

BOARD OF ADJUSTMENT
STAFF REPORT

Date Prepared: February 20, 2025
Meeting Date: February 26, 2025

RE: Centrum – Variance

To: Town of Fraser Board of Adjustment
From: Alan Sielaff, Assistant Town Planner
Project Number: TF25-02
Project Address: 150 Clayton Court
Applicant: Outwest Investments
Property Owner: Fraser Downtown, LLC
Zoning: Riverwalk (RW)
CC: Michael Brack, Town Manager
Garrett Scott, Town Planner

REQUEST

The applicant is requesting a variance from Section 19-2-255(g)(1) to reduce the minimum depth of required ground floor commercial uses along Clayton Court from twenty feet (20) as required in the Riverwalk (RW) zone district to zero (0) feet in the portions of the lot with less than ninety (90) feet in depth.

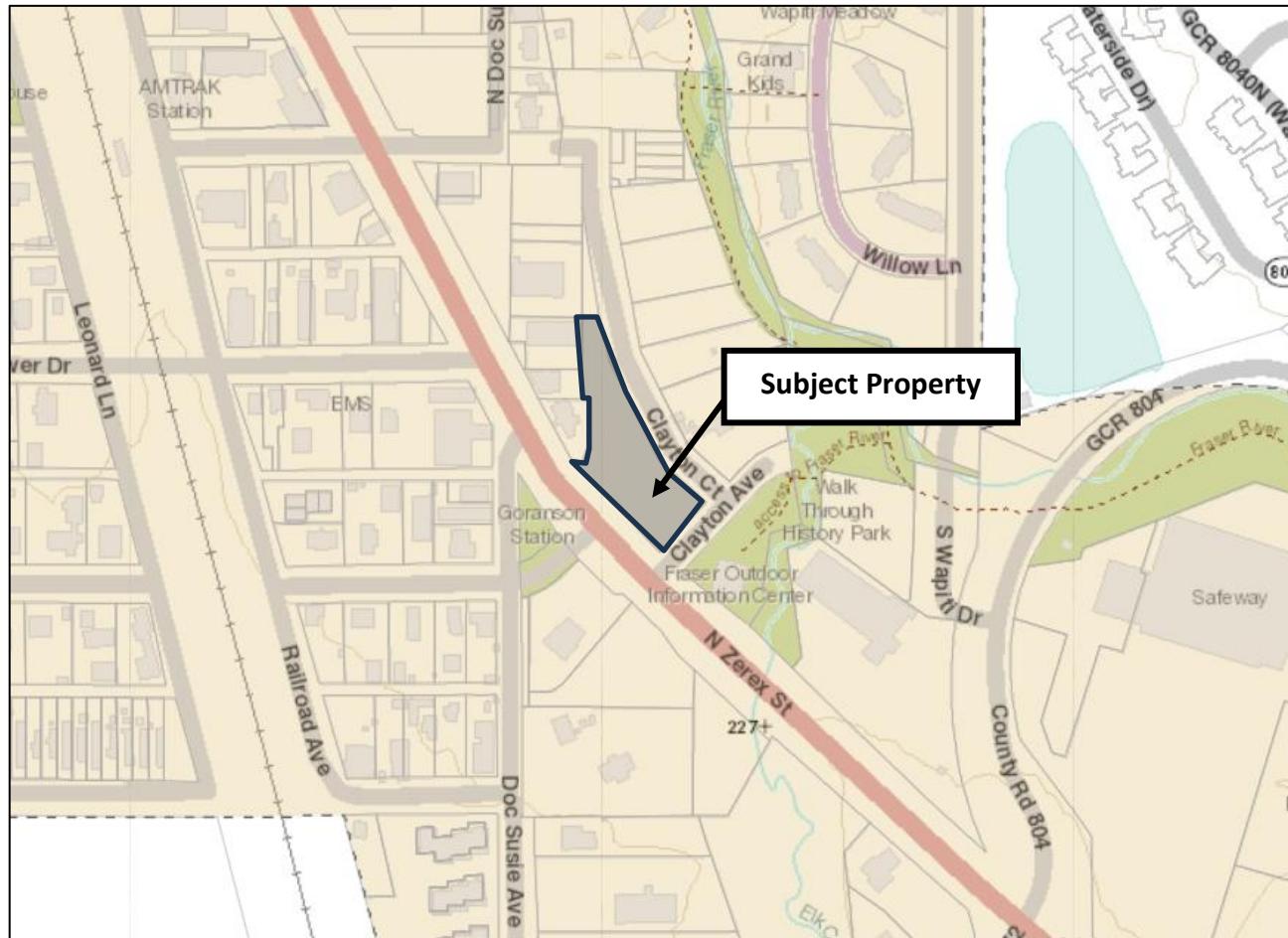
BACKGROUND

The current property at 150 Clayton Court includes one remaining mobile home residence in an area that formerly included others as part of the Timberline Plaza mobile home park. The area has been zoned Riverwalk since December of 2023 when it was legislatively rezoned from Business with the previous Riverwalk Overlay applied. Prior to this in June of 2023, properties along Clayton Ct. were rezoned from Medium Density Single Family (MDSF) to Business. The area has been a key focus of Town planning efforts since at least the 2017 Downtown Fraser Strategic Plan, and more recently the area has seen tangible changes with the Strom Townhomes development at 144-148 Clayton Ct. approved in May of 2024 and currently under construction, and a capital improvement project is currently underway to replace utility lines within the Clayton Ct. right-of-way with future paving and streetscape improvements planned for this summer.

