expressed or implied in this code;

The request is not in conflict with the following statements contained within the code, "This code provides flexibility in dealing with situations in general, and especially those which do not fit well with typical processes and standard requirements. Not all situations will fall into easily identifiable processes and requirements."

7 The granting of a variance shall not conflict with the goals, policies and guiding principles of the City's Comprehensive Plan.

One of the Vision and Guiding Principles within the Comprehensive Plan states, "Find an appropriate balance between the residents' respect for the natural environment, the integrity of the community's neighborhoods, the economic needs of the residents and business owners, the rights of private property owners and the needs of the urbanizing community as a whole." This request is not in conflict with the statement.

Additional Project Information:

Comments from the Mesa County Building Dept:

1. MCBD has no objection to the setback reduction although a building permit will be required to bring this into compliance should this be granted.
2. Part of the permit process will require inspections after the permit is issued.
3. Some walls will need to be opened up to verify code compliance.
4. All of this will be determined at the time of the first inspection.

A Bulk Standards information sheet for R-4 is included for detail of the minimum setback requirements.

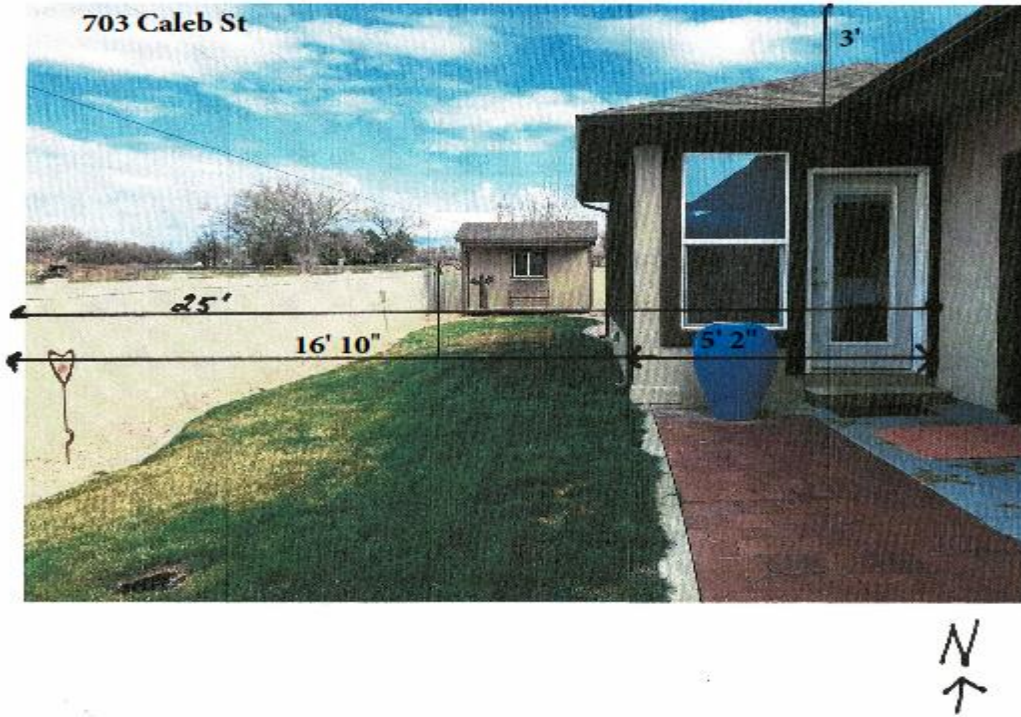
A petition in support of the variance is attached with the name, address and signatures of the surrounding neighbors.

R-4 BULK DEVELOPMENT STANDARDS

Primary Uses		
Detached Single-Family, Two-Family Dwelling, Civic See GJMC 21.04.010, Use Table		
Lot		
Area (min. sq. ft.)		7,000
Width (min. ft.)		70
Frontage (min. ft.)		20
Setback	Principal	Accessory
Front (min. ft.)	20	25
Side (min. ft.)	7	3
Rear (min. ft.)	25	5
Bulk		
Lot Coverage (max.)		50%
Height (max. ft.)		40
Height (max. stories)		3
Density (min.)		2 units/acre
Density (max.)		4 units/acre
Cluster Allowed		Yes

Kim Kerk, Land Consulting & Development, LLC

The included Site Plan drawing depicts the relationship of the sun room to the property boundary followed by a statement from an independent licensed contractor.





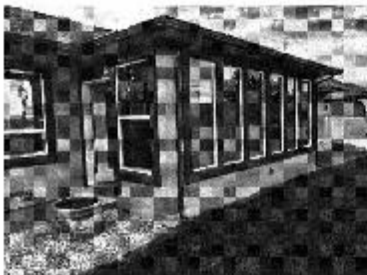
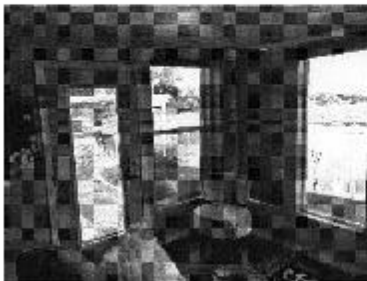
To Whom it May Concern,

Jana Franklin contacted me in May of 2018 and described the nature of her circumstance. On June 13, 2018, I made a visual inspection of the house to see if I could verify that the unpermitted addition (to be known as the sunroom) was built to Mesa County building code standards (see pictures below). As far as the visual inspection went, all windows and doors comply with egress and tempering standards. The electrical outlets responded properly when tested. I could not verify that the dwelling was insulated, but according to Ms. Franklin it was insulated by the contractor who built the sunroom. As far as the structural components of the sunroom are concerned, I cannot speak to the foundation nor the roof structure as both components are either blocked or covered up by existing finishes. Ms. Franklin produced a planning clearance approval (PCR-2018-468) for the construction of the covered patio, but no subsequent building permit was issued. In my professional opinion, the sunroom has no obvious large loading points and show no signs of being structurally deficient, and therefore I believe it to be safe and adequate for the intended purpose; an enclosed sunroom.

