



**BOARD OF ADJUSTMENT
MEETING AGENDA
November 30, 2017
4:00 p.m.**

OATH OF OFFICE NEW MEMBERS

Taylor Jones, Pam Schumacher, Mark Erickson, Terry Marietta, Ronee Warne

ROLL CALL

ELECTION OF OFFICERS

1. Election of the 2017 Board of Adjustment Chairman and Vice-Chairman.
 - 2015 Chairman was Mark Erickson
 - 2015 Vice-Chairman was Allyson Allo (no longer on the board)

MINUTES

1. Review and acceptance of the July 23, 2015 Board of Adjustment Meeting Minutes.

ACCEPTANCE OF CORRESPONDENCE AND STAFF REPORTS

1. Review and acceptance of all correspondence and Staff Reports in the record.

NEW BUSINESS

1. The request is for a variance to the City of Rock Springs side yard setback requirements. The property is zoned R-3 (Medium Density Residential). In the R-3 zone, the City of Rock Springs Zoning Ordinance currently requires residential structures to have a total of 16 feet total both sides; one side shall have a minimum setback of 10 feet and one side shall have a minimum setback of 6 feet. The applicant is proposing a side yard setback of 7.47 feet setback and the other existing side setback of 8.20 feet thus not resulting in the 6'/10' requirement. Submitted by Michael Smith. (Project #: PZ-17-00157, Staff Representative: Amy Allen, Acting City Planner)\
2. The request is for a variance to the City of Rock Springs front yard setback requirements. The property is zoned R-1 (Low Density Residential). In the R-1 zone, the City of Rock Springs Zoning Ordinance currently requires residential structures to have a total 20 feet front yard setback. The applicant is proposing a 15.00 feet front yard setback. Submitted by Clay and Debbie Hincks (property

owner) (Project #: PZ-17-00179, Staff Representative: Amy Allen, Acting City Planner)

PETITIONS AND COMMUNICATIONS

1. Written petitions and communications.
2. Petitions and communications from the floor.

ADJOURN

**BOARD OF ADJUSTMENT
MINUTES
July 23, 2015
Thursday 4:00 p.m.
City Council Chambers**

MEMBERS PRESENT: Mark Erickson
Tim Sheehan
Allyson Allo
Kandi Pendleton
Robert Wilmetti

MEMBERS ABSENT: Terry Marietta
Dallas Valdez

ALSO PRESENT: Jennifer Shields, City Planner
Denise Boudreault, Assist. City Planner
Cathy Greene, Sr. Admin. Asst.

NEW MEMBERS

Carl Demshar, Mayor, administered the Oath of Office to new Board members Allyson Allo, Kandi Pendleton, and Robert Wilmetti.

ROLL CALL

Ms. Jennifer Shields, City Planner called the meeting of the Board of Adjustment to order at 4:00 p.m. After roll call it was determined that there was a quorum present to proceed with the meeting.

ELECTION OF OFFICERS

Ms. Shields requested nominees for the 2015 Chairman to replace former Board member Warren Anderson. Motion made by Board Member Pendleton to nominate Mark Erickson and seconded by Board Member Allo. The motion passed unanimously.

Ms. Shields also requested nominees for 2015 Vice Chairman. Motion made by Board Member Erickson to nominate Tim Sheehan and seconded by Board Member Pendleton. The motion passed unanimously.

The meeting was then turned over to the new 2015 Chairman, Mark Erickson.

MINUTES

Chairman Erickson called for approval of the minutes of the June 18, 2014 Board of Adjustment meeting. With no corrections or discussion, Board Member Sheehan motioned to approve the minutes. Board Member Allo seconded the motion. The motion passed unanimously.

ACCEPTANCE OF CORRESPONDENCE AND STAFF REPORTS

Chairman Erickson then asked the Board to accept the correspondence and staff reports into the record. Board Member Wilmetti motioned to accept the correspondence and staff reports into the record. Board Member Sheehan seconded the motion. The motion passed unanimously.

NEW BUSINESS

1. Request for a 5.4' parking lot setback variance at the Preserve Apartments Phase One property located at 2226 Reagan Avenue (primary address), submitted by Donald Berland (applicant) on behalf of Foothill Preserve I, LLC (property owner), and represented by Randy Hansen.

(Project#: PZ-15-00176) (Staff Representative - Jennifer Shields, City Planner)

Staff Report

Ms. Shields presented the Staff Report dated July 15, 2015 to the Board.

Public Notification

Adjacent property owners were duly notified of this request on July 10, 2015, with no response.

Board Questions for Staff

Board Member Sheehan asked if there was another utility review meeting that put the access off Reagan instead of Foothill that was approved. Ms. Shields said the site has two accesses, one off of each Foothill and Reagan. Board Member Sheehan asked if the 30' setback was determined by the primary access. Ms. Shields confirmed that he was inquiring about the front setback verses the corner setback. She said by reviewing the file, it looks like Foothill was considered the "Front Property Line" and Reagan was considered the "Corner Side Line". Front property line has a 30' setback and corner side line has a 25' setback.

Board Member Sheehan asked if Foothill was the corner setback would the parking fit into it. Ms. Shields said it is just .4', almost and very, very close to meeting the setback requirement, if that is how it had been reviewed.

Board Member Wilmette asked if it would be possible to move the parking somewhere else on site. Ms. Shields said they couldn't be shortened as they meet the City required length of 20 feet, but they could be relocated elsewhere on the site.

Board Member Allo asked if there was any type of statute of limitation. Ms. Shields said only if the City had been aware of it for more than 5 years, then they could be grandfathered in.

Board Member Wilmette asked about criteria number one...does the fact that this was previously approved count as a special circumstance? Ms. Shields said it is certainly a unique circumstance that the City does bear some responsibility in the oversight of the review process.

Board Questions for Applicant

Chairman Erickson asked the applicant or a representative for the project to come forward. Mr. Randy Hansen gave a summary and said Ms. Shields had done a good job describing the issue. He said he had been out to look at the site and took some pictures of the four parking stalls. You might be able to push them back a little bit, but wasn't sure about relocating them elsewhere on the site. The site is really busy as it is and he is not sure if they could find another location for 4 parking spaces.

There were no questions for the applicant.

Public Comments

Chairman Erickson opened the public hearing and asked for any public comments. There were no public comments. Chairman Erickson then closed the public hearing.

Staff Recommendation

Ms. Shields recommended approval based upon the three statutory items of consideration (mandatory review criteria for variances), as follows:

1. There are special circumstances or conditions, fully described in the Board's findings, which are peculiar to the land or buildings for which the adjustment is sought, and which do not apply generally to the land or buildings in the neighborhood and have not resulted from any act of the applicant subsequent to the adoption of the Ordinance.

Yes. The special circumstance of the site is that a parking garage is located directly to the west of the parking lot, thereby making the relocation of the four parking spaces another 5.4' to the west impossible at this location. This situation does not generally apply to the land or buildings in the neighborhood, and the project developer had every assurance from the City that all Ordinances were being adhered to at the time of Site Plan review and approval.

1. For reasons fully set forth in the Board's findings, the circumstances or conditions are such that the strict application of the provisions of the Ordinance would deprive the applicant of the reasonable use of the land or building, the granting of the adjustment is necessary for the reasonable use thereof and the adjustment as granted is the minimum adjustment that will accomplish this purpose.

Yes. The parking lot has been in place for approximately five years, is needed to meet the minimum parking requirements of the entire site, and still leaves the majority of the required setback in place (24.6' or 82%) to provide for open space and landscaping improvements to the area along Foothill Boulevard.

2. The granting of the adjustment is in harmony with the general purposes and intent of the Ordinance and will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

Yes. Staff has not received any comments from notified adjacent property owners either for or against the proposed variance.

Board Member Wilmette asked if all 4 parking spots were required to meet requirements. Ms. Shields said yes, 357 spaces are required for that site and that is exactly what was provided, so these four spaces are required.

Board Vote

Board Member Sheehan: Motion to approve with all three staff recommendations.

Board Member Pendleton: Second.

Vote: All in favor. Motion carried unanimously.

2. Request for a covered porch rear yard setback variance of 12.84 feet and accessory structure interior side and rear yard setback variances of 1.38 and 1.21 feet respectively, submitted by Page Gunderson (property owner).

(Project #: PZ-15-00175, Staff Representative: Jennifer Shields, City Planner)

Staff Report

Ms. Shields clarified there are two variance requests the board will need to vote on, both the rear yard setback for the covered porch as well as the accessory structure request. Ms. Shields presented the Staff Report dated July 15, 2015 to the Board.

Public Notification

Adjacent property owners were duly notified of this request on July 10, 2015.

- Mr. Gunderson included four letters from adjacent property owners who were in favor of his requests, which Ms. Shields read into the record and included in the staff report.
- Ms. Shields also received a phone call from someone in the neighborhood who wished to remain anonymous. He tried to do certain projects that would encroach into the setbacks and was told no by the City, and basically said if he couldn't do it, why could anyone else.
- Ms. Shields also received a letter from other property owners in the neighborhood and they too wanted to build a covered porch and weren't allowed due to set-backs.

Board Questions for Staff

Board Member Pendleton: the shed itself, it's possible to move it if it's on skids, it just will take some repair then to the structure itself?

