



# City of Laramie

Planning Division  
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**LARAMIE PLANNING COMMISSION  
(SITTING AS THE LARAMIE BOARD OF ADJUSTMENT)  
February 27, 2023  
STAFF REPORT**

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**FILE:** VAR-22-06: 233 S. Lincoln St. Carport in Setback

**REQUEST:** A variance request from LMC 15.14.040.C.10.b for a carport in the R2M Zone that does not meet the required setback on this property.

**LOCATION:** 233 S. Lincoln St.

**APPLICANT(S):** Carl and Linda Gustafson

**OWNER:** Carl and Linda Gustafson

**PURPOSE:** To allow for constructed carport to remain in place.

**CURRENT ZONING:** R2M (Limited Multi-Family with Independent Manufactured Homes)

**PREPARED BY:** Philipp Gabathuler, AICP, Principal Planner

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## STAFF RECOMMENDED MOTION:

Move to **deny** the requested variance from Laramie Municipal Code 15.14.040.C.10.b, for a carport in the R2M Zone that does not meet the required setback on this property, that would allow the applicant to keep the constructed, unpermitted carport on the property located at 233 S. Lincoln St., zoned R2M, based on findings of fact and conclusions of law and subject to the recommend conditions.

## APPLICABLE CODE SECTIONS

15.14.040.C.10.b Parking and Off-Street Loading Design Standards: Backing or Maneuvering  
15.06.060.D - Variances

Authority for consideration and granting of variances is found in LMC §15.06.060.D [Variances]. The variance process is intended to provide limited relief from the requirements of this code in those cases where strict application of a particular requirement will create a practical difficulty or unnecessary hardship prohibiting the use of land in a manner otherwise allowed under this code. It is not intended that variances be granted merely to remove inconveniences or financial burdens that the requirements of this code may impose on property owners in general. Rather, it is intended to provide relief where the requirements of this code render the land difficult or impossible to use because of some unique physical attribute of the property itself or some other factor unique to the property for which the variance is requested. State and/or federal laws or requirements may not be varied by the city.

**BACKGROUND/DISCUSSION:**

A City Building Inspector informed Planning Division staff that a 24' x 26' carport was being constructed at 233 S. Lincoln St. without a building permit—a violation of Section R105 of City Building Code which requires any structure over 200 sqft. to go through the City's Building Permit process—and suspected that setback requirements were not being met. Planning Staff inspected the property and confirmed that the carport was not meeting the setback required by Laramie Municipal Code Section 15.14.040.C.10.b Parking and Off-Street Loading Design Standards: Backing or Maneuvering and sent a zoning violation letter to the owners of 233 S. Lincoln St.

The general request being made by the owners of 233. S. Lincoln St. is to allow for the 24' x 26' carport to remain in place on the property. The subject property is currently developed with a independent manufactured home.

A Variance is required for this request due to the fact that the carport is set back roughly 3' from the right-of-way edge instead of the 20' required by Laramie Municipal Code Section 15.14.040.C.10.b. Laramie Municipal Code that states:

“Where backing movements from a driveway to the public right-of-way are allowed, all off-street parking shall be provided so that a minimum of 20 feet of length is provided from the sidewalk or future sidewalk to the garage or carport except as approved by the City Manager's Office. Where no sidewalk location has been established, a 20-foot separation from the right-of-way edge to the parking structure shall be required, except as approved by the City Manager's Office.”

The Board of Adjustment met on 2/14/23 to discuss the variance. The Board decided to postpone the item until the 2/27/23 meeting in order to establish findings of fact and research the concept of a legal agreement that would require the carport to be removed if Lincoln St. were improved in the future. The following documents were drafted by a Board member for discussion at the 2/27/23 meeting:

- **FINDINGS OF FACT (BOARD OF ADJUSTMENT): SEE ATTACHMENT 3**
- **DRAFT LEGAL AGREEMENT: SEE ATTACHMENT 4**

**DEPARTMENT REVIEW:**

The application was routed to other City departments for review and comment per standard procedure. Based upon the applicant's submitted information, the only comment of note was from public works seen below:

*“Based on Laramie Municipal Code it appears there may be Code or Planning concerns, but nothing in the right of way that causes concern from a public works perspective. Fences are typically on, within a foot of the property line, it is difficult to justify how the carport impacts the right of way anymore than a fence. There are no current utility or easement conflicts, and it is mid-block so not a sight triangle issue either.”*

