



Zoning Board of Appeals Remote Meeting Instructions for April 13, 2021 Meeting

In order to comply with all health orders and State guidelines to stop the spread of the COVID-19 Coronavirus, **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/84918209826>

Video Replay on YouTube:

Citizens may also view a video replay of the hearing on the City of Greeley's YouTube Channel <https://www.youtube.com/CityofGreeley>.

Other options for sharing public comments:

E-mail – Submit to 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 – Zoning Board of Appeals, 1100 10th 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.

Visit the Planning Commission/Zoning Board web page at <https://greeleygov.com/government/b-c/boards-and-commissions/planning> to view and download the contents of the agenda packet. You are also welcome to 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

Agenda

April 13, 2021
1:15 p.m.

I. Call to Order

II. Roll Call

III. Approval of minutes for meeting held on November 10, 2020

IV. A public hearing to consider a variance request to allow for a 3-foot reduction from the required interior side parking setback, from 3 to zero feet in the Residential Low Density zone district

Case No.: VAR2020-0020
Project Name: 2040 Balsam Avenue Parking Setback Variance
Applicant: Irma Navarro
Location: 2040 Balsam Avenue
Presenter: Brittany Hathaway, Planner III

V. A public hearing to consider a variance request to allow for a reduced front setback from 25 feet to 13.5 feet for the installation of a gas canopy in the Commercial High Intensity zone district

Case No.: VAR2020-0017
Project Name: 2730 23rd Avenue Gas Canopy Setback Variance
Applicant: Shahzad Sarwar
Location: 2730 23rd Avenue
Presenter: Kira Stoller, Planner II

VI. Adjournment



ZONING BOARD OF APPEALS

Proceedings

November 10, 2020
(Zoom Webinar and viewable on City of Greeley YouTube)
1:15 p.m.

I. Call to Order

Chair Yeater called the meeting to order at 1:15 p.m.

II. Roll Call

Chair Yeater, Commissioners Schulte, Franzen, Romulo and Modlin were present. Commissioners Andersen and Briscoe were absent.

III. Approval of minutes for meeting held on August 25, 2020

Commissioner Romulo moved to approve the minutes dated August 25, 2020. Commissioner Franzen seconded the motion. The motion carried 5-0. (Commissioners Andersen and Briscoe were absent.)

Commissioner Briscoe joined the meeting at 1:18 p.m. Commissioner Andersen joined the meeting at 1:19 p.m.

IV. A public hearing to consider a variance request to allow for up to a 14-foot tall retaining wall

Case No.: VAR2020-0013
Project Name: 7718 Plateau Road Retaining Wall Height Variance
Applicant: TJ Heupel, Alles, Taylor & Duke, on behalf of Paul Jaramillo
Location: 7718 Plateau Road
Presenter: Kira Stoller, Planner II

Kira Stoller addressed the Board and introduced the request for a height variance pertaining to a retaining wall up to 14 feet in height along the southeast portion of site located at 7718 Plateau Road. Ms. Stoller presented a site map identifying zoning for the site and surrounding area as PUD (Planned Unit Development). She presented background information noting that a stop work order was issued in March 2020 pertaining to a retaining wall being over six feet in height without approval. Ms. Stoller presented site

photos showcasing the current state of the site and a plot plan identifying landscape retaining along the southeast portion of site that did not specifically designate a wall.

Ms. Stoller described the location of the wall within a gas easement and advised that Atmos Energy has signed off on an encroachment easement pertaining to the wall. Additionally, Ms. Stoller explained that the footing for the wall extends about 1.7 feet into property to the south. She explained that discussions had occurred with the property owner to the south who agreed to establish a five-foot drainage and encroachment easement on that portion of the wall.

Ms. Stoller presented a proposed revised site plan and sketch design for the wall, describing a ten-foot wall with a four-foot rail atop providing added safety. She added that a portion of the proposed rebuilt wall will serve as the eastern foundation wall for the proposed home and allow for adequate drainage and utilities.

Ms. Stoller described the consideration criteria in Development Code Section 18.22.040(f) and advised that the proposal meets all five criteria. She advised that the proposal meets all three mandatory criteria in Development Code Section 18.22.040(g). Notice of the hearing was mailed to property owners within 500 feet of the site, a sign was posted on the site, and newspaper notice was published on November 4, 2020. Ms. Stoller informed she received a citizen input email, besides the one noted in the staff report regarding upkeep and restoration of the property, from neighborhood property owner Jack Cox, 7713 Poudre River Road. In his email, Mr. Cox opposed any variance allowing a 14-foot retaining wall which he stated is not allowed in the architectural guidelines and Hillside Development for safety reasons. Ms. Stoller explained a follow up email was sent to Mr. Cox asking for clarification regarding the guidelines, and no response was received. Ms. Stoller advised the Code speaks to Hillside Development having a maximum six-foot retaining wall limitation and that owners may request a variance. Staff recommended approval.

Commissioner Andersen requested clarification regarding the direction of the slope and placement of the wall. Ms. Stoller explained that the slope goes from the southeast corner of the site decreasing northwest and that the eastern portion of the proposed foundation would include part of retaining wall. Chair Yeater requested clarification regarding drainage around site, if the wall was a single monolithic pour, if photos were taken during construction to ensure the wall followed engineering plans, if the wall was engineered prior to construction and if staff has reviewed the engineered plans. Ms. Stoller explained staff did not receive engineered plans for review prior to construction of the wall. Staff is unsure if the concrete was poured monolithically and if photos were taken during construction. Commissioner Modlin asked for additional drainage clarification.

Thomas Gilbert, Engineering Development Review, addressed the Commission advising the drainage historically has flowed down the hill on the western side of the property, grading to the front of the property. He added that compared to what has historically been constructed, the drainage currently flows to the eastern property line landing between two houses next to this site and flowing along the swale area. Mr. Gilbert advised that the proposed variance request rectifies the problem with the drainage being proposed to travel along the east to the gutter. He advised that engineered plans were submitted to Building Inspection at some time after the plot plan due to the retaining wall being over four feet.

Mr. Gilbert reported that the applicant resubmitted signed and stamped plans with a specification of the replacement of the part of the wall proposed to connect to the house. He explained if the variance is approved, the process starts back at a plot plan followed by a review by Building Inspection.

Chair Yeater asked about the inspection process and how construction is verified. Staff explained that in the case of retaining walls, an inspector verifies the engineered stamp on the plans as well as the location of the wall. Commissioner Romulo referred to Attachment I and asked if the concerns about landscaping had been addressed. Staff explained that landscape would be addressed as part of the building permit approval process.

TJ Heupel, Alles, Taylor & Duke, addressed the Commission on behalf of Paul Jaramillo and explained that he was hired in March 2020 to redo the site design. Mr. Heupel reported that on the day he was hired, the concrete was placed and that since that time an as-built survey was done to determine the location of the wall and redesigned the site. He provided an overview of the site explaining that the wall sits against adjacent farm land and a hill along the wall to the east and south.

Mr. Heupel explained that the master drainage pattern that was established in the subdivision had water moving from the southeast to northwest. He added that the two homes on the right side of photo were constructed five feet above the master drainage plan elevations and that when they were constructed eight or nine years ago, the grade changed, pushing all water from field between the two houses to the west. Mr. Heupel explained that he spoke with the neighboring property owner who complained about water filling the window well and flooding the basement due to the existing conditions. Mr. Heupel added that the proposed plan would allow for water to be taken from the property to the south and convey it to a wide swale on the western property line. He explained the drainage in more detail, suggesting it should solve the current drainage problem.

Mr. Heupel stated that if he had been presented with the project, he would have recommended a reverse walkout prior to construction of a retaining wall. He addressed the neighboring property owner's concern, explaining that the wall was backfilled quickly after construction, but that a small portion of the eastern wall suffered minor collapse undermining what trees are planted. He explained the trees withstood the excavation because roots held them in, but there was no solid ground under the trees prior to backfill which may have been concern from neighbors. Mr. Heupel did not express significant concern regarding the trees next to the wall. He clarified that the retaining wall was structurally engineered prior to construction, but that a site engineering plan was not completed. He added that returning the property to an undisturbed state would be practically impossible and that the proposed plan addresses issues of the site in its current state and fits well.

