

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

May 2, 2007  
Custer County Courthouse  
Westcliffe, Colorado

## Present:

Board of Zoning Adjustment: Gerry Dearborn; Skip Northcross; Bruce McDonnall;  
Dave Tonsing; Cindy Howard  
Associate Members: Kenneth Patterson, Jim Jones  
Staff: Jackie Hobby; Christy Kesselring; John Naylor (County Attorney)  
Tardy Joe Arbuckle

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

NORTHCROSS called for an approval of the April 3, 2007 minutes. GERRY DEARBORN MOVED to accept the minutes, DAVE TONSING SECONDED. The motion passed unanimously by voice vote.

## ZONING OFFICE REPORT

- Planning Commission and Zoning Office is working on the Subdivision Regulation update.
- Spring is here and the complaints are on the rise. Staff is busy investigating and trying to bring individuals into compliance.
- We have had a lot inquiries about Setback Variance.
- Staff stuffed envelopes and prepped them to be mailed out for the UBC code.

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## JEROME WEIGEL /REQUEST FOR AN SETBACK VARIANCE

Legal Description: TR in SE4NE4 SEC 10 21 69 Desc in BK 115 590  
Property Address: 26261 Hwy. 96 Wetmore Co.  
Schedule number: 100-91-101

4 Letters were mailed to adjoining property owners and interested parties, with one response in favor.

HOBBY read the applicant's statement, "*leanto on a garage 6' -24'*"

JEROME WEIGEL Jr. represented his application. WEIGEL stated that he would like to use this leanto on his garage to go cut metal and weld. Inside his garage he does a lot of woodworking and believes that this would be safer.

NORTHCROSS asked if there was any questions from the audience? There was no response.

JERRY DEARBORN asked if this was a safety issue?

WEIGEL replied yes.

MCDONNALL replied that he would like to see a improvement survey on this property.  
JONES replied that he agreed with BRUCE that their should be a survey with all applications.

HOBBY passed around a picture of WEIGEL property that the Zoning office had taken to show the BZA board since their was no site tour at this property.

HOWARD replied that the application should read north west and that needed to be corrected in the application.

MCDONNALL motioned to table until WEIGEL got a survey.

Motion failed due to no Second

DEARBORN motion denied

TONSING motioned that the approve the setback variance.

HOWARD seconded in favor of approving setback variance. Its not creating any injury to adjoining property owners.

MCDONNALL yes

TONSING yes to approve low impact.

DEARBORN yes same reasons

NORTHCROSS yes

WEIGEL setback variance passed unanimously.

#### **JIM AND MARILYN WEST /REQUEST FOR AN SETBACK VARIANCE**

Legal Description: Sec 27,Township 22 South Range 73 West of the 6<sup>th</sup> p.m.

Property Address: 506 County Road 150

Schedule number: 100- 16-800

7 Letters were mailed to adjoining property owners and interested parties, with one adjoining property owner present in audience.

NORTHCROSS read applicants statement.” The WESTS would like to add on to the bunkhouse 18' to 20' off to the South side. Add on to the west side we would have to move water and propane supplys. Mrs. West in handycapped. (The bunkhouse was built in the 1940's)”

NORTHCROSS asked if the applicant was present.

JIM WEST replied yes. My wife has progressive MS and we would like to use this space for her to be able to go out and look at the views. In addition we would like our guests and caregivers to be able to stay in the bunkhouse and as it is the bedroom is not large enough.

ARLIE RIGGS the adjoining land owner asked how many inches are they asking for? Do we have to fight everyday in this valley to keep zoning in place? It sounds like to me that the WESTS had more intentions.

HOWARD DUNMORE the builder for the WESTS stated that they were trying to do this addition as reasonable as possible and that is why they chose the South side the cost to put the addition on the West

side was more costly due to fact they would have to relocate the propane and water lines.

NORTHCROSS asked HOBBY to repeat the questions that was asked at the site tour.

HOBBY asked question #1 what is this structure going to be used for? WEST replied that it will be used primarily for support for his wife guest and health care professionals and they would like a larger space. HOBBY question #2 Is there a kitchen in this bunkhouse? WEST replied yes. HOBBY question #3 what is the addition going to be used for? Hobby replied that this question has already been answered. HOBBY question #4 You need to mark on your sketch where the propane and well are located. HOBBY replied that on the new sketch that was handed out that this was already taken care of.

