

**GRAND JUNCTION BOARD OF APPEALS
OCTOBER 12, 2005 MINUTES
12:05 p.m. to 1:00 p.m.**

The regularly scheduled Board of Appeals meeting was called to order at 12:05 p.m. by Chairman Paul Dibble. The public hearing was held in the City Hall Auditorium.

In attendance, representing the Board of Appeals, were Dr. Paul Dibble (Chairman), Mark Williams and Travis Cox. Reginald Wall and Patrick Carlow were absent.

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

Jamie Kreiling, Assistant City Attorney, was also present.

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

There were no citizens other than the petitioner present during the course of the meeting.

I. APPROVAL OF MINUTES

Available for consideration were the minutes of the August 10, 2005 public meeting.

MOTION: (Mr. Williams) "I move we accept [the minutes of August 10, 2005 as presented]."

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

II. ANNOUNCEMENTS, PRESENTATIONS AND/OR VISITORS

There were no announcements, presentations and/or visitors.

III. FULL HEARING

Chairman Dibble asked the petitioner if she wanted to postpone the hearing of her request until such time as additional board members could be present. Ms. Crawford opted to have her request heard by the three members present.

VAR-2005-134 VARIANCE--CRAWFORD SETBACK VARIANCE (Rehearing)

A request for a rehearing of a variance to a rear yard setback in an RSF-1 (Residential Single-Family, 1 unit/acre) zoning district to construct a building addition connecting the existing detached garage with the existing single-family home.

Petitioners: Susan and Greg Crawford

Location: 687 26 Road

STAFF'S PRESENTATION

Scott Peterson briefly synopsized the history of the item, saying that the request had originally been heard and denied by the Board of Appeals in July 2005. The petitioners were asking for a reduction in the rear yard setback from the required 30 feet to 11 feet, to accommodate a building addition that would connect to an existing detached garage. Photo slides of the home, garage, guest house, and site plan were presented. If the variance were granted, the two currently conforming structures would become a single non-conforming structure. Mr. Peterson said that other options had been presented during the first public hearing, options which the petitioner had reviewed and considered and which were briefly reiterated to

board members. Mr. Peterson presented a revised map, which the petitioner had procured from Mesa County denoting the locations of the property's septic tank and related lines. Staff maintained that other options were available. One such option included constructing the addition eastward towards the front of the existing home (location noted). Doing so would avoid conflicts with the existing septic system, maintain conformance with existing setbacks, and achieve the petitioners' overall goal of increased living space; however, some interior remodeling of the existing home would be required.

Mr. Peterson read the variance review criteria into the record. Staff's original position that the request did not meet variance criteria had not changed. Thus, denial of the rehearing request was recommended.

QUESTIONS

Chairman Dibble asked about constructing the addition to the west, parallel to the rear of the detached garage (location noted). Mr. Peterson agreed that construction in that area might be possible; however, it would require relocation of an existing septic line.

Mr. Williams asked if the western boundary represented the rear property line, to which Mr. Peterson affirmed. Mr. Williams asked if the garage and addition would have conformed had they been constructed to the east and subject to side yard setbacks. Mr. Peterson said that side yard setbacks were 15 feet. If the garage and addition were constructed to the same 11 feet from the property line, they would still extend into the required side yard setback by 4 feet.

Chairman Dibble asked about the size of the existing home. Mr. Peterson was unsure and suggested directing the question to the petitioners.

PETITIONERS' PRESENTATION

Susan Crawford, petitioner, thanked the Board for allowing her to present her request for rehearing. She maintained that strict adherence to the Code in this instance would create an undue hardship as a result of unique site characteristics applicable to her property. As a nurse manager for St. Mary's Hospital, she had to be mindful of her response time in getting from her home to the hospital. She didn't feel that moving was an option since no other home similar to the one she had was available as close or closer to the hospital. She said that the home had been constructed in 1905 prior to the application of land use codes. The property had been annexed into the City in 2001. She and her husband had purchased the home in late 2001 and had begun upgrading at that time. Only after completion of garage construction did they realize that two separate setbacks applied to the garage. She did not feel that she should be penalized for not knowing that two separate setbacks applied to that structure. Construction to the east or north was impossible given the location of existing septic lines to the east, and the sloping topography and the presence of both an irrigation ditch and delivery lines to the north. Constructing the addition on top of the existing home was also not an option due to the age and condition of an adobe facade. Because the facade was likely to crumble under construction, that option would also require a complete demolition and reconstruction of that portion of her existing home. Constructing the addition to the south was also impossible due to the home's placement near an existing access easement.

