

ROUTT COUNTY BOARD OF ADJUSTMENT AGENDA

May 20, 2020
5:00 PM

Due to the COVID-19 pandemic, this hearing will be conducted through the Zoom application. You may access this meeting by clicking [here](#).

Live audio is available by calling (669) 900-6833.

Meeting ID: 858 7213 6030

Password: 599173

1. CALL TO ORDER

2. ITEMS FOR DISCUSSION

A. Board Of Adjustment Training

Board of Adjustment Training

Documents:

[BOA memo.pdf](#)

3. APPROVAL OF MINUTES

A. Minutes From The November, 2019 Hearing

Documents:

[110419-boa-corrected.pdf](#)

4. ADMINISTRATOR'S REPORT

Administrator's Report may include the reading of future Board of Adjustments agendas.

5. ADJOURNMENT

Agenda packets can be accessed at www.co.routt.co.us/AgendaCenter.

All programs, services and activities of Routt County are operated in compliance with the Americans with Disabilities Act. If you need a special accommodation as a result of a disability, please call the Commissioners' Office at (970) 879-0108 to assure that we can meet your needs. Please notify us of your request as soon as possible prior to the scheduled event. Routt County uses the Relay Colorado service. Dial 711 or TDD (970) 870-5444.



Memorandum

To: Board of Adjustment
From: Planning Staff
Date: May 14, 2020
Subject: Remote Meeting Policy
Attachments:

- DRAFT Applicant agreement
- DRAFT Policy
- DRAFT Exhibit A
- Tutorial

This document is intended to lay out the Planning Department process for conducting remote, or virtual, public hearings. These documents will apply to hearings conducted by the Planning Commission and the Board of Adjustment. The policy document and applicant agreement were created, and are being utilized, by the City of Steamboat Springs for their remote public hearings. County Planning staff used these documents as a base for the creation of the attached documents. These documents were sent to the County Attorney for review on May 20, 2020, so the attached documents are drafts. An update on the County Attorney's review of these documents and any changes that occur will be provided at the hearing. These documents do not need to be formally adopted by Planning Commission. They are being presented for information only.

The following are highlights of these documents.

- Policy
 - Lays out the circumstances that are appropriate for a remote public hearing.
 - Lays out procedures for how the public hearing will be conducted.
 - Includes references to the agreement the applicant must sign in order to move forward with a remote hearing.
 - Includes a reference, and incorporation of, Exhibit A that lays out the meeting process and best practices.
- Exhibit A
 - Includes a description of the meeting process and best practices that should be used during the hearing.
- Applicant Agreement
 - Reference to the policy document listed above.
 - Applicant waives any objection to the use of a digital platform to conduct a public hearing.
 - Agreement is a complete waiver of any claim that an unsuccessful decision was based on a lack of public hearing.

- Tutorial
 - This tutorial will be placed on the Planning Department's website and will be provided to applicants so that they can learn how to use the software prior to the hearing.

The following are other activities that the Planning Department is using to ensure that there is maximum notice and opportunity for participation by the public.

1. Public notices will be modified with the new hearing format. This will include a statement that the hearing will now be held remotely and will include a link to the hearing, as well as call in information that contains the meeting ID and password. This information will be included in the adjacent property owner notices, legal ads, poster, and pending application page of the Planning Department website.
2. The agenda header have a link to the hearing as well as call in information.
3. The hearing will be broadcast on the County's Facebook page.
4. Planning staff will not require that public comments and/or questions be submitted prior to the hearing, however will encourage the public to submit any comments or questions prior to the hearing. This is to encourage maximum public participation.
5. Hearing impaired participation will be through the existing relay service.
6. The chat feature will not be used. This setting has been turned off for all of the hearings.
7. All meeting materials, including staff packet, staff presentation, and applicant presentation will be submitted at least one week prior to the hearing so that all of this information can be attached to the agenda item.
8. A tutorial on how to use Zoom will be created and distributed to Planning Commission, the Board of Adjustment, and will be posted on the Planning Department's website.

Planning staff is exploring options on how to accommodate Planning Commission or Board of Adjustment members that may need an alternative work site due to lack of connectivity at their residence. The options being explored include setting up work stations in the Building Department meeting room and/or the Trout Creek meeting room.

WAIVER BY APPLICANT

This WAIVER is executed by _____ (hereinafter “APPLICANT”).

WHEREAS, Applicant has _____ (the “Application”) pending before the Routt County _____ (the “Reviewing Body”);

WHEREAS, the President of the United States, the Governor of the State of Colorado and the Routt County Commissioners have declared a state of emergency exists due to the Covid-19 health pandemic which necessitates the remote conduct of public hearings;

WHEREAS, in order to continue forward with consideration of the Application, the Applicant has agreed to waive any objection to the remote conduct of public hearings by the Reviewing Body on the Application, and waived the right to continue its in-person hearing until a later date after the state of emergency has been rescinded, and has consented to proceed remotely, utilizing the Zoom meeting platform to make its presentation to the Reviewing Body and any public that chooses to participate;

WHEREAS, Routt County has a policy in place which dictates when virtual public hearings are appropriate for use. Such policy also includes requirements that must be met prior to and during the remote hearing and how the remote hearing will be conducted.

