



Archuleta County
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MEMORANDUM

TO: Archuleta County Board of Adjustment

FROM: John C. Shepard, AICP; Planning Manager

DATE: February 19, 2019

RE: Shooting Star Pagosa LLC Request for Accessory Structure Variance, Lot 191, Colorado's Timber Ridge Phase Four Subdivision, at 220 Shooting Star Dr. (PLN19-018)

EXECUTIVE SUMMARY

Pat Bullinger, Shooting Star Pagosa, LLC, of Boerne, Texas, has applied for Variance from Section 3.2.6.2 of the *Archuleta County Land Use Regulations*, on Lot 191, Colorado's Timber Ridge Phase Four Subdivision, at 220 Shooting Star Dr., Pagosa Springs, CO (PLN19-018). Applicant is requesting variance to permit a hot tub enclosure (an accessory structure) to remain located closer than ten (10) feet to a principal structure (the Single Family Dwelling).

Applicant previously applied for a Vacation Rental permit as required, an administrative conditional use (VR18-061). The property is zoned Rural Residential (RR).

REVIEW PROCEDURE

The *Archuleta County Land Use Regulations* provide for variance from the strict application of the regulations. The Board of Adjustment (at this time the Board of County Commissioners sit as the BOA) may grant relief if strict application of the Regulations would result in peculiar and exceptional practical difficulties, or exceptional and undue hardship. Variance is, essentially, a grant of authority for a property owner to use property in a manner forbidden by the regulations, and should be granted sparingly.

Public notice was published in the *Pagosa Springs Sun* prior to this hearing, posted on site, and mailed to adjacent property owners.

DISCUSSION

In July 2005, property owners began building a home on this property, which was completed in 2014. In early 2016, a different owner constructed a hot tub enclosure at the rear of the property, without a building permit. Pat Bullinger purchased the property in October 2018 and submitted a Vacation Rental permit application. That is an administrative approval, but requires the property to be in conformance with all County regulations.

The *Archuleta County Community Plan's* Future Land Use Map designates this area as Very Low Density Residential. The tract is zoned Rural Residential (RR) and the structure meets the minimum 20' setbacks from all property lines. Section 3.2.6 of the *Archuleta County Land Use Regulations* regulates Accessory Structures. In particular:

3.2.6.2 No part of any accessory structure shall be located closer than ten (10) feet to any principal structures unless it is attached to, or forms a part of the principal structure.

The accessory structure was built approximately 7' from the single family dwelling (eaves are closer). In March 2018, Marvin Seale, PE (MAST LLC) did complete a structural inspection necessary for an after-the-fact building permit. (See attached Narrative and photos.)

Review comments received include:

- Pagosa Fire Protection District, LPEA and PAWSD had no objections.
- Colorado Timber Ridge POA previously approved the structure after it was built.
- One neighbor called in support of the proposal.

Section 2.4 of the *Archuleta County Land Use Regulations* provides for a general Variance from dimensional standards. The Board of Adjustment may grant a variance if all of the standards in Section 2.4.3.2 of the Land Use Regulations are found to exist:

- a. Peculiar and exceptional practical difficulties or an unnecessary and unreasonable hardship will be imposed on the property owner if the provisions of these Regulations are strictly enforced.
- b. Circumstances creating the hardship were created subsequently through no fault of the appellant.
- c. That the property for which a variance is requested possesses exceptional narrowness, shallowness, shape or topography or other extraordinary and exceptional situation or condition which does not occur generally in other property in the same zoning or overlay district.
- d. That the variance, if granted, will not diminish the value, use or enjoyment of the adjacent properties, nor curtail desirable light, air and open space in the neighborhood, nor change the character of the neighborhood.
- e. The variance, if granted, will not be directly contrary to the intent and purpose of these Regulations or the Community Plan.

All five standards in Section 2.4.3.2 must be met to approve relief from the zoning regulations. Applicant addresses these criteria in the attached Narrative.

RECOMMENDATION AND FINDINGS

Should the Board of Adjustment accept that Applicant has provided sufficient evidence for relief, **staff recommends the Board find that:**

- a. The application meets the standards for a grant of variance in Section 2.4 of the *Archuleta County Land Use Regulations*, and
- b. Variance is granted for the specific plans proposed by Applicant; and

That the Board approves the Shooting Star Pagosa LLC Request for Accessory Structure Variance, Lot 191, Colorado's Timber Ridge Phase Four Subdivision, at 220 Shooting Star Dr, with no conditions.

And that the Board of Adjustment instruct staff to draft a Resolution stating these Findings and Conditions of Approval for consideration at the earliest public meeting.

PROPOSED MOTION

I move to APPROVE the Shooting Star LLC Accessory Structure Variance with Findings A&B of the staff report, and instruct staff to draft a Resolution stating Findings and Conditions of Approval.

ATTACHMENTS.

- Attachment 1: Area Maps
- Attachment 2: Review Comments
- Attachment 3: Applicant's Narrative
- Attachment 4: Building Plans
- Attachment 5: Applicant's Photos
- Attachment 6: Site Plan