Regards,

Cody J Davis

Cody J Davis
General Contractor License #20180154
Chronos Builders, LLC
637 25 rd Grand Junction, CO 81505
970-640-4330



Kim Kerk, Land Consulting & Development, LLC

Petition To The Homeowners Of Arcadia North Subdivision

The purpose of this petition is to provide information regarding the enclosure modifications I recently contracted to have completed. A brief chronology follows:

In 2010, I hired a Professional Licensed General Contractor to construct an overhang for my back patio.

During the winter of 2017/2018 I once again hired a Professional Licensed General Contractor to enclose my back patio.

I was subsequently notified by the City of Grand Junction Code Enforcement Officer that I was being cited with a setback violation. I was also informed that the two Professional Licensed General Contractors never obtained any of the proper permitting.

As a result of this notification, I was instructed to go to the Grand Junction Planning Department and was granted the proper permitting for the overhang. I was then instructed that the next step in the process is to obtain a setback variance, which is what I am currently working on. This petition is part of that process.

Because the enclosure was constructed without the proper permitting and without my knowledge that the Professional Licensed General Contractor did not obtain the proper permitting, the City of Grand Junction Code Enforcement Office is telling me that I have to demolish it.

Your support by signing this petition is a critical piece in avoiding the above-mentioned demolition and I respectfully ask for your support. I also encourage you to come by and visit so you can see the enclosure and also see that it, in no way, negatively impacts any of our homes' values or the overall value of our subdivision.

As you can imagine, being blindsided like this has been a nightmare. This petition will be pivotal in avoiding the demolition.

	Date		Date
700 Caleb Street	<u>William Carrivick</u> 5/9/18	701 Caleb Street	<u>Jana Pickett</u> 5/11/18
702 Caleb Street	<u>Barbara Bennett</u> 5/20/18	703 Caleb Street	<u>Jana Franklin</u> 5-15-18
704 Caleb Street	<u>RENTERS</u>	705 Caleb Street	<u>Amanda</u> 5-15-18
706 Caleb Street	<u>[Signature]</u> 5/17/18	707 Caleb Street	<u>[Signature]</u> 5-15-18
708 Caleb Street	<u>Delany Student</u> 5/23/18	709 Caleb Street	<u>[Signature]</u> 5-23-18

Thank you for your support and understanding.

Jana Franklin 703 Caleb Street

FRANKLIN VARIANCE

NEIGHBORHOOD MEETING

June 26, 2018

A neighborhood meeting to discuss the pending rear yard setback Variance Request application was held at 5:30 p.m. on June 26, 2018 at 703 Caleb Street.

The applicants and their representative, approximately seven neighbors out of the approximately 30 that were notified of the Neighborhood Meeting attended. Two written comments were received prior to the meeting. The written comments and Attendance Roster are attached. Two representatives from the City of Grand Junction Community Development Department were also in attendance.

An overview of the proposed request and the City's approval process was presented by the owner's representative. The meeting lasted about 60 minutes. All of the individuals in attendance indicated their support of the pending request for a variance to the rear yard setback for the sun-room addition. Comments were positive in reference to the quality of the construction and aesthetic appeal of the addition. Several people indicated they would like to provide written comments of support to the City for consideration during the review and public hearing process.

Respectfully submitted,

Janna Franklin, applicant

Attachments: Correspondence from Moore
Correspondence from Jacobson
Attendance Roster

June 25, 2018

To Whom It May Concern:

We are sending our reply regarding the Franklin variance requested by Jana Franklin, as we will not be able to attend the meeting this evening. Although we understand and realize this is an unfortunate situation for the property owner and her builder, we are not in favor of a variance to the set back requirements from the planning department. We feel this would set precedence for all homeowners. This seems to be the responsibility of the builder and we hope there can be a solution found that would be acceptable to the homeowner.

Sincerely,

Jim and Chris Moore

June 22, 2018

To Whom It May Concern:

This letter is to state that I have no issues with the addition to Jana Franklin's home addition.

The addition was done in good taste and matches the style of the neighborhood. I do not feel that the addition devalues my property in any way.

Please contact me with any questions or concerns you may have.

Sincerely,

A handwritten signature in black ink, appearing to read "Amanda Jacobson", with a long horizontal flourish extending to the right.

Amanda Jacobson

705 Caleb St

Grand Junction CO 81505

970-201-7748

amanda_jacobson@rmhp.org

Development Application

We, the undersigned, being the owner's of the property adjacent to or situated in the City of Grand Junction, Mesa County, State of Colorado, as described herein do petition this:

Petition For:

Please fill in blanks below only for Zone of Annexation, Rezones, and Comprehensive Plan Amendments:

Existing Land Use Designation

Existing Zoning

Proposed Land Use Designation

Proposed Zoning

Property Information

Site Location:

Site Acreage:

Site Tax No(s):

Site Zoning:

Project Description:

Property Owner Information

Name:

Street Address:

City/State/Zip:

Business Phone #:

E-Mail:

Fax #:

Contact Person:

Contact Phone #:

Applicant Information

Name:

Street Address:

City/State/Zip:

Business Phone #:

E-Mail:

Fax #:

Contact Person:

Contact Phone #:

Representative Information

Name:

Street Address:

City/State/Zip:

Business Phone #:

E-Mail:

Fax #:

Contact Person:

Contact Phone #:

NOTE: Legal property owner is owner of record on date of submittal.

