

**STEAMBOAT SPRINGS BOARD OF ADJUSTMENT MEETING MINUTES
AUGUST 21, 2008**

The regular meeting of the Steamboat Springs Board of Adjustment Public Hearing was called to order at approximately 6:00 p.m., on Thursday, August 21, 2008, in Citizens' Meeting Room, Centennial Hall, 124 10th Street, Steamboat Springs, Colorado.

Board members in attendance were Chairman David Levine, Tom Effinger, Ryan Spaustat and alternates Bryan Alkema. Absent: Rick Pighini, James Moylan and Warren Harner.

Staff members present were City Planner Gavin McMillan, City Planner Seth Lorson, and Staff Assistant Tami Heskett.

APPROVAL OF MINUTES

Changes to July 17, 2008 Minutes

Board Member Spaustat –

Pg 5 under Board Member Effinger's comment where it says 'they will have to make a grade'. I think that he said 'a grading exhibit'.

Board Member Effinger –

I'm not sure if I said that, but I could have.

Board Member Levine –

Pg 11 under my comment change 'signs' to 'variances'. Pg 12 under my comment I was approving the height and not the sign. Under Jonathan Spence's comment on that same page he said that it would be allowed.

MOTION

A motion was made by Board Member Effinger and seconded by Board Member Spaustat to approve the minutes of the July 17, 2008 meeting as corrected.

VOTE

Vote: 4-0

Voting for approval: Effinger, Levine, Spaustat, and Alkema.

Absent: Pighini, Moylan, and Harner.

PUBLIC COMMENTS

None.

Wildhorse Meadows, Master Sign Permit #VAR-08-03 *TABLED 7/17/08*
A variance request to allow three signs at Wildhorse Meadows that do not meet the requirements of the City's sign code in terms of sign size and allowable number of signs

Discussion on this agenda item began at approximately 6:10 p.m.

STAFF PRESENTATION

Gavin McMillan, City Planner –

Request is for a variance to exceed the maximum height allowed by the sign code. Sign is 10'11" tall, which is 1'11" taller than the maximum allowed sign height. The sign area is 42', which is 22' wider than the maximum allowed sign width. Tabled at 7/17/2008 meeting with direction to the applicant to reduce the sign's size. I prepared several photos of other signs similar to this sign being proposed tonight. They are located in attachment 3 and 4 of the staff report. You're your discussion tonight I would like you to refer to pg 3-4 under guidelines. The decision made tonight should be based off of these guidelines and whether or not it meets all of them or not.

APPLICANT PRESENTATION

Gavin Malia-

He handed out a diagram to show where the sign will be located. The previous application was in excess of the size allowed. He gave an explanation showing how long they have been working on this project for. The sign that we are talking about tonight is at Broomtail Ln and Wildhorse Meadows. The new design is 42' down from 66' high from the previous application. This is the same sign just shrunken in size. He showed some photos of the existing site where the sign will go. He showed some other signs that are similar in size to the sign being proposed.

BOARD QUESTIONS

Board Member Effinger –

On these criteria are these new from last time for approval?

Gavin McMillan –

No, these aren't new.

Board Member Effinger –

It just has to be consistent with these guidelines.

Gavin McMillan –

Correct.

Board Member Effinger –

You didn't say whether or not it was consistent with all of these guidelines.

BOA Meeting Minutes
8/21/08

Gavin McMillan –

No, if you look at the guideline table the guidelines themselves are on the left hand side. The request with the staff analysis is to the right of that.

Board Member Levine –

Gavin Malia, have you seen a copy of these guidelines?

Gavin Malia –

Yes, I have.

Board Member Spaustat –

Do you think that it would be helpful to go through the criteria one by one?

Board Member Levine-

I think so.

Board Member Effinger –

When I was asking my question earlier I was looking at some different criteria.

Board Member Levine –

He read criteria 1 and 3 from pg 3-4. Does the size of the development factor in on this?

Gavin McMillan –

The guideline says with consideration to the purpose of the sign. In our mind the purpose is to identify people going by that there is a development there and not let them know the size of it, but that it is there.

Board Member Effinger –

One reason why I think that the sign that we're looking at right now is an appropriate sign is because of this. This sign is announcing the entire neighborhood. It's a pretty big neighborhood and it's big enough that I think it does that, but it's not so big that it gives the impression that it's a private road to me. I think that the size of the sign is more appropriate now for what it's announcing and with where it is it's competing with a lot of signs. There are not a whole lot of other signs on that part of the road announcing neighborhoods. I think that we're consistent with this one.