Applicants Greg Bechler and Kevin Rifkin of Outwest Investments (formerly Tyson Investments) first discussed the proposed Centrum Townhomes project with staff in August 2024 and subsequently submitted two Sketch Plans that were presented to the Planning Commission on October 23, 2024 and January 15, 2025. As most recently presented to the Planning Commission, the overall development concept is to be pursued in two phases, with Phase 1 consisting of approximately 2,400 sq. ft. of ground floor commercial space and five residential units located on the northern portion of the site. A future Phase 2 is to consist of a more substantial, approximately 15,000 sq. ft. building footprint on the south portion of the site with building facades on Highway 40, Clayton Ave., and Clayton Ct. Phase 2 is envisioned to include tuck under parking, ground floor commercial, and up to 27 residential units in upper floors if applicable criteria is met for the Riverwalk district density bonus. Through the sketch plan review process, items related to existing site constraints and zoning requirements of the Riverwalk District have been discussed with staff, referral agencies, and the Planning Commission. Following the

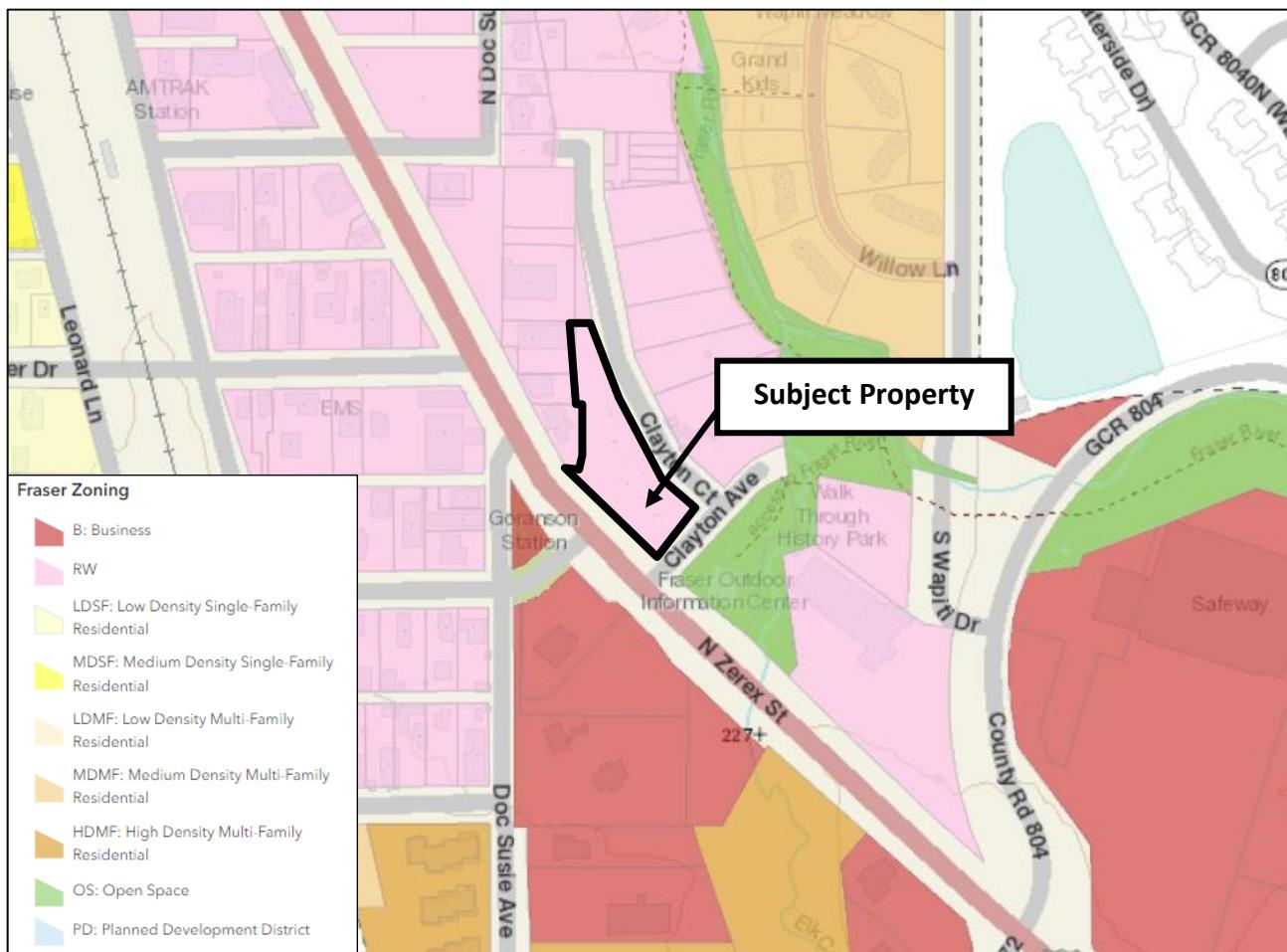
most recent presentation to the Planning Commission and prior to formal land use applications for the required Major Site Plan and Major Subdivision Final Plat, the applicants have submitted this variance request relating to the twenty (20) foot ground floor commercial depth requirement in the Riverwalk District.

