

**GRAND JUNCTION BOARD OF APPEALS  
MINUTES  
MAY 8, 1996**

**I. CALL TO ORDER**

The regularly scheduled meeting of the Grand Junction Board of Appeals was called to order at 8:10 a.m. in the City/County Auditorium by Chairman John Elmer.

In attendance, representing the Board of Appeals, were: John Elmer (Chairman), Joseph Marie, Lewis Hoffman. William Putnam and Duane Butcher were absent.

Also in attendance were Kristen Ashbeck, Associate Planner; Michael Drollinger, Senior Planner; Kathy Portner, Planning Supervisor; Bill Nebeker, Senior Planner; and John Shaver, Assistant City Attorney.

The minutes were recorded by Bobbie Paulson and transcribed by Terri Troutner

There were five interested citizens present including petitioners.

**II. APPROVAL OF MINUTES**

**MOTION: (HOFFMAN)    Mr. Chairman, I move that we approve the minutes of the March 13 meeting.**

Mr. Marie seconded the motion. A vote was called and the motion passed unanimously by a vote of 3-0.

**VAR-96-87 VARIANCE--FRONT YARD SETBACK IN RMF-64 ZONE**

**Request for a variance from Section 4-2-9 of the *Zoning and Development Code* to allow an accessory structure on the front half of a parcel and to allow a front yard setback of less than 20 feet in an RMF-64 zone district.**

**Petitioner:   Marvin Maldonado**

**Location:     527 West Ouray**

**STAFF PRESENTATION**

Kristen Ashbeck pointed out the property location and indicated that the property fronted Crosby Road and had no frontage along West Ouray Avenue. The petitioner requested the variance to allow construction of a garage. While the garage could be relocated to another portion of lot 7 or one of the other adjacent lots owned by the petitioner, it would require removal of existing fencing, mature landscaping and an irrigation system. A ditch running along the top of a steep embankment and lying between the pavement edge of the road and the existing buildings on the parcel provided a buffer between the road and buildings. This accomplishes the same separation as a front yard setback. The petitioner has requested a 0' setback; however, staff prefers a minimum setback of three feet to allow for maintenance of the garage. The unique situation was viewed as a combination of the established nature of the lot, having access from the side, the barrier of the embankment and ditch, and existing landscaping. The variance would not adversely impact the neighborhood nor would it be detrimental to surrounding properties. Staff recommended approval of a three feet minimum setback.

**PETITIONER'S PRESENTATION**

The petitioner offered no further comment

**QUESTIONS**

Chairman Elmer asked the petitioner if he intended to tear down the three other existing sheds, to which the petitioner replied affirmatively.

Mr. Marie asked if the ditch was currently in use for irrigation, to which the petitioner again replied affirmatively.

### **PUBLIC COMMENTS**

There were no comments either for or against the request.

### **DISCUSSION**

Mr. Marie concurred that the variance would allow the petitioner to clean up the property.

Chairman Elmer asked if the demolition of the three sheds needed to be referenced in the motion. Ms. Ashbeck said that sheds would have to be torn down to allow for construction of the garage; thus, no additional reference should be needed in the motion.

**MOTION: (MARIE)    Mr. Chairman, on VAR-96-87, a variance request of 20 feet for an accessory structure in the front half of the parcel (we're looking at the front property line), I move that we approve the request for a maximum of 17 feet for the following reasons: to allow the front yard setback and three feet should be retained for maintenance purposes of the right-of-way. So I move that we have at least three feet setback for the accessory structure.@**

Mr. Hoffman seconded the motion. A vote was called and the motion passed unanimously by a vote of 3-0.

### **VAR-96-90 VARIANCE--SIGN HEIGHT REQUIREMENT**

**Request for a variance from Section 5-7-7.B.7.b., maximum sign height allowance on a two-lane road, from the allowed 25 feet to 40 feet, for a variance of 15 feet.**

**Petitioner:   Holly Lang, All Seasons Pools and Spas**

**Location:     2512 West Independent Avenue**

### **STAFF PRESENTATION**

Kristen Ashbeck said that the petitioner felt that the business was not visible from U.S. Hwy 6&50 due to the location and position of the building. Ms. Ashbeck added that 126 square feet of wall signage would currently be allowed; with the passage of a proposed text amendment, that allowance would increase to 236 square feet. She stated that a sign of this size would be just as visible from the highway as the requested pole sign, adding that the petitioner had not proven that a 25-foot freestanding sign would not be as visible as the 40-foot sign. Staff felt that no undue hardship had been demonstrated; that the signage variance would set a precedent for future requests; and that the request did not meet the criteria for a variance.

