

Minutes

Administrative Review Board

November 4, 2021

The Administrative Review Board met in regular session on Thursday, November 4, 2021 at 6:00 p.m. in the City Council Chamber, 800 Municipal Drive, Farmington, New Mexico.

Members Present:

Chair James Dennis
Vice Chair Brian Erickson
Shorty Rogers
Carl Winters

Members Absent:

None

Staff Present:

Beth Escobar
Elizabeth Sandoval

Others Addressing the Board:

None

Call to Order

The meeting was called to order at 6:02 p.m. by Chair James Dennis and there being a quorum present the following proceedings were duly had and taken.

Approval of the Agenda

A motion was made by Vice Chair Erickson and seconded by Board Member Winters to approve the agenda. The motion passed unanimously by a vote of 4-0.

Approval of the Minutes from the October 7, 2021 Regular Meetings

Vice Chair Erickson made a motion to approve the minutes of the October 7, 2021 regular meeting. The motion was seconded by Chair Dennis and passed unanimously by a vote of 3-0.

Board Member Winters was not a member of the Board on October 7, 2021 and did not vote on this item.

Petition ARB 21-63 – 4601 Rancho De Animas Dr.

Beth Escobar, Planning Manager, presented the following:

Variance Request

- Petitioner is Steven D. Husson, property owner
- Request is for a reduction of the required side setback of 3-feet and rear setback of 5-feet to 1-foot for an accessory structure
- Variance to Section 2.8.3.3.c of the Unified Development Code (UDC)
- Zoning is RE: 20: Residential Estates 20

Applicable Code

Section 2.5.2.C General Standards Accessory Structures

- Unless otherwise expressly stated herein, accessory structures and uses shall comply with all applicable regulations of this UDC, including the maximum height and setback regulations. No accessory use or structure shall cause any of these standards to be exceeded for the underlying zoning district.

2.8.3.3.c Side yards

- Residential accessory structures that are separated at least ten feet from the principal structure may be constructed in a rear yard; provided, the total square footage of all structures does not exceed forty percent of the lot size, is not greater than 15 feet in height, and the distance from any part of such structure to a side lot line is at least three feet, except that accessory buildings or structures of 120 square feet or less may extend to the rear and/or side lot line, provided such structures are not greater than ten feet in height, and no portion of the structure crosses into or drains onto adjacent property.



RE-20 Rancho de Animas Lot 15
12' x 18' shed 3' from side property line
5' from rear property line





Vicinity/Zoning Map



Variance Criteria

- A variance may be granted only where a literal enforcement of the Code provisions would result in unnecessary hardship for a particular property. In order to grant a variance, the Administrative Review Board (ARB) must make a positive finding of fact concerning each of the following or, if a positive finding of fact cannot be made that the

ARB specifically describes the circumstance that would outweigh the strict requirement for a positive finding of fact and determine that the variance will not be a public detriment:

Staff Analysis

1. Special Condition or Hardship: Staff cannot identify any special condition that would prevent the accessory structure from being relocated to conform to the required setbacks. Also the structure should be relocated out of the drainage easement or a replat should be submitted abandoning the drainage easement. The backyard is big enough to accommodate moving the shed out of the easement.
2. A literal interpretation of the provisions of the Code would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of the Code: The shed could be relocated to meet requirements.
3. The applicant demonstrates that the request is a minimum easing of the Code requirements, making possible the reasonable use of the land, building or structure: In staff's opinion, this is not a minimum easing of the code, specifically in relation to the encroachment on the drainage easement.
4. That the granting of the variance is in harmony with the general interest, the general purpose and intent of the Code, and is not injurious to the neighborhood or otherwise detrimental to the public welfare: The proposed variance is not injurious to the neighborhood.
5. 5. That the proposed variance will not permit a use not otherwise allowed in the underlying district: Granting of this variance would not permit a use not otherwise allowed in the RE: 20 Residential District.
6. 6. That no nonconforming use of neighboring lands, structures or buildings in the same district and no permitted use of lands, structures or buildings in other districts has been or shall be considered grounds for the issuance of a variance: No nonconforming uses, structures or buildings in the same district have been considered as grounds for this variance request.
7. 7. That the applicant would suffer an unnecessary hardship if the variance requested were denied: The applicant should be able to site the shed on the property in a location that meets code requirements.

