TAX PARCEL NUMBER: 212525108015
DATE: May 23, 2017

PROJECT: Sorensen Variance

OWNER: SORENSEN, SAMANTHA MARIE & SHANE GARRETT

REPRESENTATIVE: N/A

PRACTICAL LOCATION: 140 APACHE DR, NEW CASTLE 81647

TYPE OF APPLICATION: Variance

I. GENERAL PROJECT DESCRIPTION

The property owner is requesting a variance from the setback requirements in the Residential Manufactured Home Park (RMHP) Zone District. The property is identified as Lot 1A of the Elk Creek Subdivision and is on Apache Drive. The 2013 Land use and Development Code, as amended (LUDC) states that a lot front yard setback in the zone district is 25 feet.

A 1744 square foot home was built on the property in 1988 with a shed constructed in 2010. Due to the location of the home and restrictive topography on the parcel, it is understood that the owner is not able to enlarge the shed without encroaching into the 25' front yard setback. It is understood that the construction of a 4’ high retaining wall would be required on the road side of the shed in order to allow enough room for construction. The applicant should include the area for the retaining wall in with the request for the variance.

II. REGULATORY PROVISIONS APPLICANT IS REQUIRED TO ADDRESS

Garfield County Land Use and Development Code, as amended (LUDC):
4-101, Common Review Procedures
4-115, Variance
III. REVIEW PROCESS

The process to accommodate these requests shall require application for a Variance pursuant to the LUDC.

A. Pre-application Conference.
B. Application Submittal.
C. Determination of Completeness.
D. Schedule Public Hearing with Board of Adjustment and provide documentation regarding notice requirements.
E. Request referral agencies to provide comments on the request.
F. Evaluation by Director/Staff resulting in a Staff Report to the Board of Adjustment.
G. Public Hearing before the Board of Adjustment, resulting in an approval, approval with conditions or denial of the request.
H. Resolution for Board of Adjustment to sign.
I. If approved a Land Use Change Permit will be issued upon compliance with any conditions of approval.

IV. PUBLIC HEARINGS AND NOTICE

Public Hearing (minimum of 30 days) notices shall be posted, mailed and published pursuant to Section 4-101.E. for a Hearing with the Board of Adjustment. The BOA meets on the last Monday of the month.
Referral will be sent to the following agencies:

- Garfield County Engineer
- County Road & Bridge
- County Attorney
- Others as may be deemed necessary upon review of the application

V. SUBMITTAL REQUIREMENTS

- Copy of deed to demonstrate ownership
- Letter of authorization if applicant is not owner
- Application form and fee
- Names and mailing addresses of all properties within 200 feet of subject site
- Copy of assessor map showing the subject site and properties within 200 feet
- Names and mailing addresses of mineral owners of the subject site
- Statement regarding why the variance is being requested
- Copy of plans indicating setbacks and requested variance area, along with technical drawings and plan showing the topography or other unusual physical characteristic of the site to support the request for a hardship
- Respond to Review Criteria in Section 4-115(C)

VI. APPLICATION REVIEW FEES

This application will be subject to the following fees and deposit requirements:

**Planning Review Fees:** $250.00 Plus additional Staff time at hourly rate of $40.50

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**Total Deposit:** $250.00

**General Application Processing**

Planner reviews case for completeness and sends to referral agencies for comments. Case planner contacts applicant and sets up a site visit. Staff reviews application to determine if it meets standards of review. Case planner makes a recommendation of approval, approval with conditions, or denial to the appropriate hearing body.
Disclaimer
The foregoing summary is advisory in nature only and is not binding on the County. The summary is based on current zoning, which is subject to change in the future, and upon factual representations that may or may not be accurate. This summary does not create a legal or vested right.

