

The meeting of the Town of Meeker Planning Commission was called to order by Chairman Gary Hindman, Monday, April 26, 2010, at Town Hall at 5:31 p.m.

Members Present: Chairman Gary Hindman
Martha Griffin
Jerry Belland
Terry Goedert
Members Absent: Keith Rholl
Others Present: Anna Smith, Town Planner
Sharon Day, Town Administrator
Citizens present: Jeff Madison ó Applicant
Art Cox ó Meeker Cemetery District
Todd Bellamy ó Rock Hawg Construction

APPROVAL OF AGENDA

Chairman Gary Hindman asked if there were any changes to the agenda, with Planner Smith inquiring if Item #7 Other Planning Commission Matters could be moved before the Public Hearing.

A motion to approve the revised agenda as presented was made by Commissioner Griffin, seconded by Commissioner Goedert. All ayes, motion carried.

APPROVAL OF THE MINUTES

Chairman Hindman inquired if there were any changes, corrections or additions to the April 12, 2010 Planning Commission minutes with none noted

A motion to approve the minutes of April 12, 2010 as presented was made by Commissioner Griffin seconded by Commissioner Goedert. Ayes ó Commissioners Goedert, Griffin, and Belland. Chairman Hindman abstained. Motion carried.

PUBLIC PARTICIPATION

None

OTHER PLANNING COMMISSION MATTERS

Confirmation of Cemetery District (265 C.R. 4) Modification of Special Review Site Plan.

Planner Smith read the following: On March 8, 2010 the Planning Commission considered and recommended approval with conditions on the Special Review Use request by the Meeker Cemetery District to construct a 100'x60' multipurpose structure and to install a septic tank, a separator, and a cistern system as necessary infrastructure for the proposed building and its uses. On March 16, 2010, the Board of Trustees considered the applicant's request and the Commission's recommendation and granted approval with conditions of the Cemetery District's request.

The project has since commenced construction, however, the location of the OWTS system has been modified from that previously seen by the Commission and the Board in order to comply with condition #3 of the Town's requirements of the Special Review, which stated: Between the proposed building and the septic tank, use a straight section of Schedule 40 PVC pipe. To clearly document this change for Town files and records, Staff is presenting the modified site plan and supporting documentation to the Commission for a motion documenting the modification. Chairman inquired if Planner Smith was asking the Planning Commission to accept the confirmation in the form of a motion with Planner Smith replying yes.

A motion was made by Commissioner Goedert to accept the confirmation of the modified Special Review Site Plan for the Cemetery District, seconded by Commissioner Griffin. All ayes, motion carried.

PUBLIC HEARING

Variance Request: Applicants Jeff and Nancy Madison, 625 Garfield Street – Lots 10, 11, 12 & E ½ of Lot B, Block 22 Town of Meeker, are requesting a 6'x3" variance from the required 10-foot rear yard setback on the north side of the existing single family residence to construct a 16'x42'4" addition. The 6'3" encroachment into the rear setback would occur only along the eastern 30'4" of the addition where it abuts the adjacent property line of 545 6th Street (The Gingerbread House). Chairman Gary Hindman opened the Public Hearing at 5:37 p.m. Roll call was taken with Keith Rholl absent.

Planner Smith stated for the record, the applicant, Jeff Madison was present and would do a presentation. She then read the following: The subject property of 625 Garfield Street (Lots 10, 11, 12 & E ½ of Lot B, Block 22 Town of Meeker) has an existing single family residence structure with two accessory structures (detached garage and carriage house) and is zoned R1-A Single Family Residential. In the area of the proposed addition, the applicants have an existing swale that is contoured to drain to the west. The swale then turns south between the existing residence and detached garage and terminates in their front yard.

The applicants are requesting a 6'3" variance from the required 10-foot rear yard setback on the north side of the existing single family residence to construct a 16'x42'4" addition. The 6'3" encroachment into the rear setback would occur only along the eastern 30'4" of the addition where it abuts the adjacent property line of 545 6th Street (The Gingerbread House). For clarification, there will be up to 24" of eaves extending into the remaining yard, resulting in a 1'7" distance to the adjacent rear property line.