NORTHCROSS we were told during the site tour that this addition will be a sunroom? WEST replied no it is a addition to the bedroom.

DEARBORN asked if it is used for guests or health care professionals will they need the kitchen? West replied no I guess not they could probably use the kitchen in the main house. DEARBORN asked if the kitchen made it a second dwelling? CHRISTY said at this time the Zoning office did not have a permit on the second dwelling and that she would go check with the Assessors office. Discussion from the Board followed. NAYLOR replied that if the kitchen was removed a Variance should be granted. CHRISTY replied a Variance was found for a "apartment" dated October 27<sup>th</sup> 1982 which made the second dwelling in compliance.

DEARBORN asked if the roof of the existing build already 6" over the fence line? HOWARD replied that the new addition could go 1' to 1'1/2" over to west then to the south. NORTHCROSS asked HOWARD about the vent located where the addition was going. HOWARD replied we believe that it is a vent pipe.

TONSING asked if this addition to the bunkhouse was going to effect the septic system? WEST replied that a 6x9 increase would not and it would only be used temporarily.

ARBUCKLE replied that we need to follow the Zoning rules and if they can prove this is a hardship. WEST replied that with his wife's progressive MS it is needed for the support of family and health care workers..MARILYN WEST replied that they have a double bed in the main house and we would like to be able to provide two double beds. I depend on outside support from family and friends and I am counting on this for the summer.

TONSING is this addition an 18x20 single story? HOWARD yes it is the roof will be a little higher pitch of 2' to match existing structure.

GERRY DEARBORN asked what is the height of the garage? CLEVELAND replied: The garage height is 8' 10". DEARBORN asked if the builder would change the pitch, CLEVELAND answered the company would not make any alterations to the plans.BRUCE MC DONNELL inquired if he considered digging further down to lower the garage?CLEVELAND replied we would have to change the plans, and we cannot dig any deeper and still get a car out of the garage.KEN PATTERSON said it is 8' from the bottom of the stake to the ridge line, which is plenty of slope for a dig out.MCDONNELL replied that this sounds like a solution to the problem.

DEARBORN stated that you will still need to monument. Can you build your garage next to the house?

CLEVELAND replied we can but that would be an extra cost to us.

DEARBORN moved to deny because with the garage detached the house could be built like originally planned. CINDY HOWARD voted to deny. The blueprints were created by the owner and I don't see a hardship. MC DONNELL voted to deny. I agree with CINDY HOWARD. DAVE TONSING voted to deny. I don't see a hardship and there are other ways to meet the requirement of the Zoning Resolution. NORTHCROSS voted to deny. Other things can be done to meet criteria, and this is caused by the present owner.

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NORTHCROSS Asked County Attorney JOHN NAYLOR to come to the meeting and explain the new policy on site tours to the Board of Adjustment and answer questions. He also asked if the BZA members could be sued individually.

NAYLOR replied no if you are doing your function arbitrarily. If there was something that would come up the county's insurance would cover the board members.

NORTHCROSS asked if the county was considering eliminating site tours? On the last site tour the members did not clump together, but felt uncomfortable with the situation in not being able to ask the applicant questions and having to direct the questions thru the Planning and Zoning Officer.

NAYLOR replied we don't want any pre-conceived decisions. This is for facts finding only. The best way is to have the Zoning office ask the applicant questions. The public hearing is where the BZA can ask the applicant questions. Site tours are important so that the BZA can get the facts and look at the situation in person.

NORTHCROSS replied that he would like the Zoning Office to tell applicant's of the procedure concerning tours.

NORTHCROSS reminded the boards the next Site Tour will be on April 26, 2007, at 9:00 A.M. and the meeting would be on May 2, 2007, at 9:00 A.M. in the Courtroom.

NORTHCROSS requested to adjourn the meeting. TONSING moved to adjourn meeting, MCDONNELL SECONDED. The motion passed unanimously by voice vote. The meeting adjourned at 10.00 A.M.

Submitted by,

Jackie Hobby  
Secretary

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