

Board of Adjustment

Agenda

APRIL 17, 2013

City Hall, Council Chambers

749 Main Street

6:30 PM

- I. Call to Order
- II. Roll Call
- III. Approval of Agenda
- IV. Welcome new members
- V. Public Comments on Items Not on the Agenda
- VI. Regular Business
 - 1850 Garfield Ave; (Jeff and Danielle Conroy) – approval of a variance from Section 17.16.120 B of the Louisville Municipal Code (LMC) to allow a 6 foot fence in the front yard where a 4 foot fence is the maximum allowed by code. Case No. 13-007-VA.
 - Applicant, Owner and Representative: Jeff and Danielle Conroy
 - Case Manager: Gavin McMillan, Planner III
 - ✓ Open Public Hearing
 - ✓ Opening Statement by Chair
 - ✓ Public Notice and Application Certification
 - ✓ Disclosures
 - ✓ Staff Presentation and Questions of staff
 - ✓ Applicant Presentation and Questions of applicant
 - ✓ Public Comment
 - ✓ Applicant discussion of public comment, if any
 - ✓ Closing statement by staff and applicant and Final questions by board
 - ✓ Close public hearing and Board discussion and action
 - 544 Grant Ave; (Jim Galvanek) – approval of a variance from Section 17.12.050 L of the Louisville Municipal Code to allow a 3 foot principal structure rear yard setback where a 25 foot setback is required. Case No. 13-013-VA.
 - Applicant, Owner: Jim Galvanek
 - Representative: Chip Connolly
 - Case Manager: Gavin McMillan, Planner III
 - ✓ Open Public Hearing
 - ✓ Opening Statement by Chair
 - ✓ Public Notice and Application Certification
 - ✓ Disclosures
 - ✓ Staff Presentation and Questions of staff
 - ✓ Applicant Presentation and Questions of applicant

City of Louisville

Department of Planning and Building Safety

749 Main Street Louisville CO 80027

303.335.4592 (phone) 303.335.4550 (fax) www.louisvilleco.gov

- ✓ Public Comment
- ✓ Applicant discussion of public comment, if any
- ✓ Closing statement by staff and applicant and Final questions by board
- ✓ Close public hearing and Board discussion and action

VII. Discussion Items

VIII. Business Items tentatively scheduled for May 15, 2013

- The May BOA hearing is set for Wednesday, May 15, 2013. The submittal deadline for an application to be heard at the May hearing is Friday, April 19, 2013. The board will be notified via email as to the status of a meeting on May 15th. If an application is received the meeting packets would be distributed on Friday, May 10, 2013.

IX. Staff Comments

- Open Government Training, Thursday, April 25, 2013 at 6:30 PM, Council Chambers.

X. Board Comments

XI. Discussion Items for Next Meeting, May 15, 2013.

XII. Adjourn

CITY OF LOUISVILLE
BOARD OF ADJUSTMENT
STAFF REPORT
April 17, 2013

APPLICANT: Jeff and Danielle Conroy

OWNER: Same

STAFF PLANNER: Gavin McMillan, AICP, Planner III

LOCATION: 1850 Garfield Ave., Louisville, CO 80027

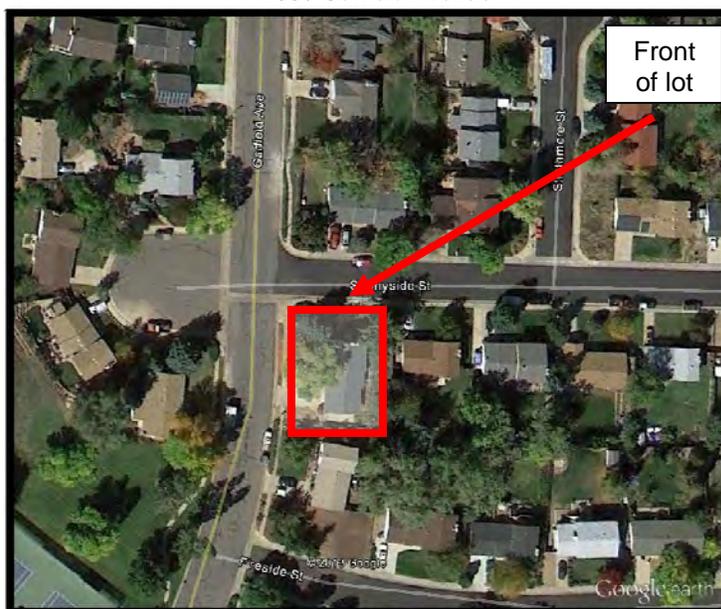
ZONING: Residential Low Density (R-L)

REQUEST: **Case #13-007-VA** – Approval of a variance from Section 17.16.120 B. of the Louisville Municipal Code (LMC) to allow a 6 foot fence in the front yard where a 4 foot fence is the maximum allowed by code.

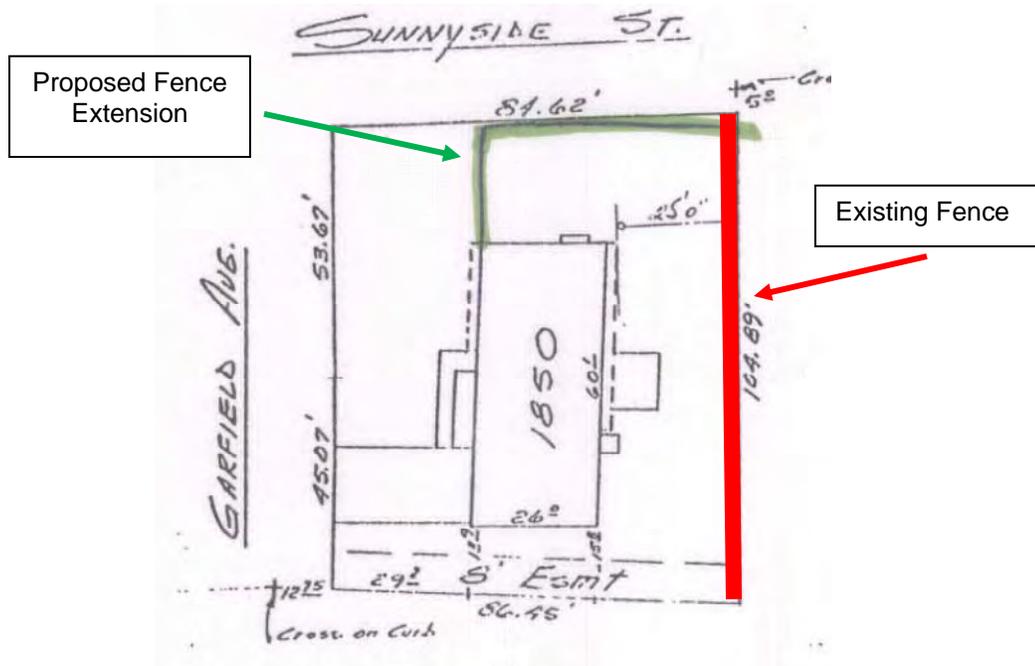
SUMMARY OF PROPOSAL:

The applicants, Jeff and Danielle Conroy, request a variance from Section 17.16.120 B of the Louisville Municipal Code (LMC) to construct a six foot fence in the front yard of their home located at 1850 Garfield Ave. The subject property is located on the southeast corner of the intersection of Sunnyside St. and Garfield Ave. Section 17.08.295 of the LMC states “*For a corner lot, the shortest street right-of-way line shall be considered as the front line.*” In the case of 1850 Garfield, the Sunnyside frontage (northern lot line) is the shortest street right-of-way and is therefore considered the front.

