



**Zoning Board of Appeals  
Remote Meeting Instructions for September 14, 2021 Meeting**

**No physical location, including the City Council Chambers, will be set up for viewing or participating in this meeting.**

**Citizen Participation During Hearing**

Click the link below to join the virtual meeting. During the public hearing portion, use the Q&A or raised hand features at the bottom of the screen and you will be called upon to speak at the appropriate time.

<https://greeleygov.zoom.us/j/81768385787?pwd=bEY5Qys1cWhhV1F2Q05iQ1U2Q280UT09>

**Passcode: 855566**

**Livestream on YouTube:**

View a live stream of the meeting on the City of Greeley YouTube channel  
<https://www.youtube.com/CityofGreeley>.

**Other options for sharing public comments:**

**E-mail – Submit to [cd\\_admin\\_team@greeleygov.com](mailto:cd_admin_team@greeleygov.com)**

All comments submitted by e-mail will be read into the record at the appropriate points during the meeting in real time. Comments can be submitted up to and throughout the meeting.

**Traditional Mail – Planning Commission, 1100 10<sup>th</sup> Street, Greeley, CO 80631**

All written comments must be received no later than the day of the meeting. Written comments received by mail will also be read into the record in real time.

To download the agenda and agenda packet, click on the "Enter City Meeting Portal" button on the Planning Commission web page – <https://greeleygov.com/government/b-c/boards-and-commissions/planning>. You may also call the Planning office at 970-350-9780 if you have any other questions or require special accommodations to attend a virtual hearing.



# Zoning Board of Appeals

**September 14, 2021 at 1:15 PM**  
**Virtual via Zoom**

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## **Agenda**

1. Call to Order
2. Roll Call
3. Approval of the Agenda
- [4.](#) Approval of August 24, 2021 Minutes
5. Citizen Input
- [6.](#) Public hearing to consider a variance request located at 2915 68th Avenue Court to reduce the rear setback from twenty feet to five feet in the Residential Low Density zone district (Project No. VAR2021-0006).
  
7. Staff Report
8. Adjournment

City of Greeley, Colorado  
**ZONING BOARD OF APPEALS PROCEEDINGS**

August 24, 2021

**1. Call to Order**

Chair Yeater called the remote meeting to order at 1:15 p.m. via the city's Zoom platform.

**2. Roll Call**

The hearing clerk called the roll.

PRESENT

Chair Justin Yeater  
Commissioner Jeff Carlson (not voting)  
Commissioner Brian Franzen  
Commissioner Larry Modlin  
Commissioner Chelsie Romulo  
Commissioner Christian Schulte

ABSENT

Commissioner Erik Briscoe

**3. Approval of Agenda**

Commissioner Romulo moved to approve the agenda. Commissioner Franzen seconded the motion. Motion carried 5-0.

**4. Approval of July 27, 2021 Minutes**

Commissioner Romulo moved to approve the minutes dated July 27, 2021. Commissioner Schulte seconded the motion. Motion carried 5-0.

Commissioner Briscoe joined the meeting at 1:17 p.m.

**5. Citizen Input**

None

**6. VAR2021-0009: Public hearing to consider a variance request located at 3207 County Road 27 to reduce the established front setback of the property by approximately 45 feet to allow for construction of a detached garage in the Holding Agriculture zone district**

Kira Stoller addressed the Commission and presented a map of the subject site and surrounding area as well as several photographs of the area. Ms. Stoller presented a rendering showing the approximate location of the garage. She advised that the request for a variance is to reduce the established front setback of the property and provided an explanation of the setback requirements for accessory structures. Ms. Stoller reported that the property is unique in that it was constructed when under the jurisdiction of Weld County that had different setback requirements at the time. She also noted the configuration and topography of the site that would make it difficult to locate the detached garage elsewhere.

Ms. Stoller presented the approval criteria and advised that the request meets two of the five consideration criteria and all three mandatory criteria. Notices were mailed to property owners within 500 feet of the site with citizen input received. Staff recommended approval.

The applicant, Lynn Caseday, addressed the Board and stated that he had no further comments.

Chair Yeater opened the public hearing at 1:25 p.m. There being no public comment, the public hearing was closed at 1:25 p.m.

Commissioner Romulo moved that, based on the application received and the preceding analysis, the Zoning Board of Appeals find that the requested variance to allow a detached garage to be constructed approximately 45 feet beyond the existing front setback, thereby establishing a new front setback of 325 feet, complies with Section 24-516(f), Items 2 and 5 and Section 24-516(g), Items 1, 2 and 3 of the Development Code; and, therefore, approves the request. Commissioner Franzen seconded the motion. Motion carried 6-0.

**7. Adjournment**

With no further business before the Commission, Chair Yeater adjourned the meeting at 1:27 p.m.

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Justin Yeater, Chair

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Becky Safarik, Secretary

# Planning Commission Agenda Summary

September 14, 2021

Key Staff Contact: Caleb Jackson, Planner II, 970-350-9876

**Title:**

Public hearing to consider a variance request located at 2915 68<sup>th</sup> Avenue Court to reduce the rear setback from twenty feet to five feet in the Residential Low Density zone district (Project No. VAR2021-0006).

**Summary:**

The site was developed with a single-family dwelling in 2003. In 2011, the previous owners obtained a flatwork permit to pave the subject rear patio. A permit for the patio cover was issued to the previous owners in 2016. The Development Code allows covered patios to extend into the typical twenty-foot rear setback provided that they maintain a setback of five feet from the rear property line and remain at least 65% open and unobstructed on three sides. The current owners desire to enclose the existing covered patio, primarily with windows, which would mean that the covered patio would no longer be open and unobstructed on three sides. As a remedy, the applicant is requesting a variance to reduce the rear setback on the property to enable the current owners to enclose the back patio. The owner also desires to access the subject patio without stairs, which can be achieved without a variance by adding decking level with the main floor of the house. The applicant is aware that even if the variance is approved, a completed easement encroachment form that provides consent from all utility and infrastructure providers is required to obtain a building permit because the structure extends into an easement along the back of the property.

**Recommended Action:**

Based on the application received and the preceding analysis, the Zoning Board of Appeals finds that the requested variance to reduce the rear setback from twenty feet to five feet, does not comply with Section 24-516 (f), Items 1, 2, 3, 4, and 5, or Section 24-516 (g), Items 1, 2 and 3 of the Development Code and, therefore, denies the request.

**Attachments:**

- Staff Report
- Attachment A – Applicant Materials
- Attachment B– Vicinity Map
- Attachment C – Public Feedback

## ZONING BOARD OF APPEALS SUMMARY

**ITEM:** A variance request at 2915 68th Avenue Court to reduce the rear setback from twenty feet to five feet in the R-L zone district

**CASE NO:** VAR2021-0006

**PROJECT:** 2915 68<sup>th</sup> Avenue Ct Rear Setback Variance

**LOCATION:** 2915 68<sup>th</sup> Avenue Ct

**APPLICANT:** Anthea Carrasco, Esq., on behalf of Richard and Shirley Hirsch

**CASE PLANNER:** Caleb Jackson, AICP – Planner II

**ZONING BOARD OF APPEALS HEARING DATE:** September 14, 2021

**ZONING BOARD OF APPEALS FUNCTION:**

Review the proposal for compliance with Chapter 5, Variances, of the City of Greeley Development Code and approve, approve with conditions, continue the application for future consideration, or deny the request.