### **QUESTIONS**

Mr. Marie asked if the sign would be illuminated at night. Ms. Ashbeck assumed it would be.

### **PETITIONER\*S PRESENTATION**

Holly Lang, petitioner, said that placement of larger signage on the side of building still could not be seen by persons traveling from both directions on Hwy 6&50, that traffic coming from the mall into town would not see the signage until they were directly across from the business. She felt that this was resulting in the loss of business from persons who could not find the building.

Mr. Marie asked if the sign would be located on the lot, to which the petitioner replied affirmatively. Mr. Marie asked where the sign would be located. This was clarified in a brief review of the site plan.

### **PUBLIC COMMENTS**

There were no comments either for or against the request.

## **DISCUSSION**

Chairman Elmer asked staff where wall-mounted signs would be allowed. Ms. Ashbeck responded that they would be allowed on all sides of the building.

Mr. Hoffman asked about the possibility of a roof sign. Chairman Elmer directed the question to Planning Supervisor, Kathy Portner. She said that the *Code* specified only that there could be no visible braces or guy wires associated with a roof-mounted sign.

Chairman Elmer concurred that allowing the variance would open the door to a potential proliferation of taller signs along the corridor. He suggested that the businesses wanting the increased visibility should locate along highway frontage. He expressed opposition to increased sign clutter along the corridor.

Mr. Hoffman suggested allowing the sign itself but at a lesser height, the actual height to be determined by staff. Ms. Ashbeck reiterated that the petitioner had not proven that a 25-foot sign, which is allowed by *Code*, couldn't be visible from the highway; thus, she requested that, if approved, the Board indicate a specific height preference in its motion.

General discussion ensued over the signage allowance and subsequent placement of freestanding and wall signage. Mr. Hoffman requested clarification that, if the variance were denied, the petitioner would still have the option of constructing a 25-foot pole sign, to which Ms. Ashbeck concurred.

**MOTION: (HOFFMAN) A Mr. Chairman, on item VAR-96-90, a request for variance to allow a 40-foot freestanding sign on a parcel fronting a two-lane street located at 2512 West Independent Avenue, I move that we deny the variance based on staff recommendations.**

Mr. Marie seconded the motion. A vote was called and the motion passed unanimously by a vote of 3-0.

## **VAR-96-100 VARIANCE--MONUMENT MORTUARY SIGN**

**Request for approval of a variance from Section 5-7-7B.7.b. of the *Zoning and Development Code* to permit a monument-style freestanding sign, with an area not to exceed 40 square feet, near 12th Street for a parcel with no lot frontage on a public right-of-way.**

**Petitioner: Dale Bowen, Personal Properties**

**Location: 2403 N. 12th Street**

## **STAFF PRESENTATION**

Michael Drollinger referred to a series of maps submitted with the request. The submitted site plan showed the location of the proposed sign in relation to 12th Street. Mr. Drollinger stated that freestanding signage allowances were based on frontage along a public street; however, the parcel has none. The access easement to 12th Street was 24 feet wide and if it were real property, it would permit a freestanding sign with a maximum size of 36 feet. The petitioner proposed a one-sided illuminated sign facing 12th Street not to exceed 40 square feet in area and 6 feet in height. The sign would not be out of character with signs from other businesses in the subject area.

Staff did not feel that the sign would adversely impact the neighborhood, that the lack of frontage presented a hardship for the petitioner's business, and that the request complied with the criteria for granting a variance. Staff recommended approval subject to the following condition: The freestanding monument-type sign shall not exceed 40 square feet in area and six feet in height and be located on the North 12th Street frontage only.

## **QUESTIONS**

Mr. Marie asked for clarification that access to the property existed along 12th Street as well as from 11th Street, to which Mr. Drollinger concurred.

Chairman Elmer asked if the sign would be located in an easement. Mr. Drollinger replied that the sign would be located on the property itself not in the easement.

Chairman Elmer stated that if the property were to be subdivided today, street frontage would have been required, negating the need for a variance. Mr. Drollinger concurred, adding that the *Code* did not state a minimum frontage requirement for this business zone.

### **PETITIONER\*S PRESENTATION**

Richard Fryor, representing the petitioner, emphasized the subtle coloration and proposed placement of the sign.

Mr. Marie asked if access would be from 12th Street only, or if the petitioner intended to bring through the easement from 11th Street and Wellington. Mr. Fryor indicated that both accesses would be made available.

### **PUBLIC COMMENTS**

There were no comments either for or against the proposal.

### **DISCUSSION**

Mr. Marie thought the coloration for the proposed sign was aesthetically pleasing and liked the second access off of 11th Street.

