

**GRAND COUNTY BOARD OF ADJUSTMENT
Meeting Minutes**

August 8, 2018

MEMBERS PRESENT: Tim Moreland
George Davis
Marcus Davis

STAFF PRESENT: Robert Davis
Richard Hubler
Robert Franek
Alex Taft
Will Russell

The August 8, 2018 meeting of the Grand County Board of Adjustment was called to order at 5:40 P.M. by Chairman Tim Moreland.

Minutes from July 2018 were presented. Motion to approve by George Davis, seconded by Marcus Davis. All in favor, motion passed.

693 GCR 137 (aka Pinney Rd) Front Yard Setback Variance

Record set by County Attorney Bob Franek

**LIST OF EXHIBITS
BOARD OF ADJUSTMENTS**

**APPLICANTS: Anthony Collins
August 8, 2018**

- A. Memo from Department of Community Development dated July 16, 2018
- B. Public Notice –Dated July 16, 2018
- C. Vicinity Map depicting the 500 foot Notification buffer as established by the Grand County GIS
- D. List of Certified Mailings to all property owners within 500 feet as established by the Grand County GIS
- E. Proof of Publication – Middle Park Times, dated July 26, 2018
- F. Vicinity Map
- G. Application with supporting documents dated June 22, 2018
- H. Public Review Sheets with and without signatures
- I. Staff Certificate for BOA dated August 8, 2018
- J. Power Point Presentation given to BOA August 8, 2018

Presented by Alex Taft, Planner, Tony Collins Applicant present

Project Description:

The Applicant proposes a variance of ten feet (10') from the minimum front yard standard setback from thirty feet (30') to twenty feet (20') for a detached garage. The variance would significantly reduce the fill required to construct the detached garage outside of the setback. The grade changes significantly from the road's edge to the rear of the lot. There is a loss of 5' in grade within the first 15' adjacent to the road. The grade continues to slope at approximately 15-20% for another 100'.

Public notice was placed in the Middle Park Times on July 26, 2018 as required, and adjacent property owners were notified by Certified mail. Staff has received one response from Larry Thomas, a neighbor.

Compliance with Zoning Regulations

I. Zoning – Section 6, Residential District

- 6.1 Use:** A new accessory structure is permitted by right in this district.
- 6.2 Minimum Lot Area** Existing area is 5.44 acres (236,966 ft²). Required minimum is 5 acres (217,800 ft²)
- 6.3 Minimum Lot Width** Narrowest existing width is six hundred twenty three feet (623.87'). Required minimum is one hundred twenty feet (120')

6.4 Minimum Front Yard	Proposed building is at twenty feet (20'), thirty feet (30') is required. ✓PROPOSED VARIANCE
6.5 Minimum Side Yard	Ten feet (10') is required.
6.6 Minimum Rear Yard	Twenty feet (20') is required.
6.7 Maximum Building Height	Forty feet (40') is permitted, as there is a grade change of greater than five feet (5').
6.8 Water Quality Setback	Setback from the edge of a waterbody shall be a minimum of 30 feet.

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 detached garage is within the required minimum front yard setback.

Staff has discussed possible scenarios with the Applicant. The original proposal showed the structure within the standard setbacks but after discussions with contractors, the Applicant moved the proposed building forward to resolve concerns. The grade changes significantly from the edge of the road. The placement of the garage closer to the front of the lot and to the county road greatly reduces the need for fill and concerns of structural stability.

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.

Construction of a garage, defined as an accessory structure, on the site is allowed as a use by right in the Forest and Open District. Construction of any new structure is difficult to achieve within the required setbacks and poses an undue hardship for the applicant. The Applicant's proposed accessory building is located within the required minimum front yard setback, but the ideal solution to challenges presented by the topography requires the garage to be located ten feet (10') closer to the front property line and would require a variance.

The requested variance makes possible an alternate approach that resolves the hardship for the applicant by providing a safer and more environmentally sensitive approach for the site.

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 the lots in Gore Lakes were platted prior to adoption of setback requirements in the existing county regulations. Furthermore, the Developer of the subdivision platted lots with disregard to the existing topography creating many lots with this practical difficulty. The orientation of the lot in relation to the existing grade and the road causes a practical difficulty for the applicant in his right to develop the land. Staff believes that this variance will not substantially impair the intent and purpose of these regulations, and in fact provides a safer and more environmentally sound approach to the terrain.

The plan originally proposed placing the detached garage within the setbacks. The concerns of a greater environmental impact and uncertainty of adding fill resulted with the request for a variance to the setback requirements instead.

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. Single family dwellings and accessory structure are a use by right in the Residential District.

Recommendation

Staff recommends approval of the variance to allow a twenty feet (20') front yard 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 accessory structure.

Comments by Anthony Collins restating the practical difficulty, especially regarding the fill necessary to meet the 30' setback necessary with strict interpretation of the regulations, as well as commenting on forthcoming road vacation.

Commissioner Comments

George Davis- None

Marcus Davis- Explain more about the road being vacated in a month.

Alex Taft- Ongoing proposal since 2015 to vacate ROW adjacent to this parcel and several neighbors in Gore Lakes Unit 1 & 2. Several issues at recent BOCC hearing that still need to be resolved, but the Board seemed in support of the vacation and allowing private easement.

Marcus Davis- The road will still be there.

Alex- Yes, but each property owner will get portion of the road adjacent to their parcel with the private easement.

Marcus – You have 624 feet by 300 feet square of property, and I understand desire to not have huge drop-off, but you have a huge property, and there must be other option than a variance.

Alex-The slope across the property is significant, and staff support is to avoid greater than 6% driveway slope and not incur lots of fill or lots of grade change.

Marcus – What is the practical difficulty? If you cut down this parking pad, there is another 300 feet of property, not wetlands.

Alex – The practical difficulty is related to extra site work that wouldn't be necessary on a flatter lot.

Marcus – It looks like it flattens out after the drop.

Alex – It continues to slope another several feet behind the pad. The bottom left picture shows a drop of 8-10 feet right after the pad?

Marcus – What about after that 8-10 feet?

Alex – It continues to fall to the back.

Richard Hubler – The photos don't do it justice. The assessor had indicated a more level lot, but a site visit proved the lot was not as level as it would seem. The bottom right photo is from the corner of the property with the least amount of slope, and the slope gets more extreme as you go to the other side of the lot.

Marcus – There is a road to the cabin, right?

Alex – The driveway to the cabin is 8-10% slope, difficult for vehicles.

Richard – The photo showing the road to the cabin illustrates marshy bottom land adjacent to the road and the thought Alex and I had regarding locating the garage next to the cabin was impractical.

Robert Franek – Is there wetlands?

Richard – A marshy ravine, wet-ish but not a designated wetlands.

Tim Moreland – No other questions.

Public Comments

No Public Comments

Motion was made by George Davis to approve the Collins variance request with staff conditions. Motion was seconded by Tim Moreland. Tim Moreland and George Davis in favor, Marcus Davis Opposed, motion carried.

Meeting was adjourned by Chairman Tim Moreland at 5:55 P.M.