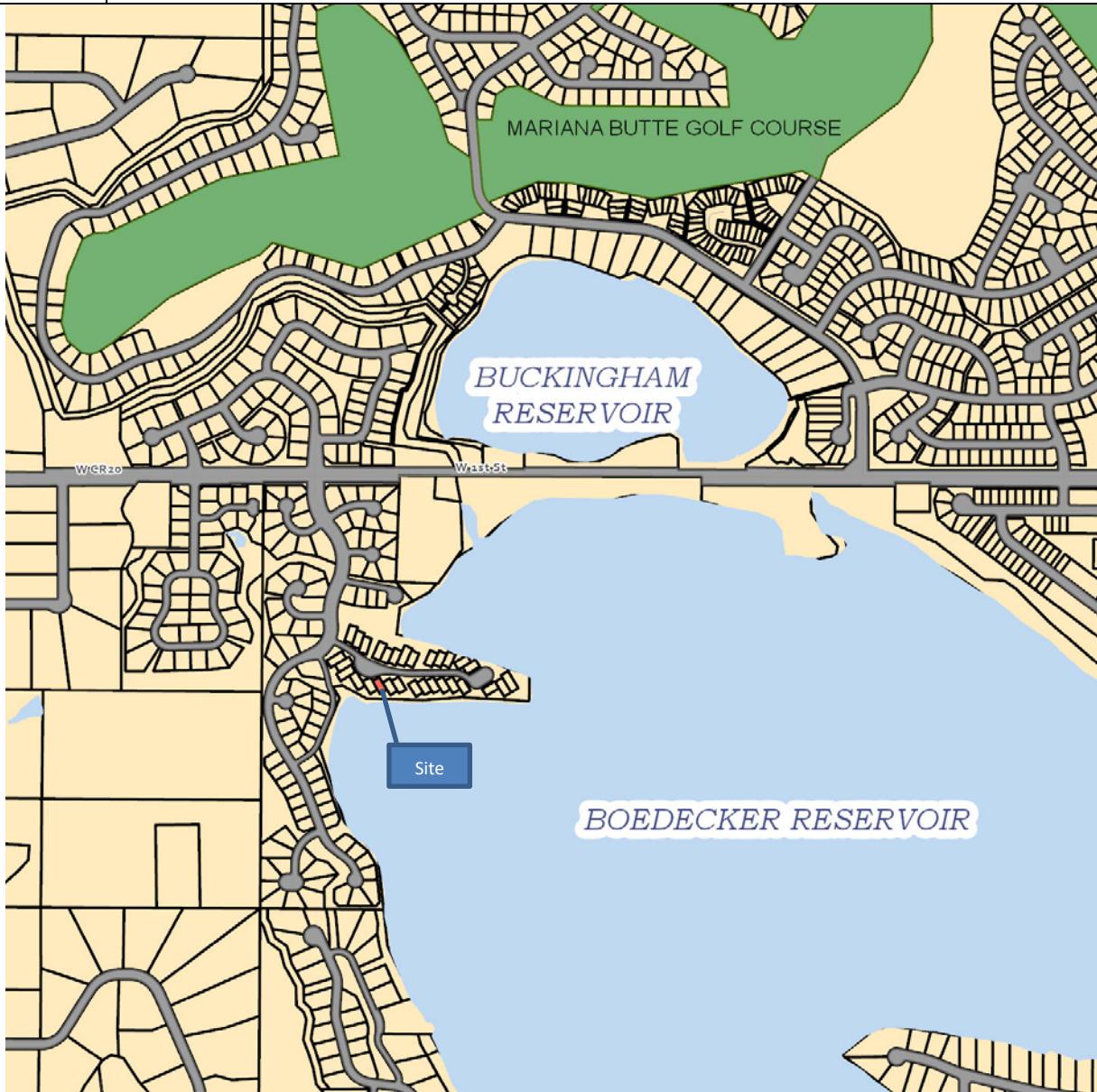


## Zoning Board of Adjustment Staff Report

August 12, 2019

### AGENDA ITEM # 1

<b>Project Name</b>	<b>5408 Lighthouse Point Court Variance</b>	<b>PZ # 19-66</b>
<b>Request</b>	The applicant is requesting to reduce the side yard setback requirement from 10 feet between structures to 6 feet 8 inches between structures, resulting in a 3.6 foot variance.	
<b>Applicant</b>	Marc Hatfield	



## **Recommended Motion**

### Option 1:

Move to determine that the findings listed in this Staff Report dated August 12, 2019, cannot be made and, therefore deny the requested side yard setback variance.

### Option 2:

Move to make the findings provided by the applicant as included in this Staff Report dated August 12, 2019, and based on those findings approve the requested side yard setback variance subject to the condition listed under the Staff Recommendation.

## **Project Summary**

The applicant is requesting to reduce the required side yard setback between structures from 10 feet to 6 feet 8 inches to allow a newly constructed deck to remain. In the Mariana Cove Planned Unit Development, side yard setbacks are measured between building structures, which is different from a typical City subdivision that measures setbacks to a property line. The PUD requires a minimum 10-foot separation between structures, including raised decks.

The applicant recently constructed a raised deck that encroaches into the 10-foot separation distance by 3 feet 4 inches. The building permit for the deck identified dimensions and setbacks that were in compliance with the 10-foot separation between the deck and the neighboring residence. However, the applicant made adjustments during the construction that increased the width of the deck along the side yard and resulted in a separation distance of 6 foot 9 inches. Once constructed, the City received a complaint regarding the location of the deck.

The applicant has indicated that the enlarged deck is necessary to fully enjoy the property and is the most aesthetically pleasing way to protect the retaining wall and french drain from foot traffic. The applicant as well as other residents in the neighborhood have indicated that other properties in the subdivision have structures that encroach into the side yard setback. However, the structures have not received building permits or approvals by the City. The City has also not received complaints regarding setbacks for the other structures from the neighborhood.

Approval of the variance request would allow the newly constructed deck to remain in its current location. Denial of the variance request would require the applicant to remove the portions of the deck that are less than 10 feet from the adjacent structure, or about 3 ½ feet of the deck in the side yard.



Photo taken from the street looking between 5408 and 5392 Lighthouse Point Ct.

## Location



## Attachments

- Attachment A – Application and Justification Statement
- Attachment B - Site Plan enhanced by staff
- Attachment C – Previously Approved Site Plan provided by applicant
- Attachment D – Variance Request Support Document
- Attachment E – HOA Letter of Support
- Attachment F – ACC Letter of Support
- Attachment G – Neighbor Letter of support (Kim Stenson, Terry Wevers, and Merlin Perkins)

Site Data	
<b>Address/Location</b>	5408 Lighthouse Point Court – South of W 1st Street, east of Cove Dr and along the west shore of Boedecker Lake
<b>Subdivision</b>	Mariana Cove Second Subdivision
<b>Land Area</b>	0.1 acres/4,500 square feet
<b>Existing Buildings</b>	1,547 square foot patio home single-family residence
<b>Access</b>	Lighthouse Point Court
<b>Water Provider</b>	City of Loveland
<b>Wastewater Provider</b>	City of Loveland
<b>Electric Provider</b>	City of Loveland
<b>Gas Provider</b>	Xcel Energy
<b>Floodplain</b>	No

Zoning and Existing Land Uses		
	Existing Zoning	Existing Land Use(s)
<b>Subject Property</b>	P-2 Mariana Cove PUD	Single family patio home
<b>Adjacent North</b>	P-2 Mariana Cove PUD	Single family patio home
<b>Adjacent South</b>	Boedecker Lake	Boedecker Lake
<b>Adjacent East</b>	P-2 Mariana Cove PUD	Single family patio home
<b>Adjacent West</b>	P-2 Mariana Cove PUD	Single family patio home

#### Background

On October 15, 2018, the applicant applied for a building permit in order to construct a deck. At the time, the site plan submitted with the building permit showed the deck in compliance the required setbacks for the PUD. Once onsite the applicant and his contractor discovered that if the deck were to remain as shown on the approved site plan, the retaining wall would interfere with the pier placement on the corner of the deck nearest the stairs. The applicant made the decision to enlarge the deck to avoid the retaining wall and did not modify the building permit. Subsequently the modification resulted in the setback encroachment; the deck went from 10 feet to 6 feet 8 inches from the neighbor's home. Final inspections have not been scheduled to close the permit and a certificate of completion has not been issued.