We hereby acknowledge that we have familiarized ourselves with the rules and regulations with respect to the preparation of this submittal, that the foregoing information is true and complete to the best of our knowledge, and that we assume the responsibility to monitor the status of the application and the review comments. We recognize that we or our representative(s) must be present at all required hearings. In the event that the petitioner is not represented, the item may be dropped from the agenda and an additional fee may be charged to cover rescheduling expenses before it can again be placed on the agenda.

Signature of Person Completing the Application Digitally signed by Tom Logue
 Date: 2018.06.26 06:54:21 -06'00'

Date

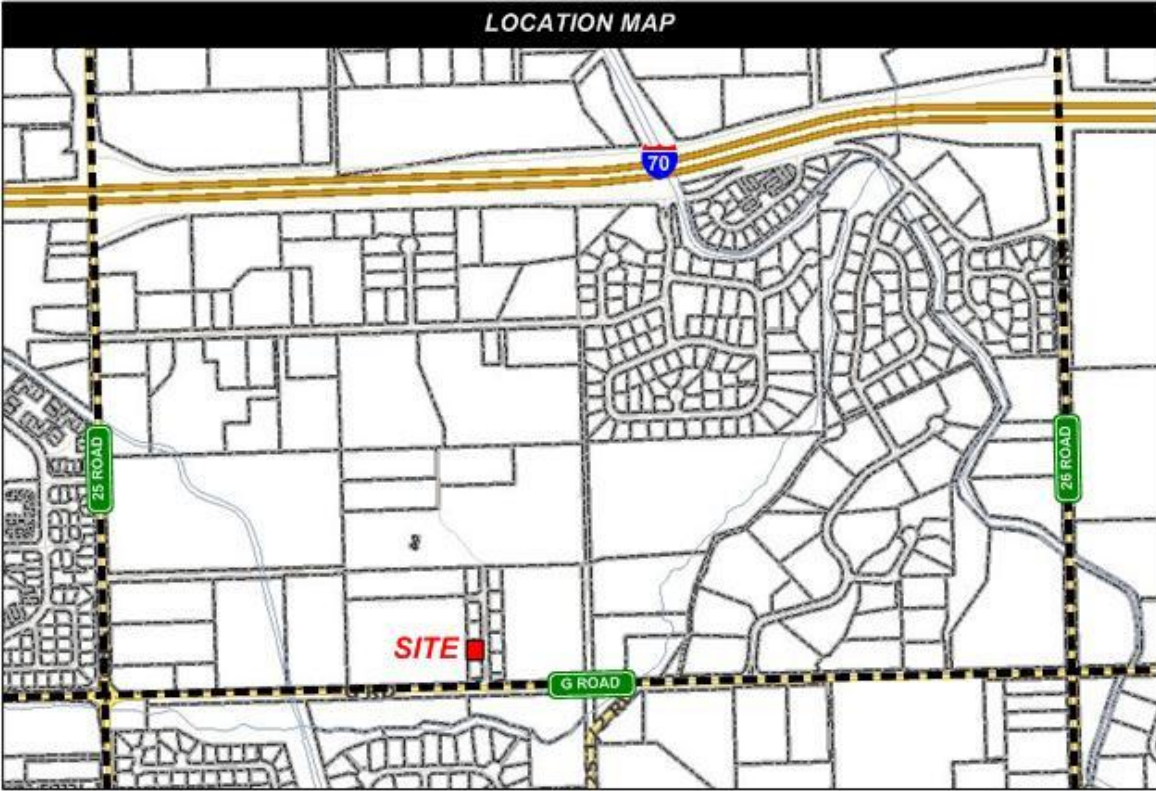
Signature of Legal Property Owner

Date

General Project Report
FRANKLIN VARIANCE APPLICATION
July, 2018

SITE LOCATION DATA

Address:	703 Caleb Street
Common Location	125 ft. North of G Road East of Caleb Street
Tax Parcel No.	2701-343-30-002
Aliquot Section:	SW ¼ Section 34, Township 1 North, Range 1 West, Ute Meridian
Legal Description:	Lot 2, Block 2, Arcadia North Subdivision
Area:	8,025 sq. ft.
Latitude and Longitude:	39° 06' 25", -108° 35' 57" W.



EXISTING LAND USE - The site under consideration is a single subdivided parcel of land that is rectangular in shape; 104 feet in length at its widest north/south point, and 77 feet at its widest east/west point totaling 8,024 square feet. The land is occupied by a heated 1,658 square foot one level single family dwelling that was constructed in 2005 and has an attached two car garage. A pergola and a small storage shed also occupy the property. Landscaping consists of that typically found in a residential setting. The accompanying Site Plan drawing depicts the location of the existing land use in relationship to the property boundary, the intensity of the landscaped areas and the location of nearby land uses.

