

MORGAN COUNTY BOARD OF ADJUSTMENTS AND APPEALS
May 20, 2019
MINUTES

The Morgan County Board of Adjustments met on Monday, May 20, 2019, at 5:30 p.m. in the Assembly Room of the Morgan County Administration Building. Answering roll call was: Allyn Wind, Charlie Ruyle, Mike Erker and Viola Johnson. Also present were Pam Cherry, Planning Administrator, and Jody Meyer, Planning Assistant and Shannon Shields, Planning Clerk.

The meeting was called to order by Chairman Allyn Wind.

Minutes: 01-22-19

Motion was made by Charlie Ruyle and seconded by Viola Johnson to approve the minutes of the January 22, 2019 hearing. Motion carried 4-0.

Agenda:

The agenda was accepted as presented.

Allyn Wind read the procedural rules for this hearing.

NEW BUSINESS:

PUBLIC HEARING IS OPEN

Dave Epple, Trustee for the Russell C. Epple Trust was present to represent this application.

Pam Cherry, Planning Administrator, read her file summary as follows:

OWNER: Russell C. Epple Trust

APPLICANT: David C. Epple, Trustee

David Epple has submitted this application for Variances to Section 3-650 Table 1 of Appendix B, Zone District Bulk Requirements of the Morgan County Zoning Regulations regarding required setback and minimum lot size in the Estate Residential Zone District. The required side setback is 20 feet and minimum lot size is 2 acres in the Estate Residential Zone District. The property is addressed as 16466 and 16436 County Road 19 ("Property") with parcel numbers 1229-083-00-004 and 1229-082-00-001 in the W½ of the W½ of Section 8, Township 3 North, Range 57 W of the 6th P.M. Morgan County, Colorado.

David Epple has requested to reduce the side setback to 3.1 feet from the required 20 feet to accommodate an existing barn in preparation for listing the property for sale. In addition, the Estate Residential zone district requires a minimum lot size of two acres. The proposed lot size for this lot is 1 acre.

An Exemption from Subdivision application has been concurrently submitted for the total acreage of the two parcels. The property is currently platted as two lots and an adjustment to the lot line is necessary because the barn currently straddles the lot line. There will be no increase in number of lots. The one acre lot has a well and wastewater service is provided by the City of Fort Morgan.

Approximately 280 landowners are located within the 1,320 foot notification area. No comments in support or opposition have been received. Agency referrals have been completed and no comments have been received as of May 9, 2019.

In reviewing this application the Board of Adjustment is required to make a finding that the criteria for granting a variance in Section 5-220(B) of the Morgan County Zoning Regulations have been satisfied:

- (1) The strict application of the applicable regulation results in peculiar and exceptional practice difficulties or exception and undue hardship on the owner due to:

Strict application of the regulations will result in peculiar or exceptional hardship. The barn has been in its current location for many years, straddling the lot line. Regulations require a two acre minimum partially due to the consideration of well and septic located on the same property. This property does not have a septic system that could potentially contaminate the well.

- (2) Exceptional narrowness, shallowness, or shape of the property at the time of the enactment of the regulation; or

Regulations require a two acre minimum partially due to the consideration of well and septic located on the same property. This property does not have a septic system that could potentially contaminate the well; wastewater is provided by the City of Fort Morgan.

- (3) Exceptional topographic conditions or other extraordinary and exceptional situation or condition of such piece of property; and

The parcel is fairly flat; topography does not cause limitations on the placement of the workshop.

- (4) The hardship is not self-imposed;

The property has been in the current configuration with the barn straddling the property line for many years. To meet the setback requirement the historic barn would require removal

- (5) The variance, if granted, will not adversely affect the use of adjacent property as permitted under these Regulations;

The applicant also owns the adjacent property and is requesting the variance to allow a line of trees to remain with the larger (2.7 acre lot) property and the barn with the smaller property. The variance will not impact the adjacent property.

- (6) That the variance, if granted, is in keeping with the intent of these Zoning Regulations and the Morgan County's Comprehensive Plan; and

If granted, the variance will not meet the setback requirements of the Zoning Regulations but does comply with the intent of the Comprehensive Plan.

- (7) That the variance, if granted, does not adversely affect the health, safety, and welfare of the citizens of Morgan County.

The variance, if granted, will not adversely affect the health, safety and welfare of the citizens of Morgan County.

Pam Cherry recommended approval of this variance application subject to:

1. The application for the subdivision exemption is approved.
2. No further variances will be granted for this property.

Dave Epple said their goal is to clean up the parcels and sell them, but he wanted to process them properly.