Pre-application Summary Prepared by:

David Pesnichak, AICP

May 23, 2017

Date
M. Section 4-115 Variance

Garfield County

Variance Review Process
(Section 4-115)

Step 1: Pre-application Conference
* Applicant has 6 months to submit application

Step 2: Application Submittal

Step 3: Completeness Review
* 10 business days to review
* If incomplete, 60 days to remedy deficiencies

Step 4: Schedule Decision Date and Provide Notice
* Published, posted, and mailed to adjacent property owners within 200 feet and mineral owners at least 30 days but no more than 60 days prior to decision date

Step 5: Referral
* 21 day comment period

Step 6: Evaluation by Director

Step 7: BOA Decision

Approximately 2 months if submittal is complete
4-114. CODE TEXT AMENDMENT.
A. Overview.
   1. Applications for an amendment to the Land Use and Development Code shall be reviewed and a recommendation made by the Planning Commission, and decided by the BOCC.
   2. Amendments to the text of this Code may be initiated by the BOCC, the Planning Commission, the Director, or an Applicant owning property that is subject to the proposed text change. The Garfield County Housing Authority may also initiate changes to the text of this Code that are specifically related to Article 8 of this Code.

B. Review Process.
   Applications for a Code text amendment shall be processed according to Table 4-102, Common Review Procedures and Required Notice.

C. Review Criteria.
   An application for a land use code text amendment shall meet the following criteria:
   1. The proposed text amendment is in compliance with any applicable intergovernmental agreements; and
   2. The proposed text amendment does not conflict with State law.

4-115. VARIANCE.
A. Overview.
   1. Applications for variance shall be reviewed and decided by the Board of Adjustments.
   2. Variances are deviations from certain zoning dimensional requirements of this Code that would not be contrary to the public interest when, owing to special circumstances or conditions like exceptional topographic conditions, narrowness, shallowness, or the shape of a specific piece of property, the literal enforcement of the provisions of this Code would result in peculiar and exceptional, practical difficulties to or exceptional and undue hardship on the owner of the property.

B. Review Process.
   Applications for a variance shall be processed according to Table 4-102, Common Review Procedures and Required Notice.

C. Review Criteria.
   The following standards shall be satisfied for approval of a request for variance from specific regulatory provisions of this Code:
   1. Special Circumstances or Conditions Exist. One or more of the following circumstances or conditions exist with respect to the specific property:
      a. Exceptional narrowness, shallowness, or shape of the property at the time of the enactment of the regulation in question;
      b. Exceptional topographic conditions of the property; and
      c. Other extraordinary and exceptional situations or conditions of the property.
   2. Not a Result of the Actions of Applicant. The special circumstances and conditions have not resulted from any act of the Applicant.
3. Strict Application Consequence. Because of the special circumstances and conditions found pursuant to section 4-115.C.1., the strict application of the regulation would result in peculiar and exceptional, practical difficulties to, or exceptional and undue hardship on, the owner of the property.

4. Variance is Necessary for Relief. The granting of the variance from the strict application of the provisions set forth in this Code is necessary to relieve the owner of the peculiar and exceptional, practical difficulties or exceptional and undue hardship.

5. Not Detrimental to the Public Good. Granting the variance will not cause substantial detriment to the public good.

6. Variance Will Not Impair the County’s Zoning. Granting the variance will not substantially impair the intent and purpose of this Code.

4-116. ADMINISTRATIVE INTERPRETATION.

A. Overview.
The Director shall make Administrative Interpretations to this Code when asked by any person to clarify or interpret any part of this Code.

B. Review Process.
An Administrative Interpretation shall be processed according to Table 4-102, Common Review Procedures and Required Notice, with the following modifications:

1. Written Request. The person requesting the Administrative Interpretation shall provide a written request to the Director that contains the provision within the Code in which the person is requesting the interpretation and any evidence the person has that may assist in an interpretation.

2. Within 10 business days, the Director shall issue in writing, an Administrative Interpretation for the provision of the Code in question. The written response shall include a summary of the facts and the rational supporting the interpretation.

C. Review Criteria.
The Director shall use the best facts and evidence available to make an Administrative Interpretation of this Code.

