



# CITY OF GRAND JUNCTION PETITION FOR VARIANCE

DATE RECEIVED: \_\_\_\_\_

FILE NO. \_\_\_\_\_

RECEIVED BY: \_\_\_\_\_

RECEIPT NO. \_\_\_\_\_

PROPERTY OWNER: Michael Overholser & Ben Hill

MAILING ADDRESS: 1209 N VIN ST GJ CO 81501

PHONE: (HOME) \_\_\_\_\_ (WORK) 241-7653

I (We), the undersigned, hereby petition for a variance on the property located at:

ADDRESS: \_\_\_\_\_

TAX SCHEDULE #: 2945-244-00-199 ZONE CLASSIFICATION: RSF-8

1. Section(s) of the City of Grand Junction Zoning and Development Code which are requested to be varied:

4-2-6C.5

(REDUCE REAR YARD SETBACK TO 3' (15' REQUIRED) FOR EXISTING STRUCTURE ON LOT 7)

I (WE) HEREBY ACKNOWLEDGE THAT WE HAVE FAMILIARIZED OURSELVES WITH THE RULES AND REGULATIONS WITH RESPECT TO THE PREPARATION OF THIS SUBMITTAL, THAT THE FOREGOING INFORMATION IS TRUE AND COMPLETE TO THE BEST OF OUR KNOWLEDGE, AND THAT WE ASSUME RESPONSIBILITY TO MONITOR THE STATUS OF THE APPLICATION. WE RECOGNIZE THAT WE, OURSELVES, OR OUR REPRESENTATIVE MUST BE PRESENT AT ALL HEARINGS. IN THE EVENT THAT THE PETITIONER IS NOT REPRESENTED, THE ITEM WILL BE DROPPED FROM THE AGENDA, AND AN ADDITIONAL FEE CHARGED TO COVER RESCHEDULING EXPENSES BEFORE IT CAN AGAIN BE PLACED ON THE AGENDA.

Michael B. Overholser  
Signature of Property Owner

\_\_\_\_\_  
Signature of Joint Property Owner (if applicable)

