

**STEAMBOAT SPRINGS BOARD OF ADJUSTMENT MEETING MINUTES
MAY 15, 2008**

The regular meeting of the Steamboat Springs Board of Adjustment Public Hearing was called to order at approximately 6:05 p.m., on Thursday, May 15, 2008, in Crawford Meeting Room, Centennial Hall, 124 10th Street, Steamboat Springs, Colorado.

Board members in attendance were Tom Effinger, Mark Traum and alternate Bryan Alkema. Absent: Rick Pighini, James Moylan and David Levine.

Staff members present were Planning Services Manager John Eastman, City Planner Gavin McMillan and Staff Assistant Tami Heskett.

Mark Traum will be acting as chairman since both the chairman and vice chairman are absent.

APPROVAL OF MINUTES

There were not enough members present that were at the March 20, 2008 meeting to give approval.

MOTION:

A motion was made by Board Member Effinger and seconded by Board Member Traum to table the minutes of the March 20, 2008 meeting.

VOTE

Vote: 3-0

Voting for approval to table: Effinger, Traum, and alternate Alkema.

Absent: Pighini, Moylan, and Levine.

PUBLIC COMMENTS

None.

Highland Addition to Steamboat Springs, Block 3, North, Lot 15 #VAR-07-05 a variance to allow construction of an addition which encroaches 7 feet into the side setback and 11 feet into the rear setback

Discussion on this agenda item began at approximately 6:07 p.m.

STAFF PRESENTATION

Gavin McMillan, City Planner –

Gave an introduction concerning a variance to both the side and rear setbacks of this property. Staff does suggest the approval of this application.

APPLICANT PRESENTATION

Cedar Beauregard-

Presented several pictures of his house showing what the variance is for. He also explained where the new addition to his house would be. He mentioned that the shed would have to be moved during the building of this addition to the house. The neighbors are ok with the proposal of the shed being moved.

BOARD QUESTIONS

Board Member Alkema-

You alluded to the fact that something was going to happen to the shed. Is it going to be torn down and then moved somewhere else on the property or is the height going to be lowered on it? What are your plans?

Beauregard-

He pointed out in a picture where the new location of the shed would be.

Board Member Alkema-

What you are saying is that the shed is going to be moved from its present location and that will enhance the visible look from your neighbors.

Beauregard-

Yes, he also mentioned that the neighbors wanted to make sure that he wasn't going to move it onto somebody else's property instead of his own since it would further infringe on the neighbor's view.

FINAL APPLICANT COMMENTS

None

PUBLIC COMMENT

Debra Freeman-

We are the Bernard family and feel that Cedar Beauregard was very responsive to our concerns.

STAFF COMMENTS

None

BOARD DELIBERATION

Board Member Alkema-

Concerning the right of way that is to the north of your property, you indicated that you have talked to the City and the City has not really indicated that they have any problems with the encroachment on that. Is that correct?

Board Member Traum-

According to the packet, the City owns the right of way but they don't have any plans to do anything with it.

Gavin McMillan-

The Public Works Department does not have any intention of using that right of way at this point in time.

Board Member Alkema-

Is the only known egress into the vacant lot next to it, or can it be accessed through Gill's property?

Beauregard-

It would be through Gill's property.

Alkema-

Is the intended easement into that through Gill's driveway?

Beauregard-

Yes, it is a shared driveway. He looked into using the alley, which is part of the right of way owned by the City, but the City has said no.

Board Member Alkema-

They said that they aren't going to vacate it, but it is a buffer to you.

Beauregard-

The alley is used by both of the neighbors and neither is excited about him taking over the entire alley.

ANALYSIS OF APPROVAL CRITERIA

Sec. 26-70 (d) Criteria for Review and Approval and Staff Findings

Variances may be approved when it is determined from evidence at the public hearing that the variance is consistent with the purposes of this section:

Criteria for Approval

Staff Finding

<p>1) <i>Legal Use.</i> The property is in full compliance with all requirements of the zone district.</p>	<p>Consistent</p>
<p>2) <i>Equal Enjoyment.</i> The variance will not constitute a grant of special privilege.</p>	<p>Consistent</p>
<p>3) <i>Hardship.</i> Strict enforcement of the provisions of the CDC would result in unnecessary hardship</p>	<p>Consistent. It is not possible to expand the existing structure without getting a variance to either the side setback, rear setback, or water body setback.</p>
<p>4) <i>Hardship not Self-imposed.</i> Special circumstances of the subject property are not the result of the actions of the applicant.</p>	<p>Consistent. The applicant constructed the existing home within the required setbacks and the previously granted variance to the water body setback. The applicant’s actions did not create the circumstances requiring the present variance request.</p>
<p>5) <i>Injury to Adjoining Property Mitigated.</i> The variance will not permanently injure or adversely impact adjacent property; or the applicant has accurately assessed the impacts of the proposed variance and has agreed to mitigate those impacts.</p>	<p>Consistent. There is not presently a structure on the property to the west and the City Right of Way provides a buffer between the applicant’s property and the property to the north. The applicant has lowered the roofline on the northern elevation of the home in order to preserve the views of the property owner to the north.</p>
<p>6) <i>Minimum Relief.</i> The request is the least modification possible that will afford relief to the applicant.</p>	<p>Consistent. The proposed addition is planned to be used as additional living space and will be 215 square feet. Staff finds that the proposed addition is consistent with the minimum relief requirement for this site with unique constraints.</p>
<p>7) <i>No Increase in Nonconformity.</i> The variance does not expand the scope of any nonconforming use.</p>	<p>N/A</p>
<p>8) <i>Special Circumstances.</i> The variance is necessary because of special circumstances of the subject property.</p>	<p>Consistent. The presence of Soda Creek on the property coupled with the required water body setback constricts the buildable area of the lot.</p>

9) <i>Consistent with CDC, Policies and Plans.</i> The variance is consistent with this CDC.	Consistent
10) <i>Previous Variance.</i>	Consistent

RECOMMENDED MOTION

Based upon the above findings, staff recommends approval of this variance.

MOTION

A motion was made by Board Member Alkema to approve the variance request to allow construction of an addition, which encroaches 7 feet into the side setback and 11 feet into the rear setback at Highland Addition to Steamboat Springs, Block 3, North, Lot 15. Board Member Effinger seconded the motion.

DISCUSSION

Board Member Traum-

I was here at the first meeting on this agenda and this meeting is far better than the first. It means a lot to me that Beauregard has acknowledged his neighbor's concerns.

Board Member Effinger-

I'm still against it in a broad way. I still believe that a small lot is a special lot, but he's done everything that he can do to make it better. The neighbor's aren't nearly as upset as they were last time. I've been to the property a couple of times since the last meeting and I feel that with the removal of the shed is a good idea. The shed is in worse condition than the new building. Even though I'm philosophically not in favor of it, I'm still going to vote for it, because of all that's happened.

VOTE

Vote: 3-0

Voting for approval: Effinger, Traum, and alternate Alkema.

Absent: Pighini, Moylan, and Levine.

Discussion on this agenda item ended at approximately 6:30 pm.

DIRECTOR'S REPORT

John Eastman-

Offered an apology to staff on their last variance request. He mentioned that all of the Board of Adjustment would be notified of upcoming City Council meetings if there were ever an appeal like that. He discussed what happened at that meeting and how the staff had made an error on their judgment.

Board Member Traum-

What are the criteria to going to a variance versus going to a PUD? Who makes the call?

John Eastman-

The planning director makes the call. He explained why they made the decisions that they made concerning this agenda item.

Board Member Traum-

Does a PUD get approved or reviewed by City Council?

John Eastman-

Correct. He explained that City Council had felt that staff had made an error in taking this to the Board of Adjustment.

Board Member Traum-

Was City Council's judgment gratuitous to the applicant? Did City Council waive parking space rights?

John Eastman-

We didn't get into those kinds of details.

Board Member Effinger-

If it had gone as a PUD would you have applied the normal standards to it and would you have required a certain number of parking spots?

John Eastman-

I'm not familiar enough with all of the details to be able to tell you exactly what regulations would have applied. He did explain that they would do this differently the next time.

Board Member Effinger-

Does it set any kind of precedent? Can anybody come and ask for free spaces now?

John Eastman-

No. He explained that the concerns about precedent aren't that much of a factor. He also explained that this was not the path that they should have taken.

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Board Member Effinger-

It's ok that Public Works grants parking? That's basically what happened. Is that ok?
Can other people go to Public Works and beg for additional parking?

John Eastman-

I'm not familiar enough with the details of the case to know whether a parking variance was what was granted by Public Works.

Board Member Alkema-

They got away with less than half of the parking places needed.

John Eastman-

He explained that this was staff's error and not the applicant's since this was not the original way the applicant wanted to accomplish this task at hand.

Board Member Traum-

The Board Members that aren't here I would say accept your apology and the board members that are here do you accept staff's apology?

Board Member Effinger-

Tom Leeson told Jim Moylan that he would stand up at the meeting and explain to City Council how this happened. He did not do that. I don't know if they really knew what they were giving away at that moment?

John Eastman-

City Council was clear in their direction that staff had made an error.

ADJOURNMENT

Board Member Alkema moved to adjourn the meeting at approximately 6:40p.m. Board Member Effinger seconded the motion.

VOTE

Vote: 3-0

Voting for approval to adjourn: Effinger, Traum, and alternate Alkema.

Absent: Pighini, Moylan, and Levine.