On April 26, 2019 the City's Code Enforcement office received a citizen complaint regarding the location of the deck. The concern expressed was that the deck is too close to the adjacent home and could be a fire hazard. Upon research by the City's Code Enforcement officer it was found that, the permit had never been completed, and the deck had not been constructed per the City approved plans. After meeting with City Staff, the applicant decided to move forward with the variance request.

Neighborhood Outreach	
<b>Notification</b>	An affidavit was received from Marc Hatfield certifying that written notice was mailed to all property owners within 150 feet of the property on July 23, 2019 and a notice was posted in a prominent location facing lighthouse Point Court on July 23, 2019. All notices identified that the hearing for the variance would be held on August 12, 2019 at 4:00 pm at the Development Center with the Zoning Board of Adjustment.
<b>Neighborhood Response</b>	Staff has received letters in support from the HOA, the ACC, three neighbors, as well as phone calls in support from 2 neighbors.

	Staff has had contact with the complainant and one additional neighbor opposed to the variance. Staff has encouraged all parties to communicate concerns or support in writing and/or come to the August 12 <sup>th</sup> hearing. A neighborhood meeting is not required and was not held for this variance request. The communication from the neighbors came after notice for the hearing was sent out.
--	--

### **Zoning Board of Adjustment Criteria and Findings for Approval or Denial**

Pursuant to Section 18.17.1607.B. of the City of Loveland Municipal Code, the Zoning Board of Adjustment shall consider and make findings regarding the following criteria for variance requests. All criteria must be met in order to approve the requested variance.

#### **Criteria**

- 1. Granting the variance will not substantially conflict with any adopted plans or policies of the City, or the purposes or intent set out in this Code;**

**Finding: Staff believes that this finding can be met**

**Analysis:** The variance does not conflict with any adopted plans or policies of the City or the purposes of the Unified Development Code. The property is subject to requirements unique to this subdivision established as part of the PUD zoning. The proposed variance is in keeping with other such private lot improvements, particularly the outdoor deck and patio improvements located on many of the 30 patio lots along Lighthouse Point Court.

- 2. There are exceptional conditions creating an undue hardship, applicable only to the property involved, or the intended use thereof, which do not generally apply to the other land areas or uses within the same zone;**

**Finding: Staff believes that this finding can be met**

**Analysis:** The location of the retaining wall and French drain prevents the homeowner from placing piers in a location that would support a large wraparound deck on the side of the home.

- 3. The Applicant cannot derive a reasonable use of the property without approval of a variance;**

**Finding: Staff believes that this finding cannot be met**

**Analysis:** Without a variance, the applicant would not be able to build a large deck that wraps around to the side of the property. However, the property owner would still have a deck and stairs off the rear of the home. Access to the stairs from the side yard could be achieved via a path, smaller deck, or concrete patio. Continuing the fence along the side of the property would protect the retaining wall and French drain system.

- 4. Granting the variance will not generally set a precedent for other applications (which would indicate that a text amendment to this UDC should be proposed and considered instead);**

**Finding: Staff believes that this finding can be met**

**Analysis:** The approval of this variance will not set a precedent for the neighborhood. The location of the retaining wall is unique to this property.

- 5. Granting the variance will not be detrimental to any adjacent properties or the area;**

**Finding: Staff believes that this finding can be met**

**Analysis:** The construction of the deck resulted in a complaint from adjacent property owner most affected by the deck. Indicating that the deck did not meet setbacks. While this neighbor believes that the deck has detrimental impacts, staff is unconvinced of this assertion. The deck is adjacent to the neighbor's wall that

contains two small windows located above the level of the deck; additionally, the deck is built with open materials and is not creating an obstruction to views of the adjacent neighbors.

**6. Granting the variance will not be detrimental to public health, safety, or welfare; and**

**Finding: Staff believes that this finding can be met**

**Analysis:** The public health, safety, or welfare would not be impacted by the requested variance. The deck meets the City's Building Code separation requirements and, if approved, will be reviewed by the Building Division to ensure the deck has been safely engineered and fire rated.

**7. Adequate relief cannot be reasonably obtained through a different procedure, such as the application of alternative compliance standards, if applicable.**

**Finding: Staff believes that this finding can be met**

**Analysis:** At this time there is no other process readily available to the applicant. However, the HOA board could peruse an amendment to the Mariana Cove PUD to address this situation and similar circumstances on other neighborhood properties.

### **Staff Recommendation**

City staff is recommending denial of the variance application on the basis that certain findings regarding reasonable use cannot be met. However, the applicant makes a very strong argument that the deck will not only protect both his property and his neighbors, it is the most effective and aesthetic solution to protecting the French drain and the retaining wall.

Should the Zoning Board of Adjustment determine the applicant's findings can be met (as shown in the Option 2 motion), the following conditions of approval are recommended by Staff:

**Condition**

1. The applicant shall submit revised drawings to the city and schedule all final inspections within 30 days of the final determination of the Zoning Board of Adjustment. The drawings must include, but are not limited to engineered stamped drawings for the structural piers and fire rating and a new site plan showing the deck in its current location to ensure all residential building and fire codes are met.

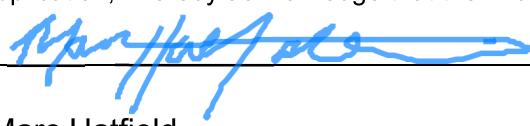
### **Appeal Process**

Per 18.04.05.03 of the Unified Development Code the right to appeal a decision by the Zoning Board of Adjustment Hearing Officer is limited to the applicant, and adjoining property owner, or a property owner who received mailed notice of public hearing and either participated in the public hearing or provided written comment to the Director at or before the public hearing.

Per 18.14.04.04.C The application enters into a ten (10) day appeal period has made once the Zoning Board of Adjustment Hearing Officer has made a final determination. The written petition to appeal along with a one hundred and eighty dollar (\$180) fee must be submitted to City of Loveland Current Planning within the ten (10) day appeal period.

If the City Attorney determines that the appeal meets the threshold findings, the whole Zoning Board of Adjustment will hear (18.14.05.05) the appeal. The Zoning Board of Adjustment is the final appeal body for a variance.