Commissioner Andersen asked if moving the project to the northwest would be an option as to not encroach into the gas easement. Mr. Heupel replied that the footings would still extend into the gas easement. He advised that there is no gas main in the easement that since this site is the last in the neighborhood to be built out and served, there would be no requirement for another gas main in the neighborhood. Mr. Heupel described the existing gas main to the area surrounding the site in detail.

Chair Yeater asked whether Mr. Heupel was familiar with the contractor who constructed the wall and their level of experience building retaining walls. Mr. Heupel stated that he had met the contractor on other commercial projects and expressed that the contractor knows how to do concrete, but was unsure if the contractor had experience building retaining walls.

Chair Yeater opened the public hearing at 1:53 p.m. The clerk read into the record a question from Harry Botler, neighboring property owner, who asked the applicant to clarify the drainage on west side of property. The public hearing was closed at 1:58 p.m.

Thomas Gilbert addressed the Commission and explained that proposed revised drainage plan design will alleviate the problem. Mr. Heupel added that the proposed design includes a swale running along the west property line approximately five feet east of the western property line to capture runoff and channel it into the road and storm system. He added that the swale will be roughly three feet below the top of foundation of houses to the west with flow depth roughly six inches.

Commissioner Andersen moved that, based on the application received and the preceding analysis, the Zoning Board of Appeals finds that the requested variance to allow for up to a 14-foot tall retaining wall, where 6 feet is allowed, complies with Section 18.22.040(f), Items 1, 2, 3, 4 and 5 and Section 18.22.040(g), Items 1, 2 and 3 of the Development Code and, therefore, approves the request with the following condition:

1. A five (5) foot drainage and encroachment easement is to be signed and recorded with the neighboring property owner to the south of the subject site, prior to a building permit being issued for the retaining wall.

Commissioner Franzen seconded the motion.

There was discussion regarding whether the wall was shown on the plot plan that was submitted and, if so, why it was not reviewed and concerns expressed regarding that integrity of the wall. Chair Yeater expressed concerns about drainage since the adjacent site is irrigated property.

Chair Andersen expressed a concern about the failure of the City to perform a site check prior to approving the plot plan regarding grading of the site. Chair Yeater added that the submitted plan does not necessarily show what is being retained, adding his concern that over time, the wall height and materials could create issue for surrounding homes. He added that the structure formed a sort of underground dam that could result in consequences for neighbors. Commissioner Modlin described a similar issue several years prior and suggested that the proposed plan could compound the problem. Commissioner Briscoe expressed frustration that the property owner had not followed the proper procedures. He acknowledged that the site configuration is difficult and that a reverse walkout option may be the only solution for construction of a house on the site. . Commissioner Andersen asked if steps could be taken to prevent a similar situation in the future.

The motion carried 6-1, with Commissioner Modlin voting in opposition.

V. Adjournment

The meeting adjourned at 2:13 p.m.

Justin Yeater, Chair

Brad Mueller, Secretary

DRAFT

ZONING BOARD OF APPEALS SUMMARY

ITEM: Request for a variance to reduce the required 3-foot interior side parking setback to 0 feet in the R-L (Residential Low Density) zoning district

CASE NO: VAR2020-0020

PROJECT: 2040 Balsam Avenue – Parking Setback Variance

LOCATION: 2040 Balsam Avenue

APPLICANT: Irma Navarro, Owner

CASE PLANNER: Brittany Hathaway, Planner III

ZONING BOARD OF APPEALS HEARING DATE: April 13, 2021

ZONING BOARD OF APPEALS FUNCTION:

Review the proposal for compliance with Chapter 18.22, Variances, of the City of Greeley Development Code and approve, approve with conditions, continue the application for future consideration, or deny the request.

EXECUTIVE SUMMARY

The City of Greeley is considering a variance request by Irma Navarro, to allow for a three (3) foot reduction from the required interior side parking setback, from three (3) feet to zero (0) feet, in the R-L zone district (*see Attachment C – Applicant Narrative*).

A. REQUEST

Approval of a variance to allow an existing driveway to be zero feet from the interior side setback, where 3 feet is required.

B. STAFF RECOMMENDATION

Approval

C. LOCATION

The subject site is located south of 20th Street, west of Buckeye Avenue, and north of 21st Street (*see Attachment A – Vicinity Map*).

Abutting Zoning: North: R-L
South: R-L
East: R-L
West: R-L

Surrounding Land Uses: North: Single-family residential
South: Single-family residential
East: Single-family residential
West: East Memorial Park

Site Characteristics: The subject property is developed with a single-family residence.

Lot Size: 0.14 acres, or 6,122 square feet

D. BACKGROUND

The subject property owner applied for a flatwork permit for an installed driveway replacement on November 16, 2020 upon receipt of a Code Compliance violation for failure to obtain a permit on the same day. The owner was unaware that a permit was required for the removal and replacement of a portion of the driveway and attempted to remedy the perceived issue immediately.

Upon review of the permit, Staff noted that an adjacent driveway extension had been installed at some point between 2014 and 2015 based on aerial images, of which extended up to the neighboring property line. Per Chapter 18.42.040(9)(e), driveways must be no less than 3 feet from the interior property line. Staff contacted the homeowner and informed that the new flatwork permit would not be issued until the existing violation was remedied. The homeowner was provided the option to remove 3 feet of the driveway to comply with required setbacks, or request a variance.

The homeowner informed that they purchased the home in 2018 with the driveway extension already installed. She noted that the issue did not come up in any inspection reports, thus was not aware of the violation. As there have been no drainage issues or conflicts with the neighboring property, the homeowner has requested the variance to allow the driveway extension to remain.

Should this variance be approved, the flatwork permit under review (FLAT2011-0164), would be approved and the site would be considered conforming.

E. APPROVAL CRITERIA

Variances: Section 18.22.040 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 18.22.040 (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 18.22.040 (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: The driveway is already installed to the property line, therefore a 3 foot setback reduction is the minimum needed to accommodate the difficulty involved.

The proposal complies 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 unusual or atypical.

The proposal does not comply 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 current owner did not install the driveway extension and was not aware it was in violation until after purchasing the property and applying for a subsequent flatwork permit.

The proposal complies 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 variance is not needed for a building or structure to align with similar buildings or structures on the block face.

This criterion is not applicable to this request.

- 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 granting the proposed variance does not align with any Comprehensive Plan policies.

The proposal does not comply with this criterion.

Mandatory Criteria: Development Code Section 18.22.040(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: Staff believes that granting the requested variance to reduce the required parking interior side setback from three (3) feet to zero (0) feet to allow for an existing extended driveway would not negatively affect the neighboring properties or be of detriment to the public interest.

Engineering has determined that the driveway is appropriately graded to divert runoff away from the neighboring property and onto Balsam Avenue. Additionally, there are no known drainage issues resulting from the zero side setback condition.

The proposal complies 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: Staff believes that strict adherence to the Code would result in a practical difficulty as the current owner did not create the issue, rather purchased the home with the driveway already installed. Requiring the current owner to remove 3 feet of concrete in order to comply with Code may result in an unnecessary hardship as there have been no neighboring complaints, comments, or stormwater diversion onto neighboring properties.

The proposal complies 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: The request has an extraordinary circumstance due to the fact that the owner purchased the property after the driveway extension was installed and was not aware it was not permitted until recent application for a related flatwork permit.

The request complies with this criterion.

F. PHYSICAL SITE CHARACTERISTICS

1. SUBDIVISION HISTORY

The subject site is part of the Balsam Village Subdivision, which was platted in 1999 (Rec # 2670765).

2. HAZARDS

Staff is unaware of any potential hazards that presently exist on the site.

3. WILDLIFE

The site is not located in an area of ecological significance.

4. FLOODPLAIN

The property is not located within any flood zones.

5. DRAINAGE AND EROSION

There are no concerns with drainage and/or erosion of the property. Engineering conducted a site visit on March 10, 2021 and noted that site drainage flows away from the neighboring property and onto Balsam Avenue.

