

**ROUTT COUNTY BOARD OF ADJUSTMENT
FINAL MINUTES**

July 20, 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 planners Alan Goldich and Tegan Ebbert were also present. Sarah Katherman prepared the minutes.

PUBLIC COMMENT

There was no public comment.

MINUTES - JUNE 1, 2020

Mr. Prowant moved to approve the minutes from the BOA hearing cited above, as written. Mr. Albers seconded the motion. **The motion carried unanimously.**

MINUTES - JUNE 8, 2020

Mr. Prowant moved to approve the minutes from the BOA hearing cited above, as written. Mr. Albers seconded the motion. **The motion carried unanimously.**

MINUTES - JUNE 15, 2020

Mr. Prowant moved to approve the minutes from the BOA hearing cited above, as written. Mr. Albers seconded the motion. **The motion carried unanimously.**

ACTIVITY: PL-20-118

APPELLANT: Anne Warhover and Cale Givens

REQUEST: Property line setback v ariance to bring an existing home and garage into conformance, and a variance for a proposed addition to connect the two

Required setbacks : 50 ft. from the property line s

Requested setbacks : 27.6 ft. from the side property line (existing house) for a setback of 22.4 ft. 49.6 ft. from the side property line (existing garage) for a setback of 0.5 ft. and 23 ft. from the front property line for a setback of 27 ft.

27.6 ft. from the side property line (proposed addition) for a setback of 22.4 ft. and 45 ft. from the front property line for a setback of 5 ft.

15.75 ft. from the side property line (proposed covered patio) for a setback of 34.2 ft.

LOCATION: Lot 4 Soda Creek Highlands; 32115 Highlands Road

Mr. Goldich reviewed the petition, noting the small size of the parcel for the zone district, the very steep terrain, the irrigation ditch that bisects the property and the triangular shape. He reviewed the site plan and indicated the existing home and garage and the proposed addition that connects the two. He described the proposed addition, which lines up with the existing home and encroaches into the setback the same amount. Mr. Goldich stated that the proposed roof extension to cover a ground-level patio would extend an additional 12 ft. into the setback beyond the foundation of the proposed addition, for a setback of 15.83 ft. from the south property line. He explained that setbacks are generally measured from the foundation and an allowance of 2 - 3 ft. of roof overhang beyond the foundation is typically accepted. He said that because the proposed overhang far exceeds the typical overhang and is a design feature, staff is recommending that the existing structures and the addition be approved without the roof overhang. He noted that there are two suggested motions: one for the existing structures and one for the addition. Mr. Goldich stated that the only issue for discussion identified by staff is the 12 ft. roof overhang.

Mr. Albers asked about the neighboring property to the south. Mr. Goldich stated that the leach field for the subject property is on the adjacent lot, so there is a septic easement. No comments were received from the property owners regarding the petition. Ms. Tanya Lillehoff, representing the petitioner, stated that the septic easement is 123 ft. wide. She indicated the easement on the site plan and offered that it provides a large buffer between the proposed addition and the neighbors' structures. Ms. Warhover stated that the adjacent property owner, Mr. Moser, has reviewed the plans and supports the proposal. She added that they have shown the plans to all of the neighbors and have received only positive comments. Ms. Warhover said that Mr. Moser cannot see their house from his residence.

Mr. Albers asked about the roadway easement on the subject parcel. Mr. Givens explained that the easement is there to allow Mr. Moser to improve the entrance to his driveway, if he wishes. He added that the Moser property is 40 acres, so there are many options. Mr. Goldich clarified that the 10 ft. easement that runs along the property line is a utility easement.

Mr. Prowant asked if the petitioners had considered other options on the property for a covered outdoor space. Ms. Warhover stated that the main goal of the proposal is to connect the garage to the house. She noted that the location of the addition is limited due to the terrain. Mr. Givens stated that the existing porch is about 12 ft. from the house footprint. He explained that covering the patio area will make snow removal much easier.

There was no public comment.