4-117. ADMINISTRATIVE INTERPRETATION APPEAL.

A. Overview.
An appeal may be taken to the Board of Adjustments by any person aggrieved by a final written Administrative Interpretation of this Code by the Director.

B. Review Process.
An appeal of an Administrative Interpretation of the Code shall be processed according to Table 4-102, Common Review Procedures and Required Notice, with the following modifications.

1. Application. The appeal shall be filed with the Director within 30 calendar days of the date of the final written Administrative Interpretation.

2. Written Notice of Decision. The Director shall provide the Applicant with a copy of the recorded resolution setting forth the Board of Adjustments’ decision within 30 calendar days of the date of the decision.
Account Information

Account: R130289
Parcel: 212525108015
Owner Name: SORENSEN, SAMANTHA MARIE & SHANE GARRETT
Owner Address: 140 APACHE DRIVE, NEW CASTLE, CO, 81647
Property Address: 140 APACHE DR, NEW CASTLE
Legal: Section: 25 Township: 5 Range: 91 Subdivision: ELK CREEK DEV. Block: 7 Lot: 1A
Tax Area: 013
Subdivision: ELK CREEK DEV.

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Property Images

![Property Image 1](image1.jpg)

![Property Image 2](image2.jpg)
MEMORANDUM

TO: Staff
FROM: County Attorney’s Office
DATE: June 24, 2014
RE: Mineral Interest Research

Mineral interests may be severed from surface right interests in real property. Colorado revised statute 24-65.5-103 requires notification to mineral owners when a landowner applies for a land use designation by a local government. As such, the landowner must research the current owners of mineral interests for the property.

The Garfield County Land Use and Development Code of 2013 (“LUDC”) Section 4-101(E)(1)(b)(4) requires written notice to owners of mineral interests in the subject property “as such owners can be identified through the records in the office of the Clerk and Recorder or Assessor, or through other means.”

It is the duty of the applicant to notify mineral interest owners. The following is a suggested process to research mineral interests:

1. Review the current ownership deed for the property (i.e. Warranty Deed, Special Warranty, Quit Claim Deed or Bargain and Sale Deed—NOT a Deed of Trust). The ownership deed is usually one or two pages. Is there a reservation of mineral interests on the ownership deed? Are there any exceptions to title? A deed may include a list of reservations that reference mineral owners or oil and gas leases.

2. Review your title insurance policy. Are there exceptions to title listed under Schedule B-II? If so, review for mineral interests that were reserved and oil and gas leases.

3. Check with the Assessor’s office to determine if a mineral interest has been reserved from the subject property. The Assessor’s office no longer documents the mineral reservation ownership for its tax roll records unless ownership has been proven. There are only a limited number of mineral owners who have provided such information to the Assessor’s office so this may not provide any information, depending on your property.
4. Research the legal description of the subject property with the Clerk and Recorder’s computer. You can search the Section, Township, and Range of the subject property. You may find deeds for mineral interests for the subject property.

5. Research whether a Notice of Mineral Estate Ownership was filed for the subject property. On the Clerk and Recorder’s computer, search under Filter (on the right hand side of the screen), General Recordings, Notice of Mineral Estate Ownership for the subject property.

6. If you find mineral interest owners as reservations on your deed, listed in your title insurance policy, from the Assessor’s records or the Clerk and Recorder’s computer, you need to determine whether these mineral interests were transferred by deed and recorded in the Clerk and Recorder’s office.

7. Enter the name of the mineral interest owner as the Grantor in the Clerk and Recorder’s computer to see if the mineral interest was transferred. If you find a transfer deed, you need to repeat this process to follow any transfer of the mineral interest to present day.

8. Include a description of your research process in your application and the name(s) and address(es) of the current mineral interest owner(s).

Mineral interest research can be a difficult and time consuming process. If you are unable to determine mineral rights ownership by yourself, consider hiring an attorney or landman. Attorneys and landmen specialize in determining mineral rights ownership, but they charge a fee for their services.