

GRAND JUNCTION BOARD OF APPEALS MINUTES
8:03 a.m. to 8:47 a.m.
October 9, 1996

I. CALL TO ORDER

The regularly scheduled meeting of the Grand Junction Board of Appeals was called to order at 8:03 a.m. in the City/County Auditorium by Chairman John Elmer.

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

Also in attendance were Kristen Ashbeck, Senior Planner; and John Shaver, Assistant City Attorney.

There were no citizens present other than the petitioner and his representative.

Bobbie Paulson transcribed the minutes

II. APPROVAL OF MINUTES

MOTION: (William Putnam) Mr. Chairman, I move that we approve the minutes from the September 11, 1996 meeting as presented.

Lewis Hoffman seconded the motion. A vote was called, and the motion passed by a vote of 4-0.

III. PUBLIC HEARING ITEMS

1. VAR-96-204 VARIANCE

Request for a variance from the required rear yard setback of 25' in an RSF-5 (Residential Single Family with a density not to exceed five units per acres) 18' for a variance of 7'.

Petitioner: Robert Bray, Bray & Company

Representative: Mike Best, LANDesign, LLC

Location: 839 East Yucatan Court

2. VAR-96-205 VARIANCE

Request for a variance from the required rear yard setback of 25' in an RSF-5 (Residential Single Family with a density not to exceed five unites per acre) 15' for a variance of 10'.

Petitioner: Robert Bray, Bray & Company

Representative: Mike Best, LANDesign, LLC

Location: 841 East Yucatan Court

3. VAR-96-206 VARIANCE

Request for a variance from the required rear yard setback of 25' in an RSF-5 (Residential Single Family with a density not to exceed five units per acre) 15' for a variance of 10'.

Petitioner: Robert Bray, Bray & Company

Representative: Mike Best, LANDesign, LLC

Location: 844 East Yucatan Court

The public hearing was opened for all three proposals simultaneously based on their similarity.

Mr. Putnam announced that he is a member of the same social club that the petitioner's father belongs to; however, he added that this would not influence his decision.

STAFF PRESENTATION

Kristen Ashbeck stated that all three parcels (839, 841 and 844 East Yucatan Court) are located within Filing 7 of Paradise Hills and are presently vacant. The petitioner is proposing to construct new single family residences on each of the single family lots and is requesting a 7-foot variance to the rear yard setback for 839 East Yucatan Court and a 10-foot variance to the rear yard setback for 841 and 844 East Yucatan Court. The 839 and 841 East Yucatan Court parcels are not standard rectangular lots, but rather they are somewhat trapezoid in shape and have a 15-foot wide easement across the back (west side) of the property which is well within their 25-foot rear yard setback requirement. Ms. Ashbeck pointed out that there are other lots in the neighborhood with odd shapes that have been developed without the need for a variance (i.e., Lot 2, Block 2 on East Yucatan Court) adding that the size of the building envelope of these lots is not unlike others in the surrounding neighborhood.

Ms. Ashbeck continued; in addition the petitioner requests a 10-foot variance to the rear yard setback for 844 East Yucatan. The parcel at 844 East Yucatan Court is located on a corner which requires a 20-foot front yard setback from both streets. In some cases this could be considered a hardship; however, there are other corner lots within this subdivision that have existing homes on smaller lots that did not require a variance.

In all three cases staff finds that there is no unique situation and that the hardship is self-inflicted due to the design of the proposed residences. There appears to be other options of either reconfiguring the design of the homes or making them two-story. The petitioner has not provided a footprint for 841 East Yucatan Court for the proposed construction so it is unknown whether a variance is the only option available. In summary, staff recommends denial of all three variance requests.

PETITIONER'S PRESENTATION

Robert Bray, 1015 N. 7th Street, stated he agreed with staff that building smaller homes on all three lots is an option; however, his concern is a smaller home would not be in character with the remainder of the homes in Filing 7 of Paradise Hills. Filing 7 was designed while it was in the County using County zoning which was R-2. When Filing 7 was annexed into the City, the City asked that the setbacks be changed from a 20-foot rear yard setback (as required in the County) to a 25-foot rear yard setback. Also, in 1994 in the initial phase homes were built at approximately 1670 square feet in size. At the request of several builders and residents who built homes in this filing, the covenants were changed from a required minimum square footage of 1300 square feet to 1500 square feet. Currently, the average size of 29 homes in the neighborhood is almost 1900 square feet.