# APPLICATION

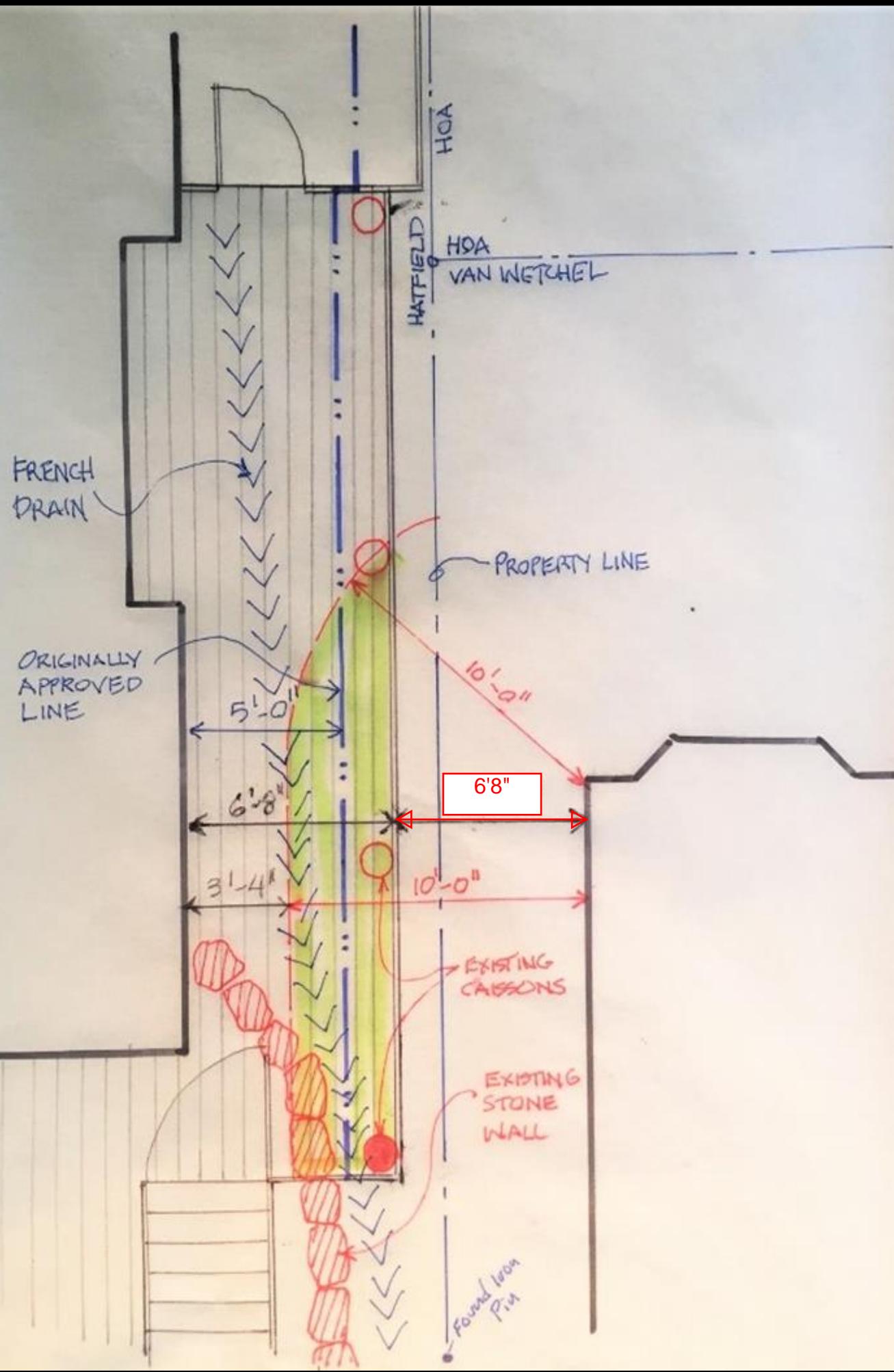
Applicant Information		
Name: Marc Hatfield		Phone: (970) 231-3699
Address: 5408 Lighthouse Point Ct. City, State: Loveland CO Zip Code: 80537		
Email Address: mhatfield1216@gmail.com		Preferred Method of Contact <input type="checkbox"/> Phone <input checked="" type="checkbox"/> Email
Variance Request		
Address of Property in which the Variance is Requested (if different than above information):  Same as above		
Describe the requested variance.	I am requesting a variance to the requirement for structures, including decks, to be at least ten feet from the nearest adjacent structure. A portion of our deck does not conform to this requirement.	
List all existing structures on the property.	The only structures on the property are the existing house and connected deck.	
Applicant's Signature		
By signing this application, I hereby acknowledge that the information provided is correct and complete.		
Signature		Date 6/24/19
Printed Name	Marc Hatfield	

# Findings Report

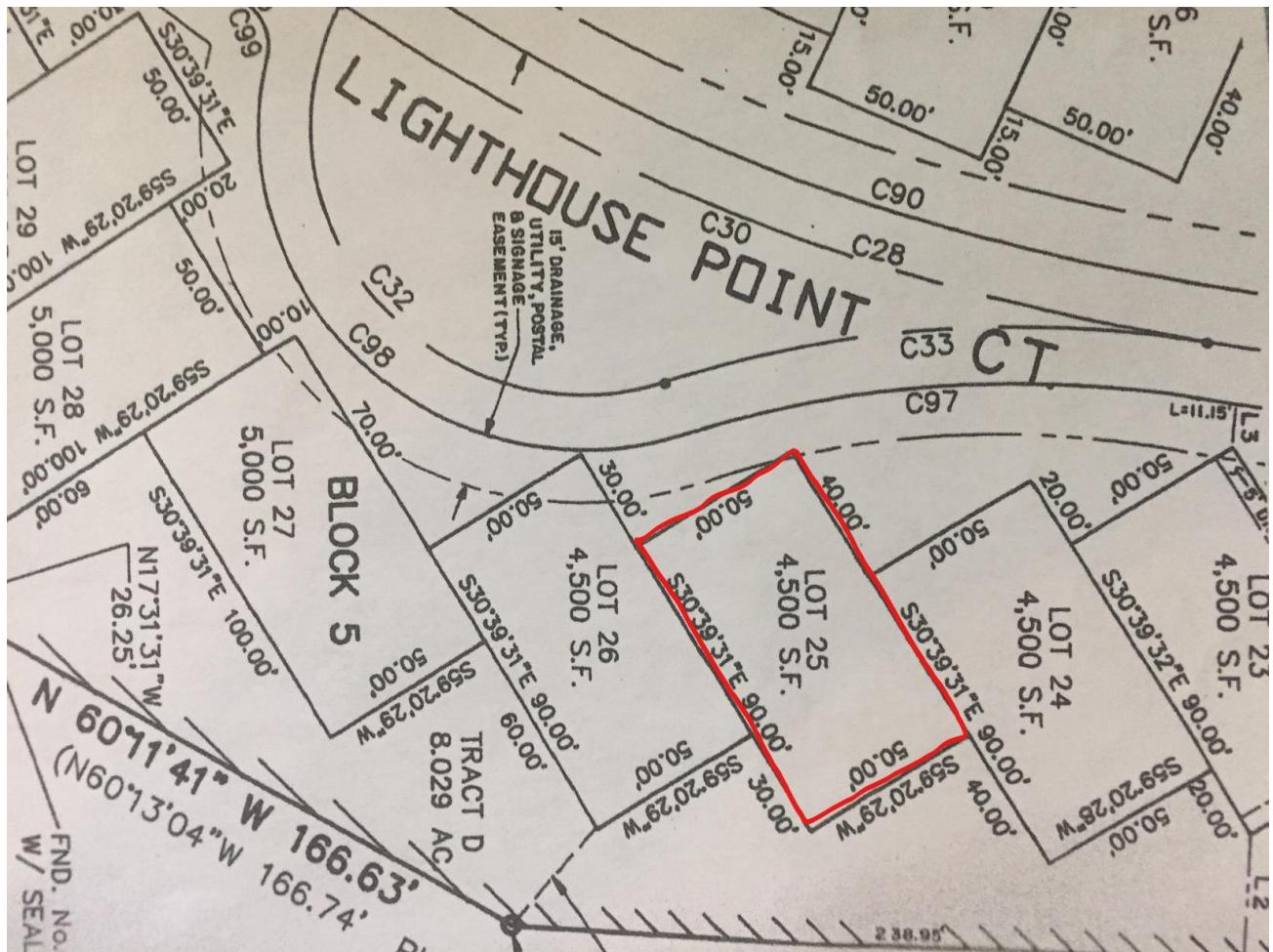
For each finding below, please provide a detailed justification on how the variance request complies with the finding.