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 and signs were posted on the property on March 31, 2021. No comments have been received to date.

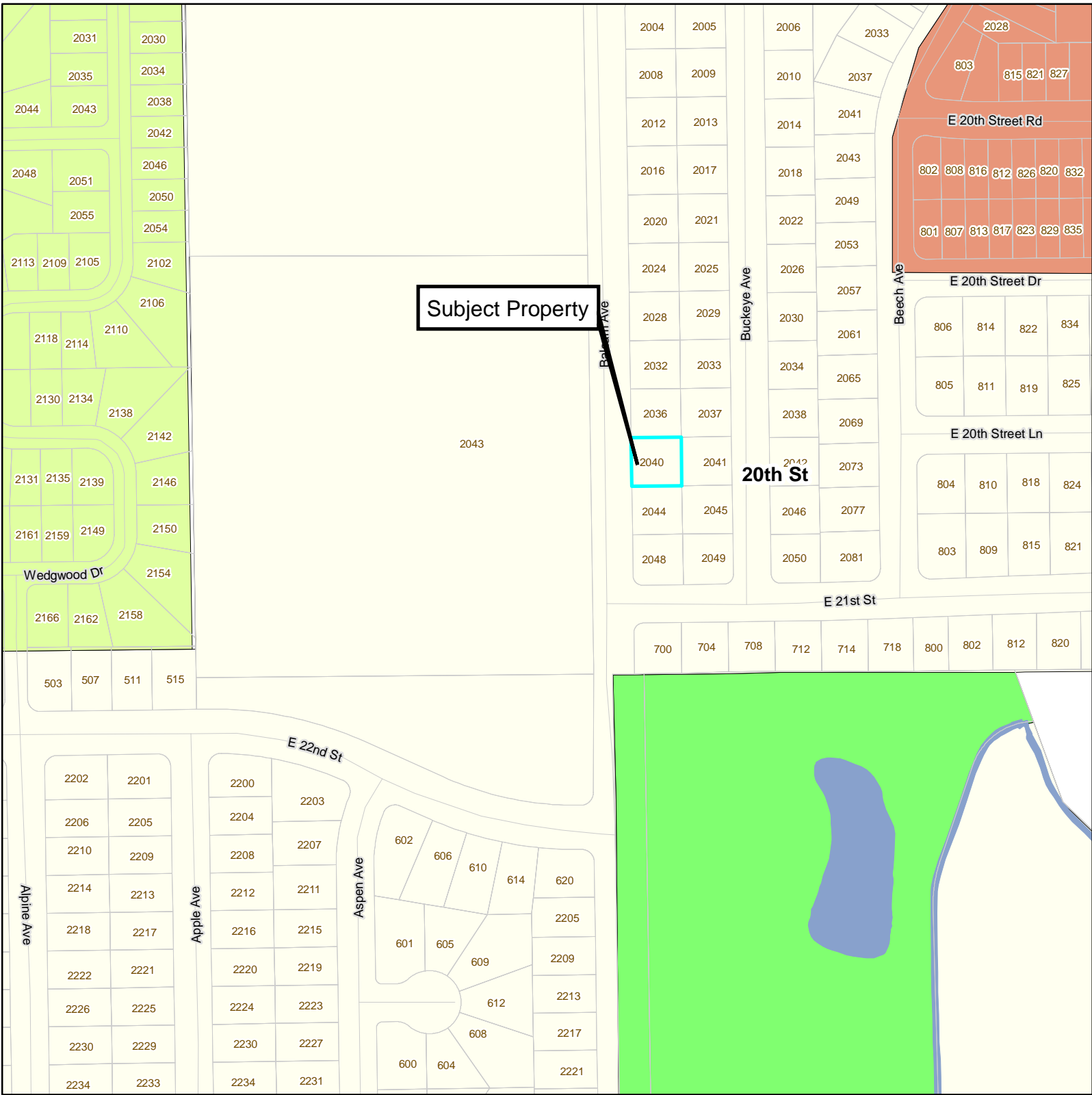
I. ZONING BOARD OF APPEALS RECOMMENDED MOTION

Based on the application received and the preceding analysis, the Zoning Board of Appeals finds that the requested variance to reduce the required driveway side setback to 0 where the minimum setback is 3 feet, complies with Section 18.22.040(f), Items 1 and 3, and Section 18.22.040(g), Items 1, 2 and 3 of the Development Code and, therefore, approves the request.

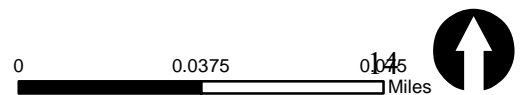
J. ATTACHMENTS

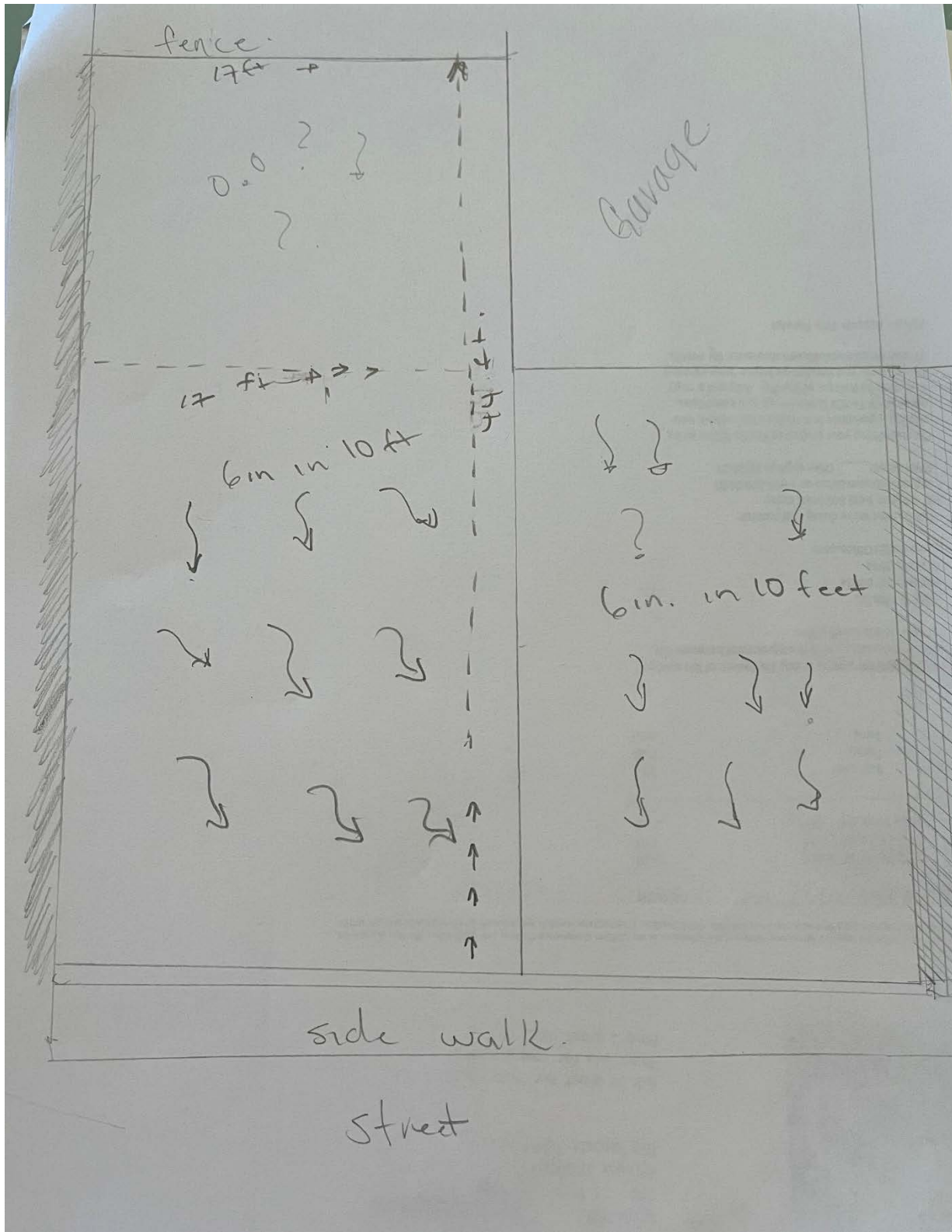
- Attachment A – Vicinity Map
- Attachment B – Site Plan by Applicant
- Attachment C – Applicant Narrative
- Attachment D – Site Photos

Vicinity Map 2040 Balsam Avenue



VAR2020-0020





Extended Driveway Minor Variance

2040 Balsam Ave

Greeley, CO 80631

Reason:

Homeowner is pursuing to keep extended driveway that was there when the home was purchased.

