

GRAND COUNTY BOARD OF ADJUSTMENT
MEETING MINUTES

Wednesday, April 14th, 2021

MEMBERS PRESENT: Shaun Mullahey Marcus Davis
 Loreta Silverio

MEMBERS ABSENT: George Davis

STAFF PRESENT: Robert Davis Alexander Taft
 Jacob Cote Patty Kemper
 Taylor Schlueter

The meeting was called to order by Chairperson Loreta Silverio at 5:41 PM. Roll call was taken.

Minutes from March 17th 2021 were presented. Motion to approve by Marcus Davis. Seconded by Shaun Mullahey. All in favor, “aye”. None opposed, minutes approved.

There were 4 people present at the WebEx Board of Adjustment Meeting.

WEST ½ OF SECTION 24, TOWNSHIP 4 NORTH, RANGE 76 WEST,
COUNTY OF GRAND COLORADO – HEIGHT VARIANCE
– GLENN & MICHELLE HILEMAN

Presented by: Alexander Taft, LEED Green Associate, Planner I

Alexander Taft, set the record for West ½ of Section 24, Township 4 North, Range 76 West, County of Grand, Colorado – Height Variance.

CERTIFICATE OF RECOMMENDATION

BOARD OF ADJUSTMENT APRIL 14, 2021

Project Name	West ½ of Section 24, Township 4 North, Range 76 West Hileman Property- Height Variance
Applicant	<i>Property Owners:</i> Glenn L and Michelle B Hileman Family Trust 04/23/2019
Location	Approximately 2162 GCR 491
Zoning	Forestry and Open District (F)
Applicable Regulations	Grand County Zoning Regulations, Article IV (4), Article XVI (16)
Attachments	A. Variance Application B. Project Narrative Letter C. Building Plan D. B79-263 Grand County Building Permit
Staff Planner	Alexander Taft, LEED Green Associate
Request	Approval of a Height Variance—from 35' to 47' 9" —to allow for the construction of a new single family residence.

BACKGROUND

Glenn L and Michelle B Hileman Family Trust 04/23/2019, here in referred to as the Applicant, the family has owned the property since September 1975. Lyle and Marilyn Hileman built a house on the property beginning in 1979, under building permit B79-263. It is difficult to read the original plans but the house appears to be near the 35' height. In a tribute to the late Lyle and Marilyn Hileman, the family worked swiftly after the fire with an architect to design a house which could serve as their memorial.

The tallest point is the turret was measured at a height of 47' 9" on the plans issued and provided March 7, 2021. The ridge of the roof is at 43'-0" which is the bulk of the visual impact. Since the original application the Applicant has provided an alternative design, noted as revision 01 dated April 6, 2021, which shows the turret at a height of 43' 6". As an alternative the Applicant would desire that the Board of Adjustment consider this proposed height.

VARIANCE REQUEST

The property lies within the Forestry and Open District (GZCR § VI) which requires a maximum height of thirty five feet (35') unless there is grade change of five feet (5') across the building foot print, allowing a maximum height of forty feet (40'). The Applicant is proposing a variance to the maximum height of the building from the required thirty five feet (35') to allow a maximum height of forty seven feet, nine inches (47' - 9").

Alternatively if that the forty seven feet, nine inches (47' - 9") height is not permissible to be approved, the Board of Adjustment shall consider a height of forty three feet, six inches (43' - 6").

Proper public notice was placed in the Middle Park Times on Thursday, March 25, 2021 as required and adjacent property owners were notified by Certified Mail Friday, March 19, 2021. Additional to this notice, staff reached out to contacts at Rocky Mountain National Park and Arapahoe National Forest. Staff has received three letters from neighboring property owners in support of granting the variance request.

Compliance with Zoning Regulations :	Article VI (6) – Forestry Open District
§6.1 Uses Permitted:	A proposed single family dwelling is anticipated should this variance be granted. This is a use are allowed by right.
§6.2 Minimum Area of Lot	The lot is approximately 41 acres and above the required 5 acre minimum.
§6.3 Minimum Lot Width	The lot is pre-existing, non-conforming at 49.88 feet width; 60’ is required.
§6.4 Minimum Front Yard	30’ is required.
§6.5 Minimum Side Yard	5’ is required.
§6.6 Minimum Rear Yard	20’ is required.
§6.7 Maximum Building Height	47’-9” is requested: 35’ is required, unless the criteria outlined in Section XX Definitions of the Grand County Zoning Regulations allowing 40’.
§6. 8 Water Quality Setback	30’ is required

A. 16.2 (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 has intentions to rebuild a new home to replace a home which was lost in the East Troublesome Fire. Without an approved variance, no building permit would be granted because the building height as proposed is 47’ 9”, which is twelve feet, nine inches (12’-9”) taller than what’s required by Grand County Zoning Regulations.

