



City of Littleton

Littleton Center
2255 West Berry Avenue
Littleton, CO 80120

Meeting Agenda Board of Adjustment

Thursday, April 21, 2016

6:30 PM

Council Chamber

Regular Meeting and Election of Officers

1. Roll Call

2. Approval of Agenda

3. Introduction of New Board Members and Election of Officers

- a. Election of Chair
- b. Election of Vice Chair

4. Minutes to be Approved

[ID# 16-54](#) Certification of the March 17, 2016 regular meeting minutes

5. Public Comment

Public Comment for General Business and Non-Agenda Related Items

6. General Business

7. Public Hearing

[VAR16-0002](#) Case #VAR16-0002, variance to the six-foot maximum fence height for a rear and side yard fence in the R-1 zone district at 6138 S. Gallup Street, Littleton, CO

Attachments: [VAR16-0002 Application](#)
[VAR16-0002 Attachment A](#)
[VAR16-0002 Attachment B](#)
[VAR16-0002 Fence & Photo Location Map](#)
[VAR16-0002 Applicant Photos](#)
[Area Reference Map](#)

8. Comments/Reports

- a. Community Development Director/Staff
- b. Chair/Members

9. Adjourn

The public is invited to attend all regular meetings or study sessions of the City Council or any City Board or Commission. Please call 303-795-3780 at least forty-eight (48) hours prior to the meeting if you believe you will need special assistance or any reasonable accommodation in order to be in attendance at or participate in any such meeting. For any additional information concerning City meetings, please call the above referenced number.



Staff Communication

File #: ID# 16-54, **Version:** 1

Agenda Date: 4/21/16

Subject:
Certification of the March 17, 2016 regular meeting minutes

Presented By: Denise Ciernia, Recording Secretary

RECORDING SECRETARY'S CERTIFICATION:

I hereby certify that I have reviewed the video recording for the March 17, 2016 regular meeting of the Littleton Board of Adjustment and that the video recording is a full, complete, and accurate record of the proceedings and there were no malfunctions in the video or audio functions of the recording.

PROPOSED MOTION:

I move to approve, based on the recording secretary's certification, the March 17, 2016 video as the minutes for the March 17, 2016 regular meeting of the Board of Adjustment.



Staff Communication

File #: VAR16-0002, **Version:** 1

Agenda Date: 04/21/16

Subject:

Case #VAR16-0002, variance to the six-foot maximum fence height for a rear and side yard fence in the R-1 zone district at 6138 S. Gallup Street, Littleton, CO

Presented By: Pam Hall, Planner I

BACKGROUND:

Applicant Mike Kisting is representing the Discalced Nuns of the Carmelite Monastery (see attachment B of the application). The home was built in 1880 and was subsequently added onto throughout the years. The property was sold to the nuns in 1947. Around that same timeframe, an eight-foot fence was constructed along the east and south property lines and enclosed the rear yard for the nuns' privacy and to uphold their "Rule and Constitutions" (see attachment A of the application). In 1997, a fence permit was pulled and the current six-foot fence was installed. The nuns wish to replace the current fence with an eight-foot fence.

The following rules of the nuns' "Rules and Constitutions" outline the screening requirements for the nuns. Rule #65 states "The walls should be as strong as possible; those of the enclosures high (referring to the house and grounds). Rule #215 says "The law of enclosure applies to all parts of the house inhabited by the nuns, including the garden and yard reserved to them." Finally, rule # 216 states "All parts within the enclosure will be encircled by a high wall, in accordance with No. 65 of these Constitutions. If any part of the convent or garden is visible from the exterior, the necessary means will be taken to prevent the nuns seeing persons outside the enclosure or being seen by them." The nuns have been in violation of their "Rule and Constitutions" since the six foot fence was installed due to the property's topography and the fact that the properties on the west side of Gallup are located at a higher elevation, and as such can see into a large portion of the nuns' back yard, as documented in photo #5 of the application.

STAFF ANALYSIS:

The Littleton Zoning Ordinance 10-4-3 requires a maximum fence height of six-feet for side and rear yard fences.

Section 10-11-1 (B) gives the Board authority to grant variances where "due to exceptional and extraordinary circumstances, literal enforcement of the provisions of this Title will result in unnecessary hardship." No variance can be approved unless the Board finds that all of the criteria stated in Section 10-11-1 (B) have been met.

