

**TOWN OF NEW CASTLE
RESOLUTION NO. BZ 2020-1**

**A RESOLUTION OF THE BOARD OF ZONING ADJUSTMENT OF THE
TOWN OF NEW CASTLE, COLORADO APPROVING A VARIANCE
APPLICATION FOR THE PROPERTY LOCATED AT 55 WHITETAIL DRIVE
IN THE LAKOTA CANYON RANCH PUD R-M RESIDENTIAL ZONE
DISTRICT.**

WHEREAS, the Board of Zoning Adjustment of the Town of New Castle, Colorado, has received a variance application (the "Application") from Chris and Brandy Hutto ("Applicants") for a variance from the Lakota Canyon Ranch PUD R-M Residential zone district regulations related to property located at 55 Whitetail, New Castle, Colorado, and legally described on Exhibit A hereto (the "Property"); and

WHEREAS, the Application requests that Applicants be allowed to construct certain improvements within and encroach no more than eight feet upon the rear yard setback established for the Property; and

WHEREAS, pursuant to § 17.12.030 of the Municipal Code the Board of Zoning Adjustment held a public hearing on the 20th day of October, 2020, to consider the variance 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 makes the following findings pursuant to § 17.12.020 of the Municipal Code:

1. That the hearing before the Board of Zoning Adjustment was extensive and complete, and all pertinent facts, matters and issues were heard at the meeting;
2. 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;
3. That, because of physical circumstances or conditions, the property cannot reasonably be developed in conformity with the provisions of the Town's zoning regulations;
4. That such unnecessary hardship has not been created by the applicant;
5. 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;
6. That the variance, if granted, is the minimum variance that will afford relief and is the least modification possible of the Town's zoning regulations which are in question;
7. For the above stated and other reasons, the proposed variance is in the best interest of the health, safety, order, prosperity and welfare of the citizens of the Town of New Castle

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. A variance from the Lakota Canyon Ranch PUD R-M Residential zone district regulations is hereby approved for the Property to allow the construction of up to two patio dormers no more than eight feet within the rear yard setback as described and depicted in Applicant's variance application and to allow such encroachment upon the rear yard setback to continue for so long as said improvements remain in place, subject to repair and replacement of the same as may be required from time to time.

3. Conditions. The variance granted herein is subject to the following conditions:

- (A) All representations for the Applicants 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 Applicants.
- (B) Applicants shall comply with all applicable building, residential, electrical and municipal code requirements including all sign code regulations.
- (C) The Applicants 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) Applicants or their successors may reconstruct or reinstall the improvements allowed under the variance approved hereby if said improvements are destroyed or replacement becomes necessary from time to time.
- (E) Violation of any of the above conditions shall be cause for revocation of the variance

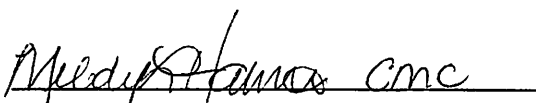
THIS RESOLUTION BZ 2020-1 was adopted by the New Castle Board of Zoning Adjustment by a vote of 5 to 0 on the 20th day of October, 2020.

TOWN OF NEW CASTLE BOARD
OF ZONING ADJUSTMENT



Art Riddile, Chair

ATTEST:


Melody Harrison, Town Clerk

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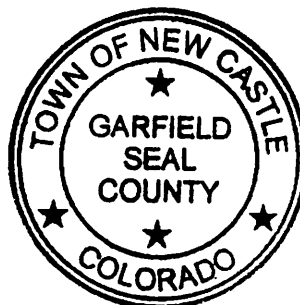


EXHIBIT A

Legal Description

Lot 40, LAKOTA CANYON RANCH, FILING 5, according to the Plat thereof filed
October 19, 2006 at Reception No. 709283,

County of Garfield
State of Colorado

Administration Department
 (970) 984-2311
 Fax: (970) 984-2716
www.newcastlecolorado.org



Town of New Castle
 PO Box 90
 450 W. Main Street
 New Castle, Co 81647

DEVELOPMENT APPLICATION

Applicant: Christopher L & Brandy W Hutto	
Address: 55 Whitetail Dr New Castle, CO 81647	Phone: 970-366-7013 FAX: E-mail: Clhutto12@gmail.com
Property Owner: Christopher L & Brandy W Hutto	
Address: 55 Whitetail Dr New Castle, CO 81647	Phone: 970-366-7013 FAX: E-mail: Clhutto12@gmail.com
Contact Person: Christopher L Hutto	
Address: 55 Whitetail Dr New Castle, CO 81647	Phone: 970-366-7013 FAX: E-mail: Clhutto12@gmail.com
Property Location/Address: 55 Whitetail Dr, New Castle, CO 81647	
Legal Description: Section:29 Township:5 Range:90 Subdivision:Lakota Canyon Ranch FLG 5 Lot:40 (Resub of C3-1,2nd Amended & Restated Sub-Div Exclus/Exemp)	Acres: 8143 Ft2 0.1869 Acres
Existing Zone (Not sure? Click here for help): Residential R-1	
Existing Land Use: Residential R-1	
TYPE(S) OF LAND USE(S) REQUESTED	
<input type="checkbox"/> Pre-Annexation Agreement <input type="checkbox"/> Annexation <input type="checkbox"/> Subdivision (including Minor and Major Subdivisions, Lot Splits, Sketch Plans, Subdivision Preliminary Plans, Subdivision Final Plans, & Condominiumizations) <input type="checkbox"/> Amended Plat <input type="checkbox"/> Planned Unit Development (including PUD Sketch Plans, Preliminary PUD Development Plans, PUD Master Plans and Final PUD Development Plans) <input type="checkbox"/> Floodplain Development Permit	<input type="checkbox"/> Lot Line Adjustment or Dissolution <input type="checkbox"/> Site Specific Development Plan/Vested Rights <input checked="" type="checkbox"/> Variance <input type="checkbox"/> Zoning <input type="checkbox"/> Zoning Amendment <input type="checkbox"/> Re-zoning <input type="checkbox"/> R-1-HC Identification <input type="checkbox"/> Conditional Use Permit or Special Review Use Permit <input type="checkbox"/> Other
This development would create <u>N/A</u> residences and <u>N/A</u> square feet of commercial space.	
Applicant must also complete and submit the appropriate checklist for the type of land use requested. Both the applicant and the property owner must sign this application.	
Applicants are encouraged to schedule a pre-application meeting with the Town Administrator and/or Town Consultants prior to submitting this application.	