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**EXECUTIVE SUMMARY**

The City of Greeley is considering a variance request by Anthea Carrasco, Esq., on behalf of Richard and Shirley Hirsch, to reduce the rear setback from twenty feet to five feet in the R-L zone district (*see Attachment A – Applicant Materials*).

**A. REQUEST**

Approval of a variance to reduce the required rear setback to allow for the enclosure of an existing covered patio.

**B. STAFF RECOMMENDATION**

Denial

**C. LOCATION**

The subject site is situated west of and adjacent to 68<sup>th</sup> Avenue Ct., approximately 250 feet south of 29<sup>th</sup> Street. The property is addressed 2915 68<sup>th</sup> Avenue Ct. (*see Attachment B – Vicinity Map*).

**Abutting Zoning:** North: R-L (Residential Low Density)  
South: R-L  
East: R-L  
West: R-L

**Surrounding Land Uses:** North: Open space with trail

South: Single-family dwelling  
East: Single-family dwelling  
West: Open space with trail

**Site Characteristics:** The subject property is zoned R-L (Residential Low Density) and is approximately 6638 square feet in size with typical lot dimensions for the area. The existing single-family dwelling was constructed in 2003 and the site is relatively flat.

#### **D. BACKGROUND**

The site was developed with a single-family dwelling in 2003. In 2011, the previous owners obtained a flatwork permit to pave the subject rear patio. A permit for the patio cover was issued to the previous owners in 2016. The Development Code allows covered patios to extend into the typical twenty-foot rear setback provided that they maintain a setback of five feet from the rear property line and remain at least 65% open and unobstructed on three sides. The current owners desire to enclose the existing covered patio, primarily with windows, which would mean that the covered patio would no longer be open and unobstructed on three sides. As a remedy, the applicant is requesting a variance to reduce the rear setback on the property to enable the current owners to enclose the back patio. The owner also desires to access the subject patio without stairs, which can be achieved without a variance by adding decking level with the main floor of the house. The applicant is aware that even if the variance is approved, a completed easement encroachment form that provides consent from all utility and infrastructure providers is required to obtain a building permit because the structure extends into an easement along the back of the property.

#### **E. APPROVAL CRITERIA**

**Variances:** Section 24-516 of the Development Code states that: *When practical difficulties, unnecessary hardship, or results inconsistent with the general purpose of this Code occur through the strict and literal interpretation and enforcement of the provisions thereof, the Zoning Board of Appeals shall have the authority, subject to the provisions of this Chapter, to grant such conditions as it may determine to be necessary to be in conformance with the intent of the Land Use Chapter of the Comprehensive Plan. In general, the power to authorize a variance from the terms of this Code shall be exercised only under peculiar and exceptional circumstances. The Board may grant a variance as applied for, or a variance constituting a reduction thereof. The Board may attach conditions in granting a variance, which conditions shall be reasonably related to promoting compatibility with the surrounding area and land uses.*

The review criteria found in Section 24-516 (f) 1-5 and (g) 1-3 of the Greeley Development Code shall be used by the Zoning Board of Appeals when considering all variance requests.

#### **Consideration Criteria: Development Code Section 24-516(f)**

In taking action on a variance request, the Zoning Board of Appeals shall consider any comments received from the public and the applicant and the staff recommendation. The Board shall also consider if the proposed variance meets the following criteria in taking action to approve, approve with conditions, deny, or table the application for future consideration:

**1. Any variance granted shall be the minimum needed to accommodate or alleviate the difficulty or hardship involved.**

Staff Comment: Alternatives that do not require a variance could be pursued to alleviate the stated hardship. Decking can be placed above the patio to provide a level surface and avoid the need for stairs while exiting the house. The owner could partially enclose the patio for privacy, while keeping the patio at least 65% open and unobstructed on three sides. The owner could also consider adding windows in areas of the existing house to provide the desired indoor sunlight. Strategically placed plantings can also add privacy as other properties in the area have done. Despite the alternatives provided, the applicant desired to continue pursuing the variance.

The proposal does not comply with this criterion.

**2. A variance is necessary to accommodate an unusual or atypical lot configuration, which makes a reasonable use of the property unreasonable without a variance.**

Staff Comment: The lot is not atypical or unusual. Trails are commonly located in close proximity to rear yards, including in the Saint Michaels neighborhood. Yards are intended to be visually open and unobstructed, and the current owners can reasonably use the yard and patio without the variance, and can add decking level with the first floor of the house to avoid the need for stairs.

The proposal does not comply with this criterion.

**3. Any difficulty or hardship constituting the basis for a variance shall not be created by the party seeking the variance, nor shall it be due to, or a result of the general conditions in the area.**

Staff Comment: The stated hardship is related to desiring privacy from the adjacent open space and trail. Open space and trails behind homes is typical and a general condition in the area. Another stated hardship is related to difficulty using stairs, which can be remedied without a variance by adding decking level with the first floor of the house.

The proposal does not comply with this criterion.

**4. Granting the variance is necessary so that the building or structure can align with the prevailing location of other similar buildings or structures on the same block face.**

Staff Comment: The proposed variance is not necessary for alignment with other buildings. Rather, the proposed variance would allow this building to be misaligned from the typical rear setback along the block.

The proposal does not comply with this criterion.

**5. Granting the variance is consistent with the Comprehensive Plan and area neighborhood plans, or may achieve a better result in meeting the intent of the plan objectives than if the codes were strictly applied.**

Staff Comment: There are no neighborhood plans for this area and the proposed variance is inconsistent with the comprehensive plan, which encourages maintaining existing neighborhood character. Maintaining the existing setbacks contributes to the character of the neighborhood.

The proposal does not comply with this criterion.

**Mandatory Criteria: Development Code Section 24-516(g)**

In every instance where the Board grants a variance, there shall be a finding that:

**1. The granting of such variance will not be of substantial detriment to the public interest or to adjacent property or improvements in such district in which the variance is sought, and will observe the spirit of the Code; and**

Staff Comment: The proposed variance would be a detriment to the public interest and adjacent property by creating a rear setback that is inconsistent with adopted plans and the existing setbacks in the area. Enclosing the back patio would frustrate the goal of having open and unobstructed yards and would impact the neighborhood character and users of the adjacent open space and trail.

The proposal does not comply with this criterion.

**2. The strict application of the provisions of the Code would result in practical difficulties or unnecessary hardship inconsistent with the general purpose and intent of the Code; or**

Staff Comment: Strict application of the Code does not create practical difficulties or unnecessary hardship. Reasonable use of the property can continue and alternatives are available that meet Code standards that would help address the applicant's concerns for safety and privacy.

The proposal does not comply with this criterion.

3. **There are exceptional or extraordinary circumstances or conditions applying to the property involved or to the intended use or development of the property that do not apply generally to other properties or uses in the same zoning district.**

Staff Comment: No exceptional or extraordinary conditions exist that do not generally apply to other properties in this zone. The site has typical lot dimensions for the area and this zone, and open spaces with trails are commonly adjacent to rear yards.

The proposal does not comply with this criterion.

## **F. PHYSICAL SITE CHARACTERISTICS**

### **1. SUBDIVISION HISTORY**

The subject site was platted as Lot 22, Block 40 of St. Michael's Subdivision in 2002. The property has not undergone any additional subdivisions since it was initially platted.

### **2. HAZARDS**

Hazards do not present risks for the proposed variance.

### **3. WILDLIFE**

Wildlife would not be impacted by the proposed variance.

### **4. FLOODPLAIN**

The property is not located within a flood area.

