

## RECORD OF PROCEEDINGS

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**Regular Meeting of the Estes Valley Board of Adjustment  
April 7, 2009, 9:00 a.m.  
Board Room, Estes Park Town Hall**

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

**Attending:** Members Levine, Lynch, McCreery, Newsom, and Sager

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

**Absent:** None

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

**1. PUBLIC COMMENT**

None

**2. CONSENT AGENDA**

- a. Approval of minutes dated January 6, 2009
- b. Approval of minutes dated March 3, 2009

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

**3. Reappointment of members Levine and Newsom, with terms expiring February 28, 2012.**

Chair Levine announced the reappointment of members Wayne Newsom and Chuck Levine to new three-year terms, expiring February 28, 2012. It was also noted that the terms of member Lynch and alternate member Grant expire June 30, 2009.

**4. LOT 21, Little Valley 2<sup>nd</sup> Filing, 4068 Little Valley Drive, Owner: Gregory E. Otis, Applicant: Paul Brown – Request for variance from Estes Valley Development Code Section 4.3, Table 4-2, to allow construction of a proposed detached garage within the required 50-foot front setback in the RE zoning district**

**Staff Report:**

Planner Shirk stated the applicant wishes to build a detached two-car garage at 4068 Little Valley Drive twenty-five feet from the front property line where the development code requires a 50-foot setback. In this instance, the first 25 feet of the lot is platted as access easement. Furthermore, the development code requires building setbacks be measured from the edge of a road easement, which this lot has. These two factors combine to create a front yard setback requirement of 75-feet.

Planner Shirk explained the purpose of measuring the setback from the edge of an easement is to treat access easements in the same fashion as rights-of-way to ensure that if roads are moved or widened in the future, adequate setbacks will be maintained. This easement serves as an active access. It is unlikely that Little Valley Road will be widened, as it does not lead to land that has any further subdivision potential, thus it serves only the Little Valley Subdivision. It should be noted that Little Valley has a General Improvement District that oversees the maintenance of the road system. This GID has been notified of this request, and “approved because the topography does not allow” the required setback.

Planner Shirk stated the lot size is approximately 1.5 acres. The applicant proposes to locate the garage in the most accessible area that would minimize the amount of overall

site disturbance. Locating the garage in the proposed location would allow the applicant to use the existing driveway cut, and eliminate the need of additional site disturbance and associated cut/fill slopes.

Planner Shirk stated there are special circumstances that exist. The lot is sub-sized for the "RE" Rural Estate district, which has a minimum lot size of 2.5-acres, for which the 50-foot setbacks were created. The lot is also steeply sloped, as is common in the Little Valley area. When the house was built in 2003, it was located in this area at the top of the lot because it minimized the amount of site disturbance. The proposed garage would not be detrimental to the neighborhood. The Little Valley Home Owner's Association has written a letter in support of the project. The current owners purchased the property in September 2008, with the current regulations in place. In order to comply with setback requirements, the garage would either have to be built down the hill to the north of the existing dwelling, or east of the dwelling. Both of these locations would result in greater overall impact than locating the garage in the proposed location.

Planner Shirk said Larimer County Engineering is aware of the existence of a road drainage to the east of the proposed garage. Based on this, county engineering has noted that if grading is proposed in this area, drainage and grading plans will need to be submitted for review, and that sediment control measures should be in place prior to construction. Based on this, Community Development Staff recommends an erosion/sediment control plan be submitted to Larimer County Engineering for review and approval prior to issuance of a building permit. The Board should be aware that Larimer County Engineering can require said plan at the time of building permit application.

Planner Shirk noted there were two comments from neighboring property owners. One lives downhill from the Otis, and expressed "no problem with a variance on this residence, with the assurance that any drainage issues are addressed." The other neighbor voiced his opinion in opposition to the variance.

Planner Shirk stated the proposed garage is slightly oversized for a two-car garage. It is approximately four feet longer than the average to allow for a stairway to a loft area above the garage.

Staff recommends **APPROVAL** of the requested variance to allow a front yard setback of 25-feet, as measured from the property line, instead of the 50-foot setback required to be measured from the edge of the access easement, with conditions.

**Board and Public Comment:**

Member Newsom understands the owner's desire to have a garage, and believes he proposed the best location possible on the sloping lot. He does not foresee any adverse affect on neighbors, as the garage will be mostly obscured from the road by trees.

Applicant Paul Brown noted it is a very difficult site to build on. The owner is aware of past drainage problems and installed a new culvert. A previous plan for a garage in a different location was abandoned due to these drainage issues, and Mr. Brown believes this current proposal plans for the most reasonable location. He stated the existing culvert has created what he believes is an unnatural drainage across the lot. Planner Shirk added that according to Rodney Ault, who does most of the road work for the Little Valley GID, most of the drainage on this lot is from road runoff from Little Valley Drive.

Member Lynch asked if the proposed garage will present a problem for well access. Mr. Brown replied that the builder, Bob Taylor, and the owner have discussed the issue, and are aware that a crane would be needed to lift the pump from the well.

**It was moved and seconded (Lynch/McCreery) to APPROVE the Request for variance from Estes Valley Development Code Section 4.3, Table 4-2, to allow construction of a proposed detached garage within the required 50-foot front setback in the RE zoning district with the following conditions. The motion passed unanimously.**

**CONDITIONS:**

- a. Full compliance to the applicable building codes;
- b. The applicant shall include an erosion control plan with building permit submittal, and shall coordinate said plan with Larimer County Engineering (Marc Lyons, Access Control).
- c. Compliance with approved site and building plan;
- d. Submittal of a setback certificate prepared by a registered land surveyor. This certificate shall be submitted to the building official at the foundation inspection, and shall verify the garage location complies with the approved site plan.

5. **LOT 4, BLOCK 1, COUNTRY CLUB ESTATES, 1111 COUNTRY CLUB DRIVE, Owner: Kerry and Joie Willuweit, Applicant: Zack Fonseca, Genesis Energy, Inc. – Request for variance from Estes Valley Development Code Section 4.3, Table 4-2, to allow construction of a proposed wind turbine approximately 9.5 feet above the 30-foot height restriction in the E-1 Estate Zoning District**

**Staff Report:**

Planner Chilcott stated this application was withdrawn by Staff.

**6. REPORTS**

Director Joseph reported that Staff processed a minor variance for the corner of a deck that encroached outside the platted building envelope. The amount was less than one square foot and the building envelope was adjacent to an open space. Staff felt it was appropriate to grant the variance at staff level.

There being no further business, Chair Levine adjourned the meeting at 9:35 a.m.

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Chuck Levine, Chair

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Karen Thompson, Recording Secretary