City of Littleton

Littleton Center
2255 West Berry Avenue
Littleton, CO 80120

Meeting Agenda

Board of Adjustment

Thursday, August 18, 2016 | **6:30 PM** | **Council Chamber**

Regular Meeting

1. Roll Call

2. Approval of Agenda

3. Minutes to be Approved

a. ID# 16-189 Certification of the April 21, 2016 regular meeting minutes

4. Public Comment

Public Comment for General Business

5. General Business

6. Public Hearing

a. VAR16-0003 Case #VAR16-0003, variance to the twenty-foot minimum rear setback in the PD-R zone district at 7277 S. Acoma Street, Littleton, CO

Attachments: Application

VAR16-0003 Area map

7. Public Comment

Public Comment on Non-Agenda Items

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# 16-189, **Version:** 1

Agenda Date: 8/18/16

Subject:
Certification of the April 21, 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 April 21, 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 April 21, 2016 video as the minutes for the April 21, 2016 regular meeting of the Littleton Board of Adjustment.

Staff Communication

File #: VAR16-0003, **Version:** 1

Agenda Date: 08/18/16

Subject:
Case #VAR16-0003, variance to the twenty-foot minimum rear setback in the PD-R zone district at 7277 S. Acoma Street, Littleton, CO

Presented By: Pam Hall, Planner I

BACKGROUND:

Tiffany and Kyle Kinder, owners of the property located at 7277 S. Acoma Street, are requesting a 7' variance to the required 20' rear setback requirement. The Highland Vista Planned Development Plan requires a minimum rear setback of 20'. The subject property is Lot 9, Block 1, Filing #2 of the Highland Vista Subdivision which was annexed into the City of Littleton in 1962. The PD-R (Planned Development Residential) zoning for Highland Vista Filing #2 was recorded with Arapahoe County on March 29, 1994. The house was built in 1996 and the current property owners purchased the house in March, 2010. The existing deck was built by the previous property owner approximately 16 years ago without securing a permit. The current owners (Tiffany and Kyle Kinder) need to replace the deteriorating deck and wish to replace it in its current footprint.

STAFF ANALYSIS:

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.

Applicant Response: This deck is used for private enjoyment by our family.

Staff Analysis: The requested variance would not allow any use other than a use commonly associated as an accessory use permitted in the PD-R Single Family Zone District. It appears this criteria is satisfied.

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.

Applicant Response: Our neighbors have large second-story walk out decks. The existing deck fits in with the neighborhood and with our immediate neighbors. The deck has existed for almost 16 years and has not impaired or impacted any development around our property, nor has it caused concern, complaints or consternation from our neighbors.

Staff Analysis: Second story decks currently exist throughout this development. It appears this criteria is satisfied.

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

Applicant Response: If the variance is not granted, this will result in significantly increased construction costs to replace the existing deck and impact on our enjoyment of our property, including:

- Decreased value to our property due to building a much smaller and less attractive deck;
- Increased construction costs to demolition the existing brick pillars;
- Destroying the value the existing brick pillars add to our property;
- Increased construction costs to cut through ground floor concrete patio, potentially damaging/destroying the existing concrete patio, in order to set new caissons ("footers") for the smaller deck size.
- Further, because the backyard is quite small and narrow, the use of the existing deck expands the "living" area of our home and provides significant enjoyment to our family.

Staff Analysis: The lots in this planned development average about 6,400 square feet which is smaller than any other single family lot in straight zone districts. Replacing the deck in the same foot print is the least possible modification while keeping the existing pillars and foundation.

The smaller lot size makes it difficult to build a reasonable sized deck within the required rear setback of 20 feet. It appears this criteria is satisfied.

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

Applicant Response: Granting the variance will not adversely affect the public health, safety and welfare.

Staff Analysis: Granting the variance and replacing the deck in the same location will not adversely affect the public health, safety and welfare. It appears this criteria is satisfied.

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.

Applicant Response: The hardship imposed was not created by us, the owners of the property. Rather, the prior owner of his own accord apparently built the deck without securing the proper permits. We purchased our home in March 2010 with the existing deck. The size and style of the deck was one of the major selling points for us when deciding to purchase our home. Because the backyard is narrow and fairly limited, the use of the existing deck expands the "living" area of our home and provides significant enjoyment to our family.

