

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

November 7, 2007  
Custer County Courthouse  
Westcliffe, Colorado

**Present:**

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

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

Pledge;

NORTHCROSS called for an approval of the October 2, 2007 minutes. DAVE TONSING MOVED to accept the minutes. Bruce McDonnall seconded. The motion passed unanimously by voice vote.

**ZONING OFFICE REPORT**

- October 2007 we had 15 septic inspections, 19 special conferences, 14 Compliance inspections and 1 violation review
- The office needs letters from Bruce McDonnall, Jim Jones, Joe Arbuckle, Kenneth Patterson if they would like to be on the BZA board.
- The planning and Zoning office is reviewing the variance applications to make them More users friendly.

OLD BUSINESS: The Friends of the Beckwith Ranch have submitted their conservation easement to the Planning and Zoning office.

Mr. Fisher has submitted information regarding the age of the overheight barn on Sierra Mojada.

**Marguerite Torkleson / Mary Jagow CREATE A UNDERSIZED LOT**

Legal Description: SE ¼ Section 35, T46N, R12E, NMPM

Property Address: #26 Road 182P

Schedule number: 100-04-252 102-35-885

SKIP NORTHCROSS: *read the applicant's statement:" The purpose of this application is to combine an additional 1.18 acres to an existing 0.95 acre parcel and existing 0.73 acre parcel to create one tract of land consisting of +/- 2.86 acres.*

NORTHCROSS: Were adjoining land owners notified?

JACKIE HOBBY: Yes, 5 with one responses in favor  
Coy Myers represented the application.

NORTHCROSS: asked the applicant if there was anything that he would like to add to his statement.

MYERS replied that this is a non conforming parcel in a 35 acre zone that will still be non conforming. Adding 1.18 acres will help with less density.

NORTHCROSS: are there any questions from the audience?

LYNN ATTEBERY: Is there an existing well on the property?

MYERS: Yes,

GERRY DEARBORN: Is there a septic system on the property?

MYERS: Yes

DEARBORN: Are there any easements?

MYERS: Yes, a prescriptive easement for electrical.

DAVE TONSING: Moved to grant a variance to create an undersized lot.

HOWARD: Amended the motion with approval from the Planning Commission to vacate interior lot lines and that any further subtractions from the property of MARY JAGOW, she maintains a minimum of 35 acres.

DEARBORN: Seconds the motion as amended.

NORTHCROSS: Asked for a show of hands. All were in favor of granting the variance.

REASONS:

DEARBORN: Yes, there are so many small parcels in this area that anytime we can expand on the lot size it's a good idea.

HOWARD: Yes, no negative feed back from the adjoining neighbors, larger parcel which creates less density.

MCDONALL: Yes, the same reasons as previously stated.

TONSING: Yes, the lack of negative response and less density.

NORTHCROSS : Yes, I voted in favor of the motion as amended . To create an undersized lot because it makes this property less non conforming and lessens the possibility of more density in the area.

**Variance was granted unanimously.**

**With the following conditions that they have approval from the planning commission to vacate interior lot lines. That the property that is now owned by Mary Jagow will not decrease in size less then 35 acres.**

### **JONI SMITH/SETBACK VARIANCE**

Property Address: Tract 17 Town of Rosita, aka 493 County Road 323

Schedule number: 100-31-464

SKIP NORTHCROSS: read applicants statement: "*We measured from the wrong pin and now found out that we need a 14' variance based on the correct pin first pin used gave us a 51' setback. Now we found out our setback is only 36.5'. The only place for the garage would have been the hillside behind the cabin (to the NW). We would have had to drive over the water line to get to this spot. The power line goes through the center of the lot so it also limits where the garage can go. We also need a 1.5' easement on the NE corner Measured wrong.*

Daryl Thompson: represented the application.

NORTHCROSS: Were adjoining land owners notified?

HOBBY: Yes, three adjoining land owners were notified one was in favor and two were against. Hobby read adjoining land owners letters.

NORTHCROSS: Does the applicant have anything he would like to add to his statement?

THOMPSON: Yes, the letter from the Manns is a non issue. We spoke with him and asked him to remove his letter. We will not be crossing Manns property. The letter from DAVE CLEMENS I am very disappointed in. I have never met the man and he is not here at this meeting. I contacted Sangre De Cristo Electric concerning the letter that DAVE CLEMENS wrote and Sangre De Cristo said that they would write a letter in my defense stating that the electrical line that is presently there is not illegal concerning the height of my garage. If I built this garage on the south side of the property the electric line would be in the way and if I built the garage on the west side the cost would be extensive. I would have to excavate into the hillside. Also they would be driving over the water line. I would ask respectfully that you approve this.

