



MINUTES
BOARD OF ADJUSTMENTS
SPECIAL MEETING
DELTA COUNTY
560 DODGE ST, DELTA, CO 81416
December 15, 2022

Chairman Mike Twamley called the meeting to order at 5:30 p.m. in the Administration Building Commissioner's Meeting Room.

ROLL CALL

Board of Adjustments Members in Attendance:

Mike Twamley, District 1
Mark Roeber, District 3

Members Absent:

Brett Hilling, District 2

Planning Staff in Attendance:

Delta County Community Development & Natural Resource Director, Carl Holm
Delta County Planning & Community Development Planner I, Kate Kelly
Delta County Planning & Community Development Planner I, Angie Kemp
Delta County Code Compliance Officer, Everett Neil
Delta County Administrator, Robbie LeValley

A. PUBLIC COMMENT

None

B. AGENDA ADDITIONS, DELETION, AND CORRECTIONS

Director Holm suggested that Items 1 and 2 be presented together as the projects are located next to each other and will be continued; however, they will remain two separate items.

C. MEETING MINUTES

- a. Regular Board of Adjustment meeting of November 17, 2022
RECOMMENDATION: Approve the action minutes as presented.

Mark Roeber moved to approve the meeting minutes as presented. Mike Twamley stepped down and seconded the motion.

Motion carried unanimously

D. PUBLIC HEARING ITEMS:

- Item #1 PLN22-024 (Gray)
Consider continuing the public hearing of this item to January 26, 2023. The application is for variance to reduce the required lot size for one 14-acre lot in the A20 zoning designation. The subject property is a 120.0-acre parcel located north of Ute Trail Road, Cedaredge (Parcel: 319304100003).
RECOMMENDATION: Staff recommends that the Board of Adjustment (BOA) continue the application for a lot size variance creating a 14-acre lot in the A20 zoning designation located north of Ute Trail Road, Cedaredge (Parcel 319304100003/Gray).
- Item #2 PLN22-154 (Chapman)
a. Consider continuing the public hearing of this item to January 26, 2023. The application had been amended as a clustered subdivision for consideration by the Planning Commission, but then revised to include a variance for a 2-lot subdivision which requires one variance with the BOA before the subdivision can be processed. The subject property is a 35.79-acre parcel located north of Ute Trail Road, Cedaredge (Parcel: 319304200038).



RECOMMENDATION: Staff recommends that the Board of Adjustment (BOA) continue the application for a lot size variance creating an approximately 4.5 acre lot in the A20 zoning designation located north of Ute Trail Road, Cedaredge (Parcel 319304200038/Chapman).

Director Carl Holm presented a summary of the two projects. Mr. John Gray, applicant, was in attendance via Zoom. Mr. Jeff Chapman, applicant, was in attendance.

A history of the projects was presented, along with Staff's understanding of how the projects have been amended.

For Gray, Planning noted there has been an expressed intent to create a 5-lot subdivision. The variance is a piecemeal approach. As such, staff prefers a Rezone or the Clustered Design approach versus the variance. In response to BoA questions, the future of the property and the goals that Mr. Gray has to create a 7-lot subdivision was explained further.

For Chapman, Staff expressed supporting a single variance where there is one smaller lot to develop and the larger lot meets the minimum zoning (20 acres). Initially, the applicant was requesting multiple variances or a clustered subdivision. Access is limited to a single point via an easement across other properties.

The BoA supported staff in that Gray should pursue a Rezone or the Clustered Design rather than a variance. Chapman, as revised for one variance, seems reasonable, and they should revise the site plan accordingly.

Mark Roeber moved to continue PLN22-024/Gray and PLN22-154/Chapman to January 26, 2022. Mike Twamley stepped down and seconded the motion.

Motion carried unanimously.

Item #3

PLN22-158 (Ballard)

Consider a variance to reduce the required lot size to allow one, 7.14-acre lot in the A20 zoning designation. The subject property is an 80-acre parcel located south of F Road and west of 2100 Road, Delta (Parcel: 345526100011).

RECOMMENDATION: Staff recommends that the Board of Adjustment (BOA):

- Consider required variance criteria and findings as they apply to PLN22-158 (Ballard);
- Provide direction to either Approve, Conditionally Approve, or Deny lot size variance(s) to subdivide an 80-acre parcel into two (2) lots in the A20 zoning designation located at F Road and 2100 Road, Delta (Parcel 345526100011/Ballard);
- Authorize the Director to prepare a Resolution reflecting the BOA direction, including evidence relative to the required findings and conditions (as applicable).

Planner, Angie Kemp presented the project. Mr. Fred Ballard, applicant, was in attendance.