WHEREAS, the Applicant agrees as follows:

1. **WAIVER.** Applicant understands and acknowledges that it has the option to request that the hearing on the Application be postponed until such a time as Routt County can conduct an in person public hearing on the Application. Applicant also acknowledges that it has the option to continue the scheduled public hearing until such time as the Covid-19 state of emergency has been rescinded by the federal, state and local governments. Applicant further acknowledges that an aggrieved party with standing may object to the remote conduct of the hearing on the application, and that this waiver has no effect on such an objection.

Applicant has been advised to seek legal counsel prior to execution of this Waiver.

With full knowledge and understanding of these rights, Applicant has voluntarily decided to proceed with a meeting conducted remotely via the Zoom meeting platform before the Reviewing Body and to waive any objection to the remote conduct of the hearing on the application and to waive the option to continue the scheduled public hearing until such time as the Covid-19 state of emergency has been rescinded by the federal, state, and local governments or the County is otherwise able to conduct an in person public hearing on the Application.

2. **AMENDMENT/NO ASSIGNMENT.** No modification or amendment of this waiver shall be valid and Applicant cannot assign this Waiver to any third party. This Waiver shall be binding upon the successors, assigns, shareholders, members, managers, employees, consultants and subcontractors of Applicant.

3. **COMPLETE WAIVER.** This Waiver encompasses the entirety of Applicant’s

submittal. In the event of an unsuccessful decision by any governing body, Applicant understands this document is a complete waiver of any claim that any such negative decision was based upon lack of on in person public hearing or presentation.

4. **SEVERABILITY.** In the event any portion of this Waiver is held to be unenforceable, the unenforceable portion of this Waiver will be deleted and the remaining provisions of the Waiver shall continue in full force and effect.

5. **GOVERNING LAW.** This Waiver shall be governed by the laws of the State of Colorado. Any action to contest the validity or enforceability of this Waiver shall be filed in the Routt Combined Court.

6. **NO WAIVER OF GOVERNMENTAL IMMUNITY.** The Applicant acknowledges and agrees that the City, its elected officials, officers and employees are relying upon, and do not waive or intend to waive by any provision of this Waiver, the monetary limitations or any other rights, immunities and protections provided by the Colorado Governmental Immunity Act, C.R.S. Sec. 24-10-101 et seq. as amended or otherwise available to the City. Nothing herein shall operate as a waiver of any right the City has of governmental immunity under Colorado law which is specifically herein reserved.

7. **INDEMNIFICATION BY APPLICANT.** Applicant shall defend, indemnify and hold the County harmless from any damages associated with Applicant agreeing to proceed with a remote meeting in lieu of an in person public hearing.

8. **ACCEPTANCE REQUIRED.** This Waiver is subject to the final acceptance of the Reviewing Body. Further, Applicant acknowledges that if the Covid-19 pandemic results in a remote meeting not being able to be held, then the only alternative shall be re-scheduling of said hearing until such time as the health, safety and welfare of the participants may be preserved.

EXECUTED THIS _____ DAY OF _____, 2020.

WAIVER RECEIVED BY: ROUTT COUNTY, COLORADO

BY: _____
TITLE: _____

APPLICANT:

BY: _____
TITLE: _____

ROUTT COUNTY POLICY FOR REMOTE MEETINGS DURING THE COVID-19 HEALTH PANDEMIC AFFECTING THE COUNTY

In the event a quorum is unable to meet at the day, hour, and place fixed by the rules and procedures of the Planning Commission and Board of Adjustment (hereafter “Board or Commission”) because meeting in-person is not practical or prudent due to the COVID-19 health pandemic affecting the County, meetings may be conducted by telephone, electronically, or by other means of communication. Meetings may be held by telephone, electronically, or by other means of communication if all of the following conditions are met:

1. The Planning Director, or Commission or Board Chair determine that meeting in person is not practical or prudent, because of the COVID-19 health pandemic affecting the County;

2. All members of the Board or Commission can hear one another or otherwise communicate with one another and can hear or read all testimony in a manner designed to provide maximum notice and participation;

3. Members of the public can hear or read all discussion, testimony and votes by broadcast on the internet and are given an opportunity to participate;

4. The chat function will be disabled to ensure that no side bar conversations the applicant and public are not privy to occur;

5. All votes are conducted by roll call;

6. Minutes of the meeting are taken and promptly recorded, and such records are open to public inspection;

7. To the extent possible, full and timely notice is given to the public setting forth the time of the meeting, the fact that members of the Board or Commission may participate by telephone or other electronic means of communication, and the right of the public to monitor and participate in the meeting through internet, email, telephone, or other means; and

