



# City of Laramie

Planning Division  
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**LARAMIE PLANNING COMMISSION  
(SITTING AS THE LARAMIE BOARD OF ADJUSTMENT)  
July 13, 2020  
STAFF REPORT**

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**FILE:** VAR-20-02: 4204 Comanche Dr. – Setback Variance  
**REQUEST:** A variance request from LMC 15.12.000.B, Table 12-2 that would allow for a Setback Variance for construction of a portico.  
**LOCATION:** 4204 Comanche Dr.  
**APPLICANT(S):** Francois Jacobs  
**OWNER:** Francois Jacobs  
**PURPOSE:** To allow a property within the R2 Zoning District to retain an already constructed portico on the east side of the house that does not meet setback requirements.  
**CURRENT ZONING:** R2 (Limited Multi-Family) District  
**PREPARED BY:** Matthew Cox, Associate Planner

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## STAFF RECOMMENDED MOTION:

Move to **deny** the requested variance from Laramie Municipal Code 15.12.000.B, Table 12-2 that would allow the applicant to retain a portico within the setback for a property located at 4204 Comanche Dr., zoned R2, based on findings of fact and conclusions of law and subject to the recommend conditions.

## APPLICABLE CODE SECTIONS

15.12.000.B – Setbacks  
Table 15.12, 12-2 – Dimensional Requirements – Residential Districts  
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:**General Information

On April 13, 2020, the City sent an enforcement letter to the owner of 4204 Comanche Dr. informing the owner that their newly constructed portico does not meet setback requirements and was also in violation of not applying for a building permit, which would have informed the owner of the setback requirement. After receiving the letter, the applicant visited the planning office to gather information and decided to apply for a variance in order to retain the newly constructed portico on the east side of the house.

The lot at 4204 Comanche Dr. is shaped so that the eastern lot line is splitting a turn in the road. With the portico being constructed in a straight line, the setback is met on the southern side of the portico but as it moves north, the setback is infringed and at its narrowest point is only a foot or so off of the adjacent neighbors fence.

Due to the setback infringement and the fact that the applicant did not apply for a building permit with our Building Administration Department, planning staff is unable to recommend approval of this variance.

Since submitting the variance, the applicant has submitted building permits for the work, but the submitted building permit is contingent upon the variance getting approved or denied.

**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 planning department only has comments surrounding the setback infringement and all other departments have no comments to make about the new addition. No matter the outcome of the Variance the applicant will be required to comply with all Building Code Requirements, including all necessary permits needed for the construction/remodel of the property.

**FINDINGS OF FACT FOR VARIANCE:**

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: As noted above the applicant was only made aware of the illegally constructed portico through an enforcement action related to lack of building permits and setback violations. Based on size of lot and that other houses are built of the same style in

the neighborhood, staff does not believe this is a unique situation or that the property has any special circumstances or conditions.

- (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:* The code would not deprive the applicant the use of the land or building. It is currently being used as a storage area for a camper, but this can be accomplished at the south end of the portico and does not need to be extended all the way north to where it infringes the setback requirement.

- (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 adjustment is not necessary and would not be the minimum adjustment to come into compliance. If the portico was not extended all the way north, it could meet the setback to a certain distance along the house.

- (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. Staff does believe that the portico poses no threat to the neighborhood or quality of life of the adjacent neighbors.

- (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:* 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.

#### **PUBLIC COMMENTS:**

Legal notice was published in the Laramie Boomerang on May 30, 2020. Letters were sent to surrounding property owners within 300 feet of the subject property on May 22, 2020. Staff has received multiple inquiries as to what the applicant is asking for, but none had issues with the variance. The adjacent neighbor on the east side provided staff a letter stating that he has no issues with the variance and has been in constant communication with the applicant through the process.

**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, can be made for the request to Municipal Code LMC § Table 15.14.040-3 therefore:

Move to **deny** the requested variance from Laramie Municipal Code 15.12.000.B, Table 12-2 that would allow the applicant to retain a newly constructed portico within the setback for a property located at 4204 Comanche Dr., zoned R2, based on findings of fact and conclusions of law.

**ATTACHMENTS:**

1. Vicinity Map (1 page)
2. Applicant Cover Letter (3 pages)
3. Portico Pictures and drawings (6 pages)
4. Neighbors Letter (1 page)