1850 Garfield Avenue



The proposed fence would be six feet tall and would be located in the front yard of the subject lot. The fence would extend west approximately 55 feet from an existing fence which runs along the length of the eastern boundary of the lot. It would then extend 25 feet to the south to connect to the northwest corner of the house, thereby enclosing the eastern yard of the property.



The property is located in the Residential Low Density (RL) zone district. The RL zone district requires a 25 foot front yard setback. Section 17.16.120 B of the LMC states “No fence, wall, or hedge exceeding four feet in height shall be located in any required front yard.” The proposed fence extension would be 6 feet tall, and would be located in the required front yard setback, and therefore requires a variance from the LMC.

A four foot tall fence could be permitted in the proposed fence location without need of a variance approval. The applicant has requested a six foot tall fence to provide an enclosed space play area outside for their special needs daughter. The applicant’s letter (included as attachment 1) indicates their daughter has successfully climbed over a four foot fence, which is why they are requesting a six foot fence.

REVIEW CRITERIA:

The BOA has authority to hear and decide, grant or deny this application for a variance from Section 17.16.120 B of the LMC by the powers granted the BOA in Section 17.48.110 of the LMC. The BOA may grant a variance only if it makes findings that all of the criteria, as established under Section 17.48.110.B.1-6, have been satisfied, insofar as applicable:

The applicant has provided a written analysis of the variance criteria, which has been included in the BOA packet materials. Following is a staff review and analysis of the variance criteria.

1. *That there are unique physical circumstances or conditions such as irregularity, narrowness or shallowness of lot, or exceptional topographical or other physical conditions peculiar to the affected property.*

The unique physical circumstance in this case is the orientation of the existing home on the lot. The front of the home does not face what the LMC considers to be the front of the lot. This condition is peculiar to the affected property. **Staff finds this criterion has been met.**

2. *That the unusual circumstances or conditions do not exist throughout the neighborhood or district in which the property is located.*

Staff did identify other similarly situated homes in the neighborhood, but the unusual condition of having a home which does not face what the LMC considers to be the front of the house, is not a condition that is shared by the majority of the neighborhood. **Staff finds this criterion has been met.**

3. *That because of such physical circumstances or conditions, the property cannot reasonably be developed in conformity with the provisions of Title 17 of the Louisville Municipal Code.*

Although the Municipal Code technically considers the northern property line to be the front of the property, in actuality it is the side yard of the home. If the LMC did not institute the unique condition, the northern property line would be considered the side of the property, and a six foot fence would be permitted in the proposed location. Fencing in the backyard of a single family home is a reasonable development request, which the provisions of the LMC prohibit. **Staff finds this criterion has been met.**

4. *That such unnecessary hardship has not been created by the applicant.*

The house was built in its present location in 1975. The applicant did not build the home and orient it as it sits today. **Staff finds this criterion has been met.**

5. *That the variance, if granted, will not alter the essential character of the neighborhood or district in which the property is located, nor substantially or permanently impair the appropriate use or development of adjacent property.*

Many of the homes in the neighborhood have fences in their side yards. Locating a fence in what is functionally the side yard of the existing home, will not alter the essential character of the neighborhood. The house to the north of the subject property, across Sunnyside St., has a six foot fence in what the LMC considers to be the front yard. **Staff finds this criterion has been met.**

6. *That the variance, if granted, is the minimum variance that will afford relief and is the least modification possible of the provisions of Title 17 of the Louisville Municipal Code that is in question.*

The requested variance would allow the functional side yard of the property to be fenced in with a six foot tall fence. The fence would extend no further than what is the functional front of the home. This minimal variance from the zoning code will afford the applicant the

relief they need to enclose what is their functional side and rear yard. **Staff finds this criterion has been met.**

PUBLIC COMMENTS:

Public notice was mailed to all property owners within 500 feet of the subject property. At the time of this report's creation, staff had received two email's supporting the variance request, and one e-mail opposing the request (see attachment 3). If additional comments are received prior to the hearing, they will be presented at the hearing.

STAFF COMMENTS AND BOARD ACTION:

Staff finds all applicable variance criteria in Section 17.48.110 of the LMC have been met and therefore recommends approval of the variance request.

The Board may approve (with or without condition or modification), deny, or continue the application to a future meeting for additional consideration. The Board may also request additional information if they feel it is needed for their proper consideration of the variance application. The Board will need to make a determination based on the application as it has been submitted. If the Board desires the applicant to make changes to the application that would affect the extent of the variance requested, staff recommends the Board continue the hearing to a later date.

The Board needs to find all six variance criteria, insofar as applicable, have been met in order to grant approval of a variance. If the Board wishes to deny the variance request, staff recommends passing a motion denying the variance indicating which criteria for approval have not been met. If the Board determines that the variance meets all of the applicable criteria for approval, staff recommends passing a motion approving the variance request.

ATTACHMENT

1. Applicant Information
2. Site Plan
3. Public Comment

PUBLIC NOTICE
CITY OF LOUISVILLE
BOARD OF ADJUSTMENT

NOTICE IS HEREBY GIVEN A PUBLIC HEARING WILL BE HELD BEFORE THE LOUISVILLE BOARD OF ADJUSTMENT TO CONSIDER A VARIANCE REQUEST TO ALLOW FOR THE CONSTRUCTION OF A 6 FOOT HIGH FENCE IN A FRONT YARD (AS DEFINED IN LOUISVILLE MUNICIPAL CODE 17.08.295 LOT LINE, FRONT) WHERE A 4 FOOT HIGH FENCE IS PERMITTED

APPLICATION NAME: 1850 GARFIELD AVE (JEFF & DANIELLE CONROY)

LOCATION: 1850 GARFIELD AVE; LOT 37 LOUISVILLE NORTH

CASE NUMBER: 13-007-VA

DATE: WEDNESDAY, MARCH 20, 2013

TIME: 6:30 PM

PLACE: CITY COUNCIL CHAMBERS, 2ND FLOOR
LOUISVILLE CITY HALL
749 MAIN STREET
LOUISVILLE, COLORADO

PERSONS IN ANY MANNER INTERESTED IN THE ABOVE DESCRIBED APPLICATION ARE ENCOURAGED TO ATTEND THE PUBLIC HEARING AND/OR PROVIDE COMMENTS BY WAY OF THE FOLLOWING:

MAIL: LOUISVILLE PLANNING DIVISION
749 MAIN STREET
LOUISVILLE, CO 80027

E-MAIL: PLANNING@LOUISVILLECO.GOV

PUBLISHED IN THE DAILY CAMERA SUNDAY, MARCH 10, 2013

(POSTED IN CITY HALL, PUBLIC LIBRARY, RECREATION CENTER AND THE COURTS AND POLICE BUILDING AND MAILED TO SURROUNDING PROPERTY OWNERS ON FRIDAY, MARCH 8, 2013 AND THE PROPERTY WAS POSTED ON FRIDAY, MARCH 8, 2013)

IF YOU ARE INTERESTED IN ATTENDING THIS HEARING, PLEASE CALL 303.335.4592 PRIOR TO THE HEARING TO CONFIRM THIS APPLICATION WILL BE HEARD AS SCHEDULED OR IF IT HAS BEEN POSTPONED OR CANCELLED.

