


Empire Planning Commission Regular Meeting Agenda
May 31, 2023 ~ 6:30 pm
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If you would like to address The Planning Commission at this meeting, please place your name on the sign-up sheet or indicate that through the chat function on the online Meeting Platform. You will be recognized to speak during the "Public Comment" portion of the agenda. Discussion is limited to 5 minutes and please state your name and address your comments to the Planning Commission. Thank you for your cooperation.

1. **Call Meeting to Order**
2. **Roll Call** – The Empire Planning Commission requires a simple majority of three commission members present at the meeting for a quorum.
3. **Approval of Agenda**
4. **Approval of the Minutes** – May 3, 2023 and May 24, 2023 Meeting Minutes
5. **Convene as Empire Board of Adjustment –**
Public Hearing of Variance Consideration for Road width within Avoriaz, LLC proposed subdivision
 - a. Board of Adjustment Chair will present summary of Variance request, schedule of process, and rules of procedure
 - b. Board of Adjustment members – discussion
 - c. Staff Report
 - d. Public statements & questions (no answers will be provided at this meeting)
 - e. Adjournment
6. **Public Comment:** Public comment is limited to 5 minutes per person. The Planning Commission does not respond to questions during this time. For operational questions, please email the clerk.
7. **The Next Regular Meeting** of the Empire Planning Commission is June 28, 2023, at 6:30 pm. In-person with remote access
8. **Adjourn Meeting**


(Planning Commission Chair Sally Rush)


(Town Clerk Jeannette Piel)

Town of Empire
30 East Park Avenue/P.O. Box 100 Empire, Co 80438
303.569.2978 - 303.569.2282 fax

Empire Planning Commission Regular Meeting and BOA Public Hearing Minutes
May 31, 2023 ~ 6:30 pm

1. Call Meeting to Order - Chairperson Sally Rush called the meeting to order at 6:37 PM. The meeting was held in person and through Zoom.

2. Roll Call – The Empire Planning Commission requires a simple majority of three commission members present at the meeting for a quorum.

Present: Chairperson Sally Rush, Mayor Wendy Koch, and Commissioners Denise Tennant, Eileen Wheelock and Lon Fulton.

3. Approval of Agenda

MAYOR WENDY KOCH MOTIONED TO APPROVE THE AGENDA FOR MAY 31, 2023, COMMISSIONER WHEELOCK SECONDED THE MOTION, CLERK PIEL CONDUCTED A ROLL CALL VOTE, ALL WERE IN FAVOR, MOTION PASSED.

Agenda was approved.

4. Approval of the Minutes – May 3, 2023 and May 24, 2023 Meeting Minutes

MAYOR WENDY KOCH MOTIONED TO APPROVE THE MEETING MINUTES FOR MAY 3, 2023, COMMISSIONER TENNANT SECONDED THE MOTION, CLERK PIEL CONDUCTED A ROLL CALL VOTE, ALL WERE IN FAVOR, MOTION PASSED.

The May 3, 2023 PC Meeting Minutes, including Attachment A, were approved.

MAYOR WENDY KOCH MOTIONED TO APPROVE THE WORKSHOP MINUTES FOR MAY 24, 2023, COMMISSIONER WHEELOCK SECONDED THE MOTION, CLERK PIEL CONDUCTED A ROLL CALL VOTE, ALL WERE IN FAVOR, MOTION PASSED.

The May 24, 2023 PC Workshop Minutes, including Attachment B, were approved.

5. Convene as Empire Board of Adjustment – Public Hearing of Variance Consideration for Road width within Avoriaz, LLC proposed subdivision.

COMMISSIONER TENNANT MOTIONED TO ADJOURN AS PLANNING COMMISSION AND CONVENE AS THE BOARD OF ADJUSTMENT, MAYOR KOCH SECONDED THE MOTION, CLERK PIEL CONDUCTED A ROLL CALL VOTE, ALL WERE IN FAVOR, MOTION PASSED.

The motion was approved.

a. Board of Adjustment Chair presented a summary of Variance request, schedule of process, and rules of procedure.

Clerk Piel read a statement explaining the quasi-judicial function of the Board of Adjustments to consider the variance. This is a public hearing and functions similarly to the Board of Trustees public hearings. All five members must be present to vote. The public hearing is evaluating the

Variance Application and does not assume approval of any other step of the subdivision process.

b. Board of Adjustment members – discussion

Chairperson Rush led a discussion of the Variance workshop and referred Commissioners to Attachment B: VARIANCE Workshop 5-24-23 for Road Right of Way and Easement.

Summary of discussion may be found in the far right column of Attachment B: VARIANCE for Road Right of Way and Easement 5-31-23.

c. Staff Report

Clerk Piel presented additional information beyond what has been previously discussed:

Staff attests that the applicants are the rightful owners, the petition for variance was submitted and accepted on 5-24-23, all fees have been accepted, and the date of hearing is set for 5-31-23.

1. Challenging topography is an acceptable reason to request a variance, according to the Town Attorney and other sources.
2. Variances are the correct method to address situations not covered. It is impossible for an ordinance to cover every situation and why variances exist.
3. Colorado Revised Statute does not dictate road measurements. No set number, each municipality chooses their own Road Width. Is an internal decision.
4. Road Width: the 24 ft RW is larger than 77% of other roads in town. They used a roller to measure all roads, just the driveable road width, not the ROW. Other roads do not have easements, so the proposed easements gives the town a buffer, or ROW.

Consulted with our Attorney and a Consultant, where we got language of “excessive” and “reasonable.” The road requirements are disproportionate to the rest of the roads in town.

Town staff will continue to research all concerns that come up in future hearings. We will research all questions to give facts.

d. Applicant presentation with questions from the BOA.

Andre Suissa, Developer, presented the following:

- Purchased the property in February. Before purchasing they did an ILC, of course visiting they knew there were topography issues. They had not had the land surveyed at that time but were aware of these topography challenges.
- This hardship is more pronounced with a new development. They are working to have the least amount of land disturbance. The road proposed in this variance meets the ability to get in and out of properties. 8 ft Easements will be able to handle drainage AND utilities. Have met with Xcel and will have a plan for electric and gas by mid-June.

- Word hardship is not defined in ordinance. They do feel there is a hardship to orient the lots to have room, and to address the concerns of the citizens.
- Curb radius and cul de sacs will meet the requirements.
- Engineer: looking into on-street parking to accommodate additional vehicles.
- The drainage ditch will be constructed to make more room for cars to park on the side.
- Rush questioned use of the two lanes with the 2 ft ROW on either side. How does this fit into on-street parking questions? Developer said the easements will provide the two Sketch Plan parking space requirements as necessary.
- Will be writing utility language later and will be involving the town's concern.

