

RECORD OF PROCEEDINGS

**Regular Meeting of the Estes Valley Board of Adjustment
August 5, 2008, 9:00 a.m.
Board Room, Estes Park Town Hall**

Board: Chair John Lynch, Members Chuck Levine, Bob McCreery, Wayne Newsom, and Al Sager; Alternate Member Bruce Grant

Attending: Chair Lynch; Members Levine, McCreery, and Newsom

Also Attending: Director Joseph, Planner Shirk, and Recording Secretary Roederer

Absent: Member Sager, Planner Chilcott

Chair Lynch called the meeting to order at 9:00 a.m.

1. PUBLIC COMMENT

None.

2. CONSENT AGENDA

a. Approval of the minutes of the June 3, 2008 meeting.

It was moved and seconded (Newsom/Levine) to approve the minutes as presented, and the motion passed unanimously with one absent.

3. METES AND BOUNDS PARCEL, A PORTION OF STANLEY ADDITION, located at 561 Big Thompson Avenue, Owner/Applicant: Schrader Land Co., LLLP — Request for variance from Estes Valley Development Code Section 4.4, Table 4-5, to allow the location of a 10-foot-by-10-foot storage shed within one foot of the northern and eastern property lines in lieu of the 15-foot setbacks required in the CO-Commercial Outlying zoning district

Planner Shirk summarized the staff report. This is a request to allow a small storage shed to be located near the northeast corner of the "Schrader's Country Store" property. As part of an overall store and site remodel, the Board approved a variance in 2006 to allow a new canopy to be located within the front setback. The remodel also included replacing the auto repair bays with interior retail space. The applicant's need for storage space has increased as a result of the additional retail space, and the applicant proposes to use a 10-foot-by-10-foot shed for storage. The shed will be on skids. The applicant's submitted plan shows the shed located two feet from the property lines, but staff suggests the Board consider granting a variance to allow placement of the shed within one foot of the property lines, which will give the applicant some leeway when placing the shed "in the field."

In considering whether special circumstances or conditions exist, Planner Shirk stated the lot is oddly shaped. The shape of the lot and the existing building and circulation pattern combine to create special circumstances. Locating the shed such that it would conform with the required setbacks would impact the circulation patterns of the site. Circulation is restricted by the location of storage tanks, pumps, a narrow drive aisle at the back of the building, and a new ADA-compliant parking space on the west side of the building, leaving the northeast corner of the property as the only viable location for the shed. This location would also result in the least impact on the neighborhood.

The variance request was routed to all applicable reviewing agency staff and to neighboring property owners for consideration and comment. Comments were received from the Public Works Department, which requested additional sidewalk be installed to complete the sidewalk poured near the southeast property corner. The Light and Power Department requested a short delay to allow removal of an overhead transformer prior to adding the shed, and the Building Department had several comments regarding building

code requirements. These affected agencies' comments are included as recommended conditions of approval. No comments in support or opposition to the variance request were received from neighboring property owners.

Planning staff's findings appear in the staff report. Staff recommends approval of the requested variance with two conditions of approval.

Public Comment:

John Howe of Schrader Oil/Applicant stated his agreement with the recommended conditions of approval. He noted the storage shed will be used for paper products only—no food will be stored in the shed.

Members Newsom and Levine commended Mr. Howe on how nice the remodel looks. Member Newsom noted what an improvement the recessed lighting has made, and Member Levine noted the Town had a real interest in the remodel because the business is a gateway property and expressed his opinion that the remodel looks wonderful.

It was moved and seconded (Newsom/Levine) to approve the variance request for the Metes and Bounds Parcel, a Portion of Stanley Addition, located at 561 Big Thompson Avenue, to allow the location of a 10-foot-by-10-foot storage shed within one foot of the northern and eastern property lines, with the findings and conditions recommended by staff, and the motion passed unanimously with one absent.

CONDITIONS:

1. A surveyor's certificate shall be presented to the building department within one week of placement of the structure on the site. This certificate shall verify the structure is located as delineated on the approved site plan.
2. Compliance with the following memos:
 - a. From Will Birchfield to Dave Shirk dated July 25, 2008.
 - b. From Tracy Feagans to Dave Shirk, Bob Goehring, and Scott Zurn dated July 25, 2008.
 - c. From Greg Sievers to Dave Shirk dated July 16, 2008.