LAND USE ZONING - An examination of the Grand Junction Zoning Map reveals that the subject site is zoned: R-4, Residential Single Family designation. The purpose of the zone is to provide for medium-low density single family uses where adequate public facilities and services are available not exceeding four dwelling units per acre. The R-4 zone designation dominates the land use zoning in the immediate vicinity of the subject property. A reproduction of a part of the City's Land Use Zone map follows:

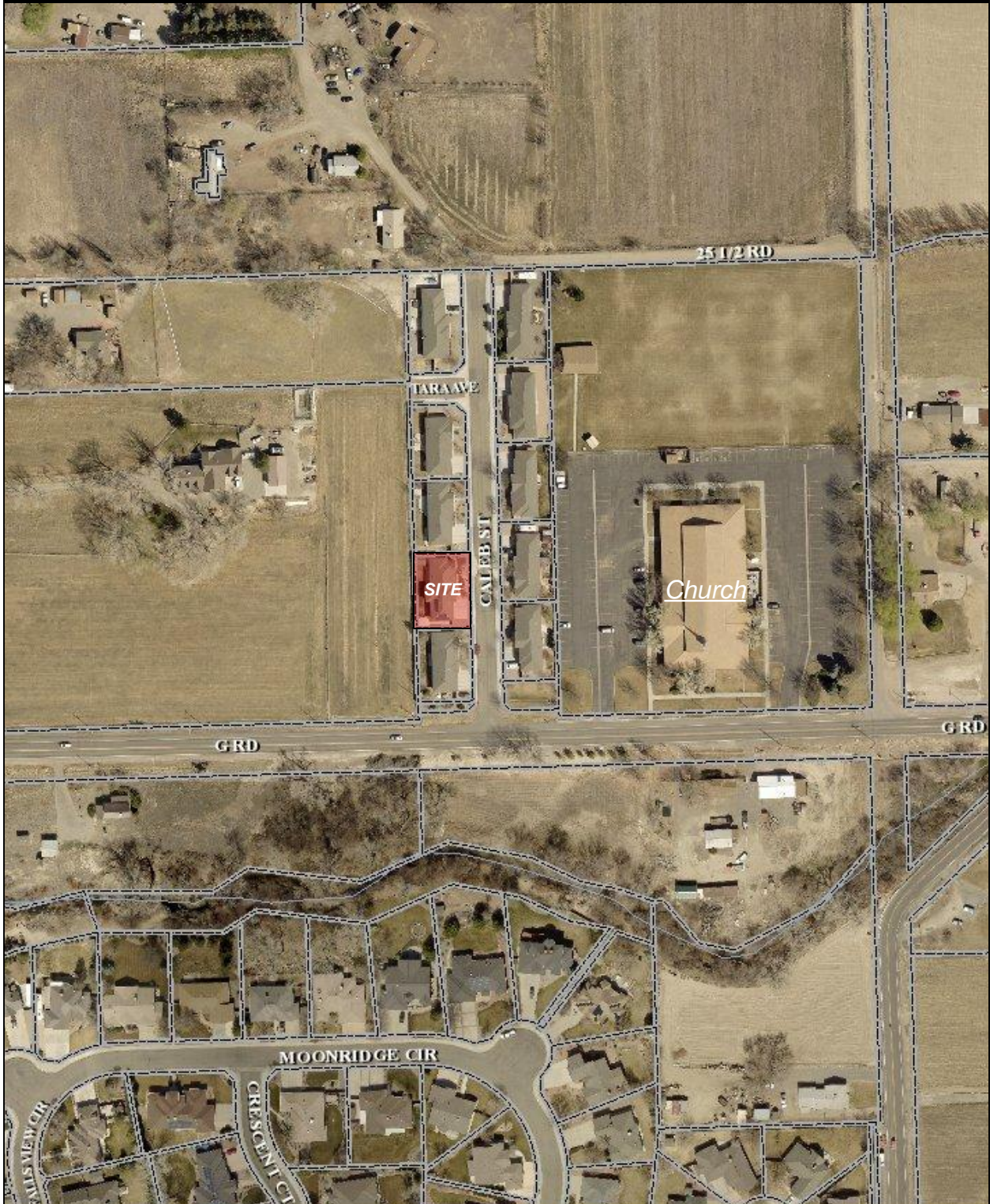


R-4 BULK DEVELOPMENT STANDARDS

Primary Uses		
Detached Single-Family, Two-Family Dwelling, Civic See GJMC 21.04.010 , Use Table		
Lot		
Area (min. sq. ft.)		7,000
Width (min. ft.)		70
Frontage (min. ft.)		20
Setback	Principal	Accessory
Front (min. ft.)	20	25
Side (min. ft.)	7	3
Rear (min. ft.)	25	5
Bulk		
Lot Coverage (max.)		50%
Height (max. ft.)		40
Height (max. stories)		3
Density (min.)		2 units/acre
Density (max.)		4 units/acre
Cluster Allowed		Yes

SURROUNDING LAND USE – The surrounding land uses in the vicinity of the subject property are considered to be “medium–low” intensity. The site is located within a ten lot single family platted subdivision having a density of 3.5 dwelling units per acre. Other than the subdivision, the surrounding land consists of acreage sized parcels occupied by single family dwellings and out buildings. Other land uses include a Church and the Leach Creek natural drainage channel. Land uses in the immediate vicinity of the subject property are depicted on the following Surrounding Land Use Map that shows the configuration of various nearby properties in relationship to the subject site.

SURROUNDING LAND USE MAP (2018 Air Photo)



REQUEST

This request is for a variance to the rear yard setback requirement in accordance with Section 21.02.200, Variance, in the Grand Junction Municipal Code.

During the spring of 2018 the applicant enclosed an existing covered patio and constructed a 125 square foot sun-room that extends into the rear yard setback 8.2 feet.