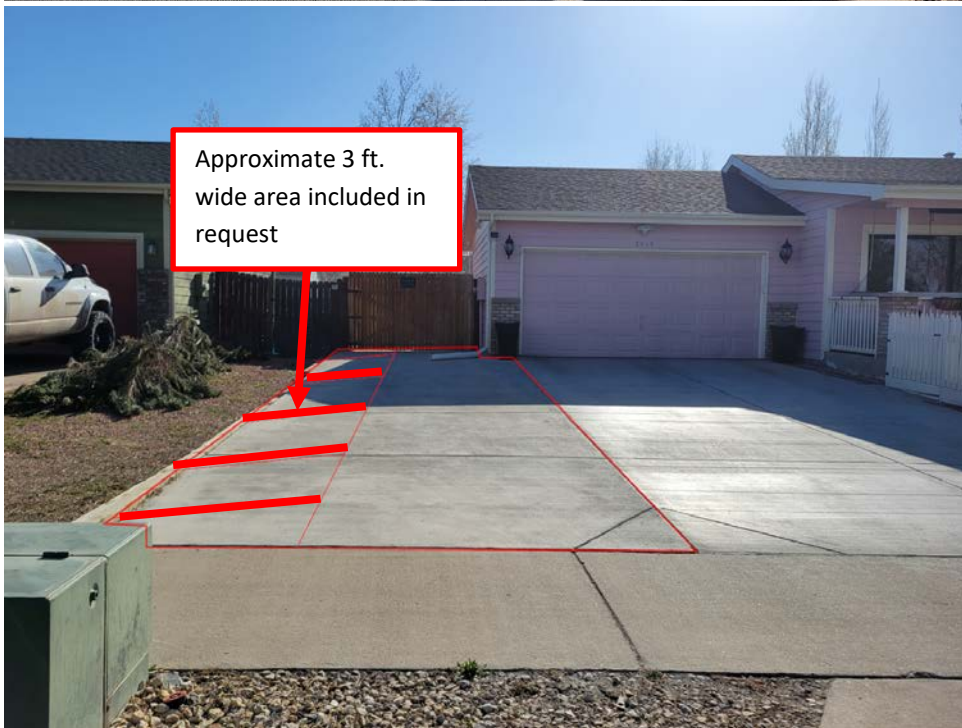
Justification:

This extended driveway was in place when the home was purchased. When the home was purchased inspectors inspected the property and this was not brought to anybody's attention. The extended driveway serves many useful purposes one being giving more parking space so that vehicles do not have to park on the street since it is a busy street. The driveway does not block or interfere with an alley close by, nor any school lines, or utility lines.

As noted in Section 18.22.040.(g) 1-3:

- (1) This variance will not be of substantial detriment to the public interest or to adjacent property/improvements in its district and will observe the spirit of the Code
- (2) This variance will not result in practical difficulties or unnecessary hardship inconsistent with the general purpose and intent of the code
- (3) There are no exceptional /extraordinary circumstances/conditions that do not apply generally to other properties in the same zoning districts.

Many neighboring houses have extended driveways in place, since the road is so busy.



ZONING BOARD OF APPEALS SUMMARY

ITEM: Request for a variance from the required front setback in the C-H (Commercial High Intensity) zone district

CASE NO: VAR2020-0017

PROJECT: 2730 23rd Avenue – Gas Canopy Setback Variance

LOCATION: 2730 23rd Avenue

APPLICANT: Shahzad Sarwar

CASE PLANNER: Kira Stoller, Planner II

ZONING BOARD OF APPEALS HEARING DATE: April 13, 2021

ZONING BOARD OF APPEALS FUNCTION:

Review the proposal for compliance with Chapter 18.22, Variances, of the City of Greeley Development Code and approve, approve with conditions, continue the application for future consideration, or deny the request.

EXECUTIVE SUMMARY

The City of Greeley is considering a variance request by Shahzad Sarwar, for a reduced front setback from 25 feet to 13.5 feet, for the installation of a gas canopy located at 2730 23rd Avenue (*see Attachment A – Applicant Narrative*).

A. REQUEST

Approval of a variance to reduce the required front setback from 25 feet to 13.5 feet in the C-H (Commercial High Intensity) zone district.

B. STAFF RECOMMENDATION

Approval

C. LOCATION

The subject site is located on the northeast corner of the intersection of 23rd Avenue and 28th Street (*see Attachment B – Vicinity Map*).

Abutting Zoning: North: C-H (Commercial High Intensity)
South: C-H

East: C-H
West: C-H

Surrounding Land Uses:

North: Commercial (retail)
South: Highway 34 Bypass
East: Commercial (upholstery shop)
West: Commercial (restaurant)

Site Characteristics:

The subject property is zoned C-H (Commercial High Intensity), is approximately 0.568 acres in size and was previously developed with a gas station and convenience store.

D. BACKGROUND

The subject site currently contains a convenience store with gas sales. The property originally developed in 1967, at which time the gas pumps were installed thirteen (13) feet from the western property line, along 23rd Avenue. The existing site configuration is typical for gas stations constructed within this time period.

The applicant proposed a number of upgrades to the property in 2011, including demolishing the original convenience store and replacing it with a larger structure. In conjunction with the approved site improvements, a variance was submitted to install a canopy with a reduced setback, to cover the existing gas pumps. At that time, the applicant requested that the required front setback be reduced from 25 feet to ten (10) feet. The Zoning Board of Appeals approved the corresponding variance on January 24, 2012 (*Attachment C – Previous Approval Document*). A new convenience store was constructed on the property in 2012, however, due to funding constraints, the applicant was unable to install the canopy within twelve (12) months from the date of approval and the variance expired.

After securing full funding for the canopy construction, the applicant reapplied for a setback variance in December 2020. As part of the new application, the extent of the setback reduction request has been adjusted. The applicant is now requesting a reduction of 11.5 feet from the required front setback of 25 feet, so that the canopy would be situated 13.5 feet from 23rd Avenue (*see Attachment D – Canopy Site Plan*). This means that the canopy should not encroach further into the setback than the existing gas pumps. The only other change from the previous approval is that the canopy fascia is proposed to be constructed of aluminum rather than being finished with stucco.

E. APPROVAL CRITERIA

Variances: Section 18.22.040 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 18.22.040 (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 18.22.040 (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: The proposed canopy design is typical for a gas station and its size has been limited in order to minimize the setback reduction that is required to accommodate the structure on the existing site. In fact, the requested setback reduction has been decreased by 3.5 feet from the previously approved variance for the property.

The proposal complies 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: Although the subject site does not contain an unusual or atypical lot configuration, convenience stores with gas sales are generally located on larger properties. Because this site was previously developed, there is no alternative placement

for the canopy that would fully cover the existing gas pumps, while also meeting the standard 25 foot front setback.

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 existing gas pump islands were lawfully constructed by a previous property owner. If the site were to develop under today's standards, the access drives around the gas pumps would have to be situated further from 23rd Avenue. In turn, this would enable the canopy to be installed over the gas islands without the need for a setback variance. While the current property owner inherited the existing site conditions, the variance request is considered self-imposed because the business can continue to operate without the installation of the canopy.

The proposal partially complies 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 canopy location is necessary to cover the existing gas pump islands, which are already closer to 23rd Avenue than the required 25 foot front setback. The placement does not align with other nearby structures.