Ms. Shields: yes

Board Member Sheehan: when a subdivision comes through utility review, how are screening issues addressed between neighbors? I've seen this first hand at this neighborhood where you can be sitting on your back patio and watching your neighbor's television, so how does planning and zoning address privacy issues with that?

Ms. Shields: the zoning ordinance does not require screening between one residential area and another, unless it's an apartment development high intensity residential zone verses a low residential single family area, or if it's a residential area next to a commercial or industrial area. So, we do have some screening requirements but it's really amongst different zoning districts, not in the case R-1 and Tate Way is actually zoned R-3. It's a different subdivision on the Tate Way side so it's got a little bit higher density and there are a little bit smaller lots on Tate Way and smaller yards as a result. But we do not have a screening requirement between R-1 and R-3.

Board Member Sheehan: the utility drainage that goes between the properties and on the properties is that on Tate Subdivision.

Ms. Shields: there is in the Tate Subdivision a drainage easement, but only on their lots, not on Mr. Gunderson's or any of the Via Spoleto lots.

Board Member Wilmetti: did the applicant submitted any building permits prior for any of the structures?

Ms. Shields: no, but just a small bit of commentary this is a very difficult case I think you all recognize that right now and that not any of us are enjoying this process, especially the applicant. That this is unusual, three of you are new members to this board, most applications that come before this board are not retroactive. They are applications where nothing has been built and the applicants are asking permission to do something, so in both cases today this is highly unusual.

Chairman Erickson: there is a cement pad under this porch and the roof goes over it?

Ms. Shields: correct

Chairman Erickson: if they were to shorten up the roof length or I should say the width would the cement pad be part of that set-back? Would they have to remove it or just the structure part?

Ms. Shields: no, just the structure part, the cement pad could go all the way to the property line if they wanted to. The city doesn't permit flat work. If it were a raised deck, it would require a permit, but flat cement doesn't.

Chairman Erickson: asked Ms. Shields if she had any sort of measurement of the roof width.

Ms. Shields: it should be shown on your site plan drawing. The width is 15 feet out from the house and the length is 42 feet total. The house was sitting 22.14 feet from the rear property line, which meant for a roofed area there was only an additional 2.14 feet to add roofed area. The house was basically almost built to that maximum buildable area. The dashed lines are the setback or building envelope, it's labeled on the sides.

Board Member Wilmetti: if the structure was something along the lines of a pergola where it was open air, would that be considered still a roofed area?

Ms. Shields: not if it was open, there could be different types like a retractable awning, a pergola that was open they could look at not considering a roofed area. This is a fully roofed area; hopefully, you can see from the pictures the substantial construction that was involved.

Board Member Allo: on page two of five that is the aerial view; it shows in the neighborhood that none of the other houses in the area have any covered porch areas at all. Are there any other buildings in this area that have applied for variances?

Ms. Shields: no one has applied for a variance to exceed the setback requirements for a covered porch attached to a house. For full disclosure I don't know the date of this aerial, every lot does show a house on it, so I think it is fairly current since the subdivision was just platted in 2008 and it takes a few years for them to get fully built out. I did not research other houses that might have applied for a covered roof porch. The intent of the aerial, when I started first looking into this even before sending the first violation to Mr. Gunderson, I did take a look at the aerial and it did strike me right away that his house is built out to almost the maximum setbacks and quite a bit bigger foot print than a lot of houses in the immediate area.

Board Member Wilmetti: the aerial map was when it was initially built excluding the covered porch?

Ms. Shields: yes, so it's before last year sometime.

Board Questions for Applicant

Chairman Erickson asked if the applicant would like to come up and address the board.

Mr. Gunderson: It's my property that I did this on. I built the porch to basically protect my mom to be able to go outside, and we have no privacy in this subdivision. I am not prying on a lot of things but 585,000 people in the State of Wyoming and ten times the size of the State of New York and 9 million people in New York and we build on top of each other. So, all my neighbors stand in their back yard or their living room and see directly into my house. We just wanted some privacy and my mother needs a chance to go outside, she is 84 years old. So the existing concrete that was there that was built by the contractor, that's where I built the porch to. The shed was built kind of on a skid, but it was built big enough for me to go around. I went to the fire department, I went to both fire chiefs and I asked them about the setbacks and fire jumps, and why it's necessary for 40 feet between me and my back neighbors but the homes in the R2 are 10 and 12 feet apart why the fire wouldn't jump there. There is no set logical reason other than when the homes are close and they explained to me how they fight the fires: number one is life, number two is ambient heat and the second truck puts out the fire. So I asked him about the shed and they said they wouldn't put themselves between my shed and the fence for any reason. They would fight the fire from twenty feet back with a fire hose because there is no life in there. To move the shed would be more than a chore, it would bust all the rock and the stucco off the shed and to move it, it would be into the porch that already exists. I have a degree in Design Technology from Utah Valley State University in

Orem. So to build a structure mechanically, structurally and architecturally that's what I do. So the footers I put in there underneath them are three feet down and 16 inches square of concrete and rebar. The structure is built on 16" centers not 24" centers of 2x6s. All the structures were built to what even the inspector says is all code. I don't worry about that because I'm not going to do something that is going to destroy my home. This is where I raised my kids and I'll be with my grandchildren and as long as my mother is here she's with me there. One day I'll be in those shoes and I want the same privacy. I didn't do this to defy anybody; I built it because it's in my back yard, my home. I didn't look at an aerial view and say hey you have taken up most of your yard with home, that I didn't know. The shed was built under 200 square feet, so there wasn't a building permit needed. The porch wasn't enclosed, (said something non-audible). I didn't get a building permit for it because it wasn't enclosed, I just made it nice. I made it with rock and stucco to match the house, it has eaves and soffits, and it has electrical and ceiling fans. I made it to where you can go into the back and make it nice. It wasn't to defy anybody or to go against any codes. It was my property. I'm sorry for the guy who wants to put it on and didn't but I didn't do it to say let me build it and then we will see what happens later. I built it because it was my yard and I took care of it and I just take care of what I have. The aerial picture has to be at least 2 ½ years old because that old boat in the driveway was there 2 ½ years ago and it's been a while since that's been there. The neighbors have no problem with what I have done, they actually see and understand why I built it. The people who have come here understand why I have built it, it's...my mom means more to me than most things, so it mattered to me.

Board Member Pendleton: you said in your own words it's what you do. So did it not occur to you that you'd have to check with the City before you did any of that stuff?

Mr. Gunderson: no it's not my job; I don't do that, I work in the mines.

Board Member Pendleton: well you just talked about your design degree and the pillars and all that, so it sounds like you have a background in that and I am surprised that you didn't think to talk to the City.

Mr. Gunderson: the degree was a few years ago when I was in school and so when I got the degree it was how to structuralize stuff. They don't go over permits and zoning laws, so when I built it, it was just what would be sound and then I contacted a project civil engineer that works with me out there and I told him how I built it and he said the structure was fine if I planned on parking my truck on top of it, which meant it was above and beyond any City requirement.

Chairman Erickson asked if there were any other questions for the applicant. There were none.

Chairman Erickson then opened a public hearing for anyone who would like to speak for the project to come forward.

Mr. Gunderson's mother spoke from her seat: "Page has a beautiful home, and a beautiful porch and we enjoy it all our family. We have a lot of family in Rock Springs and that fellow that didn't get to build one that's too bad, but Page got to and me and my family enjoy it."

Scott Lewis: I have been to his property. If you are concerned with anything about water running into the other properties or fire jumping from this awning to the other property, then I don't think there are any concerns about that. I think there is room and the slope of the awning will drop before it gets to the other property and fire won't jump uphill cause the house above him is way above him and that's the problem. That's why they can look straight down in his property, because it is built above him. So, I think concerns about fire and water and the built property is non-existent, so if that helps you any. I don't know if you can see that in the pictures because those concerns are not valid. So, thank you.

John King: bear with me I have never done this before, good evening. As a point of parliamentary procedure I would respectfully request that the anonymous complaint be stricken from the minutes, thank you. Not to digress into the previous discussion but exactly regarding the corner side variance for the previous applicant, how far did you say that was out of ordinance (question directed at Ms. Shields, and she answered with the number)? He said "pretty close" was the verbiage that you used ma'am. Also, when discussing the one person that was opposed in the neighborhood that lived outside the 200 foot radius of Mr. Gunderson, you also used the verbiage of "pretty close". I respectfully ask the board to ask itself, what is, if there is one, the City definition of "pretty close" and if it's already been considered in a previous variance today could it not be considered for Mr. Gunderson?

Ms. Shields: just for clarification the Preserve Apartments Phase One parking lot set back variance was 5.4 feet into the set-back.

Mr. King: from his seat stated "point of order ma'am you also referred to that as "pretty close" in your own words."

Ms. Shields: point taken.

Board Member Allo: asked Ms. Shields if she said the percentage was 82% and what was the percentage for this particular application?

Ms. Shields: clarified that the parking lot setback met 82% of the setback requirement and this one only meets 35%.

Board Member Allo: for clarification about the two neighbors behind this property, the way the property is situated is it on a slope, is it on a hill side?

