

Joint Meeting of the Board of Zoning Adjustment and Board of County Commissioners

July 3, 2007
Custer County Courthouse
Westcliffe, Colorado

Present:

Board of Zoning Adjustment: Gerry Dearborn; Skip Northcross; Bruce McDonnall;
Dave Tonsing
Associate Members: Kenneth Paterson, Jim Jones (Tardy)
Absent: Cindy Howard, Joe Arbuckle
Staff: Jackie Hobby; Brian Clince

The meeting was called to order at 9:00 A.M. by SKIP NORTHCROSS, BOARD OF ADJUSTMENT Chair.

Patterson was seated in place of Cindy Howard

NORTHCROSS called for an approval of the June 5, 2007 minutes. DAVE TONSING MOVED to correct the minutes that Cindy Howard was absent and the spelling of BRIAN CLINCE. The motion passed with accepted changes unanimously by voice vote..

ZONING OFFICE REPORT

- The Septic permits are now \$223.00 as of July 1, 2007
- The Planning and Zoning office has been issuing accessory building permits which some people are using as dwellings.
- The Zoning office staff has had questions about our new SEP permits. We will review in September

OLD BUSINESS: WEST continued from May 7, 2007 meeting.

JIM AND MARILYN WEST/REQUEST FOR A SETBACK VARIANCE

Legal Description: Sec 27, Township 22 S. 73 W. Of the 6th P.M.
Property Address: 506 County Road 150
Schedule number: 100-16-800

SKIP NORTHCROSS: read the applicants statement: “ *We are writing to amend request for waiver to ordinance effecting property located at 506 County Road 150. The request is amended to ask that owner Marilyn West and her husband, Jim West, be granted a waiver so that an addition may be built to the existing apartment. The proposed addition would be 20feet by 18feet to the south of the existing structure. The sole reason for the request is to provide a bedroom that will house caregivers who visit Marilyn and Jim West. There is currently room in the main house to sleep only 1-2 guest caregivers including family and friends who offer emotional and physical support to Marilyn who is disabled due to progressive MS. The separate bedroom may also be used in the future for a full time care giver for Marilyn. In the event that a hired caregiver is necessary it would be desirable to have an apartment for the caregiver that is separate but on the premises of the main house . A permit allowing this structure to be an apartment complete with kitchen and bathroom was issued on 10/27/82. The bedroom at that time*

and currently has dimensions of 6 feet by 9 feet. This is the reason for the current amended request. Marilyn and Jim West would like to build an addition that would provide a comfortable bedroom space, but not an additional bedroom. This space is not intended to produce income through rental now or in the future.”

PETER MICHAELSON :Attorney at Law, represented the WESTS. MICHAELSON handed out to the BOARD OF ZONING ADJUSTMENT a“building offset waiver exhibit.” In 1982 on this property a permit was issued for a barn; in1992 a permit was issued for a house addition; in 1997 a permit was issued for a 1568 sq. ft. addition for the house. All of these permits were allowed with variances. This property is far from a pristine property. Referring to Custer County Zoning Resolution 4.3 F1 through 4.3 F6, we feel that the WESTS fit into these categories and for these reasons a variance should be granted. If the WESTS were to build on the west side of this structure, the impact would be economical and would still need to have a variance. This improvement to the structure still fits into the Custer County Master Plan.

Jackie Hobby read the questions and answers that were asked during the site tour, Why did you purchase this property if it did not meet your needs? *“We liked the location and the price”* What is the pipe that is sticking out of the ground where you would like to put this addition? *“We don’t know if it is something that is needed we will remove it and replace it in another location. Will you be renting this property out?” No, we will never rent this property”*

Questions from the BZA Board:

GERRY DEARBORN: What is the size of this addition?

PETER MICHAELSON: 20' x 18'

DEARBORN: I would like to comment that a 43' wall on the property line aesthetically might be a problem.

JIM JONES: I feel there is a hardship, medically and financially.

DEARBORN: I have been in the business for 40 yrs. The expense to move the utilities is not that great.

NORTHCROSS: called for a motion.

JONES: I move to grant the variance.

Motion died due to lack of second.

DAVE TONSING: motioned to DENY the request because there is no Hardship per the Zoning Resolution.

DEARBORN: seconded the motion.

HOBBY repeated the motion. NORTHCROSS called for a vote by a show of hands.

Five voted in favor of DENYING the variance by a show of hands.

REASONS:

BRUCE MCDONNALL: I DENY the variance because of the opposition from the adjoining land owner

TONSING: I DENY the variance because there is no hardship due to the size or topography of the land.

KENNETH PATTERSON: I AGREE with the others. The adjoining property owner was against it.

DEARBORN: I DENY the variance due to the fact that this means there will be a 43' wall along the property line.

NORTHCROSS: I DENY. It does not meet our criteria of a hardship.

Motion carried :Variance DENIED unanimously.

DALE AND LAURA FURNEY/ REQUEST FOR A SETBACK VARIANCE

Legal Description: Lot 14, Sub 1

Property Address: 37 Humboldt Lane

Schedule number: 100-65-702

NORTHCROSS: read applicant's statement.(attached is a copy of the applicants statement)

5 letters were mailed to adjoining property owners and interested parties. There were no responses.

LAURA FURNEY: represented her application. FURNEY thanked everyone for coming to her property for a site tour." I believe that I fall under the guidelines of granting a variance from the unusual narrowness and width of our lot and also where the utilities are also placed on the lot. I have researched other places to build the garage on my lot. Anywhere that I could place it, the utilities would be in the way and I would still need a variance."

There were no questions on the site tour because of the excellent presentation by Mrs. Furney.

Questions from the BZA Board:

DEARBORN: Is there an easement on the back of the lot?

FURNEY: No that is a part of the neighbor's lot.

MCDONNALL: Is there a particular reason why you bought this property without a garage.

FURNEY: Yes, we loved the house. Our big concern was the well and we did not think about setback issues until we hired a builder to build our garage and he informed us.

MCDONNALL: Is the lack of a garage a hardship?

FURNEY: Yes, we have a boat and two ATV's chained to a tree and our neighbors are watching our stuff. Also we notified the sheriff's department.

JONES; Commented it would be impossible to build anywhere on this lot and have a 50' setback.

TONSING: made a motion to grant a variance, of 35'. The FURNEYS may build a garage no closer than 15' to the North property line.

DEARBORN: Seconded the motion.

HOBBY: Repeated the motion. NORTHCROSS called for a vote by a show of hands.

Motion was APPROVED unanimously.

Reasons:

PATTERSON: YES, due to the smallness of the lot and no other place to put the garage.

TONSING: YES, I appreciate the work they put into their research and variance application and there were no negative responses.

DEARBORN: YES, from the site tour I say that the home to the South was very visible and the owner to the North is the most affected. No one responded to the notice, so no problem.

MCDONNALL: YES, no objection from other landowners.

NORTHCROSS: YES, grant the variance due to the narrowness of the lot.

DEARBORN: moved to adjourn. Seconded by PATTERSON.

Meeting adjourned at 10:15 A.M.