

Town of Marble  
Ordinance Number 5  
Series of 2014

AN ORDINANCE APPROVING A LICENSE TO ENCROACH AND SETBACK VARIANCE  
FOR STRUCTURES LOCATED AT 105 E. MARBLE

WHEREAS:

- A. The Town of Marble (the “Town”) is a statutory town organized pursuant to Colorado Law, C.R.S. §31-1-101 *et seq.*;
- B. The Town is authorized to regulate the use of Town streets, C.R.S. § 31-15-702(1);
- C. The Town is the owner of platted streets known as Hill Street, East Second Street, Marble Street and East First Street, as shown on the plat and declaration for the Marble Townsite, recorded April 11, 1900 in the Book of Plats at page 93; and as shown on the Map of Marble and West Park Street Addition, Gunnison County, Colorado, recorded in 1915 at Reception No. 125614, both in the real property records of Gunnison County, Colorado (the “Town Streets”);
- D. The Town has adopted the Town of Marble Zoning Code (Title 7) (the “Zoning Code”).
- E. The Zoning Code imposes the following setback requirements: Side Yard Setback: 10 feet; Front Setback: 25 feet; Rear Setback: 10 feet. *See* Zoning Code Section 7.2.30.H, I, J;
- F. RamsTrace Family Trust, LLC, a Colorado limited liability company (“Applicant”) is the owner of Lots A-I, K-M, Block 3, Town of Marble, Gunnison County, Colorado, also known as 105 E. Marble Street, Marble, Colorado (“105 E. Marble”);
- G. Structures located at 105 E. Marble have been constructed within the setback area and also encroach into the Town Streets, shown as the Hill St. Encroachment, East 1<sup>st</sup> St. Encroachment, East 2<sup>nd</sup> St. Encroachment, and Marble St. Encroachment, on Exhibit A attached hereto (the “Encroachments”);
- H. Applicant desires and has requested a variance from the setback requirement and a license to encroach on Town property with respect to these Encroachments;
- I. Applicant has submitted a request for variance in accordance Section 7.3.50.A.1 through 4 of the Zoning Code;
- J. Applicant has paid the variance request fee in accordance with Section 7.3.50.B of the Zoning Code;
- K. C.R.S. § 31-23-307(4) authorizes the Town to grant a variance from the requirements of the Zoning Code “[w]here there are practical difficulties or unnecessary hardships in the way of carrying out the strict letter of such ordinance...so that the spirit of the ordinance is observed, public safety and welfare secured, and substantial justice done;” and

L. The Town is willing to approve a variance from the setback requirements and grant a license to encroach concerning the Encroachments in accordance with the terms and conditions set forth in the License to Encroach attached hereto as Exhibit B.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE TOWN OF MARBLE, COLORADO THAT:

1. The Town shall grant a license to encroach for the Encroachments utilizing a license agreement containing all of the material terms and conditions included in, and that is otherwise substantially similar to, the one attached hereto as Exhibit B.
2. Strict application of the setback requirements in the Zoning Code would cause practical difficulties and unnecessary hardships.
3. Granting the variances requested by Applicant is consistent with the spirit of the Zoning Code.
4. Public safety and welfare will not be endangered by the granting of the variance requests.
5. Granting the variances requested will promote substantial justice.
6. Variances from the setback requirements of the Zoning Code for the existing Encumbrances illustrated on Exhibit A, as currently constructed and situated, are hereby GRANTED.

INTRODUCED, READ, ADOPTED AND ORDERED PUBLISHED BY TITLE ONLY this 13th day of March, 2014 by a vote of 4 in favor and 0 opposed, with 1 abstention.

TOWN OF MARBLE:

  
Robert Pettijohn, Mayor

ATTEST:

  
Ron Leach, Clerk

