

BOARD OF ADJUSTMENT MEETING
PUBLIC HEARING ON VARIANCE REQUESTS
MORRISON TOWN HALL
110 STONE STREET
MONDAY, OCTOBER 10, 2016
6:00 PM

1. Call to order
2. Roll call
3. Approvals
 - a. Minutes of 6/29/2016
4. Public Hearing
 - a. Sean and Celeste Forey – Variance Requests to subdivide the property located approximately 225 feet east of 2nd Street and Spring Street intersection (south side), designated as 304, 306, 308, 310 and 312 Spring Street. The requested variances are to provide relief from 20' front setback on two lots (306 and 312 Spring Street), 10' side setback on two lots (310 and 312 Spring Street), 10' rear setback on one lot (308 Spring Street), and minimum lot width of 50' on two lots (306 and 310 Spring Street) in order to subdivide a metes and bounds parcel with our existing residential structures into five lots.
5. Adjournment

MINUTES FOR BOARD OF ADJUSTMENT
MORRISON TOWN HALL
110 STONE STREET
WEDNESDAY, JUNE 29, 2016
6:00 P.M.

Call to Order: Wyatt Blessingame called the meeting to order at 6:00 P.M.

Oath of Office: Bryant swore in Wyatt Blessingame, Margaretta Caesar, Loren Oswalt, Maja Stefansdottir, Shari Raymond and Kathy Wolfe.

Roll Call: Board members Wyatt Blessingame, Margaretta Caesar, Loren Oswalt, Maja Stefansdottir, Shari Raymond and Kathy Wolfe were present. Board member Kyle Burris was absent. A quorum was established.

Staff Present: Gerald Dahl (Town Attorney), Carrie McCool (Town Planner), Kara Zabilansky (Town Administrator and Charla Bryant (Town Clerk).

Appointment of Chair and Co-Chair: Stefansdottir made a motion to appoint Wyatt Blessingame as Chair and to appoint Loren Oswalt as Co-Chair of the meeting. Caesar seconded the motion and all present voted in favor.

Approvals:

Motion/Minutes: Raymond moved to approve the minutes of June 1, 2011. Stefansdottir seconded the motion and all present voted in favor.

Procedures. Dahl simplified the Procedures for a variance. To make a change to one property is a quasi-judicial action. Dahl said discussing information outside a Board Meeting would be inappropriate behavior. Stefansdottir made a motion to approve the changes to the hearing procedures. Caesar seconded the motion. All present voted in favor.

Ryan Burris 110 Wood Lane Morrison, CO Variance Request:

Blessingame stated that this is a hearing on a request for a variance from Article 10-1E-6 (Uses, Yard and Bulk Requirements) to provide relief from the 20,000 square foot minimum lot area per dwelling unit requirement to construct an addition to the existing house.

Blessingame asked Bryant if all required notices of this hearing had been given and posted. Bryant said they had. Three notices were posted, one at the Town Offices, one at the Town Hall and one at the Post Office. The Website was also posted.

Blessingame asked if the Applicant was ready to proceed. The applicant, Ryan Burris, stated that he was ready to proceed.

Blessingame asked if the Staff was ready to proceed. The Staff said they were ready to proceed.

Blessingame swore in the applicant.

Applicant Testimony: Ryan Burris addressed the Board. Burris stated that the lot was zoned as Residential Estate which requires 20,000 square feet for a home. Burris' lot has 12,500 square feet. Burris is requesting permission to construct an addition to his home. Burris stated he has discussed the addition with his neighbors with the exception of Kevin Fitzgerald. He has received no complaints.

Town Planner: Carrie McCool said the property is zoned RE. The home is on 12,500 square feet. Wood Lane is not a dedicated right of way. The home was built in 1949 on a lot that did not meet required square footage. There are 5 criteria:

1. It is an unusual circumstance that the circumstance is unique to tis property.
2. A granted variance would keep the use of the property consistent with the RE zone requirement.
3. There would not be adverse effects to adjacent homeowners or the Town.
4. The variance is the minimum variance that will afford relief with the least modification possible of the provisions of this chapter.
5. The hardship was not self-imposed by the applicant.

