

EDGEWATER BOARD OF ADJUSTMENT

RESOLUTION NO. 2025 - 02

A RESOLUTION APPROVING AN APPLICATION FOR A VARIANCE FROM CODE SECTION 16-22-80 TO ALLOW PARKING ACCESS FROM THE REAR LOT LINE TO BE LOCATED LESS THAN FIVE (5) FEET FROM THE NEAREST SIDE LOT LINE

WHEREAS, the Edgewater Board of Adjustment (the "Board") has received an application for a variance and related documents (collectively, the "Application") from the owners (collectively, the "Applicant") of that property located at 2568 Eaton Street, Edgewater, Colorado (the "Property");

WHEREAS, the Property is located in the Residential 1 (R-1) zone district;

WHEREAS, pursuant to Edgewater Municipal Code ("Code") Section 16-22-80(a), a driveway access from the rear lot line may not be located less than five (5) feet from the nearest side lot line at any point of such access;

WHEREAS, the Application seeks approval to violate the aforementioned Code section to allow parking access from the rear lot line less than 5 feet from the side lot line to the south;

WHEREAS, after due and proper notice, the Board conducted a public hearing on the Application on April 16, 2025, at which time the Applicant and all other interested parties were given the opportunity to be heard and to present evidence, as reflected in the record of those proceedings;

WHEREAS, Code Section 16-24-60(b) sets forth variance approval criteria; and

WHEREAS, based upon all of the testimony and evidence received at the April 16, 2025, public hearing, the Board finds that the Application meets each of the variance approval criteria set forth in Code Section 16-24-60(b), as further set forth below.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF ADJUSTMENT OF THE CITY OF EDGEWATER, COLORADO, THAT:

Section 1. Findings: The Application filed by Keith Cross as the owner of 2568 Eaton St. for a variance from Code section 16-22-80 to allow parking access from the rear lot line to be located less than five (5) feet from the nearest side lot line to the south meets the variance approval criteria of Code Section 16-24-60(b), as follows:

- (1) The property has extraordinary or exceptional physical conditions that do not generally exist in nearby properties in the same zoning district;

Finding: The Property's lot size is half the size of the majority of residential lots in

the R-1 Zone District. Further, the Property's small lot size is not physically similar to adjacent residential properties. It is therefore physically different than nearby properties in the same district.

- (2) The extraordinary or exceptional physical condition of the property will not allow reasonable use of the property in its current zone in the absence of relief;

Finding: Reasonable use of property within the R-1 zone district is, principally, a reasonably sized single-family home. Given the extraordinarily small size of the lot, constructing the required parking for a single-family home (two spaces, each nine feet wide) would require parking access to violate the side lot line distance requirement on one side or the other.

- (3) The granting of the variance will not have an adverse impact on the surrounding properties, the neighborhood or the community as a whole;

Finding: Granting this variance request will not have an adverse impact on the surrounding properties, the neighborhood, or the community as a whole. The adjacent property to the south, closest to the location of the proposed parking access, does not have any structures within five feet of the property line that would be impacted by the access.

- (4) The granting of the variance will not be detrimental to public health, safety and welfare or injurious to surrounding property values and neighborhood character;

Finding: Granting this variance request will not be detrimental to public health, safety and welfare or injurious to surrounding property values and neighborhood character because it would allow the construction of a new home and required parking, built up to current Codes.

- (5) The granting of the variance shall not be substantially inconsistent with any plans adopted by the City;

Finding: Granting the variance will not be substantially inconsistent with any plans adopted by the City. Generally speaking, City plans (such as the Comprehensive Plan) want to promote the use of single-family residential in the R-1 zone district, while ensuring that parking meets the standards set forth in the zoning ordinance.

- (6) The granting of the variance shall not materially weaken the general purpose of this Chapter or any other zoning regulations of the City.

Finding: Granting of this variance will not materially weaken the general purpose of this Chapter or any other zoning regulations of the City because, as described above, the Code favors the single-family use in the R-1 zone district. Additionally, the granting of the variance would be based on unique circumstances as described herein.

- (7) The variance, if granted, shall only be to the extent necessary to afford a reasonable use of the property;

Finding: The variance request is only to the extent necessary to afford reasonable use of the Property. As described in the Application and Staff Report, the Property is extraordinarily small. Granting the variance would allow a single-family dwelling and required parking to be constructed, and the Board finds that such a use is reasonable and should be accommodated, if possible.

- (8) The unique conditions of the property under which the variance is sought were not created by the owner of the property or his or her agent.

Finding: The Applicant is not responsible for the unique conditions of the Property and the lot was not created by the owner of the Property or their agent.

Section 2. Decision: Based on the findings set forth in Section 1 above, the Board hereby APPROVES the Application.

Section 3. Expiration. Pursuant to Code Section 16-24-60(e), the variance approved hereby shall expire within two (2) years from the date hereof if action has not been taken within said time. In this context, "action" means obtaining a building permit or other applicable City permit/license pursuant to the granting of the variance, or if a permit or license is not required, the right that is granted pursuant to the variance is put to use. This time may be extended with the approval of the Board upon a showing of good cause.

DONE and ORDERED by a vote of 3 to 0 on April 16, 2025.



David Fleck, Chair

ATTEST:



Sofia Mitchell, Clerk to the Board