

**TOWN OF MINTURN, COLORADO  
RESOLUTION NO. 07 – SERIES 2016**

**A RESOLUTION APPROVING LAND USE APPLICATION  
VARIANCE 16-01**

WHEREAS, The Town of Minturn Town Council is commissioned with certain powers and duties contained in the Minturn Municipal Code Section 16-21-10 and

WHEREAS, public notice was given pursuant to Minturn Municipal Code Section 16-21-610, and

WHEREAS, on March 2, 2016, the Town Council held a public hearing on the application pursuant to Minturn Municipal Code Section 16-21-230, and

WHEREAS, pursuant to Minturn Municipal Code Section 16-1-20, the most appropriate use of land is allowed to be used with the variance, and

WHEREAS, pursuant to Minturn Municipal Code Section 16-21-30, the Town Council makes the following findings:

- There are exceptional conditions applicable to the site of the variance that do not apply generally to other properties in the same zone;
- The exceptional conditions of the site create a situation in which the strict, literal interpretation and enforcement of the specified regulation would result in unnecessary physical hardship inconsistent with the objectives of this chapter;
- The granting of the variance would not be materially injurious to properties or improvements in the vicinity and would not result in substantial impairment to the purposes of the zoning code;
- The most appropriate use of land is being granted with this variance

NOW THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF MINTURN, COUNTY OF EAGLE, STATE OF COLORADO:

THAT the application for a Variance for 386 and 392 Taylor Avenue, Lot 7A Block C, File NO. VAR 16-01, be approved subject to the following conditions:

- The front yard setback for each lot shall be measured at a point between 10 feet and 8 feet from the property boundary adjoining Taylor Street depicted on Exhibit A.

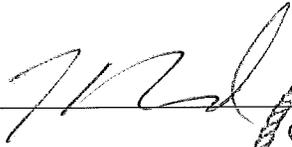
INTRODUCED, READ, APPROVED, ADOPTED AND RESOLVED this 15<sup>th</sup> day of June, 2016

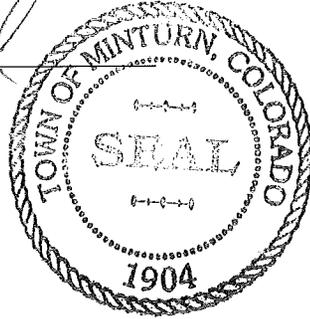
TOWN OF MINTURN

By:   
Mayor

ATTEST

Town Clerk







## Planner Report

Town of Minturn  
302 Pine Street  
Minturn, Colorado  
81654  
970-827-5645

3/2/2016

J Hawkinson, Planning Director

**APPLICANT:** David Clapp - 970-390-3018  
**REQUEST:** Variance for a front yard setback from 20' to 10' in the Game Creek Character Area  
**LOCATION:** 386 & 392 Taylor Avenue, Lot 7A Block C, Lot 10A Block C

**APPLICATION SUBMITTED:** February 5, 2016

### **PLANNING DIRECTOR RECOMMENDATION:**

To approve variance upon the conditions as listed and defined per code (see below).

**PLANNING COMMISSION APPROVAL:** June 8, 2016

**PUBLIC NOTICE:** Agenda posted at Town Hall and on website - certified letters sent to residents 250 feet from site - sign posted on site - 10 days in advance of hearings - mailing and postings for Final Subdivision Plat & Zoning Change on February 12, 2016

### **AS PER CODE: SECTION 16-21-690**

### **VARIANCE REQUEST & SITE ANALYSIS:**

**Requested Variance:** A front setback of 10 feet from the southwest corner of each property parallel with Taylor Avenue, so that new homes are parallel with the street and not at an angle with the street, allowing for on site parking, 2 garages and a shared driveway.  
To also create an improved street scape for Taylor Avenue & front yard landscaping.  
To also increase safety from the 18' blind area caused by the 5' + retaining wall that blocks views entering onto the street.