Lots 11 & 12 of Block 22, supports two addressed parcels, each with a single family residence: 625 Garfield Street and 545 6th street. Per the applicants, the residence at 625 Garfield was originally built in 1898 with the second residence built in 1949 on the created lot in the east 30 feet of the north 50 feet of Lot 11 and the north 50 feet of Lot 12. Currently, the applicants own both parcels and have stated it is their intention to relocate the residence at 545 6th Street to another property owned by them on 9th Street in order to consolidate the lots of 625 Garfield and 545 6th into one parcel with only one SFR onsite. The applicants also state that they originally intended to relocate the second residence prior to constructing the addition currently proposed but as a result of the recession and the lack of movement in the real estate market, they would like to construct the addition first and then move the structure in the next few years. Staff would like to point out that in the late 1970s early 1980s, the Town had allowed two structures on the same property on Market Street after relying on the property owner's word that the second structure would be removed. To date, the structure intended for removal still remains onsite.

As a result of the lot boundaries of 545 6th Street, those areas adjacent to the dividing property lines are now subject to a 10-foot setback, per 18.1.116(F) of the Meeker Municipal Code. Currently, there is 19'7" of open yard between the north edge of the 625 Garfield Street residence and the south property line of the 545 6th Street property. The applicants are proposing to utilize 16 feet for the proposed addition, leaving a distance of 3'7" from the wall of the structure to the property line along the eastern 30'4" of the proposed 16'x42'4" addition. Up to 24" of roof eaves will extend into the remaining rear yard leaving 1'7" to the property line. Due to the narrow yard remaining between the proposed addition and the adjoining property line, drainage (rain and snow) from the roofs of the residence at 625 Garfield Street is an issue, despite the fact that the applicants currently own the adjacent property. However, since the applicants do own the adjacent property, they are proposing to create on the 545 6th Street lot a drainage swale that will slope to the west and tie in with the existing swale that drains to the south to address drainage off the roofs of the 625 Garfield Street residence.

In three (3) examples of previous similar setback variance requests (323½ Park Avenue, 589 6th Street, 1068 Laurie Circle) the Town raised the issue of drainage as a concern due to the close proximity of a proposed structure to the adjoining property line. In each of these cases, the proposed structure was an accessory structure (carport, garage) and the variance was approved with conditions despite staff's recommendation to deny. A condition was that the applicant provide rain gutters on the roof of the proposed structure and the rain and snow melt runoff be directed away from the property line. In one case, the additional condition for the construction of a cement drainage ditch was also included.

Despite the fact that the applicants currently own both parcels and have stated their ultimate intent is to consolidate both properties, Town staff's concerns are that in the event either properties (545 6th Street or 625 Garfield Street) were to be sold and not consolidated, 1) the future owners would not be aware of the drainage issues resulting from the adjacent structure and the impacts to their property, and 2) the proposed swale by the applicants on the 545 6th Street property could be reconfigured by the future owners compounding the drainage issue and creating greater damage for the structures.

The request has been advertised in the paper as mandated in the Meeker zoning ordinance. A sign has been posted on the site and letters have been sent to adjacent property owners. At this time, the Town has received no comments from the public.

Recommendation: Staff recommends denial of Jeff and Nancy Madison's request for a 6' setback variance from the required 10-foot rear yard setback on the north side of the existing single family residence to construct an 16'x42' addition at 625 Garfield Street (Lots 10, 11, 12 & E ½ of Lot B, Block 22, Town of Meeker).

The recommendation is based on the Code as described below:

SECTION 18.1.146 FINDINGS

That the variance granted is without substantial detriment to the public good and does not impair the intent or purpose of the Code and Comprehensive Plan, including the specific regulation in question;

The request does create potential substantial detriment to the public good if remedial measures are not taken to address the drainage between the properties at 625 Garfield Street and 545 6th Street, even though the potential detriment would impact the applicants and any future property owners of the subject properties. The request does go against the intent and purpose of the Code in that 3' of yard is insufficient to handle the existing and proposed roofs' rain and snow runoff without affecting the adjacent property despite the fact that the applicants currently own both properties and propose to create the drainage swale on the 545 6th Street property.