**FINDINGS OF FACT FOR VARIANCE (PLANNING DIVISION STAFF):**

Pursuant to LMC §15.06.060.D [Specific Review Procedures – Variances], the Board of Adjustment must find that **all** of the following criteria have been met in order to approve the variance:

- (a) There are special circumstances or conditions, fully described in the board’s findings, that are peculiar to the land or building for which the adjustment is sought and do not apply generally to land or buildings in the neighborhood, and have not resulted from any act of the applicant subsequent to the adoption of the code, such as irregularity, narrowness, or shallowness of lot, or exceptional topographical conditions.**

*Staff Response:* It is the opinion of the planning division that special circumstances or conditions do not exist on this property. A carport of this size could be placed elsewhere on the site.

- (b) The circumstances or conditions are such that the strict application of the provisions of the code would deprive the applicant of the reasonable use of such land or building.**

*Staff Response:* Strict application of the code would not deprive the applicant of the reasonable use of the land due to there being other locations on the site suitable for the carport.

- (c) If applicable, the circumstances or conditions are such that the strict application of the provisions of the code would deprive the applicant of access to alternative forms of energy such as solar or wind power.**

*Staff Response:* Not applicable. No solar or wind power devices are being sought in this context and the variance being requested would not deprive the applicant of access to alternative forms of energy.

- (d) The granting of the adjustment is necessary for the reasonable use thereof and the adjustment as granted is the minimum adjustment that will accomplish this purpose;**

*Staff Response:* Staff believes that the granting of the variance is not necessary given alternate locations suitable on the property for the carport.

- (e) The granting of the variance is in harmony with the general purposes and intent of the code and will not be injurious to the neighborhood or otherwise detrimental to the public welfare;**

*Staff Response:* Staff believes that the variance is not in harmony with the general purpose of the code because future improvements to Lincoln St—including curb, gutter,

and sidewalk—would result in the carport only being set back 3 ft. from the edge of the sidewalk.

Staff believes that this carport is not currently detrimental to the surrounding neighborhood or public welfare. The concern is the future proximity of the carport to a fully improved Lincoln St.

- (f) The variance, if granted, will not alter the essential character of the neighborhood or district in which the property is located, nor substantially or permanently impair the appropriate use or development of adjacent property.**

*Staff Response:* Staff agrees that if the variance is granted the essential character of the neighborhood would not be impaired and the use of the adjacent property would not be affected. Staff's major concern with this variance is the future proximity of the carport to a fully improved Lincoln St.

#### **PUBLIC COMMENTS:**

Legal notice was published in the Laramie Boomerang on January 30, 2023. Letters were sent to surrounding property owners within 300 feet of the subject property on January 25, 2023. Staff has received no inquiries related to the Variance request as of February 1, 2023\*.

#### **ALTERNATIVES:**

1. Approve the variance as submitted by the applicant, based on findings of fact and conclusions of law.
2. Approve the variance subject to conditions, based on findings of fact and conclusions of law.
3. Deny the variance based on findings of denial. **(Staff's Recommendation)**
4. Postpone the variance until issues identified during the meeting can be resolved.

#### **CONCLUSION OF FINDINGS AND STAFF RECOMMENDATION/ BOARD OF ADJUSTMENT OPTIONS:**

All the required findings, statutorily necessary for granting a variance as detailed in the staff report above, cannot be made for the request to Municipal Code LMC § 15.22.020 therefore:

Move to **deny** the requested variance from Laramie Municipal Code 15.14.040.C.10.b, for a carport in the R2M Zone that does not meet the required setback on this property, that would allow the applicant to keep the constructed, unpermitted carport on the property located at 233 S. Lincoln St., zoned R2M, based on findings of fact and conclusions of law and subject to the recommend conditions.

