

**GRAND JUNCTION BOARD OF APPEALS
SEPTEMBER 11, 2002 MINUTES
12:03 P.M. to 12:55 P.M.**

The regularly scheduled Board of Appeals meeting was called to order at 12:03 P.M. by Chairman Paul Dibble. The public hearing was held in the City Hall Hearing Room.

In attendance, representing the Board of Appeals, were Paul Dibble (Chairman), Mark Williams, Travis Cox and Clay Tufly. John Paulson was absent.

In attendance, representing the Community Development Department, were Kathy Portner (Planning Manager), Pat Cecil (Development Services Supervisor) and Ronnie Edwards (Associate Planner).

John Shaver, Assistant City Attorney, was also present.

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

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

I. APPROVAL OF MINUTES

Available for consideration were the minutes from the August 14, 2002 meeting.

MOTION: (Mr. Williams) "I move that we approve the minutes of August 14, 2002."

Mr. Tufly seconded the motion. A vote was called and the motion passed unanimously by a vote of 3-0. Travis Cox abstained because he did not participate in the August 14 hearing.

II. ANNOUNCEMENTS, PRESENTATIONS AND/OR VISITORS

There were no announcements, presentations and/or visitors.

III. FULL HEARING

VAR-2002-169 VARIANCE – MONUMENT WELL SERVICE

Request approval for the issuance of a variance to allow the 5' setback on the east property line to be changed back to the 0' setback requirement when the existing building was built in 1980.

Petitioner: Douglas Reed
Location: 777 Valley Court
Representative: Mike Oney, AIA
City Staff: Ronnie Edwards, Associate Planner

PETITIONER'S PRESENTATION

Michael Oney, (115 North 5th Street) representative for Monument Well Service stated that the Monument Well Service building was constructed under the County zoning code in 1980. Mr. Oney stated that in 1992 the property was annexed in to the City and the side yard setbacks were set at five feet instead of the zero setback allowed under County code. At the time the building was constructed there was 20 feet on the north side. Because of the five foot setback requirement, the area for expansion is 15 feet, which does not allow enough room for the addition that Mr. Reed feels he needs to efficiently operate his business.

Mr. Oney addressed the criteria the Board considers when a variance request is reviewed. Mr. Oney said that the hardship unique to the property is that the owner did not realize the zoning was going to be changed when the property was annexed. Mr. Oney explained that the rear half of the Monument Oil parcel is currently used to store large oil field equipment and machinery most of which the owner hoped to move indoors with the proposed shop expansion, however, the five foot side yard setback requirement does not allow enough room to expand and house all the tools and equipment and allow maneuverability of a forklift.

Regarding the special privilege criteria Mr. Oney said that other buildings along that street have complied with the zoning code that was in effect at the time they were constructed. He stated that one of the neighboring buildings is located on its property line.

Mr. Oney addressed the literal interpretation, reasonable use and minimum necessary criteria by saying that it is the owner's intent to landscape and stucco the front of the building in addition to the proposed side expansion. The site is currently used to store large oil field equipment and machinery and truck circulation. Mr. Oney explained that a detached structure would take up too much space and would adversely impact the company's ability to store its own inventory on the property. A set back reduction from 5 feet to 0 feet is the minimum needed to be able to utilize a forklift inside the addition to move tools to and from the shop area. Mr. Oney pointed out that a listing of what will be stored inside and what will be stored outside the building is included with the submittal packet. Mr. Oney, on a PowerPoint presentation, pointed to pictures of some of the equipment that is stored on the lot. Mr. Oney stated that the owner looked at alternative locations for the addition (on the site) but none would leave enough room to store the needed equipment and allow for circulation.

Mr. Oney addressed the compatibility criteria stating that the neighboring business are zoned industrial and have outdoor, heavy equipment and storage.

In summary, Mr. Oney stated, he wasn't sure how to address the conformance criteria other than to say that he felt the variance request conforms to criteria outlined in the Code. He added that the addition would not have any adverse impacts on the neighbors and the variance does not confer a special privilege to the owner.

QUESTIONS

Mr. Tuffly asked if the building next door was within the required five foot setback? Mr. Reed replied affirmatively.

Mr. Tuffly asked for clarification on why 15 feet was not enough room for the addition?