8. The following additional rules shall apply to quasi-judicial hearings held by remote meeting by the Board or Commission:

a. This policy creates no right in any party or Applicant to have a quasi-judicial hearing held by remote meeting. Instead, the scheduling and conduct of such hearing is in the sole discretion of the Planning Director or Commission or Board Chair who may determine that meeting in person is not prudent due to the COVID-19 health pandemic and that the County is capable of holding a quasi-judicial hearing by remote meeting.

b. Quasi-judicial hearings shall only be scheduled for remote meetings permitted by this policy where the Applicant of a project has signed an agreement prepared by the County Staff notifying said Applicant of the option to waive or continue the hearing to an in-person meeting and waiving any objection to the remote conduct of the meeting.

c. Materials relevant to the hearing, including but not limited to materials related to specific applications and other documents to be shown electronically during the

hearing, will be made available online at least 72 hours in advance for public inspection prior to, during, and after the hearing.

d. The Board or Commission Chair (“presiding officer”) shall preside over the meeting. At the outset of the hearing, the presiding officer shall describe the hearing procedure, including how testimony and public comment will be received.

e. The presiding officer shall engage the public, and shall discontinue the hearing and postpone such hearing to the next available hearing date should the technology supporting the meeting fail to allow a full and fair hearing. The presiding officer may, in her or his own discretion, determine that a full and fair hearing is not possible based on any factor including but not limited to, the inability of an applicant or member of the public to be clearly heard and understood, or the inability of the applicant or staff to share documents in the record with decision-makers.

The County shall provide reasonable accommodation and shall waive or modify provisions of this policy to provide members of the Board or Commission who are persons with disabilities full and equal access to meetings.

Attached to this policy is Exhibit A and is incorporated into this policy. Exhibit A lays out the meeting process and best practices that should be used during remote hearings.

DRAFT

Meeting Process

1. If the meeting has not started, you will be placed in a waiting room.
2. Once the host starts the meeting, the host will admit everyone to the meeting.
3. The Chair controls the meeting.
4. A non-presenting staff member (host) will control who is admitted and is directed by the Chair.
5. All mics will be muted when entering.
6. If you want to speak, raise your hand. The Chair will recognize you. The host will un-mute you and you will be able to talk.
7. PC mics will be un-muted during roll call.
8. Applicant will give their presentation. The applicant's mic is the only that will be un-muted.
9. Staff will give their presentation. Staff's mic is the only that will be un-muted.
10. There is a screen sharing function that allows the applicant and staff to put presentations, drawings, plans, etc. on the screen for everyone to see.
11. PC will have the opportunity to ask questions. Staff, applicant, and Commissioner asking the question will be un-muted.
12. Chair will ask for any public comment. Citizen will need to raise their hand to be recognized by the Chair. Chair will un-mute person making comment. For a call-in participant, press *9 to raise his/her hand, and (unless controlled by host) can mute and unmute with *6.

Best Practices

1. Planning Commission, staff, and the applicant must use the video feature and sit close to the camera so that body language, facial expressions, and other nonverbal communication that goes along with live participation can be observed.
2. Everyone must be clearly audible to everyone participating in the meeting. If you are having problems with your audio, contact staff and we will help troubleshoot the problem.
3. Be attentive. Make yourself a quiet space and take care of family and pets prior to hearing to minimize distractions.
4. Be patient with people who don't have technical skills. They may not know how to use Zoom or other technological resources.
5. Try not to multi-task during meetings. Applicants have prepared for and look forward to presenting their idea to you. Sometimes they have spent a lot of money getting to this point. Please give them the courtesy of paying attention.

Meeting Process Tutorial

1. To sign in there are a couple of options:
 - a. You can go to [Zoom](#) and click 'Join Meeting' in the upper right hand corner. Then enter the meeting ID and password found on the agenda or website.
 - b. Click the link on the Planning Department's webpage or in the invite that is sent to you:

This is reoccurring

kristy winser is inviting you to a scheduled Zoom meeting.

Topic: **Staff** meeting

Time: May 12, 2020 01:00 PM Mountain Time (US and Canada)

Every week on Tue, 7 occurrence(s)

May 12, 2020 01:00 PM

May 19, 2020 01:00 PM

May 26, 2020 01:00 PM

Jun 2, 2020 01:00 PM

Jun 9, 2020 01:00 PM

Jun 16, 2020 01:00 PM

Jun 23, 2020 01:00 PM

Please download and import the following iCalendar (.ics) files to your calendar system.

