

MORGAN COUNTY BOARD OF ADJUSTMENTS AND APPEALS
December 17, 2018
MINUTES

The Morgan County Board of Adjustments met on Monday, December 17, 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, Jody Meyer, Planning Assistant and Shannon Shields, Planning Clerk.

The meeting was called to order by Chairman Allyn Wind.

Minutes: 11-19-18

Motion was made by Viola Johnson and seconded by Mike Erker to approve the minutes of the November 19, 2018 as presented. Motion carried 5-0.

Agenda: Accepted as presented.

Allyn Wind read the procedural rules for this hearing.

OLD BUSINESS: Continuance of the September 18th, 2018 meeting

PUBLIC HEARING IS OPEN

APPLICANT: Hyrum and Amy Prince

LANDOWNER: Same

Hyrum Prince was present to represent this application.

Pam Cherry, Planning Administrator presented her File Summary 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 of the NW¼ of Section 25, T4N, R58W of the 6th 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.

Mr. Hyrum Prince said he brought in a new Improvement Location Certificate which located structures and pins on the property prepared by Jack Odor. This location certificate was handed out to the Board for review. He said he is still working to buy land from Morgan Heights, but has not had any luck dealing with Dave Rebol from the Morgan Heights HOA. He stated he could chop off the corners of the shop to fit the setbacks. He made statements knowing he was in the wrong and is looking at a time extension or the application being denied.

Allyn Wind, Chairman of BOA, stated that his first opinion was to deny this application. Pam Cherry told Mr. Prince that it is more than just cutting off corners of the shed; a real survey should be obtained.

Charles Ruyle asked Pam Cherry about giving Mr. Prince a time frame to complete the project. Pam Cherry stated that was something the Board would need to decide and add to their motion.

OPEN PUBLIC TESTIMONY

Those in favor or in opposition:

Kim Bailey, who lives in Morgan Heights and is President of the Morgan Heights HOA, said they just received a copy of the Improvement Location Certificate. They have tried to talk with Mr. Prince, but no survey had been brought forward for them to look at prior to this meeting.

There was no one present to speak in opposition to this application.

Mr. Prince said he reached out to Dave Rebol more than what was indicated in testimony.

CLOSE PUBLIC TESTIMONY

Mr. Prince said he would just chop off corners; how much time can he have to do that?

Allyn Wind read to the Board the criteria they needed to consider for this application.

Mike Erker said after looking at the criteria and listening to testimony it is his opinion that Mr. Prince does not meet any of the criteria for a variance and there very well could be safety and fire concerns with underground pipeline on the Morgan Heights property.

Charlie Ruyle also thought Mr. Prince was in violation of the Regulations, that the hardship was self-imposed and they can only deny it.

Viola Johnson agrees with the other board members and recommended denial of this application.

It was moved by Charlie Ruyle to DENY this Application from Hyrum and Amy Prince for a Variance to the Morgan County Zoning Regulations Section 3-650 Appendix B Table 1, Line 3 asking for a side setback reduction from 10' to 4' for a shop/garage and to have Applicants remove or reconfigure the structure to meet the proper setbacks as outlined in the regulations. Under discussion Mike Erker wanted to add a deadline for the applicant to come into compliance saying by the end of April. Viola Johnson moved to make the deadline for a date certain of April 30, 2019. Charlie Ruyle accepted the two changes as presented by Mike Erker and Viola Johnson. Viola Johnson seconded the corrected motion by adding a date certain of April 30, 2019 for the applicants to come into compliance.

The property is located on Lot 64 of the Winslow Subdivision, Second Addition, a subdivision in the N½ of the NW¼ of Section 25, T4N, R58W of the 6th P.M. Morgan County, Colorado, with an address as 64 Bachar Drive, Fort Morgan, Colorado 80701. Roll call vote was taken. Motion carried 5-0.

OTHER MATTERS

Jody Meyer introduced Shannon Shields, who is new in the Planning and Zoning Office, to the Board of Adjustments.

It was moved by Viola Johnson and seconded by Mike Erker to adjourn this meeting. Motion carried 5-0. Meeting adjourned 6:00 pm.

Respectfully submitted, Jody Meyer, Planning Assistant