

**GRAND JUNCTION BOARD OF APPEALS
MARCH 8, 2006 MINUTES
12:05 p.m. to 12:45 p.m.**

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

In attendance, representing the Board of Appeals, were Mark Williams (Vice-Chairman), Travis Cox, Patrick Carlow and Ken Sublett. Paul Dibble was absent.

In attendance, representing the Community Development Department, was Kathy Portner (Assistant Community Development Director).

Jamie Kreiling, Assistant City Attorney, was also present.

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

There were no interested citizens present during the course of the meeting.

I. APPROVAL OF MINUTES

Available for consideration were the minutes of the February 8, 2006 public meeting.

MOTION: (Mr. Cox) "I move that we approve the minutes for February 8."

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

II. ANNOUNCEMENTS, PRESENTATIONS AND/OR VISITORS

There were no announcements, presentations and/or visitors.

III. FULL HEARING

VAR-2006-038 VARIANCE--JONES SOLARIUM VARIANCE

A variance to the rear yard setback in an RSF-4 (Residential Single-Family, 4 units/acre) zone district in order to construct a solarium.

Petitioner: Donna Jones

Location: 3025 Milburn Drive

STAFF'S PRESENTATION

Kathy Portner gave a PowerPoint presentation, which contained the following slides: 1) site location map; 2) aerial photo map; 3) Future Land Use Map; 4) Existing City and County Zoning Map; and 5) plot plan. The petitioner was requesting that the rear yard setback be varied from 25 feet to 18 feet, to allow for construction of a solarium. She pointed out that the rear yard setback had been established with the southern property line. The home had been built 30 feet back from the rear yard property line. A concrete slab had been poured for a patio, which extended into the rear yard setback. The petitioner now wanted to enclose the concrete slab.

The petitioner had contended that another homeowner in the subdivision had built a structure within his rear yard setback; however, the structure in question was a detached garage. Detached accessory structures were subject to different setbacks; the structure in question did in fact comply with applicable setback requirements.

Ms. Portner read variance criteria into the record. Staff concluded that there were no unique circumstances associated with the property and that other variance criteria had not been met. Other options were available to the petitioner for shading the patio (e.g., construction of an awning). Also, a Minor Deviation was an option provided by the Code. Approval would allow for another 10% encroachment into a rear or side yard setback. In the petitioner's case, approval would result in only a 7 1/2-foot encroachment. Having determined that the request conflicted with Code section 3.1.E and because it did not meet criteria A-E and G of section 2.16.C.4, denial was recommended.

QUESTIONS

Mr. Cox asked if the Minor Deviation process were administrative, to which Ms. Portner responded affirmatively.

Mr. Carlow asked for clarification on the total depth allowed if the Minor Deviation were granted. Ms. Portner reiterated that if approved, it would allow for a depth of 7 1/2 feet. Mr. Carlow observed that approval of the Minor Deviation would result in a difference of only 4 1/2 feet from what the petitioner requested.

Jamie Kreiling said that a Minor Deviation had not yet been requested by the petitioner. Even if requested, approval was not assured. She added that Minor Deviation criteria were different from variance criteria.

PETITIONER'S PRESENTATION

Donna Jones presented photos of the site and home from various angles, an aerial photo of the subdivision, and photos of a home showing an extension similar to what she was requesting. Referencing the aerial photo, she noted where a detached structure had been constructed within the rear yard setback at 3030 Flamecrest Drive

Mr. Cox reiterated that different setback requirements applied to detached accessory structures.

Ms. Jones continued by saying that the patio's southern exposure collected heat in the summer. She didn't feel that her request would convey a special privilege given the presence of the detached garage referenced previously. While permitted to construct an 8-foot awning, that would leave 4 feet of her patio uncovered. The shorter awning would not block all of the sun during the summer but would result in blocking the needed sun in the winter. Further, it would diminish available lighting to the center of her home. Under the Code's current regulations, she said that she could construct an open carport to the rear patio. She noted that even with a Minor Deviation, she wasn't so sure that a 7 1/2-foot room 16 feet long would even be cost-effective to build; the available inside area wouldn't be sufficiently usable. The solarium as proposed would give her a more reasonable year-round use of the area. Ms. Jones said that the width of the room was not as critical as the depth. A 24-foot slab width would take the solarium to the end of the established patio pavement. If restricted to a 16-foot width, this would result in the room ending in the middle of a window; some further adjustment would be necessary. She felt that her property was compatible with other surrounding properties.

Referencing previously submitted photos of her home, Ms. Jones noted that her western neighbor's home was situated about 4 feet lower than her property. Since she didn't think they had much of a view of the Grand Mesa, she surmised that her solarium wouldn't create any view impacts. Ms. Jones referenced the photo of a home showing an extension similar to the one she was requesting.