Weekly: https://us02web.zoom.us/meeting/tZYvcO-ujiltGtLeGMnrvu_GSXMLFpyXrjPo/ics?icsToken=98tyKuGqrDwsHNCctxmBRpwQAI_CM-7wiFhajbxdmTjIDTJFdzzRBdpvHpRvCeDC

Join Zoom Meeting

<https://us02web.zoom.us/j/82276649706?pwd=ZFJ6UmloUVJ0bDZHMTQxdVQ2aEtzZz09>

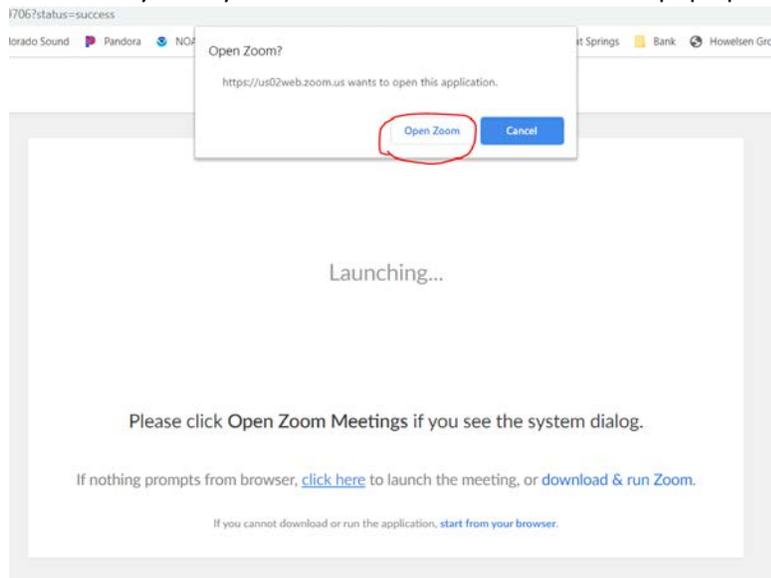
Meeting ID: 822 7664 9706

Password: **215159**

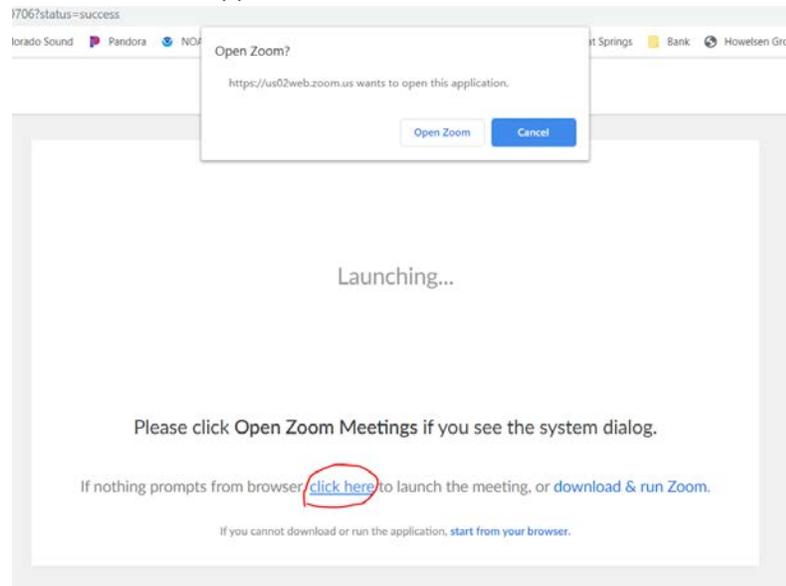
One tap mobile

+12532158782,,82276649706# US (Tacoma)

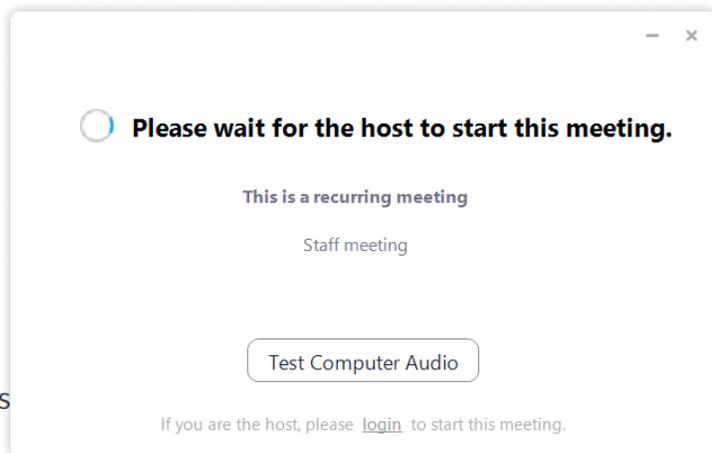
- c. It will take you to your internet browser and a box will pop up. Click 'Open Zoom'



- d. If this pop up does not appear, you will need to click 'click here'. The box mentioned in b. above should appear.



