

**ROUTT COUNTY BOARD OF ADJUSTMENT  
FINAL MINUTES**

**September 13 , 2021**

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

**PUBLIC COMMENT**

There was no public comment.

**MINUTES - June 14, 2021**

Mr. Fitzgerald moved to approve the above cited minutes as written. Mr. Albers seconded. **The motion carried 5 - 0, with the Chair voting yes.**

**ACTIVITY: PL-21-1 63 - to be rescheduled**  
**APPELLANT: Jeanette and Sanford Brook**  
**REQUEST: Property line setback variance**  
**LOCATION: 32958 McKinnis Creek Rd.**

Ms. Ebbert explained that there was no need for a motion to table this item, as it will be fully re-noticed when it is re-scheduled.

**ACTIVITY: PL-21-153**  
**APPELLANT: Shane Freehling**  
**REQUEST: Property line setback variance to construct an addition**  
**Required setbacks : 50 ft. from the property lines**  
**Requested setbacks : 41 ft. from the west property line for a variance of 9 ft.**  
**33 ft. from the north property line for a variance of 17 ft.**

**LOCATION: Lot 3 Eanesville Exemption; located at 56705 McKee Lane**

Mr. Freehling stated that he and his wife had purchased their cabin, which is located on the south side of the Upper Elk River, in 2014. He said that the cabin is very small: 24' x 33'. He indicated the existing cabin and the proposed addition on a site plan. The existing cabin, which was built around 1970, encroaches into the west and north setbacks. Mr. Freehling said that he and his wife are planning to move to the property full-time and want to build an addition and a garage. He said that in designing the addition he had tried to minimize the encroachment into the setbacks, but that there was no way to attach it to the existing structure without a portion extending into the setback. Mr. Freehling explained that the house is accessed via a private road. The lot contained only 0.34 acres when the cabin was constructed and was enlarged to 1.02 acres through a replat in 1996.

Ms. Ebbert reviewed the variance request and confirmed that the house had been built before planning and zoning were implemented in Routt County. She stated that the site has several constraints, including the location of the existing structure, the location of the water lines and septic system and the small size of the lot for the Agriculture/Forestry zone district. Ms. Ebbert presented photos of the site and stated that staff is recommending approval.

In response to a question from Mr. Prowant, Mr. Freehling said that none of the neighboring residences are close and that they are all oriented towards the river. The Freehling property does not border the river. Ms. Ebbert stated that the existing vegetation screens the site from the neighboring properties.

There was no public comment.

There were no questions or comments from the Board of Adjustment.

### **MOTION**

Mr. Albers moved to approve the requested variances from the required 50 ft. setbacks of 9 ft. and 17 ft. for setbacks of 41 ft. from the west property line and 17 ft. from the north property line to construct an addition. 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 existing location and configuration of the dwelling unit.
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 existing location of the dwelling unit.
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 and Routt County Environmental Health 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.

Mr. Fitzgerald seconded the motion.

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

**ACTIVITY: PL-21-162**

**APPELLANT: Steve Morrison, on behalf of Mark and Brenda Bosses**

**REQUEST: Property line setback variance to construct a retaining wall**  
**Required setbacks : 50 ft. from the property lines**  
**Requested setbacks : 20 ft. from the east property line for a variance of 30 ft.**

**LOCATION: Lot B Caudill Subdivision; located at 31165 Star Ridge Road**

Mr. Steve Morrison, representing the petitioners, stated that the Bosses' home was constructed about 20 years ago and is located very close to the 50' setback. He presented a site plan and indicated the location of the home, the driveway and the shared road that also serves several other residences. He noted that the bank on which the road is built, which is located above the driveway, is very steep and is beginning to erode. Debris is encroaching into the driveway. Mr. Morrison stated that eventually the erosion will affect Star Ridge Road.

In response to a question from Mr. Albers, Mr. Morrison said that the proposed retaining wall would be approximately 90' in length, but that only the portion of it that is 4' in height or higher requires a variance. Mr. Albers asked if the Road & Bridge Department had reviewed the petition. Ms. Ebbert said that they had, and described how the proposed retaining wall had come to the attention of the Planning Department, which determined that because a portion of it is 4' and higher it would require a variance. She confirmed that the Road & Bridge Department has approved the design, materials and length of the retaining wall.

Ms. Ebbert stated that the subject site very steep. She presented a site plan indicating that most of the lot has grades of over 30%. She said that the erosion of the road is a significant concern, and has already narrowed the driveway to the extent that it is difficult to pull a vehicle into the garage. Ms. Ebbert stated that staff feels that the proposed retaining wall is needed and is recommending approval of the variance.

There was no public comment.

There were no further questions or comments from the Board of Adjustment.

#### **MOTION**

Mr. Fitzgerald moved to approve the requested variance of 30 ft. from the required 50 ft. setbacks to construct a retaining wall 20 ft. from the property line. 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 existing location of the dwelling unit, driveway, and Star Ridge Road.
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 the narrowness 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 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. 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.

Mr. Prowant seconded the motion

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

### **ADMINISTRATOR 'S REPORT**

Ms. Ebbert explained that the noticing requirements for all application types have changed due to a change in process that will allow time for referral comments to be submitted before a hearing is scheduled. The implementation of the new noticing requirements was coordinated with the transition to new permitting software at the County. Ms. Ebbert said that the Brook variance request would most likely be scheduled for November 8<sup>th</sup>. Two other items have been scheduled for that hearing date.

Ms. Winser stated that the new permitting software is also being used by the City, which will make the application process smoother and easier for many applicants. The new process will add only a couple of days to the time it takes for applications to move through the system, but will result in higher quality and more complete applications.

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