Dahl stated the variance will run with the land. The applicant in the future would not need a variance for anything that only needs a building permit. An expansion of the home would need a variance. Raymond stated zoning is done in groups.

Blassingame asked for public comment. There was none.
Blassingame closed the public hearing.

Caesar made a motion to approve the variance request finding that it substantially meets the standards listed above with the following condition of approval:

Prior to issuance of a building permit, the applicant shall dedicate Wood Lane to the Town as it extends along the western lot frontage in a location and width to be approved the by Town Engineer.

Raymond seconded the motion. Stefansdottir stated having a dedicated street makes sense. Dahl will draft a Right-Of-Way Dedication Deed to be signed and recorded. All present voted in favor.

Adjournment: There being no further business, Chairman Blassingame adjourned the meeting at 6:44 p.m.

TOWN OF MORRISON

Wyatt Blassingame, Chairman

ATTEST:

Charla D Bryant, Town Clerk

Memorandum

To: Chairperson, Members of the Board of Adjustment

Date: 10/6/2016

Re: Hearing Procedure, Variance Applications

1. **Purpose.** To briefly state procedures for conduct of a public hearing on an application for a variance.

2. **Discussion.**

a. **Quasi-Judicial Proceeding.** A variance hearing is a quasi-judicial proceeding. The quasi-judicial decision-maker is held to the same standard of impartiality as a judge. There are several recognized grounds on which the neutrality and impartiality of a decision maker may be challenged:

- i. Financial or other personal interest in the matter;
- ii. Prejudgment of the matter;
- iii. Relationship to a party or witness such as familial or employment;
- iv. Ex parte communication regarding the matter. In the context of a quasi-judicial proceeding, these are communications with an applicant, witness, or opponent outside the hearing concerning the matter at issue; and
- v. Bias or prejudice against, or in favor of, a party.

This is the typical list of disqualifying grounds; however, the essence of each is that it demonstrates lack of impartiality or neutrality or compromises the appearance of fairness and impartiality such that parties or the public are left with a substantial doubt regarding fairness or impartiality.

The Board of Adjustment will decide the matter by applying the standards contained at §10-1C-1 of the Morrison Town Code to the evidence presented at the hearing. The evidence consists of the material provided by the Town's consultants, the material presented by the applicant, and the information and testimony provided by residents of the neighborhood, if any. The burden is upon the applicant to present evidence to support the application. Four votes are necessary to approve a request.

b. **Procedure.** The Board of Adjustment has previously adopted Rules and Procedures. These should be reviewed and may be modified, as the Board desires. The general order for presentation of a case for a variance would be as follows:

- i. Ask the Secretary to the Board to call the matter to order.

- ii. Determine who is present to represent the applicant. Ask them to introduce themselves by stating their name and address.
- iii. Ask the Secretary if appropriate notices have been posted.
- iv. Determine if everyone is present who wishes to testify has signed the roster.
- v. Board members who received any information outside the public hearing regarding the application should disclose at this time, including any potential conflicts of interest. The Board should determine if the member should recuse or not at this time.
- vi. Administer oath to all witnesses.
- vii. .
- viii. Ask the applicant to present its case through his/her testimony, testimony of witnesses, photographs, illustrations, etc.
- ix. Board questions of the applicant.
- x. If the Town is appearing it would present its case next, followed by Board questions of the town's representative.
- xi. Public may comment and ask questions. These witnesses should state their name and address. Questions and comments should be addressed to the Chairperson not the applicant.
- xii. The Board may have questions for the public speakers.
- xiii. The applicant may submit testimony or exhibits in "rebuttal" of these statements.