Comments from COF Legal Department

The variance Requestor does not understand the set back requirements are to protect fences and allow for property lines to be adjusted in the event a survey error occurred. Maintaining set back allowances also allows neighbors ingress/egress in times of extreme hardship to remediate other residential issues by using large equipment and/or removing fences for purposes of allowing access.

The reason identified in the petition for the variance seems to be "easy of backing a trailer up to the exterior storage shed. While I can agree this would be easier, the application does not present a hardship. The application does not state that constructing the storage building in the same location, and maintaining the current set backs would make it impossible to use the storage shed for its intended purpose.

Because of the issues identified on this comment, legal is opposed to granting a variance.

Public Input

NAME1	ADDRESS	CITYSTATEZIP
CLARK THOMAS P JR AND SHERYL A	4751 RANCHO DE ANIMAS DR	FARMINGTON, NM 87402
DAVIS ROBERT M AND GAYLE H	4555 RANCHO DE ANIMAS CT	FARMINGTON, NM 87402
GRHH PINION HILLS LLC ETAL	855 W BROAD ST STE 300	BOISE, ID 83720
HABEN, GERALD W AND CHARLEENE	4551 RANCH DE ANIMAS DR	FARMINGTON, NM 87402
KETCHELL PAUL R AND ALETHA M	4702 SUNDANCE RD	FARMINGTON, NM 87401
MCCLELLAND MICHEAL L AND DIANE M	4700 RANCHO DE ANIMAS DR	FARMINGTON, NM 87402
MIHELICH JOSHUA P AND COURTNEY L	4651 RANCHO DE ANIMAS DR	FARMINGTON, NM 87402
RICHARDS, CHARLOTTE B	4640 RANCHO DE ANIMAS DR	FARMINGTON, NM 87402
VALDEZ, HENR AND ANDREA TRUST	4505 RANCHO DE ANIMAS CT	FARMINGTON, NM 87402
WEBSTER BERNIE J AND STELLA C TRUST	4750 RANCHO DE ANIMAS DR	FARMINGTON, NM 87402

Recommendation

The Community Works Department recommends **DENIAL** of Petition ARB 21-63 from Steven Husson property owner of 4601 Rancho de Animas Drive, for a reduction to 1-foot of the required side and rear setbacks for an accessory structure.

Discussion:

Board Member Winters asked if the hill that is referred to is behind the fence.

Planning Manager Escobar stated yes.

Vice Chair Erickson asked if the structure is 1 foot away from the side property line.

Planning Manager Escobar stated yes, that is the variance that the applicant is requesting.

Chair Dennis asked if there had been a survey of the location.

Planning Manager Escobar stated no, the applicant did not obtain a building permit for the structure.

Chair Dennis asked if the structure could be placed on the drainage easement.

Planning Manager Escobar stated that it could not be unless an application is filed for an encroachment agreement with the Building Division, Engineering will then look at the location.

Chair Dennis asked if the applicant was aware that the meeting was tonight.

Planning Manager Escobar stated that the applicant was aware and did receive a copy of the packet.

Chair Dennis asked how long the structure had been at this location.

Planning Manager Escobar stated that she was not sure and assumes the structure has been there for less than a year.

Chair Dennis stated that he believes that there is plenty of room to move the structure into compliance.

Planning Manager Escobar stated that she agrees.

Chair Dennis asked how the violation of the structure was reported.

Planning Manager Escobar stated that she was not sure who reported the violation.

Chair Dennis asked if there were any public comments regarding this petition. There were none.