The following is an assessment of the application under the criteria for approval contained in Section 10-11-1 (B):

1. That the variance will not authorize the operation of a use other than those uses specifically listed as primary permitted uses for the zone district in which the affected property is located.

The requested variance would not permit any use other than the uses permitted in the R-1 Single Family Zone District.

2. That the variance will not alter the essential character of the neighborhood or zone in which the property is located or substantially or permanently impair the allowed use or development of adjacent property.

Most of the side and rear fences in the surrounding neighborhood are six-feet high. The requested eight foot fence may alter the character of the neighborhood yet would not permanently impair the allowed use or development of adjacent property.

3. That the variance is the minimum that will afford relief and is the least possible modification to the provision in question.

Because of the change in elevation to the west of Gallup and the fact that the nun's property and their main house sits at a lower elevation (as previously shown with photo #5), the eight-foot fence is the minimum to be able to screen the back yard from the public.

4. That the variance will not adversely affect the public health, safety and welfare.

The variance would not adversely affect the health, safety and welfare of the public.

5. That the hardship, if any, under which the variance is sought, was not created by the owner, occupant or agent of the owner of the property in question; nor was it suffered as a result of a violation of any provision of this code.

The current six-foot fence does not provide the privacy the nuns need to adhere to their "Rule and Constitutions" due to the higher elevation of Gallop Street at the rear of their property. Because of this, the provisions of the Religious Land Use and Institutionalized Persons Act (RLUIPA) should be taken into consideration by the Board. The City Attorney will be providing a memorandum to the Board of Adjustment prior to the hearing date to explain the implications of RLUIPA in relation to this variance request.

STAFF RECOMMENDATION:

Should the Board decide to grant the requested variance, staff recommends specific conditions be included in the motion for approval to mitigate impacts from the increased fence height. This would include a condition that any new fence be located either in the same location as the current fence or further setback from the right-of-way than the existing fence.

PROPOSED MOTION FOR APPROVAL:

I move to approve Case#VAR16-0002, a request for variance to the six-foot maximum fence height at 6138 South Gallup Street, be approved, subject to the condition that any new fence be located either in the same location as the current fence or further setback from the right-of-way than the existing fence. This approval is based on the following findings of fact:

1. That the variance will not authorize the operation of a use other than those uses specifically listed as primary permitted uses for the R-1 Single Family Zone District;

2. That the variance will not alter the essential character of the neighborhood or zone in which the property is

located or substantially or permanently impair the allowed use or development of adjacent property;

3. That the variance is the minimum that will afford relief and is the least possible modification to the provision in question;

4. That the variance will not adversely affect the public health, safety and welfare; and

5. That the hardship, if any, under which the variance is sought, was not created by the owner, occupant or agent of the owner of the property in question; nor was it suffered as a result of a violation of any provision of this code.

APPLICATION TO THE LITTLETON BOARD OF ADJUSTMENT

Case Number: VAR 16-0002 Date received: 3-28-16
(This shaded area to be completed by City of Littleton staff)

PLEASE NOTE: The following questions must be answered completely. If additional space is needed, attach extra pages to the application. Contact the Littleton Community Development Department at (303) 795-3754 for clarification of terms or for specific zone district requirements.

Petition for Variance

I, the undersigned, do hereby request a variance from the City of Littleton Municipal Code as set forth in Section 2-3-1 and Section 10-2-4 of the Littleton Municipal Code and amended to date.

DATA ON APPLICANT AND OWNER:

Name of Applicant/Owner (s): Mike Kisting see Attach. ment 13.

Address of Applicant/Owner (s): 6138 S Gallup St.
Littleton CO 80120

Home Telephone: _____ Business Telephone: 303 944 7494

E-mail Address: MikeKisting@DMSci.org

SUBJECT PROPERTY (Variance property)

Address: 6138 S Gallup St Littleton CO 80120.

Legal Description of Property: _____

(attach additional sheets if necessary)

The subject property is currently zoned: R1

PURPOSE OF THE VARIANCE (Be Specific): for security & reasons.
Defined in Rule & constitutions (Attach A)
8-9 Cedar Privacy fence Also see.
Picture #5. A taller fence is the
minimum that will afford relief.

**BEFORE COMPLETING THE FOLLOWING, READ THE NOTICE TO THE
ZONING VARIANCE APPLICANTS – PAGE 1.**

SITE CHARACTERISTICS:

1. What unique or exceptional characteristics of your property prevent it from being used for the uses permitted in your zone district?