QUESTIONS

Mr. Carlow asked for clarification on the width of the existing slab; was it 20 or 24 feet wide? Ms. Jones said that her current slab width was 20 feet; however, the slab ended directly under a window. An

additional 4 feet (24 feet total) would allow her to extend the slab (and requested solarium) beyond the window.

Mr. Sublett asked how old the house was. Ms. Jones said that the house had been built in 2001, so it was approximately 5 years old. Mr. Sublett wondered if the petitioner had considered planting some fast growing trees that would not only provide shade in the summer but also provide a kind of micro-climate to help regulate temperatures. There were varieties of trees that reached maturity in only 3-4 years. Ms. Jones said that while she had not considered that option, she was not sure she wanted to assume the maintenance associated with tree plantings. Ms. Sublett also suggested the erection of a shade structure; that option would at least address the petitioner's summer issues.

Mr. Carlow said that if the petitioner were to receive a Minor Deviation, this would result in 4 1/2 feet of "worthless" concrete.

Vice-Chairman Williams asked from whence the setback was measured. Ms. Portner said that setbacks were measured from the walls of a home. When asked about the criteria applicable to various coverings, Ms. Portner explained that the supports for any type of covering would have to meet setback requirements. An additional overhang of 3 feet was permitted within the setback. Since the house had been constructed 30 feet from the rear yard property line, the petitioner could erect supports up to 5 feet from the house. With the additional overhang of 3 feet, this would give the petitioner an 8-foot-deep awning/covering without the need for a variance. Approval of a Minor Deviation would allow the petitioner to move the supports out to 7 1/2 feet; the additional 3 feet of overhang would result in a 10 1/2-foot awning/covering for the patio. The criteria were different for an enclosed patio.

Mr. Cox remarked that if the structure were detached from the home, the petitioner could construct it to within 5 feet of the rear property line. Ms. Portner said that that option had been offered to the petitioner; however, it would not be practical if the petitioner's goal was to have the structure attached to the home.

Vice-Chairman Williams wondered how the rear yard had been determined for the petitioner's corner lot. Ms. Portner briefly explained the process for determining rear yard areas for corner lots and said that the rear yard area had been established at the time the petitioner's home was built, and had been based on the home's orientation on the property.

Vice-Chairman Williams asked staff to explain the purpose of rear yard setbacks, which was provided.

Ms. Kreiling added that the reason for allowing accessory structures to be located closer to rear yard property lines was that they were smaller than principal structures. Ms. Portner confirmed that they were both smaller in size and also unoccupied. The privacy of adjacent properties would still be preserved.

PUBLIC COMMENTS

There were no citizens present to offer comment.

PETITIONER'S REBUTTAL

Ms. Jones said that given her two frontages, she proposed putting a door on her solarium to "make that a front door." If so, she maintained that that entrance would open onto a side yard setback. Ms. Portner said that on a corner lot, every lot had to have at least one rear setback but could have one or two side yard setbacks. At the time the petitioner's home had been built, the configuration of the home established the location of two front yard setbacks, one side yard setback and one rear yard setback. Installing a door in the solarium to face another direction didn't alter its being situated within a rear yard area.

DISCUSSION

Mr. Sublett said that on his visit to the site, it appeared there was rock mulch near the southwest corner of the lot, which appeared to be an alternate parking area. There was a visual starkness to the subdivision due to the absence of trees. He felt that tree plantings would go far in addressing the summer heating problem. With regard to compatibility, he felt that the solarium would make the home stand out as being significantly different than other homes in the neighborhood. The problem was one experienced by a number of people whose patios were situated with southern exposures. While he empathized with the petitioner's situation, he felt that the best solutions were the ones previously mentioned. Since the request did not meet criteria, he felt he could not support it.

Mr. Cox noted that of the eight established variance criteria, only one criterion had been met. He felt the hardship to be self-inflicted, and that approval would convey a special privilege. Given that the garage on Flamecrest Drive was detached, it really didn't apply to the current situation. Construction of a detached structure may be the petitioner's best alternative. He also felt he could not support the request as submitted.

Mr. Carlow felt that he could support the request, given that there was so little area in question.

Vice-Chairman Williams suggested that there were a number of alternatives available that would meet the petitioner's needs and increase the home's value. He suggested that the petitioner use the City's regulations to her advantage to come up with a more creative solution.

MOTION: (Mr. Cox) "Mr. Chairman, on VAR-2006-038, a request to vary the rear yard setback from 25 feet to 18 feet for a solarium, I move we approve the request, finding it meets the criteria of section 2.16.C.4 of the Zoning and Development Code."

Mr. Carlow seconded the motion. A vote was called and the motion failed by a vote of 1-3, with Vice-Chairman Williams and Messrs. Cox and Sublett opposing.

With no further business to discuss, the meeting was adjourned at 12:45 p.m.