Chair Dennis stated that he believes that the structure being placed at the current location isn't causing any trouble.

Board Member Winters asked if it is the intent for the Board to follow the code or to accommodate the property owners.

Chair Dennis stated that it is the Boards duty to stay within the intent of the code and to determine if a variance can be granted.

Vice Chair Erickson asked if the variance is approved can the City tell the applicant that the structure needs to be moved if there are any draining issues.

Planning Manager Escobar stated if the Board approves the variance, a building permit and an encroachment permit would need to be obtained giving the applicant a permit to leave the structure there noting that the City is not responsible for any property damage.

Board Member Winters stated that there seem to be structures on neighboring properties that do not seem to be in compliance. Board Member Winters then asked if the variance was approved would it then encumber the City.

Planning Manager Escobar stated that through the building permit and encroachment permit process the City would not be liable for the structure staying where it is currently placed. Planning Manager Escobar also stated that any decision that the Board makes does not set precedence for future decisions.

A motion was made by Vice Chair Erickson to APPROVE Petition ARB 21-63, a request from Steven D. Husson, property owner, for a lot split for a variance to allow for a side and rear setback of 1 foot for an 8-foot high accessory building in the rear north west corner of the property, with the stipulation that a building permit and encroachment permit are obtained by the applicant. The motion was seconded by Chair Dennis. The motion passed unanimously 4-0.

AYE:	Chair Dennis, Vice Chair Erickson, Board Member Rogers, Board Member Winters
NAY:	None
ABSTAIN:	None
ABSENT:	None

APPROVED 4-0

Petition ARB 21-66 – 5920 E. Main St.

Beth Escobar, Planning Manager, presented the following:

Variance Request

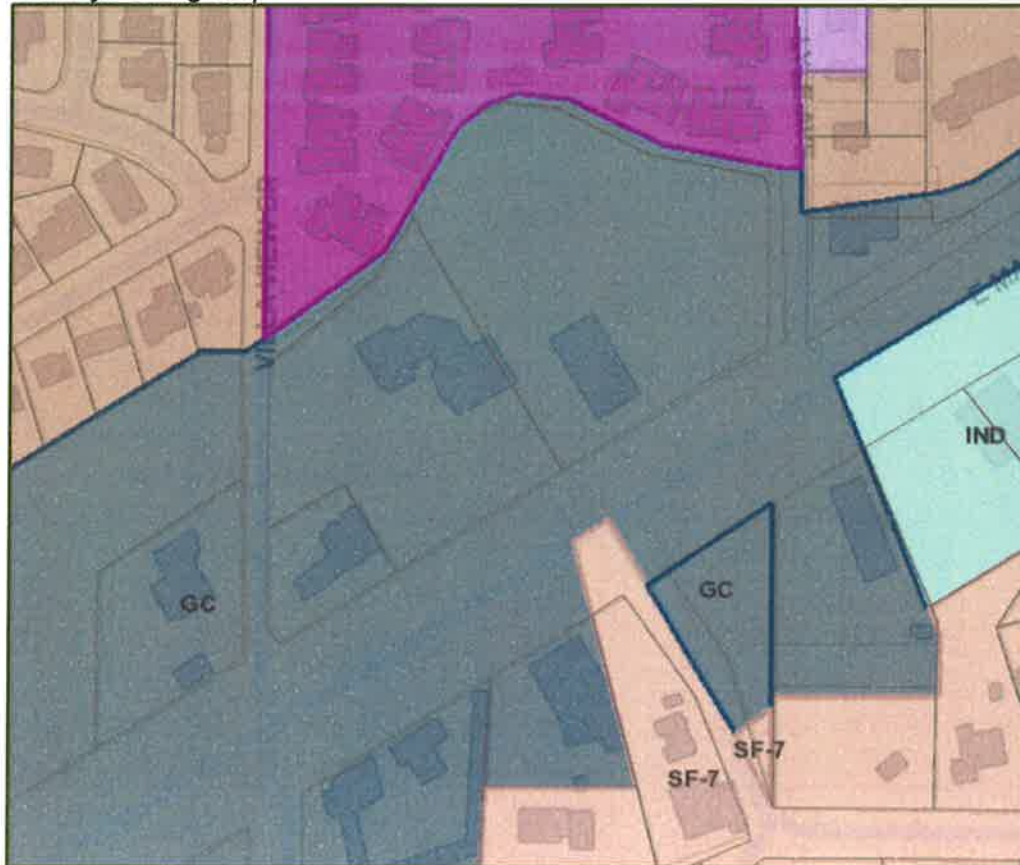
- Petitioner is Cole Stoneman, tenant
- Request is for 14.6 square footage of wall sign that exceeds the maximum allowable per Section 5.8.7.A.2.A of the Unified Development Code (UDC)
- Zoning is GC: General Commercial