☐ Too narrow ☒ Slope ☐ Soil ☐ Too small ☐ Shape
☒ Elevation ☐ Too shallow ☐ Subsurface
☐ Other (Explain) _____

STATEMENT OF HARDSHIP:

2. How do the above site conditions prevent reasonable use of your land under the term of the Zoning Ordinance?

See Attachment A section 216.

(If necessary, please attach additional sheets)

3. Are the conditions of hardship for which you request a variance true only of your property? ☐ No ☒ Yes

Do you know how many other properties are similarly affected?

There are no other discolored nuns
in Littleton.

4. Were the conditions of hardship created by the owner, occupant, or agent of the property? ☒ No ☐ Yes

Explain: The fence was replaced in 1997
By a shorter fence and should not have been
replaced with a 6'

5. Will the grant of a variance in the form requested be in harmony with the neighborhood and not contrary to the intent and purpose of the Zoning Ordinance? ☐ No ☒ Yes

Explain: The Grant of Variance will restore
the privacy to pre-1997 levels and
be in harmony with the rules and
constitutions of the cormel. it will
also keep people from once again jumping
the fence and chasing the nuns to the house.

OTHER LAND USE CONSIDERATIONS:

6. Is the request the least modification possible of the Zoning Ordinance provisions which are in question? No ____ Yes ☒ Explain why the alternative solutions are not feasible:

yes the variance is the minimum that will afford relief.

7. Will the grant of a variance affect the public health, safety and general welfare? yes.

Explain: There are currently 5 units in the enclosure and cannot out run the people that infringe on the enclosure therefore they are confined to the house

REASONABLE ACCOMMODATION FOR PERSONS WITH DISABILITIES

1. Describe the nature of the applicant's disability: _____

2. How does the requested variance reasonably relate to the applicant's ability to use and enjoy a dwelling? _____

3. Is there an alternative which better or equally serves the needs of the individual which results in less of a variance to the ordinance provisions that are at issue? _____

4. Describe any negative impacts or hardships which would be placed on adjoining properties or property owners should the request be granted _____

5. Describe any hardship which would be placed on the City or adverse impacts which would result on the legitimate goals of the Zoning Ordinance should the request be granted _____

I (we) certify that all of the above statements and the statements contained in any papers or plans submitted herewith are true and accurate to the best of my knowledge and belief

Mike Kisting.

Signature of Applicant (s)

3/28/16.
Date of Application

A. Haddock. A.

RULE AND CONSTITUTIONS

OF THE
DISCALCED NUNS OF THE
ORDER OF THE MOST BLESSED
VIRGIN MARY OF MOUNT CARMEL

for the monasteries of Discalced Carmelites
(according to Canon 615)
accommodated to Vatican Council II
and to the current canonical laws
according to the norms given by
His Holiness John Paul II
on the 15th of October 1984.
Promulgated by the same Supreme Pontiff
on the 8th, December 1990,
Solemnity of the Immaculate Conception.

1990

“Your Reverence”, and the other Nuns as “Sister” and “Your Charity”.

- 65 3.- The house, with the exception of the Church, should have nothing ornamental in it; the woodwork should be rough, the house should be small, and the ceilings low, so that what is necessary and not what is superfluous is provided. The walls should be as strong as possible; those of the enclosure high, within which there shall be ample ground so that the Religious may build some hermitages, to which they may retire for prayer after the example of our Holy Fathers.

- 66 4.- No one should presume to correct the faults of another; if they are grave, (in which case the Sister should be charitably admonished in private, and if after three warnings there be no amendment,) the Prioress and no other Sister is to be informed. Since there are Monitresses whose duty it is to notice faults, let the Sisters pay no attention, but disregard those they see, and attend to their own. Likewise, if anyone is negligent in discharging the duties of her office, or makes mistakes, no one should interfere, unless it be a grave fault, in which case they are obliged to act as has been said above. The Nuns should take great care not to excuse themselves except

- 214 The law of enclosure derives, therefore, from a demand or profound need for solitude and retirement, in order to create in this way a sort of oasis of prayer, of fraternal love, of spiritual striving and of interior and exterior freedom, so as to be able to attain with greater ease to that fullness of divine intimacy which is the basic and distinctive apostolate of the Discalced Carmelite Nuns on behalf of the Mystical Body of Christ. (*Cf. Carmelite Statute on Enclosure, I, 2*).

