

## Joint Meeting of the Planning Commission, Board of County Commissioner and Board of Zoning Adjustment

November 13, 2012  
Custer County Courthouse  
Westcliffe, Colorado

### Present:

Board of Zoning Adjustment: Dee Hoag, Ken Patterson, Lockett Pitman and Ken Lankford  
Associate Members: Dale Mullen  
County Attorney: John Naylor  
Staff: Jackie Hobby  
Absent: Dorothy Nepa., Brad Stam

The meeting was called to order at 1:00 P.M. by DEE HOAG, Custer County Board of Zoning Chairman.

Pledge:

DALE MULLEN replaced DOROTHY NEPA

HOAG: JACKIE would you please give the Zoning report.

HOBBY: In the month of October we did twelve septic inspections, two Homeowner septic tests, nine special conferences, and twelve compliance inspections. In 2011 to date we had issued eighty septic permits compared to fifty eight septic inspections. Zoning permits at this time last year were one hundred and sixty five compared one hundred and sixty two this year.

HOAG: We need to approve and make corrections to the October 2, 2012 minutes. Any comments?

PITMAN: I would like you to spell my name right; the first page is right and the second and third are wrong.

HOAG: I have a correction on page three; it should be DALE instead of me on the comment from the site tour.

HOBBY: Ok, I will correct that and change PITMAN name.

PITMAN: I move to approve the minutes with the changes.

PATTERSON: I second the motion.

Motion passed unanimously.

HOAG: We have two agenda items. The first agenda item is for a continuation of a setback variance that was presented on October 2, 2012 for PAUL and TERI LOONEY. KIT SHY will be representing the applicant. The LOONEY'S are asking for a 39 1/2 foot variance on the north and a thirty five foot variance on the east side of their property. I will read MR. LOONEY'S application statement "*Dear Board of Commissioners My wife Teri and I are looking forward to retirement and wish to add a garage with workshop, storage and equipment barn attached. We wish to include a utility sink because of the topography of our parcel, the location of the well, water line and septic we are requesting a variance on setback. Although we are fully aware of the rationale for the 50' limit, it would present a hardship for us to locate the garage elsewhere. The property line runs adjacent to a deep ravine so there would be no impingement on the neighbors view or use of property. We sincerely hope that you will agree that this is a worthwhile project and grant the variance. Thank you for your consideration.*" The second agenda item is a setback variance for MR. SHATTUCK and RICHARD KELLY will be representing the applicant.

HOAG: During the first setback variance meeting concerning MR. LOONEY, the board had some questions so we continued the variance until the board could go out to a second site tour and clarify some questions. Does anyone have any comments from that site tour?

PITMAN: Yes, the only comment that I have is he could fit it in without a variance.

PATTERSON: Seeing the survey lines made it much clearer on exactly on how the lot sits and it was a night and day difference.

HOAG: KIT, would you like to come up to the podium and make a statement?

SHY: I am familiar with this. I have been on the site and I was not present during the first hearing for MR. LOONEY. MR. LOONEY could not make this appointment and asked me to represent him. His main concern is moving the garage from the site of the house, being older and not wanting to go a long ways from the house to the garage. The proximity of the garage to the house is very important to him. The neighbor to the north has expressed no concern about it and as far as I can tell on the site that is about the only person that could be effected by it. Where he would like to place it would be on the same elevation as the house, so anyone looking at it from down the hill will not see any more or any less, only a little portion of the garage that sticks out. He is concerned about having it on a different elevation and also farther apart. He felt that would have more effect on his view and that of his neighbors. The only other comment that I have is the hardship issue. Since there are no neighbors that are concerned, I think more hardship is created by a negative decision. His main concern is how far away the garage would have to be.

HOAG: Does anyone have any questions?

MULLEN: My question would be for the fellow members of the BZA who went out on the second site tour. They had expressed concern about the planned variance. After the second visit, and re-discussing this with the applicant, do you still remain opposed, any objections to the location, or come away from the second visit feeling that this was justified?

PITMAN: Is that a fair question to ask at this point and time?

