

MINUTES

BOARD OF ADJUSTMENT

REGULAR MEETING
THURSDAY, FEBRUARY 22, 2018
COUNCIL CHAMBERS
SUMMIT COUNTY COURTHOUSE
60 NORTH MAIN
COALVILLE, UTAH

BOARD MEMBERS PRESENT:

Doug Matheson
Brendon Longley

Shawn Wiest

Regrets: Bentley Peay, *Chair*

Charlotte Rehfield

STAFF PRESENT:

Helen Strachan –*Attorney*
Jennifer Strader – *Senior Planner*

Katy Staley –*Secretary*

REGULAR SESSION

Vice Chair Matheson called the meeting of the Board of Adjustment to order at 6:30 PM.

1. Public input for items not on the agenda or pending applications.

The public input session was opened. There were no comments made and the public input session was closed.

2. Discussion and possible action on a variance from the required 100' setback from the river to construct a detached garage; 1998 East Hwy 150; Parcel SK-48; Aaron Boyd, applicant. – *Jennifer Strader, Senior Planner*

Planner Strader shared the background for the application. This item was heard at the Board of Adjustment meeting on January 25, 2018. The hardship associated with the property is the location of the septic tank, and the Board asked the applicant to research whether or not the septic tank could be relocated. The Health Department has stated that if a variance is not granted, then the septic tank would have to be relocated, which in turn

would require relocation of the drain field. The only possible relocation of the drain field is closer to the river, which the Health Department feels would be more of a detriment.

The Public Hearing was closed at the last meeting, so Staff recommends the Board approve the variance based on the Findings of Fact, Conclusions of Law and Conditions of Approval in the Staff Report.

Vice Chair Matheson stated he has read the report from the Health Department and appreciates the effort the applicant has made to obtain that information.

Findings of Fact

1. On December 11, 2017, Beehive Buildings, on behalf of the property owner, Aaron Boyd, submitted a Board of Adjustment application for a variance from the one hundred (100) foot stream setback.
2. The property is located at 1998 East Hwy 150, Lot 48, Samak Park Subdivision.
3. The zoning is AG-100.
4. Samak Park Subdivision was recorded in 1956 and contains forty-nine (49) lots.
5. Beaver Creek runs through the subdivision, specifically along the southern boundary of the subject property.
6. Section 11-3-3(C)(1) of the Eastern Summit County Development Code requires structures to be located a minimum of one hundred (100) feet from the ordinary high-water mark of a stream.
7. The applicant is requesting a variance to construct a detached garage that would be located seventy (70) feet from the high-water mark of the stream.
8. There is an existing residence on the property.
9. There is not a garage either within or detached from the primary residence.
10. The minimum front setback of thirty (30) feet is being exceeded. However, the septic tank is located within that area, restricting where the garage can be located.
11. The proposed garage is 880 SF with an attached, open lean-to of 200 SF.
12. Existing surrounding detached garages/storage buildings range in size from 100 SF to 932 SF.
13. The Eastern Summit County General plan encourages developers to “Work to ensure that new development is suitably located to minimize impacts to surrounding areas.”
14. Section 11-1-1 of the Code states that one of the purposes of said Code is, “to allow appropriate flexibility with regard to the location of land uses and other zoning matters, so long as the resulting use of the land is compatible with its surroundings and generally consistent with the general plan.”

Conclusions of Law

1. Literal enforcement of the ordinance would cause an unreasonable hardship for the applicant that is not necessary to carry out the general purpose of the land use ordinances.
2. There are special circumstances attached to the property that do not generally apply to other properties in the same district.
3. Granting the variance is essential to the enjoyment of a substantial property right possessed by other property in the same zone.
4. The variance will not substantially affect the general plan and will not be contrary to the public interest.
5. As conditioned, the spirit of the provisions of the land use ordinance is observed and substantial justice done.

Conditions of Approval

1. The minimum setback required for the detached garage is seventy (70) feet from the high-water mark of the stream.
2. Prior to commencement of construction, a Summit County Building Permit shall be obtained.

Board Member Wiest made a motion to grant the thirty-foot variance, based on the Findings of Fact, Conclusions of Law and Conditions of Approval found in the Staff Report. Board Member Longley seconded the motion.

- **MOTION CARRIED (3-0).**

3. Public Hearing and possible action requesting a variance from the required front yard setback of the fifty-five (55) feet from the centerline of the road due to the slope of the property; 2575 South Valley View Road; Parcel FM-C-71; Carey Lutheran, applicant. – *Jennifer Strader, Senior Planner*

Planner Strader shared the background of the application. A driveway variance request for this property was heard at the January meeting. A garage is proposed to be added to the residence. The roads within this subdivision are private roads, which have a fifty-five-foot setback requirement from the center line of the road. When the front property line does not extend to the center line of the road, then the typical setback is thirty feet from the front property line. Problems start to occur when roads are constructed outside of the

platted easements, which is typical of subdivisions platted in the 1960s and 1970s. The County still measures from the centerline of the original platted road because the plat is the official document of record. In this case, the road was not built in the correct location. The hardship associated with this property is the slope of the lot. The further from the road, the steeper the property becomes. Development Code restricts building on slopes greater than thirty percent unless there is no other location to build on the lot. The requested setback from the center line of the road is consistent with other properties in the area. If the road were ever reconstructed to the original plat, the thirty foot setback would provide enough room that the structure would still be constructed outside of that road. Allowing the home to be built in the proposed location would cause less disturbance, with fewer cuts and fills. The location of the driveway appears to meet Engineering Standards but would have to be approved by the Engineering Department prior to the issuance of a building permit, which has been included as a Condition of Approval. **Planner Strader** has checked with the Assessor's office and the proposed addition is approximately 700 square feet and the total area of the home would be consistent with other homes in the subdivision. Staff recommends the Board hold a public hearing and approve the variance request based on the Findings of Fact, Conclusions of Law and Conditions of Approval found in the Staff Report.