Ms. Shields: said there is an elevation difference. The lots on Via Spoleto and the lots on Tate Way are two separate subdivisions built at two separate times.

Board Member Allo: asked if we knew what that variation is?

Ms. Shields: I don't know the elevation difference. I would agree that you can see into their back yards, there is privacy, and it's not as private as it certainly could be if they were on even slope.

Board Member Allo: if you look at State Statute 15-1-608 where it says that the board of adjustment has the power to vary or adjust the strict application requirements of this ordinance in the case of any regular, narrow, shallow or steep lot, there is a potential that this could be considered steep with the adjacent property?

Ms. Shields: you can definitely take that into account.

Board Member Wilmetti: was the applicant the initial purchaser of the home and oversaw its construction? Ms. Shields said as far as she can tell.

Mr. Gunderson: stated he is the original owner of the home.

Rori Pedri: (the applicant's daughter) when he started this project it began with her grandma and grandpa moving in with him. It was to enhance the backyard and to provide a good place for my grandma and grandpa to go to seek shelter and to enjoy the outside with the grandkids and the family. When he went to build the shed, he had a friend who was also into construction who assisted him in the plans and building it. The fellow had suggested that since it was below 200 square feet that he did not need a building permit; therefore, he didn't seek it and they progressed on with the planning. I don't know if they had knowledge of it having three foot setbacks or not at the time. I do know it was on the friend's behalf saying no it's below 200 so you don't need a building permit so they moved forward with the plan. As far as the awning goes, it is a beautiful structure and it does add a lot of character to the neighborhood. Since we have been in the back yard and seeing the lots adjacent to them that are behind them, it is a significant elevation that those lots are built on. Standing at ground level, I am below their deck; their deck is above his fence line so they are significantly higher looking into the back yard. Since it's been built, it has added privacy into the home as well as in the back yard, so I would just like to be considered, thank you.

Clay Gunderson: (the applicant's brother) I watched him go through this planning and building and the joy it has brought to everybody because my mom and dad were there, that is where everybody met. I know it's built well because I have watched him go through the process. The privacy is wonderful, I have neighbors that look in my back yard and it is not pleasant, there is no privacy. These homes are built right to the line and that's it, but it is his property. There has to be some leeway to enjoy your own home with nobody watching. It's your home, you can go anywhere in Sweetwater County and see all these homes that people don't do anything with their yards; there's cars piled up, there's junk, their porches are falling off. But somebody that takes a little bit of pride and builds something nice, it also brings the price up of everybody else's home because it's nice and that it'd be basically tore down for doing what he wants to do, is not right. It's a beautiful structure I wished I had it, so I wish you take into consideration that privacy right now means a lot for everybody, even everybody in here. You have to have privacy and for my mother she enjoys it, thank you.

Public hearing closed.

Board Member Sheehan: what is the reason for the three foot set-back on a structure less than

200, is it just spacing on a property?

Ms. Shields: it's any structure; even a detached garage would need to be three foot away from the property lines and is primarily for drainage and also for maintenance, so you can get in there.

Board Member Sheehan: if it's over 200 square feet then it would become a six foot setback?

Ms. Shields: then the setback is still three foot from the property line, but in addition there is a minimum six foot separation between the house and a garage. It's the additional separation of buildings if you go over 200 square feet, that's the difference.

Board Member Wilmetti: if the structure, the covered patio was not tied to the house, supported say six feet out, like if there was some way to put supports there. Would that be within zoning regulations?

Ms. Shields: we did discuss with Mr. Gunderson when we were on site, possible options. We could look at a separation from the house and if it's over 200 square feet it still has to be away from the house six feet. If it was a covered area that was under 200 square feet it could be up against the house separating the house into two separate roofs. We discussed a lot of possibilities of things; all of them would entail tearing down what's there and building something different. So, would he have the ability to build an accessory covered area, yes, what that would look like we would have to go through the different scenarios. Did that answer your questions?

Board Member Wilmetti: yes

Chairman Erickson: I would like to make a comment that I did drive by the location the other day and just from the street side it was very, very well maintained. His property, shall we say is A#1 from the street side and by the pictures that Jennifer (Ms. Shields) has given us, it's just a duplication of what the front side is looking like. This is a tough decision for us, and his concern is that if we grant this, which I don't know the direction that we are going to follow here, but if we grant this one, we may have an applicant that wants to do it next week. It's like if you let him do it, why can't you let me do it. It's tough, if the structure was falling down and in disarray it would be no question, we need to do something with it right now. I think more people in that neighborhood, like the one over the 200' radius feet away but he is in that neighborhood, but he made a comment that wanted to do it but couldn't. I think more and more people are going to be questioning to this board and Jennifer's office, why did you let this person when I can't do it myself? I would like to make that comment first before the staff recommendation.

Board Member Allo: if the variance is not approved, does the entire structure have to be removed?

Ms. Shields: yes it would, as mentioned earlier there is only 2.14 feet left of the covered area allowed.

Board Member Allo: looking at it, it is such a substantial; it's beautifully done, absolutely beautifully done. Even Mr. Gunderson himself said how structurally sound it is, he could park a vehicle on the roof it's so sound. It's such a substantial structure in my mind I would have thought, this absolutely would have needed to go to the City. It not just someone putting up a couple of 4"x4" posts, this is a very substantial structure and beautiful work. She confirmed that the entire structure would have to be removed then.

Board Member Wilmetti: I'm wondering on, if it were simply stand-alone and I apologize if this is something I have asked before. Here is the current structure this side is the house, if the supports were moved say six feet, could that work?

Ms. Shields: yes, but I can't speak to building codes and structures. A covered area over 200 square feet would need to be 6 feet away from the house.

Board Member Wilmetti: ok so really the area in question would be that part of the roof that is if that six feet was somehow able to be detached, then that would be okay? The idea is then this would not be putting in such supports wouldn't be a possibility, cause I'm thinking if you, and I understand there is more to it than just cutting out this piece.

Ms. Shields: there is electrical involved and a lot of building codes, again I am not in the building department, it would have to be reviewed, designs for that as well. These ideas, alternative solutions, for something in the backyard that could still provide some covered privacy are all things that could have been discussed and mulled over initially prior to construction.

There was a lot of room discussion from applicant and supporters asking if they could respond, they were told the public hearing was closed. There was more discussion not picked up from the microphones, then Chairman Erickson said applicant could come up to the microphone and then Matt Bider from the building department next.

Mr. Gunderson: this is to answer your question about taking it out, moving it six feet to make it stable or standardized could it be stabilized in that area? It could but then he has 6 feet of open top that is going to have to have the drainage and everything away from the house because as everybody knows this ground is built on bentonite and shale and as the ground swells it breaks. That's the whole problem in that division, all the concrete is breaking because those that don't have the water away from their homes, the water goes down and it swells the ground and it breaks the concrete, foundations and driveways. It doesn't matter what it is, it breaks. I put mine to a point where I have all of it away from it so there is no water that drains anywhere near my house so I don't have as much problem as anyone else does. That would be the problem with separating it from and it wouldn't look anything like the photos you got.

Matt Bider from building didn't speak as he thought there were questions about structure, however there were not.

Board Member Pendleton: I can appreciate all of your concerns and comments, but since you were the original owner of the property you knew what the privacy and the size of the lot and

all of those things were going in and I am in a neighborhood similar to yours and in the same position. The privacy, obviously you could tell that when the lot was built what the privacy was going to look like, so I think your arguments are valid, for the arguments that you are giving but I think it's difficult you didn't go through the proper channels to start with.

Mr. Gunderson: Ma'am the houses behind me were not built.

Board Member Pendleton: I did not say the houses were built but the lots were there.

Mr. Gunderson: the foundations weren't, the only thing was the plot of the house. When he built the home on the foundation I didn't ask if it exceeded the area, but none of the homes behind me were built. When they came in with their foundations, the dirt was brought in and the foundations were raised six feet above where mine was at, that's what has caused the severe slope, but they weren't there.

Board Member Pendleton: but the size lots, those were all standard sizes, so I think that's the difficult thing now going back we are talking about things that really were set before you did all of this.

Ms. Shields: a couple of real quick things. We have talked about privacy, just so you are aware we do have in our ordinance an allowance for what we call special purpose fencing, which allows for fencing that is higher than six foot, your typical six foot by ordinance, that it doesn't require a variance from this board, just a pretty simple conditional use permit request. Where if you do have an elevation difference between you and your neighbor you can have a fence that's higher than six feet, like eight feet or ten feet or whatever you need to help mitigate that screening and allow for more privacy.

Staff Recommendation

Ms. Shields recommended denial based upon the three statutory items of consideration (mandatory review criteria for variances), as follows:

1. There are special circumstances or conditions, fully described in the Board's findings, which are peculiar to the land or buildings for which the adjustment is sought, and which do not apply generally to the land or buildings in the neighborhood and have not resulted from any act of the applicant subsequent to the adoption of the Ordinance.

No. The subdivision is fairly new and in compliance with current subdivision and zoning ordinances. The lot exceeds the minimum square footage required by ordinance; the applicant chose to construct a house that takes up almost all of the available buildable area. The applicant did not apply for any permits prior to construction.