Not granting the variance will impose an unnecessary hardship on us as the property owners. The deck has existed in its current size for at least 16 years. We purchased this home in part due to the deck and the extra outdoor "living" space it afforded our family. We should not be penalized by having to incur significant additional construction costs and lose the enjoyment of our deck due to the prior owner's failure to comply with permitting requirements. "Unnecessary" is defined as needless, not essential, not needed. Miriam-Webster Dictionary. If this variance is not granted, it will impose an unnecessary hardship upon us, the current homeowners. There is no reason for this hardship to be imposed. The current deck has existed in its form for at least 16 years without causing any harm or issues to the surrounding properties, neighbors, or City of Littleton. It is not necessary and not essential that we as the current home owners be required bear the significant financial cost of reducing the size of the existing deck.

Staff Analysis: Although hardships are not to be monetary in nature, this hardship was not created by the current property owner. The Kinders purchased the home with this two story deck in place.

The current owners need to replace the deteriorating deck for safety reasons. They will obtain all necessary planning and building permits. Based on the smaller than typical lot size of the property, granting a rear yard setback of 13 feet allows reasonable use of the property and will accommodate the deck in its current configuration. It appears this criteria is satisfied.

STAFF RECOMMENDATION:

For the reasons stated above, city staff concludes that this application for a variance to the rear setback requirement meets all the conditions for approval as provided in Section 10-11-1 (B). Staff recommends approval of this request.

PROPOSED MOTION:

I move to approve Case#VAR16-0003, request for a variance to the rear setback requirement at 7277 South Acoma Street, be approved in that the request does meet all of the criteria of Section 10-11-1 (B) of the Littleton City Code that are required to exist for the Board to grant approval. Approval of this application is based on the following findings of fact:

1. The requested variance would not allow any use other than the uses permitted in the PD-R single family zone district.

2. The proposed setback reduction will not alter the character of their neighborhood as the rear setback has already established at 13'8".

3. The proposed variance is the minimum that will afford relief and is the least possible modification of the code as this deck was built in this foot print almost 16 years ago.

4. The proposed variance will not have any negative effects on the public health, safety or welfare as its location will not create any visibility or safety concerns.

5. The hardship under which this 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 as the conditions existed before the applicants purchased the property.

APPLICATION TO THE LITTLETON BOARD OF ADJUSTMENT

RECEIVED
JUL 18 2016
OFFICE OF COMMUNITY DEVELOPMENT

Case Number: VAR 16-0003 Date received: 07-18-16
(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): TIFFANY & KYLE KINDER
Address of Applicant/Owner (s): 7277 S. ACOMA ST., LITTLETON, CO 80120

Home Telephone: 720-341-9964 Business Telephone: 303-539-5421

E-mail Address: tkinder@leekinder.com

SUBJECT PROPERTY (Variance property)

Address: 7277 S. ACOMA ST., LITTLETON, CO 80120

Legal Description of Property: Richmond Homes, Lot 9, Block 1, Filing #2. South Acoma St. Highland Vista Subdivision Filing No. Two, County of Arapahoe, City of Littleton. See attached Plot Plan.

(*attach additional sheets if necessary*)

The subject property is currently zoned: PLANNED DEVELOPMENT

PURPOSE OF THE VARIANCE (Be Specific):

We purchased our home in March 2010 with the existing deck in place. The prior owner, Ron Miller, told us he had installed the current deck approximately 10 years before we purchased the home. Ron Miller was the original owner of this home, who purchased it when the home was built in 1996. We understand the home was originally built with an 8' deck. Shortly after his purchase of the home, Mr. Miller built the new deck, which still exists. Unfortunately, per our research into the property while trying to secure a permit to repair/replace the existing

deck, it came to light that Mr. Miller failed to secure the proper permits for the construction of the deck he built onto the home approximately 16 years ago.

The existing deck has been in place for this property for approximately 16 years. It is wood, and it is falling apart. As you can see, it is a substantial deck with brick pillars. This deck, when in good shape, provides significant value and benefit to our property and to our enjoyment of our property. Additionally, as you will see in the attached photographs, this deck is consistent with the decks in our neighborhood. Included are photographs of the existing deck as well as photographs showing neighboring decks. The neighbors have second story, large walk out decks.