Chairman Elmer acknowledged the unique conditions inherent to the property which justified the request.

**MOTION: (HOFFMAN) aMr. Chairman, on item VAR-96-100, a variance request from the calculation of maximum sign allowance based on the linear front foot of property on a public street right-of-way in a business zone at 2403 N. 12th Street, I move that we approve the request with condition 1. in this staff report dated May 1, 1996 and that being landlocked is a unique hardship.@**

Mr. Marie seconded the motion. A vote was called and the motion passed unanimously by a vote of 3-0.

### **VAR-96-78(2) VARIANCE--PARKING**

**Request for a variance from Section 5-5-1.E. to allow required parking in the front yard setback for a multi-family structure.**

**Petitioner: Darryl Hayden**

**Location: North and west of Franklin and Juniper Streets**

### **STAFF PRESENTATION**

Bill Nebeker provided an overview of the request for which the Preliminary Plat had been heard at the May 7 Planning Commission hearing. The petitioner proposed construction of eight patio homes on eight lots. The Preliminary Plat also included a property line adjustment, dividing off 18 feet from the north side of the subject property to give the property to the north to accommodate four single story townhouses. Moving the patio homes back would still allow for the two space per dwelling unit parking requirement and negate the need for the variance; however, the rear yard setback would be reduced from 28 to 16 feet which is four feet less than the 20-foot requirement. If the homes were moved back, the lot line adjustment could not be accomplished and the single story townhomes in the other development could not be built. At only 964 square feet each, to reduce the size of the patio homes further may be economically unfeasible. The patio homes would provide the equivalent linear feet in driveway width and only one driveway opening more than with four single family homes.

While staff felt that while there was merit to allowing the variance, the recommendation was for denial, based on the hardship being self-inflicted. If approval were to be granted, staff recommended the following condition: The

landscaping plan for the patio homes shall include the placement of landscape boulders and shrubs in the landscape area immediately adjacent to the sidewalk to assist in the prevention of cars using the landscape area to park on.

### QUESTIONS

Mr. Marie asked if staff would view the carports any differently if enclosed on three sides, to which Mr. Nebeker replied that carports were still viewed as structures, so there would be no difference in treatment.

### PETITIONER\*S PRESENTATION

Darryl Hayden, petitioner, began by saying that the Preliminary Plat had been approved by the Planning Commission the previous evening. Commissioners, he maintained, must have realized that if approved and if he were to meet the parking requirement, parking would have to be on the setback. And with approval of the lot line adjustment, there must have been some acknowledgment that the structures could not be moved back without encroaching into the rear yard setback. Thus, he found it odd that the Plat should be recommended for approval but the parking variance be recommended for denial. He felt that the project and subsequent variance request was consistent with other single family residences in the neighborhood.

### QUESTIONS

Mr. Hoffman asked if the petitioner had any problem complying with staff\*s condition, if approved. The petitioner did not take issue with the requirement, but added that if denied, he would most likely come back before the Planning Commission with a proposal that would be much more dense.

Mr. Nebeker added that the petitioner could possibly provide for a double-wide driveway for each of the units. This would make the entire front yard a driveway with no landscaping area at all. With both vehicles side by side, they would be out of the front yard setback; however, this was not a desirable alternative. Therefore, approval could be based on the exceptional design of the project and the petitioner\*s desire to be more compatible with the neighborhood.

### PUBLIC COMMENTS

There were no comments either for or against the request.

### DISCUSSION

Mr. Marie agreed that there was too much being proposed for the site constraints; however, if approved, he agreed with staff\*s recommendation of the landscaping.

Chairman Elmer clarified that review of the Plat was different than review of the parking variance; thus, he did not see any conflict with approving the Plat while recommending denial of the variance. Chairman Elmer felt that the project was wrong for the zone. He added that the petitioner created his own hardship by virtue of the project\*s design and not by any physical or topographic constraint of the property itself.

Mr. Marie asked for clarification of parking requirements for a multi-family structure in an RMF-64 zone, which was provided.

**MOTION: (JOSEPH MARIE) A Mr. Chairman, I move that we recommend approval even though it is a self-inflicted hardship and it\*s in a single family neighborhood. I would further recommend approval with the condition that the landscaping plan as requested by staff be adhered to, to prevent the idea of a parking lot scheme running the length of the property and adjacent to the sidewalk to assist in the prevention of cars using the landscaped area to park on.@**

Mr. Hoffman seconded the motion. A vote was called and the motion passed by a vote of 2-1, with Chairman Elmer opposing.

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