The Board of Adjustment met Monday, February 5, 2018, in the City Council Chambers, 350 Kimbark Street at 7:00 p.m. Members present were Shannon Evins, Brian Luther, Pete Modafferi, Linda Witko and Todd Wilderman. Also present were staff Liaison Jeremy Tamlin, Chief Building Official, and Linda Meade, Recording Secretary.

Ms. Evins, chairperson asked for approval of the November 11, 2017, minutes.

MR. MODAFFERI MADE A MOTION TO APPROVE THE NOVEMBER 6, 2017, MINUTES. MR. LUTHER SECONDED. THE VOTE WAS UNANIMOUSLY IN FAVOR.

Ms. Evins gave an explanation of the Rules and Procedures of the Board.

DV-VAR17-00059 – Ms. Camilla Briggs is requesting rear and side yard setback variances to construct a detached accessory garage building at 644 Bowen Street.

Ms. Camilla Briggs, owner at 644 Bowen Street, was present for questions. Ms. Briggs said the new proposed building is only a little bigger than the existing garage is.

Mr. Joseph Ginther, architect and neighbor of the project, said the reason for the location was to use the existing wall location and use the existing foundation, for minimal impact to the neighborhood. Mr. Ginther said he did his own survey on locations of detached structures in the neighborhood. Mr. Ginther said these garages are all pushed back as far as you can get and are non-conforming garages.

Mr. David Kahn, 1117 Longs Peak, said when a building is demoed, there’s a lot of debris materials and needed access. He was concerned about their garden and existing plants. He said he is an architect and when you get into trying to demo these old buildings you can get into a can of worms. In trying to reuse old foundations sometimes you have to add a piece of new to the existing foundation. Mr. Kahn had a concern about the excavation of the footers for the foundation and the impact on their garden. He had a concern about the length and the increased height of 4’ having a greater shadow effect. With the setback in place there is a greater maintenance ability to paint without going into their yard.

MR. LUTHER MADE A MOTION TO APPROVE A SIDE YARD SETBACK VARIANCE OF 3.3’ AND A REAR YARD SETBACK VARIANCE OF 2.8’ TO CONSTRUCT A DETACHED ACCESORY GARAGE BUILDING. MR. MODAFFERI SECONDED THE MOTION. THE VOTE WAS UNANIMOUSLY DENIED

DENIED
Items from the Board – None.

Items from Staff – Jeremy announced he will no longer be the staff Liaison, he has taken a new position which takes him away from the Board. There will be someone else appointed but not sure when.

MR. LUTHER MADE A MOTION TO ADJOURN AT 8:00 PM, MS. WITKO SECONDED THE MOTION. THE VOTE WAS UNANIMOUSLY IN FAVOR.

________________________________  _________ _______________________
Shannon Evins          Chairperson  Linda Meade          Recording Secretary
AGENDA
BOARD OF ADJUSTMENT AND APPEALS

April 2, 2018

DATE: April 2, 2018
TIME: 7:00 p.m.
PLACE: Council Chambers, Civic Center, 350 Kimbark Street, Longmont, CO

1. Call to Order
2. Roll Call
3. Approval of the February 5, 2018 Minutes
4. Explanation of the Rules and Procedures of the Board

The following items are on the agenda:

5. DV-VAR-18-00005 – Eric and Marj Merges are requesting a variance to expand an existing non-conforming structure at 614 Baker Street
6. DV-VAR-18-00006 – Charles Pulley is requesting a side yard setback variance to construct an accessory structure at 540 Emery Street.

OTHER BUSINESS

7. Items from the Board
8. Items from City Staff
9. Public Invited to be Heard
10. Adjourn

If you need special assistance to attend this meeting please call Jeremy Tamlin at the Building Inspection office 303-651-8331.
BOARD OF ADJUSTMENT PUBLIC HEARING REPORT

APPLICANT: Marj and Eric Merges          CASE #: DV-VAR-18-00005
REPRESENTATIVE: Applicant            DATE: April 2, 2018
ADDRESS: 614 Baker Street          REQUEST: Expansion of Non-Conformity

Introduction/Background

An application for a variance has been submitted to permit an expansion on an existing non-conforming structure at 614 Baker Street. The property is located in the Downer and Donovan's Resubdivision, and is zoned RLE (Residential Low Density Established). An aerial map and site photos are attached to this staff report.