No questions to the Developer from the Board of Adjustments.

e. Public statements & questions

Public comment was limited to five minutes. A summary of comments and submitted testimony may be found in Attachment C: Board of Adjustment Public Comments.

f. Developer responded to questions posed during the public hearing comments

See Attachment D: Rebuttal from Petitioner.

g. Adjournment:

MAYOR KOCH MOTIONED TO CONTINUE THE VARIANCE PETITION HEARING TO THE NEXT MEETING, COMMISSIONER TENNANT SECONDED THE MOTION, CLERK PIEL CONDUCTED A ROLL CALL VOTE, ALL WERE IN FAVOR, MOTION PASSED.

The motion was approved.

COMMISSIONER TENNANT MOTIONED TO APPROVE TO ADJOURN AS BOARD OF ADJUSTMENT AND RECONVENE AS PLANNING COMMISSION, MAYOR KOCH SECONDED THE MOTION, CLERK PIEL CONDUCTED A ROLL CALL VOTE, ALL WERE IN FAVOR, MOTION PASSED.

The motion was approved.

6. Public Comment: Public comment was limited to 5 minutes per person. The Planning Commission did not respond to questions during this time. For operational questions, please email the clerk.

Allen Fistell: His house will be affected more than anyone's because of location. If a road is put behind his property, then any snow piled up will runoff on the slope leading down to his

house and will lead to flooding. He believes the developer doesn't need a variance for a road. They need to move road to lot 4 as originally planned, off Mountain Avenue, so they won't need variance, and this would provide easier access down Cowles. Is against the variance.

Robin Raulf-Sager: A major subdivision does not align with our master plan. Is one lot, zoned R1 for one house. The cause of the Marshall Fire has not been determined. She was there and requests the developer not spread false information.

Chad Craven: Thank you to everyone. He attends many board meetings and he feels this is the best discussion he's seen. He thanked Allen Fistell for expressing that he is angry. He wanted to end the meeting on a good note.

Corey Novak: Thanks for following the legal process. Her question has no answers. Would the developer be applying for a variance for one lot as currently zoned? Asked the Suissa brothers if they've considered using the land as intended: one lot zoned R1? Asked if all email communications from the Developers, including the recent 6-page memo, are public knowledge that can be shared with other community members and the boards?

Jacob Belcher: Would like to put into the record: it has been proven the first month of the Marshall fire that downed power lines were not the cause of the fire. Would like misinformation to be struck from the record.

7. The Next Regular Meeting of the Empire Planning Commission is June 28, 2023, at 6:30 pm. In-person with remote access

8. Adjourn Meeting

COMMISSIONER WHELOCK MOTIONED TO ADJOURN THE MEETING, MAYOR WENDY KOCH SECONDED THE MOTION, CLERK PIEL CONDUCTED A ROLL CALL VOTE, ALL WERE IN FAVOR, MOTION PASSED.

The meeting was adjourned at 9:13 PM.



(Planning Commission Chair Sally Rush)



(Town Clerk Jeannette Piel)

Attachment B: VARIANCE for Road Right of Way and Easement

The chart below is to address the Subsections of the variance administrative process. This information was considered at the 5-24-23 Planning Commission Workshop and the hearing of the Board of Adjustment on May 31, 2023.

ARTICLE III, Administrative Process, Section 2.3 Variances

To authorize upon appeal in specific cases such variances from the regulations or provisions of this Ordinance as will not be contrary to the public interest, where, due to special conditions, a literal enforcement of the provisions of this Ordinance would result in unnecessary, unique or undue hardship, so that the spirit of this Ordinance shall be observed, public safety and welfare secured and substantial justice done. It may reach these conclusions if it finds that:

Ordinance 170, Article III, Section 2.3	Developer Application	Staff Reports on 5-24-23 and 5-31-23	Planning Commission Discussion on 5-24-23 Workshop	Board of Adjustment Discussion on 5-31-23
<p>2.3.1 If the applicant complies strictly with the provisions of this Ordinance, he can make no reasonable use of his property</p>	<p>The site has significant sloping that creates a unique hardship that is not the result of our own actions.</p>	<p>It is commonly held that challenging topography (slope, hills, rocks, etc.) is an acceptable reason to request a variance according to our Attorney.</p> <p>Challenges due to topography are not always easy to identify on sight.</p> <p>Variances are the correct instrument to address issues in our Ordinance that do not fit the physical situation.</p> <p>Colorado Revised Statute does not dictate road width measurements, as they are specific to each municipality and based on size.</p>	<p>Chairperson Rush said a 50 ft road would be a legitimate hardship.</p> <p>if required within the proposed subdivision. For this subdivision a Right of Way (ROW) of 50 ft is deemed excessive and not realistic.</p> <p>The workshop discussed the ROW and various conditions regarding the impact of reducing the ROW.</p> <p>Commissioner Rush said we can make recommendations throughout this process and that we will be considering specific items at the 5-31-23 Public Hearing for the Variance.</p>	<p>Wheelock reiterated a comment edited from the 5-24-23 Planning Commission Workshop into the record as follows: Wheelock said the developer knew the slope of the land when they bought it, so how is this a unique hardship?</p> <p>Rush stated the developer is not precluded from using his property any way he sees fit without the variance. He could use it for other purposes.</p>

Ordinance 170, Article III, Section 2.3	Developer Application	Staff Reports on 5-24-23 and 5-31-23	Planning Commission Discussion on 5-24-23 Workshop	Board of Adjustment Discussion on 5-31-23
<p>2.3.2 A literal enforcement of the provisions of this ordinance would result in unnecessary hardship. Hardships shall not be limited to the individual owner, but a variance may be given based upon the determination that a hardship may be imposed upon adjacent neighbors and/or the Town as a result of not authorizing the variance</p>	<p>It was reviewed by Town Officials and it was noted that this would be one of the widest roads in town with the exception of U.S. 40. All roads in town are on average 10-12' or less with gravel paving.</p>	<p>Our Attorney and a Consultant both stated that the road width requirements in our Ordinance are excessive and not realistic, therefore this is an acceptable request.</p> <p>ROAD WIDTH MEASUREMENTS THROUGHOUT TOWN: The 24 ft road width is larger than 77% of the roads in town.</p> <p>Measurements were taken of the actual roads throughout Town, not including the additional ROW, so the measurements are comparable to the measurements of the Road in the Variance Request. We do not have easements on other roads. The proposed easements in WFV give the Town additional room for snow removal and help to create an additional buffer next to the road.</p>	<p>Commissioner Wheelock says she has a 50 ft road. Town staff discussed how they determined the 77% by measuring roads and will compile data for the actual size of roads vs. easements etc.</p> <p>Commissioner Fulton said it's easy to confuse Road Width with Right of Way (ROW.) An 11 ft driving lane is adequate, providing you get curbs. Parking lot spaces are often 10 ft.</p>	<p>Fulton edited his comment from the 5-24-23 Planning Commission Workshop into the record as follows:</p> <p>Fulton used the parking spaces only as a reference. Only road width actually used. Right of way (ROW) may not be paved but used for a purpose. Width of road must be engineered correctly to be functional on required radius to be functional. This is the developer's responsibility to ensure.</p> <p>The Town has been measuring the roads and has compiled data with pictures that may be used to set conditions.</p> <p>Fulton explained Road Width is the actual area for driving. RIGHT OF WAY may not be paved, and is used for other purposes.</p> <p>Ordinance 255, Item 5, references parking 72 hours on street parking: if in front of property the owner can park in his space. Further review of on street parking ordinance will be ongoing.</p>