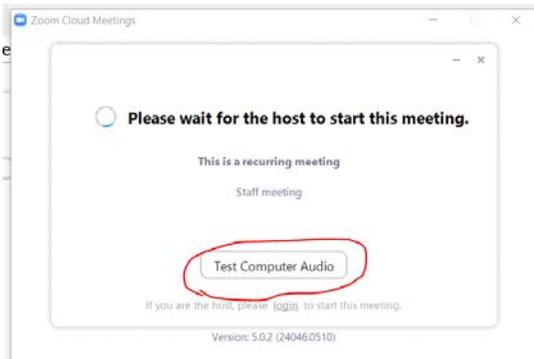
2. If the meeting has not started, you will be placed in a waiting room.



as

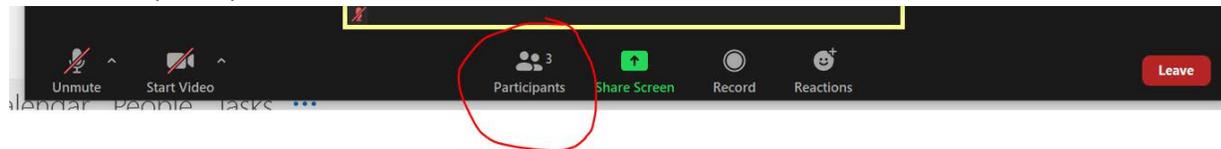
ialk

While you are waiting, you can test your audio and video settings.

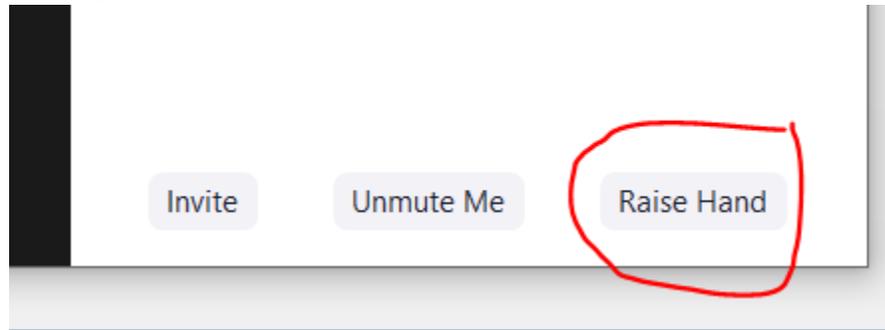


e

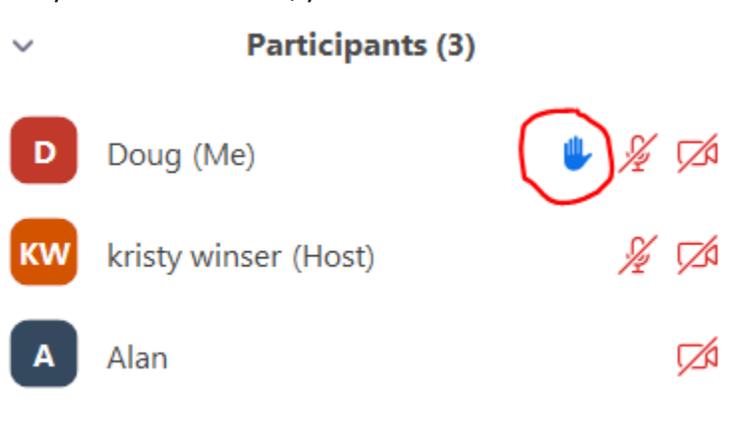
3. Once the host starts the meeting, the host will admit everyone to the meeting.
4. The Chair controls the meeting.
5. A non-presenting staff member (host) will control who is admitted and will be directed to mute/unmute participants by the Chair.
6. All mics will be muted when entering.
7. PC mics will be un-muted during roll call.
8. Applicant will give their presentation. The applicant's mic is the only that will be un-muted.
9. Staff will give their presentation. Staff's mic is the only that will be un-muted.
10. Commissioners will have the opportunity to ask questions of staff and the applicant. Staff, applicant, and Commissioner asking the question will be un-muted.
11. If you want to speak, raise your hand. The Chair will recognize you. The host will un-mute you and you will be able to talk. To raise your hand:
 - a. Click on the participants button.



- b. Your screen will expand to the right and you will see a list of all of the participants in the meeting. At the bottom you will see a 'raise hand' button.



- c. Once you click this button, your hand will be raised.



- d. You can lower your hand by clicking the same button.

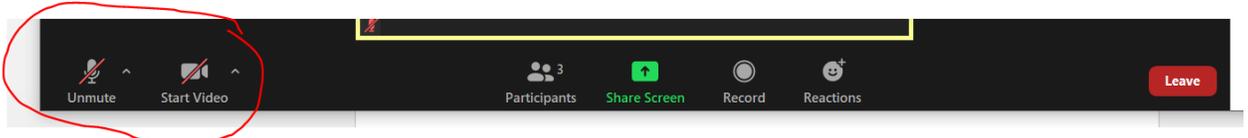
12. There is a screen sharing function that allows the applicant and staff to put presentations, drawings, plans, etc. on the screen for everyone to see. The screen sharing option is available to everyone. If there is a document that you would like to share, raise your hand and you will be

recognized. See the list of tutorial links at the bottom of the page for more information on how to use this function.

13. Chair will ask for any public comment. Citizen will need to raise their hand to be recognized by the Chair. Chair will un-mute the person providing comments.