The property developed with a single-family home built in 1910 with a detached accessory building behind the principal structure. The homeowner has requested to construct an addition connecting the principal dwelling unit to the existing garage/accessory building.

A variance to expand an existing non-conforming structure is required to construct the addition as proposed.

Analysis

Longmont Municipal Code Section 15.08.070.A requires Board of Adjustment variance approval to enlarge or expand an existing non-conforming structure. The existing single family dwelling is located 2’ from the north property line where 7’ 3” would be required based on current setback requirements of 1’ for every 2.5’ of building height. In addition of the principal structure’s non-conformity, the accessory structure on the property is also non-conforming as it is located 1.5’ from the south property line on the lot.

Public notices were mailed out and the site was posted 14 days before the hearing. At the time this report was prepared, staff had not received any comments from the public.

The applicant states that the exceptional topographic condition and/or circumstance for this property is that the property currently has a structure that is located close to the property line that creates a non-conformity situation for the existing structure.
That applicant states that the addition will not create a detriment to the surrounding areas since the degree of non-conformity is not changing and all work is internal to the lot.

Recommendation

Staff recommends approval of variance DV-VAR-18-00005.
A maximum of twelve complete applications are accepted for each meeting on a first come, first serve basis only.

This application and required information must be returned by **March 5, 2013** for the **April 2, 2013** Board of Adjustment and Appeals Meeting.

Application deadline is 28 days prior to the scheduled meeting date. Applicant or Representative must be present at the Board of Adjustment and Appeals meeting for the case to be heard.

**PLEASE PRINT IN BLACK INK OR TYPE THE FOLLOWING INFORMATION**

**Applicant:**  
Marl & Eric Merges  

**Variance Address:**  
614 Baker St, Longmont CO  

**Mailing Address:**  
614 Baker St Longmont CO 80501  

**Phone:**  
303-579-1231  303-803-8842  

**Type of Variance Requested:**  
Building Setback  

**Email Address:**  
ericmerges@gmail.com  marlmerges@gmail.com  

**Owner of any subsurface mineral rights:**  

**Address:**  

**Phone:**  

The application must be accompanied by:

- **YES**  
- **NO**

- Completed application form
- An Improvement Location Certificate (ILC) or other paperwork certifying location of property line on subject property and setback measurements from all structures to property line must be accurate and readable.
- One set of stamped, addressed envelopes for all property owners within required notice distance of the perimeter of subject property
- List of names and addresses of all property owners within 300' along with certification as to accuracy of list
- Cover letter with written narrative of proposal
- 2 copies of concept design of building or structure design and architecture, including building elevations and footprints
- Building elevations MUST have roof midpoint height from grade noted, or scale drawings must be provided.
- Vicinity Map (8 1/4 x 11)
- Application Fees
- The ILC, Cover Letter, Application, Vicinity Map, and Concept Design Drawings may also be electronic documents

A REQUIRED NOTIFICATION SIGN SHOULD BE PICKED UP AT THE TIME OF THE VARIANCE APPLICATION SUBMITTAL AND POSTED THE REQUIRED TIME, EVEN IF THE CASE IS CONTINUED.

**Signature of Applicant**  
**Signature of Owner (Authorization for the Applicant to represent owner)**

Applicant may submit a letter of approval from the owner in lieu of a signature.
The Board of Adjustment and Appeals bases their approval of any variance upon the following criteria. Please address each of the variance criteria in detail, attaching additional sheets, if necessary.

1.) Explain how the property has exceptional topographic conditions, is exceptionally narrow, shallow, or of a shape which precludes meeting code for a proposed development.

   PLEASE SEE ATTACHED LETTER

2.) Explain how the strict application of any regulation would result in a peculiar, exceptional, and undue hardship upon the owner of the property.