### **5. DRAINAGE AND EROSION**

Neither drainage issues nor erosion would be created by the proposal.

### **6. TRANSPORTATION**

The proposal does not create transportation impacts.

## **G. OVERLAY DISTRICTS**

The property is not located within any overlay districts.

## **H. PUBLIC NOTICE AND COMMENT**

Notification letters regarding the proposed variance were mailed to property owners within 500 feet of the subject site on August 25, 2021, and a sign was posted on the property on September 1, 2021. Public notice was also published in the newspaper on September 8, 2021. Two emails expressing opinions from nearby residents have been received directly. One notes no concern regarding the proposal, and the other expresses minimal concern related to visibility around the porch for people traveling along the trail, especially for electric scooters (*see Attachment C – Public Feedback*). The applicant also provided letters of support from neighbors (*see Attachment A – Applicant Materials*).

**I. ZONING BOARD OF APPEALS RECOMMENDED MOTION**

Based on the application received and the preceding analysis, the Zoning Board of Appeals finds that the requested variance to reduce the rear setback from twenty feet to five feet, does not comply with Section 24-516 (f), Items 1, 2, 3, 4, and 5, or Section 24-516 (g), Items 1, 2 and 3 of the Development Code and, therefore, denies the request.

**J. ATTACHMENTS**

Attachment A – Applicant Materials

Attachment B – Vicinity Map

Attachment C – Public Feedback

Thomas D. Grant, Esq.  
 Brad L. Hoffman, Esq.  
 Ryan J. Cordsen, Esq.  
 Elyse K. Ritchie, Esq. \*  
 Amy D. Roberts, Esq.  
 Tanner J. Spracklen, Esq.  
 Joe G. Williams, Esq.  
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Community Development – Planning Division  
 City of Greeley  
 1100 10<sup>th</sup> Street, Suite 202  
 Greeley, CO 80631

August 17, 2021

Re: Request for Variance – Richard and Shirley Hirsch Patio Enclosure/Sunroom

To Whom It May Concern:

Along with our clients, Mr. and Mrs. Richard and Shirley Hirsch, we humbly submit to you a request for a variance from Sections 24-1023 and 24-1022(i)(4) of the Greeley Municipal Code to allow the Hirschs to convert their existing covered patio into a sunroom. Given the unusual lot configuration of the Hirsch’s property, along with Richard Hirsch’s declining health, reasonable use of the property has become very difficult without a variance. Accordingly, the Hirschs respectfully request your permission to enclose their existing patio space with windows and raise the floor to make the patio level with the floor inside the home.

I will first describe the reason for the variance request, and will thereafter describe the grounds upon which this claim is justified, addressing specifically the criteria in Section 24-516(f) and (g) of the Greeley Municipal Code. Finally, I will address staff review of this proposed variance and the comments contained in the Project Review Comments.

#### **Reason for the Variance Request**

Richard and Shirley are proud new residents of Greeley, having purchased a home here approximately one year ago, relocating from a larger rural property in Severance. They closed on their new home, located at 2915 68<sup>th</sup> Avenue Court, in July 2020. They love being “in town” and have quickly made friends of their new neighbors in the St. Michael’s subdivision. One big factor in the Hirschs’ decision to purchase this specific home was the fact that it backed to open space, providing them more privacy than they otherwise would have had in a location with backyard neighbors. When they purchased their home, they very much looked forward to enjoying time together on their covered porch, which sits at the rear of their property and faces the open space.

Although the Hirschs love their new home, Richard’s health has unfortunately made it such that large portions of the home, including the patio, have become largely unusable by him.

Richard is 88 years old, and in the recent past, he has endured a handful of damaging falls, including most recently in late 2020. When Richard has fallen in the past, he suffered a concussion, and the possibility of additional falls presents many additional health risks, which I am certain we do not need to detail for all of you. Unfortunately, the possibility of Richard falling has made it so that navigating stairs is difficult and very dangerous for him. Sadly, although their home has a finished basement, Richard is now not able

to make much use at all of the basement simply because of the fall risk associated with going down the stairs. Unfortunately, using the existing patio is similarly dangerous.

Given Richard's age and other medical conditions, he is encouraged to spend as much time as possible in light, sunny areas. Under other circumstances, the Hirschs' backyard covered patio would be a perfect place for Richard to be able to spend time and get sun exposure.

However, there are two things that have made that problematic.

First, in order to access the covered patio, Richard has to walk down two concrete steps onto a concrete slab, which sits at the bottom of the steps. A potential fall down the concrete steps onto the concrete landing could be tragic for Richard. Given that risk, Richard hesitates to spend much time at all on the patio.

Additionally, the patio, as presently constructed, does not provide Richard with any real privacy, and far less privacy than almost all other similar homeowners, as detailed below.

As you likely know, a walking trail has been constructed throughout the St. Michael's subdivision. The trail has been a valuable addition to the subdivision and is heavily used by many people in the area. Unfortunately, the trail was constructed in a way that significantly infringes on the Hirschs' privacy when they are using their outdoor patio. Specifically, the walking path is located only 14 inches from the Hirschs' property, permitting walkers to literally reach inside the Hirschs' lot without any effort at all. We have attached photographs to demonstrate this, in hopes that they help to illustrate the issue more clearly. Unfortunately, given the distance between the walking path and the Hirschs' property, Richard and Shirley cannot talk amongst themselves or conduct telephone conversations without everything they say being audible to anyone who happens to be walking by.

When the Hirschs purchased this home, they did not anticipate the close proximity between the walking path and their patio being a problem. They knew they would be spending time on their patio when the weather permitted, but would need to spend more time inside during bad weather or when they wanted to have more privacy than the outdoor patio would allow. Unfortunately, given Richard's deteriorating health, and the fact that he has had to give up any significant access to the basement, he would benefit greatly from being able to make more use of their patio year-round, and being able to do so in a way where he still maintains some privacy. He and Shirley are very grateful that their home has the patio, allowing Richard to get necessary sun exposure, but the presence of the concrete stairs, and the absence of any real privacy are making use and enjoyment of the space nearly impossible.

### **Grounds Upon Which the Variance Request is Justified**

As you know, one purpose of the Development Code in Greeley is to "encourage building and development design which is related to and compatible with its surroundings." Greeley Municipal Code § 24-1021. We believe this request does so, and does not do anything to run afoul of the character of the surroundings.

The present required rear setback at the Hirschs' property is 20 feet. The existing covered porch at their property is in compliance with the Greeley Municipal Code, which states, "Patios and porches, whether or not covered by roofs, may be extended into the required rear setbacks to within five feet of the rear property line, provided that they remain at least 65 percent open and unobstructed on three sides." Greeley Municipal Code § 24-1022(i)(4). However, the Hirschs' desired enclosure of their existing covered patio appears to be prohibited by this same section of the Greeley Municipal Code. Specifically, Greeley Municipal Code § 24-1022(i)(4) requires patios to remain at least 65 percent open and unobstructed on three sides. Although "open and unobstructed" is not defined elsewhere in the Greeley Municipal Code, it

is our understanding, based on conversations with your staff, that installing transparent windows around their existing patio structure would not be considered “open and unobstructed.” Additionally, allowing the Hirschs to enclose their covered patio and convert it into a sunroom would require an adjustment of the rear setback on the property from 20 feet to 5 feet, as detailed in Greeley Municipal Code § 24-1023. In summary, to the extent that installing clear windows around the existing patio structure would lead to a conclusion that the structure was no longer “open and unobstructed,” and would require an adjustment of the rear set back from 20 feet to 5 feet, the Hirschs hereby request a variance in those regards.