Staff in their review of the building permit application denied the application because of the height. We are understanding of the circumstance that the family is seeking relief following the fire, but could not find a way to subjugate the Applicant’s desires with plan alterations. After discussion between the Applicant and Staff, a variance was applied for to appeal this administrative decision to the Board of Adjustment as the location of the building is away from public view and does not cause a ridgeline effect.

B. 16.2(2). To authorize, upon appeal in specific cases, variances to the:

Minimum area of lot;

Minimum lot width;

Minimum front yard;

Minimum side yard;

Minimum rear yard;

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.

Applicant is requesting a variance to the maximum height of buildings from thirty five feet (35') to, in the worst case forty seven feet, nine inches (47' - 9") for the proposed single family dwelling, whereby strict enforcement of Grand County Zoning Regulations would result in unnecessary hardship.

C. 16.2 (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 property is large at approximately forty (40) acres and is substantially flat but is also one of the furthest north properties which could be developed in Grand County being out of view to the majority of residents or visitors except for the neighboring property owners.

D. 16.2 (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.

The request is for a variance to the height of the building to rebuild a single family residence, therefore granting of this variance would not result in a non-permitted use under these regulations.

CONCLUSION

In applying a balancing test, Staff finds the request would not substantially harm the character of the neighborhood. Although the Applicant received support from the neighbors for the height variance, Staff cannot find a practical difficulty with the site or an undue hardship that would render the property without any reasonable use.

STAFF RECOMMENDATION

Staff recommends denial of the variance to allow a height of 47' 9" or 43' 6" due the following:

1. Staff cannot justify any practical difficulty or undue hardship with this proposal.
2. To allow this variance could allow for similar requests where there is not a demonstrable undue hardship or practical difficulty to follow.

Commissioner Silverio asked if the applicant was present.

Glenn & Michelle Hileman are on the call and want to give a history of the property. It was almost 50 years ago when my parents (along with Max & Dianne Pritchard) found this property at the end of Highway 491. At the time it was virtually a wasteland, willows, beavers, streams, virtually inaccessible. In 1979, after clearing the property for about 5 years, we got to work on the cabin. Also in 1979 we put in the foundation for the house that would later become my parent's retirement home. In 1986, the home was framed and completed. In 1990 my parent's retired and moved here full time. In 1993 my dad and Max were working on a corral and my dad's arm was caught in an auger and many people in Grand County were instrumental in saving my dad's life. Not only was his life spared but his arm was restored. Which was nothing short of a miracle. Glenn shares this with us to illustrate how important this property is to his family. It is a legacy property from the time of the accident in 1993 until the fire, my parents loved nothing more than to entertain their family & friends. The property was used for weddings, family gatherings, church outings and hunting. Hunters came from all over the world to hunt on this property. His parents always gave the access to hunt on the property and they never left without becoming a friend. Several years ago Michelle & I started talking about the next generation use for the property. It is our hope to continue in this legacy and to honor my parents, by rebuilding. In working with the architects and engineers, (who rushed this project for us) we are trying to create a place that would honor my mother's love for Victorian Style Home and build it on the same footprint of the original home. It wasn't until after we submitted the plans that we realized there is a height restriction of 35 feet. We have gone back to the architect and engineer and to design a new layout, were told it would take months & months. We have tried to find ways that we could minimize the height. We are trying to get the height of the ridge line down to 38 feet, 9 inches, with the turret being another 5 feet above that at its point. It is important to us what we create and build on the property would also be something that the neighbors would enjoy. We circulated through all the neighbors with our plans and have letters of approval from all our neighbors for the height and design of the new home. I know there are still some concerns with visibility from the park. The park is about 1.25 miles from the home, so I do not believe you would be able to see the home from the park, because there is an elevation change because our home sits down in the meadow. The visitor center for the park is 2.1 miles down the road from our home. We are in a very remote area where access is limited to those who have the ability to drive past the gate on

the private road. It is our hope that we can be granted the variance and we are anxious to get started. We have a contractor who can begin this spring on the project. We are available to answer any questions.

Commissioner Mullahey asked if the Hileman family had considered other design ideas that would meet the 35 foot height requirement.

Glenn Hileman replied, we want something with a Victorian style farm house, like my parents originally built. We have looked at the original plans and it was something we considered, but it is dated. What we are committed to is the same site. We had hoped that the foundation would be reusable, but unfortunately the fire burnt for so long that the concrete and steel of the foundation has to be removed. There will be nothing left when we complete the debris removal. We could look at different styles or designs, this is the one we feel is an honor and tribute to our parents, who lost their lives on this property.

Commissioner Mullahey asked if there was any elevation change across the property.

Alex replied as far as we can tell it is flat. Possible a foot of grade change across the footprint of the site.

