

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

October 2, 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.

NORTHCROSS called for an approval of the September 5, 2007 minutes. DAVE TONSING MOVED to accept the minutes. CINDY HOWARD seconded. The motion passed unanimously by voice vote.

ZONING OFFICE REPORT

- Septic and Zoning permits issued have remained consistent with permits issued in 2006
- August 2007 we had 20 septic inspections, 4 site reviews, 1 violation, 18 special conferences, 12 Compliance inspections.
- The office is still having issues with sign violations and those are being resolved.
- The next site tour will be November 1, 2007

OLD BUSINESS: The Friends of the Beckwith Ranch haven't submitted their conservation easement to the Planning and Zoning office. The Planning and Zoning office will do a follow up on this.

A letter to Mr. Fisher for information regarding the age of the overheight barn on Sierra Mojada.

Estate of Donald Virgil Lawson/Create a Undersized Parcel

Legal Description: See attachment
Property Address: 182 County Road 295, Wetmore CO
Schedule number: 101-11-903

SKIP NORTHCROSS: *read the applicant's statement:" The applicant desires to create an undersized lot (7+ acres) to comply with the desires of the deceased Donald Virgil Lawson to*

devise the house on the described property on Attachment 1, #2 to his grandson, Randy Lee Lawson of Wetmore Colorado.

NORTHCROSS: Were adjoining land owners notified?

JACKIE HOBBY: Yes, 2 with no responses

Randy C. Lawson represented the application.

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

LAWSON replied that his son RANDY C. LAWSON is currently living in the house and is also a welding teacher in Florence Colorado and that in the outbuilding he has a shop setup for his welding that is included with this property and that is why his grandfather left RANDY this property.

NORTHCROSS: I would like the County Attorney to comment on this application since it involves a will.

CINDY HOWARD: I am uncomfortable with making a decision on this application since it involves a will and I was wondering if we would approve this will we be putting the county at risk for someone to contest it and take the county to court.

COUNTY ATTORNEY JOHN NAYLOR: Dad made the decision of how he was going to divide his property never thinking of the consequences. Usually we consider a hardship with the terrain of the property or narrowness. The will has created this situation and the hardship is now on the family.

GERRY DEARBORN: We don't deal with the family issue.

COUNTY ATTORNEY: The will create the hardship and we are looking at land use. The Land use will not change.

NORTHCROSS: Is there any questions from the audience?

MEREDITH O'NEIL: Yes, how much property did your father have?

LAWSON: About 135 acres.

DAVE TONSING: made a motion to grant a variance not to exceed 10 feet on the hwy 96 side.

JONES: Seconded the motion.

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

REASONS:

GERRY DEARBORN: Yes, I believe everyone is entitled to a garage.

NORTHCROSS: Yes, because of the exceptional topographical complications.

HOWARD: Yes, the exceptional topographical complications and no complaints from the neighbors.

JONES: Yes, Mr. Dickens is impacted from the State Highway Dept. and could not move his garage to the south.

TONSING: Yes, Mr. Dickens has no other option and there was no negative response from the joining land owners.

Variance was granted unanimously.

KATHRYN M. BUSE/ SETBACK VARIANCE

Legal Description: Lot 59A Tara J Subdivision San Isabel CO

Property Address: 409 Konn Road

Schedule number: 101-84-102

SKIP NORTHCROSS: read applicants statement: *"Request A building setback variance from the Custer County Board of Commissioners and residents of Tara J for the construction of a 30'x28' garage and a 16'x10' storage shed to be located in the southwest corner of the property lines. Reason for this location: Existing level ground with building grade already in. This was done to meet our restrictive covenants(20' setback along property lines) for the Tara J subdivision .Also, would not block views of existing residents, Other areas would require civil and electrical engineering review due to overhead electrical lines and wet soil locations.*

NORTHCROSS: were adjoining land owners notified?

HOBBY: Yes, nine with no responses.

HOBBY: Related the questions and answers asked during the site tour.

NORTHCROSS: Does Tara J have a property owners association?

BUSE: Yes it did but it is no longer active due to the death of Mr. Lovelette who actually started Tara J. Homeowners.

DEARBORN: Was not on the site tour and asked what the hardship was?

NORTHCROSS: The hardship is the power lines, drainage also the wetlands. What will be the height of the garage?

BUSE: Same height of the house maybe a little smaller.

NORTHCROSS: Would you clarify the amount of the variance?

BUSE: I need 28' on the south and 25' on the west.

MEREDITH O'NEIL: regarding the covenants' does this meet the conditions?

BUSE: Yes

DEARBORN: I would like to abstain from voting. I did not make it to the site tour and I am not sure what I am voting on.

HOWARD: made a motion to grant the setback variance of no more than 28 feet to the South property line and no more than 25 feet to the west property line.

JONES: seconded the motion.

Motion passed unanimously by a show of hands.

REASONS:

TONSING: Yes, grant variance. Low impact no objections from the neighbors.

JONES Yes, 9 adjoining land owners were notified and there were no objections.

HOWARD: Yes, they vacated their Lot lines and Topographical. This is less density.

NORTHCROSS: Yes, all of the above, and less density also the Topography of the property. Variance was granted.

