

**GRAND COUNTY BOARD OF ADJUSTMENT
Meeting Minutes**

May 17, 2018

MEMBERS PRESENT: Tim Moreland Marcus Davis
 George Davis

STAFF PRESENT: Thomas Leatherwood Alex Taft
 Carolyn Derby Richard Hubler

The May 17, 2018 meeting of the Grand County Board of Adjustment was called to order at 5:30 P.M. by Chairman Tim Moreland.

Approval of minutes from April 2018 were presented. Motion to approve by George Davis, seconded by Marcus Davis. All in favor, motion passed.

Summit Trails Lodge Condominiums Townhomes, Front Yard Setback & Parking Variance

Record set by Thomas Leatherwood, standing in for County Attorney Bob Franek

**LIST OF EXHIBITS
BOARD OF ADJUSTMENT
May 17, 2018
APPLICANTS: 1215 Bryant Development, LLC**

- A. Development Application, April 30, 2018
- B. Variance request letter #1 provided by Tim Gagnon, Bowman consulting, dated May 11, 2018
- C. Variance request letter #2 provided by Tim Gagnon, Bowman consulting, dated May 11, 2018
- D. Public Notice –Middle Park Times, dated April 25, 2018
- E. Proof of Publication – Middle Park Times, dated Thursday May 3, 2018
- F. Vicinity Map depicting the 250 foot Notification buffer as established by the Grand County GIS.
- G. Certified Mailings to all property owners within 250 feet as established by the Grand County GIS.
- H. Public Review Sheets with and without signatures.
- I. Memo from Department of Community Development, dated April 25, 2018
- J. Staff Report with attachments, dated May 17, 2018
- K. Vicinity Map
- L. Email from Eric Axlund with attachments dated April 27, 2018
- M. Email from Amy Graziano dated May 13, 2018
- N. Email from James Kolozs dated May 17, 2018
- O. Email from Virginia Carreno dated May 17, 2018

Presented by Alex Taft, Planner.

The lot is developed with a single family dwelling that was built in 2002. It is owned by the Applicant and they purchased it in 2003. It was recently discovered that the home was constructed into the front yard by approximately 2-feet. It is a violation of zoning standards.

Project Description:

The Applicant proposes a variance from the minimum front yard standard setback in the Residential District from thirty feet (30') to six and two hundredths feet (6.02') as a procedure to ensure compliance with the zoning regulations and maintain the 100-year water surface on

adjacent Open Space Tract A. The topography on site slopes steeply from the front property boundary to the open space tract at the rear, with a grade change of approximately twenty feet (20'), over approximately one hundred fifty feet (150'). The parking is also impacted because of this variance. The Applicant proposes a variance of eleven feet (11') to the parking setback.

Public notice was placed in the Middle Park Times on May 3, 2018 as required, and adjacent property owners were notified by Certified mail. Staff has received concerns from adjacent property owners to this variance request. These concerns are documented in the public hearing file.

Compliance with Zoning Regulations

I. Zoning – Section 4, Residential District

- 4.1 Use:** A new multi-family residential building is permitted by right in this district.
- 4.2 Minimum Lot Area** Existing area is .72 acres (31,342 ft²). Required minimum is 7000 ft²
- 4.3 Minimum Lot Width** Narrowest existing width is 208.87 feet. Required minimum is 150'
- 4.4 Minimum Front Yard** Proposed building is at six and two hundredths feet (6.02'), thirty feet (30') is required. ✓**PROPOSED VARIANCE**
- 4.5 Minimum Side Yard** Five feet (5') is required.
- 4.6 Minimum Rear Yard** Twenty feet (20') is required.
- 4.7 Maximum Building Height** Forty feet (40') is permitted, as there is a grade change of greater than five feet (5').
- 4.8 Water Quality Setback** Setback from the edge of a waterbody shall be a minimum of 30 feet.

II. Zoning – Section 14.4, Parking Requirements

- (1) **Location and Description of Parking Space and Aisles**
- (a) All parking spaces shall be set back a minimum of fifteen (15) feet from all rights-of-way. The Applicant requested a parking setback of eleven feet (11') ✓**PROPOSED VARIANCE**
- (b) All parking spaces shall be set back a minimum of fifteen (15) feet from all rights-of-way. The Applicant requested a parking setback of eleven feet (11') □**PROPOSED VARIANCE**

II. Zoning – Section 16.1, Board of Adjustment

16.1 (1). To hear and decide appeals taken by any person aggrieved by his inability to obtain a building permit or by the decision of any administrative officer or agency based upon or made in the course of the administration or enforcement of the provisions of these regulations. Provided however, no appeal shall be allowed for building use violations that may be prosecuted pursuant to Section 19.1(2) of these regulations. The concurring vote of three (3) members of the Board of Adjustment shall be necessary to reverse a decision made by an administrative officer or agency.

The Applicant's proposed building and front deck is located within the required minimum front yard setback. The siting of the building compacts the parking area encroaching on the fifteen feet (15') parking setback.