Finding	Justification
1. Granting the variance will not substantially conflict with any adopted plans or policies of the City, or the purposes or intent set out in the Unified Development Code.	This variance, if granted, will allow my side deck to be located in such a way as to help protect against accidental damage to an important and delicate retaining wall made of dry-stacked stone. If the variance is not granted, I will have to build a fence in the same area as the deck is currently located to protect the wall. The deck offers a better way of protecting the wall while still allowing access to my back yard.
2. There are exceptional conditions creating an undue hardship, that are specific only to the property involved or the intended use, which do not generally apply to the other properties or uses within the same zone.	This particular site presents exceptional conditions in the form of an existing delicate dry-stacked retaining wall located in a way that prevents placement of structural elements within the 10 foot structure-to-structure boundary requirement. This wall prevents the reasonable possibility of access to my backyard without a deck-and-stair arrangement.
3. The Applicant cannot derive a reasonable use of the property without approval of the request variance.	There are 10 'patio home' properties in a row, all situated to allow northwest side yards, patios and decks, and designed to provide backyard access from their northwest side yards. Our property, containing this retaining wall, does not allow that same access without the construction of a deck-and-stair arrangement. And the wall's location does not allow for deck structural elements to be reasonably located within the 10 foot bldg-to-bldg requirement.
4. Granting the variance will not set a precedent for other applications.	All the other 9 patio homes have already constructed decks or patios along their northeast sides, and have all provided for backyard access from their northeast side yards in the form of staircases or steps. Ours was the only one that did not have a side yard patio or backyard access, which is why we constructed the deck and stair arrangement for which I request this variance.
5. Granting the variance will not be detrimental to any adjacent properties or the area.	The current deck is completely on our property, and is just under seven feet from the adjacent structure. It is constructed of plastic composite deck material and metal railing (so risk of fire is mitigated). It does not obstruct any view or impede the adjacent property in any way.
6. Granting the variance will not be detrimental to public health, safety, or welfare.	Granting the variance will actually be beneficial to the property owners in the area because the deck's arrangement provides some protection of the fragile retaining wall that is partially owned by the HOA. If the wall were to be damaged and need repair or replacement, a portion of the costs associated with that could be the responsibility of the homeowners that comprise the HOA.

B

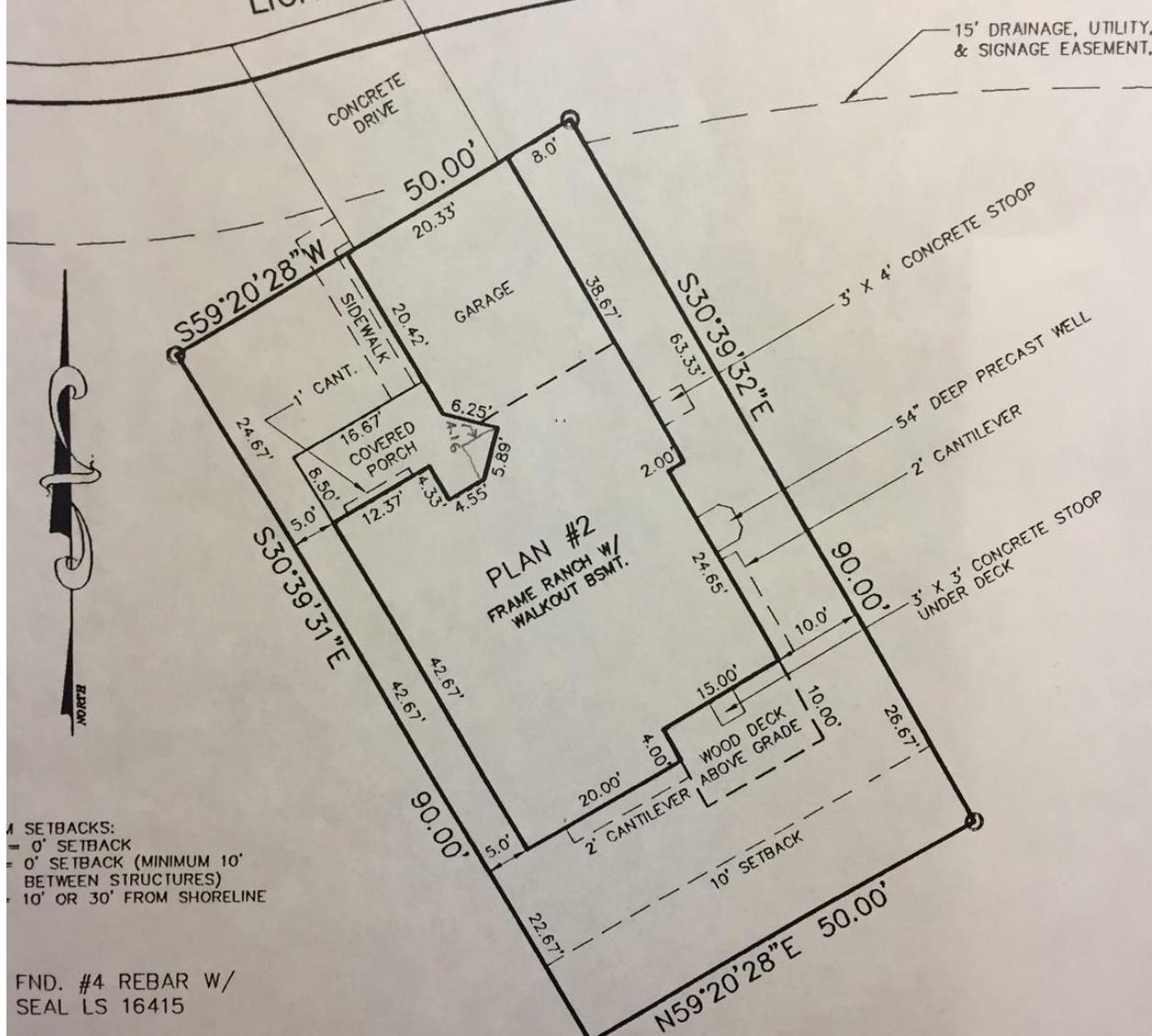


**5408 Lighthouse Point Ct., Loveland CO 80537**



# IMPROVEMENT LOCATION CERTIFICATE/ FLOODPLAIN CERTIFICATE

LIGHTHOUSE POINT CT.



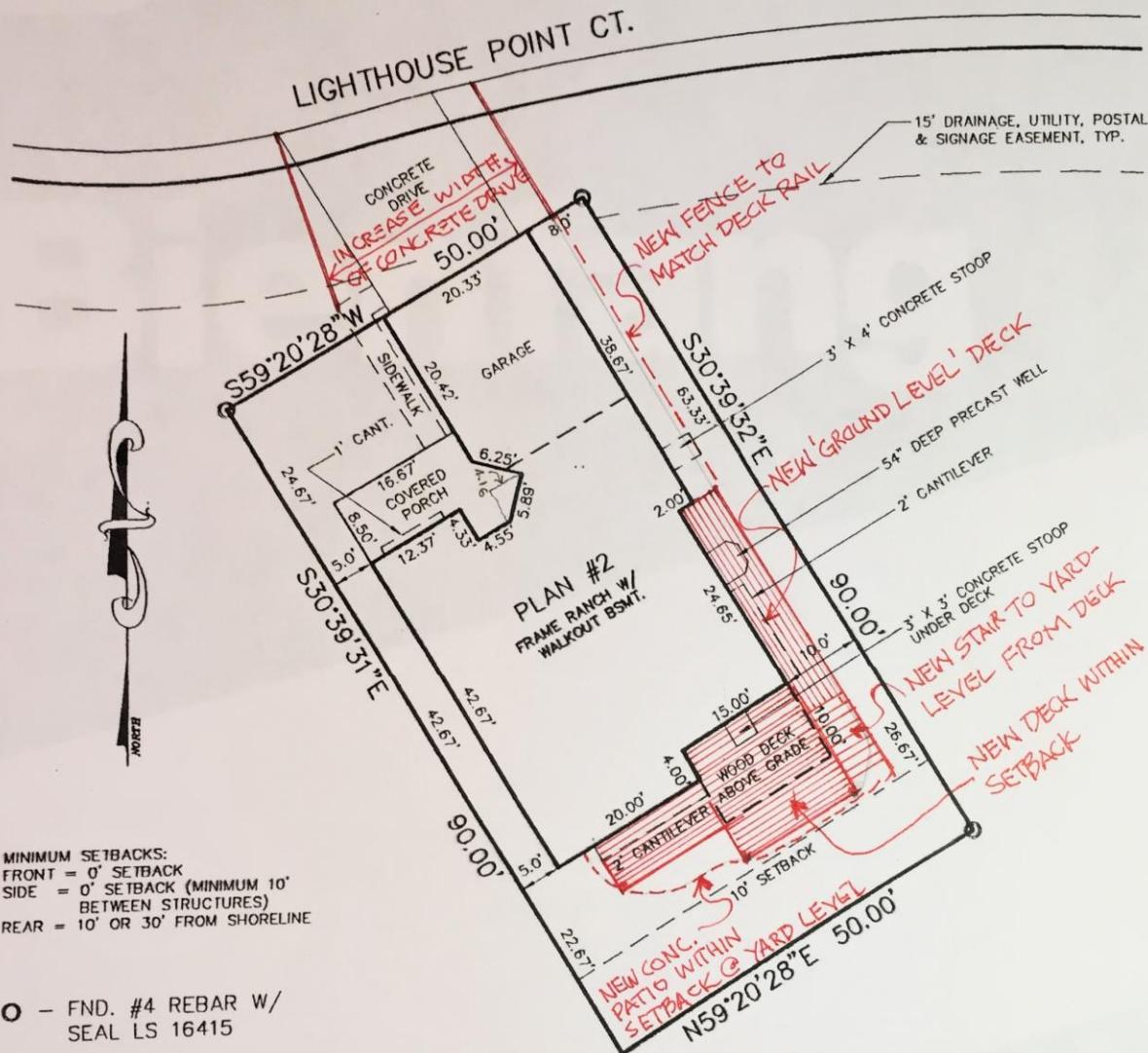
- SETBACKS:
  - 0' SETBACK
  - 0' SETBACK (MINIMUM 10' BETWEEN STRUCTURES)
  - 10' OR 30' FROM SHORELINE