That there exists on the subject property exceptional topography, shape, or other extraordinary and exceptional situation, or a condition, such that strict application of the zone district requirement would result in peculiar and exceptional practical difficulties to or exceptional undue hardship upon the owner of the subject property;

The creation of the property lines for 545 6th Street some 60 years ago have resulted in the requirement for a 10-foot rear setback since this portion of the rear yard does not abut the alley. However, the applicant's request for this size addition (16 feet wide) has compounded any aspect of undue hardship that could possibly have existed.

That the exceptional situation or condition, pursuant to paragraph B of this Section above was not induced by any action of the applicant and is not a general condition throughout the zone district;

The existing structures and property boundaries were not induced by any action of the applicant.

That the hardship, pursuant to paragraph B of this section, cannot practically be corrected by means other than a variance;

The applicant could propose a smaller addition that would not encroach this far into the required setback. Additionally, the applicant could propose to locate the addition on the east side of the house where setbacks would not be affected. However, in order to accommodate the proposed 16x42' addition, there are no practical means other than a variance to address this request.

Jeff Madison gave the Commissioners a handout/drawing and began his presentation by outlining the history of the home, and the situation with the two lots. He went on to explain why the addition would be placed on the backside of the house (historic home, additional room for visiting family members, and the least obtrusive). Mr. Madison stated all he wanted to do was reverse the order; build the addition, and then move the smaller structure. He stated another option he and Planner Smith had discussed was a lot line adjustment but a variance would still be needed. He added it was easier to go with the simpler variance at this time. Planner Smith stated the way the code was written, a lot line adjustment application can not be considered if variances are required, and would have required the minor subdivision process instead. She added that in a lot line consolidation or lot line adjustment request, per the code, no variances could be requested, and with Mr. Madison's proposal, a variance would be needed. Mr. Madison next discussed the drainage issue (showing the PC members pictures of the current drainage) and outlined the work he proposed to do. Administrator Day inquired of Mr. Madison if there would be a peak in the roof in the middle of the addition? Mr. Madison stated yes; showing the drawing and explaining why it was designed that way (for drainage reasons). Discussion focused on how far the proposed overhang (eaves) would be and other drainage issues. Mr. Madison reiterated he would be accommodating the drainage issue. He stated another concern the Town had raised was "what if he didn't move the second house?" Mr. Madison stated he didn't feel it would cause a problem as he had a substantial investment into the property and he wouldn't be doing the project if he thought it would cause him harm.

Commissioner Belland asked what percentage of slope Mr. Madison had on the north side once the addition was completed? Mr. Madison indicated (on the drawing) it was a 1-1 on the large house and 3-1 on the addition. Commissioner Belland re-phrased his question, asking Mr. Madison what percent did he have sloped on the ground from one side to the other? Mr. Madison explained it would be about one foot. Discussion focused on maintaining the natural slope of the lot, building a slope away from the addition, if the swale would be in the same location as the brick wall Mr. Madison has proposed to remove, and the amount of drainage area there would be if there was a two foot overhang (eaves) on the addition. Chairman Hindman stated Mr. Madison's drawing showed the actual roof lines with the overhang being inclusive. Mr. Madison stated that was correct. However, under further discussion initiated by Commissioner Belland, Mr. Madison clarified that the drawing only showed to the wall of the proposed addition and not the eaves. Commissioner Goedert stated his concern was the short distance to the property line for the drainage and the water coming across the length of the addition and down to the footings. He added there were ways to mitigate it (i.e. concrete drain pan) and he would be in favor of seeing more permanent drainage (i.e. French drain) to carry water away. Planner Smith stated one of the items discussed with Mr. Madison was if any of the drainage measures he was going to implement were to be on the other property there would be a need to establish an easement that would put future buyers on notice, that would state there is a drainage easement that would need to be maintained. Commissioner Griffin stated another thing that could be done to ensure the second house was moved or the lot would not be sold separately would be a deed restriction. Discussion focused on the Planning Commission requiring a deed restriction. Mr. Madison asked why he couldn't enter into an agreement to move the house on the adjacent property within a five year period, with several Commissioners explaining the Town had agreed to such a request in the past which had not been honored and the house remains on the property after many years.

