

BOARD OF ADJUSTMENT MEETING  
PUBLIC HEARINGS ON VARIANCE REQUESTS  
MORRISON TOWN HALL  
110 STONE STREET  
THURSDAY, AUGUST 22, 2019  
6:00 P.M.

1. CALL TO ORDER
2. ROLL CALL
3. APPROVALS
  - a) Minutes of October 10, 2016
4. PROCEDURES
5. PUBLIC HEARING
  - a) 802, 804, 806 Bear Creek Avenue Request for Relief to Minimum Lot Area, Including Per Dwelling Unit on Two Proposed Lots
6. ADJOURNMENT

# Memorandum

**To:** Chairperson, Members of the Board of Adjustment  
**Date:** 8/15/2019  
**Re:** Hearing Procedure, Variance Applications

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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. Announce the agenda item and title; declare the public hearing open.

- ii. Ask the Secretary if appropriate notices have been posted.
- iii. Determine if everyone is present who wishes to testify has signed the roster.
- iv. 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.
- v. Administer oath to all witnesses (can be a group oath: *"If you intend to testify, please stand and raise your right and. If you agree that your testimony will be the truth as you know it, please say yes."*)
- vi. Determine who is present to represent the applicant. Ask them to introduce themselves by stating their name and address.
- vii. Ask the applicant to present its case through his/her testimony, testimony of witnesses, photographs, illustrations, etc.
- viii. Board questions of the applicant.
- ix. If the Town is appearing it would present its case next, followed by Board questions of the town's representative.
- x. 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.
- xi. The Board may have questions for the public speakers.
- xii. The applicant may submit testimony or exhibits in "rebuttal" of these statements.
  
- xiii. The public portion of the hearing may be closed or continued for additional information.
- xiv. If the hearing is closed, the Board may discuss the evidence and applicable standards and law. Public testimony is concluded. The Board may address questions to staff only, not the applicant or other witnesses at this time.
- xv. The Board may continue the matter for a decision by written resolution.
- xvi. 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.

MINUTES FOR BOARD OF ADJUSTMENT  
MORRISON TOWN HALL  
110 STONE STREET  
MONDAY, OCTOBER 10, 2016  
6:00 P.M.

**Call to Order:** Charla Bryant called the meeting to order at 6:00 P.M.

**Oath of Office:** Bryant swore in Kyle Burris.

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

**Staff Present:** Gerald Dahl (Town Attorney), Stephanie Stevens (Planner), Kara Zabilansky (Town Administrator) and Charla Bryant (Town Clerk).

**Appointment of Chair and Co-Chair.** Burris made a motion to appoint Wyatt Blassingame as Chair and to appoint Margaretta Caesar as Co-Chair of the meeting. Stefansdottir seconded the motion. All present voted in favor.

**Approvals:**

**Motion/Minutes:** Caesar moved to approve the minutes of June 29, 2016. Stefansdottir seconded the motion. All present voted in favor.

**Blassingame called the Public Hearing to order.**

**Sean and Celeste Forey, 306, 308, 310 and 312 Spring Street, Morrison, CO Variance Request:**

Blassingame stated that this is a hearing on a request from the applicants, Sean and Celeste Forey, for 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 restructures into five lots.

Blassingame 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 posted and the Property was posted..

Blassingame asked the representative for the applicants, Jamee Chambers, if she was ready to proceed. Chambers stated that she was ready to proceed.

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

Bryant swore in Chambers.

**Applicant Testimony:** Chambers addressed the Board.

Chambers stated that there was an application submitted and listed the variances and discussed the setbacks. The Foreys are requesting permission for 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 restructures into five lots.

**Planner:** Stevens discussed the Staff Report that was provided to the Board of Adjustments. The property is legal non-conforming. Any new structure would have to comply or come back before the Board. Any subdivision will have to go through the Planning Commission after the variance.

Blassingame asked for public comment:

Randall Look, 311 Spring Street, Morrison, CO. Look stated that 310 has no driveway. Look asked if the garage was an accessory building. Stevens said it could be used as a workshop. Look asked if anyone wants to build it would have to conform to the R1 Zoning or come back to the Board for a variance. Look stated it seemed easy to get a variance. Chambers said it was a case by case basis and is granted due to hardship. Look does not see this as a hardship.

**Blassingame closed the Public hearing.**

Board of Adjustment Discussion. Raymond said there are only 2 parcels involved. Three of the parcels already have houses. The Town has not received complaints by neighbors. Dahl stated the Board of Adjustment can approve or deny. It is up to the applicants to come up with a design for future development. Blassingame made a motion to approve the variance request as is. Caesar seconded the Motion. All present voted in favor.

