

ROUTT COUNTY BOARD OF ADJUSTMENT

MINUTES

DECEMBER 17, 2018

The Routt County Board of Adjustment meeting was called to order at 6:00 p.m. with the following members present: Acting Chairman Tom Fox, Brian Fitzgerald, Don Prowant, and Planning Commissioner Brian Arel. Planning Director Chad Phillips and staff planner Tegan Anderson were also present. Sarah Katherman recorded the meeting and prepared the minutes.

PUBLIC COMMENT

There was no public comment.

MINUTES - October 8, 2018

Mr. Fitzgerald moved to approve the Board of Adjustment meeting minutes for October 8, 2018, as written. Mr. Arel seconded. **The motion carried unanimously.**

MINUTES - November 5, 2018

Mr. Arel moved to approve the Board of Adjustment meeting minutes for November 5, 2018, as written. Mr. Fitzgerald seconded. **The motion carried unanimously.**

ACTIVITY: PL-18-199

PETITIONER: Josh Graham, representing Keith & Debra Simon

REQUEST: Variance from the required maximum height for a new single family home

Required height: 40 ft.

Requested height: 47.5 ft. (for a variance of 7.5 ft.)

LOCATION: Lot 75, Tree Haus Subdivision; located at 36817 Tree Haus Drive

Mr. Josh Graham, representing the property owners, Keith & Debra Simon, reviewed the height variance request for a new single family home on Lot 75 of Tree Haus. He stated that this is a very steep lot. He presented an elevation drawing demonstrating that the driveway will enter the lot from the road at the level of the garage on the high side of the lot. In order to reach the ground from the level of the back of the garage it will take three full stories. The total height on the backside of the house, measured from existing ground level is 47.5 ft. Mr. Graham noted that many of the homes in this area are older and grandfathered in, and many of the lots have variances due to the steepness of the land. Tree Haus was subdivided in 1971, prior to the adoption of Zoning and Subdivision Regulations in Routt County. Mr. Graham stated that although the lot is constrained, he is not requesting any variances from the required setbacks. The house is proposed to be located right on the 25 ft. front setback line.

Mr. Graham stated the driveway has a grade of 8% coming off the road, and a 2% grade for the last 10 ft. coming into the garage. He stated that the Tree Haus Homeowners' Association (HOA) mandates that all roofs have a 6/12 pitch. Mr. Graham indicated on the elevation drawing that the height of the structure from the existing lowest grade to the top of the roof is 47.5 ft. He stated that the HOA had granted a height variance.

Mr. Graham stated that the average grade of the lot is 35.5%. The grade coming of the road to the front of the proposed house is 56%. Under existing regulations, any area of 30% or greater is considered a no-build area. Mr. Graham said that this lot could not be platted under current regulations. He stated that he had wanted to reduce the side setbacks down to the 10 ft. allowed by the County, but the HOA would not approve it. He said that he did get a side setback variance of 4 ft. from the HOA's required setback of 20 ft. for a total side setback of 16 ft.

Acting Chair Fox acknowledged the letters received from the HOA and the neighbor. Ms. Anderson stated that staff had not received any additional correspondence.

Mr. Fitzgerald asked for an explanation of how maximum building height is measured. Ms. Anderson said that it is measured from the highest point of the roof to the existing or proposed grade, whichever is more restrictive. Mr. Phillips said that the explanation of height measurement is included in the definitions section of the Zoning Regulations. Mr. Graham explained that 19 ft. of fill would be added to the site. He noted that from the street side, the height of the building would be 16 ft., and would appear much lower due to the drop from road level.

Mr. Prowant offered that the request seems very straight-forward. Mr. Fox noted that this is one of the last lots in Tree Haus to be built on, and that it is always the worst lots that remain as a subdivision is built out. He cited not only the steepness, but also the narrowness of the lot. He offered that the request meets all five criteria.

Ms. Anderson said that when she first reviewed the petition, she suspected that the need for the variance was due to the size of the house. Upon further inspection of the subdivision, however, she discovered that many of the existing homes are accessed via shared driveways that allow for greater flexibility. Lot 75 does not have this option as it is the last undeveloped lot in the area and the structure must be accessed directly from the road. She indicated the shared driveways on an aerial view of the neighborhood. Mr. Graham noted that none of the older driveways in the area would be allowed under current regulations.

Mr. Fitzgerald asked about the County's rationale for how building height is measured. Mr. Phillips said that it is intended to keep structures from looming over the surrounding neighbors. If the height were measured from the top of fill material, a very tall structure could be built that would tower over its neighbors.

Mr. Prowant noted that if the lot were wider, an angled driveway would be possible, but that it is not possible under the current constraints. Mr. Arel stated that the only other option would be to build a steeper driveway, but that is not allowed under County regulations. Mr. Fox added that this area of Tree Haus is very shaded.

MOTION

Mr. Arel moved to approve a 7.5 ft. variance from the required maximum height for a total height of 47.5 ft. for a new single family home. 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 topographical constraints of this lot that exist from the access area on Tree Haus Drive
2. Circumstances creating the hardship were created subsequently through no fault of the appellant because the present nonconformity was created in the early to mid 1970s.
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 steep slope from its access point on Tree Haus Drive which makes it different than other lots of similar topography in the Tree Haus subdivision that have utilized shared driveways to overcome the steep slope.
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.

This approval is subject to the following conditions:

1. The building shall comply with all applicable requirements of the Routt County Building Department.
2. If construction of the building does not commence within 1 year, 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 certified survey of the location of the structure must be completed prior to the issuance of a building permit. If the applicant is in need of a foundation permit and unable to provide a survey in a timely manner, the applicant may sign a letter of responsibility stating that they will comply with the setback approved by the Board of Adjustment.
 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. Fitzgerald seconded the motion.

Discussion

Mr. Graham asked about Condition #2. Mr. Phillips said that due diligence toward construction counts, and that there is a provision for an extension.

Mr. Fox noted that the Board of Adjustment grants variances under County regulations, and that an approval from the County does not supersede any covenants enforced by the HOA. Mr. Graham said that because the HOA covenants are stricter than the County's regulations, he obtained approval from the HOA first.

The motion carried 4 - 0, with the Chair voting yes.

ADMINISTRATOR'S REPORT

Mr. Phillips stated that an advertisement of the openings on the Board of Adjustment had been published and that a good response had been received. He said that the Board should be at full strength following interviews in February. After the new members have been appointed, a training will be scheduled with Mr. Phillips and County Attorney Erick Knaus.

Regarding the requirement that a unanimous decision is needed if only four members are present, Mr. Phillips offered that obtaining a variance should be difficult. The variance process is a defense of the Zoning Regulations, and anyone interested in sitting on the Board of Adjustment should be committed to that.

Mr. Phillips stated that he anticipates that an update of the Master Plan will take place in 2019. He offered that the update would contain more specific language

regarding variances that will address criterion #5. There was a discussion of community outreach and the update process.

There was a discussion of how to handle existing structures when a variance is requested. This topic will be addressed more fully at the upcoming Board of Adjustment training.

The meeting was adjourned at 7:00 p.m.