LOCATION MAP



ZONING & LAND USE

The site is located within the Riverwalk (RW) zone and adjacent properties to the north, northwest, and east are also zoned Riverwalk. These areas include existing businesses and residences that preceded the area's rezoning to Riverwalk. The area south and southeast across Clayton Avenue is zoned Open Space and contains Headwaters Trails Alliance and parking. Areas southwest of the site across Highway 40 are zoned Business, the former designation for the existing site and surrounding Riverwalk zoned properties.



REFERRAL REVIEW

Variances are not subject to referral requirements per Sec. 19-1-210 Table 1.1; however, application materials were sent to the Town Attorney and their review memo is provided as an attachment to this report. Conceptual site plans and other sketch plan application materials were sent to referral agencies for the opportunity to provide comment in December 2024 and were provided to the applicant and the Planning Commission ahead of the January 15, 2025 Planning Commission meeting.

RIVERWALK DISTRICT AND THE GROUND FLOOR COMMERCIAL DEPTH REQUIREMENT

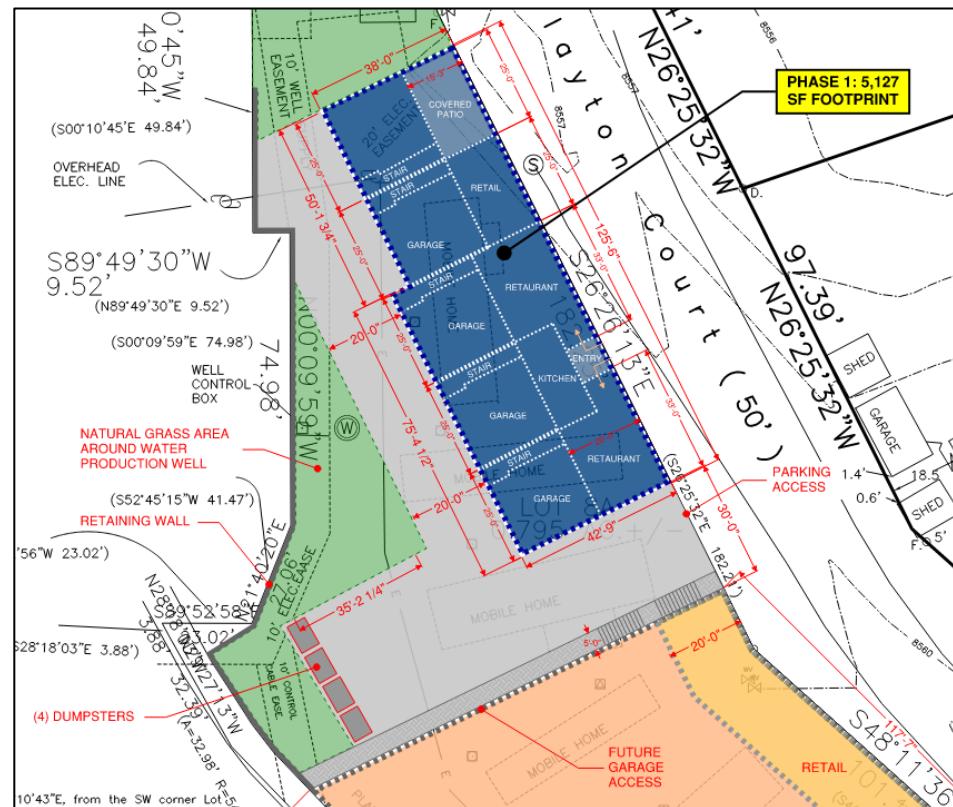
The following excerpts are provided from [Sec. 19-2-255](#) Riverwalk District regarding the variance request.

