

**ROUTT COUNTY BOARD OF ADJUSTMENT
MINUTES**

January 11 , 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 Brian Fitzgerald, Gerry Albers, Don Prowant, Jeff Gustafson, Becky Lewis and Joella West. 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 - December 14, 2020

Ms. Lewis moved to approve the above cited minutes with the clarification that it was Marsh Gooding who spoke in response to public and BOA comment. Mr. Prowant seconded. **The motion carried 5 - 0, with the Chair voting yes.**

ACTIVITY: PL-20-181

APPELLANT: Dan Barger

REQUEST: Property line setback variance to allow for the construction of a residence

Required setbacks : 50 ft. from the property lines

Requested setbacks : 10 ft. from the north property line for a variance of 40 ft.

LOCATION: On the north side of CR 64 (Seedhouse Rd.) approximately 4.5 miles east of the intersection with CR 129 .

Mr. Dan Barger reviewed the application to remove the existing residence, which is located 28.6 ft. from the north property line and replace it with a new residence to be located 10 ft. from the north property line. He stated that the existing house was built sometime between 1940 and 1958. He noted the small size and narrowness of the parcel. He said that the new residence would be tucked slightly farther into the hillside but occupy more or less the same footprint as the existing structure. Mr. Barger indicated on a site plan the location of the septic system and other constraints on the property.

Mr. Goldich reviewed the proposal. He indicated the location of the driveway, which is located within a USFS easement and cannot be moved. He also indicated the creek that runs along the eastern edge of the parcel, the hillside on the northern property line and the steep drop off to the west. He pointed out the location of the electrical pole and the overhead power line, and noted the mature vegetation. Mr. Goldich said that staff is recommending approval of the variance.

Ms. Lewis asked when the applicant purchased the property and whether he had expected that the variance would be granted when he purchased it. Mr. Barger

said that he had purchased the property in November of 2020 and that although he did not assume that the variance would be granted, he did have a vision for the property. He stated that the proposed home would occupy essentially the same footprint as the existing home, but would be about 11 ft. closer to the property line to allow for the installation of a new septic system, for which an application has been submitted. He noted the narrowness and small size of the property, and the location of the utility pole as additional constraints on the property.

There was no public comment.

MOTION

Mr. Gustafson moved to approve a 40 ft. variance from the required 50 ft. setback from the north property line to allow for the construction of a residence. 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 requiring the proposed structure to be located outside of the setback would:
 - a. require the re-location of existing infrastructure;
 - b. occupy the central open area of the site;
 - c. possibly require the re-location of the driveway which is impossible due to the location of the easement that has been granted for access by the US Forest Service; and
 - d. Possible require the removal of mature vegetation.
2. Circumstances creating the hardship were created subsequently through no fault of the appellant because the present nonconformity was created in the late 1950s.
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:
 - a. generally in conformity with the adjacent properties and neighborhood;
 - b. replaces an existing structure;
 - c. is located approximately 230' away from, and 50 vertical feet below, the nearest residence.

- 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. 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 5 - 0, with the Chair voting yes.

ACTIVITY: PL-20-125

APPELLANT: Ben and Shauna S chreiner

REQUEST: Property line setback v ariance construct a deck and an addition to an existing structure

Required setbacks : 50 ft. from the property line s

Requested setbacks : 22 ft. from the south property line for a variance of 28 ft.

LOCATION: 33100 CR 41

Mr. Ryan Malone of SEAD, representing the petitioner, reviewed the request. He stated that there had been an error in the site plan used at the previous hearing.

He stated that the all of the conditions on the site that were used to support the original variance still apply.

Chairman Fitzgerald stated that the current request is for an additional 9 ft. of variance more than was originally granted. He offered that the same findings of fact and conditions could be adopted for this variance as for the original.

In response to a question from Mr. Albers, Ms. Ebbert explained that staff had been contacted by

Mr. Ryan when he discovered that an incorrect site plan had been submitted with the original application. She noted that because variances are specific to the plans submitted, a new variance is required. She agreed that the same findings and conditions apply. Ms. Ebbert said that the plans for the deck and addition are the same; only the location is different. She confirmed that the original application was for a setback of 31 ft. and that the current application is for a setback of 21 ft.

Mr. Prowant asked about the limits on time to begin construction. Ms. Ebbert stated that the new variance would reset the date. The applicant would be required to begin construction one year from today. She confirmed that the variance request had been re-advertised.

There was no public comment.

MOTION

Mr. Prowant moved to approve the variance request to bring the existing home into conformance, 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 the residence that was granted a building permit and certificate of occupancy by Routt County in 1985.
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.

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

MOTION

Mr. Prowant moved to approve the variance of 19 ft. from the required setbacks for a 31 ft. setback from the south property line for the proposed additions and alterations, with 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 residence that was granted a building permit and certificate of occupancy by Routt County.
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 and 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 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.**

SUNSHINE LAW RESOLUTION

MOTION

Mr. Albers moved to approve and authorize the Chairman to sign the Sunshine Law Resolution, as presented. Mr. Fitzgerald seconded the motion. **The motion carried 5 - 0, with the Chair voting yes.**

ELECTION OF OFFICERS

Ms. Winser stated that officers should be elected annually. She stated that she would like to return to the policy of rotating the officers on a regular basis.

MOTION

Mr. Fitzgerald nominated Mr. Gustafson to serve as Chair and Mr. Prowant to serve as Vice-chair. Mr. Gustafson seconded the motion. **The motion carried 5 - 0.**

ADMINISTRATOR 'S REPORT

Ms. Winser stated that there would not be a meeting in February, but that there would be one in March. She noted that the annual average for variance requests over the previous 5 years is approximately 4 per year. In 2020 the BOA heard 19 applications (including the two heard this evening that had been submitted in 2020).

Ms. Winser stated she would make training for staff and the BOA a priority this year.

Ms. Lewis asked how adjacent property owners are notified of an application. Ms. Winser stated the applicant provides a list of adjacent property owners with their mailing addresses, obtained from the County Assessor's Office. Letters are sent by regular mail from the Planning Department. Additionally, the subject property is posted, a notification is published in the local newspaper and is posted on the County website. Ms. Winser added that notices are also sent to the homeowners' association, if applicable.

The meeting was adjourned at 6:30 p.m.