The architectural style and character of the room is shown on the following photo:

South Facing Sun Room Addition



The accompanying Site Plan drawing depicts the relationship of the sun room to the property boundary, and the dwelling followed by a statement from an independent licensed contractor

SITE PLAN



chronos builders

To Whom it May Concern,

Jana Franklin contacted me in May of 2018 and described the nature of her circumstance. On June 14, 2018, I made a visual inspection of the house to see if I could verify that the unpermitted addition (to be known as the sunroom) was built to Mesa County building code standards (see pictures below). As far as the visual inspection went, all windows and doors comply with egress and tempering standards. The electrical outlets responded properly when tested. I could not verify that the dwelling was insulated, but according to Ms. Franklin it was insulated by the contractor who built the sunroom. As far as the structural components of the sunroom are concerned, I cannot speak to the foundation nor the roof structure as both components are either blocked or covered up by existing finishes. Ms. Franklin produced a planning clearance approval (PCR-2018-468) for the construction of the covered patio, but no subsequent building permit was issued. In my professional opinion, the sunroom has no obvious large loading points and show no signs of being structurally deficient, and therefore I believe it to be safe and adequate for the intended purpose; an enclosed sunroom.

Regards,

Cody J Davis

Cody J Davis
General Contractor License #20180154
Chronos Builders, LLC
637 25 rd Grand Junction, CO 81505
970-640-4330



EVALUATION OF REQUEST

This request has support from the surrounding neighborhood. The accompanying petition was circulated to all individuals in the subdivision Home Owner Association (HOA) and 90 percent support of the room addition was gained. A neighborhood meeting was held and the seven individuals in attendance were in favor of the request. Additionally, seven letters were provided to the applicant, of which one did not agree with this application. The exhibit on the following page depicts the location of those land owners who provided input, followed by the petition and neighborhood letters.

NEIGHBORHOOD PARTICIPATION MAP



P - Signed Accompanying Petition

MN - Attended Neighborhood Meeting

C - Provided Accompanying Correspondence



Petition To The Homeowners Of Arcadia North Subdivision

The purpose of this petition is to provide information regarding the enclosure modifications I recently contracted to have completed. A brief chronology follows:

In 2010, I hired a Professional Licensed General Contractor to construct an overhang for my back patio.

During the winter of 2017/2018 I once again hired a Professional Licensed General Contractor to enclose my back patio.

I was subsequently notified by the City of Grand Junction Code Enforcement Officer that I was being cited with a setback violation. I was also informed that the two Professional Licensed General Contractors never obtained any of the proper permitting.

As a result of this notification, I was instructed to go to the Grand Junction Planning Department and was granted the proper permitting for the overhang. I was then instructed that the next step in the process is to obtain a setback variance, which is what I am currently working on. This petition is part of that process.

Because the enclosure was constructed without the proper permitting and without my knowledge that the Professional Licensed General Contractor did not obtain the proper permitting, the City of Grand Junction Code Enforcement Office is telling me that I have to demolish it.

Your support by signing this petition is a critical piece in avoiding the above-mentioned demolition and I respectfully ask for your support. I also encourage you to come by and visit so you can see the enclosure and also see that it, in no way, negatively impacts any of our homes' values or the overall value of our subdivision.

As you can imagine, being blindsided like this has been a nightmare. This petition will be pivotal in avoiding the demolition.

	Date		Date
700 Caleb Street	<u>William Curcio</u> 5/9/18	701 Caleb Street	<u>Deann Pietro</u> 5/16/18
702 Caleb Street	<u>Barbara Benoit</u> 5/30/18	703 Caleb Street	<u>Jana Franklin</u> 5-15-18
704 Caleb Street	<u>RENTERS</u>	705 Caleb Street	<u>Amanda</u> 5-15-18
706 Caleb Street	<u>[Signature]</u> 5/17/18	707 Caleb Street	<u>[Signature]</u> 5-15-18
708 Caleb Street	<u>[Signature]</u> 5/23/18	709 Caleb Street	<u>[Signature]</u> 5-23-18

Thank you for your support and understanding.

Jana Franklin 703 Caleb Street

To: City of Grand Junction, Colorado
Planning Department, Zoning Board of Appeals,
Interested Parties

Date: June 26, 1018

From: Lyn and Barb Benoit, 702 Caleb St.

RE: Franklin Variance Request, 703 Caleb Street Grand Junction, CO.

As a neighbor who lives directly across Caleb Street from the requested variance address I/We (my Wife and I) have no objection to the variance request.

The sunroom addition was done in good taste that matches the neighborhood and will, if anything helps increase the value of surrounding properties.

It is my understanding the roof structure that covers the sun room in question was in fact approved by the City of Grand Junction. The roof structure matches the design and appearance of the residence roof. It does in fact infringe into the same variance limits. The adjacent rear yard property is currently farm land.

As a former ZBOA and Planning Commission Volunteer my opinion is that this sunroom addition in no way encroaches upon neighbors (current and future) privacy, does no harm to anyone, and it is a well-built attractive structure. It is located a short distance from other neighborhood properties that have a significantly shorter setback requirement.

Therefore, I/We humbly request that Ms. Franklin be granted the variance.

June 22, 2018

To Whom It May Concern:

This letter is to state that I have no issues with the addition to Jana Franklin's home addition.

The addition was done in good taste and matches the style of the neighborhood. I do not feel that the addition devalues my property in any way.

Please contact me with any questions or concerns you may have.

Sincerely,

A handwritten signature in black ink, appearing to read "Amanda Jacobson", with a long horizontal flourish extending to the right.

Amanda Jacobson

705 Caleb St

Grand Junction CO 81505

970-201-7748

amanda_jacobson@rmhp.org

To Whom it May Concern:

June 26, 2018

Regarding the application of a Variance Permit for Jana L. Franklin, I am in full support, as her neighbor, friend and former colleague.