   PLEASE SEE ATTACHED LETTER

3.) Will a variance create a substantial detriment to the public good, substantially impair the intent and purpose of the Zoning ordinance, substantially impair the comprehensive plans of the City, or result in significant adverse impacts to the natural environment? Explain

   PLEASE SEE ATTACHED LETTER

4.) Explain what exceptional circumstances apply to this specific piece of property, which do not generally apply to other properties in the same zoning area or neighborhood.

   PLEASE SEE ATTACHED LETTER

The burden of demonstrating that an application complies with applicable review and approval criteria is on the Applicant. The City or other parties do not have the burden to show that the criteria have not been met.
Project overview: 614 Baker Street, Longmont CO

The owners at 614 Baker Street would like to add on to their existing home by connecting the existing residence with an existing garage. The garage would then be considered living space. The intent is to add another bedroom and bathroom to accommodate their family needs.

The house is non-conforming because the north wall is too close to the property line. The addition proposed would be built such that the new construction would actually comply with setbacks at the north property line. (see drawings)

The garage was built prior to the purchase of this property and is located too close the south property line, but is in good condition and can be modified without too much expense. The addition on the west side of the garage would comply with setbacks and not increase the non-conforming piece. This garage will be upgraded and inspected in order to meet building code requirements.

It is our opinion that this condition of non-conformity has been in existence for some time and that the construction of the addition would have no further impact on neighboring properties.

1.) Explain how the property has exceptional topographic conditions, is exceptionally narrow, shallow, or of a shape which precludes meeting code for a proposed development.

The original house at 614 Baker Street was built during a time (aprx 1910) when houses were not necessarily placed according to location of the lot lines. As a result, the house is located only 2’ from the north property line. This is an arbitrary condition that is not the fault of the owner and also has no effect on the neighboring property as their house (616 Baker) is about 20’ away, providing ample space for their driveway and access to their property. Since the house was built before there were logical and enforced development codes, the location of the house in relation to the property line is not as relevant as is the relation to neighboring houses. As you can see from the aerial view of the property (enclosed) as well as the street front view that shows several houses, the distance between houses is appropriate.

When the owners at 614 Baker purchased their property, the previous owners had constructed a small garage and did so without a permit. As a result, the garage is only 1’-6” from the south property line. This is a condition that existed before the house was purchased. The current owners use this garage space as an art studio now.

2.) Explain how the strict application of any regulation would result in a peculiar, exceptional, and undue hardship upon the owner of the property.
Strict application of the code will result in the owners having to remove the garage and lose the value of that building. This is a hardship because the building is in good condition and with a little bit of work and appropriate inspection, can end up being used as living space. Also, the garage, while close to the property line, is located at a significant distance (about 28’) from the neighboring house.

3.) Will a variance create a substantial detriment to the public good, substantially impair the intent and purpose of the Zoning ordinance, substantially impair the comprehensive plans of the City, or result in significant adverse impacts to the natural environment? Explain

A variance here will have no impact on anything. The addition as proposed will be built at appropriate setback distances and the existing non-conforming buildings will not cause any problems as they have been in their locations for some time.

4.) Explain what exceptional circumstances apply to this specific piece of property, which do not generally apply to other properties in the same zoning area or neighborhood.

There is an underlying condition of exceptional circumstances in the historic old town area throughout Longmont. Since these properties were built before there were regulating codes and enforcement, the placement of many of the homes and accessory buildings throughout the area are located such that they do not meet current development code. The garage on this property, while built without a permit, does not really create any undue impact on the neighbor since the distance between the buildings is more than adequate.

In the end, this proposed addition does not increase the condition of non-compliance.
North Elevation
The New Addition Will Have Siding To Match Existing
No Siding is Shown on Existing For Graphic Clarity

mid point of new roof

Existing Garage

Proposed Addition

Existing

10'-11"

14'-4"

East Elevation
The New Addition Will Have Siding To Match Existing. No Siding is Shown on Existing For Graphic Clarity

West Elevation
I hereby certify that this improvement location certificate was prepared for EIA JONES and THAT IT IS NOT A LAND SURVEY PLAT OR IMPROVEMENT SURVEY PLAT, and that it is not to be relied upon for the establishment of fence, building, or other future improvement lines.