If we are required to change the footprint of the deck to a smaller size, this change would significantly increase the cost of replacing the deck. Changing the footprint of the deck would involve removing the brick pillars, resulting in an increase in construction costs for demolition and removal of the brick pillars. The pillars in and of themselves add considerable value to our deck and home. The cost of replacing the brick pillars would be too much, thus decreasing the value of the deck and our home. Further, if we need to remove and relocate the supporting posts/brick pillars of the existing deck to accommodate a smaller deck, this will also significantly increase the cost of construction as the new posts/pillars would require cutting through the ground level concrete patio to install caissons ("footers").

Also included is our HOA Approval of the deck improvement. Our HOA has no issues or concerns with our replacing the existing deck and upgrading the deck material. Replacing and upgrading the deck would add value not only to our house, but to our neighborhood as a whole.

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?**

X Too narrow	Slope	Soil	X Too small	X Shape
Elevation	Too shallow		Subsurface	

X Other (Explain): Unlike our neighboring houses, the house on our property sits much closer to the back fence line that runs north to south through our neighborhood. This is due to the size/shape of the plot of land our house is built on. The plot of land our house sits on is smaller towards the south side, widening a bit along the back fence to the north, but it is a narrow back yard. The neighbor's house directly to the north of us sits back at least 12 more feet from the back fence line than our house sits back. Our property and house are unique in this characteristic of having a much smaller backyard area, and having a more narrow property shape.

STATEMENT OF HARDSHIP:

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

Our house is unique in the fact the property size is much narrower, and the house situated much closer to the back fence, than those of our neighbors. This property shape/size is unique to our property among all our neighbors. When we purchased our home in March 2010, the deck in question had already been built. According to the prior owner, he had built the deck approximately 10 years before the sale. Unfortunately, the prior owner failed to disclose that he had not secured a permit to build the deck. We have had the use and enjoyment of the existing deck for six years. The deck is now disintegrating and needs to be replaced.

Granting the variance allowing us to replace the existing deck meets the requirements set forth in Littleton Zoning Ordinance 10-11-1(B):

A. Granting the variance requested 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. This deck is used for private enjoyment by our family.

B. Granting the variance will not alter the essential character of the neighborhood or zone district in which our property is located; nor will it substantially or permanently impair the allowed use or development of adjacent property. Our neighbors have large second-story walk out decks. The existing deck fits in with the neighborhood and with our immediate neighbors. The deck has existed for almost 16 years and has not impaired or impacted any development around our property, nor has it caused concern, complaints or consternation from our neighbors.

C. Granting the variance is the minimum that will afford relief and is the least possible modification to the provision in question. If the variance is *not* granted, this will result in significantly increased construction costs to replace the existing deck and impact on our enjoyment of our property, including:

    - Decreased value to our property due to building a much smaller and less attractive deck;
    - Increased construction costs to demolition the existing brick pillars;
    - Destroying the value the existing brick pillars add to our property;
    - Increased construction costs to cut through ground floor concrete patio, potentially damaging/destroying the existing concrete patio, in order to set new caissons ("footers") for the smaller deck size.
    - Further, because the backyard is quite small and narrow, the use of the existing deck expands the "living" area of our home and provides significant enjoyment to our family.

D. Granting the variance will not adversely affect the public health, safety and welfare.

E. The hardship imposed was not created by us, the owners of the property. Rather, the prior owner of his own accord apparently built the deck without securing the proper permits. We purchased our home in March 2010 with the existing deck. The size and style of the deck was one of the major selling points for us when deciding to purchase our home. Because the backyard is narrow and fairly limited, the use of the existing deck expands the "living" area of our home and provides significant enjoyment to our family.

F. Not granting the variance will impose an unnecessary hardship on us as the property owners. The deck has existed in its current size for at least 16 years. We purchased this home in part due to the deck and the extra outdoor "living" space it afforded our

family. We should not be penalized by having to incur significant additional construction costs and lose the enjoyment of our deck due to the prior owner's failure to comply with permitting requirements. ***"Unnecessary" is defined as needless, not essential, not needed. Miriam-Webster Dictionary***. If this variance is not granted, it will impose an unnecessary hardship upon us, the current homeowners. There is no reason for this hardship to be imposed. The current deck has existed in its form for at least 16 years without causing any harm or issues to the surrounding properties, neighbors, or City of Littleton. It is not necessary and not essential that we as the current home owners be required bear the significant financial cost of reducing the size of the existing deck.