AGREEMENT TO PAY CONSULTING FEES AND EXPENSES

It is the policy of the Town of New Castle that all land use applications must be filed in the Office of the Town Clerk to receive formal consideration. Please refer to the Town Clerk's Office for all applicable procedures.

However, the Town encourages land use applicants to consult informally with members of the Town Staff, including outside consultants, prior to filing applications if the applicant has questions regarding areas within Staff members' particular expertise; PROVIDED THAT THE POTENTIAL APPLICANT AGREES TO REIMBURSE THE TOWN FOR ALL FEES AND EXPENSES RELATING TO SUCH INFORMAL MEETINGS.


The Town employs outside consultants for engineering, surveying, planning, and legal advice. These consultants bill the Town on an hourly basis as well as for expenses including but not limited to copies, facsimile transmissions, and long distance telephone calls.

It is the Town's policy that all persons wishing to hold informal meetings with members of the Town Staff acknowledge responsibility for all fees and expenses charged by outside consultants by signing this Agreement below.

I acknowledge and agree to pay the Town of New Castle all actual costs incurred by the Town in relation to legal, engineering, surveying, planning, or other services performed by consultants to the Town as a result of such consultants' review and comment upon, or other services related to, land use proposals and/or applications proposed by me or on my behalf, regardless of whether or not such application is formally filed with the Town. Interest shall be paid at the rate of 1.5% per month on all balances not paid within thirty (30) days of the date of the statement. In the event the Town is forced to pursue collection of any amounts due and unpaid, the Town shall be entitled to collect all costs of collection in addition to the amount due and unpaid, including but not limited to reasonable attorney's fees and costs.

SO AGREED this 1st day of September 2020.

Christopher L Hutto
Applicant (Print Name)


Signature

970-366-7013
Telephone

55 Whitetail Dr., New Castle, CO 81647
Mailing Address

Christopher L & Brandy W Hutto
Property Owner Mailing Address If Different From Above

Owner(s)
Relationship to Applicant or Potential Applicant

Type of application: Development - Variance Request


Property description: Single Family Residential (55 Whitetail Dr.)



AFFIDAVIT AS TO NOTICE OF PUBLIC HEARING

I, CHRISTOPHER HUTTO, do hereby certify that pursuant to ordinances of the Town of New Castle, Colorado, I provided notice of a public hearing before the New Castle Board of Adjustment on October 20, 2020 regarding a variance application by doing the following:

1. At least fifteen (15) days prior to such hearing, I sent a copy of the **attached** Notice of Public Hearing by certified mail to the owners of all property within one hundred (100) feet of the subject property and to the Town of New Castle.
2. If required by Chapter 16.10 of the new Castle Municipal Code, at least thirty (30) days prior to such hearing, I sent a copy of the **attached** Notice of Public Hearing by certified mail to the owners of mineral estates who have requested notification with respect to the subject property at the Garfield County Clerk and Recorder.
3. At least fifteen (15) days prior to such hearing, I posted notice of the hearing on the property on a sign approved by the Town at least twenty-two (22) inches wide, twenty-six (26) inches high, with letters at least one (1) inch in height. The sign was posted so that it was visible from a public street.
4. At least (15) days prior to such hearing, the **attached** Notice of Public Hearing was published on the Town’s website.

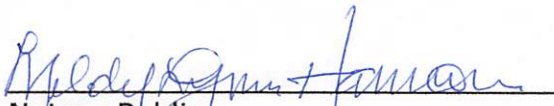


Signature

STATE OF COLORADO)
) ss.
COUNTY OF Garfield)

Subscribed and sworn to before me this 13th day of OCTOBER,
2020, by CHRISTOPHER LEE HUTTO.

Witness my hand and official seal.



Notary Public
My commission expires: MARCH 1, 2023

**Christopher L & Brandy W Hutto
55 Whitetail Drive
New Castle, CO 81647
(970) 366-7013**

September 1, 2020

Town of New Castle/ Planning Department
450 W. Main Street, PO Box 90
New Castle, CO 81647

Re: Variance Request for 55 Whitetail Dr (Section:29 Township:5 Range:90
Subdivision:Lakota Canyon Ranch FLG 5 Lot:40)

Planning Department/ Town Council:

This letter provides an overview for a variance request for 55 Whitetail Drive in the Town of New Castle, Colorado as submitted by the applicant and property owners, Christopher L. & Brandy W. Hutto. We are requesting a variance from the 20 foot rear setback requirement for single family structures in the Lakota Canyon Ranch Subdivision. The proposed construction is to build (2) outdoor roofed patios attached to the rear of the existing structure outward 10 feet with new reinforced structural concrete patios. The variance request is for reducing the rear yard setback from 20 to 12 feet. No variances of front or side setbacks are needed nor being requested.

