

RECORD OF PROCEEDINGS

Regular Meeting of the Estes Valley Board of Adjustment

October 7, 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 Roederer, and Recording Secretary Trainee Karen 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 August 5, 2008 meeting.

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

3. LOT 5, BLOCK 7, AMENDED WINDCLIFF ESTATES SUBDIVISION, 5TH FILING, 3452 Eaglecliff Circle Drive, Owner/Applicant: Stephen G. and Pamalah C. Tipps — Request for variance from Estes Valley Development Code Section 4.3, Table 4-2, to allow the corners of an existing residence to remain 15.9 feet from the eastern property line and 11 feet from the northern and southern property lines in lieu of the 25-foot setbacks required in the E-1–*Estate* zoning district

Planner Shirk summarized the staff report. This is a request for a variance to allow an existing residence to remain 15.9 feet from the front property line and 11 feet from the side property lines. A variance for this property was requested and processed by Larimer County in 1995; the request was approved to allow the proposed residence to encroach into the setbacks. The residence was built according to the proposed footprint; however, it was rotated slightly during construction, resulting in a greater encroachment than was approved. New purchasers of the residence discovered this fact when a survey was conducted recently. Staff considers the current variance request a corrective variance. The property is zoned E-1–*Estate*, which is a one-acre zoning district with 25-foot minimum setbacks. The applicant's lot is approximately 0.5 acre in size and is undersized for the zoning district. The residence has existed since 1995 with no concerns expressed by neighboring property owners or utility providers. In considering whether special circumstances or conditions exist, Planner Shirk stated the house was incorrectly located during construction, and without a variance, the house would have to be relocated.

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. 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 without conditions. Planner Shirk noted that current practices require an engineer's certificate at the footing and foundation inspection to ensure compliance with setback requirements prior to pouring of footings or foundation.

Public Comment:

Amy Plummer/Van Horn Engineering was present to represent the applicant. She stated the drawing prepared by Van Horn Engineering in 1995 was a part of the original variance request, not a setback certificate. Planner Shirk acknowledged this, as the drawing was dated July 5, 1995 and the variance was not approved until August 1995.

It was moved and seconded (Newsom/Levine) to approve the request for variance from Estes Valley Development Code Section 4.3, Table 4-2, to allow the corner of an existing residence to remain 15.9 feet from the eastern property line and 11 feet from the northern and southern property lines, with the staff findings, and the motion passed unanimously.

**4. LOT 25, GRAND ESTATES SUBDIVISION, LESS 1090-484, 530 Grand Estates Drive
Owner/Applicant: Daryl and Lorraine McCown — Request for variance from Estes Valley Development Code Section 4.3, Table 4-2, to allow a deck addition to an existing residence 12 feet from the southern property line in lieu of the required 25-foot setbacks in the E-1 Estate zoning district**

Planner Chilcott summarized the staff report. This is a request to allow a 24-foot-by-12-foot deck addition to an existing residence. A sliding glass door was installed when the home was constructed in 1977 to access the area where the deck is proposed. The applicants have owned the residence since the time it was constructed and have always planned a deck in this location.

In considering whether special circumstances or conditions exist on the lot and whether practical difficulty would result from strict compliance with Code standards, Planner Chilcott noted the proposed deck would be located 12 feet from the southern property line and would not encroach into the setback any farther than the existing garage. Special circumstances do not result from the lot shape, vegetation, or topography, and the lot nearly complies with the required minimum lot width. The applicant's lot is zoned E-1—*Estate*, which is a one-acre zoning district. Therefore, special circumstances may result from the applicant's lot size, which, at 0.38 acre, is significantly undersized for the zoning district. The lot size more closely complies with the minimum lot size required in the E—*Estate* zoning district, which provides for a minimum lot size of 0.5 acre with required setbacks of 10 feet. The proposed deck would comply with a 10-foot setback. Based on this, planning staff finds that the requested variance for a 12-foot setback is not substantial. The existing character of the neighborhood would not be altered. The applicant did not purchase the property with knowledge of the setback requirement—at the time the residence was constructed, the side-yard setbacks for the lot were 10 feet.

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. 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, and staff recommends that any approval of the requested variance be conditioned on compliance with the submitted application.

Public Comment:

None.

It was moved and seconded (Levine/Sager) to approve the variance request to allow a deck addition to an existing residence 12 feet from the southern property line, with the findings and conditions recommended by staff, and the motion passed unanimously.

