

**ROUTT COUNTY BOARD OF ADJUSTMENT  
FINAL MINUTES**

**October 12 , 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, Don Prowant, Joella West, Becky Lewis and Jeff Gustafson. Interim Planning Director Kristy Winser and staff planner Tegan Ebbert were also present. Sarah Katherman prepared the minutes.

**PUBLIC COMMENT**

There was no public comment.

New Board of Adjustment members Joella West and Becky Lewis introduced themselves.

**ACTIVITY: PL-20-159**

**APPELLANT: Chris Timmerman**

**REQUEST: Property line setback v ariance for an existing home and a proposed deck**

**Required setbacks : 50 ft. from the property line s**

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

**LOCATION: 30720 Elk Lane**

Mr. Chris Timmerman reviewed the variance request to bring an existing home into conformance and to allow the construction of a deck in the south property line setback. He stated that they have owned the home for about 10 years and only learned of the encroachment into the setback recently when they applied for a building permit for a small addition. He said that the proposed addition meets the required setbacks, but a portion of a proposed wrap-around deck would require a variance. He said that the deck would connect the proposed addition to the existing deck. Mr. Timmerman noted that the lot is very steep, which is probably why the existing house was located where it is. He indicated on a site plan the area of the proposed new deck that would encroach into the setback, noting that the deck in that location is almost at grade. He said that the area is heavily wooded and that it is unlikely that the deck would be visible to anyone.

Mr. Ryan Malone of SEAD, representing the petitioner, presented renderings of the proposed addition and deck. He said that the area around the house is very steep. He noted that the existing deck encroaches into the setback, and that the proposed deck would wrap around the house and connect to the addition. He reviewed the renderings and site plan of the house and proposed addition. Mr. Malone stated that conditions creating the hardship were present when the Timmermans purchased the property.

Ms. Ebbert confirmed that the lot is very steep. She presented a color-coded site plan indicating that significant portions of the lot have slopes of 30% or greater. She stated that under current regulations, slopes of 30% or greater are considered unbuildable. Ms. Ebbert noted that the buildable areas of the lot are largely inaccessible, and agreed that the house was probably located where it is due to the topography. She stated that staff is recommending approval of the variance due to the steepness of the lot, and the fact that the house was in its current location when the current landowners purchased the property.

Ms. Lewis asked about access to the proposed new deck. Mr. Timmerman explained that although a door is not shown on the renderings, they do intend to include a door onto the deck from the addition to access the hot tub in the yard. He said that they may wait to put the door in once their grandchildren are somewhat older. He added that the addition would be heated with a wood stove and the deck would provide an area for easily accessible wood storage. Ms. Ebbert presented a photo of the house and the existing deck, and pointed out that the proposed deck would be almost at ground level where it meets the existing deck.

In response to a question from Mr. Prowant, Ms. Ebbert confirmed that all the adjacent property owners had been notified of the request, which had also been advertised and posted on the property. She said that she had heard from one neighbor, who wanted to know what was being proposed, but that did not follow-up with any comments. Mr. Timmerman stated that they had contacted their neighbors and had met with the homeowners' association, which signed off on the variance request.

There was no public comment and there were no further questions from the Board of Adjustment.

### **MOTION**

Mr. Prowant moved to approve the requested variance of 16 feet from the required setback for a setback of 34 feet from the south property line setback to bring the existing structure into conformance. 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 severe topography and slope of the site and the location of the existing 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 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 slope 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.

Ms. Lewis seconded the motion.

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

### **MOTION**

Ms. West moved to approve the requested variance of 16 feet from the required setback for a setback of 34 feet from the south property line setback to allow for the construction of a deck. 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 severe topography and slope of the site and the location of the existing 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 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 slope 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.

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.

Ms. Lewis seconded the motion.

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

#### **ADMINISTRATOR 'S REPORT**

Ms. Ebbert reviewed the upcoming agenda for November and stated that it is likely that there will also be a meeting in December. She stated that the number of variance requests continues to be far greater than has been the case historically. Meetings will continue to be held via Zoom at least through the end of the year.

**The meeting was adjourned at 6:40 p.m.**