Ordinance 170, Article III, Section 2.3	Developer Application	Staff Reports on 5-24-23 and 5-31-23	Planning Commission Discussion on 5-24-23 Workshop	Board of Adjustment Discussion on 5-31-23
				<p>Wheelock would like clarification of what “moving” the vehicle is. This too will be reviewed.</p> <p>Clerk reminded us we cannot change ordinances now but the Town is keeping track of all suggestions for improvements to the Ordinance.</p> <p>Deep Dive into Art 8, sec 2: parking Standards, off street parking Variance for Road Width only considers on property parking, off street parking is more related to the Sketch Plan. This will be discussed in the future.</p> <p>Rush stated that off street parking will be looked at in Sketch Plan recommendations, are not part of this variance but are parts of the process in the future.</p>
<p>2.3.3 The hardship is unique and unusual, or nearly so, rather than one shared by many surrounding properties</p>	<p>We are highly interested in purchasing the Town’s asphalt millings at \$3/ton to make a road that is easier to plow, maintain, and repair than gravel or road-based paved roads that is prevalent in the Town of Empire.</p>	<p>This is a separate issue and will not be included in the Variance discussion. We do not have a contract to sell millings to WFV, this was merely a discussion item.</p>		<p>Wheelock said people who live in Empire know we live on hills and rocky areas. Properties are not flat, most are undulating, rolling hills. This hardship is not unique to them.</p> <p>Rush stated the Developer has not addressed this Section with a supporting argument. A condition is</p>

Ordinance 170, Article III, Section 2.3	Developer Application	Staff Reports on 5-24-23 and 5-31-23	Planning Commission Discussion on 5-24-23 Workshop	Board of Adjustment Discussion on 5-31-23
<p>2.3.4 The hardship is not the result of the applicant's own actions</p>	<p>The lower 24-foot size results in less area to maintain. The Town gets easement rights to 8 feet on each side of the 24-foot ROW for any town services needed such as maintenance and repair of the road and snow plowing.</p>	<p>As a mountain town it is vital to have room to push plowed snow to the side of the road. 8-foot easements along the entire road are acceptable for snow plowing and storing operations according to Public Works.</p> <p>CONDITION: The easement must remain open with no fences or structures of any kind.</p> <p>CONDITION: Utility companies must confirm that the easement area is large enough for all buried utilities. If Variance is approved, this in no way indicates approving the space necessary for utilities.</p> <p>CONDITION: Size and depth of drainage ditches must be clarified. They must be small enough to still allow cars to cross for off-street parking on the easement.</p>	<p>Mayor Koch says we do not have enough information yet about the utilities.</p> <p>Further discussion on location of drainage ditches within the easement; type of ditch may necessitate a culvert.</p>	<p>that the Developer addresses this to the satisfaction of the Board.</p> <p>How do the Board members address all the issues so that our conditions are meaningful and sound?</p> <p>Rush explained that if the variance is approved, and the developer cannot meet the requirements of the 8 ft easement, it will be up to the developer to resolve the issue during the Sketch Plan review process.</p> <p>Wheelock asked if the variance is approved and Xcel makes changes, does that wipe out the variance?</p> <p>Clerk Piel said this is a possibility so this is why this condition is there. They can submit a new variance that something out of the developer's control occurs; also may affect the Sketch Plan.</p> <p>The Town's attorney will be consulted to ensure the legal language is used for these conditions once they are decided upon.</p>

Ordinance 170, Article III, Section 2.3	Developer Application	Staff Reports on 5-24-23 and 5-31-23	Planning Commission Discussion on 5-24-23 Workshop	Board of Adjustment Discussion on 5-31-23
2.3.5 The variance requested is the minimum that will afford relief and the least possible modification of the requirements of this Ordinance	<p>Each owner has to pay the property taxes on the additional income for the local taxing districts (i.e. Town of Empire) and less cost of maintenance to the Town.</p> <p>The variance requested is the minimum that will afford relief and the least possible modification of the requirements of this Ordinance.</p>	<p>Condition: Petitioner must make every reasonable effort to resolve any boundary line disputes with an Official Property Survey.</p> <p>As long as the easements remain open and accessible, the Town does not see any detriment to having an easement instead of ownership.</p> <p>The Town recognizes that the Ordinance is excessive, and the Variance request is reasonable. Public Works has reviewed the request and finds the road width acceptable for operations.</p> <p>There is very little ongoing maintenance required on typical ROW's, so any additional tax revenue would more than cover occasional maintenance issues on the proposed easement.</p>	<p>Commissioner Wheelock would like it clarified if the proposed new taxes the town would receive from the subdevelopment would cover the cost of the maintenance.</p> <p>This needs more definition specific to the subdivision.</p>	<p>Rush said the developer has discussed a cross section for drainage.</p> <p>Wheelock asked when the Planning Commission could have clarification of future taxes covering maintenance?</p> <p>Clerk Piel has prepared general information. The easement part is very little maintenance, so any tax revenue will cover this. The road base they will choose also affect road maintenance. They are not required at this phase, so we are looking at ranges based on the road base.</p> <p>Rush discussed the new taxes tied to maintaining the easements. The balance is like a new business, you don't know income/expenses at the beginning. The process of naming roads and specifications and HUTF will also generate state taxes, etc. All will be developed as this subdivision moves forward.</p> <p>Rush asked how we create conditions that opens a way for the PC to</p>

Ordinance 170, Article III, Section 2.3	Developer Application	Staff Reports on 5-24-23 and 5-31-23	Planning Commission Discussion on 5-24-23 Workshop	Board of Adjustment Discussion on 5-31-23
2.3.6 The variance will neither result in the extension of a nonconforming situation in violation of Art. VI, Section 2 (Non-Conforming Development), nor conflict with the goals and policies of the Comprehensive Plan	<p>Jeremy Jones, Assistant Fire Chief of Clear Creek Fire Authority, has supported our road design, materials, and width of our proposed ROW and easements to be adequate for emergency purposes.</p> <p>The variance does not directly conflict with the goals and policies of the Town's Comprehensive Plan (i.e. Master Plan).</p>	<p>The Town confirms that CCFA was consulted on road design and the road and cul-de-sac are acceptable for emergency purposes.</p> <p>The development plans state that these roads will be built to the Clear Creek County Road Development Standards, which is acceptable to the Town.</p> <p>The Town recognizes that the road width requirements in our Ordinance are disproportionate to the majority of the roads in town, and Public Works has reviewed the request and finds the road width acceptable for operations.</p>		<p>address these concerns. This may mean covenants or requirements to show these are addressed. This will be pursued in future review.</p> <p>Rush said reducing the ROW does not appear to conflict with the Master Plan, unless evidence in the hearing proves differently.</p>

To be completed: 2.4.1 - A staff report shall accompany the application to the Board of Adjustment
2.4.2 - Public Hearing on the appeal as provided in Art. III, Section 7 scheduled for May 31, 2023 by the Board of Adjustment
Decision of the Board of Adjustment - written decision submitted at 30 days after Public Hearing (June 28, 2023 = 28 days)

ATTACHMENT C: Public Hearing Testimony from Public 5-31-23

d. Public statements & questions

Public comment was limited to five minutes. Original testimony included, if provided, as well.

