

## RECORD OF PROCEEDINGS

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### **Regular Meeting of the Estes Valley Board of Adjustment**

**December 2, 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, Newsom, and Sager

**Also Attending:** Director Joseph, Planner Shirk, Planner Chilcott, Recording Secretary Thompson

**Absent:** None

**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 October 7, 2008 meeting.**

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

#### **3. METES AND BOUNDS PROPERTY LOCATED AT 1575 FALL RIVER ROAD, Owner/Applicant: John Moynihan–Request for variance from Estes Valley Development Code Section 4.4, Table 4–5 to allow construction of a roof over a proposed deck approximately 5 feet away from the southern property line, in lieu of the required 25-foot setback in the A–Accommodations zoning district**

Planner Chilcott stated the applicant has requested this item be continued to the January 6, 2009 meeting. The applicant is looking at other construction options and may be able to build without a variance. However, they would like to continue the item rather than withdraw until a definite decision on their part has been made.

##### **Public Comment:**

None.

**It was moved and seconded (Newsom/Levine) to CONTINUE the request to the January 6, 2009 Board of Adjustment meeting**

#### **4. LOT METES AND BOUNDS PROPERTY LOCATED AT 350 JOEL ESTES DRIVE, Owner/Applicant: Richard K. and Joyce A. Harvey–Request for variance from the Estes Valley Development Code Section 4.3, Table 4–2, to allow construction of a proposed garage 23 feet from the southern property line in lieu of the required 50-foot setback in the RE – *Rural Estate* zoning district**

Planner Shirk stated this is a request for variance from the RE–*Rural Estate* 50-foot side yard setback to allow construction of a detached 1,200 square foot (30' x 40') garage located within 23 feet of the side lot line. Planner Shirk noted that per the Estes Valley Development Code, triangular-shaped lots such as this one have two side lot lines and no rear lot line. It has been determined that special circumstances exist in that the lot is

significantly sub-sized for the RE–*Rural Estate* zoning district, which has a minimum lot size of 2.5 acres and 50-foot setbacks. This particular lot is .94 acres, which is closer to the E-1–*Estate* zoning district that requires 25-foot setbacks.

The variance request was routed to all applicable reviewing agency staff and to neighboring property owners for consideration and comment. Staff did receive a letter of support from a neighboring property owner located across the road that encouraged the Board to grant the request. No other correspondence from adjacent property owners has been received.

In determining practical difficulty, Planner Shirk noted the awkward triangular shape of the lot minimizes the buildable area to approximately 10% of the entire lot. Without the variance, the property may continue as residential use, and a code compliant building could be built. Planner Shirk recommends the Board use their best judgment in determining whether the variance is substantial, due to the fact that a typical 2-car garage measures 576 square feet (24' x 24'), and the applicant's desires are to construct a garage more than twice that size (1,200 square feet) located less than half the required setback from the property line. Staff suggests this proposed variance is substantial.

Concerning the essential character of the neighborhood, Planner Shirk noted that most dwellings in the neighborhood do not have garages, and none have a detached structure as large as the one proposed. The proposed garage would be located at the back of the lot, with minimal view from neighboring properties. One factor to consider is the intended use to house a recreational vehicle (RV) that is currently in the yard area and does not meet the code requirement for RVs to be located out of the front yard setback area.

Planner Shirk commented that the applicant purchased the property in 2004, with the current setback requirements in place. He indicated the proposed structure could be built in a conforming location, although feels that would have a greater impact on the neighborhood. Should the Board vote to approve this request, staff recommends the Board consider certain design elements (color, finish, exterior lighting, etc.) in an effort to minimize the visual impact. Another option would be to require the RV to be stored inside the garage, which is proposed to have two bays with a total height of 19 feet. The Board should consider this when determining whether the request is significant or will have a detrimental impact on the neighborhood.

Planner Shirk recommends approval of the requested variance to allow a rear-yard setback of 23 feet in lieu of the 50-foot setback required, conditional to:

1. Full compliance with the applicable Building Code
2. Prior to pouring the foundation, submittal of a setback certificate prepared by a registered land surveyor.
3. There shall be no outside storage of RVs or recreational equipment.
4. The building plans shall be revised to include a matte finish and neutral color, and shall be subject to Staff review and approval. Appeal to Staff determination shall be made to the Board of Adjustment.
5. Exterior lighting shall be concealed, with no portion of a bulb visible from off-site.

**Public Comment:**

Richard Harvey/Applicant indicated he is in agreement with a neutral color. He would prefer to paint the garage to match the color of the house, which is light green with brown trim. In the proposed location, there will be minimal ground work and no tree removal.

**It was moved and seconded (Levine/Sager) to APPROVE the variance request to allow construction of a proposed garage 23 feet from the southern property line in lieu of the required 50-foot setback in the RE – *Rural Estate* zoning district with the following conditions, and the motion passed unanimously**

**CONDITIONS:**

1. Full compliance with the applicable Building Code

2. Prior to pouring the foundation, submittal of a setback certificate prepared by a registered land surveyor.
3. There shall be no outside storage of RVs or recreational equipment.
4. The building plans shall be revised to include a matte finish and neutral color, and shall be subject to Staff review and approval. Appeal to Staff determination shall be made to the Board of Adjustment.
5. Exterior lighting shall be concealed, with no portion of a bulb visible from off-site.

**5. REPORTS**

Director Joseph reminded Board of Adjustment members of the invitation to attend the luncheon prior to the Planning Commission meeting on December 16, 2008. This is to say thank you for your service on the Board.

**6. ELECTION OF OFFICERS**

Member Newsom nominated Member Levine to preside as Chair for 2009, and Member Lynch agreed to serve as Vice-Chair for 2009. Karen Thompson was named Recording Secretary.

**There being no further nominations, the 2009 officers were approved by acclamation: Chair–Chuch Levine, Vice-Chair–John Lynch.**

**7. ADJOURNMENT**

**There being no further business, Chair Lynch adjourned the meeting at 9:20 a.m.**

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John Lynch, Chair

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Karen Thompson, Recording Secretary