WWW.LOUISVILLECO.GOV

PUBLIC NOTICE
CITY OF LOUISVILLE
BOARD OF ADJUSTMENT

RESCHEDULED

NOTICE IS HEREBY GIVEN A PUBLIC HEARING WILL BE HELD BEFORE THE LOUISVILLE BOARD OF ADJUSTMENT TO CONSIDER A VARIANCE REQUEST TO ALLOW FOR THE CONSTRUCTION OF A 6 FOOT HIGH FENCE IN A FRONT YARD (AS DEFINED IN LOUISVILLE MUNICIPAL CODE 17.08.295 LOT LINE, FRONT) WHERE A 4 FOOT HIGH FENCE IS PERMITTED

APPLICATION NAME: 1850 GARFIELD AVE (JEFF & DANIELLE CONROY)

LOCATION: 1850 GARFIELD AVE; LOT 37 LOUISVILLE NORTH

CASE NUMBER: 13-007-VA

DATE: RESCHEDULED WEDNESDAY, APRIL 17, 2013

TIME: 6:30 PM

PLACE: CITY COUNCIL CHAMBERS, 2ND FLOOR
LOUISVILLE CITY HALL
749 MAIN STREET
LOUISVILLE, COLORADO

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(RESCHEDULE MEETING NOTICE POSTED IN CITY HALL, PUBLIC LIBRARY, RECREATION CENTER AND THE COURTS AND POLICE BUILDING ON WEDNESDAY, MARCH 13, 2013.)

IF YOU ARE INTERESTED IN ATTENDING THIS HEARING, PLEASE CALL 303.335.4592 PRIOR TO THE HEARING TO CONFIRM THIS APPLICATION WILL BE HEARD AS SCHEDULED OR IF IT HAS BEEN POSTPONED OR CANCELLED.

WWW.LOUISVILLECO.GOV

LAND USE APPLICATION

CASE NO. 13-007-VA

APPLICANT INFORMATION

Firm: _____

Contact: Jeff + Danielle Conroy

Address: 1850 Garfield Ave
Louisville CO 80027

Mailing Address: Same as above

Telephone: 303-665-2788

Fax: _____

Email: theconroys@comcast.net

OWNER INFORMATION

Firm: _____

Contact: Jeff + Danielle Conroy

Address: 1850 Garfield Ave
Louisville CO 80027

Mailing Address: _____

Telephone: 303 665 - 2788

Fax: _____

Email: theconroys@comcast.net

REPRESENTATIVE INFORMATION

Firm: NA

Contact: _____

Address: _____

Mailing Address: _____

Telephone: _____

Fax: _____

Email: _____

PROPERTY INFORMATION

Common Address: 1850 Garfield Ave

Legal Description: Lot 37 Blk —

Subdivision Louisville North

Area: 8456 Sq. Ft.

TYPE (S) OF APPLICATION

- Annexation
- Zoning
- Preliminary Subdivision Plat
- Final Subdivision Plat
- Minor Subdivision Plat
- Preliminary Planned Unit Development (PUD)
- Final PUD
- Amended PUD
- Administrative PUD Amendment
- Special Review Use (SRU)
- SRU Amendment
- SRU Administrative Review
- Temporary Use Permit: _____
- CMRS Facility: _____
- Other: (easement / right-of-way; floodplain; Variance vested right; 1041 permit; oil / gas production permit)

PROJECT INFORMATION

Summary: We are applying for a variance in order to install a six foot fence around the side yard of our property.

Current zoning: _____ Proposed zoning: _____

SIGNATURES & DATE

Applicant: [Signature]

Print: Danielle Conroy

Owner: [Signature]

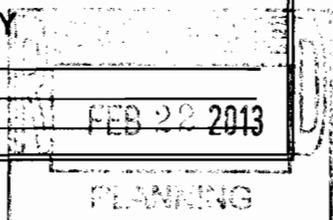
Print: Danielle Conroy

Representative: NA

Print: _____

CITY STAFF USE ONLY

- Fee paid: _____
- Check number: _____
- Date Received: _____



To Whom it May Concern:

We have been asked to provide some background information for the reasoning for our variance request and explain why this fence is so important to our family. The variance is for permission to raise the height of our back and side fence to 6 feet. The variance is needed because we are on a corner lot and the side of our property is listed as the front of the property in the city plans. The fence would be replacing an existing 4 foot fence as well as incorporating an additional portion of the side yard. No portion of the fence would extend past the actual front of the house facing Garfield Avenue.

The primary reason we would like to raise the height of this fence to 6 feet is because we have a 9 year old daughter who has multiple significant special needs. In the past she has successfully climbed over the 4 foot fence. At another time, she has also run off from our house and attempted to enter our neighbor's houses. She was successful in entering at least one house with an unlocked door and surprised a homeowner prior to us locating her. She left without responding to questions and offers of help from the homeowner. With the help of neighbors, we located her shortly thereafter before she had attempted to cross any major roads. We have been in contact with both the Louisville Police Department as well as the Louisville Fire Department to create safety and action plans for our daughter.

Our daughter Megan is a 9 year old blue eyed brown haired girl, who suffers from multiple disabilities including Epilepsy, Autism, and global developmental delays in all areas of development. She has been diagnosed with atrophy in her cerebellum (part of her brain is shrinking) and has been undergoing tests and hospitalizations for five years to try to control her seizures and prevent further cognitive regression. She is currently being treated by the Director of the Epilepsy Program, and the head of the Special Care Clinic at The Children's Hospital. She is being studied by the head of the Neurometabolic clinic at The Children's Hospital to try to determine a root cause, if there is one, for her multiple conditions.

Megan has regressed to the point where her impulse control and her language skills have been greatly impacted. Her most recent neuropsychology testing results showed her expressive language to be equivalent to that of a 15 month old. She has regressed to the point of wearing diapers just two months shy of her 10th birthday.

Megan's communication attempts are very repetitive and consist primarily of what currently holds immediate interest in the moment and it is difficult to engage her in a conversation or answer questions about herself. She is not able to tell people who she is, where she lives, or who her parents are.

Megan has no concept of personal safety or impulse control and has to have her hand held at all times while outside of safe, fenced areas to prevent her darting into the street or acting on inappropriate impulses. Her behavior is variable and she can go from a complete rage one moment to giving hugs and kisses the next without a clear reason. She frequently lashes out with aggression to include hair pulling, kicking, biting, hitting and screaming, we believe in part due to side-effects of one or more of her 5 current anti-epileptic drugs. Going to parks and other public places is difficult for us and Megan, as she has a hard time with transitions, as well as loud noises and large groups of people. We constantly have to monitor her behavior and surroundings to keep her and everyone else around her safe. Inside our home we have had to install keyed deadbolts on all exterior doors and keep keys out of her reach, as she can now physically unlock doors and access the outside, yet she cannot cognitively maintain her personal safety. The interior of our house is child-proofed as much as possible considering she has the strength of a 10 year not a toddler. Interior doors are locked to prevent her from being destructive in ways such as smearing bathroom products over the house or eating them, eating non-food items, or destroying sibling's possessions. Recently, Megan had a behavioral outburst so extreme that her school staff had to discuss whether a call to 911 was appropriate.

Megan is currently on 5 anti-seizure medications, and has had surgery to implant a Vagus nerve stimulator. She has no warning prior to a seizure and drops to the ground wherever she happens to be. She has had well over 100 seizures in a 24 hour time period and the normal seizure pattern for her for the past year has been an average of 15 seizures a week. She has been frequently admitted to the Emergency Room at The Children's Hospital for uncontrollable seizures.

