



# GATEWAY TO THE SAN LUIS VALLEY

## Town of Saguache Board of Adjustments Land Variance and Appeals Application Form

### INCOMPLETE APPLICATION MAY RESULT IN DENIAL OF REQUEST

The Board of Adjustments may only grant a variance if the Board finds that the following standards are satisfied, and the criteria is met. Each standard must have a response in as much detail as it takes to explain how your property condition satisfies the standards. The burden of proof rests within you. Use additional paper if needed. A non-refundable processing fee of three hundred dollars (\$350.00) must be submitted with this application.

Property owner Name(s): Brent A. Shields + Lisa Taylor Shields  
Mailing Address: 830 San Juan Ave.  
Saguache, CO 81149  
Phone: 719-628-9962  
Fax: X  
Email: lisataylor8743@gmail.com

### PROPERTY INFORMATION

Site Street Address: 830 San Juan Ave., Saguache, CO 81149  
Legal Description: Lot 9, Blk 27, Saguache B. 364 P. 824  
Cross Street: 9th Street Lot Size: 0.15 Acres  
[www.townofsaguache.org](http://www.townofsaguache.org)  
[www.saguachecounty-co.gov](http://www.saguachecounty-co.gov)

I/we hereby certify that I/we am the owner(s) of the property described above and that I/we am petitioning for a variance in conformance with of the Town of Saguache, Ordinance 2018-G. I understand that payment of the application fee is non-refundable and is to cover the costs associated with processing this application, and that it does not assure approval of the variance. I understand that the burden of evidence to show compliance with the administrative variance standards rests with me, the applicant. I also understand that assigned hearing dates are tentative and may have to be postponed by the Board of Adjustments for administrative reasons.

Date: 1/19/2024 Signature: [Handwritten Signature]

Payment Type: Check Date Received: 1-23-24

By: \_\_\_\_\_

Code Citation: 15-2-30

**Existing Situations and Conditions:**

See attached Plat. Currently, there are a number of setback violations. Some existed at the time current owners took title and some are a result of later repairs and additions.

**Effects of Granting the Variance:**

Granting the requested variance would preserve the integrity of the home in question, prevent undue hardship in requiring homeowner to remove structures, financially and as it relates to the integrity of the home, and continuing harmonious relations with adjacent landowners who have consented to repairs and additions.

**VARIANCE STANDARDS**

1. There exist exceptional or extraordinary physical circumstances of the subject property such as, but not limited to, streams, wetlands, or slopes, and such physical circumstances are not applicable to other land in the same area neighborhood.

Explain:

See attached

2. Because of these physical circumstances, the strict application of this code would create an exceptional or undue hardship upon the property owner and would deprive the applicants of rights commonly enjoyed by other properties in the neighborhood.

Explain:

See attached

3. The hardship is not self-imposed, and special conditions and circumstances do not result from the actions of the applicant and such conditions and circumstances do not merely constitute inconvenience.

Explain:

See attached

4. The variance, if granted, will not adversely affect the use of the adjacent property.

Explain: See attached

5. The variance, if granted, is in keeping with the intent of the Town of Saguache Municipal code and will not change the character of the neighborhood in which the property is located and will not permit a use that is not otherwise permitted.

Explain: See attached

6. The variance, if granted, does not adversely affect the health, safety, and welfare of the people of the municipality of the Town of Saguache.

Explain: See attached

7. The variance granted is the minimum variance that will make possible a reasonable use of the land.

Explain: See attached

8. Overhead view of the property, photographs, drawings and detailing the proposed changes are required as part of this application.

Included in this application:

Not included:  Why: \_\_\_\_\_

**I understand and have to the best of my knowledge answered the above questions and provided the requested information and materials**

Owner(s) Signature: B. K. Sell

Date: 1-23-24

**NOTICE:**

This application will be received during regular business hours at the Saguache Town Hall, 504 San Juan Avenue, Monday-Friday, 8:00 AM to 4:30 PM excluding holidays.