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: The following Comprehensive Plan goal applies to this request:

Comprehensive Plan Goal GC-4: Prioritize infill and redevelopment

Although the subject site falls just outside the City's Redevelopment District, the Land Use Guidance Map identifies the area as one of the city's neighborhood centers. Specifically, the property is within a legacy urban neighborhood and the Imagine Greeley Comprehensive Plan emphasizes the need for projects within these areas to align with the scale and design of adjacent structures. The proposed canopy would utilize materials similar to the existing convenience store, in an effort to be sympathetic to the surrounding area, and allowing for its installation would encourage reinvestment in an established business, while also maximizing the use of existing public infrastructure.

The proposal complies with this criterion.

Mandatory Criteria: Development Code Section 18.22.040(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: Staff does not believe that it would be detrimental to adjacent property owners or the public interest to grant the requested variance. While the canopy would encroach into the required front setback of the property, the surface level impact should be minimal, as the structure is proposed to be elevated 15 feet off the ground. There would be no change to the site access or circulation and the canopy design would be consistent with that of other gas stations. Additionally, constructing the proposed canopy would allow for better night lighting on the site and create a safer environment for customers.

The proposal complies 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 would not allow the applicant to construct a canopy that covers the existing gas pump

islands on the subject site. Part of the reason the applicant would like to install the canopy is to upgrade the gas pumps to include the required credit card chip readers. Upgrading the pumps with this technology comes at a substantial cost and the property owner would like to ensure that the improvement lasts by installing the canopy as a protective structure to help shelter the machines from the elements. The canopy would also benefit customers by providing cover from inclement weather.

The proposal complies 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: The installation of a canopy on the subject site is unique in that it is being proposed long after the gas station use was established. The only way to avoid the need for the requested setback variance, while also allowing for the installation of a canopy that fully covers the upgraded payment equipment and customers, would be to relocate the existing gas pumps further from 23rd Avenue. This would require the property owner to make an even larger investment in the site upgrades and could necessitate a redesign of the overall site. If the owner had not run into funding constraints, they would have already constructed the canopy under the previous variance approval.

The proposal complies with this criterion.

F. PHYSICAL SITE CHARACTERISTICS

1. SUBDIVISION HISTORY

The subject site encompasses a portion of Outlot A, which was platted as part of the Second Addition to Hillside Subdivision on May 10, 1962 (Rec No. 1381162).

2. HAZARDS

Staff is unaware of any potential hazards that presently exist on the site.

3. WILDLIFE

The site is not located in an area identified as moderate or high ecological significance. Additionally, the property was already previously developed.

4. FLOODPLAIN

The property is not located within any flood zones.

5. DRAINAGE AND EROSION

The installation of the proposed canopy will not alter the site's existing drainage pattern.

6. TRANSPORTATION

The construction of a gas canopy on the subject property should not have any noticeable impacts on area traffic.

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 March 26, 2021, and a sign was posted on the property on April 2, 2021. Public notice was also published in the newspaper on April 7, 2021. No comments were received.

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 required front setback from 25 feet to 13.5 feet, for the installation of a gas canopy located at 2730 23rd Avenue, complies with Section 18.22.040(f), Items 1, 3 and 5 and Section 18.22.040(g), Items 1, 2 and 3 of the Development Code and, therefore, approves the request.

J. ATTACHMENTS

Attachment A – Applicant Narrative

Attachment B – Vicinity Map

Attachment C – Previous Approval Document

Attachment D – Canopy Site Plan

LAWRENCE DEPENBUSCH
DEPENBUSCH ARCHITECTURE, PC
6898 SOUTH UNIVERSITY BLVD.
CENTENNIAL, COLORADO 80122
303-981-8790 CELL

March 23, 2021
Kira Stoller, Planner 2
1100 10th Street, Suite 202
Greeley, CO

NARRATIVE FOR Cosmic Market Canopy

2730 23rd Avenue, Greeley, CO
Setback Variance (VAR2020-0017)

Gas station owner is pursuing a new Canopy over the existing gas pumps. The lot that this gas station sits on does not provide any alternative placement of the pumps where variance request can be avoided.

Justification:

This canopy will replace aging three small canopies over the existing gas pumps. The new canopy will be better aligned to the aesthetics of this gas station's retail building, provide greater protections to customers using the pumps from rain and snow. In addition, this will also allow for better lighting during nighttime thus creating a safer environment for customers.

During this upgrade we are also planning on upgrading the gas pumps to meet EMV credit card requirement. Upgrading the pumps is a substantial cost, the new canopy will protect the new pumps from the environment allowing them to be in services longer.

Lastly, the new canopy will upgrade the look of the gas station and improving this section of our city. As noted in Section 18.22.040 (f) 1-4:

- (1) Canopy has been kept to a minimum size as possible to provide adequate cover.
- (2) The lot does not allow for alternative gas pump / canopy layout
- (3) This variance will not result in any difficulty or hardship to the area.
- (4) Granting the variance is necessary so the building can align with prevailing gas stations in the city.

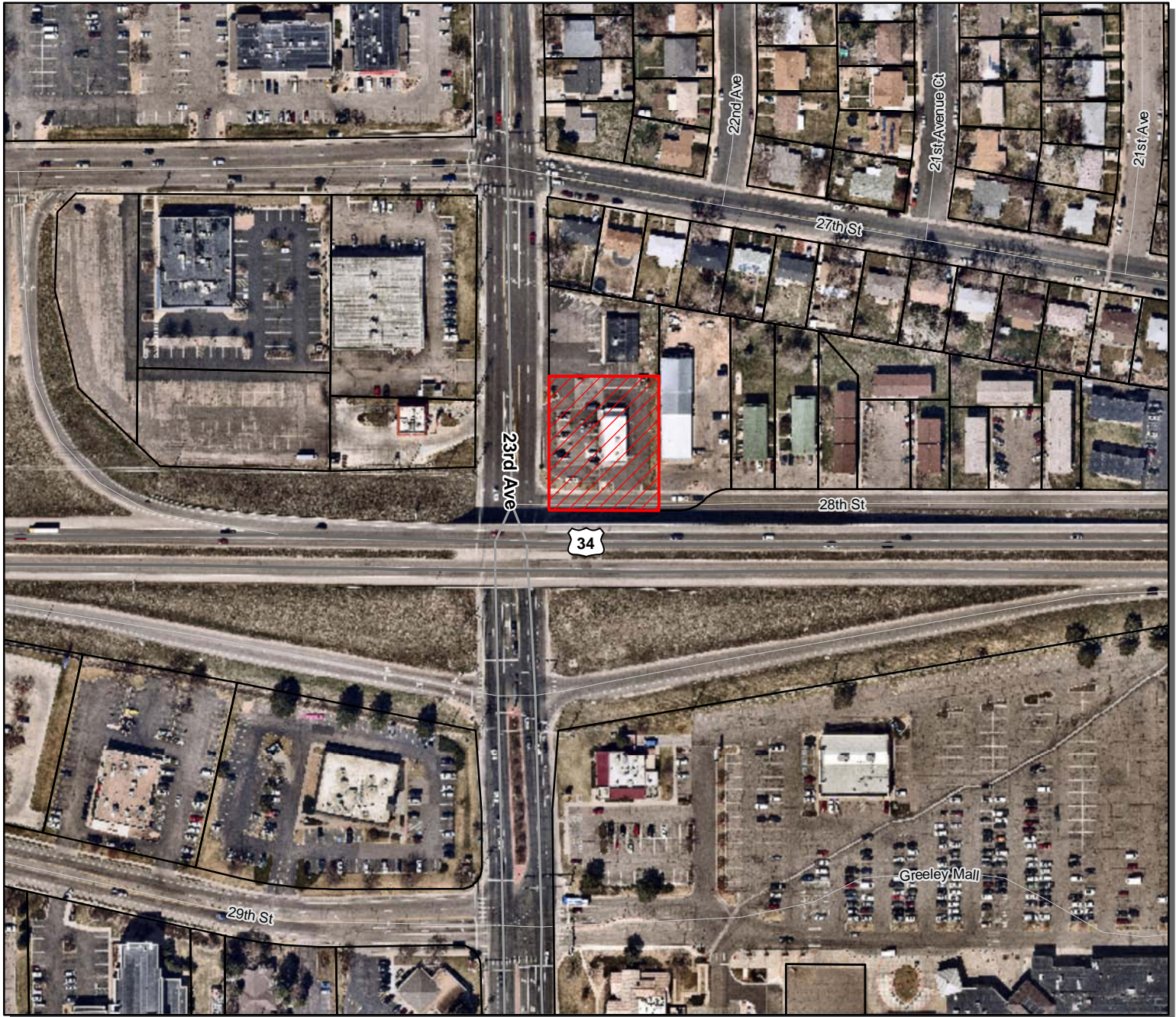
As noted in Section 18.22.040 (g) 1-3:

- (1) This variance will not be of substantial detriment to the public interest or to adjacent property/improvements in its district, and will observe the spirit of the Code
- (2) This variance will not result in practical difficulties or unnecessary hardship inconsistent with the general purpose and intent of the Code
- (3) There are no exceptional/extraordinary circumstances/conditions that do not apply generally to other properties in the same zoning district.