I further certify that the improvements on the above shown parcel on this date (August 8, 2012), except utility connections, are entirely within the boundaries of the parcel (except as shown), that there are no encroachments upon the described premises by improvements on any adjoining premises (except as indicated), and that there is no apparent evidence or sign of any easement crossing or burdening any part of said parcel (except as noted).

LEGAL DESCRIPTION
Lots 13 and 14, Block 22, DOWNER and DONOVAN'S Re-Sub-Division of Block 22, Longmont, Boulder County, Colorado.

Address: 614 Baker St., Longmont, CO.
Job No.: 12-8-2155-1
Scale: 1"=30'

Allen L. Royer
LS No. 11682
Date: 8-8-12
614 Baker St
Longmont, CO 80501

At this location
BOARD OF ADJUSTMENT PUBLIC HEARING REPORT

APPLICANT: Charles and Michelle Pulley

REPRESENTATIVE: Applicant

ADDRESS: 540 Emery Street

CASE #: DV-VAR-18-00006

DATE: April 2, 2018

REQUEST: Setback Variance

Introduction/Background

An application for a variance has been filed to permit a detached accessory building with reduced setbacks at 540 Emery Street. The property is located near the intersection of Emery Street and 6th Avenue, and is zoned RLE (Residential Low Density Established). An aerial map and site photos are attached to this staff report.

The property is developed with a single-family home built in 1912 and has a detached accessory structure on the rear of the lot. The homeowner has requested to construct a 144sf single story detached accessory structure on the rear of the property where an existing 225sf garage is already located. The current structure is located 1’ from the north property line (side yard) and 4’ from the east property line (rear yard) and the applicant proposes to construct the new structure in the same location.

A side yard setback variance of 3’ is required to construct the detached accessory building as proposed.

Analysis

Longmont Municipal Code Section 15.05.010.B requires structures to maintain setbacks from the property lines. The required setback in the RLE zone for a detached accessory building is 1’ for every 2.5’ of building height. The midroof height of the proposed structure is 10’ which necessitates a setback requirement of 4’ from side and rear property lines.

Public notices were mailed out and the site was posted 14 days before the hearing. At the time this report was prepared, staff had not received any comments from the public.

The applicant states that the exceptional topographic condition and/or circumstance for this property is that the lot has an exceptionally small rear and side yard which does not allow for an
accessory building to be constructed on the lot without encroaching into the setbacks. The application material states that the new structure will not be a detriment to the surrounding area but will in fact help the area by replacing a dilapidated structure with a one that is in the same location, only smaller than what is existing on the property.

**Recommendation**

Staff recommends approval of variance DV-VAR-18-00006.
To Whom It May Concern:

We, Charles and Michelle Pulley, homeowners of 540 Emery Street, would like to remove our dilapidated garage and build a smaller shed in the current location. Our garage was built before current property boundary setback requirements, and it sits approximately 1 foot off of our property line. Unfortunately, we have an extremely small backyard, measuring approximately 25ft x 60ft. If we were to rebuild under current requirements, we would lose a significant portion of the yard and have unusable land on the outside of the shed. Our current garage is approximately 12ft x 18ft and we would like to build a shed measuring 12ft x 12ft in its place. Since there is already a larger structure in the current location, we feel that there would be no significant harm to our neighbors.

Thank you for your consideration,

Charles and Michelle Pulley

[Signatures]
## CITY OF LONGMONT
### BOARD OF ADJUSTMENT AND APPEALS APPLICATION

**CASE #** DV-VAR-18-00006
**DATE RECEIVED** 1/6
**RECEIVED BY** B.T.
**AMOUNT PAID** 100.00

A maximum of twelve complete applications are accepted for each meeting on a first come, first serve basis only.