TONSING: Did you build the original cabin and if you did how did you come to meet the setbacks? How do we know which pin is correct for this property?

THOMPSON: Yes, I was about 60' to the South which was verified from the county after they received 4 complaints. I feel that if the neighbor Mr. CLEMENS has a problem he should have been at the site tour.

NORTHCROSS: Under full disclosure Mr. CLEMONS was not invited to the site tour. Are there any questions from the site tour?

HOBBY: Why did you build the garage there and not on the Northwest side of the cabin?

THOMPSON: The excess cost of the excavation and also would have to drive across the water line. If the garage was built on that side the owners would have to loop around to get into their garage and this is where the homeowners wanted it.

DEARBORN: How much difference would it be if you eliminated one side and made it a single car garage?

THOMPSON: This would limit their storage and also I would still need a variance on the east side of 1.5'. Then I would have to build a building for storage.

PATTERSON: The east side is encroaching so you would still need a variance?

THOMPSON: yes, It is encroaching on the easement and the lot runs at an angle.

HOWARD: A sketch is not adequate. A survey up front would have eliminated this problem.

PATTERSON: We located 3 pins on the property. Which one of these is correct?

THOMPSON: The one that was colored pink and the fence is on the line.

TONSING: Moves that we deny this request.

HOWARD: Seconded.

NORTHCROSS: Asked for a show of hands. Four were against granting the variance. One was in favor.

Reasons:

TONSING: I voted to deny the request. The two adjoining land owners are non supportive. All attempts should have been made to make sure that the garage was in compliance.

THOMPSON built the cabin and was questioned about the location of this.

MCDONNAL: Yes, garage can be salvaged and place on North east side of cabin.

HOWARD: Yes, adjoining land owners were against and the MANNNS letter.

NORTHCROSS: I voted to deny the set back request for a variance because the applicant failed to give a legitimate hardship for the error. The applicant is a contractor that lives next door and should be familiar with the property lines and he built the home and set the easement, there is no valid excuse.

DEARBORN: Yes, I don't believe that the adjoining property owners had a valid complaint, we don't deal with views and I believe that he has rectified the situation with MANNNS and stopped driving on their property.

NORTHCROSS: Variance is denied and the applicant has 30 days to appeal and also 30 days to remove the garage.

**DONALD & LYNETTE RICE/SETBACK VARIANCE**

Legal: Sec. 32&33 T22S,R71W, 6thpm

Property Address: Lot 78 Town of Rosita

Schedule Number: 101-66-953

NORTHCROSS: Read applicants statement" *My present dining area in this house is very small. I would like to add a 9'x 14' dining room on the back side of the house. I do not plan to add any other building in the future.*

James Hecke is representing the applicant.

NORTHCROSS: Were the adjoining land owners notified?

HOBBY: Yes, 7 adjoining land owners were notified and we had no responses.

NORTHCROSS: Is there anything that you would like to add to your statement.

HECKE: No, I will pass around the map of the property so that the board members can see where this will be located and how much of a variance is needed.

NORTHCROSS: for the record there were no questions from the site tour.

DEARBORN: What was the pin for?

HECKE: I believe that indicated where the center of the vacated road is located.

DEARBORN; Moves that we grant the variances of 32' to the Southeast and 29'to the Southwest.

MCDONNALL: Seconded

NORTHCROSS: Asked for a show of hands. All were in favor of granting the variance.

REASONS:

HOWARD: Yes, I voted in favor. There is no other place to expand on the dining room. I do recommend that they vacate the interior lot line.

DEARBORN: Yes, I agree. The dining room is the size of a closet and no adjoining land owner disagreed.

MCDONNALL: Yes, this is the only logical solution to this problem.

TONSING: Yes, I see no problem with granting this variance. This is what the regulation allows us to do and the adjoining land owners had no problem.

NORTHCROSS: Yes, I voted to grant the setback variance because there were no complaints from the neighbors and the applicant owns the lot adjoining this property and there is no alternate way to add on.

Motion was granted for a variance of 32 feet on the Southeast side and 29 feet on the Southwest side.

**Dale Falske/multidwelling variance**

DALE FALSKE withdrew his application.

TONSING: moves to refund his fee, less money for extra postage

Motion passed unanimously.

NORTHCROSS: We won't be meeting again until February 2008.

Meeting was adjourned at 11:30 a.m.