**GAME CREEK SETBACKS:** -20' front -5' side yards -10' rear -30' creek

### **VARIANCE SECTION 16-21-690 (1) - see photos**

“Cost or inconvenience to the applicant of strict or literal compliance with a regulation shall not be a reason for granting a variance”

- No - there is no cost or inconvenience to applicant as the reason for seeking this variance

**VARIANCE SECTION 16-21-690 (1) ---see photos**

“In order to lessen **practical** difficulties..... inconsistencies with the objectives of this Chapter...result from strict or literal interpretation and enforcement, variances from certain regulations may be granted.”

**Do Extraordinary Conditions Applicable to the Site of the Variance create a situation in which the strict interpretation of the specified regulation result in practical difficulty inconsistent with the zoning code?**

**YES:**

- This is a “practical difficulty”
- The neighbors retaining wall 18’ in Taylor Street right of way has created a non-uniform front street - affecting the front street scape of 386 property
- The north neighbors height of retaining wall and construction 18’ into right of way result in a front setback for the 386 & 392 houses of 40 feet from Taylor Avenue.
- The objectives of the Chapter for front yard setbacks are to create a nice street scape with one house not being closer or blocked by another house - the practical difficulties from the neighboring property are inconsistent with the objectives of this Chapter
- A 10’ setback on these 2 properties enforce the objectives of this Chapter for creating better street scape, front yards and off-street as well as on -street parking

**VARIANCE SECTION 16-21-690 (2) (3): ---see photos**

**Are There Extraordinary Conditions Applicable to the Site of the Variance That Do Not Apply Generally to other Properties in the Same Zone:**

**YES:**

- the front property line does not run parallel with Taylor Avenue
- the north property built a raised driveway and retaining wall 18’ into the right of way of Taylor Avenue - the homes sit back off the road average 40’ up hill with a shared driveway
- these circumstances result in a front setback from the existing homes of 40’ from edge of pavement of Taylor Street - this has created parking problems, lack of front yard appeal and street appeal

**MINTURN CODE SECTION 16-1-20 (a) PURPOSE OF PROVISIONS:**

“This Chapter is drawn in accordance with the Minturn Community Plan and is intended to implement said Community Plan. The purpose of this Chapter is to encourage the most appropriate use of land, to preserve and promote the Town’s economy, heritage and small town qualities, and it is designed to promote the health, safety, welfare and convenience of the citizens of the Town by:”

- (2) “Providing suitable transitions between areas of different land uses;”
- (5) “Minimizing adverse impacts on landowners from incompatible neighboring developments and conserving the value of property”

**This Variance is in accordance with this code.**

February 11, 2016

To Whom It May Concern,

I, David Clapp, have applied for a variance through the Town of Minturn regarding the front setback at 386 and 392 Taylor Street, Lots 10A and 7A, Block C. Minturn, Colorado. There are two public meetings scheduled. The Planning Commission on February 24, 2016 and then Town Council on March 2, 2016. Both hearings are at the Minturn Town Hall. 302 Pine Street. Minturn, Colorado. Thank you.

David Clapp  
392 Taylor Street  
Minturn, CO 81645

February 11, 2016

Applying for this variance my intent is to have my property conform with Taylor Street and the Game Creek neighborhood, making the front of the property visually pleasing and functional. The property to the north has a retaining wall/driveway that encroaches 20 feet into Taylor Street. Couple this with my front property line at an angle not parallel to Taylor Street, the result being an actual setback of 45 feet. Currently the properties have structures that I eventually want to replace. 392 Taylor Street has an old "miner" house without a foundation in the front that I want to replace with a Garage with living space above. 386 Taylor Street currently is home to a trailer where I would like to build a duplex. I would like to move forward and start the planning process with the front setback not being the burden that it is now. I would also like to note that the front setback for the Game Creek neighborhood is twenty feet, which is inconsistent with other areas of Minturn. The previous five town planners have told me they don't know the reasoning behind this. Thank you.