1. For reasons fully set forth in the Board's findings, the circumstances or conditions are such that the strict application of the provisions of the Ordinance would deprive the applicant of the reasonable use of the land or building, the granting of the adjustment

necessary for the reasonable use thereof and the adjustment as granted is the minimum adjustment that will accomplish this purpose.

No. The covered porch extends into the required rear setback by 65% and the shed only needs to be moved less than 2 feet away from both the interior side and rear property lines.

2. The granting of the adjustment is in harmony with the general purposes and intent of the Ordinance and will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

Original recommendation had been undecided because I wanted to wait and see if there were any comments based upon the letter that was sent out to adjacent property owners. This one is a little bit tougher; I would say this criteria is met in that the four neighbors directly adjacent to Mr. Gunderson's property are all fine with this. Nobody has any issues and in fact they went out of their way to support him in this request. The last part "otherwise detrimental to the public welfare", I think that speaks to some of the comments that you've made that if he gets to do it and ask for forgiveness then everybody else is going to assume they should be able to build what they want and get it approved after the fact regardless of the City's regulations, ordinances, and building codes for that matter.

If you do approve this it will be precedent setting. In my eight years with the City and the variances I have been involved with this is probably the hardest one I have seen come before this board, and the one that will involve the most amount of impact to the applicant. Typically cases that come before this board are people asking for variances to the regulations prior to construction and not after the fact. Thank you.

Board Member Sheehan: if this is a no, we vote the recommendation of no, and Mr. Gunderson decides to keep it, what happens at that point?

Ms. Shields: then his zoning violations will be turned over to the City Attorney's office for them to pursue. It will go to the legal system in that regard or the other option for him would be to file an appeal and I believe that goes to the circuit court. I would have to check with the City Attorney's office on what that process is. In either case, the City Attorney's Office will be taking over the case if you will and handling it from there. There are three options:

- He can appeal your decision
- He can refuse to abide by your decision
- He can choose to comply with your decision

Chairman Erickson: Jennifer, are we going to vote on the porch first?

Ms. Shields: Yes, thank you for reminding me of what I tried to remind us of in the very beginning. There are two requests here, one is related to the covered porch and the other is related to the shed. You could make your motions independently, motion and vote and then motion and vote.

Chairman Erickson: before we vote is there a way that, granted the storage shed looks very permanent, it looks great from the street side, but to me it needs to be moved from the property line. On the back and on the side, if that was moved you'd have to take away some of the concrete, correct me if I'm wrong on the patio to make that move.

Mr. Gunderson: to move the shed forward it would take away that access to the back yard because of the corner of the house.

Chairman Erickson: because of the six foot setback from the house to the corner?

Ms. Shields: just to be clear there is no six foot separation required. The shed is under 200 square feet so it could be put up against the house. It's just the three foot from the side and from the rear.

Mr. Gunderson: it would just eliminate me being able to walk up my driveway and go into the back yard; it would give less space to get in between them walking around the shed now.

Ms. Shields: both the colored pictures and the site plan show the gap, the corner that would be the southeast corner of the shed in relation to the corner of the house. So, I think what we are saying is to move it over and forward it would make that corner of the shed closer to the corner of the house which would narrow that space in between the two for walking purposes.

Mr. Gunderson: in reference to the setback on the shed, between my house and White Mountain Library there are seven sheds that are built into their fence, seven. You would have to drive up the street with your eyes closed not to see it. There are sheds that are built on the edge of the property line and the fence line connects into their shed. Where there is less than zero walking distance, I can walk around my shed. I'm not by all means a huge person nor am I a small one, but I can walk around my shed. There are sheds all over this town that you have to walk by or you can look at that have absolutely zero setback they are put in the corner on both sides with no way to walk around, mine can go around. Now for the reasons of fire or damage, none of the water drains on anybody's property but my own. My land, my property is graded so as the water runs into my back, it runs down my retaining wall down the bottom retaining wall into the street. It doesn't interfere with anybody's water. On my home, water off my house drains to the shed, to a drainage pipe that directs it to the retaining wall. So there is no water from my property that goes into the easement behind my house which is for drainage, it doesn't even touch their property. Nor does it drain onto my neighbor's yard above me, it all drains into my property which follows the grade of my, how I have my grade, it goes out to the street. But there are sheds; there are seven from White Mountain to my property, sheds that are in the corner and touching. There are two porches that are adjacent to their homes that are three feet from the fence lines that you can see from the street. It's just observations that are there that are above and beyond just what mine is. I mean mine was singled out. I wanted a variance so I could try and get a special variance to keep it for the reasons that were put into the application. By no means am I the only person that has this not the quality of this porch, but there's others, and from the street you can see it, you don't need

The motion does pass with a vote of three to two.

Ms. Shields clarified if everyone was clear on the votes, especially the applicant.

Mr. Gunderson: yes

PETITIONS AND COMMUNICATIONS

- 1) Written petitions and communications.
None
- 2) Petitions and communications from the floor. *The following were said from the floor and not addressed into the microphone at the podium; therefore not all of it was audible.*

Mr. Gunderson: no, just whatever appeal I have to make I don't agree with your decision. It's not a precedent setting decision that you'd made. You could have made it a precedent decision, but that's your choice which apparently it is your choice. You're not setting a precedent because somebody builds something nice in this town. What you've done is opened up to where anyone has done something close to something wrong you guys are going to be in here and be busy all summer long. Everybody is going to turn in people over and over and over again because somethings close and they don't like it. Because somebody didn't like my shed they turned it in and *Ms. Shields* has turned it into a personal complaint when she seen when she got into my back yard. Which nobody seen and nobody knew it was even there, doesn't make it right or wrong. The structure was well built and well maintained. If it was built of 2 x 4s and plywood and sheet metal, I could understand your decision. I could even abide by that and rip it down. That's not how this was built, as you can see by the photographs it's not even built how most houses are built. It was built more structurally sound than most homes that are built here; it's probably better than homes that were built years and years ago. Because something nice that was built whether it was the wrong way or not and I take responsibility for that. It's my back yard; I built it off the existing construction of where the concrete was at. I didn't add more concrete to build it further, closer to the fence. Now it takes away from the integrity that my mom has protection and my neighbors can now look in my backyard again. Because this is how the planning and zoning passes these subdivisions. There were no homes built behind my house when my house was built. It was a level yard from my house to Tate Street. When they came in with the sewer lines they elevated it six more feet above that so we have no privacy. My mom has no privacy, my dad didn't when he was alive and living with us, neither do I. But because of how you presented this and made it seem like it was such a detriment that if this was approved, that somebody else may want one and you may have to deny or you can approve it depending on what the size of structure is depending on the property setbacks from the street. I don't want to become the person that turned me in because they didn't like my shed. You'd have to drive through Rock Springs with your eyes closed which is illegal in this town driving with your eyes closed. Not seeing what structures are and how some things are built some not maintained and just turn a blind eye. This is a personal complaint filed with the Planning and Zoning office. I understand your decision from how you guys want to make it, but you didn't set precedence by it. That's all I got to say.

John King: I appreciate all of the time you ladies and gentleman have spent on this issue. I appreciate it sincerely also, having this opportunity to exercise my civic rights by being able to speak. I am wondering rather than just the four are against vote for the motion, in light of three separate issues one of them being apparently Mr. Gunderson buying his property and then later finding out that the properties behind him would be elevated. Also with the real possibility that there are multitudes of similar code violations not only in Rock Springs, but in his neighborhood. Could a third possibility for this board be to table the issue until it's investigated further? Could we perhaps look at the neighborhood, look around the community and also revisit the planning and zoning at the time Mr. Gunderson planned his lot as opposed to when the lots behind him were planned? Could that be a viable option to table today's discussion to a further date?

Ms. Shields: Mr. King this board has already voted and made their decision on this matter. I will refer you and Mr. Gunderson both to the City Attorney's Office for any further inquiries regarding this matter, especially for Mr. Gunderson's methods of appeal for this decision today.

John King: Understand ma'am, thank you. My thought was perhaps that we have already violated parliamentary procedure by having repetitive votes on the same issue; I was wondering if perhaps we could revisit this once more and table this issue.

Ms. Shields: That's a matter again for the City Attorney's office. I would refer you to them.

ADJOURN

Chairman Erickson called for the meeting to be adjourned at 6:00 p.m.

These minutes of the July 23, 2015 Rock Springs Board of Adjustment Meeting are hereby approved by the Rock Springs Board of Adjustment vote this _____ day of _____ 2015.

Jennifer Shields, AICP, City Planner



Board of Adjustment Staff Report

Project Name: Smith Side Yard Setback Variance

Project Number: PZ-17-00157

Report Date: November 21, 2017

Meeting Date: November 30, 2017

Petitioner / Property Owner

Michael Smith
828 and 824 Burr Drive
Rock Springs, WY 82901

Existing Zoning

R-3 (Medium Density Residential)

Public Notification

Property owner notice (200' radius) mailed 11/14/17

Ordinance References

§13-305(ii), §13-601, §13-802.(C)

Staff Representative

Amy M. Allen, PE
Acting City Planner

Attachments

- Variance Application
- Public Notification / Owners
- Site Plan of Property
- Subdivision Drawing

Request

This letter is to inform you that a request has been made by Michael Smith for a **Side Yard Setback Variance** on property located at 828 Burr Drive. The requested variance is as follows:

Discussion

The request is for a variance to the City of Rock Springs side yard setback requirements. The property is zoned R-3 (Medium Density Residential). In the R-3 zone, the City of Rock Springs Zoning Ordinance currently requires residential structures to have a total of 16 feet total both sides; one side shall have a minimum setback of 10 feet and one side shall have a minimum setback of 6 feet. The applicant is proposing a side yard setback of 7.47 feet and the other existing side setback of 8.20 feet thus not resulting in the 6'/10' requirement.

