

**ROUTT COUNTY BOARD OF ADJUSTMENT  
FINAL MINUTES**

**June 12, 2023**

The Routt County Board of Adjustment meeting was called to order at 6:00 p.m. with the following members participating: Chairman Don Prowant, Brian Fitzgerald, Jerry Albers, and Lyle Krug. Planning Director Kristy Winser and staff planner Michael Fitz were also present. Sarah Katherman prepared the minutes.

**PUBLIC COMMENT**

There was no public comment.

**MINUTES - April 10, 2023**

Mr. Fitzgerald moved to approve the minutes of the above cited Board of Adjustment hearing, as written. Mr. Albers seconded the motion. **The motion carried 4 - 0, with the Chair voting yes.**

**ACTIVITY: PL20230034**

**APPELLANT: Rebecca & Ryan Nowosielski**

**REQUEST: Property line setback variance for a single-family residence and associated site retaining walls**

**House:**

**Required setbacks : 50 ft. from all property lines**

**Requested setback : 33 ft. 8 in. from north (front) property line for a variance of 16 ft. 4 in  
29 ft. 6 in. from west (side) property line for a variance of 20 ft. 6 in.**

**Retaining wall:**

**Maximum height: 4 ft. within setback OR**

**Required setback: 50 ft. from all property lines**

**Requested height: 16 ft. high within (front) property line setback for a variance of 12 ft. OR**

**Requested setback: 10 ft. from north (front) property line for a variance of 40 ft.**

**LOCATION: 34620 Country Green Road ; located at the terminus of Country Green Road**

Mr. Ryan Nowosielski stated that he and his wife, both of whom are architects, purchased this property in November of 2021, knowing that it would present challenges. He stated that the lot is extraordinarily steep. He reviewed a grade analysis and 3D graphic of the lot and noted that while there is a flat spot on the site, it is farthest from the access road. Mr. Nowosielski stated that after analyzing every possible location for a home on the site, and considering the cuts and fills that would be required, it was determined that the most functional location for a house would be in far northwest corner of the lot, as this would

allow for a driveway with an acceptable grade and distance. In order to build in this location, the house and the retaining wall will encroach into the setbacks. He presented a site plan of the lot and indicated the location of the proposed building site, driveway and retaining wall. He noted that due to the extreme drop off from the road, the homesite is not visible from the adjacent properties.

Mr. Krug asked about the neighbors to the west. Mr. Nowosielski stated that the property to the west is not part of the subdivision; it is unplatted agricultural land. He indicated the location of the nearest neighboring houses.

Mr. Nowosielski presented renderings of the proposed house and view from the road, looking down the driveway. He stated that Country Green Road is a dead-end with a turn around. He said that the homeowners' association (HOA) is planning on widening this cul-de-sac.

Mr. Fitz stated that the Country Green subdivision was approved in 1970, prior to the adoption of zoning in Routt County. He said that at that time there was only a very basic set of design standards for subdivisions. He presented a screen shot of the 1970 document that only addressed basic standards for lot layout, streets, drainage, water supply, sewage disposal, and easements. Mr. Fitz stated that although this lot would probably not be approved for subdivision today, it was deemed buildable at the time and is a legal non-conforming lot. He stated that the lot is 2.47 acres and is zoned Mountain Residential Estates (MRE), which has a minimum lot size of 5 acres. He stated that due to its small size, the buildable area of the lot is much smaller than typical lots in the MRE zone district. Mr. Fitz reviewed the graphic grade analysis and noted that much of the lot has grades of **30% - 60%, with some areas of 100% (45° slope)**. He indicated the flat portion of the lot along the southern border of the parcel, but stated that accessing this portion of the lot would be extremely difficult. Mr. Fitz reviewed the surrounding area, presented photos of the site and indicated the nearby houses.

Mr. Fitz reviewed the requested variances for the house and for the retaining wall. He stated that because Routt County allows retaining walls of a maximum 4 ft. in height within the setbacks, the variance requested for the retaining wall could be considered either a variance from the maximum height of a retaining wall within the setback or a variance from the property line setback. In response to a question from Mr. Krug, Mr. Nowosielski reviewed the plans for the retaining wall. Mr. Fitz indicated the location of the proposed retaining wall on the site plan. He also indicated the location of driveway and stated that it would have a 20% grade, which is still very steep. Mr. Fitz presented renderings and floor plans for the home and noted that the plans include a 2-car garage, which meets the requirement for two parking spaces for a single-family residence. Mr. Fitz presented photos taken from the location where the driveway would leave Country Green Road. He reviewed the suggested conditions of approval (COAs), all of which are standard conditions.

Mr. Fitzgerald asked staff about the comment submitted by Mr. Jim Ferguson regarding the safety issues with the road. Mr. Fitz stated that the Planning Department's purview is limited to issues within the lot lines, and that there are no regulations that address this type of concern. He added that the road is not maintained by the County and that the Road & Bridge Department had not submitted any referral comments regarding the petition.

In response to a question from Mr. Albers, Mr. Nowosielski stated that the propane tank serving the home would be buried.

### **Public Comment**

Mr. Jim Ferguson, a nearby property owner, stated that Country Green Road is private, which would explain why the Road & Bridge Department did not comment. He stated that he just wanted to highlight the safety issue with the cul-de-sac, which is particularly dangerous for trucks that need to turn around, and often use his driveway to do so. He said that the HOA intends to expand the cul-de-sac, but that the steep drop off will remain dangerous. Mr. Ferguson commended the applicant on the design of the house and stated that he supports the variance request.

Mr. Fitzgerald offered that the issue with the cul-de-sac was beyond the purview of the Board of Adjustment, but acknowledged the safety concern. Mr. Fitz stated that he would forward the comment to Road & Bridge.

Seeing no further comment, Mr. Prowant closed public comment.

There was a discussion of the design and materials to be used for the retaining wall.

Mr. Prowant stated that the lot was legally created and that the owner has the right to build on it. He stated his support for the variance requests. The Board agreed with no further questions or concerns.

### **MOTION**

Mr. moved to approve the requested variance as listed above for a single family home and associated retaining wall to be located at 34620 Country Green Road. 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 the lot is under-sized by 50% and is exceptionally steep, rendering the construction of any home impossible under the current Zoning and Subdivision regulations.
2. Circumstances creating the hardship were created subsequently through no fault of the appellant because the present nonconformity was created by the original subdivision, as-platted in early 1972.

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 exceptional 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, size, and use 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. 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.
2. 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.
3. 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.
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. All exterior lighting shall be downcast and opaquely shielded.

Mr. Albers seconded the motion.

**The motion carried unanimously.**

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

Ms. Winser stated that there would not be a Board of Adjustment meeting in July. She stated that the Planning Department is very busy, however, with current projects and with the code update. She reviewed the public engagement opportunities related to the code update, and encouraged the Board of Adjustment to participate.

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