Best Practices

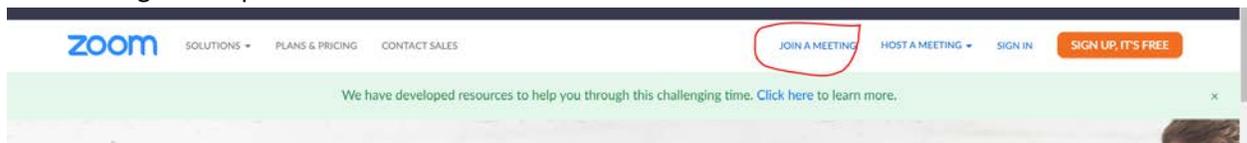
1. Planning Commission, staff, and the applicant must use the video feature and sit close to the camera so that body language, facial expressions, and other nonverbal communication that goes along with live participation can be observed.
2. Everyone must be clearly audible to everyone participating in the meeting. If you are having problems with your audio, play with the audio/video functions in the bottom left hand of the screen. Also, see the tutorial links at the bottom of the page. If you are still having troubles, try installing an audio enhancement application. See the links at the bottom.



3. Be attentive. Make yourself a quiet space and take care of family and pets prior to hearing to minimize distractions.
4. Be patient with people who don't have technical skills. They may not know how to use Zoom or other technological resources.
5. Try not to multi-task during meetings. Applicants have prepared for and look forward to presenting their idea to you. Sometimes they have spent a lot of money getting to this point. Please give them the courtesy of paying attention.

Accessing Through a Phone

- You can access the meeting on your phone through the invite that is sent out, through the link on the Planning Dpt website, or by going to [Zoom](#) and clicking the 'Join Meeting' button and entering the meeting ID and password.



- If the Zoom app is not installed on your phone, you will have to install it. After install, you may have to re-join the meeting through one of the above described options.
- To raise/lower your hand, press *9. To mute/unmute yourself, press *6.
- For more information on functionalities on a phone, please see the tutorial by [clicking here](#).

Zoom Video and Tutorial Links

- Joining a Meeting – [click here](#)
- Configuring Audio and Video – [click here](#)
- Sharing Your Screen – [click here](#)
- Screen Sharing a Powerpoint Presentation – [click here](#)
- Audio Enhancement App – [click here](#)

ROUTT COUNTY BOARD OF ADJUSTMENT

MINUTES

NOVEMBER 4, 2019

The Routt County Board of Adjustment meeting was called to order at 6:00 p.m. with the following members present: Acting Chairman Brian Fitzgerald, Gerry Albers, Don Prowant and County Commissioners Roberta Marshall and Billy Mitzelfeld. Assistant Planning Director Kristy Winser and staff planner Tegan Anderson were also present. Sarah Katherman recorded the meeting and prepared the minutes.

PUBLIC COMMENT

There was no public comment.

APPROVAL OF MINUTES -- September 9, 2019

Mr. Prowant moved to approved the minutes of the September 9, 2019 Board of Adjustment hearing, as written. Mr. Albers seconded the motion. **The motion carried 5 - 0, with the Chair voting yes.**

ACTIVITY: PL-19-185

APPELLANT: Tim Stone

REQUEST: Variance from required setbacks to construct 1) an attached garage, and 2) a detached garage

Required setbacks : 80 ft. from the center line of the road

Requested setbacks : 58 ft. from the center line of the CR 38 to south (for a variance of 22 ft.) and 58 ft. from the center line of the CR 38A the west (for a variance of 22 ft.)

LOCATION: 32290 CR 38

Mr. Tim Stone stated that he is both the architect and the applicant. He stated that he is considering the purchase of the property, which is legal non-conforming parcel in the A/F zone district containing not quite 2 acres. He reviewed the site plan and indicated the location of the Soda Creek Ditch. Mr. Stone stated that both CR 38 and CR 38A are very close to or encroaching on the property lines. He stated that he is proposing to construct a new single family home with an attached garage as well as a detached garage. Mr. Stone stated that the proposal is mostly in conformance with the required setbacks from the center line of the County Roads, with the exception of the garages. He noted that the required setbacks are appropriate for a conforming parcel in the A/F zone district, but that when applied to a parcel of only 2 acres, they severely restrict the available building area. Mr. Stone added that the ditch also constrains the building envelope. He noted that flow of the Soda Creek Ditch varies from 12 cfs in the spring to a trickle in the fall. He said that the presence of the ditch leads to very

saturated soils in its vicinity. In addition there is a 15 ft. setback from the ditch to allow for ditch maintenance.

Mr. Stone stated that the main reason for the location of the detached garage is to break up the massing of the structure. He offered that an outbuilding is more in keeping with the architectural vernacular of the area than an attached 5-car garage. He said that the detached garage would mitigate the noise and lights from CR 38 on the home, and allow solar access to the house. Mr. Stone stated that utilizing the eastern portion of the parcel would require the construction of a bridge over the Soda Creek Ditch. The eastern portion of the parcel is also significantly steeper, and the 50 ft. property line setback severely restricts the building envelope on that side of the ditch.

