

**ROUTT COUNTY BOARD OF ADJUSTMENT  
FINAL MINUTES**

**JUNE 1, 2020**

The Routt County Board of Adjustment meeting was called to order via Zoom at 6:00 p.m. with the following members participating: Chairman Brian Fitzgerald, Gerry Albers, Don Prowant and Jeff Gustafson. Interim Planning Director Kristy Winser and staff planner Tegan Anderson were also present. Sarah Katherman prepared the minutes.

**PUBLIC COMMENT**

There was no public comment.

**APPROVAL OF MINUTES - November 4 , 2019**

Mr. Prowant moved to approved the minutes of the November 4, 2019 Board of Adjustment hearing, as written. Mr. Albers seconded the motion. **The motion carried 4 - 0, with the Chair voting yes.**

**ACTIVITY: PL-20-106**

**APPELLANT: Sierra and Matt Fallon**

**REQUEST: Variance Construct a new single family residence within the property setback**

**Required setbacks : 50 ft. from the property line /80 ft. from center line of road**

**Requested setbacks : 5 ft. from the property line for a variance of 45 ft. and 50 ft. from the center line of the road for a variance of 30 ft.**

**LOCATION: 25485 County Road 56**

Chairman Fitzgerald noted that because the meeting is virtual, the applicant could choose to table at any time due to technical difficulties.

Ms. Sierra Fallon reviewed the petition. She stated that her family had owned the property since 1970. There are two dwelling units on the property. The existing structures were both built in 1929. A secondary dwelling permit was granted retroactively for the property about 20 years ago. The property is a triangle bordered by the Elk River, CR 56 and the Kurtz ranch, which is on the west side of the property. She said that the parcel has been surveyed. In response to a question from Chairman Fitzgerald. Ms. Fallon said that the three residences on the Kurtz property are about two acres from the property line. Ms. Fallon noted the tiny (9 sq. ft.) building envelope of land that does not encroach into any of the setbacks, and said that none of the existing structures are in that area. She explained that the proposal is to rebuild a two story home on the footprint of the existing house. Ms. Fallon presented renderings of the proposed new structure. She stated that no other changes are planned for the property.

Chairman Fitzgerald clarified that because only four BOA members are present, an approval would require a unanimous vote, and that the applicant could request a postponement until a full board could be present. Ms. Fallon chose to proceed.

Ms. Fallon said that they would like to use the existing foundation walls if possible, but if the walls are not sound, a foundation with a crawl space would be built on the same footprint. She stated that the parcel, which was created in 1970, is a legal non-conforming lot in the Agricultural/Forestry (A/F) zone district. The structures were all in existence prior to the creation of this parcel. Ms. Fallon stated that the Kurtzes are aware of the proposal and have no objections. She stated that there is no sight line from the Kurtz residences to the home site. Ms. Fallon stated that no changes would be made to the well or the septic system, other than to upgrade the interior plumbing. The electrical service to the site will be improved.

Ms. Fallon noted that the proposed structure includes a small bump-out which does extend beyond the foundation. She stated that this had been taken into account in calculating the variance request. In response to a question from Mr. Gustafson, Ms. Fallon clarified that the roof overhang is 3 ft. beyond the walls. Ms. Ebbert stated that overhangs of two feet are allowed without consideration, but because this overhang is three ft., an additional foot was included in the calculation of the variance request. Mr. Gustafson suggested that in order to ensure that there is sufficient room to construct the proposed building, a setback of 3 ft. or 4 ft. would be appropriate.

Ms. Winser stated that the variance request was advertised very broadly, which would allow the Board of Adjustment to modify the amount of variance granted. She noted that the variance will be specific to the site and the plans submitted.

Ms. Ebbert noted that the parcel contains only 0.28 acres, but because it is zoned A/F the required setbacks are 50 ft. from the property lines and 80 ft. from the center line of the road. The minimum lot size in the A/F zone district is 35 acres. Ms. Ebbert stated that the secondary dwelling, which is registered, encroaches into the neighboring property, but because it was constructed prior to zoning in Routt County, the Planning Department is not addressing this issue. The property owners are working to resolve the issue with their neighbors. Ms. Ebbert stated that staff recommends approval of the variance request

## **MOTION**

Mr. Gustafson moved to approve a setback variance of 48 ft. from the west property line (for a setback of 3 ft.) and a setback variance of 30 ft. (for a setback of 50 ft.) from the center line of CR 56. 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**

- unusually small area that meets setbacks on this parcel that make construction of any structure impractical.**
2. Circumstances creating the hardship were created subsequently through no fault of the appellant because the present nonconformity **was created 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. **The physical constraint is the small area of the parcel of 0.28 acres.**
  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. 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.
5. A Grading and Excavation Permit will be required if necessary.
6. All exterior lighting will be downcast and opaquely shielded.
7. 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.

Commissioner Albers seconded the motion.

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

**ADMINISTRATOR 'S REPORT**

Ms. Winser reported that following the BOA virtual meeting training session, the Board of County Commissioners had reviewed and approved the remote meeting policy. She highlighted Section 8.e of the policy regarding the tabling of meetings for technical issues. She also discussed the protocol for continuing a meeting if a BOA member is temporarily unable to hear the proceedings.

Ms. Winser reviewed the upcoming schedule of hearings. The BOA expressed its support for hearing more than one item per meeting to reduce the frequency of meetings.

**The meeting was adjourned at 6:45 p.m.**