- xiv. The public portion of the hearing may be closed or continued for additional information.
- xv. If the hearing is closed, the Board may discuss the evidence and applicable standards and law. The Board may address questions to staff only, not the applicant or other witnesses at this time.
- xvi. The Board may continue the matter for a decision by written resolution.
- xvii. In simpler matters, a motion may be introduced, discussed, and voted upon. The decision of the Board should ultimately be reduced to a written form with a copy to the applicant and to the Town Clerk. The written decision should set forth the decision and the findings and conclusions of the Board.

c. **Executive Session.** If a Board member has specific questions to ask of the Town Attorney, a request may be made for an executive session. An executive session requires approval by four of the five Board members.

3. **Criteria.** The powers of the Board of Adjustment and the criteria for variances are set forth in §10-C-1 et seq. "Zoning Regulations" of the Morrison Town Code. The State statute which authorizes a Board of Adjustment and establishes the use variance authority, states that the Board has the authority to modify use regulations where there are "practical difficulties" or "unnecessary hardships" in carrying out the strict letter of

the ordinance while insuring that the spirit of the ordinance is observed, public safety and welfare served, and substantial justice done.

a. Our ordinance requires that, in order to grant a variance, the Board may vary the application of the regulations set forth in the zoning ordinance, to the extent they are applicable in a particular case, only if the Board finds that:

- i. By reason of exceptional narrowness, shallowness or shape of a specific piece of property or by reason of exceptional topographic conditions or other extraordinary and exceptional situation or condition of the piece of property, the strict application of the regulation would result in peculiar and undue practical difficulties for, or peculiar and unnecessary hardship on, the owner of the property;
- ii. The variance, if granted, will observe the spirit of this article, secure the public safety and welfare, and achieve substantial justice;
- iii. The variance, if granted, will not adversely affect the adjacent property or the neighborhood;
- iv. The variance, if granted, will not substantially or permanently impair the appropriate use or development of adjacent property
- v. The variance, if granted, is the minimum variance that will afford relief with the least modification possible of the provisions of this chapter; and

b. In deciding variance applications, the Board may consider whether the alleged difficulty or hardship was self-imposed.

c. The Board may not grant any variance relating to the use of property.

CHAPTER 1
ZONING REGULATIONS
ARTICLE C. BOARD OF ADJUSTMENT

SECTION:

- 10-1C- 1: Establishment And Organization
- 10-1C- 2: Proceedings
- 10-1C- 3: Hearings, Appeals And Notices
- 10-1C- 4: Powers
- 10-1C- 5: Minor Variances
- 10-1C- 6: Expiration Of Variance
- 10-1C- 7: Appeal From Board Of Adjustment
- 10-1C- 8: Judicial Review
- 10-1C- 9: Severability
- 10-1C-10: Effective Date

10-1C-1: ESTABLISHMENT AND ORGANIZATION:

- A. **Creation:** The board of adjustment is hereby established.
- B. **Members:** The board of adjustment shall consist of seven (7) regular members. Two (2) members shall be appointed from the Morrison planning commission by its chair and five (5) members shall be appointed by the board of trustees. All members shall be over the age of eighteen (18) and shall be residents of the town of Morrison. No member of the board of trustees shall serve on the board of adjustment.
- C. **Terms And Transition:** The term of a board of adjustment member shall be three (3) years. The terms of all current members shall expire on July 1, 2001. At its first regular meeting in July 2001, the board of trustees shall appoint five (5) regular members, three (3) of whom shall serve two (2) year terms and two (2) of whom shall serve three (3) year terms and their successors shall serve three (3) year terms. At its first regular meeting in July 2001, the chairperson of the

planning commission shall appoint two (2) planning commission members to the board of adjustment, one of whom shall serve a two (2) year term and one of whom shall serve a three (3) year term and their successors shall serve a three (3) year term.