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

Do you know how many other properties are similarly affected?

None are similarly affected due to the unique shape and size of our property.

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

Explain: The hardship imposed was not created by us, the current owners of the property. Rather, the prior owner of his own accord apparently built the deck without securing the proper permits. We purchased our home in March 2010 with the existing deck already in place. Further, while our neighbors have significantly more distance from the back of their homes to the property line, the shape/size of our property line makes our backyard much smaller than others in our neighborhood.

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 **X Yes**

Explain: Granting the variance will not alter the essential character of the neighborhood or zone district in which our property is located; nor will it substantially or permanently impair the allowed use or development of adjacent property. Our neighbors have large second-story walk out decks. The existing deck fits in with the neighborhood and with our immediate neighbors. The deck has existed for almost 16 years and has not impaired or impacted any development around our property, nor has it caused concern, complaints or consternation from our neighbors.

OTHER LAND USE CONSIDERATIONS:

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

If the variance is *not* granted, this will result in significantly increased construction costs to replace the existing deck. It will also negatively impact the value of our property and our enjoyment of our property.

- Decreased value to our property due to building a much smaller and less attractive deck;

- Increased construction costs to demolition the existing brick pillars;
- Destroying the value the existing brick pillars currently add to our property;
- Increased construction costs to cut through ground floor concrete patio, potentially damaging/destroying the existing concrete patio, in order to set new caissons ("footers") for the smaller deck size.
- Further, because the backyard is quite small and narrow, the use of the existing deck expands the "living" area of our home and provides significant enjoyment to our family.

7. **Will the grant of a variance affect the public health, safety and general welfare?**
X No Yes **Explain:**

Granting the variance that allows us to replace the existing deck will have no negative affect on public health, safety and general welfare. To the contrary, we plan to use longer lasting and safer materials on the new deck, which will improve the value of our home and in turn, the value of our neighborhood.

REASONABLE ACCOMMODATION FOR PERSONS WITH DISABILITIES

1. Describe the nature of the applicant's disability: N/A

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

N/A

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?

N/A

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

N/A

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.

N/A

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.