Unfortunately, as detailed above, Richard’s deteriorating health conditions have significantly decreased his ability to usefully enjoy their existing patio. This is precisely the sort of scenario for which you all are entrusted with the discretion to do what is right, even when that might differ slightly from what strict application of the rules will technically allow.

“When practical difficulties, unnecessary hardship or results inconsistent with the general purpose of this Development Code occur through the strict and literal interpretation and enforcement of the provisions thereof, the zoning board of appeals shall have the authority. . . to grant such conditions as it may determine to be necessary to be in conformance with the intent of the land use chapter of the comprehensive plan.” Greeley Municipal Code § 24-516(a).

Included within the matters for which the zoning board of appeals has the authority to grant a variance are issues such as this one, pertaining to the rules governing setbacks. Greeley Municipal Code § 24-516(b)(1)(d).

In evaluating the need for a variance, the members of this board are required to consider whether the proposed variance meets or runs afoul of a number of potential criteria. *See* Greeley Municipal Code § 24-516(f)(1) – (5). Those criteria are listed below, along with information about how this proposed variance meets and/or does not run afoul of any of the necessary criteria.

- (1) Any variance granted shall be the minimum needed to accommodate or alleviate the difficulty or hardship involved.

The Hirschs are not requesting any more accommodation than is necessary to accommodate the hardship situation in which they have found themselves. As has been stated, they need to be able to raise the floor of the present patio to make it level with the existing home to prevent, as much as possible, any falls by Richard. Additionally, given that Richard’s health has required him to forgo almost all use of his basement, in order to allow him to reasonably enjoy the remainder of his home, including the patio, some degree of privacy is necessary. The Hirschs certainly are not requesting that they be permitted to enclose the patio with solid walls, but rather that they be permitted to do so with windows, preserving as much of the “open and unobstructed” feel that the Greeley Municipal Code calls for, but at the same time allowing them to speak to one another, or others, without passersby on the walking path being able to hear their conversations.

- (2) A variance is necessary to accommodate an unusual or atypical lot configuration which makes reasonable use of the property unreasonable without a variance.

This is precisely the case here. However it happened to be, the walking path in the Saint Michael’s subdivision was permitted to be constructed in a way that significantly impaired the Hirschs’ ability to enjoy any real privacy on their existing patio. Although the location of the walking path did not initially cause the Hirschs significant concern,

Richard's health has deteriorated in such a way that the situation has changed, and he needs to be able to make reasonable private use of the patio area of his home. If the walking path were not so close and the Hirschs could still use the patio with some level of privacy, the situation might be different, but that is not the case here. The Hirschs are requesting that the variance be granted to accommodate the unusual lot configuration that is presently making reasonable use of the property unreasonable.

- (3) Any difficulty or hardship constituting the basis for a variance shall not be created by the party seeking the variance, nor shall it be due to or a result of the general conditions in the area.

The Hirschs absolutely understand this requirement and are sensitive to the potential claim that they did not *have* to purchase this specific home, and they agree. However, had they purchased the home and all other things had remained the same, we would not be making this request. Rather, it is Richard's health conditions that have changed the scenario. Certainly, Richard has no more control over his health conditions than any of the rest of us, and if his risk of fall was as high at the time they purchased this home as it is now, they likely would not have chosen this house to buy, particularly because of the many stairs required to access the basement. However, life changes in that way, which is what has happened here, and that is what brings the Hirschs before you to make this request. Additionally, it is not the general conditions in the area that have contributed to their request, as most other homeowners in the area have significantly more distance between the walking path and their property. It is the very specific condition of the area of the Hirschs' property and the very close proximity of the walking path that have also contributed to the hardship situation in which the Hirschs find themselves.

- (4) Granting the variance is necessary so that the building or structure can align with the prevailing location of other similar buildings or structures on the same block face.

There are no other buildings or structures on this block face for which the Hirschs need to bring their property into alignment with. This factor is not applicable in this circumstance.

- (5) Granting the variance is consistent with the land use chapter of the comprehensive plan and area or neighborhood plan, or may achieve a better result in meeting the intent of the plan objectives than if the codes were strictly applied.

Review of the land use chapter of the comprehensive plan and any applicable neighborhood plans has been completed, and nothing about this requested variance is inconsistent with anything contained in those materials. As you know, one purpose of a rear setback is to provide abutting backyard property owners with privacy so that their backyard neighbors' homes do not come uncomfortably close to their own homes. Here, no such concern exists because the Hirschs' property backs to open space and there are no backyard neighbors.

We are also in receipt of the Project Review Comments from the City of Greeley Community Development staff, recommending denial of this requested variance. We appreciate and respect the work that was done by the staff in evaluating this request, and would like to address the information in the Project Review Comments, in hopes that doing so will further assist this board in making a reasonable decision in this matter.

First, as noted in the Project Review Comments, we are aware that the existing covered patio extends into the utility easement along the rear property line of the Hirschs' property. We are in the process of obtaining approval from the utility easement holders to extend the living area into the location of the easements, and will provide the appropriate forms as soon as they are received.

Additionally, we would like to provide further information about how the variance sought is the minimum needed to accommodate or alleviate the difficulty or hardship involved, as required by Greeley Municipal Code § 24-516(f)(1). Although we addressed this issue above, there were staff comments contained in the Project Review Comments which dealt with this issue specifically, and we want to ensure that we are providing this board with as much information as possible to alleviate any potential concerns in this regard. In the Project Review Comments, staff noted that there may be potential alternatives to the requested variance, including adding decking above the patio to provide a level surface, adding windows in other areas of the house, and partially enclosing the patio or strategically placing plants for additional privacy. The Hirschs appreciate and understand all of the suggestions that have been made by the staff and have spent a good deal of time considering each of those options prior to making the decision to pursue this variance. It is true that taken in isolation, each of those potential alternatives could solve a small portion of the problems the Hirschs are dealing with. However, unfortunately, none of the suggested alternatives, even in totality, entirely solve the problem. For instance, adding decking above the patio would allow Richard to use the patio more safely, but he still would not be able to do so in a way that would allow him any real privacy from neighbors using the path, and although it is true that strategically placing plants might provide some bit of additional privacy from people using the path, any gains would be negligible because Richard and Shirley still would not be able to have a conversation amongst themselves that would not be entirely overheard by the walkers who are only 14 inches from the Hirschs' property. For these reasons, the Hirschs have decided to respectfully request that this board grant their requested variance.

The Project Review Comments also noted the staff's initial findings, which we want to be sure to address and respond to.

First, the Project Review Comments note that the Hirschs' lot is not atypical or unusual, in that trails are commonly located in close proximity to rear yards, and that those rear yards are intended to be visually open and unobstructed. Relatedly, the Project Review Comments also note that the proposed variance is a result of the general condition of the area with typical lot dimensions and open space abutting the property. We agree that trails are commonly located in somewhat close proximity to rear yards, but the situation at hand is quite different. There is an appreciable difference between a trail within a few yards of one's property and a trail just more than one foot from one's property. As property owners, we all are entitled to reasonable, private use of our property without potential interference from others. The placement of the trail behind the Hirschs' home places them in a situation where a person could literally reach their arm into the Hirsch's property without ever leaving the trail. In the world of COVID-19, you cannot stand closer than six feet from another person in line at a grocery store, but every day the Hirschs are forced into a situation on their own property where they have to decide between being physically just more than one foot from strangers or being able to use and enjoy their own home. It simply is not logical or reasonable to force the Hirschs to continue in this situation, given all of the issues at play, when there is a logical and feasible solution that would solve the problem entirely.

