

**GRAND JUNCTION BOARD OF APPEALS
JULY 19, 2000 MINUTES
12:00 P.M. to 12:20 P.M.**

Chairman John Elmer called the regularly scheduled Board of Appeals hearing to order at 12:00 P.M. The meeting was held at City Hall, 515 28 Road.

The Board of Appeals members in attendance were John Elmer (Chairman), William Putnam and Vickie Boutilier. J. Creighton Bricker was absent. One position is vacant.

In attendance, representing the Community Development Department, was Kathy Portner (Acting Community Development Director/Planning Manager).

Also present was John Shaver (Asst. City Attorney).

There were two citizens present during the course of the meeting.

The meeting was recorded by Senta Costello and transcribed by Terri Troutner.

I. APPROVAL OF MINUTES

Available for consideration were the minutes of the May 10, 2000 meeting.

MOTION: (PUTNAM) “Mr. Chairman, I move for approval of the minutes of the May 10, 2000 meeting as presented.”

Ms. Boutilier seconded the motion. A vote was called and the motion passed by a vote of 2-0, with Ms. Boutilier abstaining.

II. ANNOUNCEMENTS, PRESENTATIONS AND/OR VISITORS

There were no announcements, presentations and/or visitors.

III. FULL HEARING

VAR-1999-155 VARIANCE—ENSTROM’S FRONT YARD SETBACK

A request for an extension of the approval to vary Sections 5-1-7.K.2 of the Zoning and Development Code to allow a 45-foot from centerline of right-of-way setback where 50 feet from centerline of right-of-way is required.

Petitioners: En-Sim Partnership-Doug Simons

Location: 200 South 7th Street

PETITIONER’S PRESENTATION

Doug Simons, petitioner, briefly recalled the original variance request where a 5-foot setback had been granted from the property line along Ute Avenue’s frontage. The originally scheduled expansion of Enstrom’s Candies had been delayed as a result of recent property purchases. He said that the business needed either an extension of the variance previously granted or approval granting the variance in perpetuity. He noted that portions of the easement were already granted in perpetuity, but some areas had time restrictions affixed to their approvals. This seemed inconsistent, and granting the variance

along Ute Avenue in perpetuity seemed to make the most sense. Since he now owned the entire block, sufficient parking area is available to accommodate the expansion.

STAFF'S PRESENTATION

Kathy Portner said that the time of the original variance request, timing had not even been discussed. Section 10-1-1.G of the old Code established the timeline of one year following approval. The timeline, she said, was similarly addressed in the new Code. Reading from the motion made granting the original approval, no timeline had been mentioned; thus, the Board's intent was unclear. With no outstanding concerns, staff recommended approval of the extension request, provided that additional right-of-way is not needed for Ute Avenue in the future and such setback does not create a safety problem.

QUESTIONS

Mr. Putnam said that once the expanded building was constructed within the easement, the variance was essentially "granted in perpetuity" since it would be unreasonable to rescind it at that point. Mr. Shaver said that a timeline was established to encourage completions of projects undertaken. It was within the Board's purview to establish whatever timeline it deemed appropriate or to rescind the timeline altogether.

Mr. Simons expressed discomfort with leaving the timeline up in the air, since a decision not to grant the variance would directly and adversely affect expansion plans.

Chairman Elmer felt that an extended timeline might be more appropriate. He said that if the expansion did not occur and the recently acquired lots were sold, the variance may not be justified for a different type of business.

Ms. Portner suggested framing the motion to specify the variance as being applicable only for expansion of the existing building. This drew support from other Board members.

Mr. Vanderwood, representing the applicant, asked for clarification of the B-2 zone district setback criteria, which was given. When asked if the request fell within old Code or new Code parameters, Ms. Portner said that expansion plans would be considered under the new Code; the current setback variance request fell within old Code parameters.

PUBLIC COMMENTS

There were no public comments either for or against the request.

DISCUSSION

Ms. Boutilier favored granting a longer timeframe.

Chairman Elmer suggested granting the variance "...in perpetuity for the purposes proposed by the petitioner." Mr. Shaver supported the proposed verbiage noting that the purpose was described in the initial submittal.

Ms. Portner recommended that any approval given include "for any addition purposed for the existing building"

Chairman Elmer said that variances generally were thought of "in perpetuity" and as running with the land. Mr. Putnam concurred.

MOTION: (PUTNAM) “Mr. Chairman, on item VAR-1999-155 I move for approval of the request for a variance of the front yard setback on the north side of the 700 block of Ute Avenue to be granted for the proposed addition to the current building on the presently-owned site in accordance with staff’s recommendation.”

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

With no further business, the hearing was adjourned at 12:20 P.M.