David Clapp  
392 Taylor Street  
Minturn, CO 81645  
(970)-390-3018



# VARIANCE PERMIT APPLICATION

TOWN OF MINTURN PLANNING AND ZONING DEPARTMENT  
302 Pine Street - PO Box 309  
Minturn, CO 81645  
(p) 970-827-5645  
(f) 970-827-5545

|   |  |
|---|--|
| Applicant: <u>David Clapp</u>   | Address of: <u>386 + 392 Taylor Ave</u>                    |
| Signature: <u>[Signature]</u>   | Requested Variance: <u>Lot 7A Block C, Lot 10A Block C</u> |
| Property Owner (if different from applicant):<br>(an affidavit of authorization must be included) | (name) <u>MIXDBCLAPP@YAHOO.COM</u>                         |
| <u># 970-390-3018</u>   | (signature) _____  |

Please respond to the following questions regarding the variance request

Please describe the nature of the requested variance: A front setback 10 feet from the South West corner of each property parallel with Taylor Avenue.

Are there exceptional or extraordinary circumstances or conditions applicable to the site of the variance that do not apply generally to other properties in the same zone? (if yes, please elaborate) Yes, the front property line does not run parallel with Taylor Avenue. Coupled with a retaining wall encroaching 10 feet onto Taylor Avenue after the North West property corner.

Do the exceptional or extraordinary circumstances of the site create a situation in which the strict, literal interpretation and enforcement of the specified regulation result in practical difficulty or unnecessary physical hardship inconsistent with the objectives of the zoning code? (if yes, please elaborate) Yes, these circumstances result in a front setback of 40 to 30 feet from Taylor Avenue.

\*\*\*\*\*

The Planning Commission and Town Council are required to make the following findings before granting a variance:

1. There are exceptional or extraordinary circumstances or conditions applicable to the site of the variance that do not apply generally to other properties in the same zone;
2. The exceptional or extraordinary circumstances of the site create a situation in which the strict, literal interpretation and enforcement of the specified regulation would result in practical difficulty or unnecessary physical hardship inconsistent with the objectives of the zoning code;
3. That the granting of the variance will not be detrimental to the public health, safety or welfare or materially injurious to properties or improvements in the vicinity and will not result in substantial impairment to the purposes of the zoning code;
4. There is no substantial impairment to the public that would result from the granting of the variance

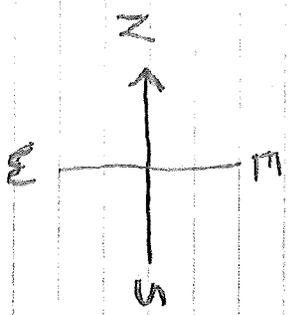
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|                              |                            |
|------------------------------|----------------------------|
| Date received <u>8-10-15</u> | Planner <u>[Signature]</u> |
| Fee Paid <u>\$700.00</u>     | Signature/ _____           |

PAID \$700.00 ON FEBRUARY 5, 2016  
JH

[Hatched Box] = 4 Feet sq.