Furthermore, we understand and appreciate that yards are intended to be open and unobstructed, and in attempting to enclose the current covered patio with transparent glass, the Hirschs actually are trying to preserve as much of the open and unobstructed feel as possible. It seems almost without dispute that enclosing this structure with transparent glass preserves far more of the open and unobstructed feel of the area than even partially enclosing it with something like lattice, which is far more obstructive to the view and feel of an area than transparent glass.

The initial findings of the staff, as noted in the Project Review Comments, also mention the general character and composition of the neighborhood. Specifically, the staff stated its concern that Hirschs' proposed sunroom could negatively impact the character of the neighborhood, the openness of yards, and detract from the open space amenity. We respectfully disagree. Adding transparent windows to an already existing covered patio simply will not detract from anything. Once the sunroom enclosure is completed, there will be just as much visual openness as presently exists and there will be no appreciable difference in the rear setback, given that the current covered patio already sits in the same location. Finally, nothing about adding transparent windows to the Hirschs' current patio will detract from the open space amenity that is available to anyone who wishes to use it. Rather, granting this requested variance will not only allow the Hirschs additional privacy, but it will also give additional privacy to people walking on the path, making it so that their conversations aren't also entirely audible by the Hirschs, and thereby increasing the value of the open space amenity.

The Project Review Comments also specifically requested that we address the requirements of Greeley Municipal Code § 24-516(g), and we are happy to do so. Section 24-516(g) of the Greeley Municipal Code states as follows:

In every instance where the board grants a variance, there shall be a finding that:

- (1) The granting of the variance will not be of substantial detriment to the public interest or to adjacent property or improvements in such district in which the variance is sought, and will observe the spirit of this Development Code; and
- (2) The strict application of the provisions of this Development Code would result in practical difficulties or unnecessary hardship inconsistent with the general purpose and intent of this Development Code; or
- (3) There are exceptional or extraordinary circumstances or conditions applying to the property involved or to the intended use or development of the property that do not apply generally to other properties or uses in the same zoning district.

Greeley Municipal Code § 24-516(g).

The facts here permit this board to grant the requested variance and make the necessary findings under the statute. As detailed above, the granting of this variance will not be of any substantial detriment to the public interest or adjacent property or improvements in the district where the variance is sought, and will observe the spirit of the Development Code. Specifically, this board does not have to speculate about the fact that granting this variance will not be of any substantial detriment to the adjacent property owners; you have letters of support from all of the nearby property owners, all of whom support the Hirschs in this project and see no reason for it to be denied. Additionally, although we understand the concern about this variance detracting from the open space amenity, when thought about critically, the public interest in that open space amenity will not suffer at all by granting this variance. Allowing the Hirschs to enclose the existing patio with transparent glass does nothing to take away from the public's ability to enjoy the walking path and rather allows them to do so with a bit more privacy than those walkers presently enjoy.

Furthermore, strict application of the provisions of the Development Code in this circumstance will result in practical difficulties and unnecessary hardship that is inconsistent with the general purpose and intent of the Development Code. As you know, one purpose of the Development Code is to promote the health, safety and general welfare of the citizens of the city. Greeley Municipal Code § 24-2(1). The Hirschs are proud to be citizens of the City of Greeley, and granting this variance will certainly promote their health, safety, and general welfare, but those benefits are not limited solely to them, and the welfare of the general public who utilizes the walking path will also be enhanced by allowing them to do so with additional privacy. Certainly, nothing about the requested variance will damage the public health, safety, or general welfare of the citizens.

Finally, as detailed at length herein, there are exceptional and extraordinary circumstances as it relates to the Hirschs' property that do not apply generally to other properties in this area. Although it is true that there are other properties with portions of the walking path nearby, there are none quite like the Hirschs', including the very close proximity of the walking path to their property, coupled with the health issues that Richard is experiencing. This situation is different, and those differences are what give this board the authority to make the decision the Hirschs are requesting.

Finally, this board should be aware that the request to enclose the Hirschs' patio into a sunroom has already been approved by the Homeowners' Association for St. Michael's, and it is supported by all of the Hirschs' neighbors. Shirley Hirsch contacted the neighboring property owners and asked them to write a note with their position on this issue, without even so much as a request that they not object to the Hirschs' plans. Every neighbor Shirley Hirsch contacted supported the Hirschs in this request.

The following is a list of the names and addresses of property owners who may potentially be impacted by this proposed variance. Each of these individuals has been contacted regarding this request, and submitted a letter detailing their position, all of which are enclosed here.

Paulette Peasley – 2923 68<sup>th</sup> Avenue Court, Greeley  
Ermelinda Archibeque – 2919 68<sup>th</sup> Avenue Court, Greeley  
Rebecca French – 2912 68<sup>th</sup> Avenue Court, Greeley  
Pamela Rudiger – 2904 68<sup>th</sup> Avenue Court, Greeley  
Kortney Runyan – 2916 68<sup>th</sup> Avenue Court, Greeley

Please consider this letter as constituting the necessary information about the variance being requested, the specific sections upon which the variance is being requested, the details of the variance, the grounds upon which it is claimed that the variance should be granted, and all other information that may be needed for a full and complete consideration of this application, as required by Greeley Municipal Code § 24-516(d)(1). This letter also contains a list of the names and addresses of all property owners that may be impacted by this proposed variance, as required by Greeley Municipal Code § 24-516(d)(5).

Additionally, as required by Greeley Municipal Code § 24-516(d)(1)-(5), the following materials are additionally enclosed:

- City of Greeley Land Use Variance Application Form
- Plans, drawn to scale, showing the entire property under construction, the location and names of all abutting streets, the location and dimensions of all existing and proposed structures, as well as the acreage and dimensions of the property under construction.

On behalf of Richard and Shirley Hirsch, we respectfully request that you permit the Hirschs to raise the level of their existing patio to bring it level with the inside of the home and enclose the patio with transparent windows, converting it into a sunroom. We fully understand that the restrictions included within the Greeley Municipal Code exist for good reason, and we also understand that this board is