The property backs along the east side of the 18th fairway of Lakota Canyon Golf Course. A lot pin survey was recently completed and we were very surprised when it was revealed that the rear property line was actually only 22 feet from existing building. The irrigated backyard lawn extends an additional 10 feet beyond the rear property line (32 feet from building). This was the existing lawn layout at the time of our purchase and has not been altered in any way since. Beyond the irrigated lawn there are no immediate residential properties. Beyond the rear property line lays an area of 80 to 100 linear feet of "wasteland" where original development grading operations cut and removed 10 to 30 feet in depth of natural terrain and topsoil. With low to no soil nutrients in the cut areas, it is mostly overgrown with weeds, sometimes noxious. Beyond the cut area lie natural wetlands that run parallel to the 18th Fairway, approximately 100 to 120 feet in width. The closest edge of the golf course 18th fairway is approximately 200 feet away from the property line to the west. There are no apparent water/grading issues in adjacent properties that may have any effect upon a variance approval. *(Please see attachment "Plat and Overhead Views")*

The property has (2) separate, existing concrete patios which extends 10 feet from rear of building. The proposed support columns for the (2) new covered patio roofs would also be located 10 feet from rear of building. These columns would be located 12 feet from the rear property line and are the basis for the variance request. The existing patios will be replaced with structural concrete slabs and proposed construction would coincide with the covered patio roof additions.

The (2) existing concrete patios are severely distressed and completely cracked and separated through the middle in a horizontal alignment with the building. The patios and adjacent soils have currently settled on the order of up to 6 to 8 inches and is a direct result of poor compactive efforts of basement backfill during original construction in conjunction with periodic introduction of storm water into the structural soils during weather events. The depth of the observed settlement has been increasing over time and is substantially more than when first observed sometime soon after the property was purchased on 4/21/2011. No settlement or water drainage issues were disclosed from previous owners prior to our purchase. In 2015, we discovered water had infiltrated through cracked patios and rear backfill soils, through foundation walls/ window wells and into the basement level living spaces at rear of building, thereby saturating the carpet which required immediate remediation. Additionally it should be noted, there is a crawlspace beneath the basement level with a sump pump. The sump pump is regularly activated after moderate to significant rain events, also another indication of storm water actively infiltrating the foundation soils. *(Please see attachment "Condition Photos")*

In general, the proposed construction would involve installing helical piers to bedrock to support a reinforced structural concrete slab and columns for offset, gabled patio roofs that extend 10 feet out from the existing structure. The proposed addition would be in harmony with the current house with an architectural style consistent with the mountain lifestyle and design guidelines of the Lakota Canyon Ranch Homeowners Association. The proposed construction is designed to capture storm water and divert away from foundations to the lawn area through hardscape grading and roof gutter & drains. *(Please see attachment "55 Whitetail - Preliminary Architectural Plans")*

The proposed construction of new covered patio and roofs would serve to ease multiple, unnecessary hardships. The hardship of primary concern is the introduction of storm water into the foundation soils and subsequently, potentially into basement living quarters. This condition was not created by us and, although unknown at the time, existed prior to our purchase in 2011, and will continue to persist without future intervention. A common geotechnical recommendation to limit the depth of wetting and subsequent settling of foundations and structural soils is to protect the area from water infiltration to a lateral distance at least as great as the depth of area of concern. The base of the primary foundation elements of the building exist to a depth of approximately 10 feet. The new columns would exist at the furthest reach of current concrete patios at 10 feet. Other subsidiary hardships that would be addressed by the proposed construction is protection of windows and siding from errant golf balls, as well as, to provide shade and protection from the harsh effects of the western afternoon sun.

If granted, the variance would not alter the essential character of the neighborhood nor substantially or permanently impair the appropriate use or development of adjacent property. In fact, it would certainly improve the character, appearance and value of this property, adjacent properties, the neighborhood, and the Town of New Castle in general. It is preliminarily designed and has already had initial verbal approval, in concept, of the Lakota Canyon Ranch Design Review Committee (DRC). A formal approval process through the DRC will proceed if a variance is approved, as well as, full permitting and approval with the Town of New Castle Planning Department. It is estimated that construction activities would be less than 3 months and would commence once final permitting and plans are approved. As the property backs unimproved land of the golf course property, there are no residents that would be directly impacted by a rear offset variance request. We have spoken and shared conceptual plans with the golf course property owner, Dwayne Romero of Romero

Group, and he has given an enthusiastic, verbal support of the proposed construction as it would not only provide a direct visual improvement but also adds value to the golf course as well as surrounding properties.