Board Member Alkema –

I think that the Porches across the street sets the precedence.

Board Member Spaustat –

I will have to agree with Board Member Alkema's comments. Looking at the Porches sign it meets the sign code. The other sign that Gavin Malia showed what kind of a sign is that?

BOA Meeting Minutes
8/21/08

Gavin McMillan –

The sign that he showed in the photo is a construction sign. In regards to the Porches there hasn't been any variances to any signs around there.

John Eastman –

Construction signs are allowed to be up to 30' and so depending on how you measure this may be a conforming construction sign. I would also point out that it really doesn't matter what anybody else has done. It has to meet the criteria.

Board Member Levine –

He read criteria 4.

Board Member Alkema –

I agree with staff's findings that this sign is excessively tall.

Board Member Spaustat –

After looking at the photo simulation I was under the impression from last time that the sign was located further off of the roadway. Based off of the photo simulation I would say that this sign is excessively tall.

Board Member Effinger –

I'm not too worried about the height as much as the size of the sign. I think that it matches the sign across the street fairly closely.

Board Member Levine –

Is there a stoplight planned for that intersection?

John Eastman –

It's anticipated that there will be future traffic control of some nature there. Trailhead lodge was required to contribute to some of that as part of their approval process. At future build out there will be some level of traffic control added to that intersection.

Board Member Levine –

He read criteria 5.

Board Member Spaustat –

It's not as far down the hillside as I thought initially. I don't see too much uniqueness about this site.

Board Member Levine –

He read criteria 7 and 8 on pg 3-5.

Board Member Effinger –

This isn't an advertisement; this is an announcement of a neighborhood kind of sign. I don't think that it will matter what they come up with since it won't be an

advantage. I don't think that this sign will draw me to Wildhorse instead of Porches.

FINAL APPLICANT COMMENTS

None

PUBLIC COMMENT

None

BOARD DELIBERATION

Board Member Alkema –

I don't believe that it meets criteria 1 or 4. I feel that it is excessively big and excessively tall. I think that we addressed this at the last meeting for a smaller sign. I would be inclined to vote no on this proposal.

Board Member Effinger –

I'm not worried about the height, but I am worried about the size. In my opinion it might be a little bit excessive, but that it's appropriate for such a major kind of project. I'm not as against it as Board Member Alkema. If it came to a vote then I would vote for it.

Board Member Spaustat –

I don't believe that it meets criteria 4, 5, or 8. I think that I would be inclined to not vote for it.

Board Member Levine –

I really don't see the hardship to need this excessive of a sign. I would not vote for it.

ANALYSIS OF APPROVAL CRITERIA

Sec. 26-226 Variances

(a) General variances. The board of adjustment may grant variances to this article consistent with the following guidelines:

Staff Analysis

	Variance Request
Guidelines Sec. 26-226(a)	Residential Detached Monument Sign exceeding maximum allowable square footage and maximum height
<i>1) It is the responsibility of the board of adjustment to approve signage which is informative, creative and aesthetically acceptable and which contributes to the common welfare and needs of local residents, businesses and guests alike.</i>	Aesthetically acceptable signs, which contribute, to the common welfare and needs of the local residents, businesses, and guests alike can be accommodated within the size and height requirements of the sign code. A variance to allow additional square footage and

BOA Meeting Minutes
8/21/08

	sign height is not necessary to accomplish this goal.
2) <i>Signs should be limited to the fewest number reasonable necessary to accomplish the purpose for which they are intended.</i>	Not applicable
3) <i>Signs should be sized with consideration of the purpose of the sign, the distance from which it must be viewed, the size of other signs in the vicinity, the amount of total sign area related to the same use and the speed of passing vehicles. Consideration should also be given to the size of the building upon which the sign is placed and the size of the building site as it relates to the proportion of the sign.</i>	The proposed Residential Detached Monument sign is intended to notify passersby of the entrance to Wildhorse Meadows. Staff finds that the proposed variances to the amount of total sign area and sign height are not necessary to serve the purpose of the sign. The proposed sign is more than 2 times the allowable sign area and 1 foot 10 inches over the maximum allowable height. This proposal is larger than similar signs in the area (See Attachments 3 and 4). The size of the proposed sign could create the false impression that Broomtail Lane is not a public road. Planning Staff could not find any record of granting variances to sign area for other signs in the vicinity.
4) <i>Excessively tall signs should be avoided to prevent visual obstruction of the natural scenery surrounding the city. Factors to be considered include: the topography of the site, location of the sign on the site, and the sign's relationship to pedestrian and vehicular circulation from which the sign is viewed.</i>	The proposed sign is 1 foot 11 inches taller than the maximum allowable height. Staff finds that the sign is excessively tall as a maximum height of 10 feet is an adequate height to be visible to pedestrians and automobiles passing by.
5) <i>The board of adjustment should consider unique and geographic characteristics of the property and of the district in which the property lies.</i>	The requested location for this sign is adjacent to Mount Werner Road. There is the potential for snow pile up in the area where snow is pushed from Mount Werner Road into the area where the sign is proposed. However, this is the case for signs all over the City. It is not practical to allow signs, which exceed the sign area, and the allowable sign height in this area as the burden of snow removal is shared for signs all over the city. The applicant has the option to move the location of the sign to an area with less snow storage issues. It may be necessary for the applicant to remove snow from the area surrounding the sign in the winter.