Mr. Reed, 887 25 Road, replied that the purpose of the addition is to move the equipment inside the shop. The equipment would be stored on racks on both walls. The extra five feet allows sufficient room for a forklift to turn around. Mr. Reed stated that he spoke with the owner of the adjacent parcel about purchasing a piece of their property. He said that he could not afford to buy it for what they are asking.

Mr. Shaver asked if the aerial photo included in the application depicted current conditions and whether there is development on property to the North? Mr. Reed responded that the photo is correct and the property is not developed.

Chairman Dibble asked Mr. Reed if the property's storage capacity was "maxed out?" Mr. Reed replied that if he were to shut down production he would not physically be able to fit all of his equipment into this storage yard.

Chairman Dibble stated that it appeared that the business has outgrown this parcel and the owner should consider looking for a piece of ground that is more suitable.

Mr. Reed explained that he has looked at other properties but unfortunately if he had to move he would not be keeping his business in Mesa County; he would probably move to the Parachute area. He stated that he preferred keeping the shop here as all his employees currently live in Grand Junction.

Chairman Dibble asked the owner what alternatives he has considered for the addition. Mr. Reed replied that he looked at several other options but none of them would be a viable situation adding that the proposed addition makes a whole lot more sense.

Clay Tufly asked if the owners to the north of this property were aware of this variance request? Mr. Reed replied that he was not sure but that he had talked to other neighbors and they did not have problem with the addition.

STAFF PRESENTATION

Ronnie Edwards presented a PowerPoint presentation which contained the following pictures of the site. Ms. Edwards stated that the subject property is the site of Monument Well Service. The building on this site was constructed in 1980 under Mesa County's jurisdiction. At that time, it was zoned commercial which allowed a 0' side yard setback. The property was annexed into the City in 1992 and zoned Light Industrial (I-1) which was consistent with the existing uses in the area. The Zoning and Development Code in effect at the time of annexation did not state a specific side yard setback in the bulk requirements. With the adoption of the new Zoning and Development Code, the side yard setback was established at 5 feet from the property line adjacent to other industrially zoned lands and 10 feet if abutting residential uses or zones. All expansions and new construction within the I-1 zone district need to comply with the existing standards. Ms. Edwards added that the applicant is requesting a variance because of the existing configuration of the parcel and the need for storage and vehicle circulation.

Ms. Edwards reviewed the variance criteria and summarized that the applicant had not met criteria "a" through "e" and "g". He did, however meet criteria "f". Ms. Edwards stated that the recommendation is denial of the variance to reduce the side yard setback. Ms. Edwards added that as with all hearing items a notification of this variance request was sent to surrounding landowners within 500 feet of the subject parcel.

Chairman Dibble asked if staff received any public comments. Ms. Edwards replied no.

QUESTIONS

Travis Cox asked if all the properties along Valley Court had been annexed into the City? Ms. Edward replied affirmatively.

Chairman Dibble asked staff if they had explored alternatives with the applicant? Ms. Edwards replied that staff and the owner, Doug Reed, discussed alternatives at the general meeting; as Mr. Reed indicated today he feels that none of them would work.

Mr. Tufly asked if the Board should consider financial hardship when making their decision? Mr. Shaver replied that Colorado law does not recognize financial hardship as being appropriate because most any endeavor is likely to have some financial hardship. Mr. Shaver went on to say that the criterion that addresses a hardship unique to the property is usually viewed as a topographic or physical constraint or features that are unique to the property.

PUBLIC COMMENT

There was no public comment.

REBUTTAL

Mr. Oney reiterated that in looking at the alternatives, none met the needs of the business. He explained that there isn't enough room to build the addition any other place because of the size and nature of the tools that need to be stored in the addition.

QUESTIONS

Chairman Dibble asked if the addition would eliminate the need for the storage (sheds, trailers, containers) on the site? Mr. Reed replied affirmatively.

BOARD DISCUSSION

The Board discussed the criteria and agreed that the variance request did not meet all of the criteria.

MOTION: (Mr. Williams) “Mr. Chairman, on variance VAR-2002-169, I move that we not approve the variance request to reduce the side yard setback from 5’ to 0’ to allow expansion of an existing building finding that the proposed variance is not consistent with the Growth Plan and Sections 3.2.A. and 2.16.C.4 of the Zoning and Development Code.”

Travis Cox seconded the motion. A vote was called and the motion passed by a vote of 4-0.

With no further business to discuss, the meeting was adjourned at 12:55 P.M.