We request an 11.5' feet setback reduction [25' to 13.5'] We increase the setback to increase the light from the canopy to C-store and reduce the light levels at the Property Line on the West.



Downlights in the 3 foot soffit overhang on the West side of store will be replaced by 10 LED soffit downlights. Wallpak lights will be added to the South and East elevations to increase safety around the perimeter for customers.

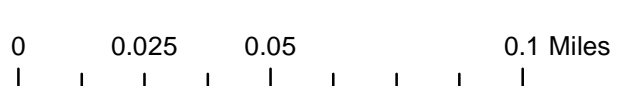
Vicinity Map



2730 23rd Avenue - Gas Canopy Setback Variance VAR2020-0017

Legend

-  Subject Site
-  Parcels





VARIANCE
FINAL APPROVAL DOCUMENT

ITEM: 2730 23rd Avenue Setback Variance
CASE NUMBER: VAR 1:12
LOCATION: 2730 23rd Avenue
APPLICANT: Shahzad Sarwar

PROJECT OVERVIEW AND BACKGROUND:

The subject site at 2730 23rd Avenue is an existing convenience store with gas sales. The subject site is located within the C-H (Commercial High Intensity) zoning district. Within this district all structures are required to be setback from public right-of-way a minimum of twenty-five (25) feet.

The applicant has requested a variance from section 18.38.080(I) of the City of Greeley Development Code to allow for a reduced street-side setback for the purpose of construction a canopy over existing gas pump islands. The proposed variance is to reduce the front setback from twenty-five (25) feet, to ten (10) feet.

On January 24, 2012 the Zoning Board of Appeals heard the item and found that the request for a fifteen (15) foot variance from the twenty-five (25) foot street-side setback in the C-H zone district for a canopy structure met the criteria found in section 18.44.020(f) items (1) and (5) and (g) items (1) and (2), and therefore approved the variance request.

APPROVAL:

I hereby certify the above request reflects the review and subsequent approval of the 2730 Avenue setback variance from twenty-five (25) feet to ten (10) feet for the street-side setback in the C-H zoning district by the Zoning Board of Appeals on January 24, 2012.



Community Development Director

8/12/13

Date

Exhibit A – Application
Exhibit B – Canopy Plan

City of Greeley

Development Code Variance Application

PART A TO BE COMPLETED BY APPLICANT: (please print or type, except for signature lines)

1) PROPERTY ADDRESS FOR VARIANCE REQUEST:

27300 23 RD AVENUE City GREELEY State CO Zip

2) LEGAL DESCRIPTION (lot, block, subdivision):

A PORTION OF Lot OUTOTA Block SECOND ADD Subdivision HILLSIDE

3) PROPERTY OWNER'S NAME: SHAHZAD SARWAR

4) ADDRESS: SAME AS ABOVE City State Zip PHONE: () FAX: ()

5) OWNER'S REPRESENTATIVE NAME: (if applicable) ADDRESS: 4260 E. Fremont Ave City Centennial State CO Zip 80122 PHONE: (303) 981.8790 FAX: ()

6) ZONING DESIGNATION OF PROPERTY (check one)

- R-L C-L I-L CD
R-E C-H I-M HA
R-M I-H
R-H
R-MH

7) VARIANCE REQUEST (check where applicable)

CODE AREA DESCRIBE VARIANCE FROM STANDARD REQUESTED (e.g. wish to reduce front yard setback from 25' to 20') (attach additional pages if necessary)

Distance between structures
Lot area
Lot coverage
X Setbacks
Building or structure height
Size of accessory buildings
Signage
Flood plain

ADD CANOPY AT 10' FROM PROP LINE INSTEAD OF 25' DUE TO ISLANDS (EXIST)

- 8) VARIANCE JUSTIFICATION: address the criteria ("F" 1-5 and "G" 1-5) as outline above of this packet and explain the extreme circumstances which prevent compliance with Development Code Standards. (Attach additional pages if necessary)

Describe: F.1 A 10 FOOT SETBACK IS THE MIN. NEEDED FOR EXISTING ISLANDS
F.2 UNUSUAL LOT CONFIGURATION REQUIRES CANOPY TO ALIGN WITH ISLANDS
F.3 HARSHIPID DUE TO THE LOCATION OF EXISTING ISLANDS
F.4 VARIANCE IS REQUIRED SO CANOPY AND COLUMNS CAN ALIGN TO ISLANDS -
F.5 VARIANCE IS CONSISTENT TO THE HISTORIC USE OF THE SITE AND ISLANDS

G.1 VARIANCE WILL ALLOW SITE GAS AREA TO BE FREE OF SNOW, RAIN, ICE
G.2 STRICT COMPLIANCE IS NOT POSSIBLE WITH ISLAND LOCATIONS
G.3 THE SITE REQUIRES A CANOPY FOR CUSTOMERS TO GAS CARS,

- 9) Attach site plan which illustrates existing conditions, code requirements and the proposed variance. Plan should be to scale and maintain legibility through reproduction.

I HEREBY DEPOSE AND STATE UNDER THE PENALTIES OF PERJURY THAT ALL STATEMENTS, PROPOSALS, AND/OR PLAN SUBMITTED WITH OR CONTAINED WITHIN THE APPLICATION ARE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE.

COUNTY OF WELD, STATE OF COLORADO

Lawrence Deenbusch
 Signature: Owner or Agent

12-12-11
 Date

Subscribed and sworn to before me this _____ day of _____, _____.

 Notary Public

My commission expires: _____

MY ENERGY CONVENIENCE STORE CANOPY SITE PLAN

A PORTION OF OUTLOT A OF THE SECOND ADDITION TO HILLSIDE, A SUBDIVISION
 A PARCEL LOCATED IN THE SW 1/4 OF SECTION 18, T5N, R65W, OF THE 6TH PM
 CITY OF GREELEY, STATE OF COLORADO

LOCATED AT: 2730 WEST 23RD AVENUE, GREELEY, CO 80631

OWNER	ENGINEER-ARCHITECT-CONTRACTOR
MY ENERGY 2730 WEST 23RD AVENUE GREELEY, CO 80631 (970) 771-8779	DEPENBUSCH Architecture, PC 310 W. 13TH AVENUE GREELEY, CO 80631 (970) 771-8779
ARCHITECT	ENGINEER
DEPENBUSCH ARCHITECTURE, PC 310 W. 13TH AVENUE GREELEY, CO 80631 (970) 771-8779	DEPENBUSCH ARCHITECTURE, PC 310 W. 13TH AVENUE GREELEY, CO 80631 (970) 771-8779