The side yard setback variance is being requested due to the applicant owning both 824 and 828 Burr (lots 35 and 34) and requesting the variance of 2.53 feet on Lot 35 so that they are able to complete a lot line adjustment on lot number 34. At its' closest point, if the lot line adjustment occurs the existing house will be 7.47 feet from the side property line. If the variance is granted, the required side yard setback variance will be from the 10 feet required to 7.47 feet, a difference of 2.53 feet.

Please consider the following facts and issues:

- The property is currently zoned R-3 (Medium Density Residential).
- §13-802.C of the Rock Springs Zoning Ordinance states that in an R-3 Zoning District the required minimum house setback from side property lines is 6 and 10 feet.
- In 2009 the applicant was permitted to construct a home extending across the boundary between the two lots, in effect merging the total land into a single developable lot. At that time there was discussion of future placement of a large accessory garage on the remaining vacant part of Lot 34.
- Sweetwater County Assessor records indicate that the house and attached garage were built in 2011, per City Zoning Ordinance. The house was built over two lots, on top of an adjoining lot line (see site plan drawing).

828 and 824
Burr Drive



Variance Definition

Following is a definition of a Variance per §13-601 of the Zoning Ordinance:

“To vary or adjust the strict application for the setback, yard, and height requirements of this ordinance in the case of a physical condition to a lot or building but only if strict application would deprive the owner of the reasonable use of the land and/or building involved.”

Duties of the Board of Adjustment – Powers & Authority

Following is the statutory authority granted to the Board of Adjustment per §13-305(ii) of the Zoning Ordinance, and based upon Wyoming State Statute 15-1-608.(b):

“The Board of Adjustment has the power to vary or adjust the strict application of the requirements of this Ordinance in the case of an irregular, narrow, shallow or steep lot or other physical condition applying to a lot or building as a result of which strict application would result in practical difficulty or unnecessary hardship that would deprive the owner of the reasonable use of the land or building involved. Any such variance granted shall be granted according to the requirements and procedures established by the Ordinance. Variances may be granted only for hardships related to the physical characteristics of the land. Variances to this Ordinance related to permitted, accessory and/or conditional uses in any use district shall not be allowed.”

Mandatory Review Criteria for Variance

Per §13-305(ii) of the Zoning Ordinance, no variance or adjustment in the strict application of any provision of an Ordinance may be granted unless:

1. There are special circumstances or conditions, fully described in the Board’s findings, which are peculiar to the land or buildings for which the adjustment is sought, and which do not apply generally to the land or buildings in the neighborhood and have not resulted from any act of the applicant subsequent to the adoption of the Ordinance.
2. For reasons fully set forth in the Board’s findings, the circumstances or conditions are such that the strict application of the provisions of the Ordinance would deprive the applicant of the reasonable use of the land or building, the granting of the adjustment necessary for the reasonable use thereof and the adjustment as granted is the minimum adjustment that will accomplish this purpose.
3. The granting of the adjustment is in harmony with the general purposes and intent of the Ordinance and will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

Property Owner Notification

Adjacent property owners were duly notified of this request on November 14, 2017. At the time this report was written, no comments had been received. Any comments that are received after the preparation of this report shall be submitted to the Board of Adjustment at the time of the scheduled hearing.

Staff Recommendation

Staff’s recommendation, based upon the three statutory items of consideration (mandatory review criteria for variances), are as follows:

1. No. The neighborhood was established after the City’s Zoning Ordinance and most if not all of the houses and accessory structures in the neighborhood

meet the current setback requirements for the R-3 Zoning District.

2. No. The applicant himself created the reason for the variance. In 2011 the applicant built the new house on the existing lot line with the intent to build a detached garage on the remaining lot area.
3. No. The neighborhood lots and setbacks generally meet the subdivision set back and lot size requirements.



2017
CITY OF ROCK SPRINGS
VARIANCE
APPLICATION

Planning & Zoning Division
212 D Street
Rock Springs WY 82901
307.352.1540 (phone)
307.352.1545 (fax)

City Use Only:

Date Received 8-24-17 File Number: P2-17-00157
Payment Information:
Amount Received: \$100 Received by: [Signature]
Cash or Check Number: 2698 Receipt Number: R-2017-09-11-00676
Date Certified as Complete Application: 9-11-17 By: [Signature]
Board of Adjustment Meeting Scheduled Date: _____

A. PROPERTY ADDRESS: 828 Burr Drive

(NOTE: IF THE PROPERTY DOES NOT HAVE AN EXISTING ASSIGNED ADDRESS, LEGAL DOCUMENTATION OF THE LOCATION MUST BE SUBMITTED – i.e. Property Tax ID Number, Legal Description, etc.)

B. CONTACT INFORMATION:

NOTE: The City of Rock Springs will only send correspondence to the names and mailing addresses provided on this application. Attach a separate sheet if necessary.

Petitioner Information: Petitioner Name: Michael Smith
Company Name: _____
Street Address: 828 Burr Drive
City: Rock Springs State: WY Zip Code: 82901
Email Address: _____
Phone Number: 307-389-4114 Fax Number: _____
(including area code) (including area code)

Property Owner Information: Name: Michael Smith
Company Name: _____
Street Address: 828 Burr Drive
City: Rock Springs State: WY Zip Code: 82901
Email Address: _____
Phone Number: 307-389-4114 Fax Number: _____
(including area code) (including area code)

Engineer / Architect Information: Name: _____
Company Name: _____
Street Address: _____
City: _____ State: _____ Zip Code: _____
Email Address: _____
Phone Number: _____ Fax Number: _____
(including area code) (including area code)

E. VARIANCE APPLICATION PROCESS:

Following receipt of a complete Variance Application request, the Planning and Zoning Division will schedule a Board of Adjustment Meeting. The meetings are typically held on Thursday afternoons at 4 p.m. in the City Council Chambers, Rock Springs City Hall, 212 D Street, Rock Springs, Wyoming, and are scheduled on an as-needed basis.^{*} The applicant will be advised of the scheduled meeting date and time.

*** BE ADVISED:** The applicant or his/her representative is required to attend the Board of Adjustment Meeting when the requested variance is considered. Failure to attend the meeting could result in denial of the variance request by the Board of Adjustment.

The Board of Adjustment can only approve variance requests when conditions are proven to exist that comply with §13-305 (ii) of the Ordinances of the City of Rock Springs. Prior to applying for a variance, please review the conditions for which a variance can be granted in that section. The variance justification page submitted with this application must show that the requested variance is in compliance with §13-305 (ii).

Please note that, by Ordinance, a Variance is defined as follows:

Variance: To vary or adjust the strict application for the setback, yard and height requirements of this ordinance in the case of a physical condition to the lot or building, but only if strict application would deprive the owner of reasonable use of the land or the building involved. This definition does not apply to a "Floodplain Variance" under section 13-813.

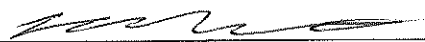
NOTE: Variance approval does not constitute Building Permit approval. Contact Public Services at (307) 352-1540 for applications for building permits. Dependent upon the nature of the variance request, additional planning approvals may be required.

F. SIGNATURE(S) REQUIRED:

I acknowledge that I have read and understand this Variance Application. I further agree that if the Variance is approved, I will comply with all pertinent regulations and conditions as set forth by the City of Rock Springs. I certify that the information provided with this application is true and correct and false or inaccurate information used by an applicant to secure a Variance shall be reason to deny the request. I understand that it the responsibility of the developer and/or property owner to secure any and all required Local, Federal and State Permits (i.e. DEQ permits, County Permits, etc.) and I agree to contact those agencies accordingly.

