



A REQUEST FOR A SETBACK VARIANCE BY:

Roy Moulton,

FOR: C.J. Pitman Limited Partnership, Ltd.,

WHERE: 4013 Adams Road

Prepared for the Planning & Zoning Commission

May 13, 2014

APPLICANT: Roy Moulton

LANDOWNER: C.J. Pitman Limited Partnership, Ltd.

APPLICABLE COUNTY CODE: Variance pursuant to Title 8, Chapter 8 Teton County Zoning Ordinance, (revised 09/09/2013)

REQUEST: Roy Moulton is seeking a side yard variance, for property owner C.J. Pitman, of 5'8" (to the north) and 3'10" (to the south) from the required 30' side yard setback for properties in the A-20 zone.

LEGAL DESCRIPTION: RP000800040110

LOT 11 BLK 4 TETON VALLEY LODGE SITES III SEC 17 & 20 T4N R45E

LOCATION: 4013 Adams Road

ZONING DISTRICT: A-20

PROPERTY SIZE: .58 acres

VICINITY MAP:



PROJECT DESCRIPTION: The property owner also owns lot 1 of Teton Valley Lodge Sites. He is seeking to move the home that is on that lot to Lot 11. The existing house will not fit within the required side setbacks of 30’.

PROJECT BACKGROUND: The CC&R’s for Teton Valley Lodge Sites require a 35’ front setback and 20’ side and rear setback. These CC&R’s were last amended in 1995. Teton County ordinances take precedence over the CC&R’s for a subdivision, unless there is an agreement for lesser restrictions, such as a PUD. Since Teton Valley Lodge Sites Phase 3 was recorded Teton County setback requirements have changed.

The home sites in Division 3 of Teton Valley Lodge Sites do utilize an offsite drain field. The drain field for this lot is across the road to the southwest. The applicant will need to obtain approval from EIPHD for his septic system.

OVERVIEW OF VARIANCE APPROVAL:

8-8-1-A. DEFINITIONS: A “variance” is a modification of the requirements of this title as to lot or land parcel size, coverage, width, depth, and front, side and rear yard setbacks, parking spaces, height of buildings or other ordinance provisions affecting the size or shape of a structure and the placement of a structure upon the lot or land parcel. A variance does not include a change of authorized land use.

8-8-1-B. UNDUE HARDSHIP: A variance shall not be considered a right or special privilege, but may be granted to an applicant only upon showing of undue hardship because of characteristics of the site, and that the variance is not in conflict with the public interest nor the general land or conditions in the vicinity of the application and that the variance will not be a material detriment to public health, safety and welfare nor to neighboring property owners.

SPECIFIC REQUIREMENTS FOR PUBLIC HEARING NOTICE: Idaho Code, Title 67; Section 67-6516, requires “Prior to granting a variance, notice and an opportunity to be heard shall be provided to property owners adjoining the parcel under consideration.”

And; Title 8, Section 8-1-F of the Teton County Zoning Ordinance requires “Before granting or denying a variance the commission, acting as the board of adjustment, shall hold at least one public hearing in accordance with sections 67-6509, 67-6511 and 67-6516 of the Idaho Code, as applicable. The purpose of this hearing is to allow affected persons the opportunity to be heard by the commission (board of adjustment)”

A notification was sent via mail to surrounding property owners within a 300-foot buffer area and the mailing also went to many more people because anyone within a subdivision that has a lot within 300 feet of a project also gets a notification. A notice was also posted on the property providing information about the public hearing.

COMMENTS FROM NOTIFIED PROPERTY OWNERS:

We have not received any comments.

CONSIDERATION OF APPROVAL:

A variance is to be granted to an applicant only upon showing of undue hardship because of:

1. characteristics of the site;
2. that the variance is not in conflict with the public interest nor the general land or conditions in the vicinity of the application;
3. that the variance will not be a material detriment to public health, safety and welfare nor to neighboring property owners.

SPECIFICATIONS OF COMMISSION: Upon granting or denying a variance, the commission shall specify findings, in writing, for:

1. The ordinance or ordinances, criteria, and standards used in evaluating the application;
2. The reasons and justification for approval or denial;
3. The actions, if any, which the applicant could take to obtain a permit for the variance.

RECOMMENDED CONDITIONS OF APPROVAL

- Not exceed the requested variance.
- Obtain all other required permits from Local, State and Federal Agencies.
- Compliance with Teton County Driveway Standards.
- Compliance with Teton County Building Code

PLANNING & ZONING COMMISSION ACTION:

A. Approve the variance request with the recommended conditions of approval listed in this staff report, having provided the reasons and justifications for the approval.

B. Approve the variance request, with modifications to the application request, or adding conditions of approval, having provided the reasons and justifications for the approval and for any modifications or conditions.

C. Deny the variance request, application request and provide the reasons and justifications for the denial.

D. Continue to a future PZC Public Hearing with reasons given as to the continuation or need for additional information.

PLANNING STAFF RECOMMENDATIONS:

Staff would recommend granting the side setback variance if, you feel comfortable with the explanation of the “undue hardship” described by the applicant in the application and in the testimony given, and you can specify the justification for the approval.

Staff suggests the following motion:

The following motion could state a finding of fact and conclusion of law if a Commissioner wanted to approve the application:

After evaluation State Statute, County Code as well as the application materials, staff report, and presentations to the Planning & Zoning Commission, I concluded that the Criteria for Approval of a Variance found in Title 8-8-1 can be satisfied with the inclusion of the recommended conditions of approval,

- *and having found that based on the site, granting the Variance to Mr. Moulton for Mr. Pitman can be justified,*
- *and having found that the proposal is not a detriment to the public's or neighbor's health, safety and welfare,*
- *I APPROVE the Variance applied for by Mr. Moulton for a reduced side setback of 24'4" on the north property line and 26' 2" on the south property line, and as described in the application materials submitted March 28, 2014.*

Prepared by Jason Boal

Attachments:

- Application
- Letter of Authorization
- Narrative
- Site plan (with dimensions)
- Teton Valley Lodge Sites
Division 3 Plat

End of Staff Report