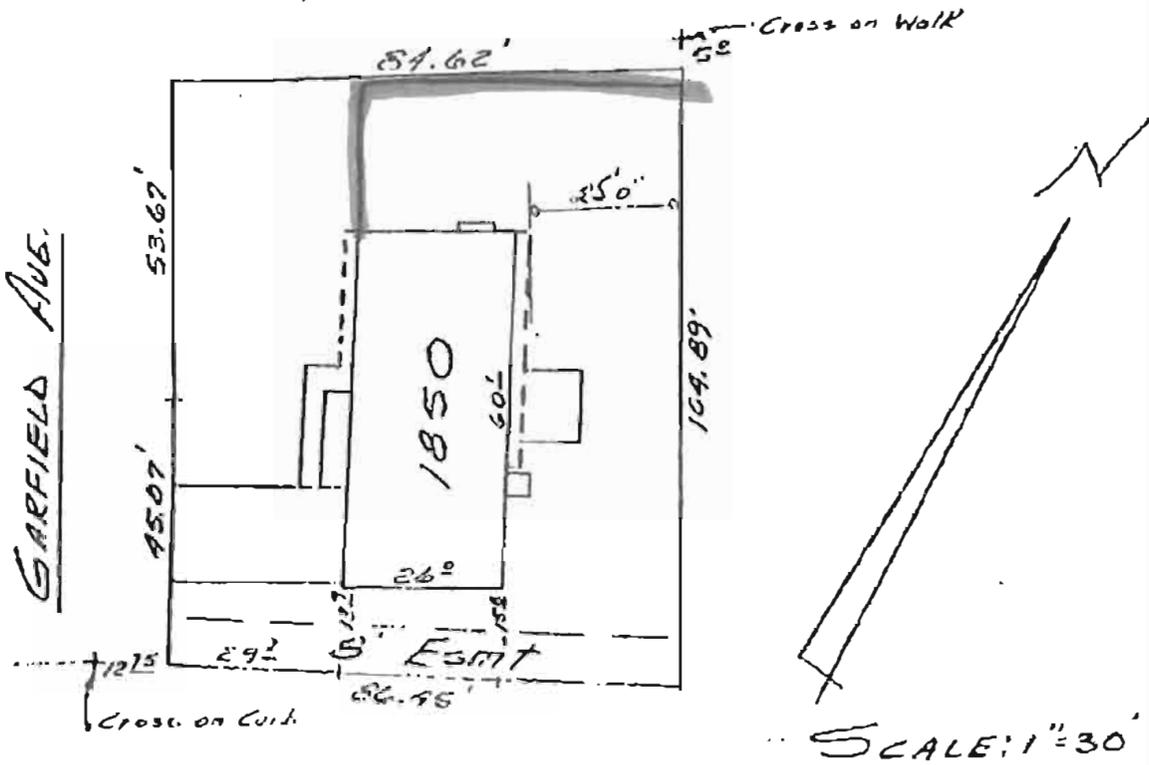
In conclusion, we would like a variance to raise the height of the fence enclosing our back and side yard at the existing fence line to six feet. We would also like to incorporate more of the side yard into the fenced area maintaining the line where the original 4 foot fence was along the sidewalk. These changes would allow us to take advantage of a level, grassy, and shaded area that is safe for Megan. This will allow her to play independently, play with siblings or mom and dad, or work outside with her therapists without needing hand holding, or just explore a little part of the world on her own.

Formal Criteria Responses

1. The unique circumstance that applies to our property is that according to city records the side of our property that faces Sunnyside Street is designated as the front of our property and thereby the fence height on that side of the property is limited to four feet in height. However, the actual front of the house is oriented to Garfield Avenue.
2. The unusual circumstance of a discrepancy between the recorded orientation of a house on a corner lot and the actual physical orientation on the lot is not prevalent throughout our surrounding neighborhood. Please see attached photographs of corner properties within our neighborhood that have a six foot fence enclosing their side yards.
3. Due to the fact that our side yard, along Sunnyside Street, is designated as the front of our house we are unable to build a six foot fence to enclose our backyard.
4. No unnecessary hardships would be created should our variance request be approved.
5. Should our variance request be granted it would not alter in any way the essential character of our neighborhood. There are numerous properties as shown in the attached photographs which have existing six foot fences enclosing side yards. The increase in height to six feet for the fence enclosing the side yard would not substantially or permanently impair the appropriate use or development of adjacent property since the fence would face Sunnyside Street and not an adjacent property.
6. The variance to allow an increase in height from four feet to six feet for the fence facing Sunnyside Street is the minimum variance that will afford the relief that will provide us the ability to enclose our back and side yards with an appropriate fence in the same manner as other corner lots within our neighborhood.

Certificate of Survey

SUNNYSIDE ST.

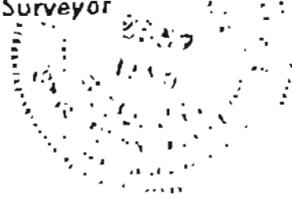


Date: 5-21-75 Legal: Lot 97 Blk -- Sub Louisville North-First Filing
 Address: 1850 Garfield Ave City Louisville County Boulder

SURVEYOR'S CERTIFICATE

I hereby certify that a building location survey was made under my supervision on this date of the above described lot and that the improvements, easements and rights of way in evidence or known to me are correctly shown thereon. This plot has been prepared from prior survey data and is intended for mortgage use only. Fences shall be erected from the alignment of the actual property corners, taking care not to disturb them. Said fences shall be set a minimum of 4 inches inside property line.

Gerald P. Harkin
 Registered Land Surveyor



Recertification

AMERICAN BUILDERS - a division of Pulte Home Corporation

From: Planning
Sent: Monday, March 11, 2013 5:03 PM
To: Gavin McMillan
Subject: FW: case 13-007-va

Jolene Schwertfeger
Senior Administrative Assistant
Department of Planning and Building Safety

Phone: 303.335.4592
Fax: 303.335.4550
Email: jolenes@louisvilleco.gov
Website: www.louisvilleco.gov

Office Hours:
Monday - Thursday: 7:30 am - 5:30 pm
Friday: 7:30 am - 12:30 pm

From: Fred Walls [<mailto:fredwalls@aol.com>]
Sent: Monday, March 11, 2013 3:28 PM
To: Planning
Subject: case 13-007-va

Hi,

We own a house at 477 Sunnyside St., Louisville, CO 80027. We are opposed to the proposed variance to build a 6' high fence in the front yard at 1850 Garfield Ave. A fences this high would change the character of the neighborhood and greatly discourage the friendly exchange between neighbors. We feel that it is very important to encourage the sense of community and a fence like this will do exactly the opposite. Such a fence in the back yard is acceptable, however, as it provides privacy and helps to keep dogs from getting out.

Sincerely,

Fred L Walls for the Fred L Walls Trust
03/11/2013

From: Planning
Sent: Monday, March 18, 2013 4:27 PM
To: Gavin McMillan
Subject: FW: Jeff and Danielle Conroy.

Jolene Schwertfeger
Senior Administrative Assistant
Department of Planning and Building Safety

Phone: 303.335.4592
Fax: 303.335.4550
Email: jolenes@louisvilleco.gov
Website: www.louisvilleco.gov

Office Hours:
Monday - Thursday: 7:30 am - 5:30 pm
Friday: 7:30 am - 12:30 pm

From: Laurie Rhodes [<mailto:laurieannerhodes@yahoo.com>]
Sent: Monday, March 18, 2013 4:23 PM
To: Planning
Subject: Jeff and Danielle Conroy.

