

BIG WATER BOARD OF ADJUSTMENTS MEETING

Thursday March 24, 2022

APPROVED MINUTES

3:00 PM (UT) MEETING

AGENDA-

1. CALL TO ORDER – 3:08 pm
2. ROLL CALL- Chris Travis here, Arnold Breen here, Bob Wilkes here, Diane Moore here, Denise Wood joins later by phone.
3. STATEMENT OF CONFLICT - none
4. CITIZEN COMMENTS-(2 minutes per Citizen Comment) –
Kristi questions the application saying East and West instead of North and South. Because of the orientation of our properties, those edges would actually be North-East and South-West. The orientation of the property is more East and West than North and South.
Break for item a) explanation from owner about the request then will return for citizen comments.

Letter from Molinas – We have received the certified letter regarding the variance application for lot B-24-71A in Big Water, UT. My husband and I purchased the adjoining lot, B-24-71B in 1991 (over thirty years ago) and have paid our taxes without reservation believing some day we will build our retirement home on this property. We specifically bought this property because there would be no development on two (2) sides of the property and found the lot large enough to maintain a comfortable buffer area with any neighbors on the other two (2) sides. Allowing a recently purchased piece of property a variance to encroach on established boundaries, rules and regulation is something we are absolutely against. The new owner(s) needs to abide by the existing rules and regulations of current zoning standards. It was his/her choice to buy that property with whatever easements and boundary lines were established at the time of his/her purchase and he/she should abide by the zoning standards. Big Water owes that to its tax paying property owners.

5. NEW BUSINESS-

- a) Discussion and Possible Action on Henry Variance Application – This is intended to be his permanent residence. Tony is the contractor; when he bought the property there was no road. There is no online record of the road, the only way to find the record is to go to the Kane County office and physically find the original deeds. Wasn't until the engineer was hired to survey the lot before construction that the issue of the road came up. Reoriented the house to minimize the variance needed but still keep the view from the back patio.

Back to citizen comments

Diane asks how this will affect the Molinas If Mr. Henrie's rear yard is adjacent to their side yard it doesn't affect them at all because in that case his rear yard would only be required to be the 10 feet. If it is adjacent to a front or rear yard, his setback would be required to be 20 feet, so his home will be 10 feet closer to their property. They have nothing built, so there is no way of knowing the direction they intend to orient their house.

Read Big Water Variance Ordinance – attached

Diane asks if this will cause any issues with fire code or emergency access No

Arnold asks about the easement size. Most properties in town have on a 333-foot easement, the property line is in the middle of the road. This is an issue for Revolution and Independence only. Those two roads take the full 66-foot easement from one property because the property on the other side is owned by UDOT.

Denise joins by phone

The original deeds from the BLM says "subject to an easement" and states the size and location of the potential easement.

In most places the road is not part of the property, so when Mr. Henrie purchased an acre he thought we would have that full area for development. Instead, nearly 40% of that property is an easement that he can't do anything with. The town ordinances only require 50 feet for a road right now with 26 feet of that as developed roadway. Chris asks why the property owner wasn't informed when the road was built. The easement is for a road so permission wasn't required. The road was built by a developer, not the town. It will be turned over to the town in the future if it meets the town standards. This variance is for this house only, it does not give permission to build future buildings closer to the easements. The utilities are on the property side of the road. This should not cause an issue, because the utilities should be within that 66-foot easement and his building will start 15 feet away from that.

Standards:

If the design is turned 90 degrees it leaves no room for a driveway. He custom designed the home before he knew about the easement. Arnold asks if he could remove the boat garage-he doesn't

have space on the lot to put in another building and he doesn't want to leave it out in the sun to get ruined. Needs a one level house to accommodate disability. Arnold – the hardship could be the unreasonable size of the road easement. The town only requires 50 feet, this makes his property difficult to develop. The 66 feet was established in the 1960's by the BLM when they originally deeded the property. With the easement the usable property is down to .7 acres. The easement causes a nearly 40% loss of usable land on this property. The road has been built on the north-west edge of the easement which gives more space between the road and his property. The neighboring properties have buildings this close to the road easement as well. His lot would not have been large enough if the easement in front of the neighboring property had been included with it instead.

- 1) Literal enforcement of the provisions of this Ordinance would cause an unreasonable hardship for the applicant providing evidence that the hardship is located on, or associated with the property for which the variance is sought, and is peculiar to the property rather than conditions general to other properties in the immediate area –
When his lot was divided it was done in such a way as to keep the entire easement on his portion instead of dividing it with the larger piece of land next to it. Meaning it used that much more unusable land to make up the minimum 1 acre lot size.
- 2) The identified hardship is not self-imposed –
Mr. Henrie has no control over how large of an easement was established or that it was allowed to be subdivided this way
- 3) The identified hardship is not economic in nature –
Road is not economic.
- 4) There exist special circumstances attached to the property that do not apply to other properties in the same zoning district. –
When this property was subdivided, it was done with this as the smaller parcel and it was left with the entire easement.
- 5) The variance is essential to the enjoyment of a property right possessed by other property in the same zoning district. –
This is to keep it a single level which keeps it from affecting the views of any neighboring properties.
- 6) The granting of the variance will not be contrary to the public interest. –
There is nothing being requested contrary to the public interest.

Chris motions to grant the variance, Bob seconds – all in favor.

6. ADJOURN – Arnold motions, Diane second – all in favor. 4:41 pm