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Commissioner Belland inquired if Mr. Madison had considered abandoning the old property line and if it would be a re-subdivision? Planner Smith stated Mr. Madison had mentioned it as a possible alternative, but the zoning is R-1, Single Family Residence, and if the property included both parcels, it would be adding a second residence on the same property, which is prohibited in the zone district. She added the Town does have certain situations like that and considers them to be non-conforming. Planner Smith stated the 545 6th Street property was smaller and non-conforming by itself; and the Town would be creating, purposefully, a new non-conforming situation. Mr. Madison explained that he would be willing to enter into a deed restriction when he constructed the addition, but was concerned about what happens if the deed restriction is recorded and the addition is never constructed that it could be a problem in the future for his heirs if something were to happen to him. Day explained that a setback variance as close to the property line as being requested for a residence, has never been granted in the past. Commissioner Goedert reiterated his concerns about the drainage issue asking if there was permanent drainage solution for the property? Discussion focused on what type of permanent drainage system would be viable for the property with Commissioner Belland explaining that a french drain may only compound the problem of saturating soils next to the home. Commissioner Griffin suggested the Planning Commission not make a decision now and come up with some questions for Attorney Viscardi regarding deed restrictions. Planner Smith stated in the past week, Administrator Day, Carl Padilla (Building Inspector) and herself had driven around Town looking at previous sites where conditions such as rain gutters had been required in variance approvals and wanted to note; rain gutters are a maintenance issue, and someone can easily decide not to maintain them or to remove them, and didn't want it to be the only condition, adding she was pleased to hear comments about having something more permanent. Day stated the Planning Commission needed to look not only at the drainage issue but also at how close the house would be to the property line, adding the deed restriction (if possible) could eliminate that issue. Jeff Madison inquired if a deed restriction was in place would a variance be needed? Day stated yes, with Planner Smith explaining the property lines would still exist and the set back requirements would still exist; the deed restriction does not delete the property line. She added the deed restrictions say "if you are going to sell the parcel, you have to sell both of them to the same person."

Chairman Hindman inquired if the Planning Commission could move forward with a condition or contingency upon obtaining a deed restriction that meets the needs/requirements of the Town and the property owners and address the drainage issue? Day stated if a deed restriction was done there wouldn't be as much concern about drainage, since owners of the adjacent property were the same as the property upon which the variance was requested. Commissioner Belland clarified the deed restriction would stay in place until the second house was moved with Day replying yes. Additional discussion focused on a small area of land on the north side of the alley, which is currently part of the adjacent property parcel upon which a garage has been constructed, and allowing the property owner to sell the small piece on the north side of the alley to the owners of Lot 1 to consolidate with their lot. Commissioner Belland clarified that Mr. Madison would like the deed restriction to not include the small parcel? Day stated Mr. Madison could possibly get an exception and added if a deed restriction were possible, it would achieve what Mr. Madison would like to do and if the economy stayed flat, there would be no rush to move the house. Chairman Hindman closed the Public Hearing at 6:46 p.m.

A motion was made by Commissioner Belland recommending approval of the applicant's 6030 variance (plus eaves) request from the required 10-ft rear yard setback on the north side of the existing single family residence to construct a 16x42' addition contingent upon the recording of a deed restriction that would only go into affect when construction was started (or done). He further stated that (the deed restriction) would require that the 625 Garfield Street and 545 6th Street properties could not be sold separately from each other. This deed restriction would be void if the addition is not constructed and the variance not utilized, seconded by Commissioner Griffin. All ayes, motion carried.

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ADJOURNMENT

Chairman Hindman made a motion to adjourn the Planning Commission meeting, seconded by Commissioner Griffin. All ayes, motion carried.

Planning Commission Meeting adjourned at 6:48 p.m.

Gary Hindman, Chairman

Martha Griffin, Secretary