

**GRAND JUNCTION BOARD OF APPEALS  
NOVEMBER 8, 2000 MINUTES  
12:02 p.m. to 12:50 p.m.**

The regularly scheduled Board of Appeals meeting was called to order at 12:02 P.M. by Chairman John Elmer. The meeting was held in the City Hall hearing room.

In attendance, representing the Board of Appeals, were John Elmer (Chairman), William Putnam, Vicki Boutilier, and Mark Williams. Creighton Bricker was absent.

In attendance, representing the Community Development Department, was Pat Cecil (Development Services Supervisor). Also present was John Shaver (Asst. City Attorney).

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

The meeting was recorded by Bobbie Paulson and transcribed by Terri Troutner.

**I. APPROVAL OF MINUTES**

Available for consideration were the minutes of the July 19, 2000 meeting. Mr. Putnam asked that the motion for item VAR-1999-155 be amended to add the following verbiage at the end of the last sentence "...and for the reasons cited in the staff report."

**MOTION: (PUTNAM) "I move we approve the minutes as submitted and as modified."**

Ms. Boutilier seconded the motion. A vote was called and the motion passed by a vote of 3-0, with Mr. Williams abstaining.

**II. ANNOUNCEMENTS, PRESENTATIONS AND/OR VISITORS**

Mr. Williams was welcomed as the newest member of the Grand Junction Board of Appeals.

**III. FULL HEARING**

**VAR-2000-201 VARIANCE—FOR SETBACKS**

**A request for approval to vary the minimum lot size and setbacks in order to adjust lot lines to place three existing non-conforming houses on separate lots.**

**Petitioners: Mark and Debra Carlen**

**Location: 140 and 146 Ouray Avenue and 517 – 2<sup>nd</sup> Street**

**Representative: Terry Arnold**

**STAFF'S PRESENTATION**

Pat Cecil reviewed the request as outlined in the November 8, 2000 Staff Report. He said that approval of the variance and subsequent replat would create three non-conforming lots. Having determined that the request failed to meet Growth Plan recommendations and failed to comply with Section 2.16.C.4 of the Zoning and Development Code, staff recommended denial.

**QUESTIONS**

Chairman Elmer asked for further elaboration of the Site Plan. Which lots were included in the request? Mr. Cecil replied that the request included just Lots 13-16.

Chairman Elmer asked staff to explain the term “non-conforming use.” A brief discussion ensued over the ramifications of approving the variance request.

Chairman Elmer asked staff if the petitioners would be able to meet all other R-O Zone requirements such as parking, buffering, landscaping, etc. Mr. Cecil replied that there would be no way that requirements for commercial uses could be satisfied. He added that even for the existing residential uses, there was insufficient area for parking since the R-O zone disallowed any parking within the front yard setback. If lot owners wanted to change the existing residential use, additional variance approvals would be required.

Mr. Putnam said that petitioner responses seemed to suggest that five lots were involved in the request. Mr. Cecil verified that only four lots (representing two parcel numbers) were affected. Mr. Shaver said that the parcel number combination did not change the legal status of the four separate lots.

Jean Ealey, representing the petitioner, noted where the house to the north, along with its parking area, encroached upon all four of the lots.

#### **PETITIONERS' PRESENTATION**

Terry Arnold thought that approval of the variance and the replatting of four separate lots would make utility placement/access and parking much easier. She felt that the hardship was with the uniqueness of the property. The problem would persist, even if someone else were to buy the lots. The majority of structures in the area, she said, were comprised of ill-kempt rentals. She was attempting to improve the property.

#### **QUESTIONS**

Mr. Williams asked Ms. Arnold if she had already purchased the property. Ms. Arnold said that she currently had the property under contract. Mark and Debra Carlen were the property's current owners.

Chairman Elmer acknowledged Ms. Arnold's submission of a number of photographic exhibits depicting various views of existing buildings along with a corresponding subdivision plat proposal. Ms. Arnold identified each lot using submitted photographs.

Chairman Elmer said that given the limited lot sizes, Ms. Arnold would be unable to comply with the R-O zone's bulk standards if her intent was to change to commercial or office uses. Ms. Arnold said that, at present, her intent was to improve the existing units and use them as rentals.

Mr. Williams asked for clarification on parking for 140 Ouray Avenue. Ms. Arnold said that parking was presently on the right side of the building. She noted an additional parking area large enough for three cars behind another of the existing buildings (noted on map). None of the existing residents, she said, were forced to park on the street.

#### **PUBLIC COMMENTS**

There were no comments either for or against the request.

#### **PETITIONERS' REBUTTAL**

Ms. Ealey said that when she'd initially considered the property, she hadn't realized it had so many non-conforming issues. She contended that many of those issues were created by the new Zoning and Development Code. Ms. Arnold, she said, was trying to simplify the use and improve the property for

possible resale and/or betterment of the neighborhood. People had long been parking on the street. Only after adoption of the new Code had doing so become a problem.

Chairman Elmer said that setbacks in the R-O zone were more lenient than those of an RMF-64 zone. Thus, the new R-O zoning had been an improvement as far as setbacks were concerned. He also clarified the intent of the Downtown Parking District.

Ms. Arnold reiterated that anyone else wanting to purchase the properties would be in the same predicament. All four lots, she said, must be purchased together.

Ms. Ealey said that the property's appraiser could find no other property in the valley to compare with this one. The property's current non-conformity devalued the property, which she felt was yet another hardship.

### **DISCUSSION**

Ms. Boutilier conjectured that the one house (noted) would never be able to meet parking requirements if replatted as a separate lot. She expressed concern over the creation of additional non-conforming lots if the variance/replat were approved and over the inability of property owners to rebuild non-conforming homes if those there presently burned to the ground. In most cases, property owners were not even aware of non-conformance limitations until such a disaster occurred.

Chairman Elmer agreed that he'd never seen a property configured quite like this one; however, that by itself did not satisfy the Code's hardship requirement. The creation of three non-conforming lots would contradict the intent of the Code, which was to bring lots into conformance. Approval of the variance request would only exacerbate the current problem.

Mr. Putnam concurred and said that the Board could not base its decision on a petitioner's financial interests.

Chairman Elmer said that, typically, variance requests involved the adjustment of a single setback. With the current request, there were at least nine setbacks that would be affected.

Mr. Williams recalled a past conversation with an orchard owner and suggested that perhaps the value of the property should be based on the land value less the cost of removing the encroaching home. The current situation, he said, was more of an economic issue, not one of hardship.

**MOTION: (PUTNAM) "Mr. Chairman, on Variance 2000-201, I move that we find the project inconsistent with the Growth Plan and that the findings required by Section 2.16.C.4 of the Zoning and Development Code cannot be made for approval of the variance."**

Ms. Boutilier seconded the motion. A vote was called and the motion passed unanimously by a vote of 4-0.

With no further business, the hearing was adjourned at 12:50 P.M.