

Planning & Zoning Commission Meeting
County Administrative Offices, Duchesne, Utah
July 1, 2020 - 5:00 p.m.

In Attendance were:

Brad Wells, Planning Commission, Chairman
Bobby Drake, Planning Commission
Gary Sorensen, Planning Commission
Connie Sweat, Planning Commission
Jenny Giles, Planning Commission
Mike Hyde, Community Development Administrator
CoraLee Sanchez, Planning Secretary

Visitors:

Behrad Noudoost	Variance
Neda Nategh	Variance
Thomas R Dickson	Variance

Chairman Wells opened the meeting at 5:00 pm and read the rules of order. He asked if any of the Planning Commission Members had any ex-parte contacts or conflicts of interest associated with the agenda. There were none, so the meeting proceeded.

PUBLIC HEARINGS:

- A. **Request by Behrad Noudoost and Neda Nategh for a Variance to the front yard setback standards to allow some carports and sheds to be located within ten (10) feet of the front property line along the west side of the Lower Red Creek Road, approximately one mile NW of the Strawberry Pinnacles.**

Mr. Hyde referred the commission to their packets and some site photos, a survey and a letter from the applicant and stated the applicant requests a variance to the 30-foot front yard requirement to allow several carports and sheds to be placed within 10 feet of the front property line. (They were previously placed on the property without county authorization [no building permit] with a setback of about three feet from the roadway). The Board of Adjustment is specified as the authority to consider variance requests; however, the County has struggled to maintain an active Board of Adjustment since it meets infrequently. Thus, the applicant has agreed to allow the Planning Commission to hear this request.

Section 8-15-3 of the Zoning Ordinance sets forth the following standards and findings that must be made to consider approval of a variance:

- A. Literal enforcement of the zoning district provisions of this title would cause an unreasonable hardship for the applicant not necessary to carry out the general

purpose of the zoning district or this title. The board of adjustment shall not render a finding of unreasonable hardship if the alleged hardship is self-imposed or solely economic.

The purposes of the Zoning Ordinance are set forth below:

A. The purpose of this title is to implement the goals and policies of the county general plan. This title contains standards, provisions and requirements intended to **protect the health, safety and welfare** of the citizens of the county by ensuring that neighbors, adjacent and neighboring properties are **protected from potential negative impacts** in the development and use of land and resources. It is the intent of this title to provide a means of **ensuring predictability and consistency in the use of land** and individual properties, and to guide and direct the development of land.

B. These purposes are met by:

1. Providing the means of implementing the various policies and other provisions of the county general plan;
2. Generally directing and guiding land development so more intense development is located in areas of the county having the necessary services and facilities sufficient to meet the demands of the proposed development;
3. Promoting the public health, safety and general welfare by regulating the location and use of buildings, structures and land for residential, commercial and other specified uses;
4. Protecting landowners from potential adverse impacts from adjoining uses; and
5. Directing and managing, through the establishment of use districts, the type, distribution and intensity of activity.

Mr. Hyde stated the regulation of the building locations is important to protect public health, safety and general welfare. In this case, the subject buildings are carports and storage buildings, as opposed to dwelling units, which poses less of a risk. However, placement of such structures too close to public roadways poses risk associated with snow plowing and lack of a clear zone should a vehicle leave the roadway.

A. There are special circumstances attached to the property that do not generally apply to other properties in the same zoning district. No finding of special circumstances shall be made unless they relate to the hardship complained of and deprive the property of privileges available to other properties in the same zoning district.

Mr. Hyde stated the special circumstance associated with this property is the narrow strip of usable property (40 to 50 feet wide) situated between Red Creek and the Lower Red Creek Road. This circumstance makes it very difficult to site structures on the

property and comply with the usual 30-foot setback.

- A. The variance is essential to the enjoyment of a substantial property right possessed by other property in the zoning district.