11.13.95  
Date

\_\_\_\_\_  
Date

Robert Conway  
315 Acoma Dr.  
Grand Junction, CO  
81503

Jerry Wolfe  
2771 Cheyenne Dr.  
Grand Junction, CO  
81503

Warren Knight  
2778.5 Grant Ct.  
Grand Junction, CO  
81503

Daniel O'Conner  
317 Acoma Dr.  
Grand Junction, CO  
81503

Johnny Silver  
2772.5 Grant Ct.  
Grand Junction, CO  
81503

David La Pan  
2779.5 Grant Ct.  
Grand Junction, CO  
81503

David Golden  
319 Acoma Dr.  
Grand Junction, CO  
81503

Alfonso Martinez  
2773.5 Grant Ct.  
Grand Junction, CO  
81503

Edward Maes  
2779 Grant Ct.  
Grand Junction, CO  
81503

Dennis Park  
322 Acoma Dr.  
Grand Junction, CO  
81503

Mark Reed  
2774 Grant Ct.  
Grand Junction, CO  
81503

Richard Tope  
2780 Grant Ct.  
Grand Junction, CO  
81503

Geraldine Messall  
319 Apache Dr.  
Grand Junction, CO  
81503

Janice Hilken  
2774.5 Grant Ct.  
Grand Junction, CO  
81503

Mary Jo Montano  
2780.5 Grant Ct.  
Grand Junction, CO  
81503

H.E. Kistler  
322 Apache Dr.  
Grand Junction, CO  
81503

Mathew Wakefield  
2775.5 Grant Ct.  
Grand Junction, CO  
81503

Dale Hunt  
2781 Grant Ct.  
Grand Junction, CO  
81503

Ray Poarch  
2767 C Rd.  
Grand Junction, CO  
81503

Daniel Dunn  
2775 Grant Ct.  
Grand Junction, CO  
81503

A Reid  
2782 Grant Ct.  
Grand Junction, CO  
81503

Paul Quam  
2770 C Rd.  
Grand Junction, CO  
81503

Louis Rhodes  
2776 Grant Ct.  
Grand Junction, CO  
81503

Micheal Oney  
2782.5 Grant Ct.  
Grand Junction, CO  
81503

Dow Hough  
2780 C Rd.  
Grand Junction, CO  
81503

Terence Mcevoy  
2777 Grant Ct.  
Grand Junction, CO  
81503

Edward Junak  
2783.5 Grant Ct.  
Grand Junction, CO  
81503

Rudy Herrera  
2786 C Rd.  
Grand Junction, CO  
81503

Shirley Adams  
2778 Grant Ct.  
Grand Junction, CO  
81503

Kevin Johnson  
2783 Grant Ct.  
Grand Junction, CO  
81503

Teddy Garcia  
2784 Grant Ct  
Grand Junction, CO 81503

W.H.Lizer & Assoc.  
576 25 Rd. Unit 8  
Grand Junction CO 81505

Robert Griffin  
2785 Grant Ct  
Grand Junction, CO 81503

Roy Quinton  
2779 Laguna  
Grand Junction, CO 81503

HILL & HOLMES  
1204 N. 7th  
Grand Junction CO 81501

Vincent Holzer  
2780 Laguna  
Grand Junction, CO 81503

Maxine Baylock  
2781 Laguna  
Grand Junction, CO 81503

W Vines  
2782 Laguna  
Grand Junction, CO 81503

Donald Lagree  
2783 Laguna  
Grand Junction, CO 81503

Raymond Scheetz  
2784 Laguna  
Grand Junction, CO 81503

Raymond Erickson  
2785 Laguna  
Grand Junction, CO 81503

Lucy Walsh  
2787 Laguna  
Grand Junction, CO 81503

Ed Reed  
317 Taos Dr  
Grand Junction, CO 81503



AGOMA

LAGUNA

THIS  
LOCATION

MINN

UNAWEEP

LYNNWOOD



# REVIEW COMMENTS

Page 1 of 1

FILE #VAR-95-202

TITLE HEADING: Variance

LOCATION: 2776/2780 UnawEEP Avenue

PETITIONER: Mike Queally & Ben Hill

PETITIONER'S ADDRESS/TELEPHONE: 1204 N 7th Street  
Grand Junction, CO 81501  
241-7653

PETITIONER'S REPRESENTATIVE: Wayne Lizer

STAFF REPRESENTATIVE: Bill Nebeker

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**NOTE: THE PETITIONER IS REQUIRED TO SUBMIT FOUR (4) COPIES OF WRITTEN RESPONSE AND REVISED DRAWINGS ADDRESSING ALL REVIEW COMMENTS .**

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**CITY DEVELOPMENT ENGINEER**

**11/23/95**

**Jody Kliska**

**244-1447**

1. The intersection design with UnawEEP Avenue does not appear to meet the design criteria as stated in Table 7, page 26 of the Transportation Engineering Design Standards as far as the minimum approach tangent or the minimum centerline radius. This will have an effect on the other existing house by redesigning to meet the minimum City Standards. Minimum City Standards are required.

**CITY ATTORNEY**

**11/24/95**

**Dan Wilson**

**244-1505**

1. Evidence of title is insufficient - a note from an owner isn't sufficient. Need a copy of a deed (not a deed of trust); what is Ben Hill's interest; no contract to purchase was attached.
2. Applicant's will have a difficult time, based on what was submitted to me, showing the variance isn't a classic case of self induced hardship.

**COMMUNITY DEVELOPMENT DEPARTMENT**

**11/29/95**

**Bill Nebeker**

**244-1447**

1. Acoma Drive north of UnawEEP should be realigned per City standard drawings and reviewed by Jody Kliska, to assure that a variance is not needed for the home on Lot 12 also. This should be done ASAP. City standard drawings are attached. If there is any question regarding them contact Jody Kliska at 244-1591.
2. Is there any record of when the duplex was built? According to my records the prior zoning when the parcel was in the County, was R-3. R-3 allows a duplex on the same lot as a single family dwelling but the minimum side yard setback for all principal buildings located on the front half of the lot is 12'. How was the duplex built with only a 3' setback?