- 215 The law of enclosure applies to all parts of the house inhabited by the nuns, including the garden and yard reserved to them. Excluded from it are the public church and the exterior sacristy, the accommodations for the use of the chaplains, guests and persons dedicated to the service of the monastery, access to the main door (entrance hall), the turn and the exterior parlor. (*Cf. Venite Seorsum VI*).

- 216 All parts within the enclosure will be encircled by a high wall, in accordance with No. 65 of these Constitutions. If any part of the convent or garden is visible from the exterior, the necessary means will be taken to prevent the nuns from

- seeing persons outside the enclosure or being seen by them. (*Cf. Venite Seorsum VII, 9*).

- 217 The door at the entrance of the monastery, which will be habitually locked, will have two different locks and keys, one of which will always be carried by the Mother Prioress and the other by the Turn Sister. (*Cf. Venite Seorsum VII, 3*).

- 218 If it is necessary for the service of the community, there may be another door in the garden. It also will have two locks and two keys, and two Sisters will always be present to open it. Likewise, this will be done where there is a door to attend to the needs of the Church. Apart from these cases, no other doors to the exterior are permitted. (*Cf. Venite Seorsum VII, 3*).

- 219 Near the enclosure door there will be a turn for incoming and outgoing deliveries which can be passed through it, without the need of opening the enclosure door. It will be arranged in such a way that the nuns cannot be seen from outside nor can any person fit through it. (*Cf. Venite Seorsum VII, 4, 9*).

- 220 The material separation between the choir reserved to the nuns and the Church will be made by means of an iron grate placed

3/28/2016



CARMEL OF THE HOLY SPIRIT

6138 So. Gallup Street
Littleton, Colorado 80120

J. M. † J. T.

To whom it may concern,

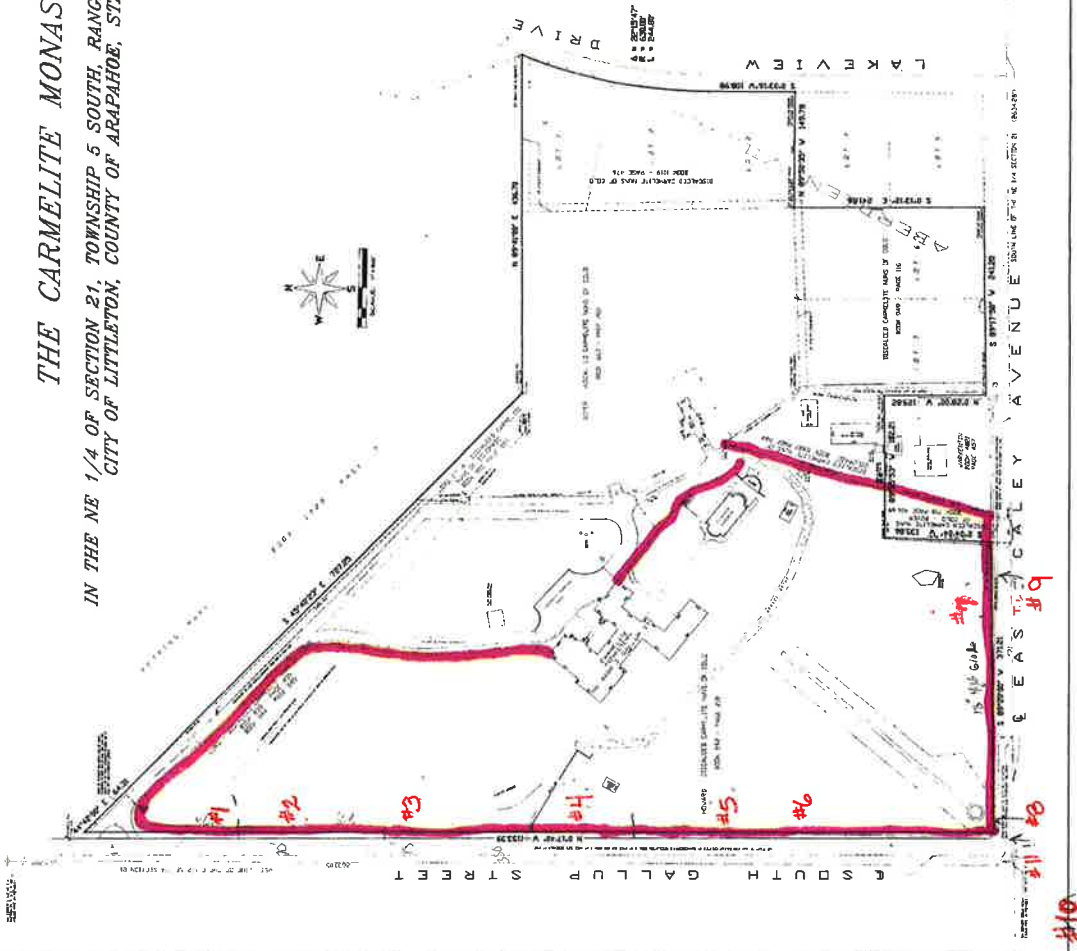
I am writing to apply for a variance for our enclosure fence. I am having Mike Kisting represent our community of nuns in this matter. If you have any questions please contact me at 303-798-4176.

