

**LOMA LINDA SUBDIVISION HOMEOWNERS ASSOCIATION
ARCHITECTURAL CONTROL COMMITTEE
Adopted Rule, Regulation or Standard**

Structures Allowed on Any Lot and Set-Back Variances

SUBJECT: Adoption of a Rule, Regulation or Standard defining Structure Limitation on Lots and Variances in the Loma Linda Subdivision.

PURPOSE: Governing Document Statement:

Article VI

No building, fence, wall or other structure shall be commenced, erected or maintained upon the Properties, nor shall any exterior addition to or change or alteration therein be made until the plans and specifications... shall have been submitted to and approved in writing.

Article IX, Section 3(b)

(i) No residential dwelling shall be located closer than fifty (50) feet from any parcel boundary line, and no residential dwelling shall be located closer than fifty (50) feet to any other residential dwelling, unless variance by the Architectural Control Committee is obtained.

(iii)The number of structures located on any Lot shall be limited to one residential dwelling and a maximum of two non-residential dwelling buildings which are not attached to the residential dwelling.

The Association wanted to define common phrases as they connect to the Covenants to provide clarity.

The language in the covenant also discounts buildings that are “attached” to the residential dwelling. It does not establish policy for two non-residential buildings that are attached to each other. This covenant does not define “attached”.

Define Structures that are limited to Three on Lots and Procedures for Set-Back Variances.

AUTHORITY: The Declaration, Articles of Incorporation, and Bylaws of the Association and Colorado Law.

EFFECTIVE

DATE: January 9, 2024

RESOLUTION:

1. STRUCTURE is defined as: anything constructed, assembled, erected or built on a lot. Structures would include fences, free standing decks, gates at lot entrances, solar panels, propane tank screens, etc.
2. DWELLING: a building used exclusively for residential occupancy, with complete living facilities including kitchen, bathroom and sufficient living area to meet the minimum requirements of Archuleta County's adopted residential building code.
3. ATTACHED BUILDINGS and STRUCTURES: A breezeway is an architectural feature similar to a hallway that allows the passage of a breeze between buildings to accommodate high winds, allow aeration, or provide aesthetic design variation. It is a pedestrian walkway because it is intended for walking between two structures.
 - a) Two buildings will be considered attached when they are connected by a common wall or a breezeway that is of permanent construction, matching design, roof, color and materials. There shall only be a maximum of one breezeway upon each lot whose connection shall be from doorway to doorway of two buildings. A breezeway may only be permitted between a house and an enclosed garage/workshop/shed.
 - b) A maximum of two buildings that meet the above definition of "attached" are considered as one building.
4. NON-RESIDENTIAL BUILDINGS: a structure with more than one wall and a roof, designed to be used as a place of occupancy, storage or shelter. Some examples of non-residential buildings include but are not limited to:
 - a. detached garage or workshop
 - b. detached partially or enclosed shed with two or three walls for animals or storage of items.
 - c. greenhouse of any shape including geodesic or rectangular.
 - d. Any non-residential building must meet or exceed current county requirements and set-backs.
5. Structures not limited by the three-building maximum includes but are not limited to: fences, propane screens, property gate ways, free standing decks, free standing bridges, carports and covers over decks, wood piles, children's playgrounds and tree houses, clotheslines and their associated bases, detached solar panels and their associated utility housing. These items must be submitted under Article VI and obtain approval.
6. Solar panels per Colorado House Bill21-1229 lets you place solar on your property but the ACC still requests information on its placement.

7. VARIANCE Procedures

A variance is an exception to the rule and is rarely given. Seeking a variance is a legal process that allows property owners to construct improvements, buildings, structures, or use land in a way that is contrary to the use restrictions and Loma Linda subdivision CC&R's. Granting a variance should be based on an unnecessary hardship that is directly related to the property and related uses. In most cases, such property line set back variances become permanent and will impact future owners of involved or adjacent property.

A. Example of When a Variance May be Granted

1. Site topography or sloping conditions are atypical to the Lot as compared to other similarly zoned lots.
2. Challenges with allowing adequate drainage as deemed by a qualified professional.
3. Some other existing natural condition requiring extension into setbacks (e.g., large boulder or other immovable object, etc.).
4. Site topography creates difficulties in placing a home or other improvements within the required 50' setback (e.g., irregularly shaped lot).

B. Application for a Set Back Variance

A lot owner should submit their request of a Set Back Variance, in writing, to the Loma Linda Architectural Control Committee (ACC), accompanied by the reasons for the requested Variance. The application should include drawing or photos, site plans, a surveyor completed PILC (Property Improvement Location Certificate), other renditions of how the variance will be used, other supporting details such as a topographic map of contour lines of the lot and supporting documentation by an architect or designer or engineer. Owners should be ready to explain why there are no other options and how the variance will not be detrimental to their neighbors and the community.

C. HOA Board of Directors and Neighbor Notification

The HOA Board of Directors and adjacent neighbor(s) to the project property line shall be notified by the ACC prior to the project's ACC meeting date by email, postings or first-class mail if needed, that an application for a variance has been made. The notice will include that their comments and opinions for approval or disapproval will be considered by the Committee. The ACC shall keep neighbors informed of actions taken on a Set-Back Variance Request .

D. ACC Approval/Disapproval Procedure

The ACC will consider the application for a Variance at one of its regularly scheduled or special meetings at which time the applicant and other parties of interest may present information and discuss the application with the Committee.

In arriving at the decision to approve or disapprove, the Committee will consider all the information available including the application request, written and verbal comments and responses from the applicant and from the interested parties and data and other information available. Approval or disapproval will be announced at the meeting.

E. Final Approval and Preservation of Record

Prior to granting approval for a Set-Back Variance, the lot owner will acquire a PILC (Property Improvement Location Certificate), indicating placement of the requested Set-Back Variance. The Set-Back Variance will become final and permanent with the filing and recording of the signed approval form by the ACC approving the Set-Back Variance along with a copy of the appropriate survey. The landowner requesting the variance will be responsible for any applicable fees resulting from the recording of the approved Set-Back Variance.

The recording of the approval and survey guarantees full disclosure to any and all original and future landowners to whom the Set-Back Variance has been given.

This Rule, Regulation, and Standard may be amended from time to time by the ACC pursuant to the Policy for ACC Adopting of Rules, Regulations and Standards.

HOA BOARD CERTIFICATION: The undersigned, being the President of Loma Linda Subdivision Homeowners Association certifies that the foregoing Rule, Regulation or Standard was approved by the HOA Board at a duly called and held meeting of the HOA Board on January 9, 2024 and in witness thereof, the undersigned has subscribed his/her name.

Loma Linda Subdivision Homeowners Association,

a Colorado nonprofit corporation

By: Maggie Fischer President

ACC CERTIFICATION: The undersigned, being the Chairman of Loma Linda Subdivision Homeowners Association Architectural Control Committee certifies that the foregoing Rule, Regulation or Standard was adopted by the ACC at a duly called and held meeting of the ACC on November 6, 2023 and in witness thereof, the undersigned has subscribed his/her name.

**Loma Linda Subdivision Homeowners
Association Architectural Control Committee,**

By: *Josephine Myatt* Chair