

MORGAN COUNTY BOARD OF ADJUSTMENTS AND APPEALS
January 22, 2019
MINUTES

The Morgan County Board of Adjustments met on Tuesday, January 22, 2019, at 5:30 p.m. in the Assembly Room of the Morgan County Administration Building. Answering roll call was: Allyn Wind, Mike Erker, Julie Padilla, Charlie Ruyle and Viola Johnson. Also present were Pam Cherry, Planning Administrator, and Jody Meyer, Planning Assistant.

The meeting was called to order by Chairman Allyn Wind.

Minutes: 12-17-18

Motion was made by Mike Erker and seconded by Charlie Ruyle to approve the minutes of the December 17, 2018 as presented. Motion carried 5-0.

Agenda: Accepted as presented.

New Business:

Approval of Board of Adjustments Resolutions:

1. Shane Westhoff - Resolution 2019 BOA 01

It was moved by Viola Johnson and seconded by Mike Erker to approve Resolution 2019 BOA 01 as follows:

MORGAN COUNTY, COLORADO
BOARD OF ADJUSTMENT

RESOLUTION 2019 BOA 01

A RESOLUTION APPROVING A VARIANCE REQUEST TO REDUCE THE REAR SETBACK FROM TWENTY FEET TO FIVE AND A HALF FEET ON PROPERTY LOCATED IN W¹/₂ OF THE NE¹/₄ OF SECTION 12, TOWNSHIP 3 NORTH, RANGE 58 WEST OF THE 6TH P.M. MORGAN COUNTY, COLORADO WITH A STREET ADDRESS OF 16731 COUNTY ROAD 17.7

WHEREAS, Shane and Jessica Westhoff (“Owners”) own property located in the W¹/₂ of the NE¹/₄ of Section 12, Township 3 North, Range 58 West of the 6th P.M., Morgan County, Colorado with a street address of 16731 County Road 17.7 (“Property”);

WHEREAS, the Property is located in the Estate Residential Zone District and Section 3-650, Table 2 of Appendix B, Zone District Bulk Requirements in the Morgan County Zoning Regulations, requires a rear setback of twenty feet;

WHEREAS, Owners filed an application for a variance from the required rear setback to 5.5 feet so that the Owners may replace an existing building that is situated within the setback with a new building;

WHEREAS, on November 19, 2018 the Morgan County Board of Adjustment held a duly noticed public hearing on the application at which, after receiving public comment and staff input, the Board of Adjustment approved the application as set forth herein.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF ADJUSTMENT OF MORGAN COUNTY, COLORADO, that based upon the findings set forth below that the application as follows:

1. The Board of Adjustment having reviewed Owners' variance application, all information provided, the criteria for a variance as set forth in Section 5-220(B) of the Morgan County Zoning Regulations, and having taken testimony on the same, finds that:
 - a. Strict application of the regulations will result in peculiar or exceptional hardship. The shed that is to be replaced had been in the current location for many years and the remainder of the property planned around it. There is an existing pad that will be utilized for the new shed.
 - b. The property has been in the current configuration with numerous sheds for many years. To meet the setback requirement extensive landscape and concrete removal would be required.
 - c. The applicant contacted the adjacent property owners and the location of the replacement shed does not impact adjacent properties.
 - d. The variance will not meet the setback requirements of the Zoning Regulations but does comply with the intent of the Comprehensive Plan.
 - e. The variance will not adversely affect the health, safety and welfare of the citizens of Morgan County.
2. All the necessary criteria, set forth in Section 5-220(B) of the Morgan County Zoning Regulations, have been met, the Board of Adjustment hereby approves the variance for a reduction of the rear setback for the Property from 20 feet to 5.5 feet.
3. Although the Board of Adjustment does not have authority related to enforcement of the Morgan County Zoning Regulations, the Board recommends that prior to the issuance of a zoning or accessory permit for the replacement shed that the site plan be updated to show the sheds which will be removed.

Dated this ____ day of January, 2019.

**BOARD OF ADJUSTMENT
MORGAN COUNTY, COLORADO**

Allyn Wind, Chairman

ATTEST:
(SEAL)

Susan L. Bailey, Clerk to the Board

Motion carried 5-0.

