

RESOLUTION NO. PZ 06 - 21
Series of 2021

**A RESOLUTION APPROVING A VARIANCE FROM THE PRIVATE
OPEN SPACE REQUIREMENTS OF THE TOWN CODE FOR THE
BUILDING LOCATED AT 701 E. ANEMONE TRAIL**

WHEREAS, the Planning and Zoning Commission of the Town of Dillon (“Planning Commission”) has received an application (the “Application”) from House of Faas, LLC (the “Applicant”) for a Variance from the private open space requirements applicable to residential uses in the Commercial (C) Zone District, for the building located at 701 E. Anemone Trail; and

WHEREAS, the Planning Commission has determined that the Application is complete; and

WHEREAS, following the required notice, a public hearing on the Application was held on May 5, 2021, before the Planning Commission; and

WHEREAS, following the public hearing the Planning Commission has made certain findings of fact regarding the Application and has determined that certain conditions which are reasonable and necessary to and relate to impacts created by the development should attach to the approval of the Application.

NOW, THEREFORE, BE IT RESOLVED BY THE PLANNING AND ZONING COMMISSION OF THE TOWN OF DILLON, COLORADO, AS FOLLOWS:

Section 1. The Planning Commission, following the required notice, held a public hearing on May 5, 2021 on the Application, and following said public hearing makes the following findings of fact:

- A. That the Application is complete.
- B. That the Application meets the applicable Town of Dillon Municipal Code (“Town Code”) requirements.
- C. That the Planning Commission may authorize Variances from the requirements of Chapter 16 (Zoning) of the Town Code where it can be shown that, owing to special and unusual circumstances related to a specific property or use, strict application of Chapter 16 would cause an undue or unnecessary hardship.
- D. That no Variance shall be created to allow the use of property for a purpose not authorized within the zone in which the proposed use would be located, or based solely on issues related to cost or inconvenience to the applicant.

- E. That in granting a Variance, the Planning Commission may attach conditions which it finds necessary to protect the best interests of the surrounding property or vicinity and otherwise achieve the purposes of Chapter 16.
- F. That a Variance may be granted only in the event that all of the following circumstances exist:
 - 1. Special or unusual circumstances apply to the property or use which do not apply generally to other properties or uses in the same zone or vicinity regarding the physical nature of the property.
 - 2. The Variance would not be materially detrimental to the public health, safety or welfare, to the purposes of Chapter 16, or to property in the same zone or vicinity in which the property is located, or otherwise conflict with the objectives of any Town plans or policies.
 - 3. The Variance requested is the minimum Variance which would alleviate the hardship.
- G. That strict application of the private open space requirements applicable to residential uses in the Commercial (C) Zone District, as set forth in Section 16-1-130(4)(c) of the Town Code, would cause an undue or unnecessary hardship owing to special and unusual circumstances related to a subject property and proposed use.
- H. That proposed residential use is authorized as a conditional use in the Commercial (C) zone district, and not based solely on issues related to cost or inconvenience to the applicant.
- I. That the proposal of adding residential units to the existing building presents a special or unusual circumstance that does not apply generally to other properties or uses in the same zone or vicinity.
- J. That the Variance will not be materially detrimental to the public health, safety or welfare, to the purposes of Chapter 16, or to property in the same zone or vicinity in which the property is located, or otherwise conflict with the objectives of any Town plans or policies.
- K. That the Applicant has proposed as much private outdoor open space as possible within the confines of the existing structure, and thus the Variance requested is the minimum Variance necessary to alleviate the hardship.

Section 2. The Planning Commission hereby approves the Application for a Variance from the private open space requirements applicable to residential uses in the Commercial (C) Zone District, for the building located at 701 E. Anemone Trail, subject to the following conditions:

- A. The residences shall be constructed in accordance with the Application.

- B. The property owner shall pay all required water and sewer tap fees prior to certificate of occupancy.
- C. The residences shall meet all applicable building and fire code requirements.
- D. The dedicated residential parking spaces shall be clearly marked as residential parking only with signs and other means necessary to prevent their use by non-residential parking. The signs and other means of demarking the dedicated residential parking shall be maintained by the owner of the building located at 701 E. Anemone Trail.
- E. Prior to certificate of occupancy, the property owner shall enter into a restrictive covenant with the Town to be recorded in the County property records stating the Unit C shall be occupied by a person(s) working a minimum of thirty (30) hours per week in Summit County, and not utilized as a short term rental.
- F. The Applicant shall submit a copy of the certificate of occupancy to the Town.
- G. The Town Manager may approve minor revisions to the Application that do not alter the character or intent of the Application as approved by this Resolution.
- H. Prior to certificate of occupancy, the Applicant shall submit a condominium map subdivision application to the Town for review and approval as required by the Code. The condominium map shall identify and carry with it the restrictive covenant for Unit C.

APPROVED AND ADOPTED THIS 5TH DAY OF MAY, 2021, BY THE PLANNING AND ZONING COMMISSION OF THE TOWN OF DILLON, COLORADO.

**PLANNING AND ZONING COMMISSION
TOWN OF DILLON**

By: _____
Alison Johnston, Chairperson

ATTEST:

Michelle Haynes, Secretary to the Commission