

GRAND JUNCTION BOARD OF APPEALS MINUTES
December 13, 1995
8:00 a.m. - 8:15 a.m.

I. CALL TO ORDER

The regularly scheduled meeting of the Grand Junction Board of Appeals was called to order at 8:00 a.m. in the City/County Auditorium by Chairman John Elmer.

In attendance, representing the Board of Adjustment, were: John Elmer (Chairman), William Putnam, Joseph Marie and Lewis Hoffman. One position on the board is currently vacant.

Also present was Bill Nebeker (Senior Planner). Bobbie Paulson was present to record the minutes.

There were no citizens present other than the petitioners.

II. APPROVAL OF MINUTES

MOTION: (LEWIS HOFFMAN) “Mr. Chairman, I move that we approve the minutes of the October 11, 1995 meeting.”

William Putnam seconded the motion. The motion was approved by a vote of 4-0.

III. NEW BUSINESS

VAR-95-202 VARIANCE-REAR & FRONT YARD SETBACKS

Request to vary setbacks in an RSF-8 (Residential Single Family with a density not to exceed 8 units per acre) Zone District:

- 1. Rear yard setback requirement for Lot 7, Helena Subdivision (as proposed); and**
- 2. Front yard setback requirement for Lot 12, Helena Subdivision (as proposed).**

Petitioner: Michael Queally & Ben Hill

Location: 2776 1/2 UnawEEP Avenue

Representative: Michael Queally

City Staff: Bill Nebeker

STAFF PRESENTATION

Bill Nebeker gave an overview of the variance request. The petitioner is proposing to subdivide a five acre parcel into twenty lots. Currently, there are three structures on three of the proposed lots. Two structures are single family homes and the other is a duplex. The duplex was built in the County in 1950 when the area was zoned R-3 which allows multiple dwellings on one lot. Since then the property has been annexed in the City and has been assigned a City zoning of RSF-8 which makes the duplex a grandfathered legal non-conforming use. The lot where the duplex resides has been reconfigured changing the side to a rear property line which resulted in the duplex not meeting the current rear yard setback requirement thus creating the need for this variance.

Mr. Nebeker continued; at first it was thought that the duplex was 11' from the side property line. This setback met the existing 5' required side yard setback in the RSF-8 Zone. When Acoma Drive is dedicated, the side becomes a rear with a required setback of 15'. The setback no longer conforms and a variance is required.

Later it was discovered that the duplex was only 3' from the property line. Not only did the duplex not

meet the side or rear setback in RSF-8, it did not meet the side or rear setback in the old R-3 Zone in the County in 1950 either. The variance being sought is to leave the duplex at its current location which is 3' from the rear property line. This variance has nothing to do with the reconfiguring of the lot through the subdivision because the duplex was built within the setback to begin with. If this information had been known from the beginning this request would probably not be presented to the Board now. Mr. Nebeker stated that he did not feel that the City normally makes an effort to find structures that were built 45 years ago that do not meet current setback requirements and then require the property owners get a variance. He also added that John Shaver, Assistant City Attorney, recommended that the item is properly considered as a variance; if favorably considered approval will straighten out the situation so that it won't be a problem in the future. Mr. Nebeker added that a home on Lot 12 was originally located too close to the front property line, but the applicant redesigned the proposed road to conform with the setback, canceling the need for an additional variance.

Staff recommends approval of this variance with the condition that it applies to this structure only and if the duplex is demolished or removed from the site any new construction shall conform with the current setbacks.

QUESTIONS

John Elmer questioned Mr. Nebeker why he felt this would not need a variance?

Mr. Nebeker answered that it is questionable whether the duplex is actually a non-conforming or grandfathered use. If a structure was legally built in the county and met the code at that time and then was annexed into the City and doesn't meet the City's code it becomes a grandfathered legal non-conforming use. On the contrary, if a structure were built illegally it is an illegal use. Staff does not know the specific circumstances when the duplex was built 45 years ago and the County does not have a record of the building permit. It is possible that the property owner may have gotten a variance but there isn't a record of that. The duplex is 3' from the rear yard setback now and that is what is being considered today.

Lewis Hoffman asked if there are any boundary agreements that may have caused that western boundary to move?

Mr. Nebeker replied that he was not aware of any but it was a possibility.

PETITIONER

Michael Queally stated that he did not have anything to add to staff's presentation.

PUBLIC COMMENT

There was no public comment.

MOTION: (LEWIS HOFFMAN) Mr. Chairman I move that we approve the variance 95-202 with the condition that the variance for the rear yard setback applies to this duplex only and should the duplex ever be demolished or removed that any subsequent structures comply with the Code."

John Elmer clarified that the variance request is from a 15' to a 3' setback. The motion was seconded by Joseph Marie. A vote was called and the motion passed by a vote of 4-0.

The meeting was adjourned at 8:15 a.m.