

**MORGAN COUNTY BOARD OF ADJUSTMENTS AND APPEALS**  
**September 18, 2018**  
**MINUTES**

The Morgan County Board of Adjustments met on Tuesday, September 18, 2018, 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 and Viola Johnson. Also present were Pam Cherry, Planning Administrator, Jody Meyer, Planning Assistant.

The meeting was called to order by Chairman Allyn Wind.

Minutes: 8-20-18

**Motion was made by Viola Johnson and seconded by Julie Padilla to approve the minutes of the August 20, 2018 with a typo correction as discussed with Jody Meyer (changing the word from *where* to *were* in the middle of the first page. Motion carried 3-0 with Mike Erker abstaining.**

Election of Vice Chairman

**Motion was made by Mike Erker to nominate Charlie Ruyle as Vice Chairman of the Board of Adjustments and Appeals. Nominations ceased. Viola Johnson seconded the motion. Motion carried 4-0.**

Allyn Wind read the procedural rules for this hearing.

**OLD BUSINESS: Continuance of the August 20<sup>th</sup>, 2018 meeting**

**PUBLIC HEARING IS OPEN**

**APPLICANT: Hyrum and Amy Prince**

**LANDOWNER: Same**

Hyrum and Amy Prince were present to represent this application.

Pam Cherry, Planning Administrator presented the file as follows:

This application is for a Variance from the required side setback applicable to the property. The property is on Lot 64 of the Winslow Subdivision, Second Addition, a subdivision in the N½ or the NW¼ of Section 25, T4N, R58W of the 6<sup>th</sup> P.M. Morgan County, Colorado, with an address as 64 Bachar Drive, Fort Morgan, Colorado 80701 ("Property"). The property is zoned Moderate Density Residential and is subject to a 10-foot side setback requirement pursuant to Morgan County Zoning Regulations Section 3-650 Appendix B Table 1, Line 3.

The variance application is necessary to accommodate a pre-constructed workshop which is currently located on the Property. The owners are requesting a variance from the side setback to reduce it from 10 feet to 4 feet. Because this request constitutes a 60% reduction from the required side setback, it must be considered by the Board of Adjustment and may not be administratively approved.

Adjoining property owners and agency referrals were completed. There have been a number of inquiries regarding the proposal and objections have been received and are included in the packet.

The Board of Adjustment shall 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 not result in peculiar or exceptional hardship. The applicant was aware of the setback issue as shown on the plan submitted at the time of application for the zoning permit to build the workshop. It appears that the structure was placed on the property not in conformance with site plan.*

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

*The property is 1.47 acres and is not limited due to narrowness, shallowness of the shape of the property.*

- (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.*

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

*The applicant was aware of the setback requirement which is indicated on the plan submitted when obtaining the Zoning Permit and apparently failed to comply with such plan and Zoning Permit.*

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

*If the adjacent property is ever developed it could potentially cause difficulty on the placement of any structures.*

- (5) 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 is not in keeping of the intent of the Zoning Regulations or the Comprehensive Plan.*

- (6) 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 this variance application be denied.

### **OPEN PUBLIC TESTIMONY**

Morgan County Building Inspector, Dustin Heid, came up to the podium to speak at this time. Mr. Heid stated that after issuance of the permit, he went out to check setbacks inspection showed the building was staked appropriately as required by the Morgan County Planning and Zoning Department. The stakes were set right but Dustin was not asked to go back out and recheck the setbacks until this concern was brought forward.

Mike Erker asked Pam Cherry about the 60% reduction from the required side setback that she talked about in her file summary. Pam Cherry explained that any setback over 10% must be considered by the Board of Adjustment and may not be administratively approved.

Chairman Allyn Wind read the motion from the August 20<sup>th</sup> meeting as follows: *“Charles Ruyle made a motion to continue the hearing until September 18, 2018 to allow for Mr. Prince and Morgan Heights Water and Sewer to get surveys completed. Viola Johnson seconded. Motion carried 4-0”*.

Pam Cherry stated that she has not received anything additional in the way of surveys from either Mr. Prince or the Morgan Heights HOA. The only additional thing was a letter from Mr. Ortiz that she placed on the table for the members.

Hyrum Prince told the Board of Adjustments that he may possibly be able to lease some property or buy a portion from Morgan Heights Water and Sewer and he requested a 60 day extension of time to try to work this out.

Pam Cherry said a lease does not satisfy the Variance, it would have to be a purchase. Dustin Heid suggested a lot combination agreement. Pam Cherry agreed that the Princes would also have to go through a lot combination agreement to correct the set back issues. Allyn Wind said a survey would need to be done for that combination. Dustin Heid stated if the lot combo agreement was done, the variance would then become moot.

Hyrum Prince wants a chance to renegotiate this issue.

Dustin Heid asked if a survey was going to be required. Allyn Wind said that was the motion made last month as he read earlier.

Hyrum Prince wondered if the Board would extend this period longer than 60 days, maybe even 90 days. Pam Cherry said that would be around Thanksgiving and the 90 days would be around Christmas. Mike Erker said it needs to be done this year. Pam Cherry added that new board members start in January so we need to finish this year.

**Mike Erker moved to postpone this application hearing until December 17, 2018 at 5:30 p.m. Discussion: Amy Prince wanted to know who would pay for this survey as they have already paid for one survey. Mike Erker said it would be up to you. Viola Johnson seconded the motion. Roll call vote was taken. Motion carried 4-0.**

**It was moved by Mike Erker and seconded by Viola Johnson to adjourn this meeting. Motion carried 4-0. Meeting adjourned 5:55 pm.**

Respectfully submitted,

Jody Meyer,  
Planning Assistant