- D. **Quorum And Vote:** A quorum of the board of adjustment shall be five (5) members. Four (4) affirmative votes shall be required to decide any appeal or application in favor of the appellant or applicant. (Ord. 310, 5-1-2001)

10-1C-2: PROCEEDINGS:

- A. **Rules Of Procedure:** The board of adjustment shall adopt rules and regulations consistent with the laws of the state of Colorado, the Morrison home rule charter and this code to govern all matters before it. The chairman, or in his absence the acting chair, shall be empowered to administer oaths and compel the attendance of witnesses. (Ord. 310, 5-1-2001)

10-1C-3: HEARINGS, APPEALS AND NOTICES:

- A. **Appeal Filed With Town Clerk:** Appeals to the board of adjustment concerning any order, requirement, decision or determination made by any official charged with the enforcement of this chapter may be taken by any person aggrieved or by any officer of the town affected by any decision. Such appeals shall be taken within such time as shall be prescribed by the board of adjustment by general rule. The appellant shall file with the town clerk a letter of appeal specifying the grounds thereof.
- B. **Fee, Cost Of Appeal Or Variance Application:** No appeal or variance application may be considered by the board of adjustment until the required fee has been paid. The amount of the fee shall be established by resolution of the board of trustees. In addition to this fee, an appellant or applicant shall be obligated to pay the reasonable costs, expenses and consultant fees, including attorney, planning and engineering fees incurred by the board of adjustment in connection with the matter. The clerk of the town shall obtain estimates of these costs, expenses and fees and a deposit in an amount equal to the estimated costs, fees and expenses shall be paid by the appellant or applicant prior to consideration of the matter by the board of adjustment.

- C. **Rehearing Of Variance Request:** The board of adjustment shall not consider an application for a variance which it had denied within one year before the date of the new application without a showing that there has been a substantial change of circumstances or conditions regarding the property since the date of the decision on the previous application.
- D. **Town Official; Duty:** The town official whose decision is appealed shall transmit to the board of adjustment any papers constituting the record of action upon which the appeal was taken. Before considering an appeal, the board of adjustment shall have posted a public notice specifying subject, meeting time and place at least one week prior to the meeting on the appeal or request for variance. Additionally, such notice, in a form approved by the town clerk, shall be placed on the subject property and such notice shall be clearly visible from any abutting public right of way. (Ord. 310, 5-1-2001)

10-1C-4: POWERS:

- A. **Powers:** The board of adjustment shall have the power to:

1. **Rule On Error Of Town Official:** Hear and decide appeals where it is alleged by the appellant that there is error in any order, requirement, decision or determination made by a town official based on or made in the enforcement of this chapter. The board of adjustment may affirm, reverse (wholly or partly) or may modify the order, requirement, decision or determination appealed and may make such order, requirement, decision or determination as in their opinion ought to be made in the premises, and to that end shall have all powers of the officer from whom the appeal is taken.

2. **Rule On Variance Requests:** Hear and decide, grant or deny applications for variances from the provisions of this chapter. In granting any variance, the board of adjustment may attach such reasonable conditions and safeguards as it may deem necessary to implement the purposes of this chapter.

3. **Other Matters:** Hear and decide such other matters as the board of trustees may prescribe.

B. Standards:

1. In passing upon appeals and variance requests, the board of adjustment may vary the application of the regulations set forth in the zoning ordinance only if the board finds that:

a. By reason of exceptional narrowness, shallowness or shape of a specific piece of property or by reason of exceptional topographic conditions or other extraordinary and exceptional situation or condition of the piece of property, the strict application of the regulation would result in peculiar and undue practical difficulties for, or peculiar and unnecessary hardship on, the owner of the property;

b. The variance, if granted, will observe the spirit of this article, secure the public safety and welfare, and achieve substantial justice;

c. The variance, if granted, will not adversely affect the adjacent property or the neighborhood;

d. The variance, if granted, will not substantially or permanently impair the appropriate use or development of adjacent property;

e. The variance, if granted, is the minimum variance that will afford relief with the least modification possible of the provisions of this chapter; and

2. In deciding variance applications, the board may consider whether the alleged difficulty or hardship was self-imposed.