Mike Spies: provided a written statement which was read into the record. (Attached.)

Larry Modesitt: provided testimony and written statement. (Attached.)

Bernie Hubner: provided testimony and written statement. (Attached.)

Peggy Hubner: provided testimony and written statement. (Attached.)

Terry Gray: His points have been stated and to avoid being repetitious; wants to go on record that he opposes the variance for the reasons previously stated.

Chad Craven: Larry said everything well. If you strip out the emotion, the person asking for the variance has to prove that these six points are some sort of hardship. REF. 2.3.4: Hardship is the result of the developer's actions. They want to stuff too many houses into the space.

Lyndy Modesitt: The developer's request is a safety issue. Fire danger due to dense housing. REF. 2.3.6: Developer's statement about Jeremy Jones is misleading, she met with him and the fire chief and they were definitive about needing more information, including Sketch Plans, and plans for parking. Referenced a Denver Post article that said too many houses, built too close together is what led to marshall fire. A cigarette butt here in town caused two mobile homes to catch fire after 70 mph winds picked it up. Narrow streets will push parking past the subdivision, will the town incur costs? Five homes would not create this same fire hazard. The developer does not incur the risks, we do. Please vote no on request for a road variance.

Kent Modesitt: Is a lawyer. What is a hardship? Is this a hardship on the owner? We are hearing that there are hills there, so is this a hardship? There are plenty of uses for the hills, like sledding, that would not create a hardship. If the first section fails, then the variance fails. Distinction between a personal hardship and one that is imposed upon someone. A personal hardship is not a reason to grant a variance, and this is a point to clarify with the Town Lawyer. They made the choice to have 22 houses, which is a personal hardship, and is not a valid basis to grant a variance. REF. Purpose of Master Plan: facing the pressure of change. Is hearing about points he's never seen; lawful and meaningful public comment means knowing what is going on. They have been trying to get documents, and would be easier if attachments to minutes are up on the website so they can have more meaningful discussions. He feels a lot is happening the public does not know about.

Allen Fistell: Is upset. The town can't grant a variance to this piece of property because his deeds shows he owns part of the property where the road easement is planned. Nobody has a road within 20 ft away from their porch. The variance request is a hardship on his family.

Jacob Belcher: Is a private citizen for this hearing. The hardship is that this is their first development and they lack experience. The second hardship is the property does not fit with their plans. Will approval of this variance mean we have established precedence for the future?

Robin Raulf-Sager: 1. Road Width is disproportionate to the rest of the roads. The roads were established in the 1800's for horses and wagons and suggests we think about cars, SUVs, and RVs. 2. Has connections to the Marshall Fire and is concerned about fire risk.

Joe Santaviello: Born and raised here and is not opposed to growth. Is a superintendent for a construction company and has questions: If you are on a hill, you add square footage to your property. The snow removal will be pushed into the cul de sacs, leaving little space for emergency vehicles. Concerned about culverts and their maintenance. They use millings for temporary roads, and it costs more to remove them if you decide to pave the road later.

Brian Buckland: Public works doesn't know how to plow the roads. He helps neighbors: you need space for snow. The road in town that uses millings was not plowed, he knows it creates a mess. He plowed it, dogs won't walk on it, and you find it in the garage later.

Joy Chandler: Has lived here for 50 years. Two points not touched on: the town ran out of water and the north main potholes. Are we in a position to take on more?

Online speakers:

Linda Robertson: provided testimony and written statement. (Attached.)

Tony Robertson: provided testimony and written statement. (Attached.)

Corey Novak: Is confident the Planning Commission will make the right decision. None of the variance steps were met. The property is zoned for R1 and they purchased it knowing this. Listen closely to the developer's language. One house would not be a hardship. Many people will make great use of this land without needing to apply for a variance. Think of this property as one lot, zoned for one house. This is Empire's first major subdivision, and we could be setting a precedent and leaving a dangerous legacy. Her house was built in the 1960's and had asbestos and lead paint. Laws and regulations change over time. In an email, the Developer said screw it, we can build a few mega mansions and will be on our way. They knew this before they purchased the land and cannot do what they want unless we vote to let them.

From: Michael Spies <michaelspies@gmail.com>
Sent: Thursday, May 25, 2023 11:55 AM
To: Jeannette Piel
Subject: Planning Commission Meeting

I am out of town and not able to attend tonight's meeting. Please read the following comments into the official minutes of the meeting.

Regarding the request for street width variance:

While it has been noted that very few streets in town have been developed to their full width, the right of way is there and does provide the opportunity for future paving, gutters and sidewalks. Even in their undeveloped state, the wide right of ways contribute to the spacious feel and general atmosphere of the town that the master plan is designed to protect. Granting this request guarantees this subdivision does not blend with the rest of the community.

As the property exists now, there is no hardship. By accepting the proposed subdivision the town is creating a hardship . The applicants poor design and intentionally created hardship does not meet the criteria for requesting a variance. The simple solution is to not allow them to create the hardship in the first place.

Recognize that no municipality is ever any legal obligation to rezone or subdivide any plated property, no matter how detailed and complete the request. All the processes detailed in ordinance 170 are required to request consideration but do not represent an obligation to accept the subdivision.

The variance process intentionally provides for public comments. please listen to them and seriously consider the concerns of the citizens.

Harry Modoset

May 31, 2023 Hearing: Developer Seeks Variance from Empire's Road-Width Ordinance

Town of Empire -- Ordinance 170 Land Use and Planning and Citizens' Analysis

"2.3 Variances. To authorize upon appeal in specific cases such variances from the regulations or provisions of this Ordinance as will not be contrary to the public interest, where, due to special conditions, a literal enforcement of the provisions of this Ordinance would result in unnecessary, unique or undue hardship, so that the spirit of this Ordinance shall be observed, public safety and welfare secured and substantial justice done.

The variance can only be granted if six different elements are satisfied. The variance should be denied because the applicant cannot satisfy any of the six elements.

