

THE GRAND COUNTY BOARD OF ADJUSTMENT

RESOLUTION NO. 2006-6-3

WHEREAS, Stanley Kellogg (hereinafter referred to as the 'Applicant') as agent for Cooney Properties 50, LLC, is requesting a forty (40) ft. variance to allow for a ten (10) foot side setback for a distance of 250 feet from the northeast property corner along said northeast lot line, replacing the Mountain Shadows Estates building envelope and plat note requirement of fifty (50) foot setbacks from all property lines, for the purpose of building a garage and amending the building envelope of a recently purchased home, specifically on a tract of land, zoned Residential, located in:

A tract of land located in the Mountain Shadows Estates, 3rd Amended Final Plat, Lot M-38, Sections 24 and 25, Township 3 North, Range 76 West of the 6th 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 June 21, 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, the previous owner of the property began construction partially outside the building envelope and encroaching into the front and side yard setbacks of fifty (50) feet each; and,

WHEREAS, on January, 2006 the Board of Adjustment granted approval for a 37 foot front yard setback and a 46 foot side yard setback to accommodate the locations of the improvements then in place; and,

WHEREAS, it was discussed at that hearing that the applicant intended to modify his request for a side yard setback once the actual boundaries of the wetlands could be determined for the construction of a garage; and,

WHEREAS, according to correspondence from the US Army Corp of Engineers (USACE) the encroachment was required in order to avoid the large area of wetlands located just south of the building; and,

WHEREAS, the wetland delineation made by Grand Environmental Services and approved by the USACE show that the platted building envelope was almost entirely located in the wetlands; and,

WHEREAS, in 2004, the USACE directed that the house be constructed outside the boundaries of the wetlands, resulting in no buildable area for a garage; and,

WHEREAS, the applicant request is to reduce the side yard setback to ten (10) feet and modifying the building envelope to enable the construction of a detached garage; and,

WHEREAS, it will protect the view corridors envisioned by the original placement of the building envelopes throughout the Mountain Shadows Subdivision; and,

WHEREAS, if approved, the reduction in the setback will allow the applicant to proceed forward with a request a modification of the existing building envelope so that it will no longer encroach into the now delineated wetlands and associated spring; and,

WHEREAS, notice of the public hearing was advertised in the Sky Hi News on June 1, 2006; 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, all public utilizes, and the Grand County Road and Bridge Department were notified, with eleven (11) letters in support and no letters of opposition of the variance were provided to the Department; 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, the variance approval is good for one (1) year from the date of this public hearing, and an extension will be considered only after the applicant provides a written request to the Department of Planning and Zoning; 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; and,

WHEREAS, the Grand County Board of Adjustment approve the variance for a forty (40) foot variance to existing Mountain Shadows Estates Subdivision plat requirements to allow for a ten (10) foot side setback for a distance of 250 feet from the northeast property corner along said northeast lot line, replacing the plat note that required a fifty (50) ft setback for the purpose of building a garage, and to move forward with a request of the Board of County Commissioners to amend the building envelope; and,

NOW, THEREFORE, BE IT RESOLVED, that the Grand County Board of Adjustment approve the variance for a forty (40) foot variance to existing Mountain Shadows Estates Subdivision plat requirements. allow for a ten (10) foot side setback for a distance of 250 feet from the northeast property corner along said northeast lot line, replacing the plat note that required a fifty (50) ft setback for the purpose of building a garage, and to move forward with a request of the Board of County Commissioners to amend the building envelope; and,

APPROVED AND ADOPTED this 21st day of June 2006, in Hot Sulphur Springs, Grand County, Colorado.

GRAND COUNTY BOARD OF ADJUSTMENT

**Chairman, Timothy Moreland
June 21, 2006**

ATTEST:

Secretary