(a) Intent. The purpose of the Riverwalk District is to provide for development that fosters the creation of a high density, walkable, mixed-use neighborhood which will integrate Fraser's historic downtown with the Fraser River and generate opportunities for downtown redevelopment, affordable housing and economic revitalization. This zone district is envisioned to have ground floor commercial positioned closely to the street to create a vibrant Town Center. On-site parking should be located away from pedestrian areas as much as feasible in order to activate uses along the street and Fraser River and promote the walkable nature of the district.

(g) Additional provisions:

(1) All properties with frontage on Highway 40 (Zerex Street) or Clayton Court shall have ground floor commercial uses along the street frontages. These commercial uses shall be required for a minimum of the first twenty (20) feet in depth of the structure. Vehicular or pedestrian circulation and building mechanical equipment may be located within this twenty (20) feet. Ground floor commercial uses shall conform to the building design standards in Section 19-4-190 of this Chapter.

The applicant has pointed to the language allowing vehicular or pedestrian circulation and building mechanical equipment as allowing for their proposed design of resident garages and building equipment to encroach within the twenty-foot commercial use structure depth as meeting the language of the code. While staff is not comfortable considering private residential parking as vehicular circulation or separate interior building equipment rooms rather than commercial space within the front twenty (20) feet of the building's depth, we do feel it is potentially a grey area in the code that could be better defined and may be considered in limited circumstances as part of this variance request. Below is the sketch plan as presented to Planning Commission on January 15, 2025:



VARIANCE REVIEW PROCESS

Variance requests that do not qualify for administrative review per [Sec. 19-1-350](#) are to be heard by the Board of Adjustment which may grant a variance only to the extent it finds the request meets the conditions, where relevant to the subject property and adjacent neighborhood or district, and are present as outlined in [Sec. 19-1-330\(a\)\(1\)](#). Provided below are the review criteria, the applicant's provided reasoning, and staff's review of these criteria.