Ms. Crawford said that there was no neighborhood objection, and that granting the variance would not negatively impact the area in any way. None of the review agencies had expressed any objection. Denial of the variance would deny her and her husband of the same rights enjoyed by other property owners in the area. The variance would accommodate a reasonable use of the property and would not change the use from other than a single-family residence. The proposed location for the addition was the most reasonable alternative, a conclusion acknowledged by Mr. Peterson upon his visit to the home. Connecting the existing home to the existing garage would not change the footprint of either structure in any way. Even the Building Department, she said, contended that it didn't make sense to construct the addition with so narrow a separation between the two structures. Ms. Crawford said that the request was really just about closing off a 1-inch gap between the two structures. She felt that approval of the

variance request would not jeopardize the health, safety or welfare of the public or her neighbors, and she urged reconsideration. In closing, she referenced several photo slides of her property to emphasize the points made in her presentation.

QUESTIONS

Chairman Dibble asked the petitioner what she'd meant by her reference to the garage having two setbacks. Ms. Crawford said that if detached, the garage had a setback of 10 feet; once attached to a principal structure, that setback became 30 feet.

Chairman Dibble asked the petitioner what she viewed as hardship. Ms. Crawford said that a portion of her property was used by everyone else in the neighborhood for access. Also, the topography of her property and the presence of an irrigation ditch created unique site conditions. She felt that there were no other practical construction alternatives available.

Chairman Dibble asked why the 1-inch separation was such a problem. Ms. Crawford said that she'd been told that a variety of problems could occur within that 1-inch separation (e.g., water build-up, mold, etc.). The separation would also prevent her from installing a door between the addition and her garage.

Chairman Dibble asked how many square feet the existing home had at present. Ms. Crawford replied that it was currently 1,657 square feet in size.

Chairman Dibble asked about the area to the north. Ms. Crawford said that the Health Department prohibited building in that area because it encroached upon setbacks in place for the existing septic system.

Mr. Williams noted that the existing garage could be demolished, and a new garage with a second story addition could be constructed in its place.

Ms. Crawford said she couldn't understand why the two structures couldn't be attached since the City was allowing construction to within an inch of each other. Chairman Dibble said that the difference was in whether the structures would remain conforming or become non-conforming.

Mr. Williams said that as a nurse, Ms. Crawford had to work within the rules set forth by the hospital. The same applied to the City of Grand Junction. Since the Board had to accept the facts as presented, he asked the petition what exceptional conditions applied solely to her property that didn't apply to other properties in the area. Ms. Crawford felt that where her house was situated was unique as was when it had been built and the fact that it had been subject either to different code requirements or none at all. Mr. Williams remarked that other options were available; just none that were economically feasible or convenient to the petitioner. With regard to the special privilege criterion, if the variance were granted, what would prevent others from coming in and asking for the same exception? Ms. Crawford felt that her situation and property were unique.

Mr. Williams asked how denial of the variance would deny the petitioner of the rights enjoyed by others in her area. Ms. Crawford said that all other properties in the area had attached garages as did most new homes in her zoning district.

Chairman Dibble observed that the petitioner had had the option of building an attached garage at the time the detached garage was constructed but had opted against it. The Board was now being asked to reflect on that earlier decision and make a variance based upon it. As well, the setbacks applicable to the property had been in place at the time the petitioner had built the garage in its present location. The repercussions of the petitioners' first decision had in fact created the present hardship.

Mr. Williams asked the petitioner if a reasonable use of the property could be derived without the variance, to which Ms. Crawford concurred. She maintained, however, that the proposed location for the addition represented the most logical choice for it since the garage was already there.

Mr. Williams asked staff to confirm that there were viable alternatives available from the City's perspective, to which Mr. Peterson affirmed.

DISCUSSION

Mr. Cox felt that testimony given confirmed non-compliance with variance criteria.

Mr. Williams acknowledged that the Board had to follow the rules set forth by the City.

Chairman Dibble said that while variances were considered on an individual basis, the Codes were applicable to all properties within a given zoning district. The Board of Appeals could not set precedents for violating City codes. To change a conforming structure into a non-conforming structure represented a poor option. While there may be difficulties with the other options from the petitioner's perspective, the Board had to consider how the request complied with established variance criteria.

Mr. Cox noted that other families were in homes that they'd outgrown, and many of them could not afford to build on and were forced to move. The decision had been made beforehand by the petitioners not to move and to build a detached rather than attached garage.

MOTION: (Mr. Cox) "Mr. Chairman, on item VAR-2005-134, I move that we approve the variance request to reduce the rear yard setback for a principal structure in an RSF-1 zoning district, finding the request to be consistent with the Growth Plan and section 2.15.C.4 of the Zoning and Development Code."

Mr. Williams seconded the motion. A vote was called and the motion failed unanimously by a vote of 0-3.

With no further business to discuss, the meeting was adjourned at 1:00 p.m.