

GRAND JUNCTION BOARD OF APPEALS
September 12, 1990
8:00 a.m. - 8:55 a.m.

The Grand Junction Board of Appeals public hearing was called to order by Chairperson Jan Pomrenke at 8:00 a.m. in the City/County Auditorium.

In attendance, representing the Board of Appeals, were: Jan Pomrenke, John Elmer, Sheilah Renberger, and Aden Hogan. Katie Worrall was absent.

Also present were John Shaver, Assistant City Attorney and Marty Currie, Acting Community Development Director.

In attendance, representing the City Planning Department, was Linda Weitzel.

Bobbie Paulson was present to record the minutes.

There were two interested citizens present during the hearing.

I. APPROVAL OF MINUTES

The minutes of the August 8, 1990 meeting had not been completed; therefore, the approval was tabled until the next meeting.

II. FULL HEARING

1. **#90-7 Consideration of a request to vary the sideyard setback from 3 feet to 1 1/2 feet and the rearyard setback from 10 feet to 3 feet in a Residential Single Family (RSF-5) Zone to allow replacement and construction of a garage.**
Petitioner: James P. Flynn & Mary Lou Kohls
Location: 1235 Ouray Avenue

PETITIONER'S PRESENTATION

Jim Flynn stated that he purchased the home at 1235 Ouray Avenue approximately three months ago. One of the improvement projects is to replace the garage, which was built 50-60 years ago and is in a state of disrepair. The proposed garage will be built to accommodate two cars. A firewall on the east side facing the adjoining owner's garage will be constructed, and rain gutters and spouts will be installed to remove the water from the structure. The existing land improvements, ie: the driveway, screened back porch, fruit tree and landscaping were designed around the existing house and garage. Mr. Flynn added that therefore, it only makes sense to replace the garage in the same location it exists now.

QUESTIONS

Aden Hogan asked if the access to the garage would continue to be on Ouray Avenue or if there would also be access from the alley?

Mr. Flynn replied the garage will be designed to have a pull through access from the driveway and from the alley. Because the driveways on the older homes are narrow, it makes sense to have a pull-through garage rather than having to back the cars out one way.

John Elmer asked Mr. Flynn if he considered moving the garage over another 1 1/2 feet so that the sideyard setback would be in compliance?

Mr. Flynn replied affirmatively; he added that if he had to comply with one of the setbacks, he would rather it be the sideyard.

John Elmer felt that if the garage were constructed at the required setback, the driveway placement, trees, and landscaping would not be greatly affected. However, if the garage were constructed with the required rearward setback, it would definitely encroach into the backyard.

Jan Pomrenke asked Mr. Flynn if his neighbors had any plans to remodel or expand their garage?

Mr. Flynn stated that the house next door sold three weeks ago, and the neighbor has not yet moved in. He added that the garage looked fairly stable and guessed that they would not want to replace it.

Jan Pomrenke asked if the sideyard setback was met, would there still be safe ingress/egress?

Mr. Flynn answered that presently the drive was lined up with garage. If the garage were constructed three feet further to the west, it would require that additional concrete be poured. It may also be difficult to maneuver between the garage and the back screened porch.

Jan Pomrenke said part of the criteria the board has to consider is the hardship that would be a result of not granting this variance.

Mr. Flynn stated that if the garage is reconstructed within the required setbacks, many of the utilizations of the existing land improvements would be rendered nonfunctional.

When asked what the dimensions of the garage door would be, Mr. Flynn replied that it would be 9 foot wide and 7 foot high.

STAFF PRESENTATION

Linda stated that the staff prefers that the setback be at least three feet. However, so long as the Uniform Building Code and the fire code restrictions are met, that is the main concern. The pull-through garage will help mitigate any stacking in the driveway and on-street parking. Linda reiterated that the setback of three feet would be desirable, but added that it was probably not feasible with the existing layout. She had a concern with where the eaves of the proposed garage would be in relation to the adjoining garage.

