

MORGAN COUNTY BOARD OF ADJUSTMENTS AND APPEALS
November 19, 2018
MINUTES

The Morgan County Board of Adjustments met on Monday, November 19, 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 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: 9-18-18

Motion was made by Mike Erker and seconded by Viola Johnson to approve the minutes of the September 18, 2018 with a correction as discussed with Jody Meyer - changing the last sentence, third paragraph, last page to read as follows: “The only additional thing was a letter from Mr. and Mrs. Tyrone Ortiz that Pam Cherry handed out for the members.” Motion carried 5-0.

Agenda:

It was moved by Viola Johnson and seconded by Mike Erker to approve the agenda as presented.

Allyn Wind read the procedural rules for this hearing.

OLD BUSINESS: None

NEW BUSINESS:

PUBLIC HEARING IS OPEN

APPLICANT AND OWNER: Shane and Jessica Westhoff

Shane and Jessica Westhoff have submitted this application for a Variance to Section 3-650 Table 1 of Appendix B, Zone District Bulk Requirements of the Morgan County Zoning Regulations regarding required setback in the Estate Residential Zone District. The required rear setback is 20 feet and Westhoff’s have requested to reduce the rear setback to 5.5 feet to accommodate a new shed that will replace an existing shed and various other sheds on the property. The property is addressed as 16731 County Road 17.7 (“Property”) and is Lot 5 of Nelson’s Subdivision with parcel number 1227-121-22-011 in the W ½ of the NE ¼ of Section 12, Township 3 North, Range 58 W of the 6th P.M. Morgan County, Colorado.

The variance is necessary to allow the placement of a new shed in the place of one that will be removed. The shed to be removed is 5.5 feet from the property line and at the present time and as such is a non-conforming building (1-675 Nonconforming Building: A building or structure, or portion thereof, conflicting with the provisions of these Regulations applicable to the zone in which it is situated). Section 5-210 of the Morgan County Zoning Regulation permit administrative approval of variances if the request is less than 10% of the required bulk regulation. This request is a reduction of 73% and must be considered by the Board of Adjustment. This variance if approved will increase the level of nonconformance on the property. The present shed is 2,013 square feet, the new shed will be 2,580 square feet and taller.

2-230 Repairs and Maintenance of Non-Conforming Structures

(A) On any non-conforming structure or portion of a structure containing a non- conforming use, work may be done for ordinary repairs, or on repair or replacement of non-bearing walls, fixtures, wiring, or plumbing, in any twelve (12) consecutive months, to an extent not exceeding fifty percent (50%) of the

current fair market value of the non-conforming structure or non-conforming portion of the structure as the case may be, provided that the cubic content existing when it became non-conforming shall not be increased.

The applicant spoke with each adjoining property owner about the proposal to replace the shed, all approved of the Westhoff's plans. Agency referrals have been completed and there were no comments received.

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 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.

- (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 property has been in the current configuration with numerous sheds for many years. To meet the setback requirement extensive landscape removal and renovation would be required.

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

The applicant contacted the adjacent property owners and there were no objections to the plan.

- (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 will not meet the setback requirements of the Zoning Regulations but does comply with the intent of 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 approval of this variance application subject to:

1. Prior to issuance of the zoning/accessory permit the site plan will be amended to show the sheds that are to be removed.
2. No further variances will be granted for this property.

Shane Westhoff told the Board that he is not going to use the existing cement pad as first thought, but wants to lay a new flat slab.

Mike Erker asked if this was a side setback. Shane Westhoff said it is a rear setback that he is asking for a variance.

OPEN PUBLIC TESTIMONY

Those in favor – none

Those in opposition – none

PUBLIC TESTIMONY CLOSED

It was moved by Viola Johnson and seconded by Charles Ruyle to approve this Application for Variance to Section 3-650 Table 1 of Appendix B, Zone District Bulk Requirements of the Morgan County Zoning Regulations regarding required setbacks in the Estate Residential Zone District. The required rear setback is 20 feet and applicants, Shane and Jessica Westhoff, have requested to reduce the rear setback to 5.5 feet. The parcel is located at 16731 County Road 17.7 and is located in Lot 5 of Nelson's Subdivision in the W ½ of the NE ¼ of Section 12, Township 3 North, Range 58 W of the 6th P.M. Morgan County, Colorado; parcel number 1227-121-22-011. Approval is based on the following conditions:

1. Prior to issuance of the zoning/accessory permit the site plan will be amended to show the sheds that are to be removed.
2. No further variances will be granted for this property.

Roll call vote was taken with a vote of 5-0.

Other Business:

Pam Cherry reminded Mike Erker and Allyn Wind that they need to turn in term letters for reappointment to this Board for another 3 years or a letter stating they do not want to be approved for another term. Also there will be a meeting in December on the 17th regarding the Prince application.

It was moved by Mike Erker and seconded by Viola Johnson to adjourn this meeting. Motion carried 5-0. Meeting adjourned 5:48 pm.

Respectfully submitted,

Jody Meyer,
Planning Assistant