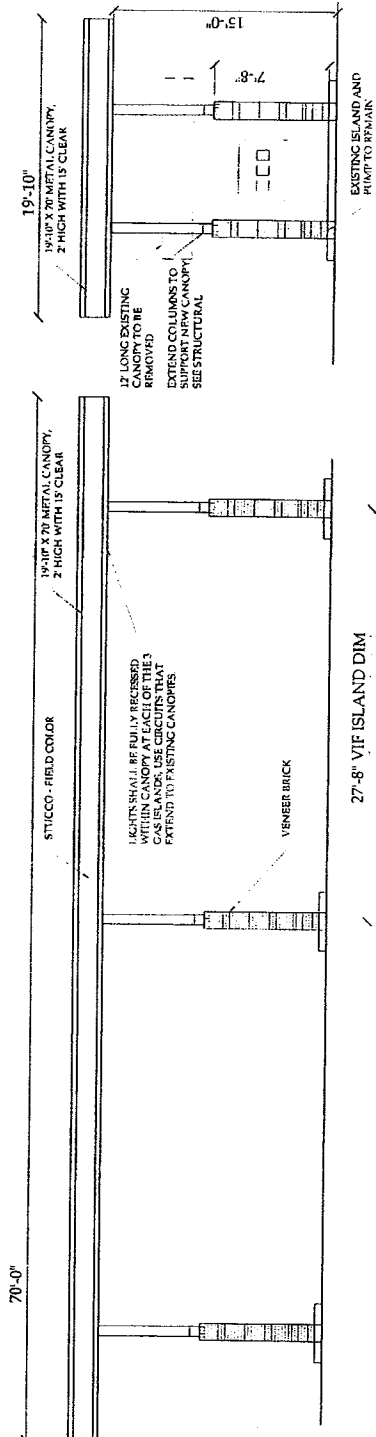


DEPENBUSCH Architecture, PC
 310 W. 13TH AVENUE
 GREELEY, CO 80631
 (970) 771-8779
 www.depenbusch.com

Project Number: 13-011
 Date: 08/29/2013
 Scale: 1/4" = 1'-0"

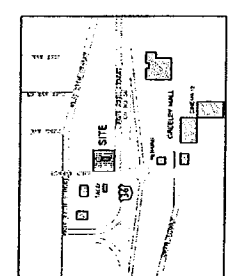
MY ENERGY
 2730 23RD AVENUE
 GREELEY, COLORADO

SHEET TITLE
 1 of 1
 P-C
 Sheet Number



FINISH SCHEDULE

TYPE	DESCRIPTION	COLOR	MAKER	REMARKS
1	BRICK VENEER	RED	ROBINSON	WATCH STURF
2	MULLIONS & DOORS	GREEN	SHERWIN WILLIAMS	
3	STUCCO - FIELD	CREAM	SHERWIN WILLIAMS	SW
4	STUCCO - ACCENT	TERRA COTTA	SHERWIN WILLIAMS	SW
5	STUCCO - SMOOTH	WHITE	SHERWIN WILLIAMS	SW
6	WINDOW FRAMES	BRONZE	WINDOW MAKER	



VICINITY MAP
 SCALE: 1" = 500'
 SITE MAP PROVIDED FOR INFO ONLY
 KULLI ARCHITECTURE - 1/07/2008
 HERMAN ARCHITECTS - 3/06/2009
 FIELD VISIT ALL DATES B/C

LIGHTS SHALL BE FULLY RECESSED
 WITHIN CANOPY AT EACH OF THE 3
 CANOPY PLAN



DEPENBUSCH
Architecture, PC
Urban Planning
Space Planning
Architecture
Landscape Architecture
Expert Witness
4260 East Fremont Avenue
Centennial, Colorado 80122
Phone: (303) 220-8522
Cell: (303) 981-8790
E-Mail: depenbusch@juno.com

Date	Revision
3-3-21	FIRST
3-23-21	SECOND

Date: 03/03/21
Project Number: 2021.5
Drawn By: LJD
Checked By: ...

Depenbusch 2021

COSMIC MARKET
2730 23RD AVENUE
GREELEY, COLORADO

Sheet Title
1 OF 1
PC
Sheet Number
31

COSMIC MARKET CONVENIENCE STORE CANOPY SITE PLAN

A PORTION OF OUTLOT A OF THE SECOND ADDITION TO HILLSIDE, A SUBDIVISION
A PARCEL LOCATED IN THE SW 1/4 OF SECTION 18, T5N, R65W, OF THE 6TH PM
CITY OF GREELEY, STATE OF COLORADO

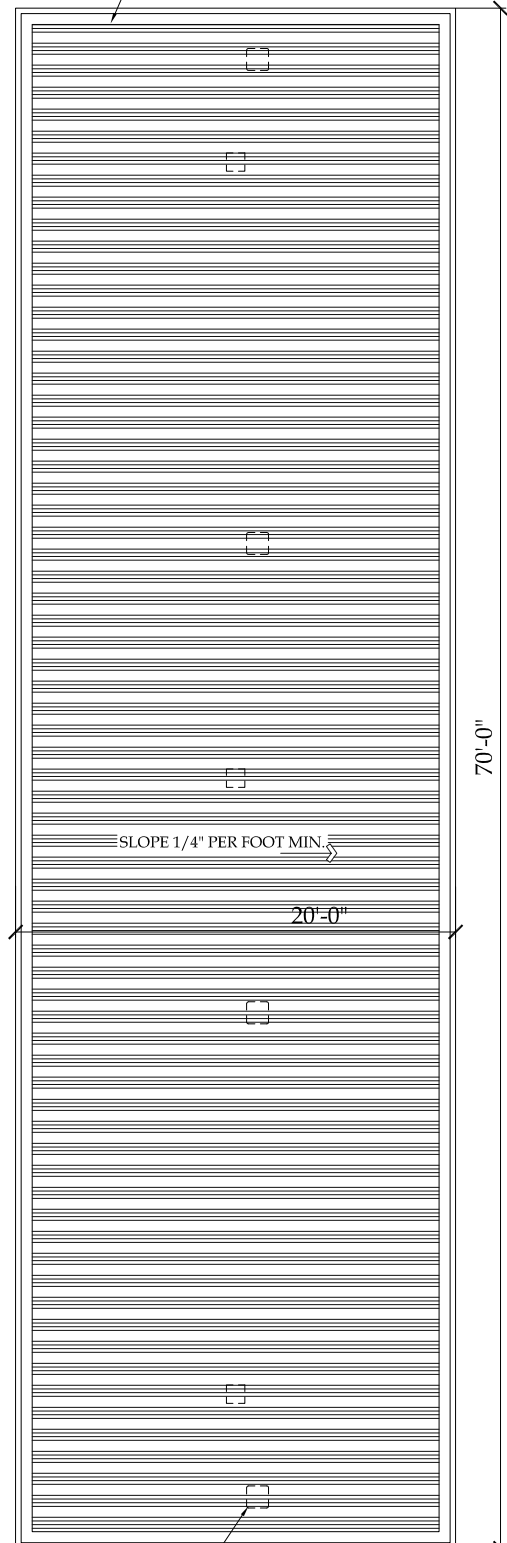
LOCATED AT: 2730 23RD AVENUE, GREELEY, CO 80631

FOR CONSTRUCTION

3/23/21

GENERAL PROJECT NOTES	
OWNER	SHAHZAD SARWAR 2730 23RD AVENUE GREELEY, CO (720) 560-1810
ARCHITECT	DEPENBUSCH ARCHITECTURE, PC 6898 SOUTH UNIVERSITY BLVD #220 CENTENNIAL, CO 80122 (303) 981-8790