2.3.1 If the applicant complies strictly with the provisions of this Ordinance, he can make no reasonable use of his property; and

- The applicant cannot satisfy this element because it can make reasonable use of the property without a variance. Would the applicant need narrow roads if it developed five houses on the property? No. Since a five-house plan IS a reasonable use for the property, the applicant fails the first test. This alone disqualifies the need for a variance.
- Developer has available myriad reasonable uses for the Property when adhering to the 50-foot Ordinance, most notably the ability to build a houses or houses.
- The Ordinance only comes into play because Developer wants to cram 21 houses in a space too small to accommodate both the houses and compliance with Empire's laws.
- Developer seeks to create a (circular) situation where a property owner's selfish plans—here, making more money at the expense of the Town around it—justify a variance from the very Ordinance violated because of those selfish plans.

2.3.2 A literal enforcement of the provisions of this ordinance would result in unnecessary hardship. Hardships shall not be limited to the individual owner, but a variance may be given based upon the determination that a hardship may be imposed upon adjacent neighbors and/or the Town as a result of not authorizing the variance: and

- The hardship identified by the applicant is an individual hardship because the hardship arises from its desire to create 21 lots, the hardship does not arise from the topography of the property. There is no correlation between the need for more narrow roads and topography. A different development plan with a fewer homesites would not require a variance.
- The 50' roads contribute to the Master Plan's desire for open spaces and better fire safety. The ordinance was planned to apply to everyone going forward. They fail this test.
- Developer identifies only one "hardship" in support of its Variance: "The site has significant sloping that creates a unique and undue hardship that is not the result of our own actions."
 - First, the property exists in the middle of the Rocky Mountains; significant sloping is hardly

unique to Developer.

- Second, Developer does not and cannot argue that applying the 50-foot road width requirement results in “undue hardship” when that road width—whether 24 or 50 feet—neither creates nor solves the sloping issue. Because there is no relationship between the topography and the need for the variance, the applicant fails this test.

2.3.3 The hardship is unique and unusual, or nearly so, rather than one shared by many surrounding properties; and

- Developers claim the hill is a hardship. Would it be a hardship if five houses were developed there? No, it would be a positive selling point. As a result, the applicant fails this test.
- The property exists in the middle of the Rocky Mountains; significant sloping is hardly “unique” to Developer, or “unusual” in context. Rather, as rejected in Section 2.3.3, the “significant sloping” is “one shared by many surrounding properties.”

2.3.4 The hardship is not the result of the applicant's own actions; and

- Developers didn't even attempt to deal with the fourth hardship point in the Application. On this basis, the variance should be rejected.
- Further, it was the developers' own actions—their plan—that caused this alleged hardship. The applicant fails test four also because it is the developer's plan, not the topography or shape of the lot that creates the alleged hardship. Self-created hardships do not provide a proper basis for a variance.
- Developer has available myriad reasonable uses for the Property when adhering to the 50-foot Ordinance, most notably the ability to build a houses or houses.
- It is because Developer envisions 21 houses (not 5), all shoehorned into a space too small to accommodate them, that Developer can get Empire and its people to bear the harm, while Developer grabs the benefit (for Developer here, millions of dollars).
- The harms—to be borne by the people of Empire—are significant. To name a few:
 - (a) Safety Risks such as Clear Creek fire trucks (some 45 feet long) navigating roads just 24 feet wide and cul-de-sacs only 32-foot-radius;
 - (b) Fire Risks created by houses sometimes only 6 feet apart;
 - (c) Increased traffic
 - (d) Increased parking pressures;
 - (e) Water issues such as drainage, less absorption, availability, and cost
 - (f) Privacy, view, traffic, light pollution, noise, trash, trespassers, crime, wildlife;
 - (g) Crowded population in a Town full of people who have decidedly sought to avoid that very thing.

2.3.5 The variance requested is the minimum that will afford relief and the least possible modification of the requirements of this Ordinance; and

- The minimum is a plan with existing zoning which requires no variance. This is five of five tests the

developer has failed. The developer only has to fail one test for the variance to be denied

- It does not appear that the planned roads comply with the Clear Creek Roadway Design and Construction Manual. We believe that the applicant is seeking variances to both the roadway width and the required easement width without making an appropriate application.
- Developer does not and cannot argue that applying the 50-foot road width requirement results in “undue hardship” when that road width—whether 24 or 50 feet—neither creates nor solves the sloping issue.

2.3.6 The variance will neither result in the extension of a nonconforming situation in violation of Article VI, Section 2, nor conflict with the goals and policies of the Comprehensive Plan.”

- Below are two examples of policies outlined in the Master Plan that conflict with the variance. The conflicts between the development plan and the provisions of the Master Plan below are a sixth reason to deny the variance.
- The requested variance and that which it enables don’t just conflict with the Town’s goals and policies. The governing documents evidence a Town united in protecting against the harms at Empire’s doorstep:

Town of Empire, Master Plan, Vision Statement

“The residents and the Town of Empire wish to preserve, protect, and enhance the historic integrity and small, mountain town atmosphere of Empire and the Empire Valley. Together they strive to guide future growth and development in town and the valley. The community desires growth that is slow, managed, fiscally sound, and that does not impact the town in a negative way.”

Town of Empire, Master Plan, Purpose

“The Town of Empire and the Empire Valley are facing the pressure of change. Like many other western mountain communities, Empire and its citizens face issues and choices that will profoundly affect their quality of life in the next decades. The Town recognizes that they need to be proactive not only with land use issues within town boundaries, but exercise more extraterritorial land use review powers in areas just outside their boundaries. The goals of this plan represent an attempt to define what values are important to the community concerning the quality of life in Empire and the surrounding environs. The plan seeks to maintain a community that preserves the natural beauty and existing social character of Empire and the Empire Valley.”

Additional concerns with the Application:

- Developer brags in its Application that 24-foot-wide road plus 16 feet in easements, = 40 feet, “is needed for designing the road per Clear Creek standards based on the bottom half of Page 91 of the Clear Creek Roadway Design and Construction Manual Revised April 27, 2021.”
 - However, as seen in the attached pages from the Manual, Developer had to cite the “Primitive Status Road” to reach a minimum right of way of 40 feet. More appropriate road types far exceed Developer’s 40 feet: “Low Volume Status Road” with minimum right-of-way of 50 feet, Local Access Status Road (60 feet needed), and “Collector Roads” (80 feet).

As a result, we do not believe that the application complies with the Roadway Design and Construction Manual. Because it does not comply, it cannot be approved.

- In its reason number 2, Developer suggests, vaguely, that “Town Officials” reviewed the plan and noted a 24-foot-road “would be one of the widest roads in town with the exception of U.S. 40” and that “[a]ll roads in town are on average 10-12’ or less...” The Citizens believe neither the representations nor the math; however, because repeated requests to get a copy of the Application over the last two weeks in violation of CORA were ignored, and the Citizens are first learning of this representation, the Citizens will supplement its comments with an accurate analysis.
- Developer’s reasons number 3, 4, and 5, are irrelevant to the analysis required by the Sections discussed above. Therefore, the Planning Commissioners (Board of Adjustment) are foreclosed from relying upon them for their determinations. That said, Item 3 smacks of “you scratch my back and I’ll scratch yours.” Item 4 seems to suggest the Town should be excited about a smaller road because it has an easement, something that is already available to Empire. Finally, Item 5 wants Empire officials to applaud a scheme that foists costs on the Empire citizens (increased property taxes) while providing the Town with a windfall (taxing income and less maintenance). Empire doesn’t work that way, and that’s one of the very things we’re trying to protect.
- In reason number 6, Developer relies upon Jeremy Jones, the Asst. Fire Chief. We suggest the Planning Commissioners speak with Chief Kelly to get the Authority’s official position.
- Finally, reasons number 7 and 8 parrot the standard, without more, adding nothing to the analysis.