The applicant is not proposing to live on the property; but provide for buildings that would supplement recreational use. Similar setbacks existed on the Ken Wallace property two lots to the north prior to damage it suffered during the Dollar Ridge fire in 2018.

- B. The granting of the variance will not substantially affect the goals, objectives, policies or standards of the county general plan and will not be contrary to the public interest.

Mr. Hyde stated there are no applicable goals, objectives, policies or standards in the general plan. Provided that a ten-foot setback is maintained from the edge of the gravel road, the public interest will be served as there will be a clear zone from the edge of the road meeting American Association of State Highway and Transportation Officials (AASHTO) standards and room for plowed snow that is acceptable to the Director of Public Works.

- E. The spirit of the requirements and provisions of section 8-3-4 of this title shall be observed and substantial justice done.

Section 8-3-4 simply defines the types of variances that can be granted by the Board of Adjustment, the board's powers and duties, membership terms and meeting procedures.

Mr. Hyde's recommendation is approval of the Variance requested by Behrad Noudoost and Neda Nategh, subject to the following conditions:

1. The applicants shall relocate the structures on the property so that they are no closer than ten (10) feet from the edge of the gravel roadway.
2. The applicants shall hold the County harmless from any damage associated with snow plowing or other road maintenance activities along the subject property's frontage on the Lower Red Creek Road.
3. The applicants shall apply for a building permit for the structures by July 17, 2020.

Mr. Hyde asked the commission if they had any questions of the staff report.

There was some discussion between the Planning Commission and Mr. Hyde about the speed limit, the current setbacks and the future improvement and issues that might arise if the road was paved or widened in the future. Commissioner Drake commented on the possible liability if any for vehicle or shed damage because of snow or the removal of any snow from the road by the county.

Chairman Wells asked if there were any other questions or comments. There were none so the applicant was invited to speak.

Behrad Noudoost, the applicant and property owner stated he didn't know he needed a

building permit, he thought it could be a continuation of the fence line. After receiving a letter from Duchesne County he had no problem applying for a variance. Mr. Noudoost stated he is also ok with the conditions for approval recommended by Mr. Hyde.

Commissioner Wells commented a fence is not a structure and would not need a permit but these buildings would.

Commissioner Sweat asked if the applicant was going to remove the orange and green fence. The applicant stated that was temporary and was going to replace it with a white vinyl fence.

With no other comments Chairman Wells invited anyone to speak in opposition to the applicant's request.

Thomas Dickson, an adjoining property owner, stated he was not opposed to the applicant's request but is concerned about the vertical cliff on the east side of the road, the falling rocks, the potential heavy snow that area receives most winters and the damage that could cause to the applicant's structures.

With no other speakers either in favor or opposed the hearing was closed.

Commissioner Drake motioned to approve the applicant's request for a Variance, subject to the conditions stated in the staff report. Commissioner Sorensen seconded the motion and it passed unanimously.

NEW BUSINESS:

- A. Work session to consider potential amendments to the Duchesne County zoning ordinance.

Mr. Hyde stated that Duchesne County proposes to amend its zoning ordinance to address some changes, most of which are associated with changes to state law made by the 2020 legislative session:

After some discussion about the proposed changes, the Planning Commission decided to move forward with a public hearing to consider the amendments to the zoning ordinance.

- B. Work session to consider potential amendments to the Duchesne County subdivision ordinance.

Mr. Hyde stated that Duchesne County proposes to amend its subdivision ordinance to address some changes, most of which are associated with changes to state law made by the 2020 legislative session.

After some discussion about the proposed amendments the planning commission decided to move forward with a public hearing to consider the amendments to the subdivision ordinance.

Minutes: Approval of April 1, 2020 minutes:

Commissioner Sweat moved to approve the minutes of April 1, 2020.
Commissioner Wells seconded the motion and it passed unanimously.

Commission Comments and Staff Information Items:

None

Adjournment:

Meeting adjourned at 6:30p.m.