<table>
<thead>
<tr>
<th>Sign Variance</th>
<th>Building/structure additions, setbacks and fences</th>
<th>Extension or Re-construction of Non-Conforming Use or structure</th>
</tr>
</thead>
<tbody>
<tr>
<td>FEE $250.00</td>
<td>FEE $100.00 1 Family dwelling</td>
<td>FEE $250.00 Over 1 Family dwelling and commercial</td>
</tr>
</tbody>
</table>

This application and required information must be returned by _____________ for the ______________ Board of Adjustment and Appeals Meeting.

Application deadline is 28 days prior to the scheduled meeting date. Applicant or Representative must be present at the Board of Adjustment and Appeals meeting for the case to be heard.

**PLEASE PRINT IN BLACK INK OR TYPE THE FOLLOWING INFORMATION**

<table>
<thead>
<tr>
<th>Applicant: Charles and Michele Pulley</th>
<th>Representative:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Variance Address: 540 Emery St</td>
<td>Address:</td>
</tr>
<tr>
<td>Mailing Address: 540 Emery St. 80501</td>
<td>Phone:</td>
</tr>
<tr>
<td>Phone: 303-513-3348  Wk#</td>
<td>Phone: email -</td>
</tr>
<tr>
<td>e-mail: nathanepulleyphoto.com</td>
<td>Wk#</td>
</tr>
<tr>
<td>Type of Variance Requested: Property Boundary</td>
<td>Zoning: Residential</td>
</tr>
<tr>
<td>Legal Description of site &amp; nearest cross street: Private Residence - 6th St.</td>
<td></td>
</tr>
<tr>
<td>Owner of any subsurface mineral rights: Charles Pulley</td>
<td>Owner of described property: Charles Pulley</td>
</tr>
<tr>
<td>Address: 540 Emery St. 80501</td>
<td>Address:</td>
</tr>
<tr>
<td>Phone: 303-513-3348</td>
<td>Phone:</td>
</tr>
</tbody>
</table>

The application must be accompanied by:

**DOES THIS PROPERTY HAVE HISTORICAL DESIGNATION?** X NO

☑ Completed application form
☑ An Improvement Location Certificate (ILC) or other paperwork certifying location of property line on subject property and setback measurements from all structures to property line must be accurate and readable.
☑ One set of stamped, addressed envelopes for all property owners within required notice distance of the perimeter of subject property
☑ List of names and addresses of all property owners within 300' along with certification as to accuracy of list
☑ Cover letter with written narrative of proposal
☑ 7 copies of concept design of building or structure design and architecture, including building elevations and footprints
☑ Building elevations MUST have roof midpoint height from grade noted, or scale drawings must be provided.
☑ Vicinity Map (8 ½ x 11)
☑ Application Fees

A REQUIRED NOTIFICATION SIGN SHOULD BE PICKED UP AT THE TIME OF THE VARIANCE APPLICATION SUBMITAL AND POSTED THE REQUIRED TIME, EVEN IF THE CASE IS CONTINUED. APPLICATION ACCOMPANIMENTS TO BE TYPED OR PRINTED IN BLACK INK ON 8 ½ X 11" PAPER.
The Board of Adjustment and Appeals bases their approval of any variance upon the following criteria. Please address each of the variance criteria in detail, attaching additional sheets, if necessary.

1.) Explain how the property has exceptional topographic conditions, is exceptionally narrow, shallow, or of a shape which precludes meeting code for a proposed development.

   We have an exceptionally small yard. Our backyard is approximately 60' x 25', or 1500 square feet.

2.) Explain how the strict application of any regulation would result in a peculiar, exceptional, and undue hardship upon the owner of the property.

   If we are forced to adhere to current setback requirements, we will lose a significant portion of useable space in our yard. We would just like to build in the current footprint, albeit a smaller structure.

3.) Will a variance create a substantial detriment to the public good, substantially impair the intent and purpose of the Zoning ordinance, substantially impair the comprehensive plans of the City, or result in significant adverse impacts to the natural environment? Explain

   No. Again, we wish only to replace our dilapidated garage with a new, smaller structure within the original footprint.