#### **ATTACHMENTS:**

- 1 – Project Information including site drawing (9 pages)
- 2 – Cover Letter (2 pages)
- 3 – Draft findings of fact from Board of Adjustment (2 pages)
- 2 – Draft legal agreement (1 page)

Per Sharon Buccino, LPC member, 2/14/23

## Proposed findings to support granting of variance for carport at 233 S. Lincoln St from setback requirements

Pursuant to LMC §15.06.060.D [Specific Review Procedures – Variances], the Board of Adjustment must find that all of the following criteria have been met in order to approve the variance:

- (a) There are special circumstances or conditions, fully described in the board’s findings, that are peculiar to the land or building for which the adjustment is sought and do not apply generally to land or buildings in the neighborhood, and have not resulted from any act of the applicant subsequent to the adoption of the code, such as irregularity, narrowness, or shallowness of lot, or exceptional topographical conditions.**

Based on the applicant’s written submission and testimony at Board of Adjustment meeting held on February 13, 2023, the Board finds that special circumstances exist subsequent to adoption of the applicable code justifying a variance from the setback requirement. Specifically, the location of the current residence, full-grown trees and limited access to roadway restrict reasonable placement of a carport to where the applicant has chosen to locate it. Location of the carport appears to be in line with where cars are parked in relation to the street on adjacent and nearby properties.

- (b) The circumstances or conditions are such that the strict application of the provisions of the code would deprive the applicant of the reasonable use of such land or building.**

Constructing a carport to protect the applicant’s vehicles from storm damage and to ensure quick and easy departure to respond to the applicant’s medical condition is a reasonable use of the property. The location of the current residence, full-grown trees and limited access to roadway restrict reasonable placement of a carport to where the applicant has chosen to locate it.

- (c) If applicable, the circumstances or conditions are such that the strict application of the provisions of the code would deprive the applicant of access to alternative forms of energy such as solar or wind power.**

Access to alternative forms of energy such as solar or wind power are not at issue in this matter.

- (d) The granting of the adjustment is necessary for the reasonable use thereof and the adjustment as granted is the minimum adjustment that will accomplish this purpose;**

Constructing a carport to protect the applicant’s vehicles from storm damage and to ensure quick and easy departure to respond to the applicant’s medical condition is a reasonable use of the property. The location of the current residence, full-grown trees and limited access to roadway restrict reasonable placement of a carport to where the applicant has chosen to locate it. The proposed carport is no larger than necessary to accomplish the reasonable use of the

property to protect the applicant's vehicles and to limit the amount of time and work needed to access and use the vehicles if needed to address applicant's medical condition.

**(e) The granting of the variance is in harmony with the general purposes and intent of the code and will not be injurious to the neighborhood or otherwise detrimental to the public welfare;**

Based on the applicant's written submission and testimony at Board of Adjustment meeting held on February 13, 2023, the Board finds that the proposed variance is in harmony with the general purposes and intent of the code. The carport poses no clear safety issues and is not likely to result in stacking of cars that interfere with the public right of way. This finding is supported by comments made by the City of Laramie's Public Works Department as reflected in the staff report on the matter.

Public works stated as follows: "Based on Laramie Municipal Code it appears there may be Code or Planning concerns, but nothing in the right of way that causes concern from a public works perspective. Fences are typically on, within a foot of the property line, it is difficult to justify how the carport impacts the right of way anymore than a fence. There are no current utility or easement conflicts, and it is mid-block so not a sight triangle issue either."

The Board finds that granting the variance will not be injurious to the neighborhood or otherwise detrimental to the public welfare. Nothing in the record before the Board indicated potential harm from the carport as located. No public comments were received in opposition to the carport. The location of the parked cars and carport is consistent with the distance other cars are parked from the roadway.

**(f) The variance, if granted, will not alter the essential character of the neighborhood or district in which the property is located, nor substantially or permanently impair the appropriate use or development of adjacent property.**

Based on the applicant's written submission and testimony at Board of Adjustment meeting held on February 13, 2023, the Board finds that the variance will not alter the essential character of the neighborhood or district in which the property is located, nor substantially or permanently impair the appropriate use or development of adjacent property. No public comments were received in opposition to the carport. The location of the parked cars and carport is consistent with the distance other cars are parked from the roadway. The Board agrees with the applicant that the carport improves rather than harms the character of the neighborhood.

Per Sharon Buccino, LPC member, 2/14/23

Regarding Philip's request re concept for a legal agreement, I suggest the following: The Board proposes to approve the requested variance with the condition that the applicant agree to remove the carport immediately in the event that the carport interferes with a decision by the City of Laramie to upgrade Lincoln Street - including curb, gutter, and sidewalk. Such agreement with the city shall be made in a manner that transfers with title to the property. In other words, the obligation to remove the carport would apply to any and all subsequent owners of the property as well as the applicant. The Board requests advice of the City Attorney regarding whether such condition is feasible and the form such agreement between the applicant and the City of Laramie should take.