

# THE GRAND COUNTY BOARD OF ADJUSTMENT

## RESOLUTION NO. 2006-1-1

**WHEREAS**, Stanley Kellogg (hereinafter referred to as the 'Applicant') as agent for Cooney Properties 50, LLC, is requesting a variance to allow for a thirty-seven (37) foot setback from the front property line along CR 6421 and a forty-six (46) foot side yard setback along the northeast lot line, replacing the Mountain Shadows Estates plat note requirement of fifty (50) foot setbacks from all property lines for the purpose of obtaining a variance for a previously constructed home, specifically on a tract of land, zoned Residential, located in:

A tract of land located in the Mountain Shadows Estates, 3<sup>rd</sup> Amended Final Plat, Lot M-38, Sections 24 and 25, Township 3 North, Range 76 West of the 6<sup>th</sup> P.M., Grand Colorado, more commonly known as  
1133 County Road 6421, Grand County, Colorado

**WHEREAS**, Public Hearing was held by the Grand County Board of Adjustment on January 18, 2006; and

**WHEREAS**, based on the evidence, testimony, exhibits, comments of the Grand County Department of Planning and Zoning, comments of public officials and agencies and comments from all interested parties, this Board finds as follows:

1. That proposed posting and public notice of this hearing was provided as required by law.
2. That the hearing before this Board was extensive and complete, that all pertinent facts, matters and issues were submitted and that all interested parties were heard at said hearing.
3. That the Applicant has demonstrated that strict application of the Zoning Regulation will result in peculiar and exceptional practical difficulties or exceptional and undue hardship by reason or exceptional topographic condition of the property.
4. That such variance should not result in substantial detriment to the public good and would not substantially impact the intent and purpose of the Zoning Regulations.

**WHEREAS**, the Applicant is the owner of Lot M-38, a 3.49 acre lot located in the Mountain Shadows Estates Subdivision; and

**WHEREAS**, the Applicant recently purchased the unfinished house with the intent of completing the interior construction; and

**WHEREAS**, as part of the pre-application building process, the Department of Planning and Zoning determined that the previous owners of this property had located a portion of the building outside the building envelope, encroaching on the fifty (50) foot front and side yard setbacks; and

**WHEREAS**, the subdivision required the building envelopes and the 50 foot setback requirements, in order to minimize the visual impact of buildings seen from Lake Granby, as part of the subdivision approval process; and

**WHEREAS**, placement of the building was directed by the US Army Corp of Engineers in order to avoid a spring and a large area of wetlands located just south of the building; and

**WHEREAS**, the current owners (the applicant) are unaware if the previous owners realized that they had moved the house outside the boundaries of the building envelope; and

**WHEREAS**, the Applicant must obtain a variance for this encroachment prior to submittal of an application for a building permit to complete construction of the project; and

**WHEREAS**, the Applicant would also like to build a detached garage on the property, and it is likely an additional setback variance will be needed in order for there to be space for such a building in the future; and

**WHEREAS**, if approved, this variance in setbacks will allow the applicant to apply to the Grand County BOCC for a building envelope amendment on this existing non-conforming residence; and

**WHEREAS**, notice of the public hearing was advertised in the Sky-Hi News on December 29, 2005; and

**WHEREAS**, all utilities and property owners within 500 feet of Lot M-38, Mountain Shadows Estates Subdivision, were notified of the proposed variance by certified mailing; and

**WHEREAS**, seven letters in support and no letters of opposition of the variance have been received; and

**WHEREAS**, the Board of Adjustment shall allow a variance to the minimum area of lot, width, front yard, side yard, rear yard, height of building, 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; and

**WHEREAS**, based on the evidence, testimony and exhibits, comments of public officials and agencies and comments from all interested parties, this Board finds that the request complies with the powers, duties and criteria of the Grand County Zoning Regulations, Section 16.2.

**NOW, THEREFORE, BE IT RESOLVED**, that the Grand County Board of Adjustment approve the variance from the Grand County Zoning Regulations for a thirty-seven (37) foot front setback and a forty-six (46) foot side setback.

**APPROVED AND ADOPTED this 18<sup>th</sup> day of January 2006, in Hot Sulphur Springs, Grand County, Colorado.**

**GRAND COUNTY BOARD OF ADJUSTMENT**

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**Chairman, Timothy Moreland  
January 18, 2006**

**ATTEST:**

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**Secretary**

Grand County Board of Adjustment  
Stanley Kellogg Variance  
January 18, 2006  
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