FND. #4 REBAR W/  
SEAL LS 16415

description:  
T 25, BLOCK 1, MARIANA COVE SECOND SUBDIVISION,  
TOWN OF LOVELAND, LARIMER COUNTY, COLORADO.

1 MILE 5408 LIGHTHOUSE POINT CT

# IMPROVEMENT LOCATION CERTIFICATE / FLOODPLAIN CERTIFICATE



Legal description:  
LOT 25, BLOCK 1, MARIANA COVE SECOND SUBDIVISION,  
CITY OF LOVELAND, LARIMER COUNTY, COLORADO.

Property Address: 5408 LIGHTHOUSE POINT CT.

Easement information from recorded plat and/or provided by client unless otherwise noted.

Legal description provided by client unless otherwise noted.

Apparent deed lines were determined from lines of occupation and/or existing

**Current Planning Division**  
**410 E 5<sup>th</sup> Street**  
**Loveland CO 80537**

**REF - Variance Request - 5408 Lighthouse Point Ct.**

June 28, 2019

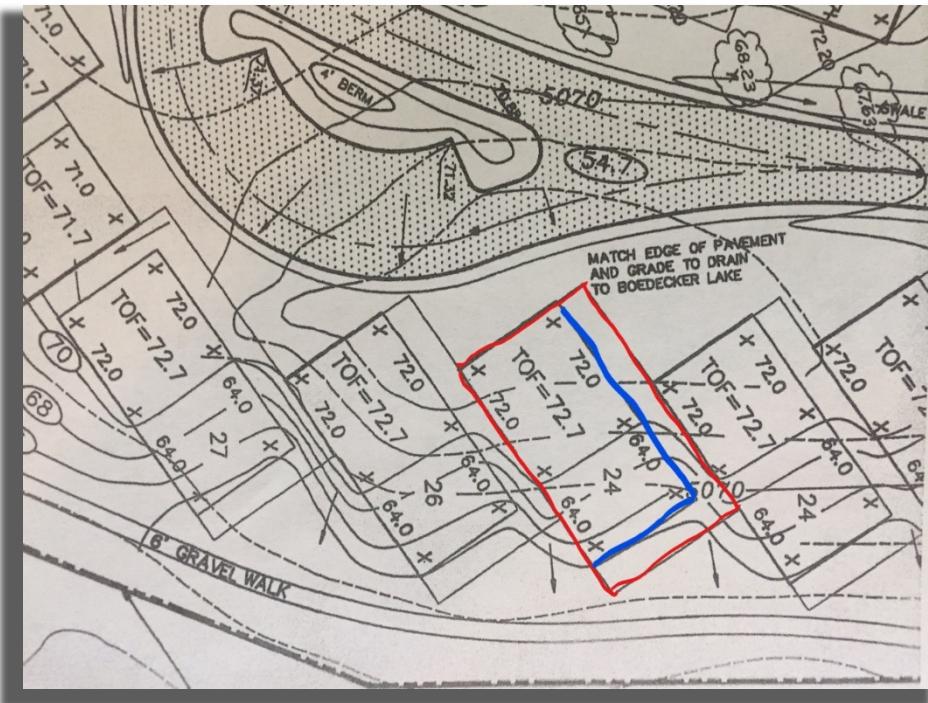
Dear Members of the Planning Division,

On April 26, 2019 Marc & Leigh Hatfield, owners and fulltime occupants of a single-family residence at 5408 Lighthouse Point Ct., Loveland CO 80537 were notified by the city of a violation of the PUD's 10 ft. structure-to-structure setback requirement.

We acknowledge the ground-level deck on the side of our house, while **entirely on our property and within the regulated side-yard setback**, is less than 10 ft. from our neighbor's structure. Our deck is approximately 6'-9" from the adjacent house at its closest point. We recognize the deck does not conform, and we would like to explain the **reasons we are requesting a variance**.

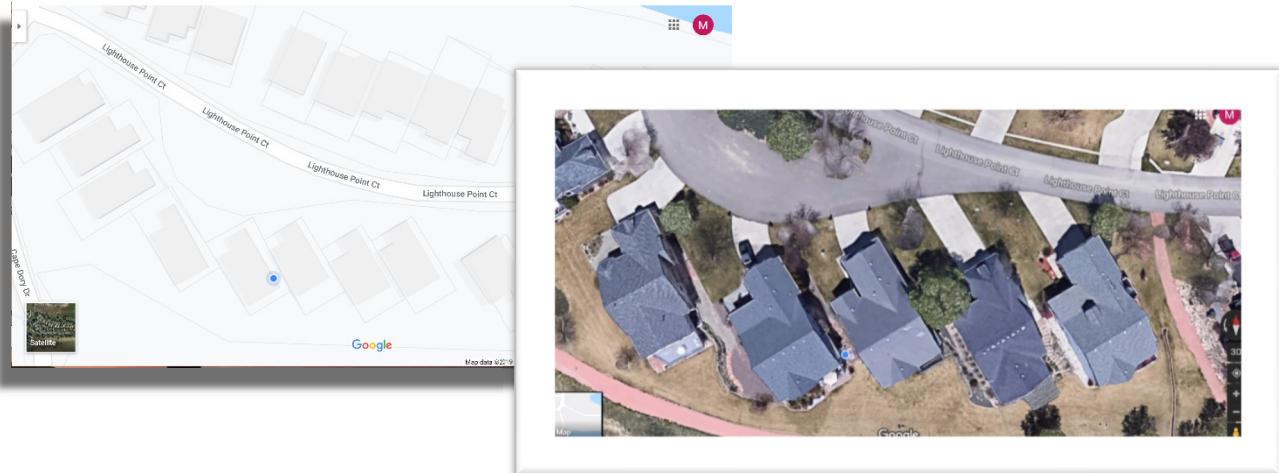
**Here is a little history of how we got to this point.**

We purchased our home in August of 2018, with the intention of remodeling the house and making improvements to the property. The Mariana Shores community consists of patio homes surrounded by HOA property, with significant 'contour fall' toward Boedecker lake. When the lots were laid-out by the developer, they were rectangular (as shown with the red outline in the picture below), and the intended building perimeter was a smaller rectangle within the property (shown by the blue outline).