A couple of key points about the variance are as follows:

“2.4.2 The Board of Adjustment shall give notice and hold a public hearing on the appeal as provided in Article III, Section 7. At the hearing any party or affected person may appear in person or by an attorney at law representing that party. The Board of Adjustment shall set forth its decision in writing within thirty (30) days after completion of the hearing on the appeal.”

“2.7.2 The concurring vote of four (4) members of the Board of Adjustment shall be necessary to reverse any order, requirement, decision or determination of the Town Zoning Officer, or to decide in favor of the applicant on any matter upon which it is required to pass under this Ordinance, or to effect any variation in the application of this Ordinance. The grounds of every such determination shall be stated in writing.”

printed public comments

1 message

Peggy <hubnerbernard@comcast.net>
To: Sally Rush <sally.kate.rush@gmail.com>

Thu, Jun 1, 2023 at 7:28 AM

Hi, my name is Peggy Hubner

207 East Mountain Ave. Empire

A direct quote from the Master Plan currently on file...

The residents and the Town of Empire wish to preserve, protect, and enhance the historic integrity and small mountain town atmosphere of Empire and the Empire Valley. Together they strive to guide future growth and development in town and in the valley. The community desires growth that is slow, managed, fiscally sound and that does not impact the town in a negative way.

I am one of those concerned residents. We've lived here for 17 years. Been active dog walkers during all that time and through a dog's eyes feel we know the town and its people quite well. I do not oppose growth of the town, it is expected. I do strongly oppose your request for a variance, not for the growth of the town but for the way your sketch plan lays out a very crowded unconventional subdivision. We do not have crowded housing subdivisions in Empire. We have no idea what this crowded grouping of 21 homes will even look like. The construction of the 2 roads leading into the subdivision does not fit into the historic integrity of Empire or even of Georgetown, Silver Plume, Idaho Springs. Walking or driving in those towns will retore your vision of history, mining and hard work.

We want growth in Empire. We want a mountain feel on the property. We want our elk and moose and bears and big horn sheep and rabbits and chipmunks to be able to traverse the land as nature planned. We want to preserve the small town atmosphere of Empire. The words major subdivision in itself do not fit into this town's image of about 350 humans.

According to Article 5.10.267 of Ordinance 170 – by stating that you want to lower the right of way from 50 feet to 24 feet in width with 8 foot easements on both sides,... so many questions arise. Will the electric, gas, cable, fit into the ditch leaving enough room for drainage and for extra cars to park? The easement

construction will be most important to look at. You will need specs from Xcel and also determine if there is a conflict between utilities.

The site does indeed have significant sloping (most certainly not due to our doing) but a description of "no reasonable use of this property" unless a variance is requested. Not true. Easy, just redesign your sketch plan with FEWER houses on the land. This is NOT a unique and undue hardship. Your design plan is. When you bought the land, you full well noticed the land's slope. Others who bid on the property most certainly were aware of the lay of the land and planned their building accordingly. I'm still most concerned about firetrucks accessibility to move around the cul-de-sacs and around cars parked along the roads into the subdivision. Firetrucks can be up to 8 feet wide and up to 51 feet in length. If you lower the right of way from 50 to 24 feet, will you burn down our town?

You might also want to check the ordinance for on street parking. Its not enforced if there's no signage. When Mini Mountain Storage was annexed into Empire, you did not see this uproar of concerns. Their development fits beautifully into the feel of Empire – they understood the use of materials and they felt that in order to blend in, they needed to pay attention to the needs and visions and feel of the people.

Other major concerns are that "are you going to be able to afford to complete such a development?" Are you going to leave us with a pile of unfinished homes? Are you going to be able to even sell the homes? We've been unable to see any of your completed projects = especially those with tiny tiny roads and easements.

This request for a variance should not be approved.

Hi, my name is Bernie Hubner

207 East Mountain Ave. Empire

The residents and the Town of Empire wish to preserve, protect, and enhance the historic integrity and small mountain town atmosphere of Empire and the

Empire Valley. Together they strive to guide future growth and development in town and in the valley. The community desires growth that is slow, managed, fiscally sound and that does not impact the town in a negative way.

Empire was originally platted with a system of north-south roads intersecting east-west roads. This geometry divided the town in a grid work of residences. This is how a majority of the homes in town are currently positioned in town. It is my opinion that a new subdivision should follow this pattern to fit in with the current dwellings. The current proposed layout is more like a pattern of bird droppings on a newspaper.

Infrastructure

Sewer

The current sewer plant seems to have capacity to accept the sewer load by the proposed 21 homes. A study should be made to confirm the capacity of the existing sewer pipes to convey the additional sewer load to the sewer plant.

Water

The water system is not as easy to get a firm stance on what is available. There will be large seasonal variations to the supply of water coming from the mad creek source. The new well is just hat and we do not have data on this as a source.

There is a four million dollar plan for the improvement of the water distribution system. This is not money to carry the system to additional 21 taps. I am not assured that the tap fees would cover the hardware and labor cost to connect up to the existing (or new) water and sewer pipes.

There are roughly 150 taps to the current system. With the addition of 31 taps to the town systems, we are bringing a 20% increase to the water system. If good records for the water delivery are available, one could see how we would fare with a 20% load increase.

Roads

Ordinance 170 calls for certain configuration of the roads as a new road would tie into the existing town roads. Ordinance 170 calls out that roads shall have a right of way of 50 feet. A variance of the right of way is being requested for this subdivision. The developers are claiming that the topography of the land is a hardship for them and the road right of way width shift would solve that. It appears that the road right of way is removed and changed to a road width with easements on both sides of the road. The selling point here is that there would be taxable easements to pass on to the land owners on both sides of the road and the easement square footage would enhance the size of the lots. The developers saw the land before purchase so they would have known the topology before designing the layout of the property. If they had not seen the land before purchase, this could be buyer's remorse.

I would like to see a road with a grid pattern for the roads. All utilities except water and sewer could be run along an easement on the back of the property with water and sewer run along the roads.

The request for a variance should not be approved.

