

**Town of Basalt, Colorado
Ordinance No. 10
Series of 2020**

**AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF BASALT,
COLORADO, GRANTING SPECIAL REVIEW APPROVAL FOR AN
ACCESSORY DWELLING UNIT (ADU) LOCATED AT 112 E. HILLSIDE
DRIVE, BASALT, COLORADO (CLASEN APPLICATION)**

RECITALS

A. The Town of Basalt (“Town”), acting by and through its Town Council (“Town Council”), has the power to grant Special Review approvals. Norm and Laura Clasen (“Applicants”) applied to the Town in 2018, requesting approval of Special Review to legalize an existing ADU at 112 E. Hillside Drive, Basalt, Colorado (the “Clasen Property”).

B. Title to a portion of the Clasen Property was disputed, and it was determined that a quiet title action was necessary to for the Applicants to obtain clear title to the Clasen Property, including the dispute area, in order to meet the minimum lot size for an ADU in the R-3 TN Zone District.

C. The Applicants filed a quiet title action in the Eagle County District Court, Case No. 2019CV30183, and ultimately the Court issued an order quieting title to the Clasen Property, including that the Applicants held clear title to the 3,531 sf disputed area, thus making the Clasen Property a total of 9,928 sf. As such, the Applicants reactivated their Special Review Application for review by the Town.

D. The Planning and Zoning Commission considered the application at a public hearing held on April 21, 2020. Throughout the meeting, evidence and testimony was offered by the Applicants, Staff and members of the public. The Planning and Zoning Commission recommended that the Town Council approve the request for Special Review, subject to conditions.

E. At a public hearing held on May 12, 2020, the Town Council heard evidence and testimony as offered by the Town Staff, the Applicants, and members of the public. At the public hearing held on May 12, 2020, the Town Council considered this Ordinance on first reading and continued and set a public hearing and second reading for this Ordinance for May 26, 2020 for a meeting beginning no earlier than 6:00 pm at the Basalt Town Hall, 101 Midland Avenue, Basalt, Colorado.

F. At a public hearing and second reading on May 26, 2020, the Town Council heard evidence and testimony as offered by the Town Staff, the Applicants, and members of the public.

G. The Town Council finds and determines it is in the best interests of the Town to approve this Ordinance. The Town Council finds and determines this Ordinance is reasonable and consistent with the Town Code. Further, the Town Council finds and determines this Ordinance is reasonably necessary to promote the legitimate public purposes of the public health, safety and welfare.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF BASALT, COLORADO AS FOLLOWS:

A. FINDINGS. The Town Council hereby incorporates by reference and conclusively makes the findings provided herein.

1. Based on the evidence, testimony, exhibits, and comments from the public, Applicants and Town Staff, the Town Council finds and determines in accordance with Section 16-44(f) of the Town Code, as follows:
 - a. The Town Council finds that the Applicants' request is consistent with the applicable provisions of the Town Code, provided the Applicants adhere to the conditions identified in this Ordinance.
 - b. The Application satisfies the requirements of Section 16-44(f) of the Town Code, provided the Applicants adhere to the conditions herein, because the Application is in general compliance with the Town Code; the proposed use is compatible with the character of the surrounding area; the proposed use is generally desirable and needed in this area; the proposed use does not create significant potential for adverse environmental influences; the proposed use is compatible with the Town Master Plan; and the proposed use is compatible with the natural characteristics and constraints of the Property.

B. APPROVAL AND CONDITIONS.

Special Review to permit an Accessory Dwelling Unit (ADU) at 112 E. Hillside Drive is hereby approved, subject to the following conditions:

Representations:

1. The Applicants shall comply with all representations set forth in the Application.

2. The Applicants shall comply with all material representations made in hearings before the Planning and Zoning Commission and Town Council.

Development and Building Fees:

3. The Parkland Dedication fee for the ADU is waived as a result of the ADU being deed-restricted as per Section 16-27 of the Municipal Code. Additionally, the School Land Dedication Fees are \$0 as ADUs are expected to generate no school children.

Retaining Wall:

4. The Applicants shall be responsible for repairing and maintaining the railroad tie retaining wall on the west side of the property.

Approval Documents:

5. The Applicants shall prepare a site plan and draft deed restriction for review and approval by the Town Planner and Town Attorney. The site plan shall be recorded at the Eagle County Clerk and Recorder's Office prior to the issuance of a certificate of occupancy for the ADU. The ADU deed restriction designating that one of the two units on the site will be occupied by a resident as their primary residence shall be recorded at the Eagle County Clerk and Recorder's Office prior to the issuance of a certificate of occupancy for the ADU.
6. The Applicants shall prepare and submit any additional approval documents deemed necessary by the Town Planner and Town Attorney to effectuate the intent of the approvals. Any such documents shall be executed and recorded prior to the earlier of the issuance of a building permit or 180 days after the effective date of the final approval ordinance. If the Applicants do not execute and record the necessary approval documents within 180 days or receive an extension from the Town Planner, the approvals shall expire.

Insubstantial Amendments:

7. The TRC may approve minor amendments to this approval to effectuate the intent of the final development approvals. The Applicant shall have the ability to appeal the TRC's decision on a minor amendment to the Town Council pursuant to the appeals process established in Town Code Section 16-11, Procedures for code interpretations and appeals.

Compliance with Other Comments:

8. The Applicants shall demonstrate compliance with the requirements of the Roaring Fork Fire Protection Authority (RFFPA) prior to the issuance of certificate of occupancy by limbing up the tree on the corner of Hillside Drive and Spur Lane to provide sufficient vertical clearance as required by the RFFPA and maintain an unobstructed roadway of 20 feet adjacent to the property at all times.
9. Prior to the issuance of a certificate of occupancy on the ADU, the Applicants must pass a safety inspection by the Town Building Official using the same criteria as is used by the Town during short-term rental license inspections.

C. MISCELLANEOUS.

1. The approvals and conditions contained herein shall be binding on and inure to the benefit of the heirs, successors and assigns of the Applicant and the owner of the Property.

2. This Ordinance, after fully executed, shall be recorded in the office of the Clerk and Recorder of Eagle County.

3. If any part, section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this Ordinance and the Town Council hereby declares it would have passed this Ordinance and each part, section, subsection, sentence, clause or phrase thereof regardless of the fact that any one or more parts, sections, subsections, sentences, clauses or phrases be declared invalid.


READ ON FIRST READING, ORDERED PUBLISHED AND SET FOR PUBLIC HEARING TO BE HELD ON May 26, 2020 by a vote of 7 to 0 on May 12, 2020.

READ ON SECOND READING AND ADOPTED, by a vote of 7 to 0 on May 26, 2020.

TOWN OF BASALT, COLORADO

By: 
William G. Kane, Mayor

ATTEST:



Pamela K. Schilling, Town Clerk



First Publication: May 21, 2020
Final Publication: June 4, 2020
Effective Date: June 18, 2020