BOA Meeting Minutes
8/21/08

<p>6) <i>Projecting signs should not substantially obscure any part of another sign relating to another use.</i></p>	<p>Not applicable</p>
<p>7) <i>Artificial illumination should be no brighter than necessary to accomplish the purpose for which the sign is intended. It should be a goal to avoid illumination which penetrates residential areas or may hinder the vision of drivers of motor vehicles passing by.</i></p>	<p>The applicant has indicated that the signs will have lighting that is consistent with Sec. 26-224 (4) of the CDC.</p>
<p>8.) <i>Variances should not be granted which would allow any business use an unfair advertising advantage over any other business use.</i></p>	<p>The requested variance would allow an entrance sign to Wildhorse Meadows which is substantially bigger than what is allowed by code and larger than other signs present in the businesses in the vicinity of the site. (see attachments 3 and 4). Staff does not have any record of other developments in the area which have been granted variances for signs which are bigger than what is allowed by code. Granting of this variance would constitute an unfair advertising advantage for Wildhorse Meadows.</p>

RECOMMENDED MOTION

Based upon the above findings, staff does not recommend approval of the requested variance.

MOTION

Board Member Alkema made a motion to deny Wildhorse Meadows #VAR-08-03. Board Member Spaustat seconded the motion.

VOTE

Vote: 3-1

Voting for approval to deny: Levine, Spaustat and Alkema.

Against Denial: Effinger

Absent: Pighini, Moylan, and Harner.

Discussion on this agenda item ended at approximately 6:40 pm.

Ski Ranches Subdivision, Lot 26 #VAR-08-02 A setback variance request for a legal non-conforming single family residence for an addition of a covered walkway

Discussion on this agenda item began at approximately 6:40 p.m.

Disclosure:

Board Member Spaustat –

Seth Lorson, who's the Planner on this project, I'm the landowner of his property and rent to him. That should not impair my ability to make any kind of a judgment on this. The second item is that the applicant's representative is Steamboat Architectural. I work at Landmark Consultants and there are some projects that we have worked with Steamboat Architectural. They have never been a client of Landmark and we have never been a client of theirs, but the owner has hired us separately in the same project. I don't think that this would impair my ability at all.

STAFF PRESENTATION

Seth Lorson, City Planner –

This is a variance request for 2795 Laurel Lane. The Building exists as a legal nonconforming structure. It was built in 1972. It already lies in the setback and the primary structure is 14' setback. The garage is 7' from the property line. The variance request is for a 17' variance where the proposal will have 3' from the property line. The CDC has a front setback of 20'. The proposal is for one masonry pier and a covered entry. Staff is recommending approval for this since we find that it meets the criteria. Please reference to section 26-70d for the criteria for approval.

APPLICANT PRESENTATION

Kay Clagett –

No presentation.

BOARD QUESTIONS

Board Member Levine –

This proposal comes right off of the main entry?

Kay Clagett –

Correct.

Board Member Effinger –

You're mostly doing this to fix a problem?

Kay Clagett –

Yes, because of water and snow.

Board Member Alkema –

I assume that all notifications went out and there has not been any feedback on this project?

Seth Lorson –

We haven't had any feedback although all notifications did go out.

Board Member Alkema –

They're requesting basically an extension of the carport and there is no future enclosures being proposed.

Seth Lorson –

The carport is going to be adding doors, it's not extending the size of the structure. The only extension would be the addition of the covered walkway and the pillar.