Mr. Flynn replied that the present structures are overlapping. When the new garage is constructed the eaves would not be as close as they are now. If the neighbor installed down spouts and gutters on their garage, then the eaves can be cut back. The proposal is to put gutters on Mr. Flynn's garage in order catch the water from both the neighbor's and his garage.

Linda stated that a firewall is an improvement in regard to public safety. There is a window along the east side of the existing garage; fire code and the Uniform Building Code will require that it be a solid wall. The downtown neighborhood guidelines specify keeping the integrity of the residential uses.

PUBLIC COMMENTS

There were no public comments or correspondence for or against this proposal.

QUESTIONS

John Elmer asked what the distance from the wall of the proposed garage and the wall of the adjoining structure would be?

Mr. Flynn replied that it would be three foot.

When asked if he knew exactly where the property line was, Mr. Flynn stated that he knew within six inches.

John Elmer asked if he found any survey pins on the property.

Mr. Flynn replied that he found a stake which he believes represents the property line.

Jan Pomrenke stated that if new financing was obtained when this property was purchased, most likely the lender requested an improvement location certificate. Although, this improvement location certificate does not certify to the property's boundary, the surveyor who did the work could be contacted and asked to locate the boundary for a nominal fee.

Aden Hogan expressed the importance of locating the exact property line prior to any construction.

Jan Pomrenke noted a similar lot layout, except where the garage was not aligned with the drive. Because of the width of the driveway, maneuvering out of the garage at an angle and backing down a narrow drive was difficult.

After further discussion, the board members agreed that the hardship was the existing layout of the house, driveway, and the location of other improvements on the property.

Aden Hogan felt that if the setbacks were met, the integrity of the lot would be destroyed. The existing garage was built based on what the law was before and to force a compliance now would take away some of the usage and the functionality of the lot.

MOTION: (ADEN HOGAN) "ON ITEM #90-7 CONSIDERATION OF A REQUEST TO VARY THE SIDEYARD SETBACK FROM 3 FEET TO 1 1/2 FEET AND THE REARYARD SETBACK FROM 10 FEET TO 3 FEET IN A RESIDENTIAL SINGLE FAMILY (RSF-5) ZONE TO ALLOW REPLACEMENT AND CONSTRUCTION OF A GARAGE, I MOVE THAT THIS VARIANCE BE GRANTED."

The motion was seconded by John Elmer.

A vote was called and the motion passed unanimously by a vote of 4-0.

2. **#90-8 Consideration of a request to vary the frontyard setback from 20 feet to 8 feet in a Residential Multifamily (RMF-32) zone to allow reconstruction of the sanctuary with a handicap elevator/clarion tower at the north elevation.
Petitioner: Carl L. Boydston & Dale Rennels, Messiah Lutheran Church
Location: 840 North 11th Street**

PETITIONER'S PRESENTATION

Mr. Bill Frey, attorney representing the Messiah Luthern Church, briefly outlined the request. The request is for the elevator/clarion tower addition to the reconstruction of sanctuary of the church which was destroyed in an arson fire in September, 1989. In the process of rebuilding, the church would like to upgrade the structure so that it is handicap accessible.

In compliance with the downtown residential neighborhood guidelines, there is no encroachment into any residential neighborhood by this change. This is a long standing nonconforming use. The architectural design is to blend in with the balance of the sanctuary that is being rebuilt. The sanctuary is basically the same design as it was before.

The church does not front on 12th Street; therefore, it would not have any affect on traffic flow on 12th Street.

The hardship that exists is the ability to serve the entire public. This is not only a church but also a school providing education grades K through 8. The architect feels that to place the elevator at any other location in the design, would require excessive costs because of additional ramping that would be needed or it would deplete the interior space available for classrooms and other church facilities.

QUESTIONS

Aden Hogan stated that access for handicap to public buildings is more than a consideration. According to the new 1990 Americans with Disability Act that was passed, any buildings open to the public are required to provide handicap access. The law states that excessive costs is not a particular excuse that can be used.