**BOARD OF ADJUSTMENTS**

The Board of Adjustments shall, within forty-five days of application, unless a longer time is necessary for consideration of the application for reasons specifically stated by the Board of Adjustments, either: (1) recommended approval the application in whole or in part, with or without modifications and conditions. (2) If denied, notify the applicant that they can appeal to the district court.

Date Filed: 1-24-24 Clerk/Deputy Clerk: Jos Garcia

Ordinance 2018-G  
Section 15-3-3  
Powers of the Board of Adjustment

The Board of Adjustments shall have the following powers made in the enforcement of such regulations any amendments to the land use regulations found in Chapter 15 of the Saguache Municipal Code and any building code, residential code, energy code, mechanical code, or similar land use regulation of the Town:

- 1) To hear and decide appeals where it is alleged by the appellant that there is error in any order, requirement, decision, or refusal made by an administrative official or agency based on or made in the enforcement of this Code or other adopted land use regulations. The Board may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from. Any such appeal shall be filed with the Town Clerk within forty-five (45) days of the final action or decision of the administrative official or agency.
- 2) To grant or deny variances from the provisions of such regulations when the strict application of this Code or other adopted land use regulations would result in particular and exceptional practical difficulties to, or exceptional and undue hardship upon the owner of such property. The Board may authorize, upon an appeal relating to said property, a variance from such strict application so as to relieve such difficulties or hardship provided such relief may be granted without substantial detriment to the public good and without substantially impairing the intent and purposes of such regulations or other adopted land use regulations. In granting any variance, the Board may attach such reasonable conditions and safeguards, as it may deem necessary to implement for the purposes of this Code or other adopted land use regulations. However, the Board may not grant variances from the provisions of such regulations or other adopted land use regulations covering the use of land or buildings or the provisions governing planned unit development. In granting or denying variances, the Board shall consider the following criteria and standards:
  - (a) Whether there are unique physical circumstances or conditions such as exceptional irregularity, narrowness or shallowness of a piece of property, or whether there are exceptional topographic or other physical conditions of other extraordinary and exceptional situation or conditions peculiar to the affected property.
  - (b) Whether unusual circumstances or conditions exist through the neighborhood or district in which the property is located.
  - (c) Whether the applicant has not created such unnecessary hardship.
- 3) To grant or deny special exception to land use regulations for the purpose of providing access to sunlight for solar energy devices.
- 4) To interpret the land use maps and pass upon disputed questions of lot lines, district boundary lines, or similar questions as may arise in the administration of land use regulations.

1. Mr. and Mrs. Shields took the property without the benefit of a new survey. They have since ordered a survey and now have the benefit of the attached plat. Mr. and Mrs. Shields took title to the subject property with existing setback violations and encroachments that were not apparent to them at the time they took title.

Attached photo documentation will show extraordinary physical circumstances including water retention and structural damage in areas of existing setback violations.

Being that Mr. and Mrs. Shields took title to the property with issues in existing violation zones, the setback lines were extraordinary in nature because the setback lines prevented the ability to make adjustments or repairs that were necessary to the integrity of their home. All of which was unknown to them at the time of taking title.

There was reliance on extremely old survey posts.

2. This property is unusual and unique because the title was taken with existing violations and encroachments that presented the impossibility of making necessary repairs and additions to the impacted area while maintaining compliance with city ordinances.

Mr. and Mrs. Shields were unable to enjoy the property compared to adjacent property owners because of the documented structural damage and water retention. This structural damage paired with water retention and flow patterns were causing flooding in the home and would have caused irreparable harm to the property in short order.

Mr. Shields spent a large sum of his savings to make well-constructed repairs to ensure the property could maintain reasonable use. Without taking the actions that Mr. Shields did, the hardship that existed would have made long term viability of the home practically impossible. Should any other manner of repair been possible, it would have likely been so costly that it would not have been economically feasible as the cost related to the market value of the property.

3. The hardship in this case is not self-imposed because title was taken with existing violations and encroachments. While Mr. and Mrs. Shields understand the assumption of some level of risk in taking title to the property without the benefit of a survey, the risk of the property being condemned or otherwise rendered unusable is an unreasonably extreme risk for landowners to bear in most cases.