The applicant, **Mr. Carey Lutheran** stated that this driveway in the application is the driveway that Mr. Taylor from the Engineering Department recommended at the last meeting.

The public hearing was opened. No public comment was made and the public hearing was closed.

Findings of Fact

1. On January 24, 2018, the property owner, Carey Lutheran, submitted a Board of Adjustment application for a variance to the fifty-five (55) foot front setback, measured from the centerline of the road.
2. The applicant is requesting to build an addition to the existing residence that would be located thirty (30) feet from the front property line.
3. The property is located at 2575 South Valley View Road, Lot 71, Forest Meadow Ranch Subdivision Plat C.
4. The Parcel # is FM-C-71.
5. Parcel FM-C-71 contains 2.33 acres.
6. The zoning is AG-100.
7. Section 11-3-3 (C)(2)(1) of the Eastern Summit County Development Code states, "The minimum front setback shall be thirty feet (30') from the front property line. In cases where the property lines extend to the center of a public road or private driveway, the minimum setback shall be fifty-five feet (55') from the centerline of the road."
8. The front property line for Parcel FM-C-71 extends to the centerline of Valley View Road.
9. Valley View Road was not constructed in the location identified on the Forest Meadow Ranch, Plat C subdivision plat.
10. Because the recorded subdivision plat is the official document of record, the setbacks are measured according to the recorded plat rather than the as-built roads.
11. The applicant would like to build a garage and additional living space on a platted legal lot.
12. A garage does not currently exist either within or detached from the residence.
13. According to the Assessor's records, the existing residence contains 651 sf. The proposed addition is approximately 700 sf, resulting in a total square footage of approximately 1,350 sf. The adjacent existing residences average 1,400 sf.
14. The applicant is requesting the variance because if the required setback were maintained, the structure would be located in a much steeper section of the lot, resulting in more cuts and fills associated with the construction.

Conclusions of Law

1. Literal enforcement of the ordinance would cause an unreasonable hardship for the applicant that is not necessary to carry out the general purpose of the land use ordinances.
2. There are special circumstances attached to the property that do not generally apply to other properties in the same district.
3. Granting the variance is essential to the enjoyment of a substantial property right possessed by other property in the same zone.
4. The variance will not substantially affect the general plan and will not be contrary to the public interest.

5. As conditioned, the spirit of the provisions of the land use ordinance is observed and substantial justice done.

Conditions of Approval

1. The minimum setback required for the addition is thirty (30) feet from the property line.
2. Prior to approval of a Building Permit, the Summit County Engineering Department shall approve the proposed driveway identified on the attached site plan.
3. Prior to commencement of construction, a Summit County Building Permit shall be obtained.

Board Member Longley made a motion to approve the twenty-five-foot variance request according to the Findings of Fact, Conclusions of Law and Conditions of Approval in the Staff Report. Board Member Wiest seconded the motion.

- **MOTION CARRIED (3-0).**

4. Public Hearing and possible action regarding a variance for additional building height; 100 Matterhorn Terrace; Parcel SU-M-2-128; Roderick Nix, applicant. – *Jennifer Strader, Senior Planner*

Planner Strader shared the background of the application. The applicant was not in attendance. The Board reviewed a variance request for this home on May 26, 2016 and granted the variance request to increase the minimum height of thirty-two feet to fifty feet for a single-family residence. The applicant is now requesting an additional seven feet due to the slope of the lot. The height would be fifty-seven feet from grade. There is a request in the Staff Report for the Board to discuss each Standard for approval. Findings for both approval and denial have been provided. There is no specific recommendation from Staff. There has been no input received from the public.

The public hearing was opened. There was no public comment and the public hearing was closed.

Board Member Wiest stated a pretty substantial variance has already been granted.

Without seeing design criteria, Board Member Wiest is not comfortable granting the variance.

Vice Chair Matheson stated he did look at the minutes for the last variance request for this building and asked if the building design is the same as when it was originally submitted.

Planner Strader stated her understanding is that when the applicant went forward with designing the home, they discovered they needed an additional seven feet to make the design work.

Vice Chair Matheson stated one of his concerns is there will be a five-story rear view that is not consistent with the community.

Board Member Wiest questioned if the area requiring the variance is the peak or the entire face. **Vice Chair Matheson** stated the height is pretty consistent across the back.

Board Member Longley stated the applicant still has the option of moving the home down further but it will require the removal of trees. **Vice Chair Matheson** stated one of the reasons for the original variance request is the applicant did not want a driveway across the front that would push the building back and increase the building height.

Board Member Wiest stated that with the applicant not in attendance there is no reason to keep discussing the variance request and this item should be continued.

The public hearing portion was reopened to allow for continuation.

Board Member Wiest made a motion to continue this variance request to the next meeting. Board Member Longley seconded the motion.

- **MOTION CARRIED (3-0) CONTINUED TO NEXT MEETING.**

5. Approval of minutes: August 24, 2017 and September 28, 2017

Approval for the August 24, 2017 minutes could not be made without a quorum and will be moved to the next meeting.

Board Member Longley made a motion to approve the minutes of September 28, 2017 as written. Board Member Wiest seconded the motion.

- **MOTION CARRIED (3-0).**

ADJOURN

At 6:53 p.m. Board Members Wiest and Longley made a motion to adjourn.

- **MOTION CARRIED (3-0)**

Approval Signature