The current property owners within 100 feet of the variance request are listed below. All have been initially contacted, are aware of the proposed additions and subsequent variance request and have expressed no concerns in support of the variance approval. *(Please see attachment "Letter of Support")*

To the rear (West):

Property: Lakota Canyon Golf Course
Owner: RG Lakota Holdings, LLC
Address: 350 Market Street Crossing, Suite 304
Basalt, CO 81621
Contact: Dwayne Romero – President
(970) 618-8880

Vacant lot (North West):

Property: 50 Antler Loop
Owner: Steven H & Catherine L Vito
Address: 2714 Eden Court
Grand Junction, CO 81506
Contact: Steven H Vito
(970) 376-5869

To the left (South):

Property: 41 Whitetail Drive
Owner: Ryan Moore & Silmara Dos Santos
Address: 41 Whitetail Drive
New Castle, CO 81647
Contact: Ryan Moore
(720) 260-7451

To the right (North):

Property: 63 Whitetail Drive
Owner: Brian & Michelle Arbany
Address: 63 Whitetail Drive
New Castle, CO 81647
Contact: Brian Arbany
(970) 948-9048

This variance is of minimal request to provide relief and to address the chief concern of storm water infiltrating the foundation soils and habitable spaces. If the variance were to be denied, a hardship would endure that is systemically detrimental to the structural integrity and safety of the entire building and its occupants. We believe the variance request is necessary for the preservation and enjoyment of our substantial property rights and in this specific case, the proposed improvements are in no way detrimental to adjacent properties, nor to the public safety, welfare and interest, and do not materially impair the purposes, intent or spirit of the title.

We appreciate your consideration in this matter and look forward to the decisions of the Council. Please do not hesitate to contact us with any concerns or questions.