C. Use Variance: The board of adjustment may not grant any variance relating to the use of property.

D. Public Hearing: The board of adjustment shall conduct a public hearing on each variance application, with prior notice thereof pursuant to its rules and regulations. A party may appear in person, by agent or attorney. (Ord. 310, 5-1-2001)

10-1C-5: MINOR VARIANCES:

A. Upon application, the town administrator may grant a variance from the application of standards relating to setback, lot area, lot width, and the minimum number of required parking spaces, for a particular

use on a specific piece of property. Such minor variance may be granted only if:

1. The variance, if granted, does not deviate more than twenty percent (20%) from the requirement, independent of variances granted for other requirements; provided, however, the town administrator may not grant variances of lot area more than ten percent (10%) of the minimum lot area, and may not grant variances of lot width more than ten percent (10%) of the minimum lot width, independent of variances granted for other requirements. The town administrator may grant variances to the number of required parking spaces up to ten percent (10%) or five (5) parking spaces, whichever is less. The intent of this provision is to provide for variances with certain percentage limitations, and further to clarify that any variance is considered to be independent of any other variance and is not to be considered cumulative. The town administrator shall have no authority to grant a variance for the purpose of qualifying any property for rezoning consideration.
 2. The town administrator finds that the proposed variance meets each of the standards set forth in subsections 10-1C-4B1a through B1e of this article.
 3. The applicant pays a variance fee in an amount established by board of trustees resolution.
- B. In deciding variance applications, the town administrator may consider whether the alleged difficulty or hardship was self-imposed.
- C. Written notice shall be provided at the applicant's expense, on forms provided by the town clerk, to all owners of property adjacent to the applicant's property, that a variance application is pending, describing the variance requested, indicating where written or oral objections to the variance may be presented, and stating that no hearing on the variance application will be held unless objections to the variance and a request for a hearing are filed, in writing, with the town clerk, within a time set forth in the notice, but not earlier than ten (10) days after mailing of the notice. On the same day that written notice is provided to owners of adjacent property, notice that the variance application is pending shall also be posted by the applicant on the applicant's property for at least ten (10) days and shall state where additional information on the variance may be obtained. The posted notice shall be in such form and contain such additional information as the town clerk may require. (Ord. 310, 5-1-2001)

10-1C-6: EXPIRATION OF VARIANCE: Any variance granted by the board of adjustment or the town administrator shall automatically expire within one hundred eighty (180) days of the date it was granted, or within such other time as the board or administrator may prescribe, unless a building permit for the variance is obtained within such period of time. Extensions of time may be granted for good cause shown, but only if an application for the extension is made prior to the expiration of the variance. (Ord. 310, 5-1-2001)

10-1C-7: APPEAL FROM BOARD OF ADJUSTMENT:

- A. An applicant or affected property owner may appeal a determination of the board of adjustment to the board of trustees. Such appeal must be filed by letter with the town clerk within fifteen (15) days of the date of the decision of the board of adjustment which shall be the date of the meeting of the board of adjustment at which its decision is announced on the record.
- B. The appeal shall be de novo and notice and hearing procedure shall be in accordance with rules adopted by the board of trustees. The applicant shall be responsible for all costs incurred by the town in connection with the appeal including the costs of the town's engineer, attorney and planner. (Ord. 310, 5-1-2001)

10-1C-8: JUDICIAL REVIEW:

- A. The decision of the board of adjustment, if not timely appealed, or the decision of the board of trustees after appeal, shall be a final decision.
- B. Any person applying to the courts for a review of any final and reviewable decision made under this title shall pay the cost of preparing any necessary transcript and any necessary record of proceedings. (Ord. 310, 5-1-2001)

10-1C-9: SEVERABILITY: Should any section, subsection, subdivision, paragraph, sentence, clause or phrase of this article or application thereof to any person or circumstance, be declared unconstitutional or invalid for any reason, such decision shall not affect the validity of the remaining portions of this article, or its application to any

10-1C-9

10-1C-10

other person or circumstance, and, to this end, the provisions of this article are declared to be severable. (Ord. 310, 5-1-2001)

10-1C-10: **EFFECTIVE DATE:** This article shall take effect thirty (30) days after final publication. (Ord. 310, 5-1-2001)



TOWN OF MORRISON

321 HIGHWAY B • MORRISON, CO 80465 • PHONE: (303) 697-8749
FAX: (303) 697-8752

Town of Morrison Board of Adjustment
Public Hearing
Monday, October 10, 2016
6:00 P.M.