The layout intended for each house to have doors and windows on the Northeast side, and few doors and windows on the Southwest side. This arrangement allows each property to have a **fairly private back deck**, as well as a **generally private walkway along its Northeast side for access to the backyards**. And the houses were arranged just as planned. The houses are not all exactly on the Southwest property line, but they all have limited

windows and no doors on the Southwest side, and more space on the Northeast side to allow owners to have a little side yard patio or deck, and also **access their backyard and the lake**. This is evident on the views provided by Google Maps and Google Earth (below).



The 10 homes along our side of Lighthouse Point Ct. all follow this arrangement: **Few windows and no doors on the Southwest side, and large windows and access doors on the Northeast side**, so owners can enjoy that side of the house in relative privacy, and access their backyards from that side. The layout works well, and the 10 homes have followed the plan, as seen in the pictures below. They generally have little walkways and /or stairs made of stones to follow the contours as the land 'falls' toward the lake.



Our intention was to conform to this general arrangement, and to access our backyard from the Northeast side of the house, just like all the rest. **But we faced specific challenges due to the constraints of the particular parcel we purchased: An existing stone retaining wall**, over six feet tall at the corner of the house, runs at a slight angle away from the corner of our house, then parallel to the property line we share with our neighbor. This wall dissects the available area that could be used for a walkway similar to the others on the street, making it virtually impossible to fit a walkway made from landscaping stones or similar material in this area.

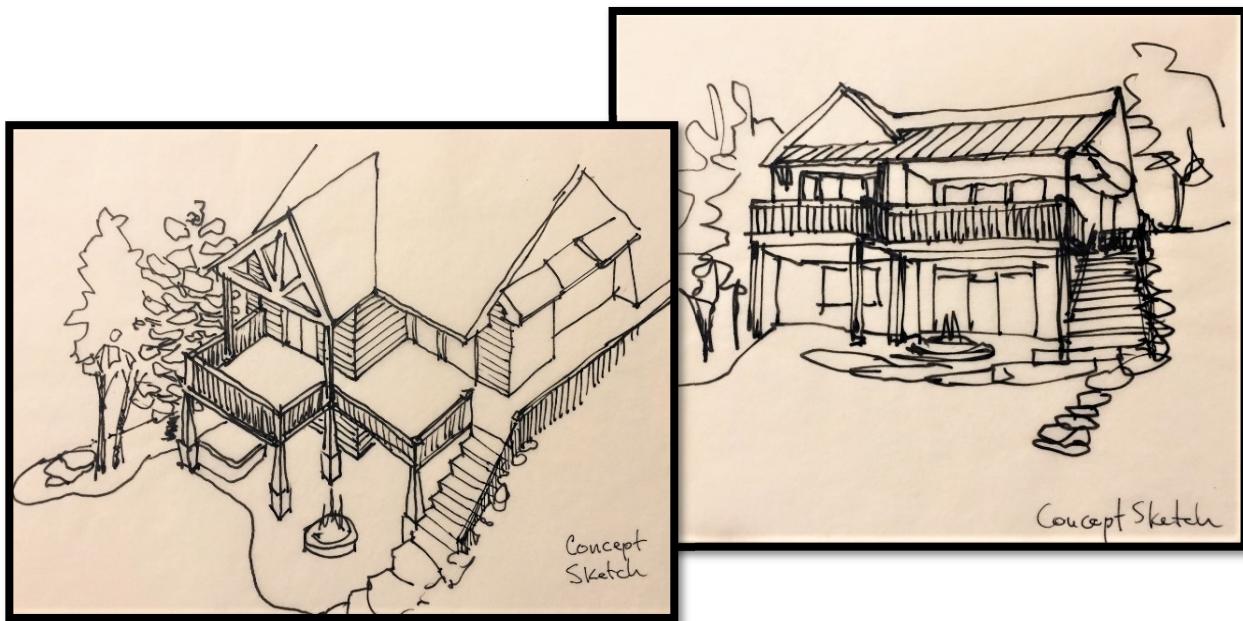
**Unlike the other properties on our street, our property does not allow for a safe way to access our backyard while staying on our property due to the location and fragile nature of the retaining wall.** The wall's location prohibits us from creating a cascading stone stair like many of our neighbors have built. As the 'before' pictures below show, while the wall appears to be in generally good condition, it is made of stacked stone, and is somewhat fragile. And **about 30% of the wall is on HOA property**. We also found an unexpected hardship when our property was inspected by a **Professional Structural Engineer**. He told us **water would be an issue along the Northeast side of our house unless we took action to mitigate it**. So, we had a French Drain installed per the Engineer's suggestion.



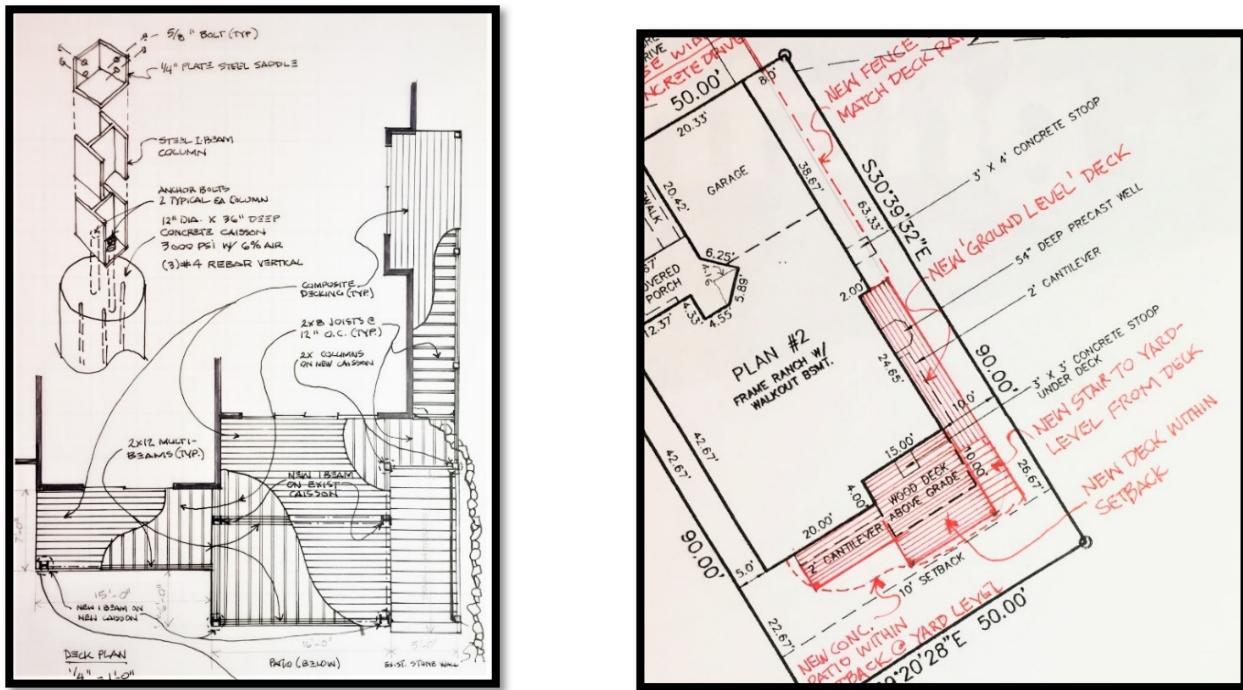
Before Pictures

While we were planning upgrades to the property, we recognized the need to **protect the retaining wall** from potential accidental damage (damage by people, and from animals that often come through the neighborhood), and we had to protect ourselves against the possibility of someone getting too close to the edge of the wall, especially at its highest point, and accidentally falling off. We also needed to consider the French Drain we had constructed along the Northeast side of the house, and how we could still make use of that side of the house for access to our backyard area, as was originally planned by the developer and as the other patio homes along our side of the street do.