Signature of Applicant 

Date 8/24/17

Signature of Owner 

Date 8/24/17

Signature of Engineer/Architect _____

Date _____

Appendix "A"

1. **The special circumstances or conditions exist which are peculiar to the land or building for which the variance is sought. That these circumstances or conditions do not apply generally to land and buildings in the neighborhood or similarly zoned property and that they have not been created as a result of the applicant or owner.** *We are respectfully requesting a variance of 2.53 feet on Lot 35 so that we will be able to complete a boundary line adjustment on the adjacent Lot 34. The variance will allow us to maintain the minimum lot width as required by the City of Rock Springs ordinances.*
2. **That special circumstances or conditions that exist with the land or building are such that the strict application of the provisions of this ordinance would deprive the owner of reasonable use of the land or building. That, if granted, is the minimum needed to provide reasonable use of the land or building.** *If the variance is not granted, we will be deprived of the ability for Lot 34 to be a buildable lot by maintaining the minimum lot width as required of the City of Rock Springs Zoning ordinances. We are also requesting the minimum amount of setback necessary to create buildable and functional lots for both 34 and 35.*
3. **The granting of the variance would be in harmony with the general purpose and intent of the ordinance and would not be injurious to the neighborhood or otherwise be detrimental to the public welfare.** *The setback encroachment will only be 2.53 feet. The granting of the variance will meet the most recent edition of the International Residential Code since the side setback of lot 35 will be 7.47 feet from the property line and the house being proposed on the adjacent lot will be 18.88 feet away, which will not impose any additional fire risk between structures.*

November 14, 2017

Dear Property Owner / Interested Party:

This letter is to inform you that a request has been made by Michael Smith for a **Side Yard Setback Variance** on property located at 828 Burr Drive. Records show that this property is adjacent to or near property you own (*see map below and enclosed site plan*). The requested variance is as follows:

The request is for a variance to the City of Rock Springs side yard setback requirements. The property is zoned R-3 (Medium Density Residential). In the R-3 zone, the City of Rock Springs Zoning Ordinance currently requires residential structures to have a total of 16 feet total both sides; one side shall have a minimum setback of 10 feet and one side shall have a minimum setback of 6 feet. The applicant is proposing a side yard set-back of 7.47 feet setback and the other existing side setback of 8.20' thus not resulting in the 6'/10' requirement.


The side yard setback variance is being requested due to the applicant owning both 824 and 828 Burr (lots 35 and 34) and requesting the variance of 2.53 feet on Lot 35 so that they are able to complete a lot line adjustment on lot number 34. At its' closest point, if the lot line adjustment occurs the existing house will be 7.47 feet from the side property line. If the variance is granted, the required side yard setback variance will be from the 10 feet required to 7.47 feet, a difference of 2.53 feet.

The Rock Springs Board of Adjustment will consider this request at a public hearing to be held on Thursday, November 30, 2017 at 4:00 p.m. in the Rock Springs City Hall Council Chambers, 212 'D' Street, Rock Springs, Wyoming. Interested persons or parties are encouraged to attend the meeting or submit written comments. Written comments will be accepted no later than Noon on November 30, 2017.

Sincerely,

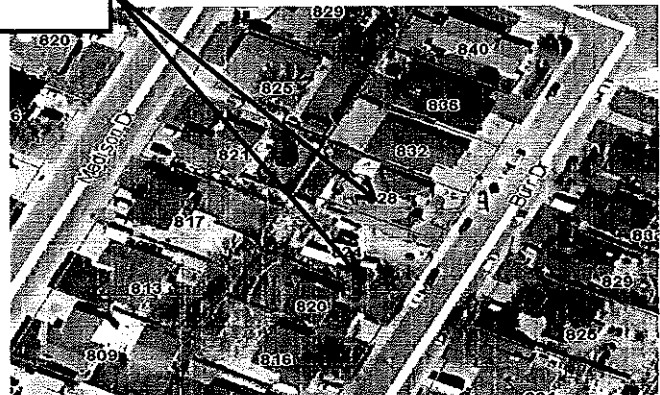


Mark Erickson
Chairman City of Rock Springs
Board of Adjustments



Amy M. Allen, PE
Acting City Planner

824 and 828 Burr
Drive



Enc.

BABEL DONALD J JR & JULIE BANKS	3309 VIA FABRIANO DR	ROCK SPRINGS, WY 82901-7724
BOWLES JOSHUA M	821 BURR DR	ROCK SPRINGS, WY 82901-4447
BRANHAM KENT D & ROSE M	833 BURR DR	ROCK SPRINGS, WY 82901-4447
BROWER DALE L LIVING TRUST BROWER DALE L & DENISE	PO BOX 211	GARDEN CITY, UT 84028-0211
CARROLL NATHAN D	841 BURR DR	ROCK SPRINGS, WY 82901-4447
DUNCAN GLENN S & INGER M	837 BURR DR	ROCK SPRINGS, WY 82901-4447
FANDRICH DAN M & SHIRLEY D	808 MADISON DR	ROCK SPRINGS, WY 82901-4444
FARMER AARON R & PAMELA	817 MADISON DR	ROCK SPRINGS, WY 82901-4445
FARRELL MICHAEL B & PATRICIA J	829 BURR DR	ROCK SPRINGS, WY 82901-4447
FENNELL RONALD J & PAMELA J	820 MADISON DR	ROCK SPRINGS, WY 82901-4444
FOWLER COLLEEN M	836 BURR DR	ROCK SPRINGS, WY 82901-4446
GOMEZ PETER F	816 MADISON DR	ROCK SPRINGS, WY 82901-4444
HILDEBRANT BRIAN R & BRITTANY D	825 MADISON DR	ROCK SPRINGS, WY 82901-4445
JACKSON TODD	820 BURR DR	ROCK SPRINGS, WY 82901-4446
JOSHUA JOE JR & SOPHIA	811 BURR DR	ROCK SPRINGS, WY 82901-4447
LAKE JEFFREY & ELIZABETH M	813 MADISON DR	ROCK SPRINGS, WY 82901-4445
LUZMOOR GLORIA B	840 BURR DR	ROCK SPRINGS, WY 82901-4446
MANN ANDY R & LINDA S	805 MADISON DR	ROCK SPRINGS, WY 82901-4445
MORGANDO FREDDIE J	817 BURR DR	ROCK SPRINGS, WY 82901-4447
PORTER DONALD	832 BURR DR	ROCK SPRINGS, WY 82901-4446
POTTER CHRISTOPHER	825 BURR DR	ROCK SPRINGS, WY 82901-4447
PUTNAM GERALD F & JEAN L	812 BURR DR	ROCK SPRINGS, WY 82901-4446
SCOTT CHRISTOPHER D & SARAH	809 MADISON DR	ROCK SPRINGS, WY 82901-4445
SMITH ANTHONY L	808 BURR DR	ROCK SPRINGS, WY 82901-4446
SMITH MICHAEL E	828 BURR DR	ROCK SPRINGS, WY 82901-4446
SOLANO JASON M & DESIRE	809 BURR DR	ROCK SPRINGS, WY 82901-4447
STAPLETON WILLIAM D & MERHAR JANALEE J	824 MADISON DR	ROCK SPRINGS, WY 82901-4444
STENSAAS NORMA J TRUST	845 BURR DR	ROCK SPRINGS, WY 82901-4473
SWEENEY SHANE R	812 MADISON DR	ROCK SPRINGS, WY 82901-4444
WILBERT KENNETH L TRUSTEE	829 MADISON DR	ROCK SPRINGS, WY 82901-4445

CIMARRON ADDITION



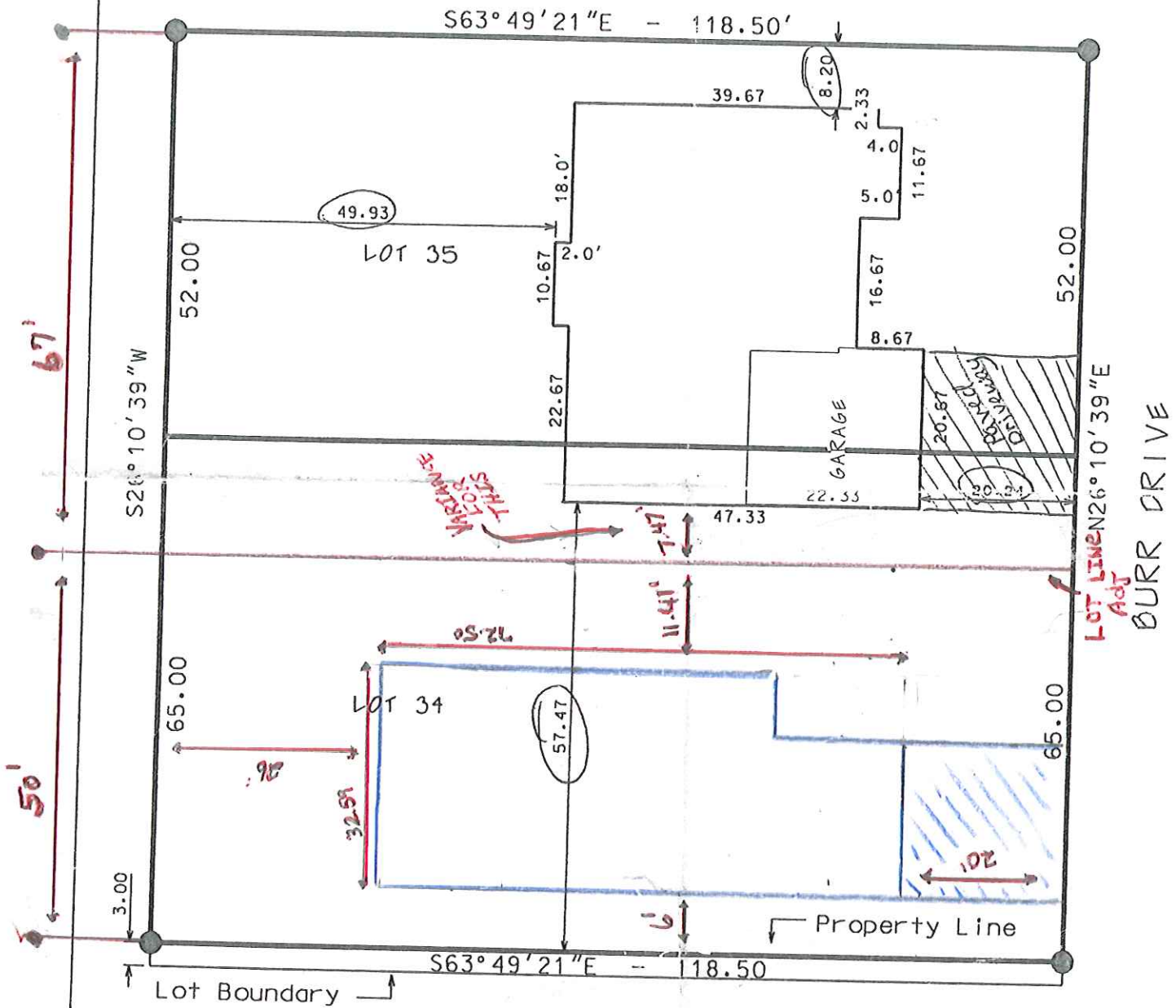
NOTES:

1. There shall be no private access only College Drive within the limits of this plot.
2. There will be a 10' utility easement on all 64' bounded areas forming Madison Dr., Kennedy Ave. and Bur Dr.
3. Cross slope substitution movements.
4. 1" Aluminum cap on steel rods, property corners.