Sent from Mail for Windows



Sally Rush <sally.kate.rush@gmail.com>

Linda's statement on the proposed Variance

Linda Robertson <linmarie.robertson@gmail.com>

Wed, May 31, 2023 at 9:17 PM

To: Sally Rush <sally.kate.rush@gmail.com>, Jeannette Piel <clerk@empirecolorado.us>

LINDA ROBERTSON

Realtor

HomeSmart

Cell: 303-502-4691

 Linda Statement on Variance Request.pdf
206K

First, I am here as a resident of this community and not as a member of the board of Trustees. I have recused myself from voting on this matter because of a conflict of interest.

This variance does not meet all of the 6 subsections of Section 2.3 Variances in Ordinance 170. For instance, section 2.3.1 states ***If the applicant complies strictly with the provisions of this Ordinance, he can make no reasonable use of his property;***

If the applicant complies with the provision for 50 foot wide roads, they can still make good use of the property – it would only require putting in fewer homes! which would be more aesthetically pleasing and fit better with the surrounding properties that are all on at least two town lots.

Section 2.3.2 states ***A literal enforcement of the provisions of this ordinance would result in unnecessary hardship.***

The developer knew about the slope of the property when they bought it and also had access to the ordinance and master plan. Thus, the road width stated in the ordinance is **NOT** an unnecessary hardship.

Moreover, a narrower road on a hill with a 90 degree turn on a section of Cowles that is a very steep grade is just plain NOT a good idea! As it is, only one car can fit on Cowles Street at this junction. You have to pull over into the "grass easement" of Terry and Irene's lot, or into the Mountain Avenue intersection to let the uphill car pass if your neighbor is leaving when you come in. Not a problem, when there are only 4 houses that it serves! Adding 21 will be a problem for sure. The condition of this road could be classified as a jeep trail at best. We have been asking the town to grade it and fix the very large ditch that attracts less skilled drivers every winter. But nothing has been done to this road since 2018. With the new development, it will only get worse. A semi delivering lumber or cement for example would have trouble navigating the proposed 90 degree turn on this steep slope, Without the 50 foot width that is required, I can see them tumbling over sideways and sliding all the way down to my driveway because of the tricky corner they are proposing.

Moreover, Section 2.3.6 states ***The variance shall not conflict with the goals and policies of the Comprehensive Plan.***

The Planning Committee states that the ordinance for road width is excessive for a development of this size, but the town never envisioned a development of this size. There are no "developments" of this nature in our small mountain town. Why? Because dense tract housing doesn't fit with our Vision Statement in the Comprehensive Plan.

Vision Statement:

The residents and the Town of Empire wish to preserve, protect, and enhance the historic integrity and small, mountain town atmosphere of Empire and the Empire Valley. Together they strive to guide future growth and development in the town and the valley. The community desires growth that is slow, managed, fiscally sound, and that does not impact the town in a negative way.

Per the 2020 census, Empire has 244 households and 410 residents, which is 1.8 residents per household (due to the many trailers housing one resident). The proposed development most likely adds at least 42 residents, which is significant growth of more than 10 percent. This is NOT slow growth and by allowing a road variance, we would be saying yes to a suburbia type development, not something that enhances the historic integrity and small, mountain town atmosphere. This is in DIRECT conflict with our Vision Statement and the Comprehensive Plan and it is our duty to adhere to what the community wants.

Planning Commission - Tony Robertson

1 message

James Robertson <ja_tony_robertson@aol.com>
To: Sally Rush <sally.kate.rush@gmail.com>

Wed, May 31, 2023 at 8:58 PM

**TOWN OF EMPIRE
VISION STATEMENT**

Page 6

The residents and the Town of Empire wish to preserve, protect, and enhance the historic integrity and small, mountain town atmosphere of Empire and the Empire Valley. Together they strive to guide future growth and development in town and the valley. The community desires growth that is slow, managed, fiscally sound, and that does not impact the town in a negative way.

Tony Robertson, 192 E Clear Creek Dr.

I will start by reiterating Town Vision Statement from the currently published Master Plan. The community desires growth that is slow, managed, fiscally sound, and that does not impact the town in a negative way.

We built two houses in Empire since 2017. One is located at the very southern end of Cowles Street, on the west side of and below the proposed West Fork Village development. One of our concerns is the additional water runoff that this development will cause. Residents who have lived here a while are familiar with the occasional summer gully washers we have. Our property has not flooded, and we don't want it too. This development greatly increases the risk that we will be flooded by one of these short but intense storms.

So, you may be asking what could this have to do with a road variance? The answer is simple. Without the variance, the developer will have to change their plan so that it has fewer houses. That means less concrete and therefore less runoff.

The variance request based on a claimed hardship due to the slope of the land is ridiculous. Let's be honest, the request is based entirely on the developers desire to pack as many houses into the available space as they can. That maximizes their profit, at the expense of Empire residents. They've said they care what residents want, but their actions are completely to the contrary.

I was on the Planning Commission last fall when we met the developers for the first time. They said they were thinking about putting a "few" houses on the property and wanted to do something residents felt good about. Later we discovered that a "few" meant as many as they could fit. They have misled the town from day one. Why should the town bend over backwards to accommodate them with this variance request.

This proposed development is a negative for the town in every way. We don't want high density housing. It doesn't belong in our small mountain town.

Selling out for a few tap fees is bad governance.

The developers are offering nothing to improve our infrastructure. What happens when our water and sewer fail? Who's going to pay to fix them? The developers? They will be long gone.

ATTACHMENT D: Public Hearing Rebuttal from Petitioner

f. Developer responded to questions posed during the public hearing comments.

Andre' Suissa: appreciates resident's comments. We are trying to turn this into something better. We have conversed with everyone who reached out to us. Drainage: gullywashers down Cowles will be addressed

Will bury power lines to avoid a Marshall Fire situation.

Inability to get variance will restrict their ability; Sketch plan is ingredients for residents to review. The true molding of the dough comes out in the Preliminary Plan phase. Variance does not say we are done; we have a long way to go to address the Town's concerns.

Hardship was not defined regarding a personal hardship in the Ordinance. My interpretation was to plan 4,800 sq ft lots such as the Habitat for Humanity Homes on Mountain Street.

By reducing the size of the road, we are not cramming the lots. If the ROW is increased, the lots will become smaller. Drainage will be addressed above and beyond the Ordinance. Culdesacs have wider boxes to show there is room for snow piles.

Rebuttal to statement that planning variance will create a dangerous precedent: Many other towns have variance approvals in this process. This is a specific variance and does not open pandora's box for future variances.

Corey's comment regarding my statement is a snippet of a sentence taken out of context. We are trying to form a plan with what is consistent in the Empire currently.

Road Variance Staff Evaluation for West Fork Village

The petitioners, Andre and Justin Suissa of Avoriaz, LLC submitted a Petition for Variance on behalf of West Fork Village LLC.