When asked where the handicap parking would be located, Mr. Frey stated that the parking will be in the east lot. The lot has not yet been developed; it was acquired last year to provide additional parking for the church. The only other alternative is to locate the elevator on the south side of the building, which would make it inconvenient for handicap access. Handicap persons would have to go all the way around the building into the alley to enter the building.

Aden Hogan asked if the required setback is 20 feet and the existing structure is setback 16 feet?

Linda replied affirmatively. Less than 50% of the building was destroyed by fire, therefore it can be rebuilt on the original footprint. In the process of rebuilding, the church wants to add the handicap access which puts it closer to the property line. However, there is a 22 foot wide parkway strip along Teller Avenue which will alleviate any site distance problems for cars pulling out of the parking lot area or onto 11th Street.

John Elmer was concerned that the City may widen Teller Avenue using the available right-of-way then the church would be only a few feet away from the street.

Linda stated that this is unlikely; there are no plans to widen Teller Avenue that she is aware of.

John Elmer asked why the elevator was not designed to be enclosed in the existing parameters of the building?

Mr. Frey explained that if the elevator were designed within the confines of the existing building line, it would deplete a square section out of the sanctuary. The architect who designed the church felt that it would be more aesthetically pleasing to locate the elevator outside the building line. It also preserves the ability to use the entire sanctuary.

STAFF PRESENTATION

Linda Weitzel stated that one of the considerations the board needs to make is whether or not there is any other place to put this handicap access. After talking with church representatives, Linda felt that this was the best location for the elevator access. She reiterated the importance of trying to maintain the required setbacks, but added that providing handicap access is a law. Linda concurred with the architect that the proposed design of the building with the elevator on the outside was aesthetically more pleasing, as well as useful to the members of the congregation and any other persons that may be using the church.

Jan Pomrenke was concerned with congestion on Teller caused by off-street parking.

Linda stated that the congestion would probably happen Monday through Friday while the college is in session. The church will conduct some of the school and other activities during the day but most of the activities would more than likely be in the evenings and on Sundays.

PUBLIC COMMENTS

There were no public comments or correspondence for or against this proposal.

QUESTIONS

John Elmer asked what the height of the tower was?

Mr. Frey replied that the distance to the top of the cross is 65 feet. The cross is approximately 8 feet; the tower roof is approximately 57 feet.

Linda explained that there are no limitations in the Code to the height of a church steeple.

Linda reiterated that this board will be granting the variance only on the addition of the elevator/clarion tower. The remainder of the church is an existing nonconforming use.

John Elmer asked if in approving this addition, can conditions be used to force them to become a conforming use.

John Shaver said the Code is written to allow for reconstruction based on the percentage of destruction of the building. The board could require that this use become conforming because of this addition. The elevator is treated as an addition to the existing structure.

John Elmer asked if the City Engineer reviewed this proposal.

Linda replied affirmatively and added that the City Engineer did not have a problem with this. City Attorney, City Engineer, and Building Department also review all Board of Appeals items and they did not have any comments on this proposal.

MOTION: (JOHN ELMER) "ON ITEM #90-8 CONSIDERATION OF A REQUEST TO VARY THE FRONTYARD SETBACK FROM 20 FEET TO 8 FEET IN A RESIDENTIAL MULTIFAMILY (RMF-32) ZONE TO ALLOW RECONSTRUCTION OF THE SANCTUARY WITH A HANDICAP ELEVATOR/CLARION TOWER AT THE NORTH ELEVATION, I MOVE THAT WE APPROVE THIS PROPOSAL."

Sheilah Renberger seconded the motion.

A vote was called and the motion passed unanimously by a vote of 4-0.

GENERAL DISCUSSION

Linda announced that Jim Tyson resigned from the Planning Commission. She asked the board members if any of them were interested or if they know of anyone who lives within the city limits who would be interested in serving on the Planning Commission, and if so have them send a letter of interest.

The meeting was adjourned at 8:55 a.m.