

**ROUTT COUNTY BOARD OF ADJUSTMENT
MINUTES**

April 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 Jeff Gustafson, Brian Fitzgerald, Don Prowant, Becky Lewis and Joella West. Staff planner Alan Goldich was also present. Sarah Katherman prepared the minutes.

PUBLIC COMMENT

There was no public comment.

MINUTES - January 11, 2021

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

ACTIVITY: PL-21-106

APPELLANT: Estanislao Fulquet

REQUEST: Property line setback variance to allow for the construction of a garage/shop

Required setbacks : 50 ft. from the property lines

Requested setbacks : 34.9 ft. from the south property line for a variance of 15.1 ft.

LOCATION: Lot 4 Steamboat Hills Subdivision; located off of CR 35 approximately .5 miles west of the intersection of CR 35 and CR 41

Mr. Walter Magill, representing the petitioner, presented a site plan and reviewed the petition to construct a garage/shop 34.9 ft. from the south property line. He stated that the house on the property was constructed in 1991. Mr. Magill stated that the adjacent property owner to the south, on Lot 5, is building a 60 ft. x 40 ft. garage 1 ft. from the common property line, for which a variance was granted. He said that the petitioner wants to locate his proposed shop where the smallest possible variance is needed. He reviewed the slope analysis of the property and indicated the areas that under current regulations would be considered "no-build zones." Mr. Magill stated that the garage could not be pushed further up the hill due to the steep grade. He added that the boulders used to support the existing terraced garden would be employed to support a retaining wall uphill from the proposed structure. Mr. Magill reviewed the access to the proposed garage, noting that the existing driveway is steep and narrow. The petitioner intends to widen the driveway and improve the access to the site, but maintain a single entry into the lot. Mr. Magill noted that the owners of Lot 5 have placed a storage container in the platted cul-de-sac. He pointed out the location of the storage container on the site plan, as well as the location of the storage building/garage on Lot 5.

Mr. Magill noted that the subdivision is zoned Mountain Residential Estates (MRE), which has a required setback of 50 ft. and a minimum lot size of 5 acres. He stated that the subdivision was created prior to the adoption of zoning in Routt County, and that the MRE district had been applied to it although the lots are significantly smaller than 5 acres. Lot 4 contains 1.73 acres. Mr. Magill stated that if the garage could be located further up the hill, it would increase the impact on the adjacent property owners by making the structure more visible. He said that in the proposed location, the view from the house on Lot 5 of the garage on Lot 4 would be largely screened by the garage being built on Lot 5.

Mr. Estanislao Fulquet, the petitioner, stated that the original proposal that had been submitted had been modified to reduce the impacts and increase the setback.

Mr. Goldich stated that the hearing had originally be scheduled for March. He said that after reviewing the proposal as originally submitted, staff had informed the applicant that staff would not be recommending approval. In response, the applicant requested that the hearing be postponed to allow him the opportunity to revise the proposal. The applicant then worked with staff to redesign and relocate the proposed structure to reduce the variance required. Mr. Goldich said that all interested parties, including the adjacent property owner, had been notified of the postponement. The postponement was also posted on the Routt County website and the agenda for the March meeting stated clearly that the meeting had been cancelled and item had been postponed. Mr. Goldich noted that the only comments that were received regarding the application were from Mr. Simon, representing the owners of Lot 5.

Mr. Goldich stated that staff concurs with Mr. Magill's assessment of the petition, and is recommending approval of the petition in its current form. He cited the steep slopes on the lot, the small size of the lot, the location of a seasonal drainage and the location of the existing house. He added that the impact on the neighboring properties would be minimal due to the configuration of the structures on Lot 5. The garage on Lot 5 will block most of the proposed structure from being seen from the house on Lot 5.

Mr. Prowant asked about the proposed boulder wall. Mr. Goldich said that the stones used to support the existing terraces would be removed and re-purposed to create the boulder wall north of the proposed garage.

