

ROUTT COUNTY BOARD OF ADJUSTMENT

MINUTES

APRIL 9, 2018

The Routt County Board of Adjustment meeting was called to order at 6:00 p.m. with the following members present: Acting Chairman Jeff Gustafson, Brian Fitzgerald, Thorne Clark and Don Prowant. Planning Director Chad Phillips and staff planner Jillian Ferguson were also present. Sarah Katherman recorded the meeting and prepared the minutes.

MINUTES –November 13, 2017

Mr. Fitzgerald moved to approve the minutes of the November 13, 2017 Board of Adjustment hearing, as written. Mr. Prowant seconded the motion. **The motion carried unanimously.**

PUBLIC COMMENT

There was no public comment.

ACTIVITY: PL-18-109

PETITIONER: Tamara Morton Johnson & Grant Johnson

REQUEST: Variance from required setbacks for an addition to an existing structure

Required setbacks: 50 ft. from all property lines

Requested setbacks: 4.6 ft. setback from the west property line (for a variance of 45.4 ft.)

Required height limit: 40 ft.

Requested height: 50 ft. (for a variance of 10 ft.)

LOCATION: 31125 CR 64 (Seedhouse Road), Clark, CO

Mr. Phillips stated that with only four Board of Adjustment (BOA) members present, any decision to approve or deny must be unanimous. The applicant may request that the item be tabled at any time prior to a vote being taken.

Ms. Tamara Johnson reviewed the variance request. She stated that she does not have architectural drawings or engineered plans because she did not want to invest in these prior to knowing if the setback and height variances would be approved. She said that if they are not approved, the design of the house would be very different. She said that the drawings she submitted are representative of what she wants to do.

Ms. Johnson reviewed the size and location of the proposed addition. She said that while the proposed addition would be 4 to 5 feet from the western property line, it would not be any closer to the river than the existing house is. She stated that she is a strong believer in historical preservation and that she does not want to impact the surrounding neighborhood any more than

necessary to accommodate an addition. Ms. Johnson described the existing home, which was built in 1945 with rocks from the river and locally hewn boards. She said that she likes the look of the house and wants to maintain that in the addition. Ms. Johnson said that her request reflects a "worst case scenario" and that if anything, the setbacks would be greater than proposed. Under no circumstances would they be less. She said that the exact footprint would depend on the engineering needed to construct the addition. She stated that the ground in the area is very rocky and there was no way of know if there are large boulders under the house that would need to be removed to attach the addition. Ms. Johnson noted that there is a typo in the staff report: the house has never flooded, and she wants to ensure that the addition will not flood either. She stated that the proposed residential portion of the addition is 25' x 52' and that the additional 20' x 28' area is to accommodate utilities.

Ms. Johnson presented photos of the existing home and indicated the location of the proposed addition. She noted that the trees would screen the addition from the road. She described the steep slope in back of the house and described why the height variance would be needed to ensure that the roofline of the addition matches the roofline of the existing house. Ms. Johnson said that her proposal would be much less intrusive on the neighborhood and would be much more in keeping with the historical character of the area than building an addition in front of the home. She added that she wants to maintain the 12 x 12 pitch of the roof to match the existing home, and wants the addition to have 12' ceilings on both levels. The proposed addition would be taller measured from the back grade than from the front.

Ms. Johnson described the snow build-up and ice dam problems that occur at the existing home, and the damage that occurs as a result. She offered that it only makes sense to raise the house to accommodate the snow levels that occur in north Routt. She said that once she knows whether the proposed setback is acceptable to the County, she will obtain exact drawings of the proposed addition.

Mr. Fitzgerald asked if the property line variance is approved, but the height variance is not, if she would go ahead with the proposed plan. Ms. Johnson said that she was not sure. She said that if the height variance is not granted the roof lines would not match. She reiterated her previous comments concerning the importance of remaining in keeping with the neighborhood character and the historical design of the existing home. In response to a question regarding subsoil testing, Ms. Johnson said that although none had been done, she had dug around the house to install landscaping and had encountered significant rock immediately under the surface. She added that structural engineers had evaluated the existing house and had commented on the rocky nature of the former river bed on which the house is built.

Mr. Fitzgerald asked about the waterbody setback. Ms. Johnson said that the proposed addition will not be any closer to the river than the existing house. Mr. Phillips stated that if the variance is approved, the applicant would be required to obtain a Waterbody Setback Permit.

Mr. Fitzgerald asked about the exemption for the house that was approved in 1974. Ms. Ferguson stated that the lot was granted an exemption to bring it into conformance. It is a legal non-conforming lot and structure in the A/F zone district. Mr. Phillips added that the exemption gave the acreage and the house legal status when a lot line adjustment was made.

Mr. Ken Bomberski, a contractor advising the petitioner on the project, stated that he did not think a Waterbody Setback Permit would be needed for the addition. He said the addition would be designed such that it is outside the required 50' setback from the river. Mr. Gustafson said that to do so would require a considerable adjustment of the proposed plan. He noted the measurements listed on the submitted site plan. Ms. Johnson said that she would obtain a certified survey to ensure that the addition is in conformance with the required waterbody setback. She noted that she had not considered building on the Hinman Creek side of the home because did not want to interfere with the creek or with the view of the creek from the road.