4.) Explain what exceptional circumstances apply to this specific piece of property, which do not generally apply to other properties in the same zoning area or neighborhood.

   We have an acutely small yard and are only looking to maximize our available space. The detached garage area as it currently stands would be more appropriately used as a shed and more yard space.

The burden of demonstrating that an application complies with applicable review and approval criteria is on the Applicant. The City or other parties do not have the burden to show that the criteria have not been met.
This 12 x 12 is a well-balanced and spacious shed capable of accommodating all your garden related needs. The overall width of the shed is 12 feet and 1 inch with a 12 feet and 4 1/2 inches height. The roof width is 13 feet and 7 1/2 inches. There is a huge door in the front with a width of 7 feet and 4 inches and a height of 7 feet and 2 inches and a window that is 3 x 3 in size. Note that the window and the door must be purchased separately or build independently. Therefore, both of these items will not be part of the shed plan. Follow the manufacturer's instruction to install the window and the door perfectly into position.

NOTE

Use old doors and windows to save money. Follow manufacturer's instructions to accurately install the doors and windows.
I hereby certify that this improvement location certificate was prepared for:

Paul Zolfo & Nathan Pulley

THAT IT IS NOT A LAND SURVEY PLAT OR IMPROVEMENT SURVEY PLAT, and that it is not to be relied upon for the establishment of fence, building, or other future improvement lines. I further certify that the improvements on the above shown parcel on this date, 5/04/2015 except utility connections, are entirely within the boundaries of the parcel, except as shown, that there are no encroachments upon the described premises by improvements on any adjoining premises, except as indicated, and that there is no apparent evidence or sign of any easement crossing or burdening any part of said parcel, except as noted.

LEGAL DESCRIPTION:
The South 33.41' of the West 83' of Lot 1 & the North 7' of the West 83' of Lot 2, Block 42, Longmont Original Town, County of Boulder, State of Colorado.

Address: 540 Emery St., Longmont
Job No. :15–5–47–1793
Scale : 1”=20’
Easement Source: Recorded Subdivision Plat

Andrew J. Patterson, PLS #26971
Date: 5/4/15
To the Members of the Variance Board:

My name is Nigel Pilling, and I live directly to the south of the Pulleys at 534 Emery Street. While the garage is on the opposite side of the Pulley backyard from our shared property line, we have a clear view of its sagging roof from our yard and upstairs windows. Therefore, I feel compelled to express support for this project.

I understand that the need for a variance comes from the building code requiring a four-foot setback off the property line. The Pulley’s yard is exceptionally small, and they do not have four feet to give as that would basically put the shed in the middle of their yard. I do hope you will weigh the unusually small yard and the increasingly dire need to replace the unsafe garage with a smaller footprint structure when deliberating their request. It would definitely benefit our block to have this project approved.

Thank you for your time,

Nigel Pilling
534 Emery Street
Longmont, CO 80501
303-564-0055
March 28, 2018

To Whom It May Concern:

My name is Jon Belak, and I live with my wife Amy at 355 6th Street. We share the east-west property line with the Pulleys, which means the back of their garage and fence line is alongside our own garage and yard. Presently both of our properties lines do not meet the current setback requirements of the City because of the time they were built.

We would like to officially give our full support to the Pulleys in their plan to tear down their garage and build a smaller, modern shed with the footprint beginning in the original area, close to the property line. The current garage is dilapidated and needs replacing; there is no doubt about that. However, if they are required to build the new shed four feet off the property line, they would lose critical space in their very small yard to the point of ridiculousness. It just would not work.

We cannot think of a reason to protest this project. By replacing the failing garage with a new, smaller structure and increasing their yard size, it will enhance the neighborhood a great deal. We do not see any adverse impacts of their design on our property and it will only increase the safety of our property with a solid, modern structure replacement.

Thank you for your consideration,

[Signature]

Jon Belak
355 6th Street
Longmont, CO 80501
720-203-1964