CONDITIONS:

1. Compliance with the submitted application.

5. **LOT 19, BLOCK 3, LAKE VIEW TRACTS, Address To Be Determined, Owner: Archdiocese of Denver, Applicant: Our Lady of the Mountains Parish — Request for variance from Estes Valley Development Code Section 8.1.A, specifically in reference to Estes Park Municipal Code Section 17.66.060(13), to allow placement of an off-premise sign for Our Lady of the Mountains Catholic Church located at 920 Big Thompson Avenue; Section 17.66.100(c), to allow construction of a 150-square-foot sign in lieu of the maximum 75-square-foot sign allowed in the R-2 – Residential zoning district; and Section 17.66.110(3)b, to allow the sign to be placed within the required 8-foot setback from property lines**

Planner Chilcott summarized the staff report. This is a request for variance from Estes Valley Development Code Section 8.1.A, specifically in reference to Estes Park Municipal Code Section 17.66.060(13), to allow placement of an off-premise sign for Our Lady of the Mountains Catholic Church. The church is located at 920 Big Thompson Avenue. The sign is proposed to be placed two feet from the northeast corner of Lot 19, Block 3, Lake View Tracts subdivision. The applicant also requests variance from Section 17.66.100(c) to allow construction of a 150-square-foot sign in lieu of the maximum 75-square-foot sign allowed in the R-2–*Two-Family Residential* zoning district, and variance from Section 17.66.110(3)b to allow the sign to be placed two feet from the eastern property line of Lot 19, Block 3, Lake View Tracts, in lieu of the required eight-foot setback from property lines. The required setback from the property line adjacent to the Highway 34 right-of-way would be maintained.

The Estes Park Municipal Code outlines findings that must be made in order for the Board to approve the requested variances. The applicant's statement of intent describes the special circumstances they believe exist—specifically, the church parcel contains a paved parking area that extends to the property line and into the road right-of-way. Due to the existing development on the lot, the applicant states a suitable location for the sign is not available on that lot. In considering whether the requested variances would be in general harmony with the Municipal Code or would be injurious to the neighborhood, the applicant states it owns the adjoining properties, including the property on which the sign would be located, and the closest residences are located across Highway 34 or across Vista Lane.

No written comments were received from neighboring property owners in support or opposition to the variance requests. Planning staff received a phone inquiry regarding proposed materials for the sign, whether the sign would be lit, and what impact the proposed sign would have on the view from their residence. Planner Chilcott noted that the sign is proposed to be lit; the lighting must comply with the Estes Valley Development Code and Building Codes. The sign is proposed to be a monument sign approximately six feet tall; it would be raised above existing grade by approximately two feet. It is proposed to be buff sandstone with black lettering. Planning staff does not believe the proposed sign would be injurious to the neighborhood.

Planner Chilcott stated the Board should use its best judgment in considering whether the requested variances are the minimum necessary to draw attention to the church. The proposed setback from the shared property line with the church would allow the sign to be located as close to the parking lot on the church lot as possible; it would not be easy to discern the sign is an off-premise sign. Town Attorney White provided comments indicating that it would be reasonable to apply the CO–*Commercial Outlying* zoning district sign standards to the proposed sign. The lot on which the church is located is zoned CO; the lot on which the proposed sign would be located is zoned R-2. The proposed sign would meet the size limit provided for the CO zoning district but exceeds the maximum allowed square footage for the R-2 zoning district. If the Board chooses to apply size standards set forth for the CO district, it would be reasonable to require that the sign be counted against the signage permitted on the CO zoned lot.

Discussion followed regarding the proposed sign size, as the applicant's statement of intent indicates the sign would be 150 square feet and Planner Chilcott estimated the sign would be approximately 90 square feet on each side. Sign Code Officer McEndaffer clarified that each face of the proposed sign is 84 square feet; however, because each sign face is separated by less than 24 inches, only one side of the sign is counted toward the total square footage allowance. She also noted that the sign code would allow

installation of an additional free-standing sign on the church lot, provided the total square footage of the signs did not exceed 150 square feet.

Planner Chilcott went on to state the church has owned the property for approximately 50 years, and prior to adoption of a Town sign code. In considering whether the applicant's predicament could be mitigated through another method, the applicant could apply for a boundary line adjustment to move the property line of the church lot such that it would encompass the area where the sign is proposed. Per comments received from the Colorado Department of Transportation, if the church were to sell the R-2-zoned lot in the future, CDOT would consider the sign an off-premise sign and CDOT regulations would require removal of the sign, regardless of any variance approval from the Board of Adjustment.