**Adjournment:** There being no further business, Chairman Blassingame adjourned the meeting at 6:56 p.m.

TOWN OF MORRISON

\_\_\_\_\_  
Wyatt Blassingame, Chairman

ATTEST:

\_\_\_\_\_  
Charla D Bryant, Town Clerk

**Board of Adjustments**  
**August 22, 2019**  
**6:00 P.M.**

**STAFF REPORT**



Date: August 22, 2019

Prepared by: Jennifer Woods, Town Planner

Applicant: James B. Jones (Owner)

Subject: Variance for a reduction to the minimum lot area, including per dwelling unit

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**EXECUTIVE SUMMARY:**

The applicant is requesting relief to the minimum lot area, including per dwelling unit on two (2) proposed lots located at 802, 804 and 806 Bear Creek Ave. Specifically, the request includes:

- 1) A 5,669 square foot reduction for proposed Lot 12-A for two (2) dwelling units (804 and 806 Bear Creek Ave.), and
- 2) A 3,237 square foot reduction for proposed Lot 12-B, for one (1) dwelling unit (802 Bear Creek Ave.).

The resulting lot sizes and number of dwelling units per lot is depicted in Attachment 1 Vacation Exhibit.

**BACKGROUND:**

The subject property currently contains three (3) residences, ranging from 1,400 square feet to 580 square feet in finished floor area. The property was platted in 1903 with the Second Addition to Morrison; however, at least one of the homes was constructed prior to that date. The property contains three (3) residences served by three (3) separate water and sanitary service lines. The property is non-conforming with current zoning standards for R-1 Low Density Residential zoning. While not part of this request, it should also be noted that the applicant is also proposing to subdivide the property into two (2) lots and has requested the partial vacation of right of way in order to remove two (2) of the existing residences from the right of way. The layout of the existing structures presents a challenge to meeting current standards, particularly minimum lot area, including per dwelling unit. Article 10-1E-6 (Uses, Yard and Bulk Requirements) code requires at least 7,500 square feet per lot and per dwelling unit. The proposed subdivision comprises of one (1), 9,331 square foot lot with a residence and a detached garage that was converted into a residence for a total of two (2) dwelling units and one 4,263 square foot lot with one (1) residence for a total of 13,594 square feet of land that would otherwise allow one (1) lot and dwelling unit

under the current zoning. The subject variance request would bring the lots to conforming, legal status, with the exception of setbacks that were nonconforming prior to the subdivision proposal.

**SURROUNDING LAND USES AND ZONING:**

|              |   |
|--------------|---|
| <i>North</i> | Low Density Residential (R-1)                     |
| <i>South</i> | Agriculture (A)                                   |
| <i>East</i>  | Low Density Residential (R-1) and Agriculture (A) |
| <i>West</i>  | Low Density Residential (R-1)                     |

**VARIANCE REVIEW STANDARDS:**

Per Title 10 Zoning and Land Development, Chapter 1 Zoning Regulations, Article C Board of Adjustments, Section 10-1C-4 Power, B. 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, as well as the property being surrounded by public right of way 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 lot area 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 with no additional residences.

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 area, including minimum area per dwelling unit, 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 lot and density do not conform to the minimum lot area, or minimum lot area per dwelling unit, 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.

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 applicant is requesting the minimum variance in order to subdivide the property. No additional variance is needed to allow the existing uses and structures on the property to continue to exist as they are and expand as allowed under the nonconforming requirements and R-1 development standards as applicable. It would also provide for a type of property that is more comparable to other properties in the Town and greater area, while creating lots that would be more accommodating of R-1 standards if the properties were ever redeveloped. Other alternative site layouts could also result in the need for additional variance requests. As a variance, any approval granted would be site specific and limited to the subject property.

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 last building added to the property's tax roll was 806 Bear Creek Ave. in 1965. Staff thus finds that this hardship was not created by the applicant.

**PUBLIC NOTICING:**

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

**BOARD OF ADJUSTMENT MOTIONS:**

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

1. "I move to approve the variance requests for the Gateway project, finding that the requests substantially meet the standards of Title 10 Zoning and Land Development, Section 10-1C-4, B. for the reasons set forth in the staff report dated August 22, 2019."
2. "I move to approve the variance requests for the Gateway project, finding that the requests substantially meet the standards of Title 10 Zoning and Land Development, Section 10-1C-4, B. for the reasons set forth in the staff report dated August 22, 2019, with the following condition(s):
  - a. \_\_\_\_\_
  - b. \_\_\_\_\_
  - c. \_\_\_\_\_."
3. "I move to deny the variance requests for the Gateway project, finding that the requests do not substantially meet the standards of standards of Title 10 Zoning and Land Development, Section 10-1C-4, B. for the following reason(s):
  - a. \_\_\_\_\_
  - b. \_\_\_\_\_
  - c. \_\_\_\_\_."

**RECOMMENDED MOTION:**

"I move to approve the application for variances to the minimum lot areas, including minimum area per dwelling unit, for the Properties known as at 802, 804 and 806 Bear Creek Ave, as presented, with the condition this approval is contingent upon approval of the associated subdivision of the properties into two (2) lots, including portions of adjacent vacated rights-of-way."

