

**ROUTT COUNTY BOARD OF ADJUSTMENT  
FINAL MINUTES  
June 14, 2021**

The Routt County Board of Adjustment meeting was called to order via Zoom at 6:00 p.m. with the following members participating: Acting Chairman Jeff Gustafson, Brian Fitzgerald, Don Prowant, and Nate Law. Becky Lewis and Joella West were 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 -April 12, 2021**

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

**ACTIVITY: PL-21-124**

**APPELLANT: Joan Curran**

**REQUEST: Property line setback variance to allow for the construction of a deck in the setback**

**Required setbacks : 15 ft. from the property lines**

**Requested setbacks : 13.75 ft. from the north property line for a variance of 1.25 ft.**

**LOCATION: Lot 3 Tree Haus Subdivision Filing 1 ; located at 31695 Inca Way**

Ms. Ryan Malone, of Steamboat Engineering and Design, representing the petitioner reviewed the request to demolish the existing narrow deck and replace it with a larger deck. One corner of the larger deck would extend one foot, three inches into the required setback on the north side of the house. The total amount of encroachment into the setback would be approximately three square feet. Mr. Malone presented a site plan of the proposed deck. He said that the proposed 9' 6" deck was sized to accommodate patio furniture. He noted the extreme steepness of the lot that caused the house to be sited very close to the front setback. Mr. Malone stated that the Tree Haus Homeowners' Association (HOA) has approved the proposed design, and the neighbors are all in support.

Ms. Joan Curran, the property owner, stated that the existing deck, which is only five feet wide, is not wide enough to accommodate more than a chair facing outward. She presented a photo of the house with the existing deck. The proposed deck would allow four chairs to be arranged facing each other. Ms. Curran described the proposed cantilevered design over the entrance to the garage. She noted that because the cul-de-sac in front of the driveway is far from the house, she did not think that the deck would encroach into the setback. She presented an aerial view of the site. She said that she had contacted the Tree Haus HOA and the neighbors, all of whom are in support of the project. Ms.

Curran stated that due to the steepness of the site, there is no alternative location for the deck.

Mr. Gustafson stated that with only four BOA members present, a unanimous vote would be needed to approve the variance. He said that the applicant has the option to table the petition until a full board is present.

Ms. Tegan Ebbert described the petition. She acknowledged the various constraints on the property, including the steep grade, the location of the house and the mature trees. She stated that staff is recommending denial due to the requirement that for approval, the petition must meet all five criteria. She stated that the site could accommodate a slightly narrower deck than the applicant would like without any clear hardship.

Ms. Curran said that they want to retain the square corners on the deck for design purposes.

Mr. Prowant stated that he had the same issue with the deck on his home. He said that rather than requesting a variance, he had angled the edges of the deck to meet the required setback. He suggested that the applicant could do the same.

Mr. Gustafson agreed with Mr. Prowant and staff, noting that all of the criteria must be met to grant a variance.

Mr. George Charlock, the contractor/engineer representing the petitioner, stated that if the corner of the deck were to be angled to meet the required setback, the steel post needed to support the deck would create a hazard for cars entering the garage. He noted that the driveway is very steep and is shaded all of the time during the winter, which causes the driveway to be icy. He stated that this hazard would be a definite hardship.

### **Public Comment**

Mr. Kevin Rogers, a neighbor of the property, stated that he agrees with Mr. Charlock that relocating the post to create a narrower entrance to the garage is not a safe option. He said that he and his wife have no objection to the petition.

Mr. Matt Lavington, chairman of the Tree Haus HOA, stated that many properties in the subdivision have variances, and that this request if for the least encroachment he has seen.

Hearing no further comment, Mr. Gustafson closed public comment.

Mr. Gustafson called for a roundtable discussion/straw poll.

Mr. Gustafson said that he could agree that placing the support post in a dangerous location is a hardship, and that the total proposed encroachment is very small. He said that he would probably vote to approve.

Mr. Prowant agreed, adding that the petition has the support of all of the neighbors.

Mr. Fitzgerald and Mr. Law also agreed, noting the very small encroachment.

### **MOTION**

Mr. Prowant moved to approve the requested 1.25 ft. variance for a setback of 13.75 ft. from the north property line to construct 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 the nature of the construction, the placement of the support posts and the steepness of the driveway would create a hardship, particularly given the very small amount of encroachment.
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.

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. Fitzgerald seconded the motion.

**The motion carried 4 - 0, with the Chair voting yes.**

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

Ms. Winser reviewed the upcoming training next Wednesday with the County Attorneys. She said that she is also working to schedule a training with the Department of Local Affairs (DOLA) in August.

Ms. Winser announced that the Board of County Commissioners (BCC) is moving to hybrid format meetings this week. The members of the BCC and staff will be in-person and the public will have the option of in-person or Zoom participation. Planning Commission and the Board of Adjustment will likely move to this format in August. Meetings that are expected to be very brief will continue to be held remotely to minimize the need for people to drive in.

There will not be a BOA meeting in July. It is expected that there will be a BOA hearing in August.

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