There was discussion on the requested variances for setbacks and minimum lot size. Mr. Epple noted that the north parcel, 16466 Co Rd 19, Fort Morgan, has a well and parcel at 16436 has Quality Water and both lots are on City sewer.

OPEN PUBLIC TESTIMONY

Those in favor – none

Those in opposition – none

PUBLIC TESTIMONY CLOSED

It was moved by Mike Erker and seconded by Charles Ruyle to approve this Application for Variances to Section 3-650 Table 1 of Appendix B, Zone District Bulk Requirements of the Morgan County Zoning Regulations for side yard setbacks from 20 ft. to 3.6 ft. and 3.1 ft. for the barn and for minimum lot size in the Estate Residential Zone District from 2 acres to 1 acre. The property is addressed as 16466 and 16436 County Road 19 with parcel numbers 1229-083-00-004 and 1229-082-00-001 located in the W½ of the W½ of Section 8, Township 3 North, Range 57 W of the 6th P.M. Morgan County, Colorado, with the following conditions:

- 1. The application for the subdivision exemption is approved.**
- 2. No further variances will be granted for this property.**

After discussion the above motion was amended by Mike Erker and seconded Charles Ruyle to also approve Resolution #2019BOA03 as presented by Pam Cherry as follows:

**MORGAN COUNTY, COLORADO
BOARD OF ADJUSTMENT**

RESOLUTION 2019 BOA 03

**A RESOLUTION APPROVING A VARIANCE REQUEST TO REDUCE THE SIDE SETBACK
FROM TWENTY FEET TO 3.1 FEET ON PROPERTY LOCATED
IN W½ OF THE W ½ SECTION 8, TOWNSHIP 3 NORTH, RANGE 57 WEST OF THE 6TH
P.M. MORGAN COUNTY, COLORADO
WITH A STREET ADDRESS OF 16466 COUNTY ROAD 19**

WHEREAS, the Russell C. Epple Trust, David C Epple Trustee (“Owner”) owns property located in the W½ of the W½ of Section 8, Township 3 North Range 57 West of the 6th P.M. Morgan County;

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 side setback of twenty feet and a minimum lot size of two acres;

WHEREAS, David C. Epple as Trustee for the Russell C. Epple Trust filed an application for a Variance from the twenty foot required side setback to 3.1 feet and to reduce the minimum lot size from two acres to one acre so that an existing barn will not straddle the lot line;

WHEREAS, on May 20, 2019 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 the Trustee’s variance application, all information provided and 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 applicable regulation results in peculiar and exceptional hardship on the owner because the barn has been in its current location for many years, straddling the lot line.
 - (b) The unusual shape of the property and location of the barn cause the need for this variance.
 - (c) The location of the barn creates an extraordinary situation and condition on the property.
 - (d) The hardship is not self-imposed;
The property has been in the current configuration with the barn straddling the property line for many years.
 - (e) The variance, if granted, will not adversely affect the use of adjacent property as permitted under these Regulations;
The applicant also owns the adjacent property and is requesting the variance to allow a line of trees to remain with the larger (2.7 acre lot) property and the barn with the smaller property. The variance will not impact the adjacent property.
 - (f) That the variance, if granted, is in keeping with the intent of these Zoning Regulations and the Morgan County’s Comprehensive Plan; and
If granted, the variance will not meet the setback requirements of the Zoning Regulations but does comply with the intent of the Comprehensive Plan.
 - (g) That the variance, if granted, does not adversely affect the health, safety, and welfare of the citizens of Morgan County.
The variance, if granted, will not adversely affect the health, safety and welfare of the citizens of Morgan County.
1. The application for the subdivision exemption is approved.
2. No further variances will be granted for this property.
3. 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/denies:
 - a. The variance for a reduction of the side setback for the barn on the Property from 20 feet to 3.1 feet.
 - b. The variance for the reduction in lot size from 2 acres to 1 acre.

Dated this ____ day of May, 2019.

**BOARD OF ADJUSTMENT
MORGAN COUNTY, COLORADO**

Allyn Wind, Chairman

ATTEST:
(SEAL)

Susan L. Bailey, Clerk to the Board

Roll call vote was taken – Motion carried with a vote of 4-0.

It was moved by Mike Erker and seconded by Viola Johnson to adjourn this meeting. Motion carried 4-0. Meeting adjourned at 6:00 pm.

Respectfully submitted,

Jody Meyer,
Planning Assistant