**ATTACHMENTS:**

1. Application
2. Vacation Exhibit

# Attachment 1

## LAND DEVELOPMENT APPLICATION Town of Morrison 321 Colorado Highway 8, Morrison, Colorado 80465 Telephone: 303-697-8749 Fax: 303-697-8752

Project Name: GATEWAY SUBDIVISION Case No: \_\_\_\_\_

Property Address: 802, 804, 806 BEAR CREEK AVENUE

Project Description: SUBDIVISION, VARIANCE, VACATION

Is property within Town limits?  Yes  No Present Zoning \_\_\_\_\_

Name of existing Official Development Plan: \_\_\_\_\_

Name of existing Subdivision Plat: MORRISON 2ND ADDITION

Parcel Size: 10,986 SQ FT (JEFFCO) Acres/Square Feet \_\_\_\_\_ Jefferson County Assessor's I D. No.(s) 40-151-06-001

Existing Use: RESIDENTIAL

Application Fee Attached:  Yes  No Amount \$ \_\_\_\_\_

### ACTION REQUESTED:

Annexation \_\_\_\_\_ acres of land and \_\_\_\_\_ acres of right-of-way  Flood Plain Development Permit

Zoning / Rezoning from: \_\_\_\_\_ to: \_\_\_\_\_  Building Permit

Subdivision:  Preliminary Map  Major or  Minor <sup>1</sup> \_\_\_\_\_ existing lots <sup>2</sup> \_\_\_\_\_ proposed lots

Final Plat  Major or  Minor \_\_\_\_\_ existing lots \_\_\_\_\_ proposed lots

Proposed Subdivision Name: GATEWAY SUBDIVISION

Lot Line Adjustment  Error Correction  Special Use Permit  Utility Review

Vacation of  Easement  Right-of-Way  Variance

Final Site Plan Existing Building Square footage \_\_\_\_\_ Total Proposed Building Sq. Ft. \_\_\_\_\_

Site Plan Amendment Existing Building Square footage \_\_\_\_\_ Total Proposed Building Sq. Ft. \_\_\_\_\_

Official Development Plan Modification:  Minor  Major  Business License  Sales Tax License

Land Disturbance Permit  Alcohol Beverage License  Health Certificate

Site Improvement- Historic Overlay District

APPLICATION INFORMATION: Property Owner?  Yes  No

Name: JAMES H JONES Phone: 970-222-8075

Firm: \_\_\_\_\_ Email: JIMBYJONES@COUNTRYLANDHOME.COM Fax: 970-221-1556

Address: 1201 IDEAL LANE - FORT COLLINS - COLORADO - 80524

### ARCHITECT / PLANNING CONSULTANT INFORMATION

Contact Person's Name: \_\_\_\_\_ Phone: \_\_\_\_\_

Firm: \_\_\_\_\_ Email: \_\_\_\_\_ Fax: \_\_\_\_\_

Address: \_\_\_\_\_

### ENGINEERING CONSULTANT INFORMATION

Contact Person's Name: \_\_\_\_\_ Phone: \_\_\_\_\_

Firm: \_\_\_\_\_ Email: \_\_\_\_\_ Fax: \_\_\_\_\_

Address: \_\_\_\_\_

**PROPERTY OWNER INFORMATION:** List legal name and address of all persons and/or entities holding any sort of interest in the property which is the subject of the land development application. Attach additional sheets if necessary. Please see reverse side of this application for ownership documents to be submitted along with application.

### INDIVIDUAL OWNERSHIP

Name: JAMES H JONES Phone: 970-222-8075

Fax: 970-221-1556 Email: JUSTIXHX@AOL.COM

Address: 1201 IDEAL LANE FORT COLLINS, CO 80524

### CORPORATE OWNERSHIP

Name of Corporation: \_\_\_\_\_

Address: \_\_\_\_\_

State of Registration: \_\_\_\_\_ Phone Number: \_\_\_\_\_

Name of Officers: \_\_\_\_\_

President

Vice President

Secretary

### PARTNERSHIP

Name of Partnership: \_\_\_\_\_

Address: \_\_\_\_\_

State of Registration: \_\_\_\_\_ Phone Number: \_\_\_\_\_

List of Partners: Name: \_\_\_\_\_

Address: \_\_\_\_\_

Name: \_\_\_\_\_

Address: \_\_\_\_\_

**CERTIFICATION:** I hereby certify that to the best of my knowledge and belief, all information supplied with this application is true and accurate and that consent of the property owner listed above, without which the requested action cannot lawfully be accomplished, has been granted. Permission is also hereby granted to the Town of Morrison staff to physically enter upon and inspect the subject property and take photographs as necessary for preparation of the case.

SIGNATURE OF APPLICANT: \_\_\_\_\_

DATE: 6/28/19