August 17, 2021

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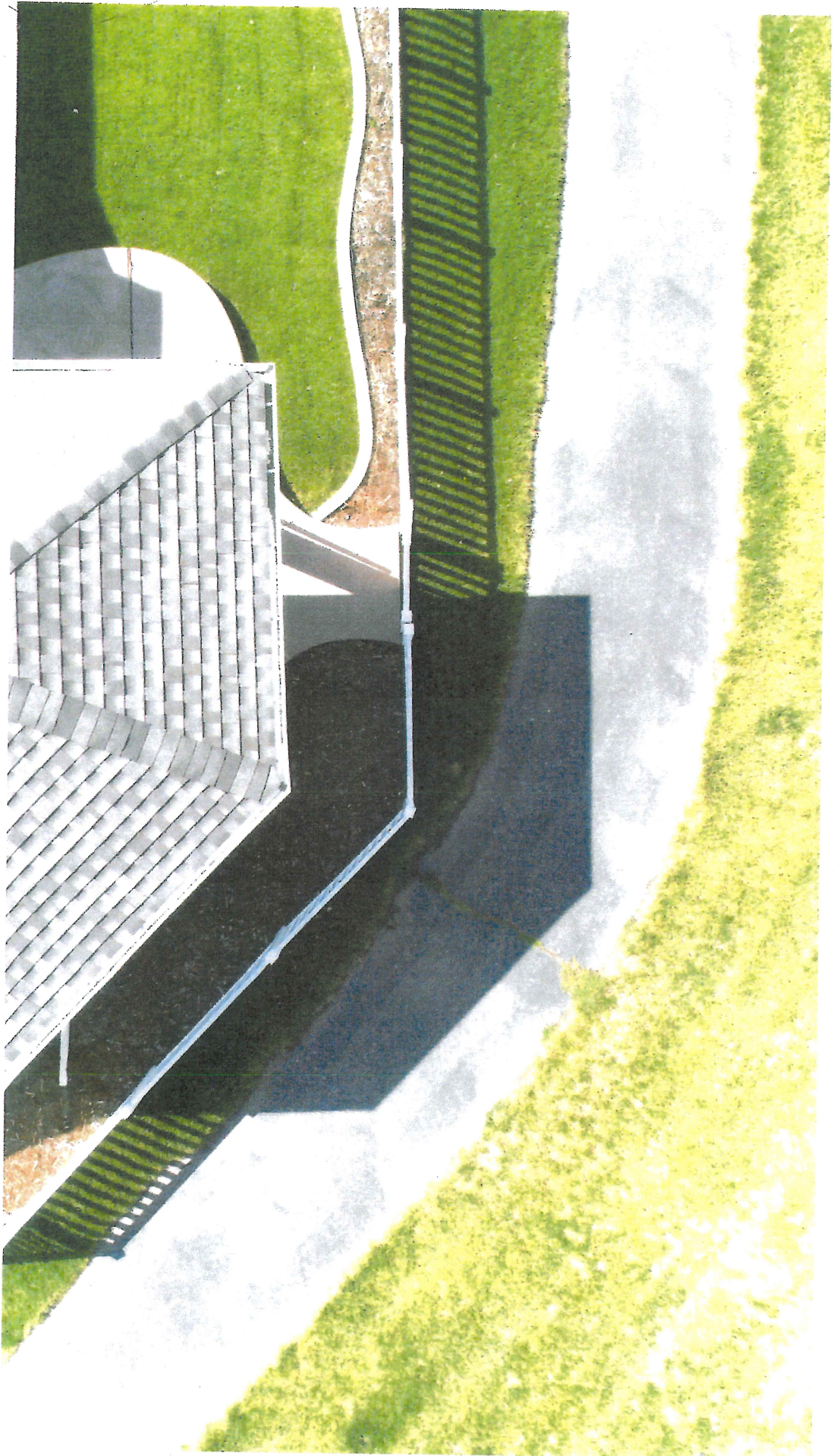
trusted to know when strict application of the rules is preventing good people from reasonable use of their property due to hardships outside their control. We trust that you will see that here, and request that you will grant this requested variance.

Best Regards,  
GRANT & HOFFMAN, P.C.



Anthea L. Carrasco  
Attorney at Law

























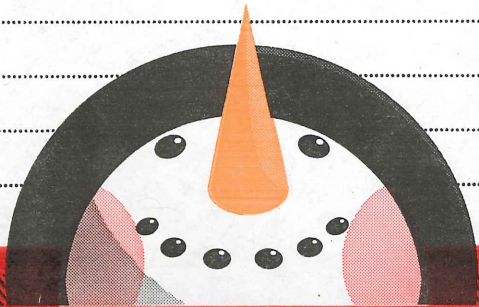
MAY 19, 2021



To Whom IT MAY CONCERN;  
I am a neighbor  
of Richard & Shirley Hirsch.  
I have no objection to  
a sun room addition to  
their house. I think it would  
add beauty to their house

Sincerely  
Lawlette Haskley  
2923 68<sup>th</sup> Ave Court

FY19 CSCignp



May 19, 2021

Ermelinda Archibeque  
2919 68<sup>th</sup> Ave Ct.  
Greeley, CO 80634

Richard & Shirley Hirsch  
2915 68<sup>th</sup> Ave Ct.  
Greeley, CO 80634

Dear Mr. & Mrs. Hirsch:

This letter is in regards to the changes for your home located at 2915 68<sup>th</sup> Ave Ct. Greeley, CO 80634. I wanted to inform you that I, next door neighbor, have no objection to the redaction of the back patio. It will not have an impact and I approve the changes you are seeking.

Please feel free to contact me if you should have any additional questions for me.

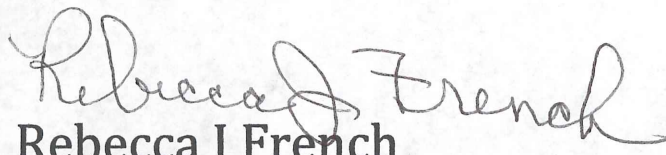
Sincerely,



Ermelinda Archibeque  
(970) 590-4569

May 17<sup>th</sup> 2021

To whom it may concern I Rebecca J French have no objection to Richard and Shirley Hirsch to building a room on to their home at 2915 68<sup>th</sup> Ave Ct.

  
Rebecca J French  
2912 68<sup>th</sup> Ave Ct

***Pamela Rudiger***  
***2904 68th Avenue Court***  
***Greeley, Co. 80634***

May 18, 2021

To Whom It May Concern:

My name is Pamela Rudiger. I have lived in St. Michaels subdivision at 2904 68<sup>th</sup> Ave. Ct. Greeley for the past 14 years. My new neighbors Richard and Shirley Hirsch at 2915 68th Ave. Ct. are interested in enclosing there back patio. As one of there neighbors I have no problem in them doing so.

Thank You,



Pamela Rudiger

Kortney Runyan  
2916 68th Avenue Ct.  
Greeley, CO 80634

May 18th, 2021

To Whom It May Concern:

I am writing on the behalf of my neighbors Richard and Shirley Hirsch and their plea for permission to enclose their back patio. It is my understanding that the Hirsch's have received permission to proceed with this project from the St. Michael's Homeowner Association; however, the City is blocking them from proceeding claiming the enclosed patio would be too close to the walking path. Respectfully, I do not agree with this assessment for the following reasons:

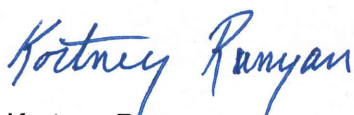
1. The Hirsch's back patio already has an existing structure around it that would serve as the frame for the enclosure. No additional space would be taken, and the path would remain the same distance from the path as is today.
2. The Hirsch's plan is to enclose the structure primarily with glass (at least 65%) which would have a minimal impact on the view from the path.
3. I walk the paths of St. Michael's daily and have noticed several structures that have been built or placed close to the paths...
  - Pergolas
  - Hot tubs
  - Patios/decks
  - Trampolines
  - Trees (often the branches hang over the path)

It is obvious the Hirsch's enclosed patio is not an outlier when it comes to objects near the path.

- The Hirsch's property is unique in that it is an end house and the path's green belt area around the Hirsch's property widens compared to other parts of the path. This means they are further away from the path than a lot of other houses in the neighborhood.

