

Meeting of the Board of Zoning Adjustment

November 10, 2015
Custer County Courthouse
Westcliffe, Colorado

Present:

Board of Zoning Adjustment: Ken Patterson, Jean Canterbury, Dorothy Nepa & Dale Mullen
Absent: Ken Lankford , Lockett Pitman
Associate Member: Lance Ingram
Absent: Mike Shields
Staff: Jackie Hobby, Chuck Ippolito

The meeting was called to order at 1:00 P.M. by KEN PATTERSON, Board of Zoning Adjustment Chairman.

Pledge of allegiance recited;

PATTERSON: JACKIE will give us a zoning report.

HOBBY: In the month of October we had thirteen septic inspections, six special conferences and eleven compliance inspections. Permits issued during this month are eight septic permits compared to five last year and twenty one zoning permits compared to nine last year. Permits issued year to date for 2015 are fifty septic and one hundred sixty six zoning permits.

PATTERSON: We need to approve or amend the minutes from, February 24, 2015. Is there any additions or corrections?

No comment

Patterson: Minutes approved as presented.

PATTERSON: Do we have any new information concerning this application?

HOBBY: Yes, the applicant over the phone indicated that they would like the variance to be ten foot (10') instead of the eight foot (8') that was originally on the application. Everyone should have a copy of the preliminary house plans.

PATTERSON: Is there a representative for the homeowners present? Would you come to the podium please and state your name?

WILLIAMS: DEB WILLIAMS.

PATTERSON: Are there any additions other than asking for the ten feet (10')?

WILLIAMS: No, I was asked to reiterate why they are requesting this variance, for safety and hardship issues. The property is too steep if they have to bump the building down the hill and it is inaccessible down there and regards to hardship it has a danger factor. They are afraid that during the winter that emergency vehicles, fire department and ambulance and if they have to bump it down off the hill that it would be inaccessible to get vehicles down.

PATTERSON: Are there any questions from the Board? But before we do that we need to replace a seated Board Member with an Associate Member. DALE MULLEN will move to a seated position and LANCE INGRAM has recused himself.

PATTERSON: Are there any questions from the Board?

MULLEN: DEBBIE what is your relationship to the applicant?

WILLIAMS: I work for DAVE NEQUETTE office and he was not able to come today.

NEPA: Is their buildup on either side?

HOBBY: Yes, on the east side. Three homes I believe before you get to this property.

NEPA: Do they have wider fronts?

CUERNO VERDE HOA GALE FLINN: They are farther back, about one hundred and fifty feet to three hundred feet.

NEPA: During the site visit was there any other location?

HOBBY: You possibly could move it down but the cost. They are asking for a setback variance from this board.

MULLEN: This is a question for JACKIE. I want you to verify that the distances that we are looking at you believe to be correct? I look at the plat and I show that the south end of that narrow tongue is one hundred and five feet (105') and they have moved the house back a hundred thirty feet (130') from that one hundred and five feet (105') it looks like the east side angles off to the right. The house plan that he gave us the house is forty three feet left to right they are asking for a ten foot variance so it's one hundred and twenty three feet. Do you have any way to know if those numbers are correct? So when it will fit within the variance they have or you will be faced with the idea that you have a built house with a variance violation?

HOBBY: Yes, sometimes the property owner is notified before they get too far along.

MULLEN: What I am saying is that they did not submit to you and to us any documentation to assure us that the house will fit into the variance that they have asked for?

HOBBY: No, all they have submitted is preliminary house plans.

MULLEN: I will ask their representative are you in a position to assure that they variance on the left and right plus the size of the house will fit in the east and west variance.

WILLIAMS: That is why DAVE wanted the setback to change from eight feet (8') to ten feet (10') to insure that. I can't guarantee but to be on the safe side that is why it changed to a ten foot (10').

PATTERSON: Are there any questions from the audience?

GALE FLINN: Past president of Cuerno Verde. The lot that was filed originally has a building site on it. On the west end of that lot that is 400 x500 feet. The thing is that if this house was moved back, where the original building site was on the plat. There would be no problems at all getting the house.

PATTERSON: Did we receive any replies from the adjoin land owners?

HOBBY: Yes. JACKIE read the following letter out loud.

Jackie Hobby

Dear Custer County Board and Commissioners:

This letter is regarding the Request for Setback Variance by Matt and Julie McGovern for Hilling 5, Block 18, Lot 25, Caemo Verde. I am the owner of the adjacent lot 24 and understand why this variance is required in order to build. I too (or future owner) will need a variance when the time to build comes.

I do not wish to slow down the McGovern's development of their Caemo Verde home so I do not have any complaints regarding this Setback Variance for lot 25. I do wish to document that there will be a similar need for lot 24 in the future and to have this letter as reference. Please note that my last name is not Dixon but Eddy. I have also mailed a copy of this letter to you. Thank you.

[1/6/2015]

HOBBY: Are all the lots platted for a building site?

FLINN: They are platted so they have a building site large enough that they do not need to get a variance.

HOBBY: Custer County Zoning does not enforce the HOA convenience we do like to work with everyone and your setback is fifty feet (50') also.

MULLEN: Are you here as an individual or are you here representing the HOA?

FLINN: I come here as an individual and representing the HOA.

MULLEN: Are you here to oppose the variance?

FLINN: I am here to oppose. We will enforce our fifty foot (50') setback.

ING MUNDEN: Every single owner has a copy of the homeowner's handbook of convenience and restrictions they are posted and owners agree to the HOA requirements.

JOHN MUNDEN: There are numerous lots in Cuerno Verde over five hundred (500'). Along airport road the lots have very expensive culverts to get to their build site.

PATTERSON: Any other comments

NEPA: I would move that the variance be denied. It was created by the purchaser they had an idea and well aware of the convenience or should have been.

PATTERSON: Do I have a second?

Hearing none, motion dies

MULLEN: I will move that the BZA grants the variance as requested and the reason is that having lived here eleven years and having neighbors that have a north facing descending driveway. I understand how difficult it would be to run an access road.

PATTERSON: Do we have a second?

CANTERBURY: I will second the motion.

PATTERSON: All in favor three, all opposed one

REASONS:

PATTERSON: I voted in favor of the motion. The steepness of access to the building portion of the lot, I don't know how that could work.

MULLEN: I voted in favor as stated in the motion, to approve the variance due to the fact of having been on the site, understanding the geography of the lot that the home site needs to be closer to the driveway.

CANTERBURY: I voted to approve the variance. One of my big things that I take into consideration is how the neighbors feel about. No one seemed to have a problem; I think that to help these people out would be the best thing to do. Those north facing driveways are difficult.

NEPA: I voted against the variance. We are creating a situation that we will be approached for more and more variances for the same situation; it's a problem of their own making.

PATTERSON: We are still open for discussion and VIC.

BARNES: Resolution says that you have to have in the case of a four member board all board members have to vote in favor of it to approve it.

PATTERSON: So the variance is denied.

CANTERBURY: Motion to adjourn.

MULLEN: Seconded the motion.

Meeting adjourned at 2:03 P.M.