Planner Chilcott amended recommended condition of approval #1 such that compliance with the submitted site plan (rather than site plans, as shown in the staff report) is required. She also added recommended condition of approval #6 as shown below. Planning staff's findings appear in the staff report. Staff recommends approval of the requested variances with six conditions of approval.

Member Newsom noted that if the proposed location for the sign was moved onto the asphalt parking area, a variance to allow an off-premise sign would not be needed. Planner Chilcott stated moving the proposed sign location could impact traffic circulation in the parking lot; also, the amount of provided parking provided for the church may just meet minimum parking requirements.

Public Comment

Jes Reetz/Cornerstone Engineering was present to represent the applicant. He stated parking for the church can be an issue, particularly in summer. Placement of the sign in the current parking lot could require removal of some parking spaces and/or recently installed landscaping. The church owns the adjacent property where the sign is proposed and would like to use the property for that purpose. The church had considered a boundary line adjustment to accommodate the proposed sign but did not want to reduce the size of the R-2-zoned lot. Member Sager questioned the purpose of having a two-sided sign when one side of the sign would be facing the church rather than the road. Mr. Reetz stated the sign is proposed as per the applicant's wishes.

Virginia Almquist/Neighboring Property Owner expressed concern about the potential for a second sign to be placed on the church property, stating she did not want views from their property on Hillside Lane to be impacted by a future sign. She stated she would vigorously oppose a second sign on the property. Sign Code Officer McEndaffer noted the applicant could apply for a sign permit for a second sign. If the sign met the Code requirements, there would be no further public review; the sign would be approved. Chair Lynch and Director Joseph stated Ms. Almquist's concerns are premature and are not part of the current variance requests being considered by the Board.

Board and Staff Discussion:

Member Newsom reiterated his opinion the proposed sign should be located on the church lot where a variance would not be required. Member Sager noted the proposed location for the sign is past the church for those traveling on Highway 34 from east to west. He reiterated his concern that the side of the sign facing the church would serve no purpose and stated his belief the applicant had not given careful consideration to the placement of the sign, given its intended use. Discussion followed regarding whether the Board should grant leeway in placement of the sign such that it could be visible from either direction along the highway. Planner Chilcott stated a specific location had been proposed for the sign; change of this location would require further review by the Board. Director Joseph agreed, noting the variance request should not be a moving target. Member McCreery stated his support for approving the variance as proposed.

It was moved and seconded (McCreery/Sager) to approve the variance request for Lot 19, Block 3, Lake View Tracts, to allow placement of an off-premise sign for Our Lady of the Mountains Catholic Church located at 920 Big Thompson Avenue, to allow construction of a 150-square-foot sign in lieu of the maximum 75-square-foot sign allowed in the R-2–*Residential* zoning district, and to allow the sign to be placed within the required 8-foot setback from property lines, with the findings and conditions recommended by staff and as amended by Planner Chilcott, and the motion PASSED.

Those voting in FAVOR: Levine, Lynch, McCreery, Sager

Those voting AGAINST: Newsom

CONDITIONS:

1. Compliance with the submitted application, including the proposed sign size shown on the submitted Sign Site Plan. However, staff shall have the authority to approve minimal revisions to the signs in the future without further Board of Adjustment review.
2. This sign shall be attributed to the lot addressed 920 Big Thompson Avenue, rather than Lot 19, Block 3, Lake View Tracts, i.e., the sign shall count towards sign allowances, such as the number of allowable signs and maximum allowed sign area, at 920 Big Thompson Avenue.
3. A sign permit shall not be issued until a draft sign easement and a draft electric easement are approved by staff.
4. A recorded copy of the sign and electric easements shall be submitted to the Town within thirty days of sign installation.
5. The applicant shall obtain any required electric permits and inspections.
6. Compliance with the comments from CDOT dated September 25, 2008. This includes the requirement if the church sells the parcel containing the sign, and the property develops, the sign will be relocated onto the church's property since the second parcel will no longer have the same principal activity as the church's property.

7. REPORTS

None.

There being no further business, Chair Lynch adjourned the meeting at 9:58 a.m.

John Lynch, Chair

Julie Roederer, Recording Secretary