I would like to challenge a representative from the City to visit the Hirsch's property so they can see in person why this ask is not out of line. The fact that St. Michael's Homeowner Association has approved this (they are very particular and deny a lot of projects) **demonstrates that this is a fair request and one that should be reconsidered.**

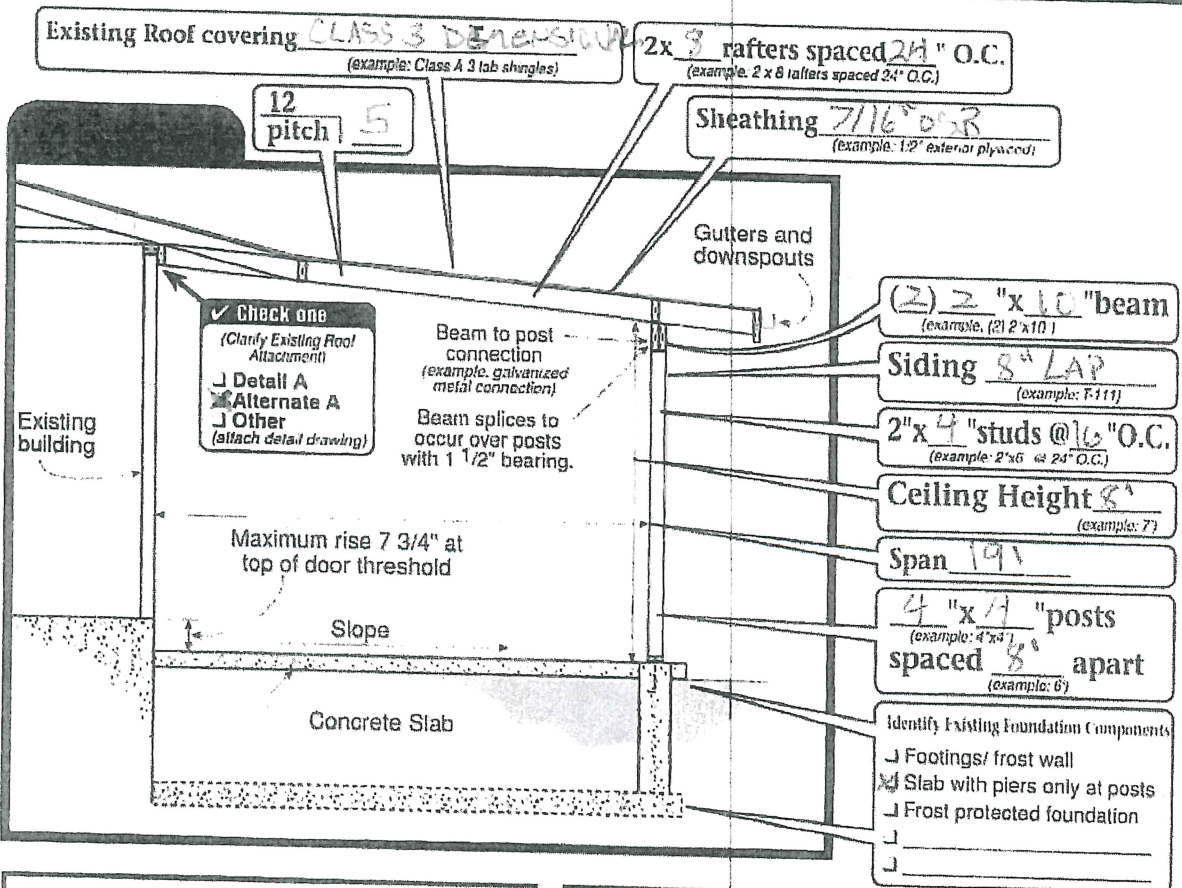
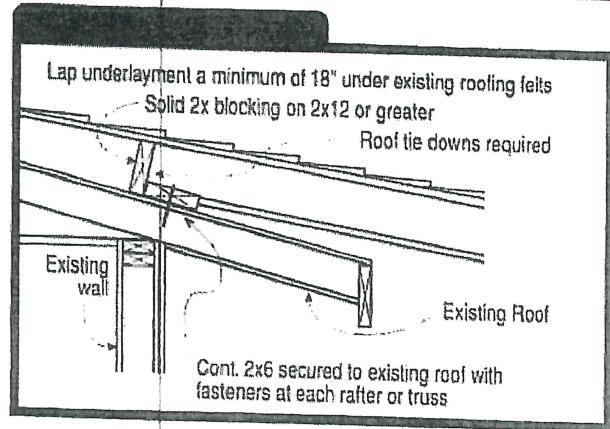
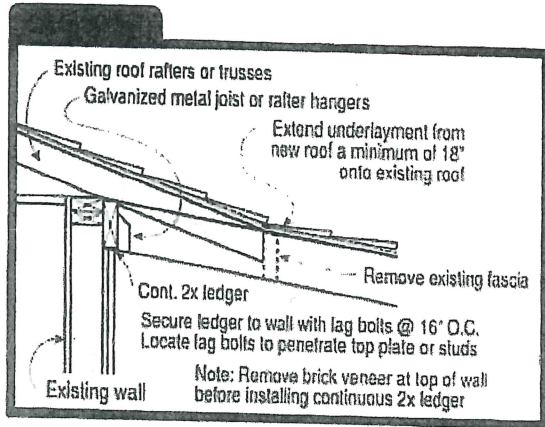
Sincerely,



Kortney Runyan  
(970) 371-7891



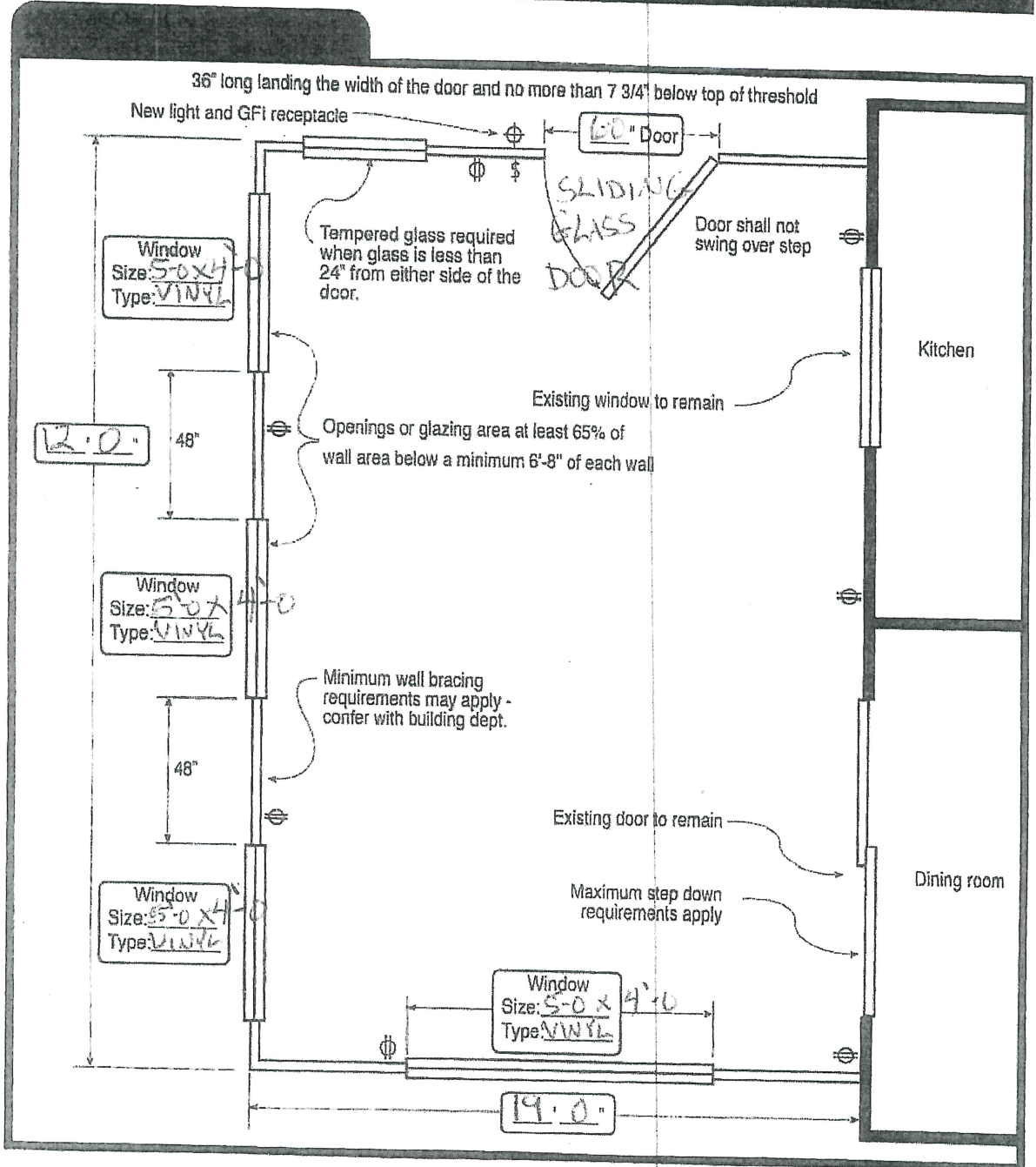
# Unheated Single Family Residential Enclosing Existing Patio Covers