Mark Roeber moved to approve PLN22-158 with Staff recommendations, clarifying that Condition 5 could be satisfied with a plat note restricting access versus the 1-foot no access strip. Mike Twamley stepped down and seconded the motion.

Motion carried unanimously.

Item #4

PLN22-159 (O'Neal)

Consider variances to reduce the required lot size to allow two, 13-acre lots in the A20 zoning designation. The subject property is a 26.04-acre parcel located south of Starlight Court, Delta (Parcel: 345521100027).

RECOMMENDATION: Staff recommends that the Board of Adjustment (BOA):

- Consider required variance criteria and findings as they apply to PLN22-159 (O'Neal);
- Provide direction to either Approve, Conditionally Approve, or Deny lot size variance(s) to subdivide a 26.04-acre lot into two (2) lots in the A20 zoning designation located south of Starlight Court, Delta (Parcel 345521100027/O'Neal);



1. Lot 1 (13 Acres +/-)
2. Lot 2 (13 Acres +/-)
- c. Authorize the Director to prepare a Resolution reflecting the BOA direction, including evidence relative to the required findings, and conditions (as applicable).

Planner, Angie Kemp presented the project. Mr. Jim O'Neal, applicant, was in attendance.

The Board asked questions of staff and the applicants relative to the access and wetlands.

Mark Roeber moved to approve PLN22-159 with staff recommended findings and conditions. Mike Twamley stepped down and seconded the motion.

Motion carried unanimously.

Item #5

PLN22-162 (Rice)

Consider a variance to reduce the required lot size to allow one, 2-acre lot in the A20 zoning designation. The subject property is a 40-acre parcel located at 20520 and 20652 Brimstone Road, Cedaredge (Parcel: 319511400017).

RECOMMENDATION: Staff recommends that the Board of Adjustments (BOA):

- a. Consider required variance criteria and findings as they apply to PLN22-162 (Rice):
- b. Provide direction to either Approve, Conditionally Approve, or Deny lot size variance(s) to subdivide a 40-acre lot into two (2) lots in the A20 zoning designation located south of Brimstone Road, Cedaredge (Parcel 319511400017/Rice):
 1. Lot 1 (2 Acres +/-)
 2. Lot 2 (38 Acres +/-)
- c. Authorize the Director to prepare a Resolution reflecting the BOA direction, including evidence relative to the required findings, and conditions (as applicable).

Planner, Angie Kemp presented the project. Mr. Shane Rice, applicant, was in attendance.

The Board asked questions of staff and the applicants relative to the required findings. It was determined that the proposed property line follows a ridge that delineates irrigation of the property. One lot will retain the minimum acreage and irrigation. The exception is for one lot that is not irrigated due to topography.

Mark Roeber moved to approve PLN22-162 with staff recommended findings and conditions. Mike Twamley stepped down and seconded the motion.

Motion carried unanimously.

E. WORK SESSION

1. 2022 Land Use Code Update

Work Session to consider Board of County Commissioner change to the certified 2022 Land Use Code Update relating to Lot Size Variances.

RECOMMENDATIONS: Staff recommends that the Board of Adjustment consider Lot Size Variance criteria as part of the 2022 Land Use Code Update.

Director, Carl Holm noted that the Planning Commission's Certified copy of the Land Use Code was presented to the Board of County Commissioners (BoCC) on December 7th. The BoCC did not want to eliminate an option to allow Variation to Lot Size and requested the Planning Commission (PC) include criteria. The PC met on December 14, 2022 and ended up with the following criteria:

- a. Variances will only be permitted in the A20 and A35 zoning designation. A Rezone will be encouraged in all other zoning designations
- b. Minimum of 1.0-acre lot size.
- c. A Variance will only be allowed for one (1) lot. Other lot(s) must meet the zoning designation. If there are more than two (2) lots, a Clustered Subdivision will be encouraged.
- d. A 10-year Restriction for further subdivision.



The BoA asked questions about requiring one lot to meet the minimum acreage. Staff noted that as a larger lot, the intent is to encourage clustered subdivisions and minimize variances.

With that clarification, the BoA expressed support for the PC recommendations.

F. BOARD COMMENT, REQUESTS AND REFERRALS

1. Robbie LeValley announced they will be advertising the opening of District 2 BOA position as the term is expiring January 31, 2023.
2. There will also be an Associate member appointed from the Planning Commission in 2023.

G. DEPARTMENT REPORT

Planning Director, Carl Holm provided an update on the following:

1. Angie Kemp will be leaving Delta County and her last day will be December 30, 2022.

Meeting adjourned at 6:49 p.m.

Respectfully submitted by:
Administrative Assistant, Kim Henderson