Commissioner Davis thanked the Hileman's for the back story and stated we understand where you are coming from. At the end of the day, it would be remiss if we did not follow the zoning regulations, like we follow for everyone else in the county. There is no excuse, when you say restore, rebuild, use the same footprint, etc. for us to think that there is a hardship anywhere. There is no hardship, as far as I can see. 35 foot height limit is your limit. I have heard a couple terms that concern me, one is, when my parents got there it was a wasteland with willows and beaver ponds. Stating that out loud states that you disturbed an area that would normally be protected, that is a red flag. Secondly, you are saying restore and rebuild, well let's restore and rebuild. Everyone else has to follow the rules, you do too. The third thing I heard was, "we are not willing to fight the color battle at this time". This board is not one that just comes and listens to a story that sounds great (and it is great) but it doesn't preemptively excuse the applicant (or any applicant) from the substantial expectations of the zoning regulations. At this time 35 feet is 35 feet.

Glenn Hileman asked to respond to a comment made by Commissioner Davis. When we first submitted the plans, Alex sent us a notice that there were 2 areas of variance request. One was for the color and the second was for the height. We agreed to do away with the color, even though the review will be through a different body. We said we can always pick a different color that is less important to us. I can't regain the time that would be lost if we were to redesign the home. That is the reason I mentioned the color, it is not that we are planning on painting it yellow. We have agreed to follow the guidelines of the Three Lakes Design Review.

Commissioner Davis added, the Three Lakes Design Review area is within the zoning regulations and if a variance were granted, I believe it would still be the same body. There is no Three Lake Design Review Committee, it is part of the zoning regulations and you can chat with staff about that.

Commissioner Silverio asked what are the heights of the ceilings in this design.

Glenn Hileman replied, the basement is 9 feet and then 10 feet on the first and second floor.

Commissioner Silverio added, you are asking for 43 feet and that is considerable above the 35 feet guidelines. You have spent 4 months on this design process and it is unfortunate to have to reconsider but there was an oversight here when the design process started and local code was not taken into consideration.

Glenn Hileman stated that is an oversite that I take full responsibility for. We could not find a local architect, we used one from out of state that was licensed to do work in Colorado. It is something that should have been caught, but it wasn't. My parents had 9 foot ceilings in the home they had and there are reason we wanted a little height beyond that. It is an oversight and I am responsible for the oversight. The turret at its highest point is approximately 43 feet, but the balance of the roofline is below the 35 foot minimum. The only area above the 35 foot is that ridgeline towards the front of the property. The turret is a decorative turret, it holds the architectural integrity of that Victorian style together. I understand you don't want to obstruct views or block views of neighbors. This property sits at the lowest point in the valley. The neighbors all look down on it, the closest neighbor is more than 3 football fields away.

Commissioner Silverio stated also concerning is the letter from the park service, it stated that it could be visible from the Grand Lake entrance to the park all the way to the trailhead. That is a considerable amount of space.

Glenn Hileman responded, one of the things he sent Alex was a map from Google. It is exactly 1.25 miles to the park at its closes point. We have a flagpole that is in excess of 50 feet on the property and currently there is a flag that is 40 feet x 20 feet flying from the pole. From Highway 36, I don't ever recall seeing that flag from anywhere in the park or from the highway.

Commissioner Silverio asked if there was any public comment.

Rick Richmond, Glenn and Michelle's neighbor and closest to their property stated he had no issues with the height of this home design as did any of the other neighbors.

Commissioner Mullahey added what I struggle with this variance is, we are not a design review committee, we don't make judgments on what we think if a building style is appropriate. Unfortunately we do not set the zoning rules. Usually the mandate of the board, is if there is something in the rules that prevents someone from building anything on their property at all that is when we are called in. We try and see if there is a way the board can resolve the building issue using the rules and regulations created by the county. But the applicant has to show a hardship, like a very steep lot or chimney cap that runs over. We do not doubt the sincerity of the neighbors and it is personally difficult, because I understand the history and what this family has gone through. There is no mandate to say "OK" if the neighbors approve.

Commissioner Silverio stated there does not seem to be any undue hardship with this property. She asked if there were any further comments, hearing none she asked for a motion.

Motion to recommend denial by Marcus Davis for West ½ of Section 24, Township 4 North, Range 76 West, County of Colorado – Height Variance. Seconded by Shaun Mullahey. No further discussion. All in favor "aye", none opposed. Motion of denial carries.

Motion to close the public hearing. So, moved by Marcus Davis. Seconded by Shaun Mullahey.

Motion to Adjourn. So moved by Shaun Mullahey. Seconded by Marcus Davis. All in favor, "aye" all opposed, hearing none this meeting is adjourned.

Meeting Close 6:28pm