

**GRAND JUNCTION BOARD OF APPEALS
AUGUST 11, 2004 MINUTES
12:00 p.m. to 12:35 p.m.**

The regularly scheduled Board of Appeals meeting was called to order at 12:00 p.m. by Chairman Paul Dibble. The public hearing was held in the City Hall Auditorium.

In attendance, representing the Board of Appeals, were Paul Dibble (Chairman), Travis Cox, Thomas Lowrey and Mark Williams. One position is currently vacant.

In attendance, representing the Community Development Department, were Bob Blanchard (Community Development Director) and Scott Peterson (Associate Planner).

John Shaver, City Attorney, was also present.

The minutes were recorded by Nishi Aragon and transcribed by Terri Troutner.

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

I. APPROVAL OF MINUTES

Available for consideration were the minutes of the May 12, 2004 public meeting.

MOTION: (Mr. Lowrey) "I move we approve the minutes."

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

II. ANNOUNCEMENTS, PRESENTATIONS AND/OR VISITORS

There were no announcements, presentations and/or visitors.

III. FULL HEARING

VAR-2004-106 VARIANCE--VILLAGE PARK SUBDIVISION

A request for approval to vary the required rear yard setback in a PD (Planned Development) zone district to correct a building construction and planning clearance error.

Petitioner: Dan McKee, Sonshine II Construction and Development, LLC

Location: 2808 Village Park Drive

PETITIONER'S PRESENTATION

The petitioner offered no initial testimony.

STAFF'S PRESENTATION

Scott Peterson gave a PowerPoint presentation containing the followings slides: 1) site location map; 2) aerial photo map; 3) Future Land Use Map; 4) Existing City and County Zoning Map; 5) a copy of the planning clearance; and 6) a site plan.

Mr. Peterson reviewed the request as outlined in the August 11, 2004 staff report. Mr. Peterson said that the planning clearance had allowed the petitioner a 10-foot setback, but the PD zone required a 20-foot setback. Responsibility for the error belonged to City staff. An approved variance would be required from both the City and the subdivision's architectural control committee.

A letter had been received from an adjacent neighbor, Luson Choea (614 Hamlet Street, Grand Junction); however, expressed concerns weren't relevant to the variance request.

Having found that the request met variance criteria, approval was recommended.

QUESTIONS

Chairman Dibble asked if any other homes had been constructed to face Village Park Drive. Mr. McKee said that construction of block 5 had been completed.

Mr. Shaver asked staff to go back to the planning clearance and provide clarification on whether the "20-foot from property line" notation had been written in at the time of issuance. Mr. Peterson replied affirmatively, although he wasn't sure why the 10-foot notation had been denoted as the "official" setback.

Mr. Shaver asked if the 10-foot notation could have been referencing the irrigation easement setback, with the 20-foot notation referencing the property line setback. Mr. Peterson was unsure because he had not been the one to issue the planning clearance.

Chairman Dibble asked for confirmation of the petitioner's request for a 17.5-foot setback where there was in fact only 16.8 feet. Mr. Peterson said that according to the improvement survey, that was correct. When asked by Chairman Dibble if there would be additional variance requests based upon the same error, Mr. Peterson said that he was unaware of any additional discrepancies.

Mr. Cox asked if the current property owner was the original buyer. Mr. Peterson said that he presumed so, since the house had been completed over the winter of 2003. Mr. Cox wondered why the error hadn't been detected at the time of loan origination. Mr. McKee said that the discrepancy had been detected when they'd built another of the same model home two houses down. The loan had been approved based upon the contents of the planning clearance.

PUBLIC COMMENTS

There were no comments either for or against the request.

DISCUSSION

No additional discussion was offered.

MOTION: (Mr. Lowrey) "Mr. Chairman, on item VAR-2004-106, I move that we approve the variance request to reduce the rear yard setback for a principal structure located on lot 17, block 5, Village Park Subdivision, finding the request to be consistent with the Growth Plan and Section 2.16.C.4 of the Zoning and Development Code."

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

VAR-2004-134 VARIANCE--BRIMNER PATIO COVER

A request for approval to vary the rear yard setback for a principal structure in order to construct a patio cover.

Petitioner: Donald Brimmer

Location: 2470 Cimarron Drive

PETITIONER'S PRESENTATION

Don Brimmer, petitioner, said that at the time of construction the rear yard setback for his home was 15 feet. In the year 2000 the rear yard setback became 25 feet. While he'd always intended to construct a patio cover over the existing concrete slab, it hadn't been until recently that he'd discovered the changed rear yard setback. He'd received staff's support for the variance and hoped the Board would decide in his favor.

STAFF'S PRESENTATION

Scott Peterson gave a PowerPoint presentation containing the following slides: 1) site location map; 2) aerial photo map; 3) Future Land Use Map; 4) Existing City and County Zoning Map; 5) a site plan; and 6) a portion of the originally adopted North Valley Subdivision plat reflecting PR 4.1 zoning.

Mr. Peterson said that when the subdivision was originally platted and as outlined in the subdivision's covenants, the rear yard setback had been designated 15 feet for principal structures. Several homes in the subdivision had constructed patio covers during the initial 1994-1995 timeframe; however, the petitioner had deferred construction of his patio cover until now. Following adoption of the 2000 Zoning and Development Code, the area had undergone a zoning change from its original PR to an RMF-5 zone district. The RMF-5 zone district had a rear yard setback of 25 feet. The petitioner's proposed setback would be 18 feet.

Staff did not feel that approval of the variance would conflict with Growth Plan recommendations. The patio cover would have been permitted without need for a variance if it had been constructed at the time the house was originally built in 1995. Having determined that variance criteria had been met, staff recommended approval to reduce the rear yard setback of the subject property from 25 feet to 18 feet. Both a letter and phone call expressing support for the variance had been received from adjacent property owners.

QUESTIONS

Mr. Cox asked if other homes in the subdivision had already constructed patio covers, to which Mr. Peterson replied affirmatively. Mr. Cox followed up by asking if staff foresaw any problems with the Board granting the petitioner's request. He wondered if approval should be conditioned upon the petitioner's getting a survey, since it seemed that most people measured from fenceline and there was no evidence to prove that the fence had been constructed on the property line. Mr. Shaver recommended against the condition since it would reflect something other than what the petitioner was requesting.

PUBLIC COMMENTS

There were no comments either for or against the request.

DISCUSSION

Chairman Dibble thought of the request as "quasi-grandfathering." He expressed support for the request.

MOTION: (Mr. Cox) "Mr. Chairman, on item VAR-2004-134, I move that we approve the variance request to reduce the rear yard setback from 25 feet to 18 feet for a principal structure located on lot 2, block 2, North Valley Subdivision, finding the request to be consistent with the Growth Plan and Section 2.16.C.4 of the Zoning and Development Code."

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

With no further business to discuss, the meeting was adjourned at 12:35 p.m.