Helena Subdivision - Variance Request

1. A variance is required when a new structure is planned and cannot maintain required setbacks to existing property lines.
2. A variance is also required when a parcel with a structure is being subdivided and the existing structures do not meet setbacks from proposed property lines **OR** the lot is reconfigured and a conforming setback becomes a nonconforming setback.
3. This variance request was first thought to be the latter. Helena Subdivision submitted for review. 3 existing homes located on the 2 lots being subdivided. (2 of 3 homes will meet setbacks.) 1 structure, a duplex, did not. The duplex was constructed in 1950 when this area was zoned R-3 which permitted multiple dwellings on one lot.

At first the duplex was thought to have a 11' setback from side property line (from scaled drawing off plat). This setback met the existing 5' required side yard setback in the RSF-8 zone. When Acoma is dedicated, the side becomes a rear with a required setback of 15'. The setback no longer conforms and a variance is required.

4. Then more information was submitted showing that the duplex was actually only 3' from property line. R-3 zoning requires 12' side yard setback. This changes the nature of the variance. Setback was illegal in the County and is illegal nonconforming in the City. The setback can only be legal nonconforming in the City if it was legal conforming in the County.

The structure did not ever meet the county setbacks and it does not and will not ever meet the city setbacks. **NOW THE VARIANCE REQUEST HAS NOTHING TO DO WITH THE SUBDIVISION OF THIS PROPERTY.** Whether its a side or a rear, it still doesn't meet the setback.

Variance is simply a variance from the standard setback for a structure built too close to the property line 45 years ago. The City is not in the practice of seeking out illegal setbacks on structures built years ago when zoning regulations were not followed as consistently as they are today; especially those built in the county and later annexed into the city. These nonconformities exist throughout the city.

Fortunately the duplex was constructed with a 3' setback from the property line which is required by the building code. Granting the variance will allow the 45 year old duplex to remain. No conflict with the public interest has been identified. *The use is legal nonconforming but cannot be replaced if it is torn down or destroyed.*

Staff recommends approval with the condition that the variance applies to this structure only. If the duplex is demolished or removed from the site, any new construction shall conform with current setbacks.



RESPONSE TO REVIEW COMMENTS

RE: Variance for Helena Subdivision

City Development Engineer  
Jody Kliska

Copies attached with the changes agreed to in your meeting with Wayne Lizer to meet City standards.

City Attorney  
Dan Wilson

I have attached a copy of the Warranty Deed for 2776 UnawEEP Ave. and I have attached a rough draft drawing of the proposed Helena Sub. as it sits today, titled Exhibit "A", in hopes of clarifying the situation. 2776 UnawEEP Ave. is owned by me, 2780 UnawEEP Ave. is owned by my neighbor Dow Hough. Ben Hill is my partner on this development project. Ben Hill and myself have a contract to purchase approximately 2 acres from Dow Hough to build this project. I have highlighted this area on the attached Exhibit "A". This contract is not scheduled to close unless an approval of Helena Subdivision is attained.

Community Development Department  
Bill Nebeker

The entrance has been changed to meet with City requirements and lot 12 will not need a variance.

The existing duplex was built in 1950.

A handwritten signature in black ink, appearing to read 'Michael B. Queally', with a long horizontal line extending to the right.

Thank You,  
Michael Queally

PP 95-199

STAFF REVIEW

FILE: VAR-95-202  
 DATE: December 13, 1995  
 STAFF: Bill Nebeker  
 REQUEST: Variance requested to reduce rear yard setback from 15' to 3' for an existing duplex  
 LOCATION: 2776 Unawep Road  
 Proposed Helena Subdivision located at the north side of Unawep, at Lynwood Street (extended)  
 Tax Parcel #2945-244-00-199  
 APPLICANT: Michael B. Queally

EXECUTIVE SUMMARY: The applicant is requesting a variance to reduce the rear yard setback for an existing duplex. Staff has not determined if the setback is legal nonconforming or simply illegal. The variance is recommended for approval to legitimize the existing structure's setback and allow the subdivision to proceed. The subdivision is also recommended for approval.

EXISTING LAND USE: Duplex & single family dwelling  
 PROPOSED LAND USE: same  
 SURROUNDING LAND USE: vacant  
 EXISTING ZONING: RSF-8  
 SURROUNDING ZONING: RSF-8

ZONE AND DEVELOPMENT CODE REQUIREMENTS: Section 4-2-6 C.5 Minimum rear yard setback in an RSF-8 zone is 15 feet.