The structure was designed and constructed on the current existing property line. While there is little relevance in discussing the possible shift of property lines over a course of

years, that may have been the case in this instance based on old, marked survey posts existing on the property at the time repair and additions began.

At this point, removal of the sidewalk and eaves in question would allow water to begin freely flowing back into the structure and significantly impact, if not destroy, the integrity of the home. Outside of a granted variance, there exists no possible way to alter or construct remedial measures to the impacted area.

Thus, the special circumstances are more than an inconvenience or financial burden because complete removal of the additions would severely damage the structure or deem it unusable.

Mr. and Mrs. Shields did verifiably consider alternatives. There was clearly no possible way to redesign or move the structure. However, they did discuss the additions with the adjacent landowners who agreed to grant Mr. and Mrs. Shields four (4) feet of their property should it be necessary. I have attached writings stating the same from each landowner.

The most effective process of solidifying this agreement has been contemplated, but not yet executed. Mr. and Mrs. Shields have legal counsel that has been in contact with both adjacent landowners and ensures the Board of Adjustments that he will undertake the process of executing the agreement in a swift fashion to conform with the requirements of the Board of Adjustments.

4. As previously stated, attached are statements from both owners of the adjacent property who are in agreement with the structure and additions as built. The adjacent property owners own two lots beside Mr. and Mrs. Shields and are presumably satisfied that their land is sufficient for their purposes with Mr. and Mrs. Shields encroachment having no impact on their ability to use and enjoy.

Further, there is no negative impact to any other lot owners, nor does this create any inconvenience or eyesore. Rather, the additions are aesthetically pleasing, well-constructed, and almost certainly increase the market value of the home in betterment of the neighborhood and community.

5. Granting of this variance will have no impact on the use of the land.
6. Granting of this variance will have no impact on the health, safety, and welfare on the people of the Municipality of Town of Saguache, Colorado.

7. This variance is the minimum variance that will make possible a reasonable use of the land.

At this point, the well-constructed alterations are in place and working as planned with the agreement and understanding of the impacted adjacent landowners.

Mr. and Mrs. Shields understand the unique nature of this application in that the changes to the land have already been constructed. They have worked diligently to make a home for themselves, and these additions were necessitated by existing elements at the time of taking title and natural elements out of their control. They have already spent a large sum of money and time on this matter and have been impacted greatly by this process.

Should the Board of Adjustments see fit to grant the requested variance, Mr. and Mrs. Shields could continue to live at this property, contribute to the town, and carry on a harmonious relationship with their neighbors.



Jim Gonzales  
4660 E 109th Ave  
Thornton, CO 80233  
Kygonzal@travelers.com  
7209393683  
January 4, 2023

Chase Holbrooks  
Holbrooks Law Firm  
7405 W U.S. 50; Suite 114  
Salida, CO, 81201

Subject: Notice of Decision Regarding Land Dispute with Neighbor

Dear Chase Holbrooks,

I trust this letter finds you well. I am writing to update you on the ongoing matter concerning the 4 ft of land with my neighbor, Brent Shields, specifically in relation to the transfer of 4 feet of land located on the east side, extending from the irrigation ditch to the alley.

I wish to make it unequivocally clear that I will not be providing any additional land beyond the aforementioned 4 feet. I believe this decision is in my best interest, and I trust that the previous transfer fulfills any requirements pertaining to this matter.

I kindly request your assistance in communicating this decision to Brent Shields and taking any necessary legal steps to ensure its clarity and enforceability. If there are additional steps or formalities required from my end to conclude this matter, please provide the necessary guidance.

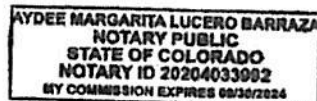
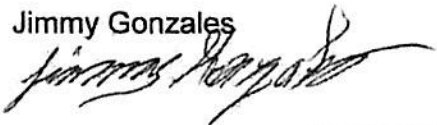
In addition, please be informed that my brother, Ross Gonzales, is a joint owner of the property. He shares in this decision and will be sending a letter of similar content shortly to reinforce our collective stance on this matter. We appreciate your assistance in addressing this issue comprehensively.

