

**GRAND JUNCTION BOARD OF APPEALS**

**April 12, 1995**

**8:05 a.m.-8:25 a.m.**

**I. CALL TO ORDER**

The regularly scheduled Board of Appeals hearing was called to order at 8:05 a.m. in the City/County Auditorium by Chairman John Elmer.

In attendance representing the Board of Appeals were: Chairman John Elmer, William Putnam, Jeff Driscoll, Joseph Marie, and Lewis Hoffman, III.

In attendance representing Community Development Department staff was Kristen Ashbeck.

Also present was Asst. City Attorney John Shaver.

Amanda Campbell was present to record the minutes.

There were three citizens present during the course of the hearing.

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**II. CONSIDERATION OF MINUTES**

William Putnam pointed out that the minutes are an accurate representation of what occurred, but questioned whether some of the clarification regarding "reasonable" would need to come from the City Council.

**MOTION: (Lewis Hoffman) "Mr. Chairman, I move that we approve the minutes of the March 8, 1995 meeting."**

Joseph Marie seconded the motion.

A vote was called and the motion passed by a vote of 4-0, with Jeff Driscoll abstaining.

**III. ANNOUNCEMENTS, PRESENTATIONS, AND/OR PRESCHEDULED VISITORS**

There were no announcements, presentations, and/or prescheduled visitors.

**IV. PUBLIC HEARING ITEMS FOR CONSIDERATION BY THE BOARD.**

**#VAR-95-46 VARIANCE FROM REAR YARD SETBACK IN RMF-16 ZONE DISTRICT**  
**Request for approval of a variance from the required rear yard setback in an**  
**RMF-16 (Residential Multi-family with a density not to exceed 16 units per**  
**acre) Zone District from the required 10 feet to 4 feet for a 6 foot variance.**

**Petitioner:** Judy Cady  
**Location:** 1732 Palmer  
**City Staff:** Kristen Ashbeck

### **STAFF PRESENTATION**

Kristen outlined the proposal for the construction of a detached garage to be aligned with the back of the existing house. The house does have a variance for the setback of 4 feet. Staff finds that the character of the neighborhood is single family residential rather than multi family residential, and the Orchard Mesa Plan does call for this area to be rezoned to single family residential. If that were to occur, the setback in an RSF-8 zone is only 3 feet and the property owner would not have to request the variance. Staff finds that there is a hardship in this case due to improper zoning and recommends approval of the variance.

### **QUESTIONS**

Joseph Marie inquired if there had been any inquiries or comments from neighbors. Kristen replied there had not been any comments or inquiries received.

Joseph Marie then inquired whether there is a fence on the property. Kristen replied there is a chain link fence on the property. There is also an alley behind this property but the garage will not access the alley. Joseph Marie expressed some concern regarding potential storage of such things as bicycles between the garage and the fence line.

John Elmer agreed with Kristen regarding the zoning hardship and inquired if the property was grandfathered with regards to the zoning. Kristen replied the property appears to be somewhat grandfathered, but again pointed out that the property had received a variance previously in 1985 for the 4 foot setback.

### **PETITIONER'S PRESENTATION**

Representative for the Petitioner, Mr. Lloyd Davis, had no comments.

### **QUESTIONS**

There were no questions for the Petitioner.

### **PUBLIC COMMENTS**

There were no comments either for or against the proposal.

### **DISCUSSION**

John Elmer feels that the property is incorrectly zoned, which does create a hardship, and feels that the garage addition would be an improvement.

**MOTION (Jeff Driscoll): “Mr. Chairman, with regard to #VAR-95-46, request for a variance from rear yard setback in RMF-16 zone district from 10 feet to 4 feet for a 6 foot variance, I move we approve the variance as requested.”**

Lewis Hoffman seconded the motion.

A vote was called and the motion passed unanimously 5-0.

**#VAR-95-45 VARIANCE FROM REAR YARD SETBACK IN RSF-4 ZONE DISTRICT**  
**Request for approval of a variance from the required rear yard setback in an RSF-4 (Residential Single Family with a density not to exceed 4 units per acre) Zone District from the required 30 feet to 23 feet for a 7 foot variance.**  
**Petitioner: Gerald M. Miller**  
**Location: 3320 Northridge Drive**  
**City Staff: Kristen Ashbeck**

### **STAFF PRESENTATION**

Kristen outlined the proposal for the construction of a sunroom in the rear of the property. Kristen reminded the Board that this proposal had been previously denied by the Board in late 1994, but that the Petitioners were returning to request a variance under a new text amendment to the Zoning and Development Code which pertains to the criteria necessary to approve such a request. Staff still finds there is no hardship in this case. The Petitioner has previously stated that most of the homes in the area have an average setback of approximately 20 feet, however staff finds after reviewing aerial photographs for that area that only one other home in the area has a setback of less than 30 feet. Further research shows that this other home did receive a planning clearance which shows a setback of 30 feet, but that the structure was obviously not built according to the planning clearance as submitted. Staff analysis regarding this variance petition is the same as previously submitted, but that the Board can review this matter under the new criteria of the recent Zoning and Development Code text amendment. Kristen added that staff had not received any objections from adjacent property owners, and that if no objections are received today, staff would recommend approval.

### **QUESTIONS**

Joseph Marie inquired what staff would do if a building were found to not meet setbacks and not have a variance. Kristen replied that staff usually accepts the building “as is” but if further modifications were made, then the property owner would have to request a variance for the entire structure. Kristen also added that a property not in conformance and without a variance may have difficulty in obtaining financing. John Shaver added that in such a circumstance the law would support abatement of the offending part of the structure. Abatement would also be a remedy if a neighbor would complain about a structure constructed without a proper variance or without benefit of required permits.

## PETITIONER'S PRESENTATION

Gerald Miller, 3320 Northridge Drive, reiterated that he is only asking for a 7 foot variance and feels the variance should be granted.

## QUESTIONS

John Elmer inquired if the proposed sunroom would be erected over an existing porch or patio area. Mr. Miller replied that there is a redwood deck with a fiberglass roof over it. Mr. Miller feels that if the area were to be enclosed in a sunroom it would look better.

## PUBLIC COMMENTS

There were no comments either for or against the proposal.

## DISCUSSION

John Elmer pointed out that under the original strict criteria, the property does not meet the hardship criteria, but in light of the recent text amendment to the Zoning and Development Code, that the variance should be granted. Lewis Hoffman and William Putnam stated they supported granting the variance.

**MOTION (Joseph Marie): "Mr. Chairman, with regard to #VAR-95-45, request for a variance from rear yard setback in an RSF-4 zone district from 30 feet to 23 feet for a 7 foot variance for the addition as proposed, I move we approve the variance for the following reasons: The Board finds that although not all the criteria for the variance are met, this request would harm no one, would be of general benefit to the neighborhood, and that no one has come forward in the public hearing process to protest the granting of this variance."**

Lewis Hoffman seconded the motion.

A vote was called and the motion passed unanimously 5-0.

## V. DISCUSSION ITEMS

John Elmer noted that the City Council had made a note on the text amendment to the Zoning and Development Code regarding variance requests that it should be reviewed in one year to see how this amendment was being used.

## VI. ADJOURNMENT

The meeting was adjourned at 8:25 a.m.