This is in regards to the Conroy family building a 6ft. Fence. Yes they should be able to build the fence ! It is actually the side of the house not the front as it is made to sound on the letter. I live around the corner on fireside st. Please let me know if I can be of any more help in this matter. Laurie Rhodes 493 fireside st. # 720-519-0411. Thank you

Sent from Yahoo! Mail on Android

From: Planning
Sent: Monday, March 18, 2013 8:37 AM
To: Gavin McMillan
Subject: FW: Variance Request, 1850 Garfield Ave

Jolene Schwertfeger
Senior Administrative Assistant
Department of Planning and Building Safety

Phone: 303.335.4592
Fax: 303.335.4550
Email: jolenes@louisvilleco.gov
Website: www.louisvilleco.gov

Office Hours:
Monday - Thursday: 7:30 am - 5:30 pm
Friday: 7:30 am - 12:30 pm

From: Stephen B DeVogel [<mailto:Stephen.Devogel@Colorado.EDU>]
Sent: Saturday, March 16, 2013 1:23 PM
To: Planning
Subject: Variance Request, 1850 Garfield Ave

Dear Madams/Sirs,

I am writing this letter in regard to the Public Notice pertaining to the replacement of a 4' fence with a 6' fence at 1850 Garfield Ave, owned by Jeff and Danielle Conroy. The fence in question sits on their rear property line and partially on my front property line. As the fence does not obstruct my ability to back out of the driveway, and provides greater privacy between the properties, I am in favor of the 6' fence. A variance should be granted.

Please contact me if any additional information is required.

Sincerely,
Steve

Stephen DeVogel
432 Sunnyside St.

Louisville, CO 80027

303-641-2949

devogel@colorado.edu

CITY OF LOUISVILLE
BOARD OF ADJUSTMENT
STAFF REPORT
April 17, 2013

APPLICANT: Jim Galvanek

OWNER: Same

STAFF PLANNER: Gavin McMillan, AICP, Planner III

LOCATION: 544 Grant Ave., Louisville, CO 80027

ZONING: Residential Low Density (R-L) under the Old Town Overlay District

REQUEST: **Case #13-013-VA** – Approval of a variance from Section 17.12.050 L of the Louisville Municipal Code (LMC) to allow a 3 foot principal structure rear yard setback where a 25 foot setback is required.

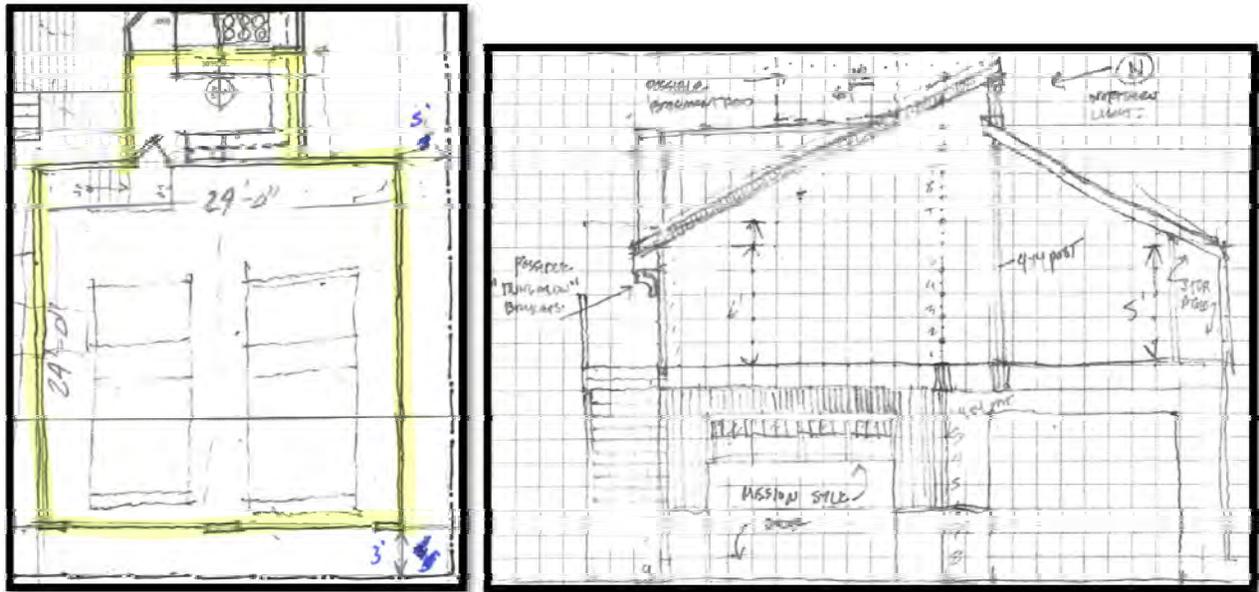
SUMMARY OF PROPOSAL:

The applicant, Jim Galvanek, requests a variance from Section 17.12.050 L of the Louisville Municipal Code (LMC) to allow a 3 foot principal structure rear yard setback at the home located at 544 Grant Avenue. The subject property is located in the Old Town Overlay Zoning District and according to the Boulder County Assessor currently contains a 953 square foot one story home with a 795 square foot finished basement. The existing home is setback 53 feet from the front (western) property line.

544 Grant Ave.



The applicant plans to construct an attached two story garage, with living space on the second floor, on the rear (eastern) side of the existing house. This attached garage, as illustrated on the applicant’s plans is proposed to be 24 feet by 24 feet and located 3 feet from the rear property line. The applicant has also indicated the structure will be up to 27 feet tall.



The existing single family home is considered the “principal use” on the property. The proposed garage and additional living space is shown to be attached to the existing single family home, and is therefore considered part of the principal use. Section 17.12.050 L of the Old Town Overlay District Regulations requires a 25 foot setback from the rear property line for principal uses. The Old Town Overlay District Regulations also permit principal uses to be up to 27 feet tall.

The Old Town Overlay District regulations establish different setbacks and height limitations for what are termed “accessory uses”. Detached garages, sheds, or other outbuildings, that are separated from any other structure by a minimum of five feet, are considered “accessory uses”. Accessory uses can be located up to the rear property line.

Structure Type	Rear Setback	Height
Principal Use	25'	27'
Accessory Use	0'	20'

The Old Town Overlay District regulations also prohibit properties which adjoin a developed alley from accessing a garage from their fronting street. The applicant’s property is adjoined by a developed alley and therefore, the only place the code would permit access to a garage on this property, is from the rear alley. This requirement leaves a distance of approximately 31 feet from the rear of the existing house to the rear property line within which a garage could be constructed.

REVIEW CRITERIA:

The BOA has authority to hear and decide, grant or deny this application for a variance from Section 17.12.050 L of the LMC by the powers granted the BOA in Section 17.48.110 of the LMC. The BOA may grant a variance only if it makes findings that all of the criteria, as established under Section 17.48.110.B.1-6, have been satisfied, insofar as applicable:

The applicant has provided a written analysis of the variance criteria, which has been included in the BOA packet materials. Following is a staff review and analysis of the variance criteria.

1. *That there are unique physical circumstances or conditions such as irregularity, narrowness or shallowness of lot, or exceptional topographical or other physical conditions peculiar to the affected property.*

The unique physical circumstance in this case is that the existing home on the lot was originally constructed 53 feet from the front property line. The minimum front setback for the property is 20 feet. The home is setback an additional 33 feet from the minimum setback. The location of the existing home is a unique physical circumstance that is peculiar to the affected property. **Staff finds this criterion has been met.**

2. *That the unusual circumstances or conditions do not exist throughout the neighborhood or district in which the property is located.*

The aerial photograph to the right illustrates all of the lots on this block of Grant Avenue are of similar size. Although there are varying front setbacks on this street, the home on the subject property is setback further from the front property line than any other home on this section of Grant Avenue. The unusually long front setback is a condition that does not exist throughout the neighborhood in which the property is located. **Staff finds this criterion has been met.**



3. *That because of such physical circumstances or conditions, the property cannot reasonably be developed in conformity with the provisions of Title 17 of the Louisville Municipal Code.*

The identified unique front building setback does not prohibit the property from being reasonably developed in conformity with the provisions of the Municipal Code. Staff finds that reasonable development of a residential property should include the ability to construct a garage; however, a detached garage could be constructed in the back yard which meets the accessory structure setback requirements of the Old Town Overlay District regulations. There is 31 feet between the existing house and the rear property line.