FINAL APPLICANT COMMENTS

None

PUBLIC COMMENT

None

ANALYSIS OF APPROVAL CRITERIA

Sec. 26-226 Variances

(a) General variances. The board of adjustment may grant variances to this article consistent with the following guidelines:

(1) *Legal use.* The property and the use of such property for which the variance is requested is in full compliance with all requirements of the zone district in which the property is located, or there is a legal nonconforming structure or lot, or there is a conforming structure housing a legal nonconforming use. No variance may be granted which would permit or expand any unlawful use of property.

Staff Analysis: Consistent. The single-family residence on this property is a use by right and registered as a legal nonconforming structure.

(2) *Equal enjoyment.* The variance will not constitute a grant of special privilege inconsistent with the limitation upon uses of other properties in the vicinity and zoning district in which the subject property is located.

Staff Analysis: Consistent. The proposed addition is not inconsistent with the neighborhood character nor does it alter the use of the property. As this is an application for a setback variance for a structure it does not constitute a "special privilege inconsistent with the limitation upon use..."

(3) *Hardship.* The special circumstances of the subject property make the strict enforcement of the provisions of this CDC an unnecessary hardship to the property owner.

BOA Meeting Minutes
8/21/08

Staff Analysis: Consistent. Due to the steepness of the property the original placement of the house encroaches into the front setback and hence the proposed covered walkway as well. When built the house was kept narrow and close to the road, even so, there is a 16 foot plus drop from the garage to the lower floor over the width of the house.

(4) Hardship not self-imposed. The special circumstances of the subject property are not the result of the actions of the applicant.

Staff Analysis: Consistent. The location of the house is due to the steepness of the site.

(5) Injury to adjoining property mitigated. The variance will not permanently injure or adversely impact legal conforming uses of adjacent property; or the applicant has accurately assessed the impacts of the proposed variance and has agreed to mitigate those impacts. In making this determination the board shall begin with the assumption that variations from development standards create impacts on adjacent properties, and shall place the burden of proof on the applicant to show:

a. Impacts to adjacent properties are presumed.

b. That there are no impacts, or that the impacts have been adequately mitigated.

Unsupported opinions of impacts from surrounding property owners shall not be conclusive evidence of impacts.

Staff Analysis: Consistent. The proposed addition is within the existing fenced area and should not visually harm the adjacent properties. The applicant has used a flat roof to minimize the height and profile of the covered entry.

(6) Minimum relief. The requested variance is the least modification possible of the provision of the CDC that will afford relief to the applicant.

Staff Analysis: Consistent. The proposed addition is only 144 square feet (12' x 12') and is the minimum size needed to provide a covered entry between the driveway and the door. The applicant has opted not to include an enclosed mud room, instead they have taken that space out of an existing hall.

(7) No increase in nonconformity. The variance does not expand the scope of any nonconforming use or does not increase the degree of nonconformity of any existing nonconforming structure by more than twenty (20) percent.

Staff Analysis: Staff has had multiple meetings to discuss the interpretation of this section and have decided to amend this portion. Discussion of the details will be heard during the Director's Report of the August 21, 2008 Board of Adjustment hearing.

(8) Special circumstances. The variance is necessary because of special circumstances relating to the size, shape, topography, location or surroundings of the subject property, to provide it with use rights and privileges permitted to other properties in the vicinity and in the zoning district in which the subject property is located.

Staff Analysis: Consistent. The steepness of the property requires the building to be at the front of the lot and hence encroach into the setback.

(9) Consistent with CDC, policies and plans. The variance is consistent with the purposes and intent of this CDC and purpose of the CDC and adopted land use policies or plans, as

BOA Meeting Minutes
8/21/08

applicable. In granting any variance, appropriate conditions and safeguards may be prescribed to ensure that the purpose and intent of this title will not be violated.

Staff Analysis: Consistent. The variance request is consistent with the purpose and intent of the Community Development Code and the adopted land use policies and plans. The subject property with the proposed addition will continue to be consistent with lot size, building size, building height, and use as required by the RN-2 Zone District.

(10) *Previous variance.* Every piece of property is unique, so evidence that a variance was previously granted under similar circumstances shall not be considered binding grounds for granting a variance.

Staff Analysis: N/A

RECOMMENDED MOTION

Staff finds this variance request in compliance with the City of Steamboat Springs Community Development Code Section 26-70. Due to the steepness of the property and the subsequent location of the house, staff finds that a variance to the front setback to allow the applicant to build a roof structure and additional masonry pier between the driveway and front door will provide the minimum relief necessary.