CHARLIE AND ANNEMETTE FISHER/OVERHEIGHT VARIANCE

Legal Description: Sierra Mojada South, Lot 36

Property Address: Not available

Schedule number: 101-03-064

NORTHCROSS: read applicants statement: *"We are seeking permission for the preservation of a 19th century (circa 1860) barn that we have already dismantled and plan to raise as our residence on our property. We have already reduced the overall height at the peak of the rafters from 29' 2in. to now be at 27' 2 inches(plus 6-8 inch slab) foundation. To take another 2ft. 2 in. off the structure would undesirably alter the slope of the rafters and greatly reduce the ceiling height of the existing saltbox. Attached are illustrations of the barn, photos of the frame*

and color of the exterior barn board to be used. We hope you feel the preservation and raising of the 140 year old structure will not diminish but rather, fit in nicely to the existing environs.

HOBBY: Six letters were sent to the adjoining land owners. With no responses, a letter was also sent received from the Sierra Mojado P.O.A. they responded in favor of the project at 27 feet and 2 inches height, with several conditions. (Attached)

PAUL SNYDER: Representing the homeowner.

CHUCK SCHULTZ: The homeowner's builder is also present to answer any questions.

SNYDER: (passed around photos of the barn) CHARLIE FISHER is a Colorado native and they are in Denmark and I will be representing him. This Timber Frame was purchased before he bought his property. The barn was over 30' when he purchased it, He has been working with an architect and has already taken 2' off the structure. If they cut the barn down anymore the ceiling height will only be 6'. The barn doors are 16' and cutting down will also affect the doors of the barn. It is important to note that it was unanimous from the homeowners association that they had no problem with this barn and its height. This is an exceptional situation. It will not cause any detriment to the public and it will not set precedence. It is a unique situation and we hope that you will consider it.

Questions from the site tour:

HOBBY: What will the roof material be? Can the foundation be dug into the ground?

SCHULTZ: It will be an aged metal roof. SHULTZ: We can not put the foundation of this barn any deeper in the ground. The water table is too high in this area and ideally the foundation would be 6" to 8" slab on top of ground.

DEARBORN: Is there another area that would be drier on the property?

SCHULTZ: No, We had it benchmarked and the ideal situation is 6" to 8" slab on top to accommodate the situation with the water table.

TONSING: During the site tour we noticed the water table. Also, there is a row of trees along side the property that this barn would be located.

NORTHCROSS: What is the optimum amount of variance that you need for height.

SCHULTZ: I am looking for about 3' 9" for adequate insulation in the structure.

HOWARD: When did he purchase the barn?

SNYDER: In 2006, he purchased the barn before he purchased the land.

JOE ARBUCKLE: Is this barn on the National Historical Registry?

SCHULTZ: No,

DEARBORN: What is the age of the barn?

SCHULTZ: I believe between 130 years and 140 years

TONSING: I make a motion that we approve the variance for 3 foot 9 inches.

JONES: I second the motion

NORTHCROSS: May I suggest an amendment to your motion with the following conditions: Move to approve the variance request of not more that 3 feet 9 inches on the condition that the Sierra Mojada P.O.A. submit a corrected Signed letter approving the new Height request of 3feet 9 inches.

TONSING: Approved the amendment to his motion.

ALL in favor please raise your hands.

Four in favor

One against

NORTHCROSS: Yes, voted to grant the variance we had no response from adjoining neighbors, and it wasn't created by owner and I believe it will be a pleasant addition to the community.

DEARBORN: Yes, structurally the can not change it to make it fit also the water issue on property. The only concern that I have I hope we are not setting a precedent.

HOWARD: No, I believe this was created by the current owner.

JONES: Yes, I don't believe that it effecting the general health and welfare of Custer County and it is in a treed area.

TONSING: Yes, the owner made an attempt to lower the structure and the water table in that area, also the trees on the property.

Variance was granted for 3foot 9 inches.

Meeting adjourned

: Asked the application be corrected to 13' instead of 12' after having his parcel surveyed. This would bring the lots into compliance and would create less density.

GERRY DEARBORN: Will you be selling lot 17? Will it be tied into the septic already this on that parcel?

HARMON: Yes, the septic system was designed for seven cabins and right now only has two cabins on it.

KENNETH PATTERSON: What about the other Lots 12 and 13?

HARMON: At this time I have no plans.

DEARBORN: made a motion to approve the request.

CINDY HOWARD: Seconded the motion.

SKIP NORTHCROSS; Asked for a show of hands in favor of the request. The vote passed unanimously.

REASONS:

HOWARD: YES, it will bring nonconforming lots into compliance.

PATTERSON: YES, less density and the lay of the land.

BRUCE MCDONNAL: YES, I agree also with the previously stated reasons.

DEARBORN: YES, I approve this because of less density and it is already a cluttered area.

DAVE TONSING: YES, I approve for three reasons: less density, bringing the lots into compliance and no adjoining land owners opposed it.

NORTHCROSS: YES, less density.

The motion to vacate the lot line between lots 15, 16, 17 & 18 passed unanimously.

TONSING: Made a motion to adjourn.

MCDONNAL: Seconded the motion.

Meeting adjourned at 9:25 A.M.