4. METES AND BOUNDS PARCEL located at 974 Rams Horn Road, Owner/Applicant: William E. Monks — Request for variance from Estes Valley Development Code Section 4.3, Table 4-2, to allow the enlargement of an existing deck and stairs to be located 38 feet from the northern property line and 15 feet from the western property line and to allow steps to access the residence to remain adjacent to the western property line, in lieu of the 50-foot setbacks required in the RE–Rural Estate zoning district

Planner Shirk stated the staff report was prepared by Planner Chilcott, who was unable to attend the meeting, and he summarized the staff report. This is a request to allow replacement and the slight expansion of an existing deck, which is attached to a 670-square-foot cabin built in 1960. A variance is also requested to allow recently constructed stairs leading to the cabin from the parking area to remain adjacent to the western property line. These steps were recently replaced in the same location as the previous steps, which were in disrepair.

The cabin is located on a 0.63-acre parcel zoned RE–Rural Estate (a 2.5-acre zoning district). The RE–Rural Estate zoning district establishes 50-foot setbacks from all property lines. The applicant requests to locate the deck 38 feet from the northern property line and 15 feet from the western property line. Steps to the principal entrance of a residence are permitted to encroach into the setback provided they do not extend more than six feet into the required setback; however, the applicant's entry stairs are located adjacent to the western property line.

In considering whether there are special circumstances associated with the lot, Planner Shirk stated there clearly are. The applicant's lot is much smaller than the 2.5-acre minimum lot size for RE-zoned lots and is closer to the 0.5-acre minimum lot size required in the E–Estate zoning district, which establishes 15-foot setbacks from front and rear property lines and 10-foot setbacks from side property lines. If the applicant's lot was zoned E–Estate, the proposed deck would meet the setback requirements. Also, the

existing residence was built prior to the adoption of any setback requirements and encroaches into the western setback, and the existing deck encroaches into both the western and northern setbacks.

Staff finds that the essential character of the neighborhood will not be substantially altered, adjoining properties will not suffer a substantial detriment, and the requested variance represents the least deviation from the regulations that will afford relief.

The variance request was routed to all applicable reviewing agency staff and to neighboring property owners for consideration and comment. No significant issues or concerns were expressed by reviewing staff relative to code compliance or to the provision of public services. Comments were received from Larimer County Building Department, Planning and Building Services Division, and Department of Health and Environment. No comments in support or opposition to the variance request were received from neighboring property owners.

Planning staff's findings appear in the staff report. Staff recommends approval of the requested variance with three conditions of approval.

Chair Lynch questioned why the applicant's property had not been zoned E-*Estate*. Director Joseph stated at the time of the Valley-wide rezoning in 2000, that area was within a 2.5-acre zoning district. There is a hodgepodge of lot sizes in the area, and the decision was made not to change the existing zoning and create an area of spotty zoning.

Public Comment:

William Monks/Applicant asked if a variance would be required for any future changes to the residence. Director Joseph noted work could be done on the east side of the residence without a variance review and approval. Mr. Monk stated he had no further questions or comments.

Member Newsom complimented Mr. Monks on the recently constructed stairs.

It was moved and seconded (Levine/McCreery) to approve the variance request for the Metes and Bounds Parcel located at 974 Rams Horn Road, to allow the enlargement of an existing deck and stairs to be located 38 feet from the northern property line and 15 feet from the western property line, and to allow access steps to the residence to remain adjacent to the western property line, with the findings and conditions recommended by staff, and the motion passed unanimously with one absent.

CONDITIONS:

1. Compliance with the submitted application.
2. Compliance with the submitted affected agency comments.
3. A registered land surveyor shall set the survey stakes prior to construction, shall verify compliance with the variances, and shall provide a setback certificate. The applicant shall provide a copy of this certificate to the Estes Park Community Development Department.

5. REPORTS

Planner Shirk stated that approximately two years ago the Board had heard an appeal of staff's interpretation of the Estes Valley Development Code regarding a proposed accessory dwelling unit. The Board upheld staff's determination but directed staff to "fix" the Code regarding accessory dwelling units. Staff has been working on a proposal to amend the Code language and will hold a series of public outreach meetings with various organizations and homeowners' associations to receive input on changes under consideration. Staff currently plans to present a formal request for Code amendments to the Planning Commission in September and/or October, with public hearings before the Town Board and Board of County Commissioners to follow.

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There being no further business, Chair Lynch adjourned the meeting at 9:25 a.m.

John Lynch, Chair

Julie Roederer, Recording Secretary