

Meeting of the Board of Zoning Adjustment

July 12, 2011
Custer County Courtroom
Westcliffe, Colorado

Present:

Board of Zoning Adjustment: Skip Northcross, Ken Patterson, Dee Hoag
Associate Members: Dale Mullen, Brad Stam and Dorothy Nepa
Staff: Jackie Hobby
Absent: Dave Tonsing, Ken Lankford and Lockett Pitman

The meeting was called to order at 1:05 P.M. by SKIP NORTHCROSS, Board of Zoning Adjustment Chairman.

Pledge of allegiance recited:

NORTHCROSS: As many of you know, we lost our number two seat here, Gerry Dearborn. I would like everyone to hold a moment of silence for GERRY who was dedicated, had a great sense of humor, used common sense on this Board and was a great help to all of us.

Moment of silence

NORTHCROSS: Explained the purpose of the BZA to the applicant and the audience and then pointed out the members of each board and the associates. He went over the procedure for the meeting. .

NORTHCROSS: Welcome everyone. The applicants, THOMAS and SUSAN VERVAEKE, are present. We have a couple of items that we will need to go over then you may add to your application, if necessary. MS. HOBBY do you have a Zoning Office report?

HOBBY: Yes, in the month of June we had 12 septic inspections and site reviews, two homeowner septic tests and 7 special conferences. In 2010 in the month of June we issued 11 septic permits and this June we issued 15 septic permits. Last June we issued 24 zoning permits compared to 22 this year in June. Permits issued year to date. Thirty-six septic permits and 96 zoning permits in 2010, compared to 2011 we have 41 septic permits and 88 zoning permits. We are up in septic permits but down in zoning permits.

NORTHCROSS: Thank you, we will need to seat two associate members due to absences. DALE MULLEN was on the site tour. This was the second one in a row that we have had that was very revealing and necessary. The packet did not give enough description for the conditions and being at the site with the applicant answering some questions helped. I mention this so that you might want to recuse yourself if you didn't attend, not that you have to. NEPA recused herself. DALE MULLEN will replace DAVE TONSING and BRAD STAM will replace GERRY DEARBORN.

The April 11, 2011 minutes were distributed. Are there any corrections?

April 11, 2011 minutes are approved as distributed.

We have one agenda item for a setback variance for THOMAS and SUSAN VERAEKE. There are two items for a setback. One is to build a 28' x 36' garage on the northwest

corner of the lot and #2 is to replace the existing shed which sits midway on the north boundary line with a new 10' x12' shed.

History of this property: It is considered nonconforming. The original owners received a variance to build an accessory structure in 1997. The property is one acre and the required setback is 50' from all property lines. The zoning office has permits for the septic and all structures on this property. The applicants are present and MS HOBBY will explain something else about this property.

HOBBY: The property is located in the JAGOW/MONTGOMERY tracts. The recorded plat map shows that the road in front of their property is owned by the Veraeke's and its 12 feet wide. The applicants measured from the property line and did not consider the road. The road gets wider past the property and is 20 feet on the map. The applicants are asking for 10' from their property line, so now it will be 32' so they will only need an 18' variance. The applicants have an ILC on the property that shows that they own .94 acres and the county cartographer scaled out the property and it shows .94 so the applicants have less than 1 acre so they would have to be 25' from all surveyed property lines. For this, the applicant would need to submit a survey to prove they have less than 1 acre. Without a survey we must consider this one acre. The applicant has the choice to pay the variance fee and be considered to have 50' setbacks or have a survey and have 25' setbacks. The applicant chose to do the variance route and we will need to change the variance setbacks that the applicants are requesting due to the road ownership. The garage will change to 18' versus 40' on the North side and 18' on the North West side of the property. The variance for the shed did not change and will remain at 48'.

NORTHCROSS: MS. HOBBY were the adjoining property owners notified?

HOBBY: Yes, four adjoining property owners were notified, no comments were received.

MULLEN: We will do this in one or two motions?

NORTHCROSS: We will do this in two motions. Would the applicants like to add to the application?

SUSAN VERA EKE: Yes, we also have some handouts.

NORTHCROSS: Mrs. VERA EKE has a handout that has to do with the Zoning Regulations 4.3 on granting a variance, which will be entered into the record.