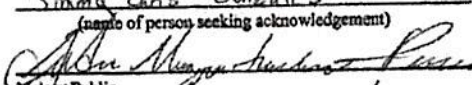
I appreciate your understanding and the professional assistance you have provided thus far in navigating this issue. I look forward to a prompt resolution.

Thank you for your time and attention to this matter.

Sincerely,

Jimmy Gonzales



County/City of Adams  
Commonwealth/State of Colorado  
The foregoing instrument was subscribed and  
sworn before me this 4th day of September  
2024 by  
Jimmy Chris Gonzales  
(name of person seeking acknowledgement)  
  
Notary Public  
My Commission Expires: 09/30/2024



Chase Holbrooks &lt;chase@holbrookslawfirm.com&gt;

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**Following Up**

3 messages

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**Chase Holbrooks** <chase@holbrookslawfirm.com>  
To: speedyg3094@yahoo.com

Fri, Dec 29, 2023 at 1:16 PM

Mr. Gonzales,

I am following up on the easement documents I recently sent.

Could you give me a call at your earliest convenience?

Thank you and I hope you had a Merry Christmas!

--  
Best,Chase Holbrooks  
Attorney at Law  
Holbrooks Law Firm  
7405 W U.S. 50, Suite 114  
Salida, CO 81201  
(719) 207-4118**HOLBROOKS  
LAW  
FIRM**

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**Ross Gonzales** <speedyg3094@yahoo.com>  
To: Chase Holbrooks <chase@holbrookslawfirm.com>

Thu, Jan 4, 2024 at 10:18 AM

To the Holbrook law firm. I Larry Gonzales part owner of the property at 908 San Juan Ave. Saguache Colorado 81149, will give Brent Scheels Four feet of property no more no less than the four feet. The Boundary line on the eastside of our property that starts at the side of his house. There will be no adjustment to this easement.

He has already made stack line for this easement, and must keep up the fence between our property and his at all time.

Thanks I hope this will help them with there Issue.

Larry Gonzales.

[Quoted text hidden]

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**Ross Gonzales** <speedyg3094@yahoo.com>  
To: Chase Holbrooks <chase@holbrookslawfirm.com>

Thu, Jan 4, 2024 at 10:21 AM

If any Question you can call me at 970-901-9533

[Quoted text hidden]



# Saguache County Parcel Viewer



9TH ST

448912116003

448912116002

448912116

448912116004

44891211

489121160

**Parcel Number: 448912116005**

Account: R006485

Acres: 0.15

Owner: SHIELDS, BRENT A & SHIELDS, LISA TAYLOR

Situs Address: 830 SAN JUAN AVE

Situs City: SAGUACHE

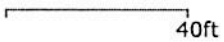
Situs Zip Code: 81149

[Zoom to](#)

AN JUAN AVE

SAN JL

-106.143 38.087 Degrees





## HELP IN RESPONDING TO THE STANDARDS QUESTIONS

We believe the following will help you in responding to the 8 standards questions the Board of Adjustments must determine are true before it may grant a variance. It is important to present factual information and evidence to support your belief that your property does not have parity with other properties. To gain that parity, your property must have relief from a specific provision of the ordinance. The suggestions below are by no means the only or valid justifications for a variance on your property. These examples are provided to allow you to consider the uniqueness of your property in your response to the standards questions. The Board of Adjustments considers each variance on its unique merits.

Use your own words and remember it is up to you to make your case. There are no assurances that your variance will be granted.

**1. There exist exceptional or extraordinary physical circumstances of the subject property such as, but not limited to, streams, wetlands, or slope, and such physical circumstances are not applicable to other land in the same district.**

The special physical conditions of the land must directly affect, create, or contribute to the need for the variance. You must explain to the Board what those special conditions are. Examples are listed below and one or more or something similar may apply to your property:

- A. Physical features peculiar to this lot or tract not applicable to the adjacent lots:
  - 1. Steep slopes impact \_\_ % of lot
  - 2. Water bodies, water courses, wetlands, floodplain impact \_\_ % of lot
  - 3. Avalanche hazard zones, unstable soil conditions impact \_\_ % of lot
  - 4. Other physical defects:
- B. Platting features peculiar to this lot or tract not applicable to the adjacent lots:
  - 1. the lot is not platted
  - 2. the lot is oddly shaped
  - 3. the lot has more than two street frontages or no street frontage
  - 4. the lot is impacted by many or wide easements for utilities, driveways, drainage
- C. Features peculiar to this lot or tract not applicable to the adjacent lots:
  - 1. the lot is impacted by extraordinary setbacks
  - 2. the lot is non-conforming in area, width, or depth

**2. Because of these physical circumstances, the strict application of this code would create an exceptional or undue hardship upon the property owner and would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of the ordinance.**

You need to explain what is precluding you from complying with the Town of Saguache Municipal Code. There must be a connection between what you allege is the physical defect explained in standard 1 above and why your neighbors or others in the same neighborhood can do what you cannot do without the need for the variance. Three examples are below.

- A. This property is unusual and unique because
- B. The property owner cannot use the property in manner to gain a reasonable use in comparison with the adjacent properties because \_\_\_\_\_
- C. The hardship in developing this property is to the extent that no reasonable use of the property is possible or at least that adverse economic impact is substantial

**3. The hardship is not self-imposed, and special conditions and circumstances do not result from the actions of the applicant and such conditions and circumstances do not merely constitute inconvenience.**

You must explain why the need for the variance is due to circumstances that are beyond your control; and that your request for a variance is not solely to make it more convenient for you to use the property.

Examples are listed below and one or more or something similar may apply to your property:

A. The special conditions and circumstances are:

1. the structure has non-conforming rights
2. the lot is non-conforming in area, width or depth
3. the design of the structure in relationship to the land limits the options

B. The special conditions and circumstances are more than an inconvenience or financial burden because:

1. removing the encroachment would severely damage the structure
2. removing the encroachment would render the structure unusable
3. the sewer and or water tap cannot be moved
4. the physical features of the lot limit construction locations and options
5. the access to the lot cannot be physically relocated

C. I (we) considered all the possible conforming alternatives and I (we) are not able to:

1. redesign the structure because \_\_\_
2. move the structure because \_\_\_
3. acquire the abutting property because \_\_\_

4. **The variance, if granted, will not adversely affect the use of adjacent property as permitted under the municipal code**

Your use of the property and the variance, if granted, will not make your property, or your neighbors, incompatible with what Town of Saguache municipal codes; and does not devalue or prevent full use of your neighbor's property. Examples are listed below and one or more or something similar may apply to your property:

A. The variance will not give

1. this property special privileges to me above my neighbor.
2. increase traffic in the neighborhood
3. change the character of the neighborhood
4. negatively impact the abutting property owners
5. violate the spirit of the municipal code of the Town of Saguache
6. place the public health, safety, or welfare at risk

B. The encroachment is not visually evident

C. There have been no registered complaints

D. No code enforcement actions have occurred

E. The nonconforming use or structure can be made more conforming, if variance is granted.

5. **The variance, if granted, is in keeping with the intent of the municipal code, will not change the character of the neighborhood in which the property is located.**

You may not be using the variance to request a use on your property that is not allowed in the underlying municipal codes. Even though granting the variance allows you to deviate from the Code, the variance must not change the intent of the Code or change the character of neighborhood. An example is listed below:

- A. The land use will not change as a result of this variance in accordance with the Town of Saguache Municipal Code Chapter 15.

6. **The variance, if granted, does not adversely affect the health, safety, and welfare of the people of the Municipality of Town of Saguache, Colorado**

The variance does not alter Fire Department safety standards, traffic clear vision areas, Department of Health and Human Services standards for air or water quality, or noise levels; etc.

7. **The variance granted is the minimum variance that will make possible a reasonable use of the land.** You must explain why this variance will give this property parity with its neighbors and nothing more. That you are asking for the least relief from the municipal code that is possible to allow a reasonable use of the property. That you are not advocating for rights superior to your neighbors or others in the same neighborhood. That you have no other conforming alternatives, such as re platting, vacate easements or rights-of-way, moving the structure, or remodeling the structure, In other words, a variance is the last resort to allow a reasonable use of the property.