Thank You,
Christopher L and Brandy W Hutto



Christopher L Hutto



Brandy W Hutto

55 Whitetail Drive

Legend

Lot 38
50 Antler Loop

Lot 39
63 Whitetail Dr

Lot 40
55 Whitetail Dr

Lot 41
41 Whitetail Dr

200 ft

Google Earth

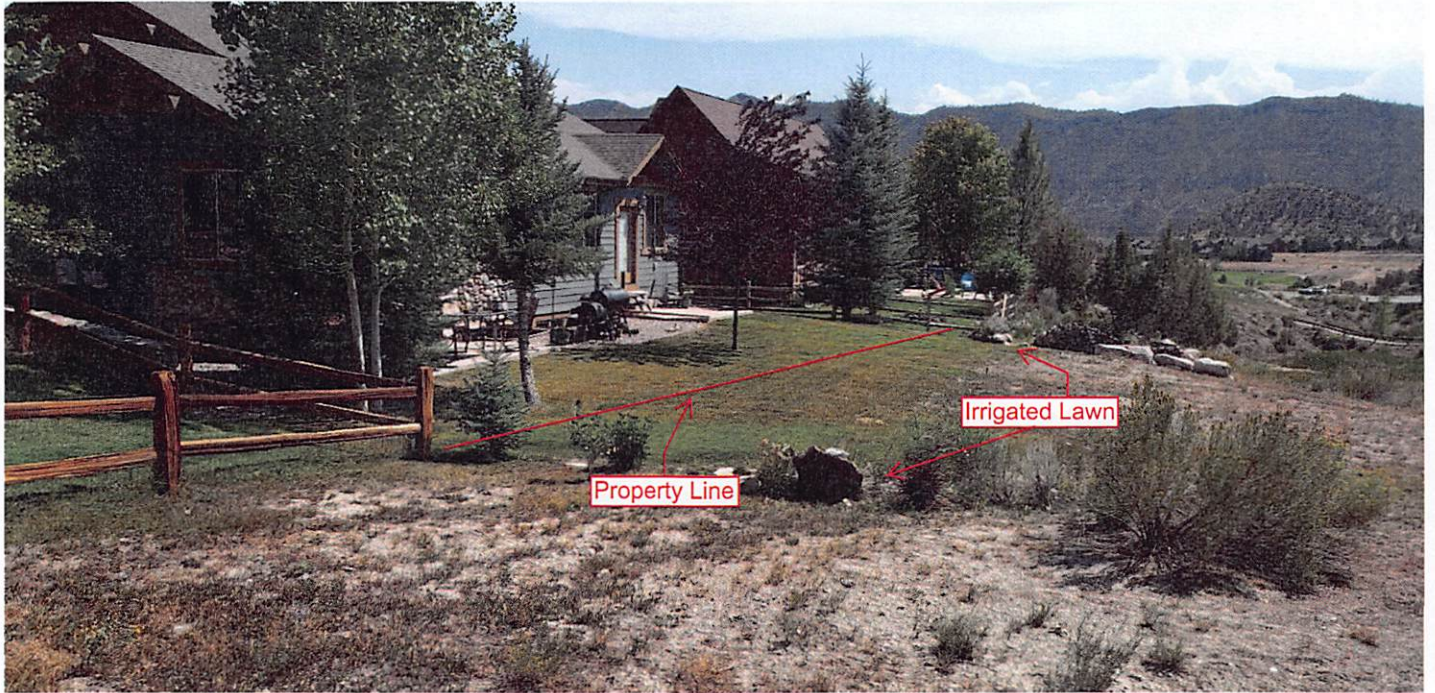