16.1 (2). To authorize, upon appeal in specific cases, variances to the:

- a. minimum area of lot;
- b. minimum lot width;
- c. minimum front yard;
- d. minimum side yard;
- e. minimum rear yard;
- f. maximum height of buildings;

regulations where, by reason of exceptional shape, size or topography of lot, or other exceptional situation or condition of the building or land, practical difficulty or unnecessary hardship would result to the owners of said property from a strict enforcement of these regulations.

The Applicant's proposed building is located within the required minimum front yard setback. Additionally, parking is impacted. The specific hardship exists because of topography on site

and a grade change of approximately twenty feet (20'). Additionally, a practical difficulty from an existing 100-year water surface on property limits usable lot area. By strict enforcement of these regulations, the Applicant would not be able to construct a multi-family building. A multi-family building is a use by right in the residential district.

16.1(3). Where, by reason of exceptional narrowness, shallowness, or shape of a specific piece of property at the time of the enactment of the regulation or by reason of exceptional topographic conditions or other extraordinary and exceptional situation or condition of such piece of property, the strict application of any provisions of this regulation would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardship upon, the owner of such property, the Board of Adjustment, upon an appeal relating to said property, may grant a variance from the strict application of these regulations so as to relieve such difficulties or hardships if such relief may be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of the zone plan and these regulations.

This request is warranted because this parcel and the adjacent open space tract detain the drainage from Lot 1 and Lot 2. The shallow shape of the lot and grade are factors to consider. Staff believes that this variance will not substantially impair the intent and purpose of these regulations.

16.1(4). Under no circumstances shall the Board of Adjustment grant a variance to allow a use not permissible under the terms of these regulations in the district involved, or any use expressly or by implication prohibited by the terms of these regulations in said district.

Granting of this variance would not result in allowing a non-permitted use by these regulations. Multi-family dwellings are a use by right in the residential district. The parking proposed shall not encroach on county rights-of-way.

Recommendation

Staff recommends approval of the variance to allow a six and two hundredths feet (6.02') front yard setback front yard setback and eleven feet (11.0') for the parking setback.

1. The Applicant is required to pay all fees associated with the public notice prior to a Resolution being recorded.
2. Pursuant to Sections 16.3(5) "Unless otherwise stated in the Board of Adjustment minutes, all variance permits shall be issued within one (1) year from the time such variance is granted by the Board, after which time, if the variance permit has not been obtained, the Applicant can request a one (1) year extension from the Board of Adjustment, or it shall become null and void."
3. A surveyed setback verification shall be required prior to the foundation inspection.
4. A Building Permit shall be obtained for the proposed Multi-family Dwelling.

Presentation made by Tim Gagnon- Engineer at Bowman Consulting

The front yard setback is a practical difficulty showing topography, the shape, and size of the lot. The goal is to try and address the cul de sac that is located on the property. There is a 14' drop in the first 40' of the property and a 18' drop in the first 80'. There is a 100 year surface retention pond that encroaches on the back of the property. The owners would need a significant amount of fill brought in and would have to construct an 8' retaining wall. Only 10% would be in the setback. The purposed of 4 units vs. 3 units is that there will be 4 families occupying them. If the property was more flat they would be able to construct more units. Due to the steep slope they are leaving the open space by cul-de-sac for snow removal/ snow storage. The plat map shows dedicated snow storage for each unit which each unit has 2x the required snow storage. Each unit will have a walk out basement. A parking variance will be needed to meet the requirement of 3 parking spaces per unit. The request is for an 11' set back instead of the 15'. The reason for the parking variance is the more we push the units back the greater the amount of fill required.

Marcus Davis – This property was previously approved for 6 units in 2005, do we have the original plans for that and was that presented in the setbacks?

Tim Gagnon – The previous plan was not well thought out. It was over the lot lines, no drainage report was ever done, the plan also showed over a 20' drop. In engineers opinion it was a poorly laid out plan.

Marcus Davis – Looking at the plans it shows a height close to 35' but are you looking at options? Opinion is that if you are going to buy a vacant lot you need to follow the regulations.

George Davis – Only concern with staff presentation was the height requirement which was addressed in the letter.

Tim Moreland – What is the minimum distance between each unit? The right building doesn't appear to have a retaining wall, could you move the units back to avoid the parking set back? How many bedrooms in each unit?

Tim Gagnon – The distance between each unit is what the current code requires minimum 10' as any closer the outside walls would have to meet current fire code. If the right building was moved back it would cause more fill to be needed in the rear. Each unit is 2 story with 3 bedrooms and a garage.

Public Comments

Sancha Andrews property owner at 400 Cougar Avenue- Received letter in the mail and was concerned about the setback but after hearing presentation and knowing that the setback is on the front and not the side she is in favor of this as it is to her advantage.

Motion was made by Marcus Davis to approve the Summit Trails Lodge Condominiums Townhomes- 6' Front Yard Setback and a 11' Parking Setback as presented by staff. Second motion was made by George Davis. All in favor "aye", motion carried.

Meeting was adjourned by Chairman Tim Moreland at 6:17 P.M.