Public Comment

Mr. Caleb Simon, representing the adjacent property owners of Lot 5, stated that their objections to the proposal are based on improper noticing and on the intent of the setback to ensure that structures are a minimum of 50 ft. apart in the MRE zone district. He stated that the postponement of the originally scheduled meeting was not adequate. He said that the notice of postponement should be the same as the notice for a new application. Regarding the setback, Mr. Simon said that he had surveyed properties on the County GIS site and been unable to identify

any buildings on adjacent properties in the MRE zone district that are less than 50 ft. apart. The proposed structure will be located 41 ft. from the existing garage on Lot 5. Mr. Simon acknowledged that the view of the proposed structure would be obstructed by the existing garage, but that there would still be an impact. He stated that the storage container in the cul-de-sac was relocated from Lot 5 for the construction of the detached garage. He discussed the plans to improve the roadways in the neighborhood. In summary, Mr. Simon stated that his objections to the variance application are based on the lack of notice regarding the postponement, and the need for 50 ft. separation between structures. He said that if the variance is granted, he would request that a condition of approval be added stating that any future building on the lot, regardless of the location, be required to obtain a variance because of the steep slopes, which should be considered "no-build" zones.

Seeing no further comment, Chairman Gustafson closed public comment.

Mr. Prowant asked for clarification regarding when the various structures being discussed were built. Mr. Goldich stated that the house on Lot 4 and the house on Lot 5 were both built in 1992. In 2018 a variance was granted for the detached garage on Lot 5 currently under construction 1 ft. from the property line. He stated that the current owner of Lot 5 was the owner in 2018 when the variance was granted. Mr. Fulquet stated that he also owned his property at that time and did not object to the variance application for Lot 5.

In response to a question from Chairman Gustafson, Mr. Goldich reviewed the noticing of the original application and of the postponement. He stated that he had informed Mr. Simon of the postponement the Monday prior to the original hearing date. Mr. Simon was the only one who had submitted comments regarding the application. He added that the agenda for the March hearing date stated that the meeting was cancelled. The cancellation was also posted on the County website and on the meeting calendar on the website. Mr. Goldich stated that all noticing requirements had been met.

Regarding the required 50 ft. setback in the MRE zone district, Mr. Goldich offered that this setback was intended to apply to lots of 5 acres or more. The subject lot is less than half the minimum lot size for the MRE zone district. He also noted the steep slopes that preclude placing the garage further to the north.

Chairman Gustafson asked if a property owner needs a variance to build on a slope that the County considers to be too steep. Mr. Goldich stated that they do not. Variances cannot be granted for steepness. He clarified that under current practice, steep slopes, along with other development constraints, are identified on the plat, but that this lot was created prior to such practice. Mr. Goldich added that variances are site and project specific, and that the current application only concerns the proposed garage/shop. He said that staff would recommend against a condition that would apply to future proposals because they are not part of the application being considered.

Ms. Lewis noted that if the variance had not been granted for the garage on Lot 5, there would be more than 50 ft. of separation between the structures. She noted that the garage on Lot 5 is only 1 foot from the property line. She added that she would not be in support of adding a condition about something that is not included in the application.

MOTION

Ms. Lewis moved to approve the 15.1 ft. variance for a setback of 34.9 ft. from the south property line to construct a shop/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 requiring the proposed structure to be located outside of the setback would involve significantly more grading for the foundation and final stabilization of the uphill slope.
2. Circumstances creating the hardship were created subsequently through no fault of the appellant because the present nonconformity was created in 1969 with the creation of this subdivision.
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, the steep slopes, the shape of the parcel, and the location of the current residence.
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 conformance 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 and there are no significant negative impacts that cannot be mitigated.

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 foundation location certificate shall be submitted showing compliance with the approved setbacks.
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. Existing and new accesses shall meet access standards set forth by the Routt County Public Works Department.

Mr. Prowant seconded the motion.

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

ADMINISTRATOR 'S REPORT

Mr. Goldich stated that no new variance applications had been submitted.

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