15th DAY OF June 20 09.

Jennifer L. Shields
ZONING ADMINISTRATOR

Scale: 1" = 20'



LEGEND
● Property Corner

Rocky Mountain Survey, Inc
503 Fifth Street
Rock Springs, WY 82901
(307) 382-2212
Surveying & Mapping Services, GIS Development
Licensed in Wyoming, Colorado & Utah

PLOT PLAN

828 Burr Drive
Lot 35 and Part of Lot 34
Cimarron Addition to the
City of Rock Springs, WY

Proj. No. 09-017 6/14/2009



Board of Adjustment Staff Report

Project Name: Hincks Front Yard Setback Variance
Project Number: PZ-17-00179
Report Date: November 21, 2017
Meeting Date: November 30, 2017

Petitioner / Property Owner

Clay and Debbie Hincks
1117 Converse Court
Rock Springs, WY 82901

Existing Zoning

R-1 (Low Density Residential)

Public Notification

Property owner notice (200' radius) mailed 11/14/17

Ordinance References

§13-305(ii), §13-601, §13-802.(C)

Staff Representative

Amy M. Allen, PE
Acting City Planner

Attachments

- Variance Application
- Public Notification / Owners
- Site Plan of Property
- Subdivision Drawing

Request

A request has been made by Clay and Debbie Hincks for a **Front Yard Setback Variance** on property located at 1117 Converse Court. The requested variance is as follows:

Discussion

The request is for a variance of the City of Rock Springs front yard setback requirements. The property is zoned R-1 (Low Density Residential). In the R-1 zone, the City of Rock Springs Zoning Ordinance currently requires residential structures to have a total of 20 feet front yard setback. The applicant is proposing a 15.00 feet front yard setback

The front yard setback variance is being requested due to the applicant wanting to build a two stall garage addition to their home. The applicant is requesting the variance of 5 feet at 1117 Converse Court so that they are able to build the garage addition. At its closest point, if the garage is built, the house front setback will be 15.00 feet from the front property line. If the variance is granted, the required front setback variance will be from the 20 feet required to 15.00 feet, a difference of 5.00 feet.

The 2015 building permit application for a covered porch at this address includes modifications to provide for the front setback requirement.

By visual inspection and measuring of existing structures based on the 2015 aerial imagery (SEE ATTACHED MAP), it appears that the entire Converse Court neighborhood conforms to the 20 feet front setback requirement (except for the house structure addressed as 1113).

1117 Converse Court



Please consider the following facts and issues:

- The property is currently zoned R-1 (Low Density Residential).
- §13-802.C of the Rock Springs Zoning Ordinance states that in an R-1 Zoning District the required minimum house setback from the front property line is 20 feet.
- Sweetwater County Assessor records indicate that the house and attached garage were built in 1970.

Variance Definition

Following is a definition of a Variance per §13-601 of the Zoning Ordinance:

“To vary or adjust the strict application for the setback, yard, and height requirements of this ordinance in the case of a physical condition to a lot or building but only if strict application would deprive the owner of the reasonable use of the land and/or building involved.”

Duties of the Board of Adjustment – Powers & Authority

Following is the statutory authority granted to the Board of Adjustment per §13-305(ii) of the Zoning Ordinance, and based upon Wyoming State Statute 15-1-608.(b):

“The Board of Adjustment has the power to vary or adjust the strict application of the requirements of this Ordinance in the case of an irregular, narrow, shallow or steep lot or other physical condition applying to a lot or building as a result of which strict application would result in practical difficulty or unnecessary hardship that would deprive the owner of the reasonable use of the land or building involved. Any such variance granted shall be granted according to the requirements and procedures established by the Ordinance. Variances may be granted only for hardships related to the physical characteristics of the land. Variances to this Ordinance related to permitted, accessory and/or conditional uses in any use district shall not be allowed.”

Mandatory Review Criteria for Variance

Per §13-305(ii) of the Zoning Ordinance, no variance or adjustment in the strict application of any provision of an Ordinance may be granted unless:

1. There are special circumstances or conditions, fully described in the Board’s findings, which are peculiar to the land or buildings for which the adjustment is sought, and which do not apply generally to the land or buildings in the neighborhood and have not resulted from any act of the applicant subsequent to the adoption of the Ordinance.
2. For reasons fully set forth in the Board’s findings, the circumstances or conditions are such that the strict application of the provisions of the Ordinance would deprive the applicant of the reasonable use of the land or building, the granting of the adjustment necessary for the reasonable use thereof and the adjustment as granted is the minimum adjustment that will accomplish this purpose.
3. The granting of the adjustment is in harmony with the general purposes and intent of the Ordinance and will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

Property Owner Notification

Adjacent property owners were duly notified of this request on November 14, 2017. At the time this report was written, no comments had been received. Any comments that are received after the preparation of this report shall be submitted to the Board of Adjustment at the time of the scheduled hearing.

Staff Recommendation

Staff's recommendation, based upon the three statutory items of consideration (mandatory review criteria for variances), are as follows:

1. No. The neighborhood was established based on consistent setbacks and most of the houses and accessory structures in the neighborhood meet the current setback requirements for the R-1 Zoning District.
2. No. The house was built within existing setbacks. A smaller attached garage can be built within the setbacks.
3. No. The neighborhood lots and setbacks generally meet the subdivision set back and lot size requirements.



2017
CITY OF ROCK SPRINGS
VARIANCE
APPLICATION

Planning & Zoning Division
212 D Street
Rock Springs WY 82901
307.352.1540 (phone)
307.352.1545 (fax)

City Use Only:

Date Received _____ File Number: _____

Payment Information:

Amount Received: \$100 Received by: [Signature]

Cash or Check Number: 3645 Receipt Number: _____

Date Certified as Complete Application: _____ By: _____

Board of Adjustment Meeting Scheduled Date: _____

A. PROPERTY ADDRESS: 1117 Converse Ct Rock Springs WY 82901

(NOTE: IF THE PROPERTY DOES NOT HAVE AN EXISTING ASSIGNED ADDRESS, LEGAL DOCUMENTATION OF THE LOCATION MUST BE SUBMITTED – i.e. Property Tax ID Number, Legal Description, etc.)

B. CONTACT INFORMATION:

NOTE: The City of Rock Springs will only send correspondence to the names and mailing addresses provided on this application. Attach a separate sheet if necessary.

Petitioner Information:

Petitioner Name: Clara Debbie Hincks

Company Name: NA

Street Address: 1117 Converse Ct

City: Rock Springs State: WY Zip Code: 82901

Email Address: cdhincks@gmail.com

Phone Number: 309-0578 Fax Number: NA

(including area code)

(including area code)

Property Owner Information:

Name: Clara Debbie Hincks

Company Name: NA

Street Address: 1117 Converse Ct

City: Rock Springs State: WY Zip Code: 82901

Email Address: cdhincks@gmail.com

Phone Number: 309-0578 Fax Number: NA

(including area code)

(including area code)

Engineer / Architect Information:

Name: VEST

Company Name: VEST

Street Address: 2638 Commercial Way

City: Rock Springs State: WY Zip Code: 82901

Email Address: NA

Phone Number: 307-6586 Fax Number: NA

(including area code)

(including area code)

C. PLEASE ANSWER THE FOLLOWING ON THE SPACE PROVIDED:

1. Present Zoning: residence

2. Size of Property: the street curves in so its not square
right side 169 ft x 62 ft
left side 138 ft x 69 ft front

3. Street Frontage: 69 ft wide

4. Variance Requested (front yard setback, side yard setback, rear yard setback, etc.):

Build a double car garage in front (attached to the house with our setbacks, the way our lot is curved one stall would need to be shorter - we would like to build a 20 ft by 30 ft)

5. Variance Justification: Provide a written description of the reason the variance is needed. Each of the following must be addressed:

a. That special circumstances or conditions exist which are peculiar to the land or building for which the variance is sought. That these circumstances or conditions do not apply generally to land and buildings in the neighborhood or similarly zoned property and that they have not been created as a result of the applicant or owner.

the way our lot is, we have no access to our back yard to built in back - we would like to have some protection for our cars, we have a drainage ditch behind our house and not enough room on either side to built in back

b. That special circumstances or conditions that exist with the land or building are such that the strict application of the provisions of the ordinance would deprive the owner of reasonable use of the land or building. That, if granted, the variance is the minimum needed to provide reasonable use of the land or building.

we have no where else to built a garage, we are getting older and we need some protection from the weather for our cars

c. The granting of the variance would be in harmony with the general purpose and intent of the ordinance and would not be injurious to the neighborhood or otherwise be detrimental to the public welfare.