SUSAN VERA EKE: We are asking for a variance for a garage and to replace an existing shed that was on the property when we purchased it in 2008. The current shed is 8' x12' and is approximately 2' from the property line and we would like to rebuild it with a similar shed and place it the same distance on the northern end of our property. The existing shed was poorly constructed and is falling down. The new shed will be placed next to the existing shed and the old shed will be removed. We wish to build a new garage due to the nature of our small lot. There is only one buildable location for this garage because of the existing house and the underground utilities. The well and cistern are on the north side with a propane tank and underground gas line. The septic system is on the south side of the house and was done by previous owners. The new garage will be on the north west corner of our property and requires a setback variance for the north and north west sides. We plan on being full time residents when we retire and would like somewhere to put our vehicles. In the Zoning Regulations 4.3, variances

should grant relief from this Zoning Resolution in unusual and extraordinary circumstances considering the following:

THOMAS VERAEKE: Section 4.3 F. 1. of the Zoning Resolution states: "Where, by reason of exceptional narrowness, shallowness, or shape of a specific piece of property." We believe this applies to us because of the odd shape of our parcel of land. There is no other place on our lot that we can build a garage. We do not believe that the new garage or replacement shed will have any detriment to the public good or the intent or purpose of the zoning laws. We feel that this would be a hardship to us if we are unable to build a garage. Number 2, "Variances shall not be granted if the circumstances were created by the current owner". We have not created any of these circumstances on the property. The house, shed and all utilities were done by the previous owners. Number 3, "Variances shall not be granted if the granting substantially or permanently injures the appropriate use of adjoining or adjacent property". I do not feel that the placement of the shed or new garage will injure anyone that is adjoining or adjacent property owners. No one is opposed who is adjoining. We spoke to all the adjoining neighbors that we could and you have received no negative responses. Number 4 states that "variances shall not be granted if granting alters the essential character of the zone". We do not believe this is the case for our application. All surrounding properties that have homes on them have garages. The garage that we intend to build will have a traditional look and only be a single story. Number 5, "Variance shall not be granted if it adversely affects the public health, safety or welfare". We do not believe this to be the case for our application. Number 6, "Variance shall be valid for two years from date of approval". We plan on construction this year and if not we will build next year for sure. These are our prepared comments.

NORTHCROSS: Are there any questions from the site tour, JACKIE?

HOBBY: No, I believe that all the questions were answered in their comments.

NORTHCROSS: Are there any questions from the board?

MULLEN: Is there any other entity such as a Home Owner Association that has bylaws that overlay your area.

VERVAEKE: No

NORTHCROSS: Any other questions?

No reply

NORTHCROSS: Motion one will be for the shed, and motion two will be for the garage.

HOAG: I will make a motion to grant a variance for the shed for 48' from the North property line.

PATTERSON: I seconded the motion.

Motion passed unanimously

REASONS:

HOAG: Yes, no impact on any of the adjoining property owners. No response from them leads us to believe they are all ok with it.

PATTERSON: Yes, the small lot size, no response from the adjoining property owners.

MULLEN: Yes, I was on the site tour it appears to be well designed and a common sense approach.

STAM: Yes, it does no harm to the adjoining land owners.

NORTHCROSS: Yes, Improvement on what they have and no complaints, common sense.

NORTHCROSS: Do we have a motion on item number two for the garage?

HOAG: I make a motion that we grant the variance for the 40' variance on the north property line and 18' on the north west side of the property line for location of the garage.

MULLEN: Seconded the motion.

Motion passed unanimously

REASONS:

NORTHCROSS: Yes, my original thought was that it could be placed somewhere else but after the site tour it could not be. It's in a good place and makes common sense to have the garage there.

MULLEN: Yes, I was on the site visit and again common sense played out.

HOAG: Yes, no objections from the adjoining land owners and after seeing the actual spot I think that is the best place for it and it's not going to impact any of the other neighbors.

PATTERSON: Yes, basically same as the shed, an undersized lot and no comments from other property owners. We measured this out to where it would fit on the south side of the house and it did not with the way the septic system sat in there. It is the only building site that I saw.

STAM: Yes, I will have to say that this is different than the shed and if there had been an objection from the adjacent land owners I might have raised the question of a smaller garage with smaller setbacks would be appropriate because of the size of garage. Since none of the neighbors are troubled by it I don't know why we should be.

NORTHCROSS: Your two variances have been approved.

PATTERSON: Made a motion to adjourn.

MULLEN: Seconded the motion.

Meeting adjourned at 1:37 P.M.