It is my understanding Jana must prove a “hardship” situation to keep the addition she has built onto her house.

Here are my arguments in support of proving said hardship:

- **Financial Burden:** Once it was discovered no permits were acquired by the contractors, Jana has had to pay costs associated with the fight to keep the addition to her home. Those costs will increase exponentially if she is required to demolish the addition. Not to mention her loss of investment to add value to her home.
- **Emotional Burden:** Once Jana learned what was at stake, and the process by which she has been required to follow to allow the addition to stay, she has endured circumstances that have caused persistent and ongoing suffering; both emotionally and physically.
- It is my understanding our neighborhood is zoned as “R4.” As such, that typically means all the lots are “cookie cutter” shaped; there is no odd shaped lot, or unique physical characteristic to set them apart.
 - Jana is working to set her lot apart, beautify it, add value to it and build it up to be the home she envisions and desires to live in. Don’t we ALL wish to have that, isn’t it admirable that Jana has the wherewithal to accomplish this!
 - I would ask you to reflect upon your own home; what have YOU done, or would LIKE to do, to add value to it, whether monetarily or sentimentally, so you too can make it your own, and be genuinely happy in it.
 - Our homes are our sanctuary for peace, family, friends, social gatherings, security and peace of mind. Jana has accomplished this with EVERY aspect of her home, and the new addition simply is the icing on the cake.

To summarize:

I Googled the term “Hardship” to get a deeper meaning than how I typically generalize that term. Here are some of the terms I found, consistently, that fit Jana’s situation:

1. Conditions of life, difficult to endure.
2. Something that causes suffering or privation.
 - a. Privation: A state in which things that are essential for human well-being such as food and warmth are scarce or lacking.
3. An instance or cause of this; something hard to bear.

It is my opinion, and hope, that you will see Jana’s situation as fully demonstrating the definition of “hardship,” and vote to allow her to keep the beautiful addition to her home.

With Regards,

Laura L. Rhodes

707 Caleb St.

Grand Junction, CO 81505

970-260-7532 (cell)

REQUEST FOR VARIANCE: JANA FRANKLIN

The purpose of this letter is to provide my perspective, input, and facts around Jana Franklin's "Request for Variance. "

As a neighbor and homeowner my first point is to clearly state that the sunroom in no way negatively impacts the aesthetics or value of my home or property...or anybody else's in this "Arcadia North Subdivision." The sunroom roof, stucco, color, windows, etc. perfectly match the home. The sunroom looks like it was part of the home from day one.

It is critically important to state and understand that Jana Franklin hired a Professional Licensed General Contractor because such a project is not within her knowledge base, and she wanted a quality product done correctly. She implicitly trusted said contractor to complete the project properly, safely and professionally as he has 30+ years of experience. Unfortunately, he chose to proceed without proper permitting and Jana had no idea of that until she was notified by the City of Grand Junction Code Enforcement Officer that the sunroom was encroaching on the setback.

My point here is to show that there was NO knowledge or intent to "sneak" this project in "under the radar"...quite simply put, Jana was taken horrific advantage of and is an innocent victim. This is ABSOLUTELY a hardship and needs to be evaluated as such.

If a governmental agency creates a hardship such as changing zoning etc. it is considered a "valid" hardship and a variance is granted.

We all understand and are routinely faced with what is "legal" -vs- what is "ethical and right." Most, if not all of us have been pulled over for speeding. Sometimes we are not issued a ticket because there is always much more in play than just what is "legal."

That is what is occurring here; there is much more to this situation than just what is "legal."

What is the difference between a government-imposed hardship as noted above and an incompetent contractor-imposed hardship when you evaluate this from the victim's perspective?

Additionally, it has been mentioned numerous times that if/when this variance is granted, all other like-zoned properties in the Grand Valley must be afforded the same leeway. I ADAMANTLY disagree. They would simply be afforded the opportunity to pursue a variance, just as Jana is doing. Their situation will be just as specific and unique as Jana Franklin's, and would be evaluated on a "case by case" basis. Why even offer this process if all of the facts are not taken into consideration?

Bottom Line: Jana Franklin had no knowledge of the violation, was taken advantage of by her Professional Licensed General Contractor, and is currently enduring a horrific and unacceptable hardship.

I ask that you take ALL of the facts into consideration and execute what is "ethical and right" by granting the variance.

Pete Peterson

706 Caleb Street

June 26, 2018

To whom it may concern:

This letter is to state that we have no issues or objections to the addition to Jana Franklin's home addition at 703 Caleb St.

The addition is built with quality, is in excellent taste, and matches the style of construction of the other homes in our neighborhood. We don't feel that the addition in anyway devalues our home or any other home in the neighborhood.

We feel that Planning Committee should grant the variance request the Jana Franklin is requesting.

Respectfully,

A handwritten signature in black ink, appearing to read "Richard Henderson", with a long horizontal flourish extending to the right.

Richard Henderson (President of the Arcadia North HOA)

Debra Henderson

708 Caleb St.

Grand Junction, CO 81505

970-639-9331

rahndrsn@charter.net

June 25, 2018

To Whom It May Concern:

We are sending our reply regarding the Franklin variance requested by Jana Franklin, as we will not be able to attend the meeting this evening. Although we understand and realize this is an unfortunate situation for the property owner and her builder, we are not in favor of a variance to the set back requirements from the planning department. We feel this would set precedence for all homeowners. This seems to be the responsibility of the builder and we hope there can be a solution found that would be acceptable to the homeowner.