Mr. Bray stated that lots 43 and 44 are adjacent to private open space which is owned by the homeowners' association. A home has not been designed for Lot 44 at this time. Lot 44 has two utility easements that run across both sides of the property making the building envelope very small. Mr. Bray added that the lot Ms. Ashbeck previously referred to (Lot 2, Block 2 on East Yucatan Court) that is configured similar to this lot is approximately 40 percent larger. There is private open space containing a drainage ditch located along the rear property line of Lot 43. Mr. Bray stated that on all three lots the request is to vary the rear yard setback not front or side yard which he felt would be less intrusive to other residences. He stated that he plans to build a 1,862 square foot ranch style home on Lot 43 adding that the majority of homes in the neighborhood are also ranchers. Mr. Bray stated that the proposal is to construct a 1666 square foot home on Lot 13. The home will be built at an angle which necessitates the need for a variance. Mr. Bray stated that he spoke to the property owner to the north, Mr. & Mrs. McWilliams, who have agreed to the footprint that is proposed. Mr. Bray felt that there is no hardship, but the variance would allow homes to be built that would be of the same character of the other homes in the neighborhood by being average size and style. Mr. Bray added that if approved, these variance requests would harm no one and would be a general benefit to the neighborhood or community.

QUESTIONS

John Elmer asked Mr. Bray if he would agree to a maximum allowed footprint for each lot specifically the amounts specified in each of the applications. Mr. Bray replied affirmatively.

Ms. Ashbeck pointed out that the setbacks did change when Filing 7 was annexed into the City. The rear yard setback was 20 feet in the County and was changed to 25 feet in the City. In addition, the County required a 10-foot side yard setback whereas the City is only 5 feet.

PUBLIC COMMENT

There was no public comment.

DISCUSSION

John Shaver suggested to staff and the Board that the lot numbers and their corresponding street addresses be clarified since the petitioner made reference to lot numbers and the applications and staff have referred to the street addresses. Mr. Shaver mentioned that the Code allows consideration of variance requests if the variance would harm no one and would be a general benefit to the neighborhood or community; Chapter 10 of the Zoning and Development Code contains the following paragraph *“In considering variance requests to the bulk requirements of the zone districts, if all of the criteria listed in this subsection are not met, yet the Board finds that the variance request would harm no one and would be a general benefit to the neighborhood or community, a variance may be permitted.”*

MOTION: (William Putnam) Mr. Chairman, in regards to item VAR-96-204 also identified as Lot 43 the request for a rear yard variance of 7 feet to allow a setback of 18 feet for the residence 839 East Yucatan Court, I move to approve the request because there would be no harm to anyone and it would be a general benefit to the neighborhood.

The motion was seconded by Lewis Hoffman. Mr. Elmer asked Mr. Putnam if he wanted to add a stipulation that the plan follow the footprint as presented with a maximum of 69 square feet of encroachment into the required setback. Mr. Putnam agreed. A vote was called, and the amended motion passed by a vote of 3-1 with Duane Butcher opposing.

MOTION: (William Putnam) Mr. Chairman, in regards to item VAR-96-205 request for a rear yard variance to allow a setback of 15 feet for 841 East Yucatan Court also known as lot 44, I move that we approve the request for the reason that there would be no harm to anyone and it would be a general benefit to the subdivision.

The motion was seconded by Lewis Hoffman. A vote was called, and the motion passed by a vote of 4-0.

MOTION: (William Putnam) Mr. Chairman, on item VAR-96-206 a request for a rear yard variance of 10 feet to allow a setback of 15 feet for a new residence at 844 East Yucatan Court otherwise known as Lot 13, I move that we approve the request for the reason that it will harm no one and it will be a general benefit to the neighborhood and furthermore that we have been provided evidence that the neighbor most affected has agreed to the request and allow a maximum encroachment of 110 square feet from the building footprint into the required setback as submitted by the petitioner.

The motion was seconded by Lewis Hoffman. A vote was called, and the motion passed by a vote of 3-1 with Duane Butcher opposing.

The meeting was adjourned at 8:47 a.m.