

**ROUTT COUNTY BOARD OF ADJUSTMENT
MINUTES**

SEPTEMBER 12 , 2022

The Routt County Board of Adjustment meeting was called to order at 6:00 p.m. with the following members participating: Acting Chairman Brian Fitzgerald and Planning Commissioners Jim DeFrancia, Brian Kelly and Linda Miller (alternates). Planning Director Kristy Winser and staff planner Michael Fitz were also present. Sarah Katherman prepared the minutes.

PUBLIC COMMENT

There was no public comment.

MINUTES - January 10, 2022

Mr. Kelly moved to approve the minutes of the above cited Board of Adjustment hearing, as written. Mr. DeFrancia seconded the motion. **The motion carried 4 - 0, with the Chair voting yes.**

MINUTES - March 14, 2022

Mr. Kelly moved to approve the minutes of the above cited Board of Adjustment hearing, as written. Mr. DeFrancia seconded the motion. **The motion carried 4 - 0, with the Chair voting yes.**

ACTIVITY: PL2022007 1

APPELLANT: John C. and Brenda Skovgaard

REQUEST: Request for a variance from the required property line setbacks to construct an addition onto an existing home

Required setbacks: 50 ft. from all property lines

Requested setback : 22 ft. from east property line for a variance of 28 ft.

Requested setback : 36.5 ft. from west property line for a variance of 13.5 ft.

LOCATION: Lot 21 Fox Estates Filing 1; located at 32818 McKinnis Creek Road

Ms. Brenda Skovgaard stated that the property is in the Fox Estates subdivision, located at the base of Rabbit Ears Pass. She said that the lot is small, long and very narrow. She also noted that the road is not located where it is supposed to be according to the plat. She stated that the requested variances would allow them to construct an addition for a bedroom on the main level of the house.

Mr. Fitzgerald noted that staff is recommending approval of the variances. Mr. Fitz reviewed the request, and stated that the subject lot is very small (0.59 acres) for the Mountain Residential Estates (MRE) zone district, which has a minimum lot size of 5 acres. The lot is also very narrow; it is 85 ft. as its widest point. The required setbacks would not allow for a building site. Mr. Fitz said that

the subdivision was created in 1970, prior to the adoption of Zoning and Subdivision Regulations in Routt County. The MRE zone district was applied to these lots because it is the highest density zoning that allows lots to be served by wells and individual septic systems. Mr. Fitz presented a site plan and indicated the location of the existing home, which was constructed in 1976 and was granted a variance at that time. He stated that a subsequent variance was granted in 2019 for a garage and addition. The garage was constructed, but the addition was not. The proposed addition is in the same location as the prior approved addition, but changes have been made to the design, requiring a new variance. Mr. Fitz presented renderings and floor plans of the proposed addition. He also presented photos of the existing home and indicated the location of the proposed addition. Mr. Fitz presented the proposed findings to support the approval of the variances, as well as the suggested conditions of approval. He noted that a condition is proposed that would require the removal of an existing shed that is currently located in the County right of way outside of the property boundaries.

Mr. Fitzgerald expressed concern that the Board of Adjustment does not have the authority to require the removal of a structure that is outside the subject property. Ms. Winser said that a building permit cannot be issued until the shed is removed, but that this could be accomplished through the building permit process. She noted that this condition has been discussed with the applicant, who has agreed to move the shed.

There was no public comment.

Ms. Miller said that all five criteria necessary for a variance to be granted have been met, and offered that this is the type of case that the variance process is intended to rectify. Mr. DeFrancia agreed. Mr. Kelly agreed, and added that the proposal will not increase the degree of non-conformity of the existing house. He said that he would support including the suggested condition requiring the removal of the shed in this approval, but agreed that it could also be handled through the building permit review.

Mr. Fitzgerald asked about the proposed use of the space under the addition. Ms. Skovgaard stated they have no intended use for the space, and were considering covering the opening with lattice. She said that the cantilevered design of the structure is necessary to address the slope.

MOTION

Mr. Kelly moved to approve the requested variances of 28 ft. and 13.5 ft. from the required 50 ft. setbacks, resulting in setbacks of 22 ft. from the east property line and 36.5 ft. from the west property line to allow for the construction of an addition onto an existing home. This approval is based on the following findings of fact:

1. Peculiar and exceptional practical difficulties or an unnecessary and unreasonable hardship will be imposed on the property owner if the

- provisions of this Resolution are strictly enforced because of the size and configuration of the property that makes adhering to the required setbacks unreasonable and the lot unbuildable.
2. Circumstances creating the hardship were created subsequently through no fault of the appellant because the present nonconformity was created in 1970 when Fox Estates Subdivision was platted.
 3. The property for which a variance is requested possesses an extraordinary and exceptional situation or condition which does not occur generally in other property in the same Zone District in that the site has a physical constraint limiting the building envelope. This physical constraint is the small acreage size and the narrowness of the parcel.
 4. The variance, if granted, will not diminish the value, use or enjoyment of the adjacent properties, nor curtail desirable light, air and open space in the neighborhood, nor change the character of the neighborhood because the configuration and size of the structure is generally in conformity with the adjacent properties and neighborhood.
 5. The variance is not directly contrary to the intent and purpose of this Resolution or the Routt County Master Plan as there are no apparent conflicts with RCZR standards or RCMP policies.

This approval is subject to the following conditions:

1. If construction is not commenced within 1 year, this variance shall be subject to another review with full submittal. A 12 month extension may be approved administratively without notice.
2. This approval is specific to the plans submitted in the application. Any change in footprint, size, height or site location that increases the level on non-conformance will be subject to a new application. Minor variations that do not increase the level of non-conformance can be approved administratively, without notice.
3. A foundation only building permit will initially be signed off on by Planning. Prior to Planning signing off on the full building permit, a certified survey of the location of the foundation forms must be submitted.
4. The shed in the right-of-way shall be moved within the property boundaries, no closer than 5' to the property lines, or demolished prior to Certificate of Approval.
5. Best Management Practices (BMP's) shall be utilized during construction to prevent erosion and drainage flow onto adjacent properties, drainage to the west of the parcel and the county road right of way.
6. All exterior lighting will be downcast and opaquely shielded.
7. Revegetation of disturbed areas shall occur within one growing season with a seed mix which avoids the use of aggressive grasses. See the Colorado State University Extension Office for appropriate grass seed mixes.

Mr. DeFrancia seconded the motion.

The motion carried 4 - 0, with the Chair voting yes.

ADMINISTRATOR'S REPORT

Ms. Winser said that there would not be a BOA meeting in October.

The meeting was adjourned at 6:15 p.m.