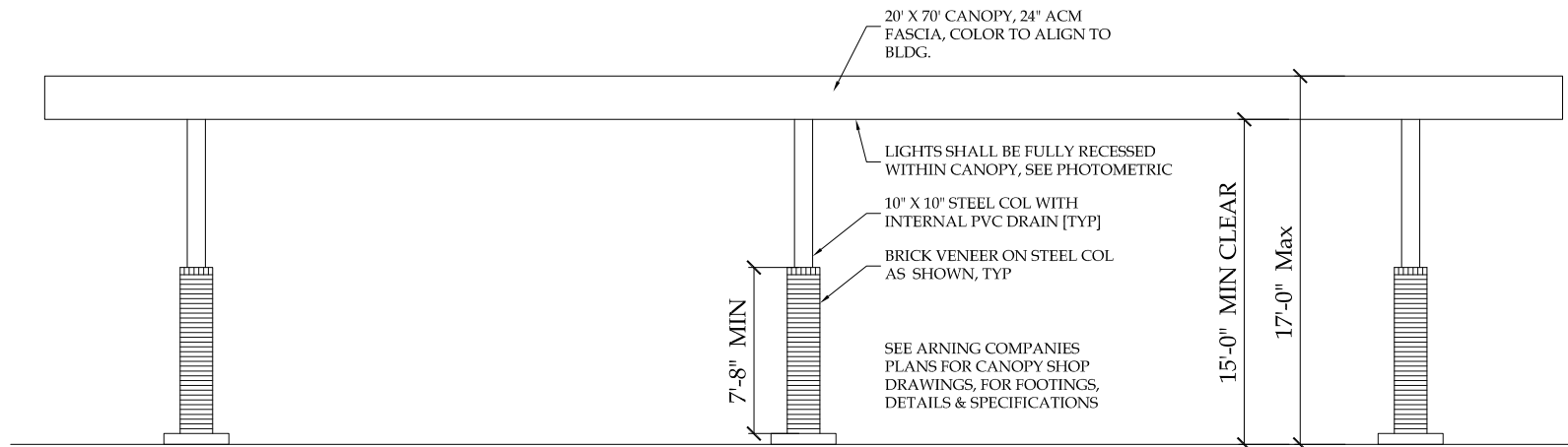
METAL ROOF BAKED ENAMEL
FINISH, WHITE, SLOPE TO GUTTER
ON EAST SIDE TO PVC DOWNSPOUTS,
SEE SHOPS BY ARNING COMPANIES



CANOPY LIGHTS SHALL BE FULLY
RECESSED WITHIN CANOPY, SEE
PHOTOMETRIC -

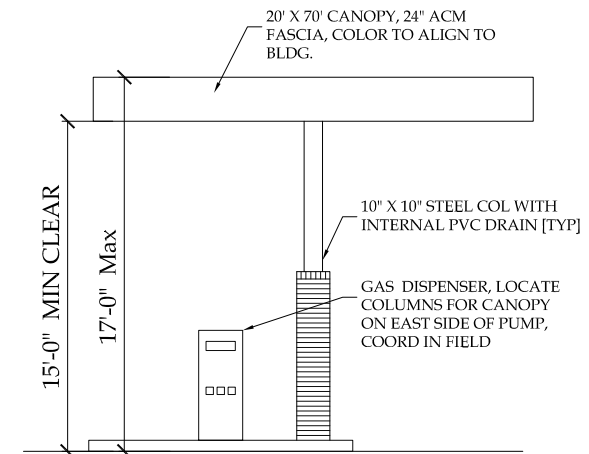
CANOPY PLAN

SCALE: 1/4" = 1'-0"



WEST ELEVATION

SCALE: 1/4" = 1'-0"



SOUTH ELEVATION

SCALE: 1/4" = 1'-0"



VARIANCE REQUEST IS FOR AN 11.5 FOOT SETBACK
REDUCTION FROM 25 FEET TO 13.5 FEET. PREVIOUS
REQUEST WAS FOR A 15 FOOT SETBACK REDUCTION.

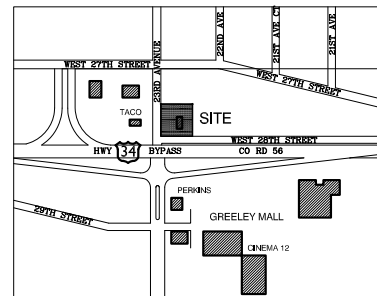
All work is to be done in accordance with the City of Greeley
Municipal Code and Design Criteria and Construction
Standards.

CONSTRUCTION MUST BE IN ACCORDANCE WITH APPLICABLE
CITY OF GREELEY CONSTRUCTION STANDARDS. THE CITY'S
ACCEPTANCE SHALL NOT RELIEVE THE DESIGN ENGINEER'S
RESPONSIBILITY FOR ERRORS, OMISSIONS, OR DESIGN
DEFICIENCIES FOR WHICH THE CITY IS HELD HARMLESS

ACCEPTED BY: _____
COMMUNITY DEVELOPMENT DIRECTOR DATE

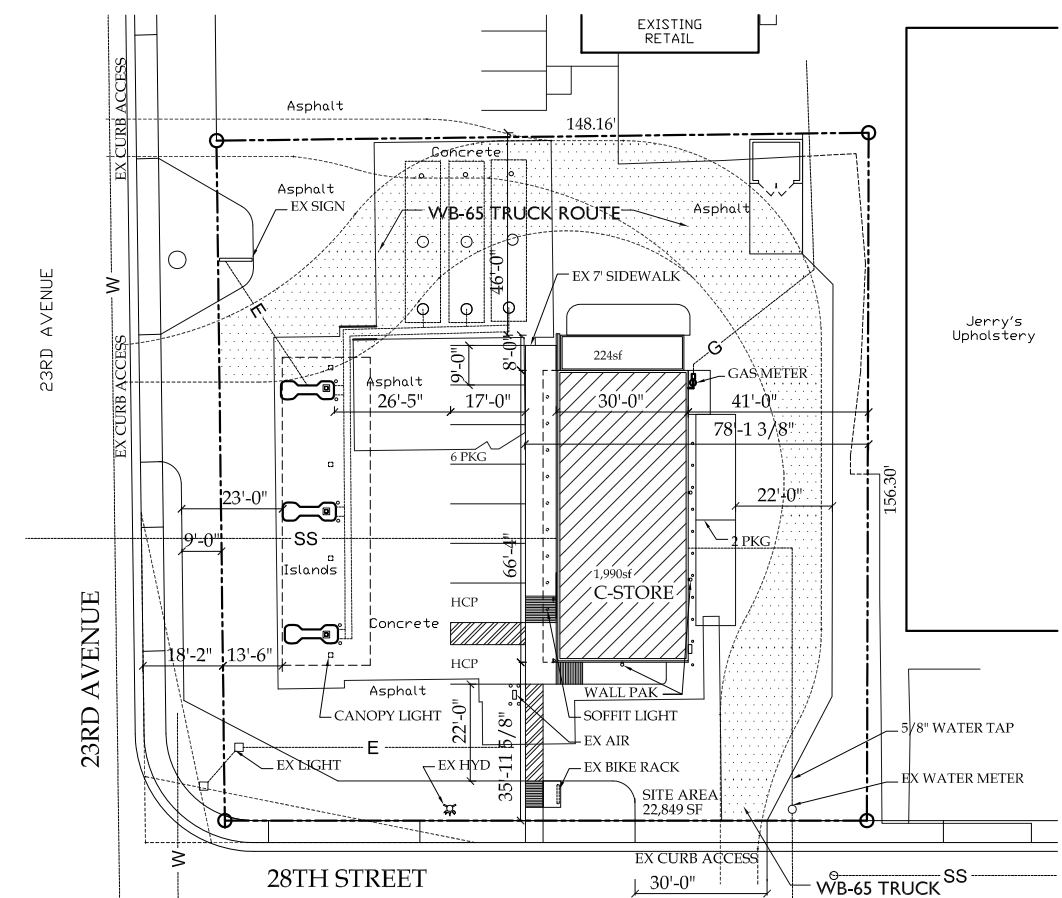
LEGEND OF HATCH PATTERNS	
	TRUCK ROUTE
	C-STORE STORE FOOTPRINT
	SIDEWALK RAMP STRIPES
	CROSSWALK PARKING STRIPES
	BRICK VENEER FOR CANOPY COLUMNS
	CANOPY ROOF OVER GAS ISLANDS

LIGHT TYPES FOR CANOPY & SOFFIT	
CANOPY LIGHTS- 4 TOTAL - new see Photometric	
SOFFIT LIGHTS- 10 TOTAL - new see Photometric	
WALL PAK LIGHTS- 3 TOTAL - new see Photometric	



VICINITY MAP
SCALE: 1" = 500'

SITE MAP PROVIDED FOR BASE
SHEET BY PRIOR SURVEY PLANS BY
RULE ENGINEERING - 4/27/2005
FREEMAN ARCHITECTS - 2006
HAMILTON ENGINEERS - 11/13/2007
FIELD VERIFY ALL EXISTING



SITE PLAN AND WB-65 TRUCK ROUTE

SCALE: 1" = 20'-0"