MOTION

A motion was made by Board Member Spaustat to approve the recommended motion for Ski Ranches Subdivision, Lot 26 #VAR-08-02. The motion was seconded by Board Member Effinger.

VOTE

Vote: 4-0

Voting for approval: Effinger, Levine, Spaustat, and Alkema.

Absent: Pighini, Moylan, and Harner.

Discussion on this agenda item ended at approximately 6:50 pm.

DIRECTOR'S REPORT

John Eastman –

I want your feedback from the memo dated Aug. 13 that Seth Lorson prepared. It was based upon a proposed text amendment that would include a change in one of the criteria that we as staff had struggled with. It seemed a little counter productive rather than what it was trying to achieve. We drafted some language to address what we think was the original intent of that section. We would really like to have your feedback on this. Any changes to the CDC are reviewed by Planning Commission and approved by City Council. Since this is a section that you're most likely to be dealing with we wanted to make sure that you thought that the proposed language was acceptable to you and that it achieves the goal or not. It was already approved by the Planning Commission last Thursday and was recommended for approval with a unanimous vote of 5-0.

Board Member Levine –

I'm working on a number of projects that are impacted by this so I think that it would be appropriate for me to receive any of your comments on this.

Board Member Alkema –

Did this come up because of the variance that we just saw?

John Eastman –

This did come up just recently. When a variance with nonconformity comes up we struggle with how to apply that. As written criteria 7 under approval for a variance request, he read what it used to say. It didn't seem to make any since. He read what it now says with the language change. There was some discussion about eliminating the criteria altogether, but we're pretty sure that the question will come up with how do you deal with something that's already got a variance. It's not really criteria for approval, but rather criteria for guidance.

Board member Alkema –

If you granted the variance at a point to give it an administrative variance of 20% are you also indicating that they would not be allowed an administrative variance of 20%, because you have to go back and look at the original variance? How is that impacted?

John Eastman –

I don't think that the administrative variance is going to be impacted at all.

Board Member Alkema –

I would like to hear from Ryan and what projects you might have that this would be positive or negative in the changing of the wording.

Board Member Spaustat –

BOA Meeting Minutes
8/21/08

They're all in the downtown area and they all have existing setback issues. It weighs into the calculation up front with this language change. I wouldn't say that it is necessarily a negative or positive affect.

Seth Lorson –

When it comes to something encroaching already it gives us a little bit more flexibility in allowing a greater variance without being against the criteria.

John Eastman –

The minor adjustment criteria that's under section 26-69 is completely independent of the variance criteria. It's a different set of criteria, but there is still a 20% rule of how much of a minor adjustment can be approved. It would be absolutely unaffected by this text change. It would only affect variances going to the BOA.

Board Member Alkema –

It doesn't affect the criteria and all it's giving you is guidelines of whether or not to avoid, correct?

John Eastman –

As written it becomes review guidance. As previously written it was a very restrictive criterion. It did not achieve the intent that it was going for.

Board Member Effinger –

I know a lot of cases where we had a nonconforming structure where we added a building straight above it and that increases the nonconformity by adding that second floor. We used to look at the criteria and say that criteria we don't need it, but we felt that we met it close enough that we could grant the variance.

John Eastman –

I think that this criterion in the past was not applied vigorously. You're required to apply all of these criteria vigorously. Since it didn't seem to make much since I don't think that it was applied very vigorously. Everything that you do is correct.

Board Member Effinger –

I don't remember the 20%. When did we make these calculations for the second floor without looking at the 20%?

John Eastman –

I don't think that it would have counted in those upstairs units since there was no previous height variance.

Board Member Effinger –

I'm talking about setbacks.

John Eastman –

BOA Meeting Minutes
8/21/08

You have an existing height variance and then you go even higher. That's when this criterion would have been applied. A vigorous interpretation would have said that you could only go 20% higher.

Board Member Effinger –

Any registered nonconforming structure that comes in for a variance to increase that nonconformity then we will be granting a variance to allow for nonconformity of a new variance. That makes a lot of sense.

Board Member Levine –

How this is written is if you're already in violation.

John Eastman –

Correct.

Board Member Effinger –

This one makes sense, because this secures those people who already are in nonconformance with the Code.

John Eastman –

Correct. I'm hearing that you guys are in favor and support of the change.

ADJOURNMENT

Board Member Alkema moved to adjourn the meeting at approximately 7:03pm. Board Member Effinger seconded the motion.

VOTE

Vote: 4-0

Voting for approval to adjourn: Effinger, Levine, Spaustat, and Alkema.

Absent: Pighini, Moylan, and Harner.