The proposed 24 foot by 24 foot garage could fit in this location in conformity with the requirements of the LMC. The proposed second story living space would likely not fit under the 20 foot accessory structure height limit; however, there is 33 feet between the front of the existing house to the front setback line that is also available for an addition to the existing house. Staff finds there is room for additional development on the site in conformance with the Municipal Code which will allow the home to be reasonably developed. **Staff finds this criterion has not been met.**

4. *That such unnecessary hardship has not been created by the applicant.*

The house was built in its present location in 1974. The location of the home and the large front setback does not prevent a detached garage from being constructed consistent with the LMC. However, the large front setback of the home does prevent the homeowner from constructing an attached garage consistent with the LMC. The applicant did not create the hardship of an excessive front setback for the construction of an attached garage. **Staff finds this criterion has been met.**

5. *That the variance, if granted, will not alter the essential character of the neighborhood or district in which the property is located, nor substantially or permanently impair the appropriate use or development of adjacent property.*

The variance, if approved would permit the construction of a 27 foot tall structure within 3 feet of the rear property line. A structure of this height on the rear property line would be out of character with the surrounding neighborhood. **Staff finds this criterion has not been met.**

6. *That the variance, if granted, is the minimum variance that will afford relief and is the least modification possible of the provisions of Title 17 of the Louisville Municipal Code that is in question.*

The requested variance is not the minimum amount of variance that will afford the applicant relief in the form of a functional garage. As stated earlier in this report, staff finds that the addition of a garage could be accommodated within the requirements of the Louisville Municipal Code. The proposed 27 foot tall garage with additional living area on the second floor encroaches 22 feet into the required 25 foot rear setback. Staff finds that the proposed variance is not the minimum variance that will afford the applicant relief. **Staff finds this criterion has not been met.**

PUBLIC COMMENTS:

Public notice was mailed to all property owners within 500 feet of the subject property. At the time of this report's creation, staff had not received any comments regarding the application. If additional comments are received prior to the hearing, that information will be presented at the hearing.

STAFF COMMENTS AND BOARD ACTION:

Staff finds variance criteria 3, 5, and 6 in Section 17.48.110 of the LMC have not been met and therefore recommends denial of the variance request.

The Board may approve (with or without condition or modification), deny, or continue the application to a future meeting for additional consideration. The Board may also request additional information if they feel it is needed for their proper consideration of the variance application. The Board will need to make a determination based on the application as it has been submitted. If the Board desires the applicant to make changes to the application that would affect the extent of the variance requested, staff recommends the Board continue the hearing to a later date.

The Board needs to find all six variance criteria, insofar as applicable, have been met in order to grant approval of a variance. If the Board wishes to deny the variance request, staff recommends passing a motion denying the variance indicating which criteria for approval have not been met. If the Board determines that the variance meets all of the applicable criteria for approval, staff recommends passing a motion approving the variance request.

ATTACHMENT

1. Applicant Information

PUBLIC NOTICE
CITY OF LOUISVILLE
BOARD OF ADJUSTMENT

NOTICE IS HEREBY GIVEN A PUBLIC HEARING WILL BE HELD BEFORE THE LOUISVILLE BOARD OF ADJUSTMENT TO CONSIDER A VARIANCE REQUEST TO ALLOW FOR A 22' REAR SETBACK VARIANCE WHERE A 25' REAR YARD SETBACK IS REQUIRED. IF APPROVED, THE VARIANCE WILL ALLOW FOR THE CONSTRUCTION OF AN ATTACHED GARAGE TO AN EXISTING HOME

APPLICATION NAME: 544 GRANT AVE (JAMES & MICHELLE GALVANEK)

LOCATION: 544 GRANT AVE.; LOTS 29 & 30, BLOCK 3, ACME PLACE

CASE NUMBER: 13-013-VA

DATE: WEDNESDAY, APRIL 17, 2013

TIME: 6:30 PM

PLACE: CITY COUNCIL CHAMBERS, 2ND FLOOR
LOUISVILLE CITY HALL
749 MAIN STREET
LOUISVILLE, COLORADO

PERSONS IN ANY MANNER INTERESTED IN THE ABOVE DESCRIBED APPLICATION ARE ENCOURAGED TO ATTEND THE PUBLIC HEARING AND/OR PROVIDE COMMENTS BY WAY OF THE FOLLOWING:

MAIL: LOUISVILLE PLANNING DIVISION
749 MAIN STREET
LOUISVILLE, CO 80027

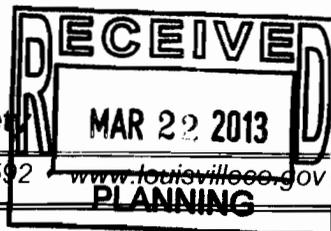
E-MAIL: PLANNING@LOUISVILLECO.GOV

PUBLISHED IN THE DAILY CAMERA SUNDAY, APRIL 7, 2013

(POSTED IN CITY HALL, PUBLIC LIBRARY, RECREATION CENTER AND THE COURTS AND POLICE BUILDING AND MAILED TO SURROUNDING PROPERTY OWNERS ON FRIDAY, APRIL 5, 2013 AND THE PROPERTY WAS POSTED ON MONDAY, APRIL 8, 2013)

IF YOU ARE INTERESTED IN ATTENDING THIS HEARING, PLEASE CALL 303.335.4592 PRIOR TO THE MEETING TO CONFIRM THIS APPLICATION WILL BE HEARD AS SCHEDULED OR IF IT HAS BEEN POSTPONED OR CANCELLED.

WWW.LOUISVILLECO.GOV



LAND USE APPLICATION

CASE NO. 13-0013-VA

APPLICANT INFORMATION

Firm: _____

Contact: JIM GALVANEK

Address: 599 GRANT AVE
LOUISVILLE, COLO

Mailing Address: (SAME)

Telephone: (202) 531-0809

Fax: _____

Email: _____

OWNER INFORMATION

Firm: _____

Contact: JIM GALVANEK

Address: 599 GRANT AVE
LOUISVILLE, COLO 80027

Mailing Address: (SAME)

Telephone: (720) 505-0284

Fax: (202) 531-0809

Email: EDLOW3 @ AOL.COM

REPRESENTATIVE INFORMATION

Firm: _____

Contact: CHIP CONNOLLY

Address: _____

Mailing Address: _____

Telephone: (720) 505-0284

Fax: _____

Email: EDLOW3 @ AOL.COM

PROPERTY INFORMATION

Common Address: 599 GRANT AVE

Legal Description: Lot 27 & 30 Blk 3

Subdivision ALMB PLACE

Area: 6250 Sq. Ft.

TYPE (S) OF APPLICATION

- Annexation
- Zoning
- Preliminary Subdivision Plat
- Final Subdivision Plat
- Minor Subdivision Plat
- Preliminary Planned Unit Development (PUD)
- Final PUD
- Amended PUD
- Administrative PUD Amendment
- Special Review Use (SRU)
- SRU Amendment
- SRU Administrative Review
- Temporary Use Permit: _____
- CMRS Facility: _____
- Other: (easement / right-of-way; floodplain; variance; vested right; 1041 permit; oil / gas production permit)

PROJECT INFORMATION

Summary: TO BUILD AN ATTACHED GARAGE WITH LIVING SPACE ABOVE, TO THE EXISTING STRUCTURE.