Sincerely,

Jim and Chris Moore

From: Jana Franklin
Sent: Tuesday, June 26, 2018 12:16 PM
To: talldc@msn.com
Subject: Fw: 703 Caleb St Variance

----- Forwarded Message -----

From: Ronda Sutton <rondasuttonmail@gmail.com>
To: Jana Franklin <janalfranklin@yahoo.com>
Sent: Monday, June 25, 2018, 8:45:43 PM MDT
Subject: 703 Caleb St Variance

TO: City of Grand Junction

DATE: June 25, 2018

RE: 703 Caleb St, Variance Request

I attended the Neighborhood Meeting at 703 Caleb St. to hear and participate in discussion of the Variance Request. I am in full support of granting the variance for the Sun Room addition to the west side of the home. In my opinion, Ms. Franklin was an innocent victim in this matter. The concrete slab already existed and she simply wanted to add walls to make the space more usable in the hot summer months. I understand the HOA rules with setbacks etc., in keeping with consistency of the subdivision to help keep our city beautiful. However, once she hired a licensed general contractor to design & build the sun room, I feel strongly, that the contractor should be responsible for getting permits and overseeing all the work done by subcontractors and is responsible for any liability incurred, and passing code inspections. The homeowner is not the building expert - that is why Ms. Franklin hired a professional.

The Neighborhood Meeting revealed that all neighbors present were in total agreement that the Variance should be granted and allow the Sun Room addition at 703 Caleb St. Ms. Franklin has suffered months of grief and anxiety over the possibility of losing the sun room and the money invested. There was no intent on

her behalf to avoid the proper City permitting procedures. She entrusted the contractor to take care of building details.

Sincerely,

Ronda Sutton

689 25 $\frac{1}{2}$ Road

Grand Junction, CO

970-216-2302

Further, evaluation of the request is accomplished by using the criteria in Chapter 21.02.200(c) Variance Approval Criteria in the *Grand Junction Municipal Code* (GJMC). The following responses to each of the criteria illustrate compliance of the request:

21.02.200 Variance.

(c) **Approval Criteria.** *A variance may be granted only if the applicant establishes that all of the following criteria have been met:*

1. *There are exceptional conditions creating an undue hardship, applicable only to the property involved or the intended use thereof, which do not apply generally to the other land areas or uses within the same zoning district, and such exceptional conditions or undue hardship was not created by the action or inaction of the applicant or owner of the property;*

RESPONSE: The request does not meet this criterion.

2. *The variance shall not confer on the applicant any special privilege that is denied to other lands or structures in the same zoning district;*

RESPONSE: The proposal is in conformance within the Variance requirements contained within the code which can be extended to anyone else within the zoning district.

3. *The literal interpretation of the provisions of the regulations would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district and would work unnecessary and undue hardship on the applicant;*

RESPONSE: De-construction of the room addition is unnecessary and would create a financial hardship for the applicant.

4. *The applicant and the owner of the property cannot derive a reasonable use of the property without the requested variance;*

RESPONSE: The request does not meet this criterion.

5. *The variance is the minimum necessary to make possible the reasonable use of land or structures;*

RESPONSE: The request is the minimum setback distance necessary for the room addition.

6. *The granting of a variance shall not conflict with the purposes and intents expressed or implied in this code;*

RESPONSE: The request is not in conflict with the following statements contained within the code, "This code provides flexibility in dealing with situations in general, and especially those which do not fit well with typical processes and standard requirements. Not all situations will fall into easily identifiable processes and requirements."

7. *The granting of a variance shall not conflict with the goals, policies and guiding principles of the City's Comprehensive Plan.*

RESPONSE: One of the Vision and Guiding Principles within the Comprehensive Plan states, "Find an appropriate balance between the residents' respect for the natural environment, the integrity of the community's neighborhoods, the economic needs of the residents and business owners, the rights of private property owners and the needs of the urbanizing community as a whole." This request is not in conflict with the statement.

City of Grand Junction Review Comments

Date: August 7, 2018 **Comment Round No.** 1 **Page No.** 1 of 3
Project Name: Franklin Variance **File No:** VAR-2018-359
Project Location: 703 Caleb Street

Check appropriate if comments were mailed, emailed, and/or picked up.

Property Owner(s): Jana Franklin
 Mailing Address: 703 Caleb Street Grand Junction, CO 81505
 Email: janalfranklin@yahoo.com **Telephone:** (970) 234-1351
 Date Picked Up: _____ **Signature:** _____

Representative(s): Tom Logue
 Mailing Address: 537 Fruitwood Dr, Grand Junction, CO 81504
 Email: talldc@msn.com **Telephone:** (970) 434-8515
 Date Picked Up: _____ **Signature:** _____

Developer(s):
 Mailing Address:
 Email: _____ **Telephone:** _____
 Date Picked Up: _____ **Signature:** _____

CITY CONTACTS

Project Manager: Jace Hochwalt, Associate Planner
Email: jaceh@gjcity.org **Telephone:** (970) 256-4008
Dev. Engineer: Rick Dorris
Email: rickd@gjcity.org **Telephone:** (970) 256-4034

City of Grand Junction Comments

CITY PLANNING – Jace Hochwalt

1. This item will be heard by the Zoning Board of Appeals on Monday, September 10th at 11:00am in the City Auditorium, 250 North 5th Street.
2. No new public comments have been submitted to the city since the formal submission of the variance request on July 3, 2018.
3. A variance may be granted only if the applicant establishes that **all** of the following criteria have been met:
 - (1) There are exceptional conditions creating an undue hardship, applicable only to the property involved or the intended use thereof, which do not apply generally to the other land areas or uses within the same zoning district, and such exceptional conditions or undue hardship was not created by the action or inaction of the applicant or owner of the property;
 - (2) The variance shall not confer on the applicant any special privilege that is denied to other lands or structures in the same zoning district;

(3) The literal interpretation of the provisions of the regulations would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district and would work unnecessary and undue hardship on the applicant;

(4) The applicant and the owner of the property cannot derive a reasonable use of the property without the requested variance;

(5) The variance is the minimum necessary to make possible the reasonable use of land or structures;

(6) The granting of a variance shall not conflict with the purposes and intents expressed or implied in this code; and

(7) The granting of a variance shall not conflict with the goals, policies and guiding principles of the City's Comprehensive Plan.