Our driveway is over 40 feet long. The house on the right of us sets up to the street more than our garage would, from the front of my house the neighbors front of their house is 30 ft

D. SUBMITTAL REQUIREMENTS:

The following items are required for submitting a complete Variance Application. An incomplete application will not be reviewed and will be returned to the petitioner.

☐ Filing Fee (\$100.00).

☐ 2 - Full-size Site Plan drawings drawn to scale by a Wyoming licensed surveyor (folded). NOTE: Existing structures on the property must be depicted on the survey. Proposed additions and new detached structures for which a variance is requested must be shown with exact dimensions and exact setbacks. This information must be provided for the Board's use in making a determination on the Variance request.

☐ 1 - 11x17 Site Plan drawing drawn to scale (if full-size drawing is larger than 11x17)

☐ 1 - PDF scanned at full-size of Site Plan drawing (submitted electronically to city_planner@rswy.net)

☐ Building Elevations / Architectural Drawings (if a height variance is sought).

E. VARIANCE APPLICATION PROCESS:

Following receipt of a complete Variance Application request, the Planning and Zoning Division will schedule a Board of Adjustment Meeting. The meetings are typically held on Thursday afternoons at 4 p.m. in the City Council Chambers, Rock Springs City Hall, 212 D Street, Rock Springs, Wyoming, and are scheduled on an as-needed basis.^{*} The applicant will be advised of the scheduled meeting date and time.

*** BE ADVISED:** The applicant or his/her representative is required to attend the Board of Adjustment Meeting when the requested variance is considered. Failure to attend the meeting could result in denial of the variance request by the Board of Adjustment.

The Board of Adjustment can only approve variance requests when conditions are proven to exist that comply with §13-305 (ii) of the Ordinances of the City of Rock Springs. Prior to applying for a variance, please review the conditions for which a variance can be granted in that section. The variance justification page submitted with this application must show that the requested variance is in compliance with §13-305 (ii).

Please note that, by Ordinance, a Variance is defined as follows:

Variance: To vary or adjust the strict application for the setback, yard and height requirements of this ordinance in the case of a physical condition to the lot or building, but only if strict application would deprive the owner of reasonable use of the land or the building involved. This definition does not apply to a "Floodplain Variance" under section 13-813.

NOTE: Variance approval does not constitute Building Permit approval. Contact Public Services at (307) 352-1540 for applications for building permits. Dependent upon the nature of the variance request, additional planning approvals may be required.

F. SIGNATURE(S) REQUIRED:

I acknowledge that I have read and understand this Variance Application. I further agree that if the Variance is approved, I will comply with all pertinent regulations and conditions as set forth by the City of Rock Springs. I certify that the information provided with this application is true and correct and false or inaccurate information used by an applicant to secure a Variance shall be reason to deny the request. I understand that it the responsibility of the developer and/or property owner to secure any and all required Local, Federal and State Permits (i.e. DEQ permits, County Permits, etc.) and I agree to contact those agencies accordingly.

Signature of Applicant	<u>Debbie Dunick</u>	Date	<u>8-29-17</u>
Signature of Owner	<u>Debbie Dunick</u>	Date	<u>8-29-17</u>
Signature of Engineer/Architect	<u>R. Walker</u>	Date	<u>8-29-17</u>

November 14, 2017

Dear Property Owner / Interested Party:

This letter is to inform you that a request has been made by Clay and Debbie Hincks for a **Front Yard Setback Variance** on property located at 1117 Converse Court. Records show that this property is adjacent to or near property you own (*see map below and enclosed site plan*). The requested variance is as follows:

The request is for a variance to the City of Rock Springs front yard setback requirements. The property is zoned R-1 (Low Density Residential). In the R-1 zone, the City of Rock Springs Zoning Ordinance currently requires residential structures to have a total of 20 foot front yard setback. The applicant is proposing a 15.00 foot front yard setback


The front yard setback variance is being requested due to the applicant wanting to build a two stall garage addition to their home. The applicant is requesting the variance of 5 feet at 1117 Converse Court so that they are able to build the garage addition. At its closest point, if the garage is built, the house front setback will be 15.00 feet from the front property line. If the variance is granted, the required front setback variance will be from the 20 feet required to 15.00 feet, a difference of 5.00 feet.

The Rock Springs Board of Adjustment will consider this request at a public hearing to be held on Thursday, November 30, 2017 at 4:00 p.m. in the Rock Springs City Hall Council Chambers, 212 'D' Street, Rock Springs, Wyoming. Interested persons or parties are encouraged to attend the meeting or submit written comments. Written comments will be accepted no later than Noon on November 30, 2017.

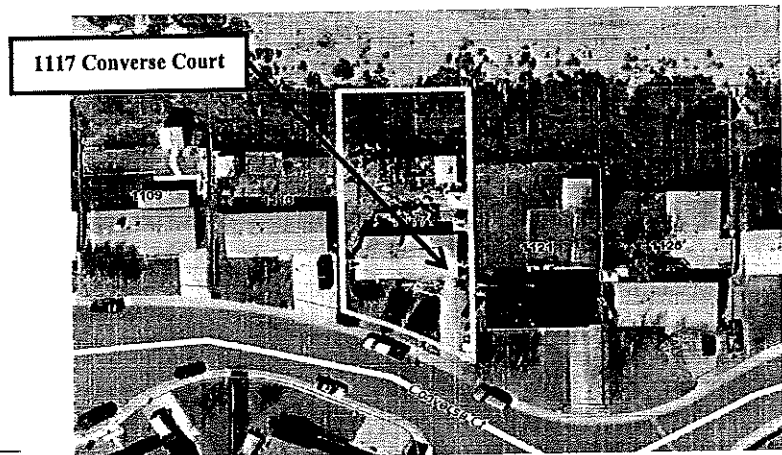
Sincerely,



Mark Erickson
Chairman City of Rock Springs
Board of Adjustments



Amy M. Allen, PE
Acting City Planner



Enc.

MCKELL MICHAEL D
1112 CONVERSE CT
ROCK SPRINGS, WY 82901-7101

DOAK CHRISTY L
1129 CONVERSE CT
ROCK SPRINGS, WY 82901-7101

STEPHENSON ERIC
1128 CONVERSE CT
ROCK SPRINGS, WY 82901-7101

TOLAR RICHARD & RENA
1118 CONVERSE CT
ROCK SPRINGS, WY 82901-7101

WALNUT PROPERTIES LLC
2961 ARABIAN CIR
ROCK SPRINGS, WY 82901-8109

SEC OF HOUSING & URBAN DEV C/O
INFORMATION SYSTEMS & NETWORKS CORP
SHEPHARD MALL OFFICE COMPLEX 2401 NW
23RD ST STE 1D
OKLAHOMA CITY, OK 73107-2420

MIERA JOE A
1101 CONVERSE CT
ROCK SPRINGS, WY 82901-7101

DALE LOUIS
1104 CONVERSE CT
ROCK SPRINGS, WY 82901-7101

KING JAMES E & MARSHA L
1113 CONVERSE CT
ROCK SPRINGS, WY 82901-7101

HINCKS CLAY & DEBORAH
1117 CONVERSE CT
ROCK SPRINGS, WY 82901-7101

FERNANDEZ CRUZITO A & LILY
1105 CONVERSE ST
ROCK SPRINGS, WY 82901-7101

HENDRICKSON ALLEN J & CHARLOTTE
R
1133 CONVERSE CT
ROCK SPRINGS, WY 82901-7101

BENNETT MICHAEL K & AMY H
1109 CONVERSE CT
ROCK SPRINGS, WY 82901-7101

MATTINSON DARREN A & HEATHER L
1116 CONVERSE CT
ROCK SPRINGS, WY 82901-7101

GUNYAN JACK N JR & BETTY J
1125 CONVERSE CT
ROCK SPRINGS, WY 82901-7101

RIZZI DONALD L
1130 CONVERSE CT
ROCK SPRINGS, WY 82901-7101

MIVSHEK KARLEE J
1121 CONVERSE CT
ROCK SPRINGS, WY 82901-7101

PRH INVESTMENTS LLC
PO BOX 2700
ROCK SPRINGS, WY 82902-2700

COMPTON RICHARD & JUDY FAMILY
REVOCABLE TRUST
1110 CONVERSE CT
ROCK SPRINGS, WY 82901-7101
City of Rock Springs
212 D Street
Rock Springs, WY 82901

HINCKS CLAY & DEBORAH
1117 CONVERSE CT
ROCK SPRINGS, WY 82901-7101

City of Rock Springs
212 D Street
Rock Springs, WY 82901