1. There are unique physical circumstances or other conditions peculiar to the affected property, such as exceptional topography or irregularity, narrowness or shallowness of a lot.
 - a. Applicant reasoning: This lot has unique physical circumstances, mainly narrowness and shallowness. It is the most irregular lot on Clayton Ct.
 - b. Staff review: Agree – The lot has three street frontages, and the northern half of the narrows considerably as Clayton Ct. bends to the northwest.
2. The unique physical circumstances or other conditions do not exist throughout the neighborhood or district in which the property is located.
 - a. Applicant reasoning: As mentioned above, this is the only lot that has these unique characteristics in the area.
 - b. Staff review: Agree – While there is not necessarily a rigidly regular pattern of lot sizes and shapes in the greater downtown area, the majority of surrounding lots are more regularly shaped and do not narrow to the degree of this lot.
3. The unique physical circumstances, other conditions or any other hardship complained of have not been created by the applicant.
 - a. Applicant reasoning: Due to the physical circumstances, this hardship had been created when the lots were platted originally and not by the applicant.
 - b. Staff review: Agree – This is an existing condition to the site, which seems to have evolved into this shape from previous subdivisions carving off adjacent portions in past decades under previous ownership. The lot once included a larger area consisting of the majority of the area east and north of the site towards the Fraser River prior to the dedication of Clayton Ct. right-of-way according to the 1986 Clayton Subdivision Final Development Plan Plat. Additionally, the ground floor commercial depth requirement is a relatively recent zoning requirement being implemented with the Riverwalk zone district, which was applied to the property through a legislative rezoning by the Town in 2023.
4. Because of the unique physical circumstances or other conditions, the property cannot be reasonably developed in conformity with the provisions of this Chapter.
 - a. Applicant reasoning: This is true as the chapter requires retail but also has this as the intent “The purpose of the Riverwalk District is to provide for development that fosters the creation of a high density, walkable, mixed-use neighborhood which will integrate Fraser's historic downtown with the Fraser River and generate opportunities for downtown redevelopment, affordable housing and economic revitalization. This zone district is envisioned to have ground floor commercial positioned closely to the street to create a vibrant Town Center. On-site parking should be located away from pedestrian areas as much as feasible in order to activate uses along the street and Fraser River and promote the walkable nature of the district.” Due to wanting retail on the front, high density / mixed use, and hiding streets and parking in the back, it makes it impossible to

reasonably develop this area

b. Staff review: Agree – The property is already encumbered by one of the Town's water production wells and is impacted by Town owned water and sanitary sewer easements on the narrower north portion of the lot that further reduce the buildable area of the property. In an attempt to meet the mixed-use intent and specific design requirements of the Riverwalk district to include both ground floor commercial and high density residential, the applicant has provided two iterations of conceptual plans through the sketch plan review process with staff and the Planning Commission and explained some of the challenges associated with accommodating the full ground floor commercial requirement on this portion of the lot.

5. The variance, if granted, will not alter the essential character of the neighborhood or district in which the property is located, or substantially or permanently impair the appropriate use of adjacent conforming property.

- a. Applicant reasoning: This variance will not alter the essential character or permanently impair the appropriate use of adjacent conforming properties. In fact, it will have the opposite effect and help the neighboring properties and the area as a whole by allowing hidden parking tucked behind and vehicular circulation away from main street
- b. Staff review: Agree – The proposed development will be only the second new development on Clayton Ct. since the rezoning in 2023. While the existing Clayton Ct. has a few existing mobile home residences, the area is mostly vacant and the vision for the area is one of change to a more walkable, mixed-use downtown district. The requested variance will help facilitate additional investment on the corridor, while maintaining the intent of the ground floor commercial requirement for more usable portions of the site. There are no anticipated impairments of adjacent properties with this variance request.

6. The variance, if granted, is the minimum variance that will afford relief and is not detrimental to the public good or to the purpose, intent and spirit of this Chapter or the Town Comprehensive Plan.

- a. Applicant reasoning: This variance is the minimum for relief and reflects the spirit of the Chapter and is in exact conformity with the Town Comprehensive Plan
- b. Staff review: Disagree – The requested variance to waive the ground floor commercial depth requirement for portions of the lot ninety (90) feet in depth or less does not appear to be the minimal ask as the sketch plan presented to the Planning Commission on January 15, 2025 included a design that accommodated twenty (20) feet of ground floor commercial uses up to portions of the lot approximately sixty-five (65) feet in depth, as well as depicting ground floor commercial and patio space in widths less than twenty (20) feet in portions of the lot with approximately fifty-five (50) feet in depth. However, staff believes this criteria would be met if an alternative ground floor commercial depth and/or minimum lot width threshold, or some combination of the two, is granted.

7. The variance is needed to provide a reasonable accommodation to a person or persons with a disability.

- a. Applicant reasoning: No response/not applicable.
- b. Staff review: Not applicable.

Should the Board of Adjustment approve the variance, the following items listed in Sec. 19-1-330 copied below should be addressed:

(b) In granting any variance, the Board of Adjustment has the authority to attach such reasonable conditions as it deems necessary to protect the general welfare and implement the purposes of this Chapter.