This handout was developed by the Colorado Chapter of the International Code Council as a basic plan submittal under the 2018 International Residential Code. It is not intended to cover all circumstances. Check with your Department of Building Safety for additional requirements.

2915 68TH AVE CT  
GREELEY CO 80634

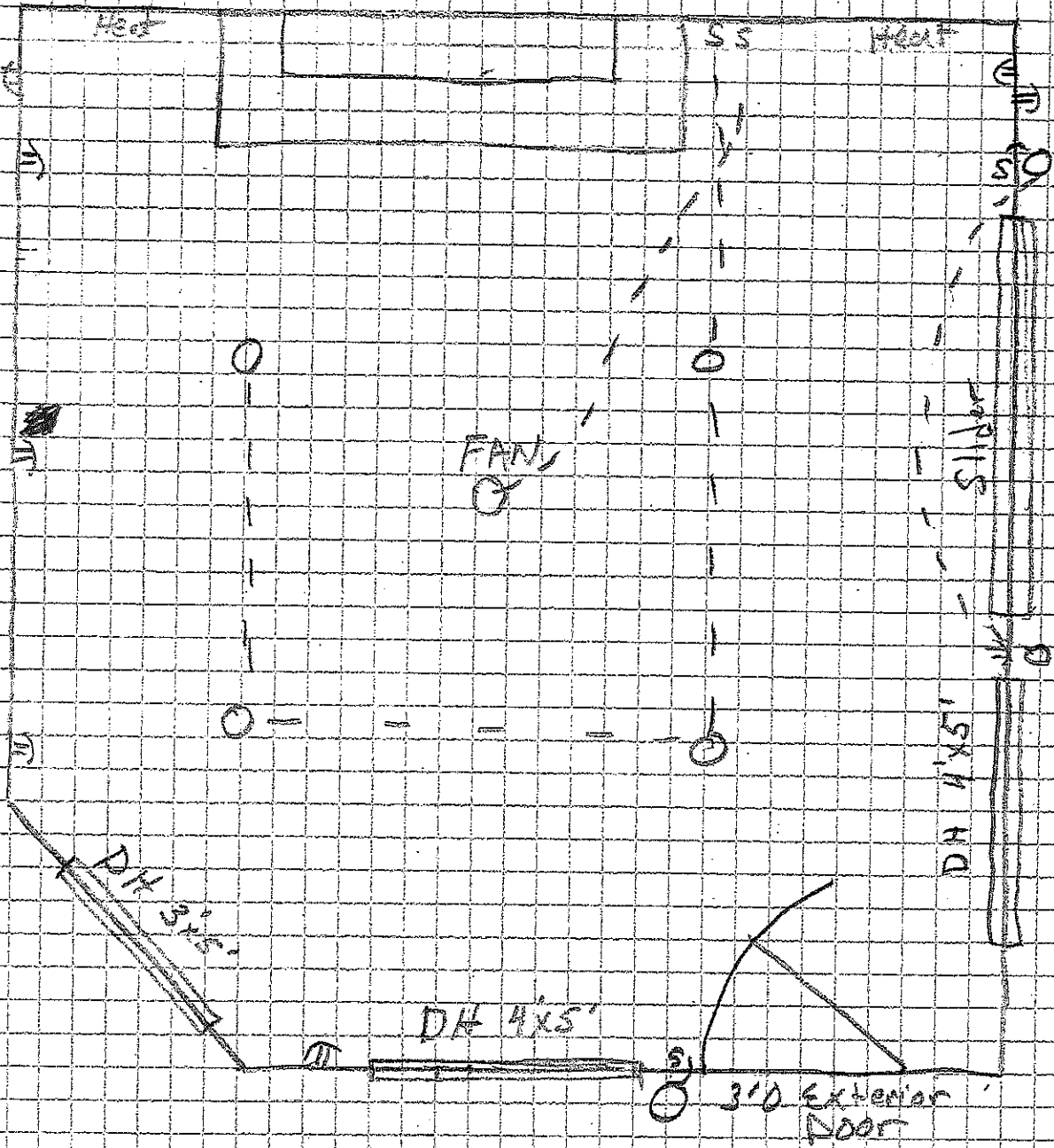
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2915 68th Ave Ct.  
Greeley, CO 80634

# House Slider



2915 68th Ave NE

# VICINITY MAP



**Caleb Jackson**

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**From:** B S <coloradonewsman@yahoo.com>  
**Sent:** Tuesday, September 7, 2021 9:07 AM  
**To:** Caleb Jackson  
**Subject:** [EXTERNAL] Re: public hearing on setback variance

Caleb,

Thanks for the speedy and thorough reply.

I'm not overly concerned about the building request, although that back porch is right up against the property line in an area where the walking trail unfortunately was placed directly adjacent to some back yards, and it's on a curve. This means that pedestrians won't be able to see zooming electric scooters, etc. until they are upon them. However, there are other spots like that in St. Michael's as well and we've not heard of problems.

My main concern was that it seemed like the notice in the mail and the sign in the front yard did not leave enough time for people to react and learn more about it what was proposed to be built. A couple of suggestions if I may. First, give more notice than required, and second, include more info, such as the porch being closed in.

We are major supporters of great community planning and zoning, and appreciate the city's efforts in this area. We routinely shake our heads when we travel into a subdivision in Greeley that somehow avoided installing sidewalks or curbs, or allowed some questionable street access or inadequate emergency access

We appreciate the work your department does in looking long-term rather than short-term to make Greeley a more livable place.

Sincerely,

Bart Smith

## Caleb Jackson

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**From:** David Christensen <iahwknco@gmail.com>  
**Sent:** Monday, August 30, 2021 12:30 PM  
**To:** Caleb Jackson  
**Subject:** [EXTERNAL] Re: Variance Request - 2915 68th Avenue Ct

Thank you Caleb. No concerns on our part. Have a good day.