200 ft

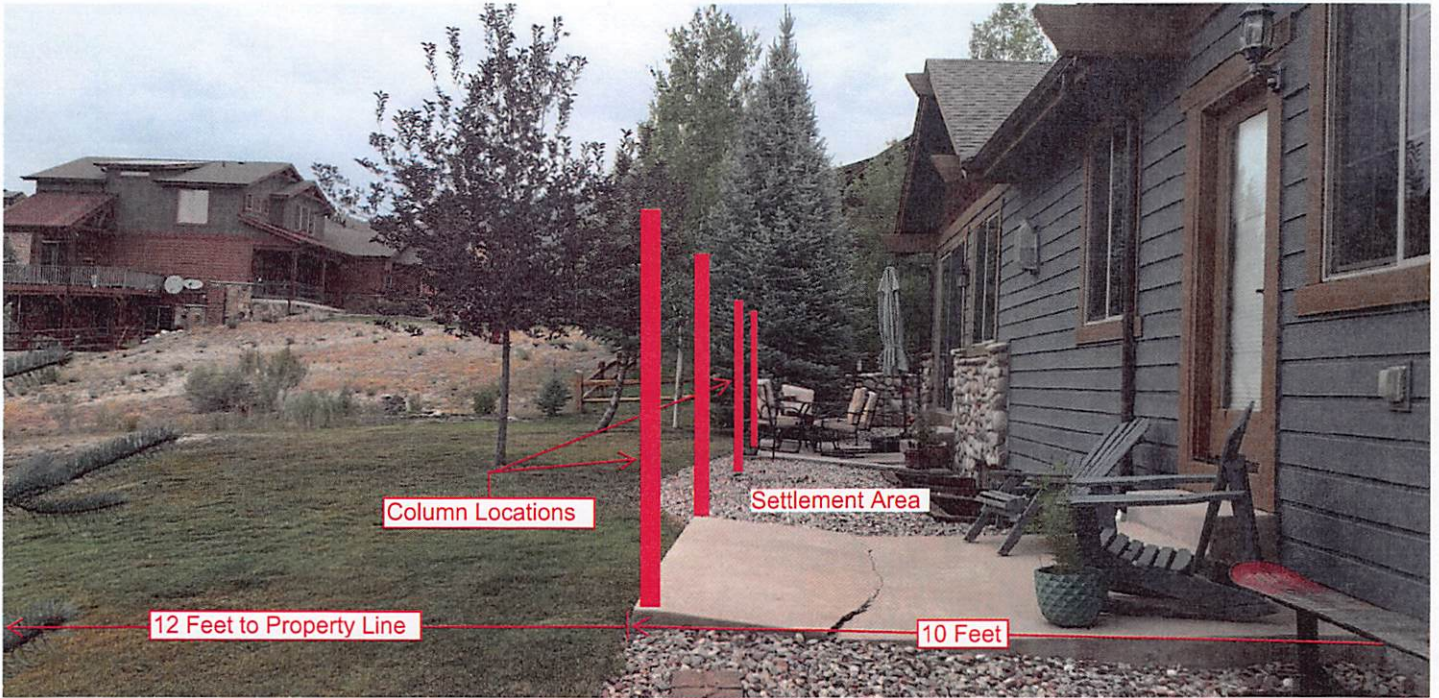




Rear View - Looking East
"Wasteland" in Foreground



Rear View - Looking South



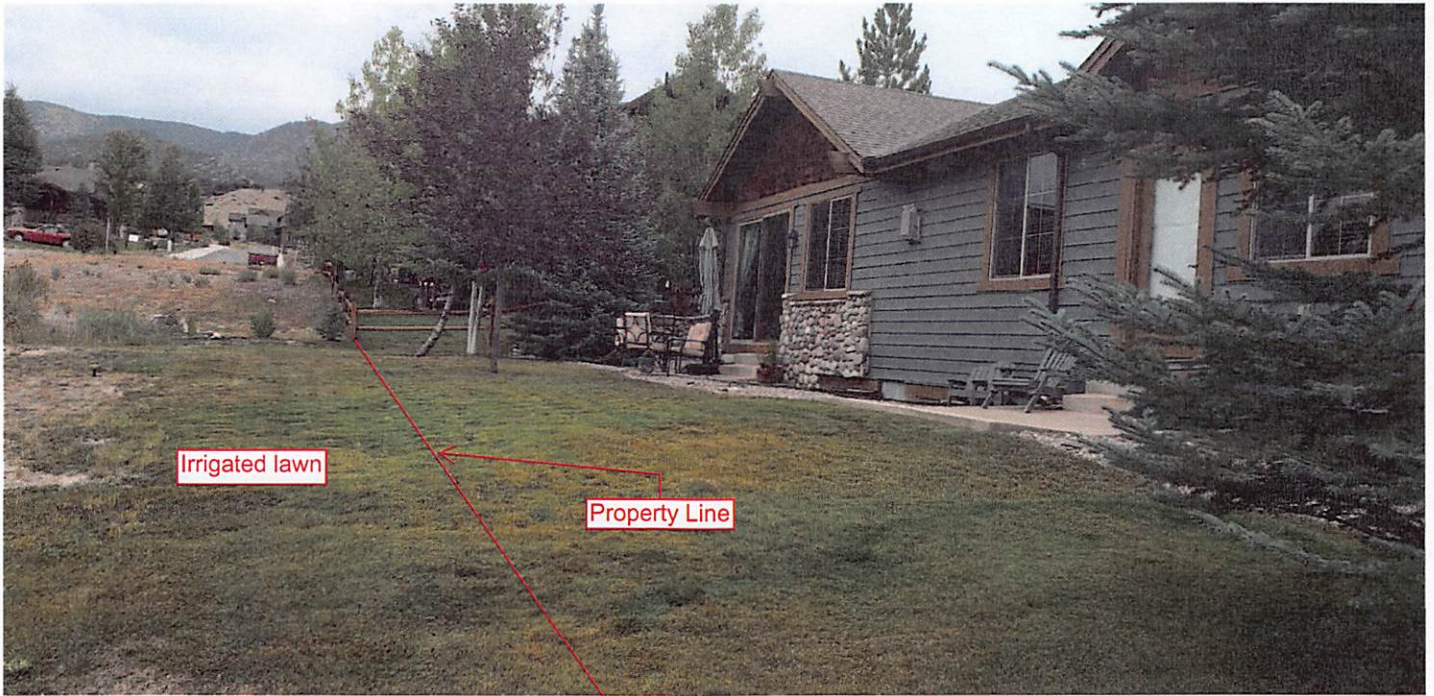
Column Locations

Settlement Area

12 Feet to Property Line

10 Feet

Rear View - Looking North