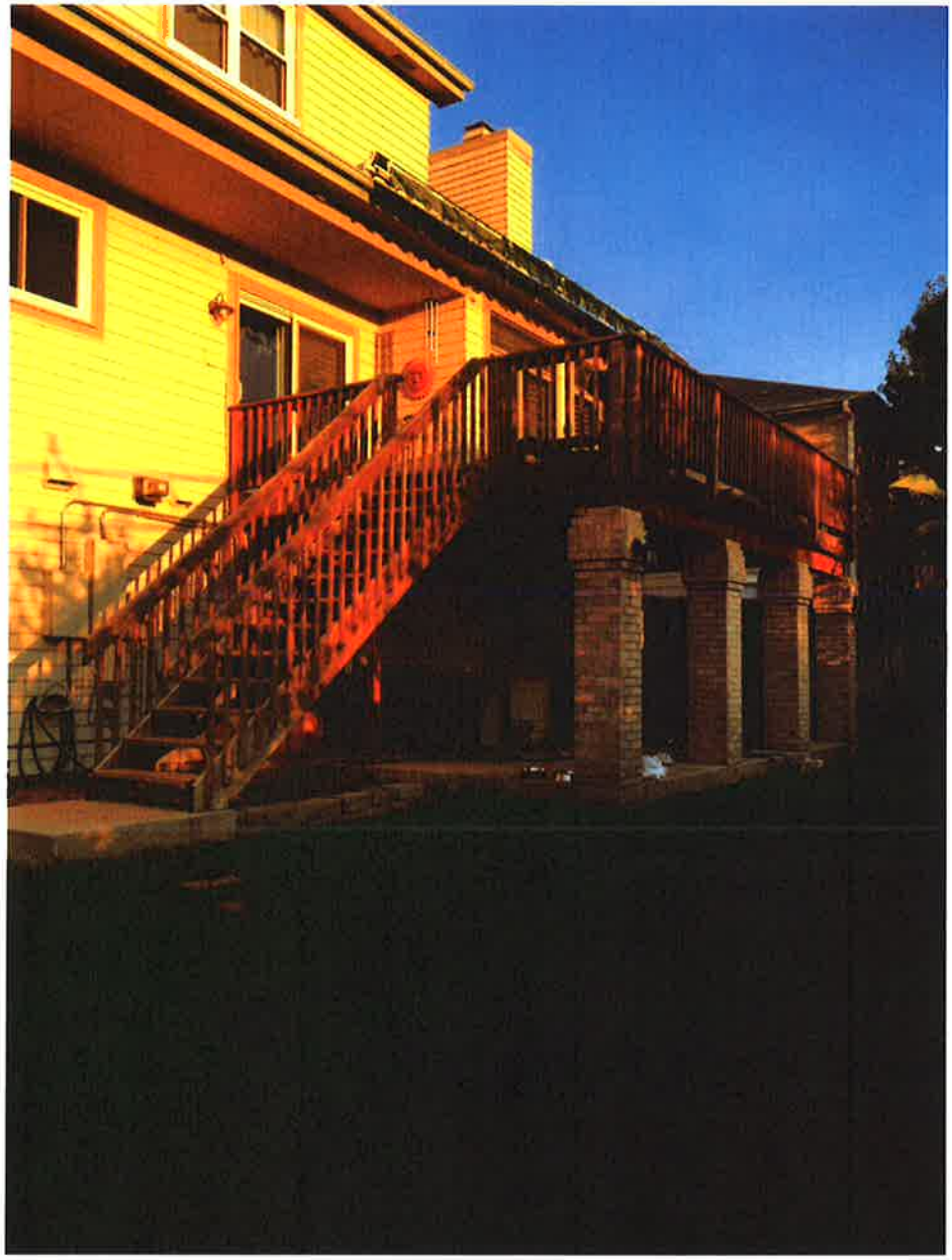
TIFFANY SCOTT KINDER

Signature of Applicant (s)

7-18-2016

Date of Application

KINDER EXHIBIT A



DESCRIPTION: View of existing Kinder deck from NW corner of property.

KINDER EXHIBIT B

DESCRIPTION: View of Kinder deck looking south along back property line. Note property line is at an angle, it is narrower at the far SW corner (back right of photo) and grows wider towards the NW corner (behind where the photo is taken).

Distance between existing deck and backyard fence is 13-15 feet depending upon where it is measured from.

KINDER EXHIBIT C

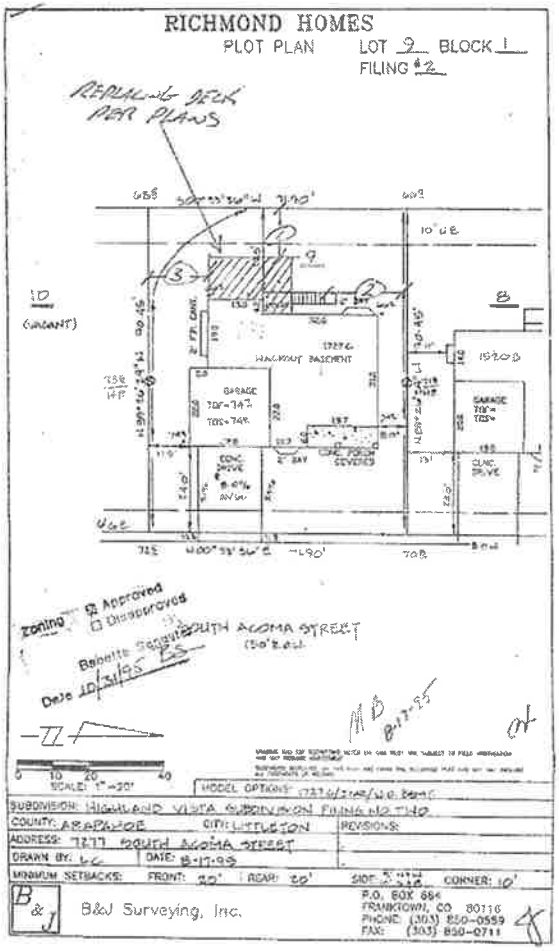
DESCRIPTION: View from Kinder deck looking at neighbors to north. Note the house immediately north of us is set approximately 10 more feet back from the back property line. Their deck is approximately the same size as ours, but is set further back due to where their house sits. Note the house second to the north of us (second house to the right), is set approximately the same distance to the back property line as our house. The second house to the north has a large deck similar in size to ours. All houses, including ours, have large second story walk out decks.