Applicable Code

5.8.7. A.2.Wall Signs

- a. The total area of wall signs on a particular wall or a section of wall shall not exceed one square foot of wall sign for each linear foot of length of that wall, which length shall be measured by applying the same principles as are used to measure building frontage, subject to residential restrictions.
- b. The total area of all wall signs on a building shall not exceed one square foot of wall sign for each linear foot of building frontage or the maximum total area per district, whichever is less. The fact that signs may be permitted on more than one wall of the building shall not increase this maximum.
- c. On a multi-tenant building, there may be a separate wall sign for each occupant with an outside entrance serving the general public, but this provision shall not increase the total area of signage permitted on the building.

Vicinity/Zoning Map



Store Front



Store Front



Signage Wall

5920 E Main St. • Farmington, NM :: MABE TENANT WALL VIEW SIGNAGE VARIANCE REVISED 10/5/2021

EXISTING SIGNAGE

84 ft (1008 in)

104 sq.ft 157 in 101 in 157 in 104 sq.ft

clothes for the way on the

IRONBRIDGE LINCOLN

distill LIQUOR BEER

GETTING REMOVED - now Major Mortgage

SAME SIZE AS BUILDING FASCIA 14.6 sq.ft Total

<p>RAM STUDIOS</p> <p>apr16@ramsigne.com www.ramsigne.com 1111 San Juan Blvd. 505-328-8801 Farmington, NM 87401 Fax: 505-328-7888</p>	<p>ARTWORK APPROVAL :: INITIAL (or) DATE IN BOX BELOW</p> <p>APPROVED - No Changes <input type="checkbox"/> APPROVED with Minor Changes <input type="checkbox"/></p> <p>NOTES: COLOR OUTPUT DIMENSIONS NOT SHOWN Colors in layout may vary on each computer monitor, printer, etc. DESIGNED BY RAM STUDIOS, INC. - ALL RIGHTS RESERVED All artwork/signage is considered the intellectual property of RAM Studios, Inc. unless otherwise specified. PLEASE PROVIDE for color, numbers, and correct spelling. Your Approval Means That You Acknowledge The Layout As Is. RAM Studios, Inc. is not responsible for errors once layout has been approved.</p> <p>Changes Needed - Please resubmit <input type="checkbox"/></p>	<p>FILE NAME: [DESIGNER]</p> <p>PERMITTING / NMI LICENCE# 98241</p>	<p>REVISION DRAWING 1 of 1</p>
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Variance Criteria

- A variance may be granted only where a literal enforcement of the Code provisions would result in unnecessary hardship for a particular property. In order to grant a variance, the Administrative Review Board (ARB) must make a positive finding of fact concerning each of the following or, if a positive finding of fact cannot be made that the ARB specifically describes the circumstance that would outweigh the strict requirement for a positive finding of fact and determine that the variance will not be a public detriment:

Staff Analysis

1. Special Condition or Hardship: The suite where the applicant's business is located is on the west side interior of the building and there would be minimal visibility of a sign at the suite location.
2. A literal interpretation of the provisions of the Code would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of the Code: As the applicant states in his petition, other businesses in the complex have been allowed to place their signage on the Main Street wall.
3. The applicant demonstrates that the request is a minimum easing of the Code requirements, making possible the reasonable use of the land, building or structure: This request is a minimum easing of the Unified Development Code and would allow the property owner to have sign visibility allowed for other businesses in the area.