Ms. Johnson said that the proposed addition is what is needed to accommodate the needs of her family. She described the deficiencies of the existing home. She stated that she had made a mock-up of the proposal and shown it to the neighbors to the west, who had no objections to her plan. She said that she has an email from them stating this.

There was an extensive discussion of the neighboring property to the west and the location of the home on that lot. Mr. Phillips noted that a variance approval does not depend on the opinions of the neighbors; it must be based on conformance with the five listed criteria. Mr. Bomberski cited the location of the septic system, the water well, the propane tank, the garage and the steepness of the slope on the oddly shaped lot as reasons that the proposed building site is the best one available.

Mr. Prowant asked about the snow level if the addition is at the same level as the existing house. Ms. Johnson described the snow removal challenges and said that the proposed location for the addition is the flattest part of the area around the existing house. She indicated the location of the steep hill. She stated that the proposed addition would be 4 – 5 ft. off the ground in the back. She added that she did not think it would be a good idea to raise the roof of the existing house. Ms. Johnson indicated the location of the septic system, propane tank, water well and garage and stated that there are few options for a building site adjacent to the existing home.

In response to a question from Mr. Clark, Mr. Bomberski stated that they did not have a topographic map of the site. The BOA discussed the location of the utility lines.

Mr. Gustafson stated that the design would have to be changed significantly to remain in conformance with the required waterbody setback. He noted that the proposed addition would double the size of the footprint of the existing home and the requested side setback would be a 90% reduction from the required setback. Ms. Johnson noted the variance for the existing house had a hand-written note that it is for the garage only.

Ms. Ferguson noted that if the variance is approved, what is built must be in conformance with the submitted drawings. She also added that the cost, profit or convenience of building cannot be the sole basis for a hardship.

Mr. Phillips stated that if the BOA determines that the property line variance is merited, the height variance could be tabled. He noted the staff recommendations and the suggested findings of fact included in the staff report. He cited specifically the location of the septic system, creek, slope to the river, the water well and the small size of the lot in the A/F zone district as physical constraints

on the building site. He offered that although more details may be needed, the criteria for the setback variance could be met.

Mr. Fitzgerald noted suggested condition of approval #3, which states that the approval is specific to the plans submitted in the application. He said that he did not see how this could be possible, given the lack of specificity of the plans and the statements by the applicant that the plans had not yet been finalized.

Ms. Johnson reiterated that she did not want to invest in architectural drawings until she knew what the approved setback would be. She stated that adjustments could be made, but noted that the farther back the addition is moved, the taller the house gets due to the slope. She stated that the height variance needed would depend on which grade is used as the base for the measurement. Regarding the waterbody setback, she stated that she believes the existing house meets that requirement and she intends for the addition to meet the 50 ft. requirement as well.

Mr. Gustafson asked whether not being able to build the size of addition desired could be considered a hardship. Mr. Phillips said that not being able to build the size of addition would fall under the first criteria regarding peculiar and exceptional practical difficulties. He suggested that BOA focus on the property line setback issue first, and leave the height restriction issue until it has been determined if there is sufficient information to decide if the setback variance can be decided at this time.

Mr. Gustafson stated that a smaller addition, differently sited, and/or moving the septic field could allow for other building options than that proposed. Ms. Johnson offered that to build elsewhere would require moving the water well, septic system and propane tank and that doing so would be very difficult and expensive, if it were possible. She also noted that size and shape of the lot. She noted that she is asking for the exact same distance from the property line for her house as the neighbors have from theirs.

Public Comment

Mr. David Maris said that he was there to observe the process. He cited staff's recommendations included in the staff report and the findings cited regarding the conformance with the five criteria. He said he did not understand the disconnect or miscommunication regarding where exactly the building is to be located and the staff comments.

MOTION

Commissioner Prowant moved to approve the request of a 45.4' variance from the required 50' variance from the west property line, citing the findings of fact listed in the staff report.

The motion failed for lack of a second.

MOTION

Mr. Fitzgerald moved to table the request indefinitely to allow the applicant the opportunity to provide appropriate drawings of the proposed addition so that the BOA can understand exactly what is proposed and what findings a decision will be based upon.

Mr. Clark seconded the motion.

Discussion

Mr. Clark stated that he would like to see an accurate survey and better representation of the locations of the structures on the adjacent lot. He stated that he would like clarity regarding the location of the river banks, stream, the propane tank, the septic system, the water well and the existing structures, as well as a topographic map of the site. Mr. Gustafson said he would prefer not to table the request. Mr. Fitzgerald stated that the BOA needs to know the specifics of the structure being proposed so that a new application would not need to be submitted if the plans change.

The motion carried 3 – 1, with the acting Chair voting no.

Mr. Phillips noted that the vote is valid, as only an approval requires four votes.

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