VARIANCE REQUESTED: Reduce rear yard setback to 3 feet.

APPLICANT'S REASON FOR REQUEST: The duplex was built while this area was in the county and was constructed with a side yard of approximately 3 feet. With the subdivision of this parcel, the lot is reconfigured and the side yard now becomes a rear yard. The required rear yard setback of 15' for the RSF-8 zoning is larger than the required side yard setback of 3' when the duplex was built. To not grant the variance would require that the structure be torn down or moved, which is not a financially

feasible option or that the subdivision not be platted. The subdivision is desirable to infill a large vacant lot and provide a more affordable housing option in the city.

I do not believe this variance will be of conflict to the public interest, nor be detrimental to the public health, safety or welfare and will not reduce the value of adjacent property owners. I do not believe it to be detrimental to the public displacing the existing tenants by tearing down this structure in order to build this subdivision.

**STAFF ANALYSIS:** The applicant is proposing a 20 lot subdivision from two 2.3 acre parcels. There are three existing structures on the two parcels. Two of the structures, single family homes on proposed lots 10 and 12, conform to required setbacks from existing and proposed property lines. A duplex which is located on proposed lot 7 does not comply with setbacks on one side. When the duplex was built in 1950, the parcel was located in the county and zoned R-3. R-3 allows multiple structures on one lot, however the duplex was built with only a three foot setback on one side. The R-3 zoning required a 12 foot side yard setback. It is unknown why this setback was not maintained.

With the replatting of this parcel, the nonconforming side yard becomes a greater nonconforming rear yard. The required rear yard setback in the RSF-8 zone is 15 feet. A variance is requested to allow the structure to remain on the lot within the new subdivision with the existing three foot setback to the property line. The setback requires a variance because it is unknown if the current setback is legal nonconforming or illegal and because the new lot lines make the side yard setback a rear setback.

#### **FINDINGS OF REVIEW:**

**No Conflict with Public Interest.** No known conflict with the public interest has been identified.

**Exceptional Conditions/Undue Hardship not Self-Inflicted.** The duplex was constructed 45 years ago by an unknown party.

**Not Detrimental to Public Health, Safety or Welfare.** The current setback meets the building code and required setbacks for accessory structures. No evidence has been found that granting the variance and allowing this nonconforming condition to continue will be detrimental to the public health, safety or welfare.

**No reasonable use of property without a variance.** The duplex must be torn down or moved if the variance is not approved. If the variance is denied the applicant could exclude proposed lot 7 from the subdivision, making this parcel an outlot, however the nonconformity still exists and the Community Development Department could pursue the setback violation through zoning enforcement. The department is not in the practice of enforcing 40 year old zoning violations and the greater good is to subdivide this parcel.

**Not Injurious to or Reduce Value of Surrounding Parcels.** Granting the variance will not change any of the physical surroundings. It will only legitimize an existing nonconforming use. Development of the subdivision should have a positive impact on surrounding properties.

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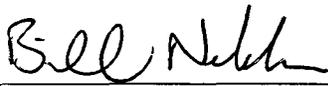
STAFF RECOMMENDATION: Approval with the following condition:

1. The variance applies to this structure only. If the duplex is demolished or removed from the site, any new construction shall conform with current setbacks.



4. **No reasonable use of property without a variance.** The duplex must be torn down or moved if the variance is not approved. If the variance is denied the applicant could exclude proposed lot 7 from the subdivision, making this parcel an outlot, however the nonconformity still exists and the Community Development Department could pursue the setback violation through zoning enforcement. The department is not in the practice of enforcing 40 year old zoning violations and the greater good is to subdivide this parcel.
5. **Not Injurious to or Reduce Value of Surrounding Parcels.** Granting the variance will not change any of the physical surroundings. It will only legitimize an existing nonconforming use. Development of the subdivision should have a positive impact on surrounding properties.

The undersigned does hereby declare that the said Planning Commission reached its decision as heretofore noted.



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Bill Nebeker  
Senior Planner

c: Code Enforcement