The Staff attests that

- 1) Avoriaz LLC is the rightful owner of O S. Ball Street in Empire Colorado,
- 2) A Petition for Variance was submitted and accepted on May 3, 2023,
- 3) A \$300.00 fee was paid for processing the Petition for Variance,
- 4) A Public Hearing was set for May 31, 2023,
- 5) Notice of the Public Hearing was given to all property owners within 300 feet of the property in question,
- 6) Notice of the Public Hearing was posted on the property in question in accordance with Ordinance 170,
- 7) This Petition for Variance is contingent on a subsequent approval of the West Fork Village Sketch Plat and Plan and will be null and void if the current Sketch Plan and Plat is not approved.

1. The site has significant sloping that creates a unique and undue hardship that is not the result of our own actions.

It is commonly held that challenging topography (slope, hills, rocks, etc.) is an acceptable reason to request a variance according to our Attorney. Challenges due to topography are not always easy to identify on sight. Variances are the correct instrument to address issues in our Ordinance that do not fit the physical situation. Colorado Revised Statute does not dictate road width measurements, as they are specific to each municipality and based on size.

2. It was reviewed by Town Officials and it was noted that this would be one of the widest road in town with the exception of U.S. 40. All roads in town are on average 10-12' or less with gravel paving.

Our Attorney and a Consultant both stated that the road width requirements in our Ordinance are disproportionate to the majority of the roads in town, and not realistic, therefore this is an acceptable request. ROAD WIDTH MEASUREMENTS THROUGHOUT TOWN: The 24 ft total road width is larger than 77% of the roads in Town.

Measurements were taken of the actual roads throughout Town, not including the additional ROW, so the measurements are comparable to the measurements of the Road in the Variance Request. We do not have easements on other roads. The proposed easements in WFV give the Town additional room for snow removal and help to create an additional buffer next to the road.

3. We are highly interested in purchasing the Town's asphalt millings at \$3/ton to make a road that is easier to plow, maintain, and repair than gravel or road-based paved roads that is prevalent in the Town of Empire.

This is a separate issue and will not be included in the Variance discussion. We do not have a contract to sell millings to WFV, this was merely a discussion item.

4. The lower 24-foot size results in less area to maintain. The Town gets easement rights to 8 feet on each side of the 24-foot ROW for any town services needed such as maintenance and repair of the road and snow plowing.

As a mountain town it is vital to have room to push plowed snow to the side of the road. 8-foot easements along the entire road are acceptable for snow plowing and storing operations according to Public Works. Condition: The easement must remain open with no fences or structures of any kind.

Condition: Utility companies must confirm that the easement area is large enough for all buried utilities. If Variance is approved, this in no way indicates approving the space necessary for utilities.

Condition: Size and depth of drainage ditches must be clarified. They must be small enough to still allow cars to cross for off-street parking on the easement.

Condition: Petitioner must make every reasonable effort to resolve any boundary line disputes with an Official Property Survey

5. Each owner has to pay the property taxes on the additional 8-foot easements at full value of the lot resulting in additional income for the local taxing districts (i.e. Town of Empire) and less cost of maintenance to the Town.

As long as the easements remain open and accessible, the Town does not see any detriment to having an easement instead of ownership. There is very little ongoing maintenance required on typical ROW's, so any additional tax revenue would more than cover occasional maintenance issues on the proposed easement.

6. Jeremy Jones, Assistant Fire Chief of Clear Creek Fire Authority, has supported our road design, materials, and width of our proposed ROW and easements to be adequate for emergency purposes.

The Town confirms that CCFA was consulted on road design and the road and cul-de-sac are acceptable for emergency purposes.

7. The variance does not directly conflict with the goals and policies of the Town's Comprehensive Plan (i.e. Master Plan).

The development plans state that these roads will be built to the Clear Creek County Road Development Standards, which is acceptable to the Town.

8. The variance requested is the minimum that will afford relief and the least possible modification of the requirements of this Ordinance.

The Town recognizes that the road width requirements in our Ordinance are disproportionate to the majority of the roads in town, and Public Works has reviewed the request and finds the road width acceptable for operations.

Public Hearing for Variance

Sign-up Sheet

May 31, 2023

If you would like to address the Empire Planning Commission at this meeting, please place your name on the sign-up sheet. You will be recognized to speak during the "Public Comment" portion of the agenda.

This is a governmental meeting held to conduct the business of the Town of Empire. We welcome you here and thank you for your time and concern. If you wish to address the Commission, this is the time set on our agenda for you to do so. **When you are recognized, please stand, state your name and then address the Commission.** Your comments will be limited to 5 minutes. This is the appropriate time on the meeting agenda for you to address the Commission on matters that are not scheduled for public hearing. The Planning Commission may not respond to your comments during this meeting, rather they may take your comments and suggestions under advisement and your questions will be directed to the appropriate person or department for follow-up.

The Planning Commission request that all speakers conduct themselves in a respectful and civil manner and avoid disorderly behavior or personal attacks against any individual. In the event any person interrupts the business of the Commission or acts in a disorderly or disrespectful manner, the Commission may require such person to cease the offensive behavior and/or to leave the meeting. Thank you.

Please sign your name below if you wish to speak to the Commission.

NAME	ADDRESS
<i>Mike Spies</i>	<i>email</i>
<i>Larry Modesitt</i>	<i>294 E Mountain</i>
<i>Bernie Hubner</i>	<i>207 E Mountain</i>
<i>Peggy Hubner</i>	<i>207 E Mountain</i>
<i>Jerry Gray</i>	<i>190 E Mountain</i>
<i>Chad Craven</i>	<i>313 Main St.</i>
<i>Lyndy Modesitt</i>	<i>294 E. Mountain Ave</i>
<i>Kent Modesitt</i>	<i>294 E Mountain Ave</i>
<i>Melanie Sargent</i>	
<i>Alyce Vargo</i>	<i>39 E. Sunny Ave.</i>
<i>Allen Pistell</i>	<i>210 E Mountain Ave</i>
<i>Jacob Belcher</i>	<i>336 E. Mountain Ave</i>
<i>Robin Rault-Sager</i>	<i>313 Main St.</i>
<i>JOE SANTAUJELLO</i>	<i>201 Main St</i>
<i>Brian Buchholz</i>	<i>High Ball</i>
<i>Tony ...</i>	<i>551 ... Ct.</i>

(Zoom)

Variance Public Statement 5.31.23
Linda Robertson > Both on Linda's acct
Tony Robertson
~~STEPHANIE WILSON~~ took herself off.
Cory Novak

Town of Empire
30 East Park Avenue/P.O. Box 100 Empire, Co 80438
303.569.2978/f303.569.2282

Public Comment

Sign-up Sheet

May 31, 2023

If you would like to address the Empire Planning Commission at this meeting, please place your name on the sign-up sheet. You will be recognized to speak during the "Public Comment" portion of the agenda.

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Please sign your name below if you wish to speak to the Commission.

NAME

ADDRESS

Allen F.stell

210 E. Mountain Ave.

Robin Paul of sager

313 Main St.

Chad Craven

313 Main St.

~~Brian Burkhead~~

Corey Novak

~~Tony Robertson~~

~~Linda Robertson~~

Jacob Belcher

336 E. Main Ave