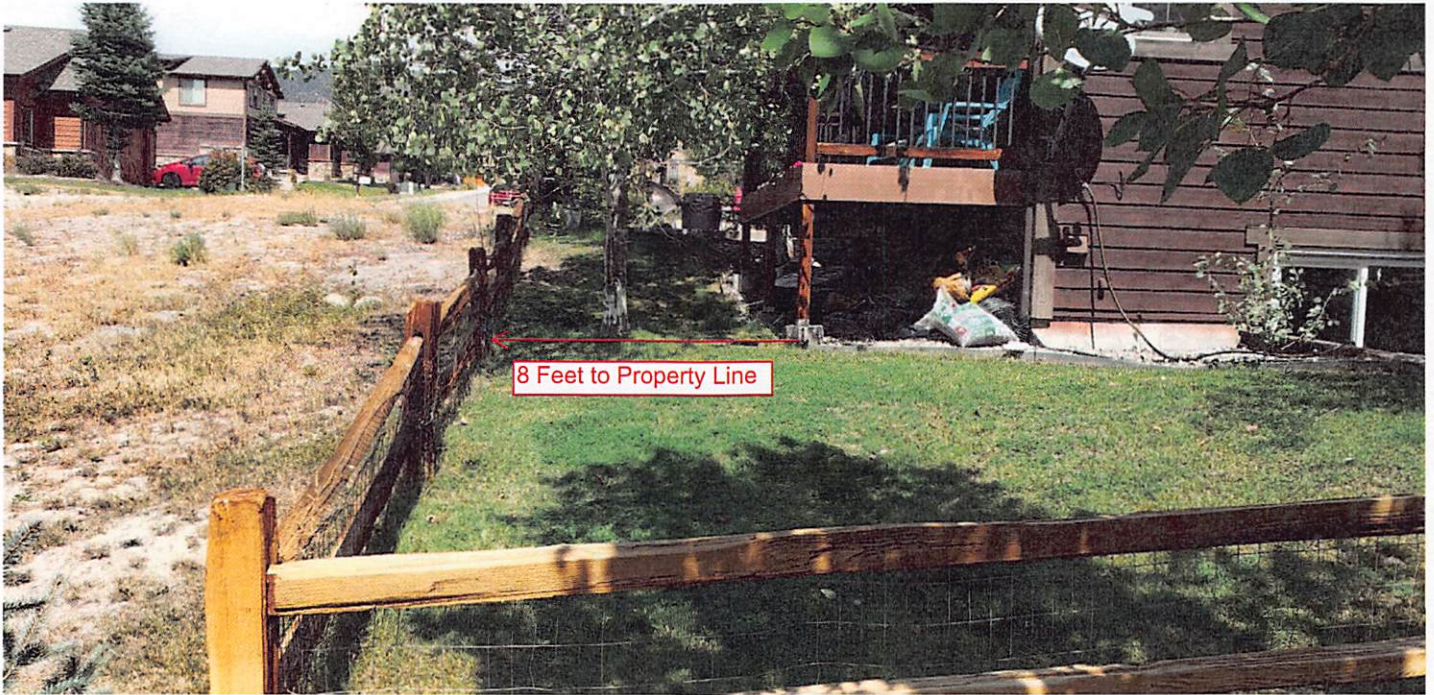
Rear View - Looking North



Rear View - Looking North



Rear View - Looking West



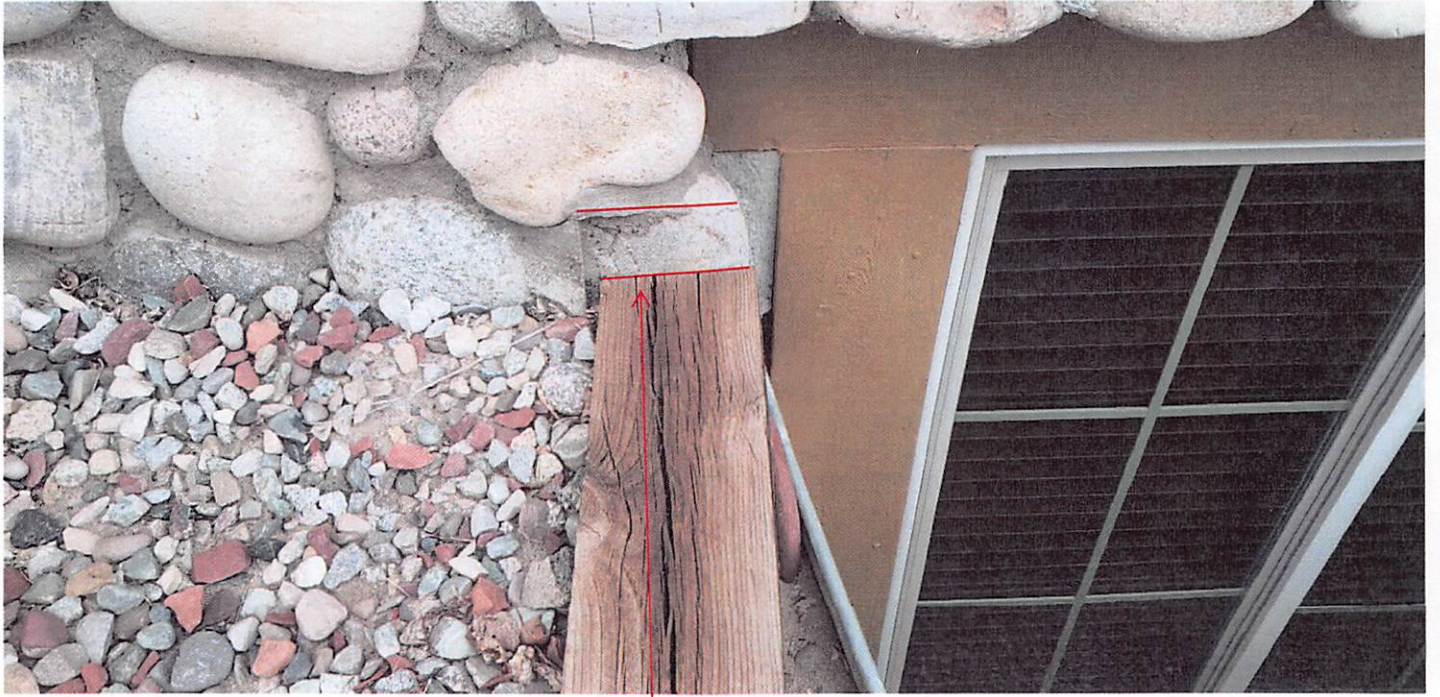
North Neighbors Rear Yard - Looking North
Rear Deck within 8 feet of Property Line