KINDER EXHIBIT D

➔ **NORTH**

1) 15'8" TO REAR / WEST
2) 21'6" TO SIDE / NORTH
3) 16'10" TO SIDE / SOUTH

SCALE: 1" = 35'
IAN GATHER
DEAN'S UNLIMITED
5/25/16



KINDER EXHIBIT E

Highland Vista Homeowners Association
Design Review Committee (DRC)
P. O. Box 2312
Littleton, Colorado 80161-2312
HighlandVistaHOA@yahoo.com

Application for Improvement

Name: Tiffany + Kyle Kinder Date: 6-14-16

Address: 7277 S. Acoma St Phone #: 720 341 9964

Type of Improvement (check one):

Exterior Paint _____ Submit form if you are changing exterior paint colors. Please attach color paint samples. You are required to paint sample colors on your house before submitting this application.

Please provide a drawing of the layout of your yard for the improvements listed below. In addition, you may also submit photos showing examples of the finished appearance.

Fence _____ Height Secure Material Composite Decking
Landscaping _____ Floor Walkout
Patio Cover _____
Patio Deck X
Storage Shed _____
Concrete Walk _____
Other (Describe) _____ We are replacing our existing deck which is deteriorating. We are replacing the existing deck with Evergrain Envisions composite decking. See attached photos and plans. Thank you!

I understand that approval by the Design Review Committee does not relieve me of the requirements of the City of Littleton Planning and/or Building Departments.

Applicant Signature

DRC Action:
Date: 6/22/16
Approved ✓ Denied _____
Approved with the following conditions: _____

DRC Member Signatures:

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EverGrain Envision Bonded Composite Decking
TAMKO

Made with the same deep grain beauty and performance enhancing core materials as EverGrain® Composite Decking, new EverGrain® Envision® features an added layer of protection for strength and resistance to delamination

Product Features | Deck Colors | Technical Details | Literature | Photos & Videos | Design Ideas

EverGrain® Envision®

Back to Envision Home

Dramatic deep grain beauty—now more beautiful than ever

- Compression process allows for deep grain wood-like texture and more random patterns for a more natural wood look
- Color highlights emulate the textures and natural color variations of real wood
- New outer layer is specially formulated to create low-sheen appearance for more natural wood beauty

20-YEAR LIMITED WARRANTY
5-YEAR FULL START PERIOD
20-YEAR STAIN RESISTANCE LIMITED WARRANTY

Taking EverGrain's performance a step further

- Compression process creates a physical bond between the outer layer and core board to help prevent delamination
- Bonded outer layer adds strength for everyday life

Additional features

- 20-year Limited Warranty against rotting, splintering, splitting and termite damage
- Limited Warranty includes a 5-year Full Start Period
- Low maintenance material—no need for painting or staining
- 20-year Stain Resistance Limited Warranty to resist certain common food and beverage stains, including mustard, ketchup, barbecue sauce, canola oil, fruit punch, wines and coffee

Available in grooved and square edge boards

TAMKO® *Decking Styles* for iPad®

Download on the App Store

EverGrain Envision Dimensions and Profiles

Nominal Size	Actual Size
1" x 6" x (12', 16' or 20')	15/16" x 5 1/2"
Envision 12" Skirting (12')	7/16" x 12"

Span Chart

*Maximum recommended center-to-center spans with a minimum of three joists

Board Size	Span (90°)	Span (up to 45°)	Stair Tread
1" x 6"	16"	12"	12"

EverGrain decking products are nonstructural products. These decking products should not be used in a structural manner, including use as joists, load-bearing columns, stringers or beams.

7277 S ACOMA ST

2077-27-3-23-009

Zone PD-R