STAFF REPORT

Date: October 5, 2016
Prepared by: Stephanie Stevens, Morrison Town Planner
Applicant/Property Owner: Sean and Celeste Forey
Subject: Variance from setbacks and minimum lot width

VARIANCE REQUEST:

The applicants, Sean and Celeste Forey, are requesting variances from Article 10-1E-6 (Uses, Yard and Bulk Requirements) to provide relief from the 20' front setback on two lots (306 and 312 Spring Street), 10' side setback on two lots (310 and 312 Spring Street), 10' rear setback on one lot (308 Spring Street), and minimum lot width of 50' on two lots (306 and 310 Spring Street) in order to subdivide a metes and bounds parcel with four existing residential structures into five lots.

BACKGROUND:

The applicants are proposing multiple variances in order to subdivide the property located approximately 225 feet east of the 2nd Street and Spring Street intersection (south side), designated as 304, 306, 308, 310 and 312 Spring Street. Access is provided across the entire lot from Spring Street right-of-way. The property is currently platted as a metes and bounds parcel that contains three residential homes and a garage structure with three water and sanitary service lines. The property is non-conforming with current zoning standards for R-1 Low Density Residential zoning, which is the zoning that was designated to this area with the adoption of the original zoning ordinance for the Town. The applicant is proposing to subdivide the unplatted property into five lots in the future. The layout of the existing structures presents a challenge to meeting current standards. The applicants recently annexed additional area to the southeast, to assist with meeting current standards for density and minimum lot area per dwelling unit. The entirety of the property is comprised of approximately 1.03 acres, amounting to 44,780 square feet, which allows for up to 6 dwelling units at 7,500 du/ac as required by the zoning regulations. Due to the current layout of the

existing residential structures, setbacks are difficult to achieve. As such, the applicants are seeking setback and lot width variances in order to bring the lots to conforming, legal status under the existing Municipal Code.

LOCATION:

The subject property is located at 304, 306, 308, 310 and 312 Spring Street, Morrison, CO 80465.

PUBLIC NOTICING:

The proposed variance request was publicly noticed in accordance with the public notification requirements outlined in the *Morrison Town Code, Title 10: Zoning and Land Development*.

VARIANCE REVIEW STANDARDS:

In passing upon appeals and variance requests, the Board of Adjustment may vary the application of the regulations set forth in the zoning ordinance only if the board finds that:

1. By reason of exceptional narrowness, shallowness or shape of a specific piece of property or by reason of exceptional topographic conditions or other extraordinary and exceptional situation or condition of the piece of property, the strict application of the regulation would result in peculiar and undue practical difficulties for, or peculiar and unnecessary hardship on, the owner of the property.

Staff Finding: The shape of the subject property as well as the encumbrance of the existing residential structures, topography and location of current driveways on the lot results in an exceptional condition wherein strict application of the regulation would result in peculiar and undue practical difficulties for the property owner.

2. The variance, if granted, will observe the spirit of this article, secure the public safety and welfare, and achieve substantial justice.

Staff Finding: Staff finds that the setback and lot width variances, if granted, would observe the spirit of this article, secure the public safety and welfare, and achieve substantial justice in that the use is consistent with the intent of the R-1 zone district of providing a purely residential environment and all other zone district requirements will be met.

3. The variance, if granted, will not adversely affect the adjacent property or the neighborhood.

Staff Finding: The variance request was publically noticed and no comments were received from adjacent property owners.