4. 4. That the granting of the variance is in harmony with the general interest, the general purpose and intent of the Code, and is not injurious to the neighborhood or otherwise detrimental to the public welfare: The proposed variance is not injurious to the neighborhood.
5. 5. That the proposed variance will not permit a use not otherwise allowed in the underlying district: Granting of this variance would not permit a use not otherwise allowed in the GC: General Commercial District.
6. It is possible that future tenants in the building complex may seek their own variance. Each application would be evaluated on its own merits.
7. That no nonconforming use of neighboring lands, structures or buildings in the same district and no permitted use of lands, structures or buildings in other districts has been or shall be considered grounds for the issuance of a variance: No nonconforming uses, structures or buildings in the same district have been considered as grounds for this variance request.
8. That the applicant would suffer an unnecessary hardship if the variance requested were denied: Not allowing additional may negatively impact the applicant's business.

Public Input

No public input has been received.

Recommendation

The Community Works Department recommends approval of Petition ARB 21-66 from Cole Stoneman for a variance from Section 5.8.7.A.2.a of the City of Farmington Unified Development Code to allow for an additional 14.6 square feet of signage above the maximum square footage available.

Discussion:

Chair Dennis asked if the variance request is in regards to the amount of space the applicant would have on the signage wall and if the applicant was planning to put any signage on the red wall above the store front.

Planning Manager Escobar stated that variance was in regards to the signage wall and that she does not believe that the applicant was planning to place any signage above the store front.

Chair Dennis asked what the dimensions of the M. Moose sign are on the signage wall.

Planning Manager Escobar stated that the squares are 100 square feet.

Vice Chair Erickson asked if the other tenants were noticed about the variance request.

Planning Manager Escobar stated that the other tenants did receive notice and the property is posted.

Board Member Winters asked if there are any vacancies in the building.

Planning Manager Escobar stated that she believes there are two vacancies in the building.

Chair Dennis stated that he does not see an issue with the variance request.

Board Member Winters asked if the request is for the additional square footage that is allowed.

Planning Manager Escobar stated that 14.6 square feet is above and beyond the square footage that is allowed. Planning Manager Escobar stated that none of the signs on the signage wall went through the permitting and approval process and the applicant is requesting a variance to make his sign comparable to the current signs on the signage wall.

A motion was made by Board Member Winters to APPROVE Petition ARB 21-66, a request from Cole Stoneman for a variance to allow wall signage in excess of the maximum allowed under Section 5.8.7.A.2.a. The motion was seconded by Vice Chair Erickson. The motion passed unanimously 4-0.

AYE: Chair Dennis, Vice Chair Erickson, Board Member Rogers, Board Member Winters
NAY: None
ABSTAIN: None
ABSENT: None

APPROVED 4-0

Business from the Floor: There was no business from the Floor.

Business from the Chair: There was no business from the Chair.

Business from the Members: Vice Chair Erickson thanked Planning Manager Escobar for providing more pictures for each petition.

Business from Staff: Planning Manager Escobar welcomed new Board Member Carl Winters. Planning Manager Escobar stated that there were no petitions for December and the December 9, 2021 ARB meeting would be canceled.

Adjournment: A motion was made by Vice Chair Erickson to adjourn the November 4, 2021 meeting of the Administrative Review Board; the motion was seconded by Chair Dennis. The meeting of November 4, 2021 was adjourned at 6:48 p.m.



James Dennis
Chair



Elizabeth Sandoval
Administrative Assistant