Mr. Stone stated that the existing cabin, which is in disrepair, would be removed in order to accommodate the new home. He stated that the proposal would reduce the level of non-conformance significantly, as the existing cabin is entirely within the County Road setback.

Mr. Stone reviewed the five criteria which must be met for a variance to be granted and stated the reasons he believes the proposal meets these criteria, as listed on pages 10 - 13 of the fact packet. He added that the Routt County Master Plan supports clustering of structures in the A/F zone district. He noted that the neighborhood surrounding this parcel has a higher density of homes and smaller lots than is common in the A/F zone district. The proposal would not remove any agricultural land from production in order to achieve residential development.

Mr. Stone stated that several emails had been received regarding the proposal, some in support and some in opposition. He reiterated that the proposal would decrease the existing non-conformity.

Public Comment

Mr. Paul Andrews stated that his property is very close to the subject property, although it is not adjacent. He read an email he had submitted, stating his opposition to the project. He stated that a variance from the required setbacks would change the community of Strawberry Park and set a precedent. Mr. Andrews stated that the neighboring property owners had to comply with the required setbacks and in some cases purchase additional land to do so. He asked that the rules be enforced and that other alternatives for the home be considered. Mr. Andrews added that the neighbors were not informed of the proposal in a timely manner.

Mr. David Lundeen, a resident of 38A stated that he and his neighbors feel that scraping the existing cabin and constructing a new home would be an improvement over the existing conditions. He agreed that the lot was severely constrained by the setbacks and the ditch. He offered that the proposal was well considered. He expressed his support for granting the variance.

Seeing no further comment, Mr. Fitzgerald closed public comment.

Ms. Anderson stated that all adjacent property owners were informed of the proposal in compliance with the statutory 21-day notice period. In addition a notice was placed in the newspaper and on the Routt County website and a poster was placed on the site. Ms. Anderson said that the owner of any buildable lot is eligible to apply for a variance through this process.

Ms. Anderson noted the emails received after the packet was assembled. She added that the Routt County Public Works Department submitted a comment stating that it was in support of the proposed access relocation from CR 38 to CR 38A.

Ms. Anderson said that the proposal would maintain the existing residential density. One house would be removed, and one house would be built. She clarified that the proposed variance would result in a setback of 45 ft. from the south property line and a setback of 36 ft. from the west property line. She noted that the disparity is due to the reduced right of way for the roads. She acknowledged that both CR 38 and CR 38A encroach into the property. She presented an aerial view of the property and photos of the existing home. She stated her agreement with the assessment that building on the eastern portion of the parcel would be impractical and would not allow any larger buildable area. Ms. Anderson noted that the proposed home complies with the required setbacks; it is the two proposed garages that would require variances.

Ms. Anderson said that staff is recommending approval of the attached garage, recognizing the constraints on the lot. She noted the location of the leach field. She stated, however, that staff is recommending denial of the variance for the detached garage. She said that adjustments to the proposed home or the attached garage would allow the second garage to be located in a more conforming location.

In response to a question from Mr. Fitzgerald, Mr. Stone stated that the dimensions of the proposed detached garage are 24 ft. x 30 ft. Ms. Anderson stated that the reasons cited by the applicant for the design the garage are not things that can be considered when evaluating compliance with the regulations.

Mr. Albers asked why the structure could not be located closer to the ditch. Mr. Stone said that any closer to the ditch and the structure would not be in compliance with the ditchrider setback, and would be more likely to encounter saturated soils. He also cited construction constraints and the location of the leach field. Mr. Stone stated that a section of the ditch must be lined, but to the north it cannot be lined because the well is recharged from the ditch.

Mr. Prowant asked about other variances in the area. Ms. Anderson stated that although no variance requests have come through in recent years, there are

many non-conforming legal lots in Strawberry Park, as well as non-conforming legal structures built prior to 1972 that are located close to the roads.

In response to a question from Mr. Fitzgerald, Ms. Anderson said that the ditch is owned by multiple owners under the Soda Creek Ditch Company. There is a ditchrider that is charged with ditch maintenance. Mr. Fitzgerald stated that moving a ditch is extremely difficult in Colorado.

Mr. Fitzgerald asked about the use of the detached garage. Mr. Stone said that the structure would be used as his shop for woodworking and for the storage of gear. Ms. Alethea Stone added that they have a three children and have outgrown their current home and storage areas. Mr. Stone reiterated his rationale for locating the detached structure in the proposed location.

Mr. Fitzgerald asked what Mr. Stone would do if the variance for the detached garage were to be denied. Mr. Stone stated he had hoped to build the detached garage first. Ms. Winser clarified the rules regarding tabling the petition to allow for modification of the proposal.