Regulations that establish minimum lot setbacks and lot width are used as a tool to maintain desired densities; in this instance the R-1 zone district requirements seeks to maintain a low-density neighborhood. Approval of variances eliminates the need to rezone the property and maintains the character of the neighborhood. While the existing structures do not conform to setbacks, maintaining the existing zoning on the property would require any new structures to conform or seek variance approval, which increases the likelihood of long-term conformity. The proposed lots meet minimum density standards set forth for R-1 zoning, which requires 7,500 square feet per dwelling unit.

4. The variance, if granted, is the minimum variance that will afford relief with the least modification possible of the provisions of this chapter.

Staff Finding: The applicants are requesting the minimum variance that would allow them to subdivide the metes and bounds parcel, given that the existing structures already encroach into required setbacks and result in a non-conforming lot. The proposed subdivision layout complies with minimum density standards and the intent of the zone district.

5. In deciding variance applications, the Board may consider whether the alleged difficulty or hardship was self-imposed.

Staff Finding: As per the Jefferson County Assessor's Office, the structures were built in the 1940's by a prior owner on the metes and bounds parcel that was annexed into the Town in 1968. Staff thus finds that this hardship was not created by the applicant.

BOARD OF ADJUSTMENT MOTIONS:

Below are potential motions that the Board of Adjustment could consider regarding the variance application:

1. The Board of Adjustment could approve the variance requests, finding that they substantially meet the standards listed above.
2. The Board of Adjustment could approve the variance requests, finding that they substantially meet the standards listed above with condition(s) outlined by the Board.
3. The Board of Adjustment could deny the variance requests, finding that they do not substantially meet the standards listed above.

RECOMMENDED MOTION:

Approval of the variance requests with no conditions.

EXHIBITS:

Variance Request

Variance Exhibit

TO: Town of Morrison
Board of Adjustment
FROM: Sean and Celeste Forey
Address: 201 Mill Street, Morrison, CO 80465
Representative: Jamee and Gus Chambers
Chambers Consulting Inc., P.O. Box 339, Morrison, CO 80465
DATE: September 29, 2016
SUBJECT: Variance Application – SUMMARY
Property Address: 308, 310 and 312 Spring Street, Morrison, CO 80465
Other addresses not assigned, but used as identification of proposed lots.

Legal Description: see attached metes and bounds

Title 10 - Morrison Zoning and Land Development - Items:

- 1) Area: R-1 zone lots are required to be 7,500 square feet and can have no more than one water and sewer service line. This parcel has 3 water and 3 sanitary service lines that serve 3 separate dwelling units.
- 2) Size: To subdivide lots, even to create legal size lots, requires one acre minimum. The Ochletree property = 0.862 Acres (37541 Sq. Ft.).
- 3) Frontage or Lot Width: Lots can be no less than 50 feet in width fronting on a public street. Proposed Subdivision plat creates lot lines for each property with public access, water and sanitary sewer, but two proposed lots are not wide enough to meet code.
- 4) Setbacks: R-1 Zone District, which is the existing zoning, are:
Front: 20 feet
Side and Rear: 10 feet

Remedy for Items 1 and 2: Make the land larger

In 2015 Jefferson County Planning and Zoning approved a Minor Adjustment case for the Bear Creek Development Corporation. This case was applied for in 2012 and paid for by Sean and Celeste Forey - in order for BCDC to create and then have Forey's purchase a small portion of a more than 24 Acre parcel. The size of the purchased parcel was 0.164 Acres (7222 Sq. Ft.) but it was restricted by Jefferson County as an "unbuildable tract". This tract of land was annexed to the Town on September 1, 2016. The total acreage is now 1.028 Acres (44763 Sq. Ft.) and large enough to propose a Subdivision.

The lot lines that are proposed create 5 lots that meet the minimum lot size of 7500 square feet. There is no building allowed on the "unbuildable tract" as it is used only to satisfy the one acre minimum. The lots that have existing houses and water and sewer services are now proposed as separate zone lots.