Stairs Pulling Away



North Patio Settlement



Window Well Settlement



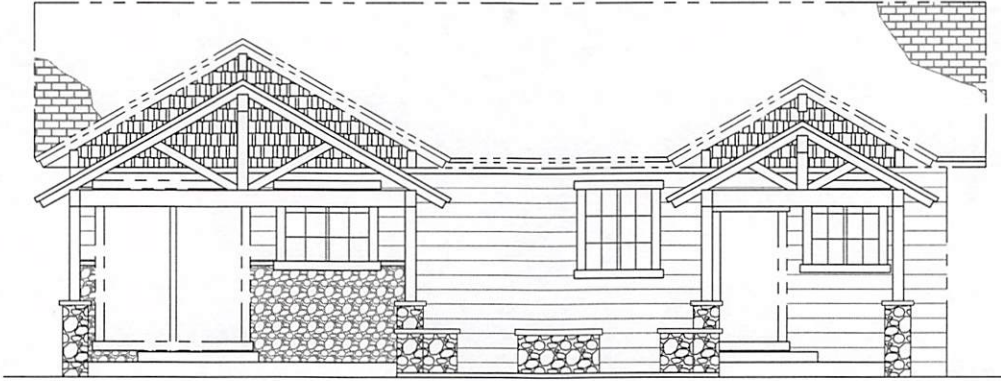
South Patio Settlement



South Patio Settlement - Close-up



EXISTING ELEVATION



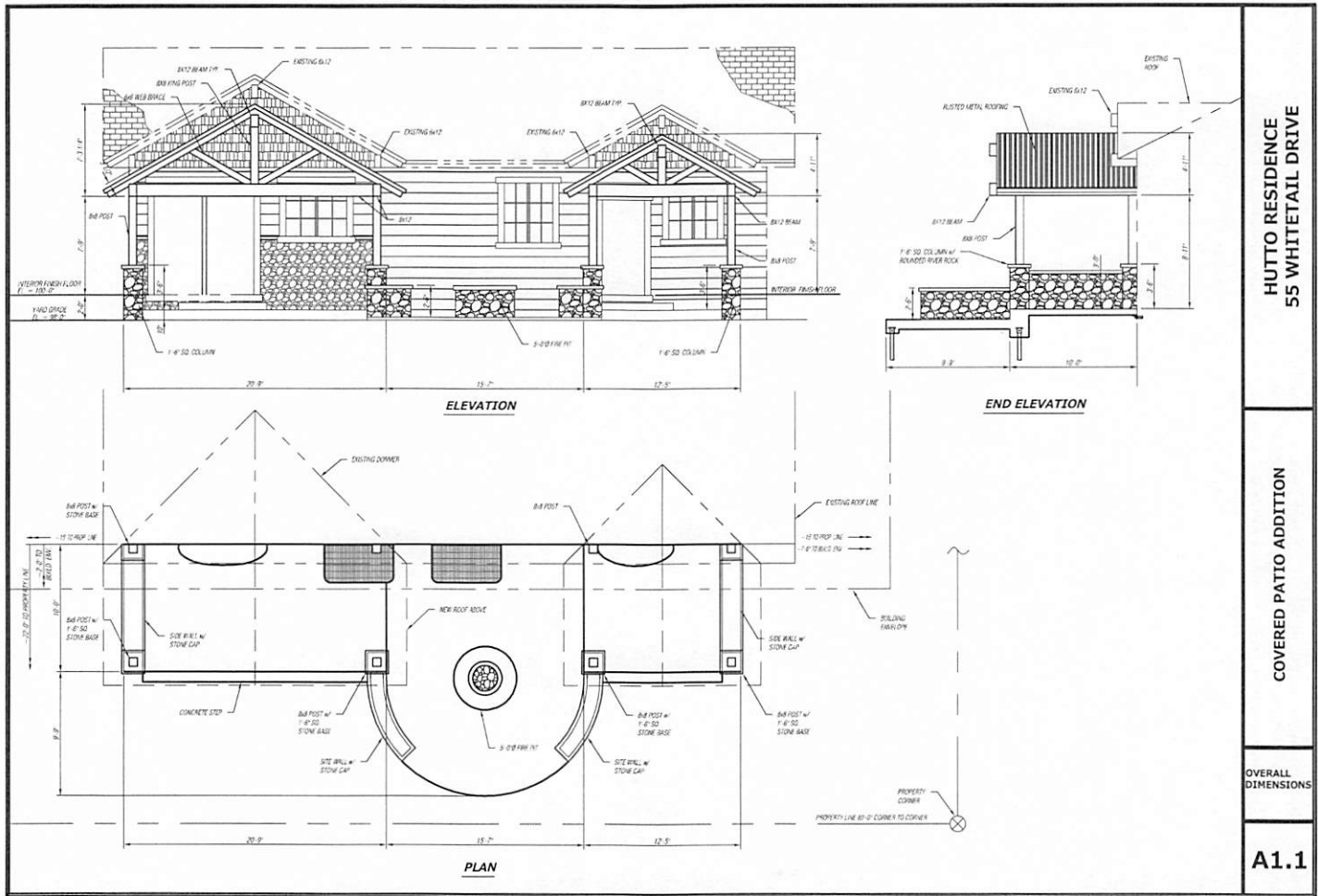
PROPOSED ELEVATION

HUTTO RESIDENCE
55 WHITETAIL DRIVE

COVERED PATIO ADDITION

REAR
ELEVATIONS

A1.0



Christopher L & Brandy W Hutto
55 Whitetail Drive
New Castle, CO 81647
(970) 366-7013


Town of New Castle/ Planning Department
450 W. Main Street, PO Box 90
New Castle, CO 81647

Re: Variance Request for 55 Whitetail Dr (Section:29 Township:5 Range:90
Subdivision:Lakota Canyon Ranch FLG 5 Lot:40)

To whom it may concern,

We have reviewed the preliminary documentation (plats and plan sheets) associated with the proposed variance as provided and requested by Christopher & Brandy Hutto for 55 Whitetail Dr (Section:29 Township:5 Range:90 Subdivision:Lakota Canyon Ranch FLG 5 Lot:40). It is understood that the request is to build a covered, outdoor roofed patio attached to the rear of the existing structure with new concrete patios. The variance request is for reducing the rear yard setback from 20.0 feet to 12.0 feet. No variances of front or side setbacks are being requested.

At this time, we, the undersigned, do not take exception to the proposed variance request as presented. We do, however, reserve the right to comment once an official variance request is in process.

Property: 41 Whitetail Drive (Lot 41) Date: 8-25-2020
Owner: Ryan Moore & Silmara Dos Santos Signature(s): 

Property: 63 Whitetail Drive (Lot 39) Date: 8/25/20
Owner: Brian & Michelle Arbany Signature(s): 



Mr. Christopher Hutto
55 Whitetail Dr
New Castle, CO 81647

CERTIFIED MAIL



7019 0160 0000 9379 9353



1023



81647

U.S. POSTAGE PAID
FCM LETTER
NEW CASTLE, CO
81647
SEP 25, 20
AMOUNT

\$4.10

R2304W121344-9

TOWN OF NEW CASTLE
- PLANNING & ZONING
450 WEST MAIN ST.
NEW CASTLE, CO 81647

90
9-28



NOTICE OF PUBLIC HEARING Town of New Castle

Date: October 20, 2020

Time: 7:00 PM

Place of hearing: **Due to concerns related to COVID-19, this meeting will be open to the public as a virtual meeting only.**

**To join by computer, smart phone or tablet:
<https://us02web.zoom.us/j/7096588400>**

**If you prefer to telephone in:
Please call: 1-346-248-7799
Meeting ID: 709 658 8400**

Public body
conducting hearing: Board of Adjustment

Brief description
of application: Variance to Reduce Rear Setback from 20 feet to 12 feet to Accommodate Patio Roof

Legal description: Lot 40, Lakota Canyon Ranch, Filing 5, according to the Plat thereof filed October 19, 2006 at Reception No. 709283, APN #: 212329304040

Common address: 55 Whitetail Drive, New Castle, CO 81647

Applicant: Chris & Brandy Hutto

Landowner: Chris & Brandy Hutto

The complete application is available at the Town Clerk's office at 450 West Main Street, P.O. Box 90, New Castle, CO 81647. All interested persons are invited to appear and state their views, protests or objections. If you cannot appear personally at such hearing, then you are urged to state your views by letter.