Current zoning: _____ Proposed zoning: _____

SIGNATURES & DATE

Applicant: JIM GALVANEK

Print: _____

Owner: JIM GALVANEK

Print: _____

Representative: CHIP CONNOLLY

Print: _____

CITY STAFF USE ONLY

- Fee paid: _____
- Check number: _____
- Date Received: _____

3/20/2013

Planning Dept.

Re: 544 Grant Ave (Variance for Garage)

I am applying for a variance so that I can construct a garage off the back ally. The original house was placed to the back half of the lot.

Answer to criteria questions:

- 1) The lot is typical of the old town (50x125) flat with a slight grade front to back. The physical affect is the placement of the existing house.**
- 2) The majority of the houses in the old town, where placed closer to the front of the property instead of the back or ally side.**
- 3) The property has room to build a garage in the front, or street side but the existing old town overlay does not allow garages to be accessed form the street.**
- 4) The problem was created by the placement of the original house.**
- 5) The garage will not impair the use or development of adjacent property.**
- 6) Granting the variance will allow the garage to be built with the required ally access which is keeping with spirit of the old town overlay plan.**

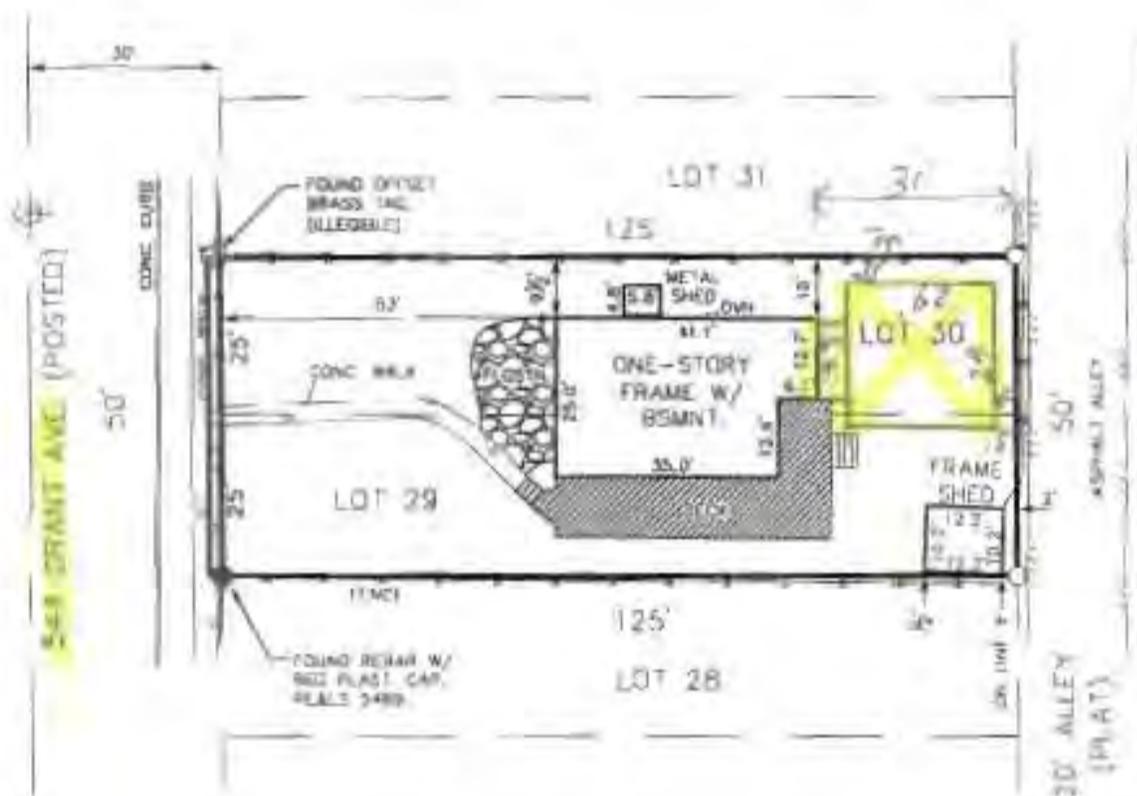
A handwritten signature in black ink, appearing to be 'D. M. Smith', with a long horizontal line extending to the right.

LEGAL DESCRIPTION
(provided by CLIENT)

LOTS 29 AND 30, BLOCK 3,
ACME PLACE,
COUNTY OF BOULDER,
STATE OF COLORADO



Flatirons, Inc.
Surveying, Engineering & Geomatics
3825 WES AVE, SUITE 300
BOULDER, CO 80301
PH: (303) 443-7001
FAX: (303) 443-9830
www.FlatironsInc.com



Notes

- 1-THIS CERTIFICATE DOES NOT CONSTITUTE A TITLE SEARCH BY FLATIRONS, INC TO DETERMINE OWNERSHIP, RIGHTS OF WAY, EASEMENTS OR ENCUMBRANCES NOT SHOWN BY THE PLAT THAT MAY AFFECT THIS TRACT OF LAND. THERE MAY BE EASEMENTS OR RIGHTS OF WAY OF THE PUBLIC RECORD THAT MAY AFFECT THIS TRACT OF LAND THAT ARE NOT SHOWN ON THIS CERTIFICATE.
- 2-AN IMPROVEMENT SURVEY PLAT IS RECOMMENDED TO DEPICT MORE PRECISELY THE LOCATION OF THE IMPROVEMENTS SHOWN HEREON.
- 3-THE FENCES ARE NOT COINCIDENT WITH THE LOT LINES AS SHOWN HEREON.