Mr. Mitzelfeld stated that his inclination was to approve the attached garage and deny the detached garage, as recommended by staff. Ms. Marshall stated her support for granting both variances. Mr. Albers and Mr. Prowant agreed with Ms. Marshall. Mr. Fitzgerald stated that he was inclined to deny the detached garage variance, but noted that any member of the Board of Adjustment could change their mind when voting.

Mr. Mitzelfeld proposed requiring a more specific landscaping plan and a method of ensuring that the reseeding is effective. Ms. Anderson referred to suggested Condition of Approval (COA) #8 and added that the reseeding could be made a condition of receiving a Certificate of Occupancy.

Ms. Marshall stated that one of the main benefits of the proposal is the relocation of the driveway. She added that the proposed detached garage is set back further than the existing house, and is in keeping with the agricultural character. She expressed her agreement with the argument regarding solar gain and the separation between the two structures. Ms. Marshall offered that the site is severely constrained in many ways.

Mr. Albers agreed with Ms. Marshall's rationale for approving both variances. Regarding the COA #2, Mr. Albers expressed concern that the applicant would be in violation if the main house were not begun within the first year. Ms. Anderson suggested that commencement could be extended and noted the provision for an administrative extension.

Mr. Prowant noted the improvement of the proposal over the existing conditions on the lot. He stated that the proposal meets the criteria for both variances, citing the constraints on the small lot.

Mr. Fitzgerald stated that he had been persuaded that both variances have merit, citing the reduction of the encroachment into the setback compared to the existing structure. He added that he is cognizant of the concerns regarding enforcing setbacks, but noted that the purpose of the Board of Adjustment is to grant relief from the regulations if they are burdensome on the landowner due to the specific circumstances of the lot and the project. He cited the five criteria that must be met for a variance to be approved.

Mr. Mitzelfeld asked if the applicant would be required to remove the existing building. Ms. Winser stated that all variance approvals are site specific; the project must conform to the plans submitted. Mr. Fitzgerald offered that since there is support for both variances, there was no need for two motions.

MOTION

Mr. Prowant moved to approve a variance of 22 ft. from the 80 ft. required setback from the center line of CR 38 and a 36 ft. variance from required 80 ft. setback from the center line of CR 38A to allow for the construction of an attached garage and a detached garage. This approval is based on the following findings of fact:

1. Peculiar and exceptional practical difficulties or an unnecessary and unreasonable hardship will be imposed on the property owner if the provisions of this Resolution are strictly enforced because of the physical constraints that exist on the property that include the irrigation ditch, leech field location, and road encroachment.
2. Circumstances creating the hardship were created subsequently through no fault of the appellant because the present nonconformity was created in 1965, prior to the adoption of the Routt County Zoning Regulations.
3. The property for which a variance is requested possesses an extraordinary and exceptional situation or condition which does not occur generally in other property in the same Zone District in that the site has a physical constraint limiting the building envelope. This physical constraint is the small acreage size, narrowness of the parcel, and irrigation ditch limiting the developable area.
4. The variance, if granted, will not diminish the value, use or enjoyment of the adjacent properties, nor curtail desirable light, air and open space in the neighborhood, nor change the character of the neighborhood because the configuration and size of the structure is generally in conformity with the adjacent properties and neighborhood.
5. The variance is not directly contrary to the intent and purpose of this Resolution or the Routt County Master Plan as there are no apparent conflicts with RCZR standards or RCMP policies.

CONDITIONS that may be appropriate include the following:

1. The building shall comply with all applicable requirements of the Routt County Building Department.
2. If construction of the main house building does not commence within 2 years, this variance shall be subject to another review with full submittal. A 12 month extension may be approved administratively without notice.
3. This approval is specific to the plans submitted in the application. Any change in footprint, size, height or site location that increases the level on non-conformance will be subject to a new application. Minor variations that do not increase the level of non-conformance can be approved administratively, without notice.
4. A foundation only building permit will initially be signed off on by Planning. Prior to Planning signing off on the full building permit, a certified survey of the location of the foundation forms must be submitted.
5. Best Management Practices (BMP's) shall be utilized during construction to prevent erosion and drainage flow onto adjacent properties, drainage to the east of the parcel and the county road right of way.
6. A Grading and Excavation Permit will be required if necessary.
7. All exterior lighting will be downcast and opaquely shielded.
8. Revegetation of disturbed areas shall occur within one growing season with a seed mix which avoids the use of aggressive grasses. See the Colorado State University Extension Office for appropriate grass seed mixes.

Mr. Albers seconded the motion.

Discussion and Friendly Amendments

Mr. Albers suggested amending COA #2 to state that "if construction of the main house does not commence within 2 years..." This amendment was accepted, as indicated above.

The motion carried 5 - 0, with the Chair voting yes.

ADMINISTRATOR'S REPORT

Ms. Winser stated that no variance applications have been scheduled at this time, but that an application had been submitted that may be heard in December or January.

The meeting was adjourned at 7:20 p.m.