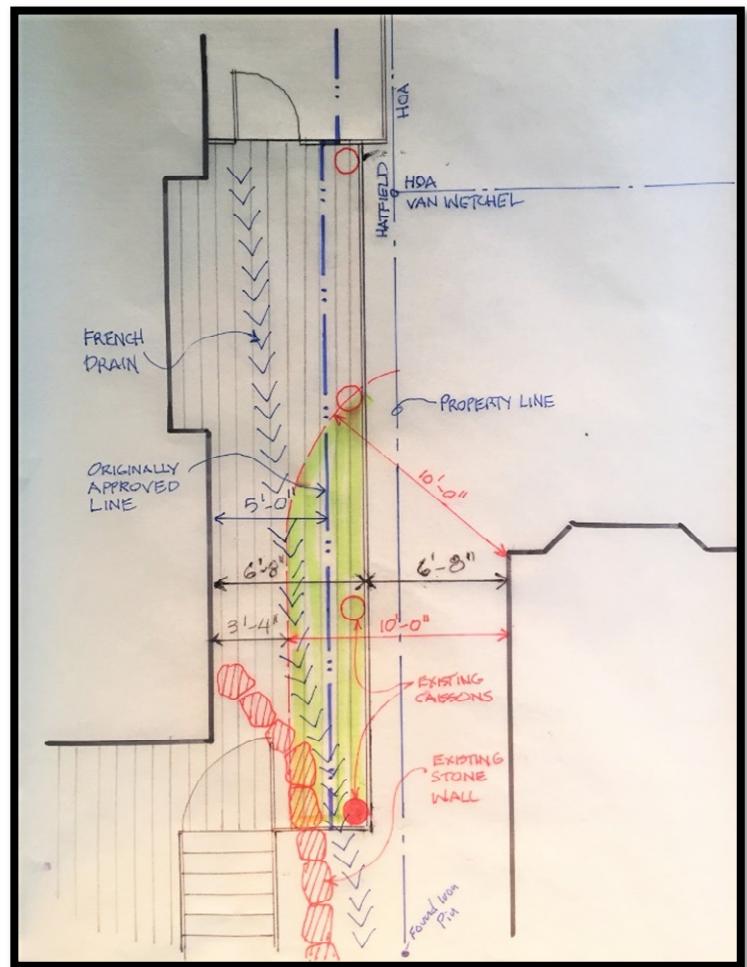
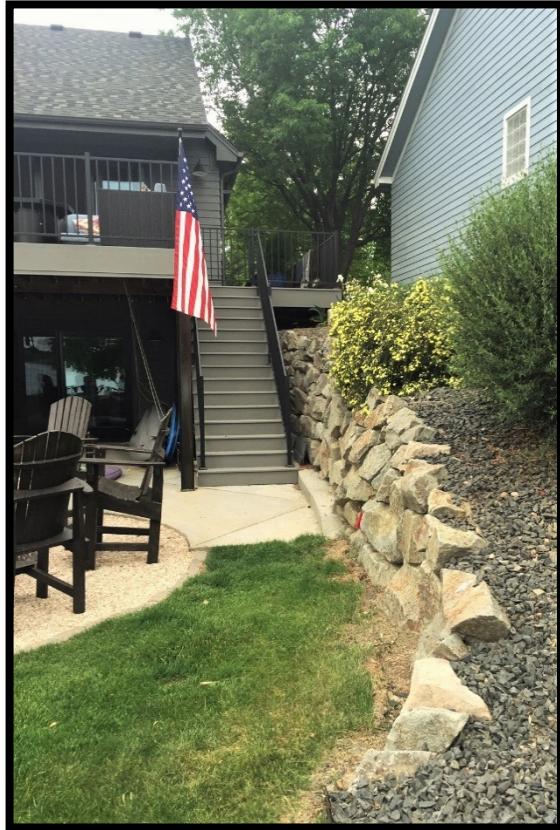
So, we developed a plan to incorporate a **ground-level deck along the side of the house, as a walkway above the French Drain**. We designed the deck to lead to a landing **above the wall at the highpoint**, creating a bit of a barrier. The deck would provide access to a **stair that would go along the wall** until it reached our backyard setback, as shown in the Concept Sketches below. This would at least provide some barrier to foot traffic along the highest parts of the wall.



We made plan drawings of what we intended to do, (shown below) and submitted those to the HOA Design Review Committee and the City of Loveland.



The drawings were approved, and we began deck construction in **October 2018**. But when our concrete contractor assessed the condition of the retaining wall, he did not feel comfortable setting piers in the location we had planned. **The concrete piers were required to be 36" deep and 12" in diameter. Excavating for them would risk damage to the retaining wall if the piers were located within about three feet of the wall.** At the builder's suggestion, we agreed to move the piers over a couple of feet from their planned location. Therefore, that part of our deck is about three feet closer to the neighbor's house than regulation allows. The picture below shows the deck as it is now, and the drawing shows the retaining wall, the French Drain, the piers, and the deck. (The area in green shows where the deck does not conform. The red circle shows the location of the corner pier that established the line of the deck.)



Having the deck and stair where they are is critical to diverting foot traffic away from the retaining wall and French drain.

Several months passed. There were no complaints about the deck or even any mention of a problem. Upon being notified of non-compliance by the Loveland Development Service Department, and upon realizing the mistake, I met with the appropriate Planning Department personnel, discussed alternatives, and returned home with the intention of modifying our deck to bring it into compliance. **But the same problems exist today that caused the deck supports to be where they were located on that day in October: The French Drain and the retaining wall are still there, and they are still vital to the overall condition of our property.** They are there to protect the good condition of our property as well as the neighbors' property.

Altering the deck to bring it into compliance now would require relocating the piers, and there simply is no place for them to be located that does not potentially damage the retaining wall, and adversely affect the French Drain.

The side deck covers some of the wall. So, making the deck smaller, if we even could, would leave more of the wall exposed. This would increase the risk of a person coming into contact with the wall. It would also create a wider and more inviting path next to the wall for occasional traffic from meter readers, yard service personnel, deer, etc. **This is exactly what would be bad for the condition of the retaining wall.**

Therefore, if we do alter the deck to make it conform, we will ultimately need to build a little fence in that area where the deck is now to keep people and animals away from the wall. **So, there would be no real, practical change to what is there now.** And, frankly, the appearance would be worsened, not improved.



*Wall, Deck, Pier & Neighbor's Wall (no windows in proximity to the deck)*



*Existing Deck Rail - A fence replacing the rail would result in the same general appearance.*

The retaining wall is on our property, **but it benefits the neighbors as much as it does us**. Maybe even more, because it retains earth along the entire side of their house. **A significant portion of the wall is also on HOA property**. So, the integrity of the wall is beneficial to three entities (us, our neighbors, and the HOA), and it arguably affects the community at large. If the wall, partially owned by the HOA, is damaged or needs repair, then all homeowners, as HOA members, could very well have to bear some of the cost of those repairs. **This wall's presence and location is good for many, but it constitutes a real situational hardship for us, and we tried to honestly incorporate general protection of that wall into our plans.**

I do understand the situation is not perfect. Our deck's location does violate the rules. And, if violations are allowed, then what is the purpose of having rules? But I also sense that specific circumstances sometimes arise that can actually be made worse by applying the rules, no matter how well-intentioned the rules are. And I trust reasonable people to recognize that making allowances for these circumstances can often be for the greater good. I believe this is one of those circumstances.

