

**TOWN OF NEW CASTLE  
RESOLUTION NO. BZ 2023-1**

**A RESOLUTION OF THE BOARD OF ZONING ADJUSTMENT OF THE  
TOWN OF NEW CASTLE GRANTING ZONING VARIANCES  
FOR PROPERTY AT 221 EAST MAIN STREET**

WHEREAS, the Board of Zoning Adjustment of the Town of New Castle, Colorado, has received a variance application (the "Application") from Miles Rippey "Applicant") with consent from the property owner Dale Don Shrull ("Owner") requesting variances from the side yard setback and the minimum floor area under the R-1 zone district regulations related to property located at 221 E. Main Street, New Castle, Colorado, and legally described as Lot 9, Block P, Spencer's Second Addition, Town of New Castle (the "Property"); and

WHEREAS, the Property consists of an historic 2,500 square foot lot bordered on each side by properties not owned by the Owner; and

WHEREAS, allowable uses in the R-1 zone district include detached single family homes, but there is presently no home or residential structure on the Property; and

WHEREAS, the minimum lot size under the R-1 zone district regulations is 5,000 square feet; and

WHEREAS, the Property was platted as a 2,500 square foot lot before the Town's enactment of its present zoning and land use regulations and is owned separately from adjoining properties and therefore meets the definition of a "nonconforming lot" under Section 17.04.050 of the Town Municipal Code; and

WHEREAS, Section 17.88.040(A) of the Municipal Code provides:

In any district, principal and customary accessory buildings may be erected on any legally existing single lot of record that existed prior to the effective date of this title. Such lot must have been in separate ownership and not of continuous frontage with other lots under the same ownership. This provision shall apply even though such lot fails to meet the requirements of the district in which it is located for area, width, or both area and width; provided, **however, that the requirements of the district for minimum yard dimensions shall be met unless a variance to the requirements has been granted.** (emphasis added); and

WHEREAS, the minimum yard dimensions provided by the R-1 zone district regulations include 8-foot side yard setbacks and 800 square feet of minimum floor area; and

WHEREAS, strict application of the 8-foot setbacks and the 800 square foot minimum floor area would make it impractical to construct any reasonable single family home on the Property; and

WHEREAS, pursuant to Code Section 17.12.020, the Board has the authority to grant variances from strict application of the R-1 zone district if the following criteria are met:

1. That there are unique physical circumstances or conditions, such as irregularity, narrowness, shallowness or size of the lot, or exceptional topographical or other physical conditions peculiar to the affected property;
2. That, because of such physical circumstances or conditions, the property cannot reasonably be developed in conformity with the provisions of this title,
3. That such unnecessary hardship has not been created by the applicant,
4. That the variance, if granted, will not alter the essential character of the neighborhood or district in which the property is located nor substantially or permanently impair the appropriate use or development of adjacent property,
5. That the variance, if granted, is the minimum variance that will afford relief and is the least modification possible of this title's provisions that are in question; and

WHEREAS, pursuant to § 17.12.030 of the Municipal Code the Board of Zoning Adjustment held a public hearing on the 5th day of October, 2023, to consider the Application, at which hearing the public and interested persons were given the opportunity to express their opinions regarding the application; and

WHEREAS, on the basis of substantial competent evidence produced at the aforementioned hearing, the Board of Zoning Adjustment finds (i) that the hearing regarding the Application was extensive and complete, and all pertinent facts, matters and issues were heard at the meeting; and (ii) that the criteria set forth above have been met.

NOW, THEREFORE, BE IT RESOLVED by the Board of Zoning Adjustment of the Town of New Castle, Colorado, That:

1. Recitals Incorporated by Reference. The foregoing recitals are incorporated by reference herein as findings and determinations of the Board of Zoning Adjustment of the Town of New Castle.

2. Approval. The variances requested in the Application are approved. The side yard setback shall be reduced to 6.5 feet. The minimum floor area shall be reduced to 672 square feet.

3. Conditions. The approvals set forth above are subject to the following conditions:

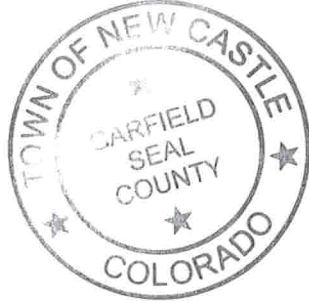
A. All representations for the Applicant contained in the Application or otherwise stated in writing or presented verbally at the public hearing before the Board of Zoning Adjustment shall be considered part of the Application and binding on the Applicant.

B. Applicant shall comply with all applicable building, residential, electrical and municipal code requirements including all sign code regulations.

C. The Applicant shall reimburse the Town for any and all expenses incurred by the Town regarding this approval, including, without limitation, all costs incurred by the Town's outside consultants such as legal and engineering costs.

D. Violation of any of the above conditions shall be cause for revocation of the variance.

THIS RESOLUTION BZ 2023-1 was adopted by the New Castle Board of Zoning Adjustment by a vote of 7 to 0 on the 3<sup>rd</sup> day of October, 2023.



TOWN OF NEW CASTLE BOARD  
OF ZONING ADJUSTMENT

Art B. Riddle  
Art Riddle, Chair

ATTEST:

Mindy Andis, CMC  
Mindy Andis, Town Clerk