Although the applicant has addressed some of the above-mentioned criteria, all criteria need to be addressed and met.

4. Based on the details and information submitted by the applicant, the Planning Department does not recommend the variance to the Zoning Board of Appeals, given that all variance approval criteria have not been met.

CITY DEVELOPMENT ENGINEER – Rick Dorris

No response.

CITY FIRE DEPARTMENT – Kay Yeager

1. This project is not applicable. No comment.

CITY ATTORNEY – Shelly Dackonish

1. The variance criteria are not met so I do not advise recommending the variance to the Zoning Board of Appeals.

Non-City Review Agency Comments

Review Agency: Mesa County Building Department

Contact Name: Darrell Bay

1. MCBBD has no objection to the setback reduction although a building permit will be required to bring this into compliance should this be granted.

2. Part of the permit process will require inspections after the permit is issued.

3. Some walls will need to be opened up to verify code compliance.

4. All of this will be determined at the time of the first inspection.

Please provide a written acknowledgement of receipt of these comments by signature below.

Applicant's Signature

Date

City of Grand Junction Review Comments

Date: April 19, 2019 **Comment Round No.** 1 **Page No.** 1 of 3
Project Name: Franklin Variance **File No:** VAR-2018-359
Project Location: 703 Caleb Street

Check appropriate if comments were mailed, emailed, and/or picked up.

Property Owner(s): Jana Franklin
 Mailing Address: 703 Caleb Street Grand Junction, CO 81505
 Email: janalfranklin@yahoo.com **Telephone:** (970) 234-1351
 Date Picked Up: _____ **Signature:** _____

Representative(s): Kim Kerk
 Mailing Address: 529 25 ½ Road; B 108, Grand Junction, CO 81505
 Email: Kimk355@outlook.com **Telephone:** (970) 640-6913
 Date Picked Up: _____ **Signature:** _____

Developer(s):
 Mailing Address:
 Email: _____ **Telephone:** _____
 Date Picked Up: _____ **Signature:** _____

CITY CONTACTS

Project Manager: Jace Hochwalt, Associate Planner
Email: jaceh@gjcity.org **Telephone:** (970) 256-4008
Dev. Engineer: Rick Dorris
Email: rickd@gjcity.org **Telephone:** (970) 256-4034

City of Grand Junction Comments

CITY PLANNING – Jace Hochwalt

1. This item will be heard by the Zoning Board of Appeals on Monday, May 13th at 12:00PM (noon) in the City Auditorium, 250 North 5th Street.
2. No new public comments have been submitted to the city since the formal submission of the variance request on July 3, 2018. The applicant withdrew the original application request on 8/29/2018 due to a lack of Zoning Board of Appeals members.
3. A variance may be granted only if the applicant establishes that **all** of the following criteria have been met:
 - (1) There are exceptional conditions creating an undue hardship, applicable only to the property involved or the intended use thereof, which do not apply generally to the other land areas or uses within the same zoning district, and such exceptional conditions or undue hardship was not created by the action or inaction of the applicant or owner of the property;

- (2) The variance shall not confer on the applicant any special privilege that is denied to other lands or structures in the same zoning district;
- (3) The literal interpretation of the provisions of the regulations would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district and would work unnecessary and undue hardship on the applicant;
- (4) The applicant and the owner of the property cannot derive a reasonable use of the property without the requested variance;
- (5) The variance is the minimum necessary to make possible the reasonable use of land or structures;
- (6) The granting of a variance shall not conflict with the purposes and intents expressed or implied in this code; and
- (7) The granting of a variance shall not conflict with the goals, policies and guiding principles of the City's Comprehensive Plan.

Although the applicant has addressed the above-mentioned criteria, Staff agrees that all criteria have not been met. Ultimately, it is the owner's responsibility to make sure work being done on their property is properly permitted. In this case, the enclosed addition was done without proper permits. Had the owner attempted to obtain a permit, they would have been informed that the addition would not be allowed.

4. Based on the details and information submitted by the applicant, the Planning Department does not recommend the variance to the Zoning Board of Appeals, given that all variance approval criteria have not been met.

CITY DEVELOPMENT ENGINEER – Rick Dorris

No response.

CITY FIRE DEPARTMENT – Kay Yeager

Not applicable. No concerns

CITY ATTORNEY – Shelly Dackonish

No comment revision from initial submittal

1. The variance criteria are not met so I do not advise recommending the variance to the Zoning Board of Appeals.

Non-City Review Agency Comments

Review Agency: Mesa County Building Department

Contact Name: Darrell Bay

1. MCBD has no objection to the setback reduction although a building permit will be required to bring this into compliance should this be granted.

2. Part of the permit process will require inspections after the permit is issued.
3. Some walls will need to be opened up to verify code compliance.
4. All of this will be determined at the time of the first inspection.