**The neighborhood HOA, recognizing this and being fully aware of the circumstances that have led to this point, and as co-owner of the retaining wall, fully supports our effort to get the requested variance. (Please refer to the attached letter from Mr. Tom Clark, President of the Shores HOA.)**

So, while we recognize the deck does not conform, we honestly believe a city variance is the best resolution for these reasons:

- Allowing reasonable access to our backyard on the 'correct' side of our house, in keeping with the original design of the neighborhood, and as provided to all the other residences along our side of the street, is an important feature of our property that would not be available to us without the current deck arrangement.
- The deck's location came about because of difficulties in construction uniquely associate with this property and no others on the street. Those difficulties include a tight construction area, a necessary French Drain, and an existing retaining wall that is beneficial to the community. These difficulties remain today. So, a resolution to the problem using a physical change to the deck would turn into a major construction project, and the outcome would not be much different from how things are today: There would still be a structure within the 10 ft. building-to-building space. (It would be a fence instead of a deck railing, fences being allowed and not constrained by the 10 ft. requirement, but the appearance would be very similar to the deck rail as it is now.)
- The deck and stairway are purposely designed to allow access to the backyard while keeping people away from the fragile retaining wall.
- There was no ill-will or nefarious intent associate with the deck's location. The overall deck design and 'look' were intended to be attractive, and the code violation was unintentional.
- I would also like to mention there are other houses in our neighborhood with examples of the same violation of this 10 ft. structure-to-structure requirement.

- The deck is mostly located in an area where there are no windows on our neighbor's house (by design), so our hope is that it is not an eyesore. (The deck and rail are elegant and in keeping with the approved look of the HOA Design Review Committee. The deck has been in place for over 6 months now, and we have gotten many compliments on it from neighbors who use the walking path behind our house.)
- If we are not granted a variance, we will be left with no choice but to modify our deck, which would be very difficult to do and maybe not even possible, and we would need to add a fence along the top of the retaining wall to achieve the protections currently provided by the deck. So, basically, the rules would be followed, but the result would essentially be the same as it is now, and visually less attractive.
- The deck is largely made of flame-retardant material (plastic composite decking and metal railing), so any fire risk associated with proximity should be mitigated.



In closing, we are asking for a variance, not because we somehow think "the rules don't apply to us", and not because we don't think this is an important matter, but because the unique conditions of this property have us in an impossible situation. Putting forth a good-faith effort to protect the old retaining wall that is partially on our property and partially owned by the larger community; avoiding interference with an unexpected French Drain which is critical to the health of our property; providing protection against someone falling from the retaining wall; all the while allowing for reasonable access to our backyard in the same manner provided to the rest of the houses on our side of the street, seem like sensible motives for granting a variance, especially when the alternative would be difficult and punitive, and would truly result in a situation that would not be very different from what is there today.

Thank you for considering this request.

Respectfully,

*Marc & Leigh Hatfield*

5408 Lighthouse Point Court

E

Marc,

Your finished project is attractive and certainly better than before. All the work appears to be finished in a very professional manner and will add additional value to your property and does not diminish the value of any of your neighbors or to the neighborhood at large. Your addition was added to a very difficult location with few, if any other options. There are no windows along side where the closest neighbor lives so the new addition can only be seen from the front or back. of their property.

The city setback and Marianna Cove Covenants have been breached; however, several other homes in the area have also violated the 10 foot setback without penalty. Previous Marianna Cove HOA boards have not been diligent in monitoring Design Review requirements. It would be nearly impossible to correct this infringement with all of our Cove residents.

**I recommend that a variance be granted in this case.**

*Tom Clark*

5240 Lighthouse Point Court  
Loveland CO 80537

F

Marc,

The Design Review Committee approved your plans with the knowledge that several (at least 5) violate the 10 foot between structures. We did not consider a deck as part of the main structure. I assume the other properties are in the same boat! We support your effort and would grant a variance if needed.

Ray Walker, Chairman  
Mariana Cover Design Review Committee

To Whom It May Concern – City of Loveland

In Regards to the Deck built by the Hatfields

This is a tricky question as my property may be in a similar situation.

In my estimation the Deck has very little or no affect upon any neighbor. There are no windows or doors or access on that side of the house. I have not heard of another complaint of the other similar situations in our neighborhood. Architecturally the deck is of little consequence but could be altered to accommodate existing codes by only removing the offending deck boards and leaving the supports in place. This would only placate the offended. It would significantly alter an already installed and well designed contiguous project.

Kim Stenson  
5304 Lighthouse Point Court  
Loveland CO 80537  
970-566-5097

Owner on Lighthouse Point since 2004  
Past President of the Shores HOA  
Current Member of the Shores HOA  
Former Owner of a longs standing Loveland business  
Artist and Designer

**From:** [Marc Hatfield](#)  
**To:** [Lena Butterfield](#)  
**Subject:** Fwd: Variance  
**Date:** Friday, August 2, 2019 9:46:52 AM  
**Attachments:** [image001.png](#)

---

Hi Lena. I received this letter this morning, and would like to submit it as part of the record. I think it sums-up some of the things i was trying to say about that part of our property not being reasonably usable without the deck arrangement as it is now. There just was no other more reasonable way to make that side of the house useful, and allow access to our backyard from the front. (Carrying canoes, or shovels, and garden hoses through the house really doesn't seem reasonable when everyone else has a walkway they can use to get from the front and the side to the back.)

Thank you for considering my position, and this neighbor's letter. (His house is about 4 houses away from me.)

Thanks,  
Marc

----- Forwarded message -----

From: **Terry Wevers** <[Terry.Wevers@pinkardcc.com](mailto:Terry.Wevers@pinkardcc.com)>  
Date: Fri, Aug 2, 2019 at 7:53 AM  
Subject: Variance

To Whom it may concern

My Name is Terry Wevers and I live in the neighborhood of Mariana Cove. I have been in the construction industry for over 30 years. I have looked at the deck that was constructed at 5408 Lighthouse Point Court and it is my opinion that it was placed in the only place that it could with the existing retaining wall that is there. Any other location would of compromised the integrity of the stone wall and jeopardized the structure between both of the homes foundations. I feel with everything going on there that every consideration was taken into play and it was placed in the appropriate location. It took an unsafe area and made it safer also. It was an area that was not usable for anything before. And has greatly enhanced the area between the homes.

There are many other locations in the neighborhood with other situations if you will and I feel it would be wrong to make one undo what is a great addition to our neighborhood. They have done a lot of work to the home

and it is beautiful and they should be commended on what they have done not condemned. Everyone I have talked with in the neighborhood are very happy with the improvements they have made.

I see no reason not to grant them this variance as it is hurting no one and is a plus to the area. The big one is the safety of that area is much better.



**Terry Wevers**  
Project Superintendent  
**mobile** 303.419.1314  
[terry.wevers@pinkardcc.com](mailto:terry.wevers@pinkardcc.com)  
**Connect with Us**  
[Web](#) | [Twitter](#) | [Facebook](#) | [LinkedIn](#)

[merlinperkins@outlook.com](mailto:merlinperkins@outlook.com)

---

**From:** merlinperkins@outlook.com  
**To:** lena.butterfield@cityofloveland.org

Lena,

I would like to address my interest to the proposal in our neighborhood concerning the 5408 Lighthouse Point Ct variance.

The 30 homes on Lighthouse Point Ct are offset at an angle and each home is designated with a non view side of the house so that all homes are afforded some privacy. Each property ideally contains 5 feet all around the house that the property owner owns and maintains. Some homes were placed on the property at a slightly different angle than the developer specified. The original owners of 5293 Lighthouse Point Ct went to court so they could position their home on the property in such a way as to afford a view of the mountains. That affected the property of 5275 Lighthouse Point Ct. When we built our home in 1999, I was advised by my builder that I could move my home closer to the street or farther back if I chose to do so. I mention this because there are other properties on Lighthouse Point Ct that may have been affected by this scenario. Both east and west sides of most of the homes on Lighthouse Point Ct are rather steep making access from front yards to back yards difficult. Many of the original home owners worked together to develop beautifully landscaped stone or log steps in between their houses to navigate the terrain safely. Some of the houses don't have exactly 5 feet on each side, depending on how the property was set on the parcel of land and yet the homeowners worked together to blend the landscapes so that it was pleasing curb appeal for all homeowners.

We live in a mature, beautiful neighborhood in which 30 homeowners have respected and honored each other for 25 years. It would seem that there would be a peaceful and respectable way of resolving this issue.

Respectfully submitted,  
Merlin Ruth Perkins  
5317 Lighthouse Point Ct  
Loveland, CO 80537  
970 227 4227