SEE "EXHIBIT FOR VARIANCE APPLICATION" - 11" BY 17" SIZE ATTACHMENT

Because of the existing structures and topography, lot lines had to be created to allow access along current driveways which reach Spring Street, a public thoroughfare and Town maintained street (but not, however, a platted street). The existing houses being considered with this Variance request were all built at a time when Morrison had no building codes and no zoning codes.

VARIANCES REQUESTED:

- 1) Proposed Lot 2 (**306 Spring Street**) existing cinder block workshop (has no water or sewer services)
 - a) Width at Spring Street = 38.50' where 50' is required
Width at widest = 55.7' (longest side = 192.47')
 - b) Front and rear setbacks are met; side setback on west is 7.1' where 10' is required
→ Hardship: Terrain steps up steeply to the west and the garage/workshop was built into a slender flat area between a steep bank and the edge of Strain Gulch. Garage is as far back from the flood zone as is practical.

- 2) Proposed Lot 3 (**308 Spring Street**) existing 1 story manufactured house set very far back on the lot;
 - a) Rear setback: 4.3' where 10' is required
 - b) Lot area, width and depth meets code
→ Hardship: Steep slope behind the house would argue that the flat area of this parcel was used for yard and driveway purposes and allows the house to be as far away from Strain Gulch as possible to mitigate any potential flood hazard – though the 100-year flood zone does affect this lot, the house is built as far away from the flood zone line as is possible.

- 3) Proposed Lot 4 (**310 Spring Street**) existing 1 story cottage
 - a) Width at Spring Street = 38.73' where 50' is required
Width at widest point = 199.46' (back lot line)
 - b) Side setback on the west is 4' where 10' is required
→ Hardship: Tiny historic cottage (address #310) is set far back on the lot. The concrete driveway for the house on Lot 3 (addressed as 308 Spring Street) is built right up to the foundation of the cottage, so a 4 foot setback would allow for maintenance of the west side of the structure. It is likely that, in the event that the house were re-built, this condition could be remedied as a new structure could meet the 10 foot side setbacks since there is enough lot width, with a variance for lot width granted.

- 4) Proposed Lot 5 (**312 Spring Street**) existing 1930's 1 story cottage
 - a) The front is 18.0' to the nearest property line where 20' is required.
 - b) The gravel drive to serve the cottage at #310 lies only 4.4' from the house where 10' side setback is required.
→ Hardship: The cottage was built toward the front of the property so does not meet the front setback, but is fully 47.1 feet from the edge of asphalt pavement, so the optical illusion is created of a large front lawn. The steep hillside covered with scrub oak, immediately behind the house, together with the added land in the 'unbuildable tract', severely restrict the location for this house. Note: Any future structure may well have to use the variance setbacks to be able to place a new house within the buildable area.

LEGAL DESCRIPTION:

A tract of land in the NE¼ of Section 2, Township 5 South, Range 70 West of the 6th P.M. more particularly described as follows:

Beginning at the SW Corner of that parcel described at Reception No. 201107774 of the Jefferson County records, from which the northwest corner of Block 25, MORRISON, also being the southeast corner of the Summer Street and 3rd Street right of way intersection, which is assumed to bear S 88°57'41" W a distance of 600.00'; thence N 1°03'09" W, along the east line of that portion of Block 13, MORRISON, described at Reception No. F2032854, 190.00' to the northeast corner of said parcel and the south right of way (ROW) line of Spring Street, MORRISON; thence S 72°13'40" E, along said ROW line, 174.70'; thence S 65°09'28" E, along said ROW, 149.98'; thence S 73°52'21" E, along "Tract A", Section 2, T5S, R70W Minor Adjustment 1 12-125283MA, 73.72'; thence S 0°44'37" E, along said "Tract A", 48.35'; thence S 89°15'20" W, along said "Tract A", 158.18' to the southwest corner of said "Tract A"; thence S 89°15'23" W, along the north line of said Minor Adjustment, 212.27' to the Point of Beginning, containing 1.028 Acres (44763 square feet), Town of Morrison, County of Jefferson, State of Colorado.