2. Hyrum and Amy Prince – Resolution 2019 BOA 02

It was moved by Charles Ruyle and seconded by Mike Erker to approve Resolution 2019 BOA 02 as follows:

**MORGAN COUNTY, COLORADO
BOARD OF ADJUSTMENT**

RESOLUTION 2019 BOA 02

A RESOLUTION DENYING A VARIANCE REQUEST TO REDUCE THE SIDE SETBACK FROM TEN FEET TO FOUR FEET ON PROPERTY LOCATED IN N½ OF THE NW¼ OF SECTION 25, TOWNSHIP 4 NORTH,

RANGE 58 WEST OF THE 6TH P.M. MORGAN COUNTY, COLORADO WITH A STREET ADDRESS OF 64 BACHAR DRIVE

WHEREAS, Hyrum and Amy Prince (“Owners”) own property located in the N½ of the NW¼ of Section 25, Township 4 North, Range 58 West of the 6th P.M., Morgan County, Colorado with a street address of 64 Bachar Drive;

WHEREAS, Owners filed an application for a variance to Section 3-650 Table 2 of Appendix B Zone District Bulk Requirements and Special Design Standard Chart seeking a reduction of the required setback in the Moderate Density Residential Zone District from ten feet to four feet for a previously constructed workshop;

WHEREAS, on December 17, 2018 the Morgan County Board of Adjustment held a duly noticed public hearing on the application at which, after receiving public comment and staff input, the Board of Adjustment denied the application as set forth herein.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF ADJUSTMENT OF MORGAN COUNTY, COLORADO, that based upon the findings set forth below that the application as follows:

1. The Board of Adjustment having reviewed Owners’ variance application, all information provided, the criteria for a variance as set forth in Section 5-220(B) of the Morgan County Zoning Regulations, and having taken testimony on the same, finds that:

- (a) The strict application of the setbacks set forth in the Morgan County Zoning Regulations do not result in peculiar and exceptional difficulties or exception and undue hardship on the Owners due to exceptional narrowness, shallowness, or shape of the subject property at the time of the enactment of the setback regulations or due to exceptional topographic conditions or other extraordinary and exceptional situation or condition of the subject property. The owner could have placed the structure outside of the setback areas without issue.
- (b) The hardship is self-imposed. The hardship was solely a result of the Owners’ actions. Whether intentionally or by accident, the Owners constructed the accessory building within the setback with the knowledge of the required setback distance.
- (d) The variance, if granted, will not adversely affect the use of adjacent property as permitted under these Regulations. Since the adjacent property is open space within the Morgan Heights Subdivision, the variance, if granted, will likely not adversely affect the use of the adjacent property.
- (e) The variance, if granted, would not be keeping with the intent of these Zoning Regulations and the Morgan County’s Comprehensive Plan. The Zoning Regulations and the Comprehensive Plan establish setbacks with the intent of maintaining separation of structures between property lines, and variances that allow structures to encroach in the setbacks are not consistent with this intent.
- (f) That the variance, if granted, does not adversely affect the health, safety, and welfare of the citizens of Morgan County. There has been no showing that the variance, if granted, would adversely affect the health, safety and welfare of the citizens of Morgan County.

2. All the criteria set forth in Section 5-220(B) of the Morgan County Zoning Regulations having not been met, the Board of Adjustment hereby denies the variance for a reduction of setback from 10 feet to 4 feet in the Moderate Density Residential Zone District.

3. Although the Board of Adjustment does not have authority related to enforcement of the Morgan County Zoning Regulations, the Board recommends that the Owners be provided until April 30, 2019 to remedy the setback encroachment of the workshop structure.

Dated this ____ day of January, 2019.

**BOARD OF ADJUSTMENT
MORGAN COUNTY, COLORADO**

Allyn Wind, Chairman

ATTEST:
(SEAL)

Susan L. Bailey, Clerk to the Board

Motion carried 5-0.

Other Matters:

Election of Officers for 2019:

Motion was made by Viola Johnson to nominate Allyn Wind as Chairman. Charles Ruyle seconded.

Motion carried 5-0.

Motion was made by Mike Erker to nominate Charles Ruyle as Vice Chairman. Viola Johnson seconded. Motion carried 5-0.

OTHER MATTERS

It was moved by Viola Johnson and seconded by Mike Erker to adjourn this meeting. Motion carried 5-0. Meeting adjourned 5:45 pm.

Respectfully submitted,
Jody Meyer, Planning Assistant