HOBBY: No, we should entertain a motion.

SHY: One last comment. It states in the Zoning Regulations that the hardship is not created by the landowner. He purchased this house in the position that it was in and he did not have any input where the house went. The garage is really relative to the house, he is stuck with it.

LANKFORD: I will make a motion that we approve the variance

HOAG: Do I have a second on the motion?

PITMAN: yes, I will second the motion.

HOAG: Any discussion?

PITMAN: To answer DALES question. The reason that I went out there is because he said that the other place where I thought he could put the garage would require a variance also. He had done his homework and I wanted to see. Because of the neighbors not having a problem and did not have any objections, I agreed with the placement that he was asking for a variance on.

PATTERSON: From my perspective, I cannot see a hardship and the survey confirmed it. I believe he could still build a garage in the same place and meet the setbacks. If he could not dig and he would have to blast, I would do a one eighty.

HOAG: Any other discussion?

No comment

HOAG: We have a motion from KEN LANKFORD to approve the variance and a second from LOCKETT PITMAN. All those in favor, all those opposed. We have four in favor and one opposed.

REASONS:

LANKFORD: Yes, the question whether it was a hardship or not is a tough one. If you look at it from the applicant's perspective, I can agree with him. Even if there is a spot for the garage, it would be further away from his house and it would not be any better as far a site.

MULLEN: Yes, I voted to support the motion and I felt that it was a unique lot and a mining claim, and no objection from the neighbors. It is the desire of the owner and no harm would be done.

PITMAN: Yes, a combination of those responses already spoken. It might not be a hardship but it is to the applicant. The garage facing southwest is also better for the snow.

HOAG: Yes, I myself am not sure of the hardship and he did buy the home where it was and no adjoining land owners objected and the only one that was impacted does not have a concern with it.

PATTERSON: No, strictly the hardship; however I want the feet to be added into the variance.

HOAG: We will amend the motion to state that it is approved for a thirty nine and half foot variance on the North side.

Motion Approved.

HOAG: Our second variance is for GREG SHATTUCK. He is asking for a thirty five foot setback variance. For the record I would like to state that RICHARD and JAMIE KELLY own Sterling Home Center and Richard will be representing MR. SATTUCK is a tenant of mine and I do not believe it is a problem and I will not be recusing myself because I will not have a financial gain from the variance. I will recuse myself if RICHARD or any of the following board members have a problem with it.

No comment

HOAG: I will read the applicants statement; *"Only spot to build would like part of setback to be able to place IRC or Manufactured home on site."* Were the adjoining land owners notified?

HOBBY: Yes, with no comments.

HOAG: Are there any questions from the board members?

PATTERSON: I have one question, what is an IRC?

KELLY: It is a house built to code, International Residential Code. Sorry about the site tour I got the times messed up. I did want to comment about the site. As you noticed, there are some large boulders at the site. I feel that blasting is not an option because of the well and we will go out there with a backhoe and see if they go to China.

At this point we do not know and I talked with JACKIE and we need to find a place to put the septic system to meet the required setbacks. There are no homes within sight of this home.

We will have to get a crane into the sight and re-do the road. GREG is trying to get a variance and then we will go on from there.

HOAG: Any other questions?

No comments

HOAG: Do I have a motion?

PATTERSON: I would make a motion to approve the setback variance of thirty five feet on the southeast side.

LANKFORD: Seconds the motion.

HOAG: All those in favor? All those opposed?

Motion passed

REASONS:

PITMAN: Yes, the hardship because of the hill and there is no one in sight.

MULLEN: Yes, having been on site I voted to grant the variance; common sense and no objections from the adjoining land owners.

PATTERSON: Yes, the steepness of the terrain is a definite hardship. No comments from the neighbors.

LANKFORD: Yes, I believe this fits all the guidelines for granting a variance.

HOAG: Yes, I agree with KEN, it follows the criteria for a setback variance

Motion passed unanimously

PATTERSON: Made a motion to adjourn.

LANKFORD: Seconded the motion

Meeting adjourned at 1:52 P.M.