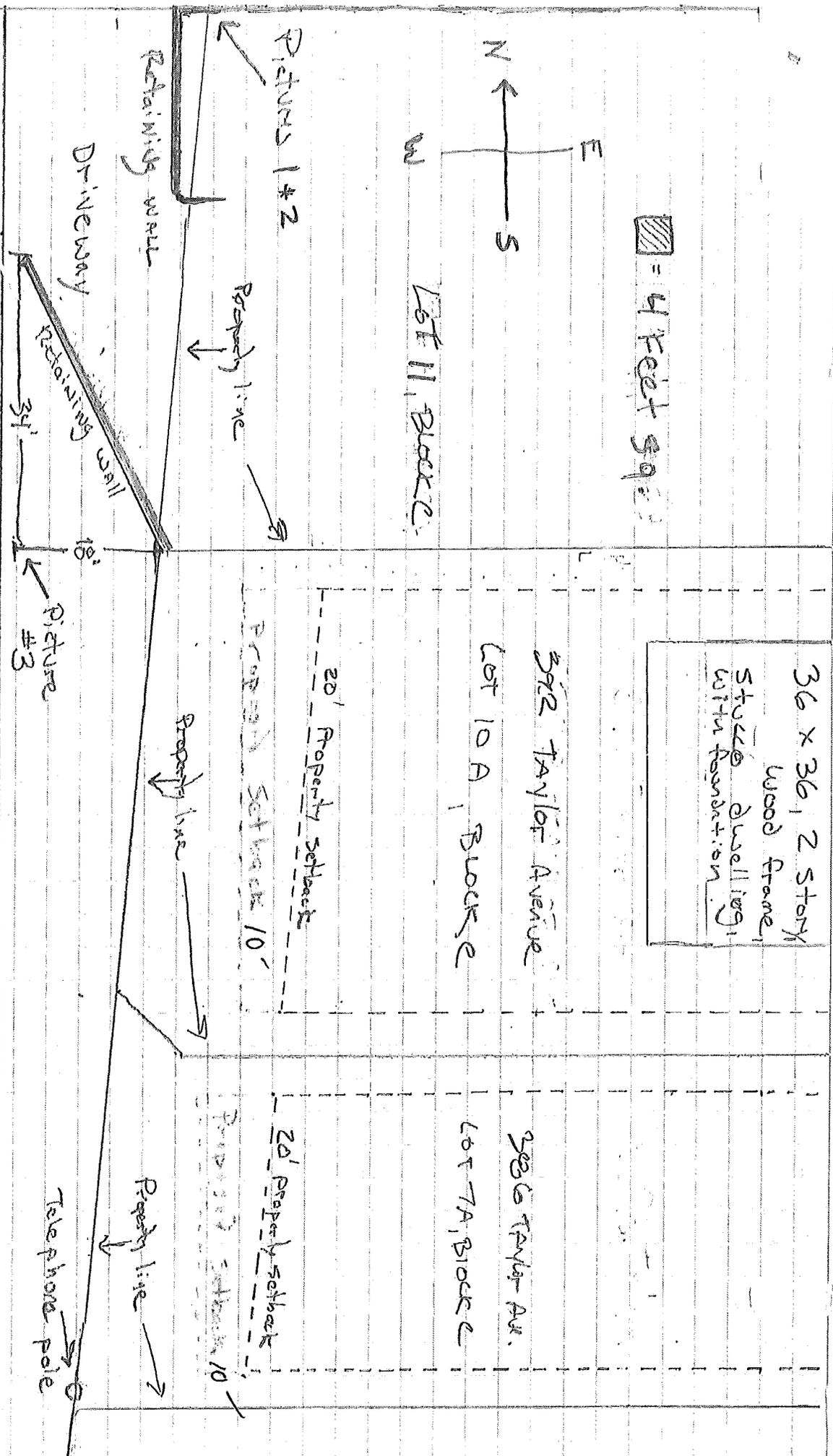
36 x 36, 2 Story  
Wood frame,  
Stucco dwelling,  
with foundation.



Lot 11, Block E.

3912 Taylor Avenue  
Lot 10 A, Block E

3936 Taylor Av.  
Lot 7A, Block E



Functioning Taylor Avenue 15 22 Feet wide paved.

Picture #5

Picture #6

Picture #4



#1

#1



#2

#2





#5

#5



#6

#6

# NOTICE LAND USE PROPOSAL

VARIANCE REQUEST FOR FRONT  
SETBACKS

PUBLIC HEARINGS WILL BE HELD:

Planning Commission: February 24, 2016 - 6:30pm

Town Council: March 2, 2016 - 6:30 pm

Minturn Town Hall - 302 Pine Street - Minturn

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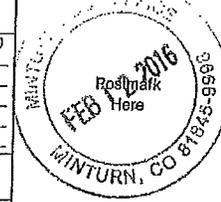
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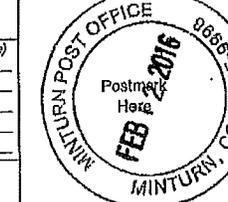
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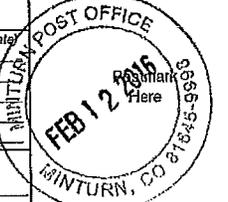
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