Sincerely,

Mother Mary of Jesus O.C.D.
Discolored Carmelite Nun, Prioress

THE CARMELITE MONASTERY

IN THE NE 1/4 OF SECTION 21, TOWNSHIP 5 SOUTH, RANGE 68 WEST OF THE 6TH P. M.
CITY OF LITTLETON, COUNTY OF ARAPAHOE, STATE OF COLORADO



CERTIFICATE

THESE PLATS WERE PREPARED BY ME OR UNDER MY CLOSE PERSONAL SUPERVISION AND TO THE BEST OF MY KNOWLEDGE AND BELIEF THEY COMPLY WITH ALL THE REQUIREMENTS OF THE STATUTES OF THE STATE OF COLORADO IN THIS RESPECT.

W. R. R.
W. R. R.

LEGAL DESCRIPTION

THESE PLATS WERE PREPARED BY ME OR UNDER MY CLOSE PERSONAL SUPERVISION AND TO THE BEST OF MY KNOWLEDGE AND BELIEF THEY COMPLY WITH ALL THE REQUIREMENTS OF THE STATUTES OF THE STATE OF COLORADO IN THIS RESPECT.

NOTES

1. THESE PLATS WERE PREPARED BY ME OR UNDER MY CLOSE PERSONAL SUPERVISION AND TO THE BEST OF MY KNOWLEDGE AND BELIEF THEY COMPLY WITH ALL THE REQUIREMENTS OF THE STATUTES OF THE STATE OF COLORADO IN THIS RESPECT.
2. THESE PLATS WERE PREPARED BY ME OR UNDER MY CLOSE PERSONAL SUPERVISION AND TO THE BEST OF MY KNOWLEDGE AND BELIEF THEY COMPLY WITH ALL THE REQUIREMENTS OF THE STATUTES OF THE STATE OF COLORADO IN THIS RESPECT.
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PLAT CERTIFICATE

THESE PLATS WERE PREPARED BY ME OR UNDER MY CLOSE PERSONAL SUPERVISION AND TO THE BEST OF MY KNOWLEDGE AND BELIEF THEY COMPLY WITH ALL THE REQUIREMENTS OF THE STATUTES OF THE STATE OF COLORADO IN THIS RESPECT.

THE CARMELITE MONASTERY
LITTLETON, COLORADO
PLAT NO. 100-100
FILED FOR RECORD
JAN 10 1912
COUNTY CLERK ARAPAHOE CO. COLO.

W. R. R.
W. R. R.

#10

#9

#8

#7

#6

#5

#4

#3

#2

#1



#1 NW SECTION OF FENCE
(ALONG GALLUP)
≈ 25' EAST OF PROPERTY LINE



#2 PHOTO JUST SOUTH OF #1
MORE THAN 20' EAST OF GALLUP



#3 18' EAST OF GALLUP



#4 MIDWAY ALONG GALLUP
~15' EAST OF GALLUP



#5 PHOTO TAKEN FROM WEST SIDE OF
GALLUP. THE TOP OF THE TAPE
IS 8' TALL
~ 10' EAST OF GALLUP



#6 LOOKING NORTH ALONG GALLUP
~ 8' EAST OF GALLUP



#7 SOUTH SIDE ALONG E CALEY
FENCE SET BACK FROM 18" PAVERS
A 5' NORTH OF CALEY PROPERTY LINE



#8 SW CORNER OF LOT
5' MEASURED TO FENCE



#9 \approx 5' NORTH OF CALEY PROPERTY LINE



#10 TAKEN FROM SW CORNER
OF GALLUP & CALEY



#11 NE CORNER OF CALY & GALLUP (5' OF TAPE)

Area Reference Map