(d) No grant of a variance shall be complete or effective unless and until the Board of Adjustment has adopted a written resolution approving the variance, which resolution shall identify the property for which the variance is granted, and state specifically the exceptional conditions, practical difficulties or unnecessary hardships involved, or other grounds for granting the variance. The resolution shall also specify any terms and conditions applicable to the variance, including, without limitation:

- (1) Limitations on its duration;
- (2) Whether the variance runs with the land or is personal to the applicant;
- (3) Required materials or construction methods;
- (4) Rights of adjacent property owners, and
- (5) Circumstances (in addition to violation of the terms of the variance) which would give rise to a revocation of the variance.

Staff recommends that if approved, the parameters of the variance request are adjusted to minimize the reduction from the requirements of the code while still affording enough flexibility to accommodate final design and ensure usable spaces. Considering the previously submitted sketch plans, staff suggests that portions of the lot with seventy (70) feet of depth or less be granted flexibility from the twenty (20) foot ground floor commercial uses depth requirement, and that remaining portions of the lot which are proposed with building coverage must include street level activation by other means such as inclusion of storefront windows and commercial uses with no minimum depth, or other means of activation such as commercial or residential outdoor patio space with no minimum depth.

Additionally, to address the potential limitations included in the code language above, staff recommends the duration of the variance expire in one year, but to be automatically extended upon land use application for a proposed development. Then, the variance would remain valid through the land use application review process and extend for one additional year after final approval by the Board of Trustees for a major site plan, consistent with the allowed duration of approval of a site plan in Sec. 19-1-245. Staff also suggests the variance run with the applicant so as to remain specific to the current proposal. If greater flexibility regarding the ground floor commercial depth provision in the Riverwalk zone is desired, staff recommends a larger discussion on the topic and consideration of a code amendment to allow for wider application.

PUBLIC NOTICE

Sec. 19-1-215 establishes the requirements for public notice when public hearings are required with land use review, including for a variance or appeal. Newspaper publication and mailed letters are required for the variance request, and were published/distributed as follows:

- Newspaper: Published in the Sky-Hi News and Middle Park Times on February 12, 2025 (Town responsibility)

- Mailed letters: Sent by certified/return receipt mail no later than February 12, 2025 (applicant responsibility)
- Affidavits of publication are included with the Board of Adjustment packet

SUMMARY

The applicant has submitted a complete application for the review of a Variance from Section 19-2-255(g)(1) to reduce the minimum depth of required ground floor commercial uses along Clayton Court from twenty feet (20) as required in the Riverwalk (RW) zone district to zero (0) feet in the portions of the lot with less than ninety (90) feet in depth. Per Sec. 19-1-330, the Board of Adjustment shall have the power to grant variances from the provisions of this Chapter, subject to the voting requirements specified in Section 19-1-340 below. Further, the Board of Adjustment may grant a variance only to the extent it finds that the listed conditions, where relevant to the subject property and adjacent neighborhood or district, are present.

REQUEST: A variance from Section 19-2-255(g)(1) to reduce the minimum depth of required ground floor commercial uses along Clayton Court from twenty feet (20) as required in the Riverwalk (RW) zone district to zero (0) feet in portions of the lot with less than ninety (90) feet in depth.

RECOMMENDATION: Staff recommends that the Board of Adjustment APPROVE the variance request, subject to the conditions of approval listed below:

CONDITIONS OF APPROVAL:

- 1) Ground floor commercial uses may be reduced in depth from the required twenty (20) feet to as low as zero (0) feet for portions of the subject property where the depth of the lot is less than seventy (70) feet. The applicant shall still be required to accommodate the intent of the ground floor commercial depth requirement in the Riverwalk district for remaining building areas to the maximum extent feasible by including street level activation by other means such as inclusion of storefront windows and commercial uses at reduced depths, utilization of commercial or residential outdoor patio space, or other means as mutually agreed upon through the land use application review process.
- 2) The Variance approval is valid for one (1) year, to expire on February 26, 2026 unless a Major Site Plan application is submitted and deemed complete within this time period, in which case the variance shall remain valid up until one (1) year from the date the Board of Trustees provide any final approval on such land use application per Sec. 19-1-245. In the event of an expiration, the Applicant shall submit a Variance Application anew for subsequent review and determination.

Town of Fraser
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www.frasercolorado.com



Attachments:

- 01 Variance Application
- 02 Letter of Representation
- 03 Variance Narrative Request
- 04 Vicinity Map
- 05 Centrum Sketch Plan
- 06 Mailed Notice Affidavit
- 07 Public Notice Affidavit
- 08 Whitmer Law Firm Review Memo

Board of Adjustment Resolution 2025-02-02