Handwritten signature and date: JTB 3/15/13
JTB
3/15/13

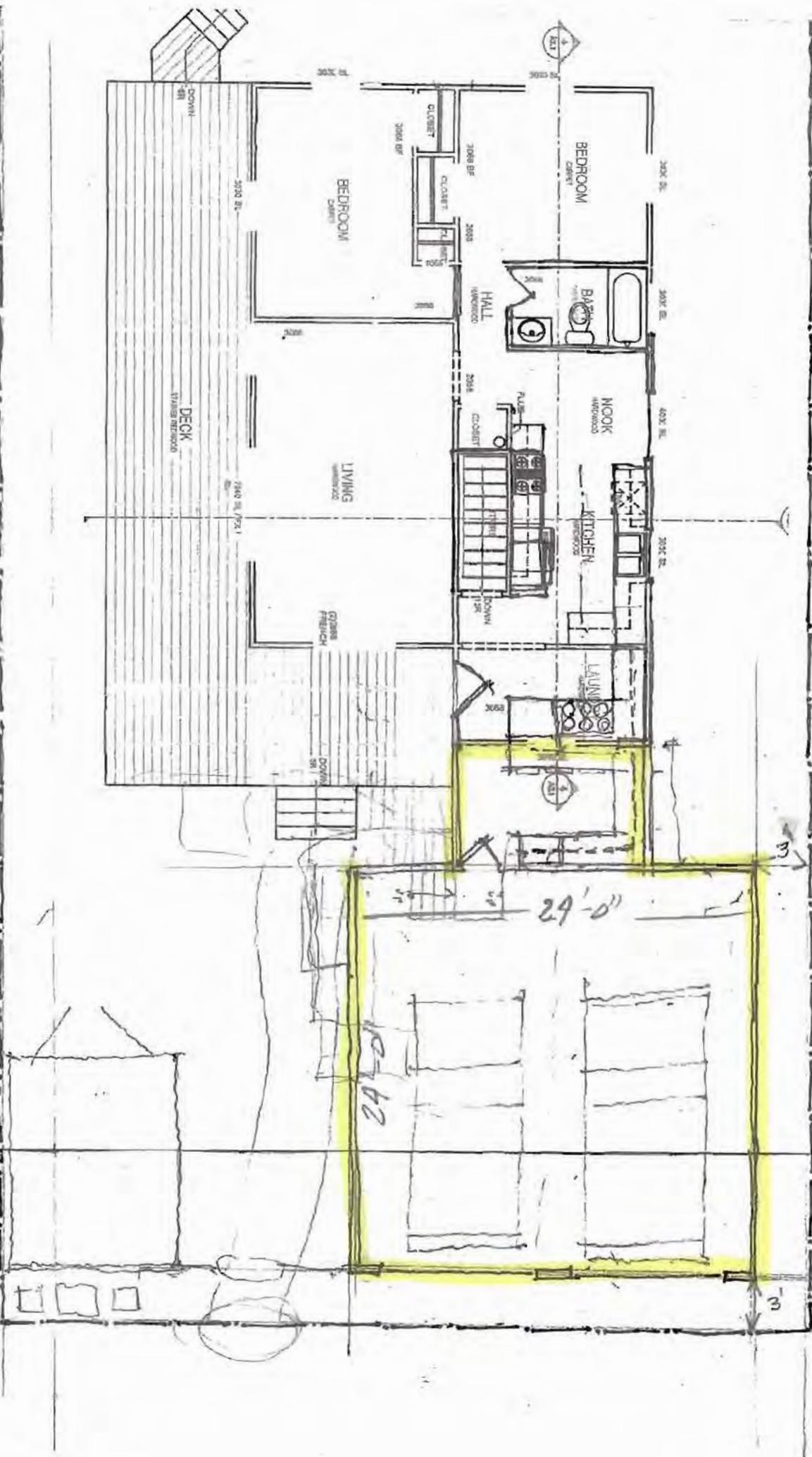


IMPROVEMENT LOCATION CERTIFICATE

I hereby certify that this improvement location certificate was prepared for EASY TREE CONSTRUCTION, that it is not a Land Survey Plat or improvement Survey Plat, and that it is not to be relied upon for the establishment of fence, building or other future improvement lines. I further certify that the improvements on the above described parcel on this date, MARCH 14, 2013, except utility connections, are entirely within the boundaries of the parcel, except as shown, that there are no encroachments upon the described premises by improvements on any adjoining premises, except as indicated and that there is no document evidence in file of any instrument creating or transferring any part of said parcel, except as noted.

NOTICE: This improvement location certificate is prepared for the sole purpose of use by the parties whose names are on the face of this improvement location certificate by any person or entity other than the person or entity certified in without the express permission of Flatirons, Inc. It is not a Land Survey Plat as defined by C.R.S. 38-51-102(12) or an improvement Survey Plat as defined by C.R.S. 38-51-102(9). It does not establish property corners. A more precise relationship of the improvements to the boundary lines can be determined by a Land Survey or Improvement Survey. The improvements are generally shown as shown and any apparent (within the limits of fieldwork) improvements and encroachments are noted. Flatirons, Inc. and John W. Guyton will not be liable for more than the cost of this improvement location certificate, and their only liability is to the parties specifically shown hereon. Acceptance and/or use of this improvement location certificate for any purpose constitutes acknowledgment and agreement to all terms stated herein.

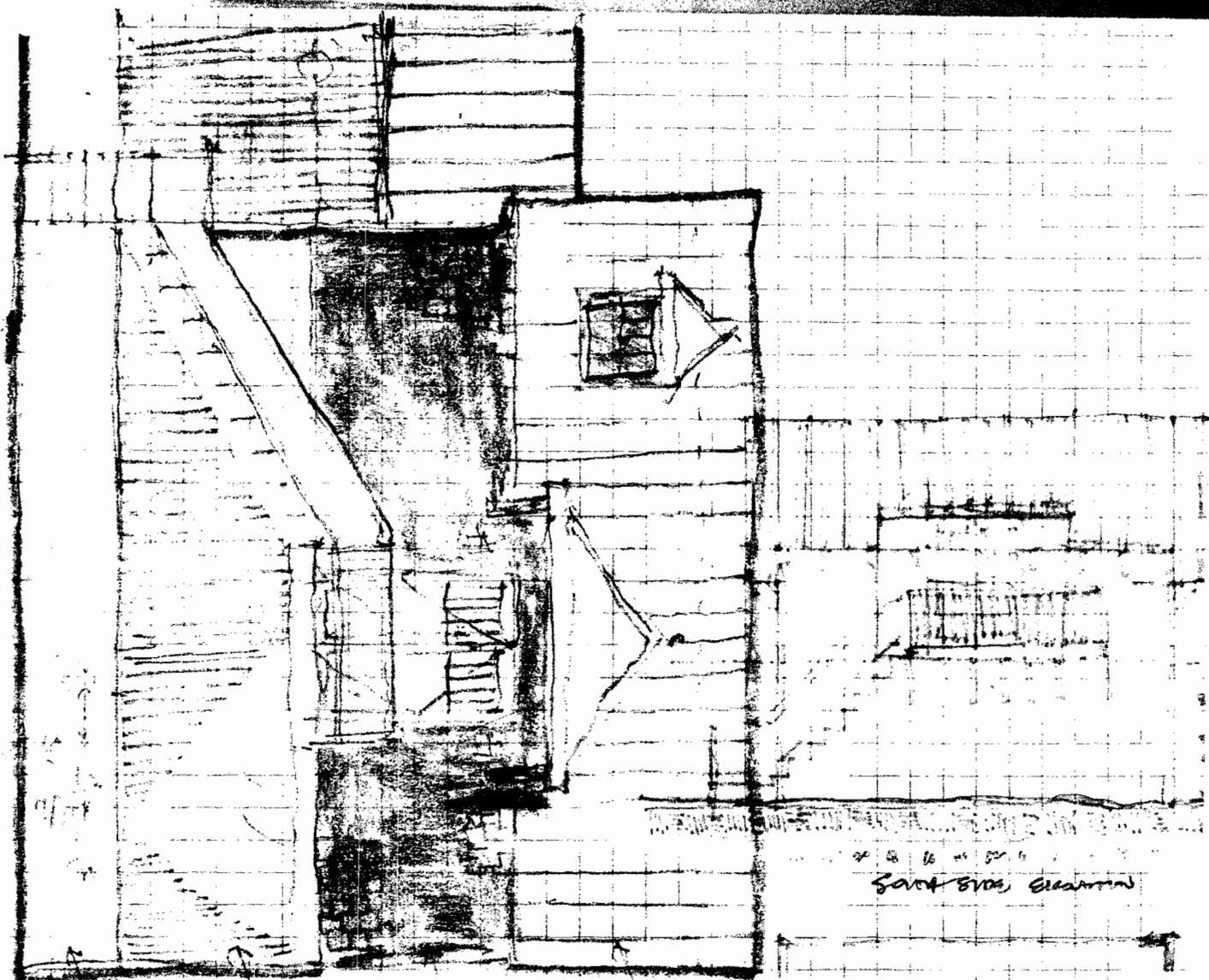
Drawn By: CHC
Title Of: No.
Survey:
Flatirons No. 13-01-001
Copyright 2013 Flatirons, Inc.
Boulder, Colorado



514 sq ft apt [1st Floor]

118' x 1'-0"

South Side Elevation



South Side Elevation

North

two
panels

— chimney
stack

possible
tin
panels
or
construction
bracket

1st Floor 11'5" x 1'0"

NORTHERN LIGHTS

BRICK DORMER

SECTION THRU WALLS
LOOKING W. EAST

14'-0"

9'-0"

EXIST'G FLOOR

0'-0"

POSSIBLE
FOUNDATION WALL

(N)
NORTHERN LIGHTS

POSSIBLE
"TRIMMED"
BRICKS

4x4 post

STOR
DOOR

MISSION STYLE
DOOR