MOTION - Existing structures

Chairman Fitzgerald moved to approve the above stated variances from the required side and front property setbacks to bring the existing house and garage into conformance. This approval is based on the following findings of fact:

1. An unnecessary and unreasonable hardship will be imposed on the property owner if the provisions of this Resolution are strictly enforced because there was, and is, no other location on the property to construct these structures because of the steep slopes and existing mature vegetation.
2. Circumstances creating the hardship were created subsequently through no fault of the appellant because the present nonconformity was created in the early 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 physical constraint limiting the building envelope. This physical constraint is the small acreage size and the steepness of the parcel.
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 a road borders two of the three lot lines and the third contains a septic easement which prevents the neighboring landowner from building anything in this area.
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.

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

Mr. Albers asked about the proposed covered patio. Mr. Goldich stated that the patio, without the covering, could be constructed without an additional variance because an at-grade patio is not considered a structure and setbacks only apply to structures. He said that this type of patio is considered to be more like landscaping. Mr. Givens stated that the overhang over the patio on the existing house is about 4 ft. He said that they put up an awning to shade the south side of the house, and offered that would be logical to shade the south side of the addition. Ms. Lillehoff presented architectural drawings of the proposed addition and covered patio.

MOTION - Proposed addition

Mr. Gustafson moved to approve the setback variances cited above for the proposed addition with a covered patio connecting the existing home and garage. This approval is based on the following findings of fact:

1. An unnecessary and unreasonable hardship will be imposed on the property owner if the provisions of this Resolution are strictly enforced because of the location of the existing residence and garage.
2. Circumstances creating the hardship for the addition were created subsequently through no fault of the appellant because the present nonconformity was created in the early 1970s. However, the roof extension can easily be built in a conforming location and is not part of this approval.
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 and the steepness of the parcel.
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 a road borders two of the three lot lines and the third contains a septic easement which prevents the neighboring landowner from building anything in this area.
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 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 of 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. **The motion carried 4 - 0, with the Chair voting yes.**

ACTIVITY: PL-20-119

APPELLANT: Jeff Niss en - Windsong Acres, LLC

REQUEST: Variance to construct a garage in the setback

Required setbacks : 50 ft. from the property line

Requested setbacks : 16 ft. from the north property line for a variance of 34 ft.

LOCATION: 33425 CR 33

Ms. Ebbert described the lot, noting that it contains only 2 acres and is zoned Agriculture/Forestry. She added that Trout Creek bisects the lot. She stated that the proposed garage would be located entirely within the required 50 ft. setback and would be 15 ft. from the north property line. Ms. Ebbert indicated on a site plan the very small areas of buildable space that exist on the lot that are not within the required setbacks from the property lines and Trout Creek. These site constraints make it impossible to build on the north portion of the lot and not encroach into the setback. Building on the south portion is also not feasible because Routt County will not grant a second access point to the lot and is very unlikely to approve the waterbody setback permit that would be required to build a bridge. Ms. Ebbert indicated the location of the existing garage that the proposed garage would replace. The existing and the proposed footprints overlap, and the proposed garage is slightly farther from the property line than the existing garage.

There were no questions regarding the proposal. Mr. Prowant stated that the proposed garage was essentially a replacement for the existing garage.

There was no public comment.

MOTION

Mr. Gustafson moved to approve the above cited variance from the required setback to construct a 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 **small parcel size and required waterbody setbacks severely constraining the buildable area.**

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 physical constraint limiting the building envelope. **This physical constraint is the small acreage size and waterbody bisecting the parcel.**
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 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 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.
9. A Plumbing Agreement for the garage bathroom shall be recorded by the applicant prior to issuance of a building permit.

Mr. Prowant seconded the motion.

Discussion

Under discussion, Ms. Ebbert noted that the suggested conditions include a Plumbing Agreement which is required for plumbed accessory structures on properties that are not eligible for a secondary dwelling unit.

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

ADMINISTRATOR 'S REPORT

Ms. Winser reviewed the upcoming agendas for August 10th and September 14th. She stated that several applications are in the pipeline, so it is likely that there will also be a meeting in October. She reported that an advertisement would be put out soon to fill open positions on both Board of Adjustment and Planning Commission.

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