

Project Name	Lot 14, Adams First Addition to Grand Lake Subdivision - Front Yard Variance
Applicant	<i>Property Owners:</i> Bruce and Carolyn O'Donnell <i>Represented by:</i> Emily Lisek and Scott Munn Munn Architecture
Location	Approximately 1310 GCR 497
Zoning	Residential District (R)
Applicable Regulations	Grand County Zoning Regulations, Article IV (4), Article XVI (16)
Attachments	A. Variance Application B. Project Narrative Letter C. Site Plan (shown as Exhibit B in connection with the application letter) D. Adams First Addition to Grand Lake Subdivision Plat recorded at Reception No. 17921
Staff Planner	Alexander Taft, LEED Green Associate
Request	Approval of a Front Yard Variance—from 30' to 0' —to allow for the construction of a new single family residence.

BACKGROUND

Bruce and Carolyn O'Donnell, here in referred to as the Applicant, has recently purchased this property in July 2020. Prior to the purchase, the Applicant spoke with Staff about the options to develop the site, specifically surrounding requirements for construction of a boat house or boat dock. Being that a boat house is an accessory use, and requires a house to be constructed as the principle use on the property, they ultimately desired to build a smaller single family dwelling.

These lots date to as early as 1908 and the plat which created the lots also separated the lots by Jericho Road which serves at the primary vehicular access road. In the real estate ownership records, the pages are listed for "Lake Shore, Town of Grand Lake, Adam's First" and So. (South) of Jericho Road Town of Grand Lake, Adam's First". Over the years, Lake Shore lots have been separated from South of Jericho Road lots. The Applicant was fortunate enough to acquire both Lake Shore and South of Jericho for space to place a well on the south of Jericho portion to serve a small dwelling should this variance be approved.

The true legal description of the lot which would have the variance applied to it is: "Lot 14, Lying between the South Shore of Grand Lake and Jericho Road Adams First Addition to Grand Lake according to a plat at Reception No. 17921." The pre-existing, non-conforming lot has an area of .09 acres (3,744ft²), a depth of 78.79 feet and width of 49.88 feet.

In 1972, Jericho Road was vacated according to a Grand County Board of County Commissioners Resolution No. 1972-4-7. The survey makes note of the Resolution being somewhat ambiguous and about how that

applies to these lots and property boundaries. For the purposes of this application, Staff accepts the exterior boundaries as represented on the survey provided.

VARIANCE REQUEST

The property lies within the Residential District (GZCR § IV) which requires a minimum front yard of thirty feet (30'). The Applicant is proposing a variance to the front yard from the required thirty feet (30') to zero feet (0') reflecting an encroachment of up to thirty feet (30').

Proper public notice was placed in the Middle Park Times on Thursday, February 25, 2021 as required and adjacent property owners were notified by Certified Mail Friday, February 19, 2021. To date, Staff has received no public comment on the variance request. The applicant has supplied letters from neighboring properties.

Compliance with Zoning Regulations :	Article IV (4) – Residential District
§4.1 Uses Permitted:	A proposed single family dwelling is anticipated should this variance be granted. This is a use are allowed by right.
§4.2 Minimum Area of Lot	The lot is pre-existing, non-conforming not being changed.
§4.3 Minimum Lot Width	The lot is pre-existing, non-conforming at 49.88 feet width; 60' is required.
§4.4 Minimum Front Yard	0' is requested; 30' is required.
§4.5 Minimum Side Yard	5' is required.
§4.6 Minimum Rear Yard	20' is required.
§4.7 Maximum Building Height	35' is required, unless the criteria outlined in Section XX Definitions of the Grand County Zoning Regulations allowing 40'.
§4. 8 Water Quality Setback	30' is required

A. 16.2 (1). *To hear and decide appeals taken by any person aggrieved by his inability to obtain a building permit or by the decision of any administrative officer or agency based upon or made in the course of the administration or enforcement of the provisions of these regulations. Provided however, no appeal shall be allowed for building use violations that may be prosecuted pursuant to Section 19.1(2) of these regulations. The concurring vote of three (3) members of the Board of Adjustment shall be necessary to reverse a decision made by an administrative officer or agency.*

The Applicant has intentions to begin construction of a new single family dwelling on the currently vacant lot. Without an approved variance, no building permit would be granted because the buildable area is approximately two hundred seventy three square feet (273ft²), which is less area than the minimum area for a dwelling as required by Grand County Zoning Regulations.

Staff supports the variance requests as the variances have minimal impacts on adjacent property or the character of the neighborhood. All along the South Shore of Grand Lake are similarly disadvantaged sites which have been occupied by residential development.

B. 16.2(2). To authorize, upon appeal in specific cases, variances to the:

minimum area of lot;

minimum lot width;

minimum front yard;

minimum side yard;

minimum rear yard;

maximum height of buildings;

Regulations where, by reason of exceptional shape, size or topography of lot, or other exceptional situation or condition of the building or land, practical difficulty or unnecessary hardship would result to the owners of said property from a strict enforcement of these regulations.

Applicant is requesting a variance to the minimum front yard from thirty feet (30') to zero feet (0') to cure encroachment of the proposed single family dwelling, whereby strict enforcement of Grand County Zoning Regulations would result in unnecessary hardship.

C. 16.2 (3). Where, by reason of exceptional narrowness, shallowness, or shape of a specific piece of property at the time of the enactment of the regulation or by reason of exceptional topographic conditions or other extraordinary and exceptional situation or condition of such piece of property, the strict application of any provisions of this regulation would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardship upon, the owner of such property, the Board of Adjustment, upon an appeal relating to said property, may grant a variance from the strict application of these regulations so as to relieve such difficulties or hardships if such relief may be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of the zone plan and these regulations.

Staff is supportive of a variance to the minimum front yard because the lot, being pre-existing, non-conforming, is extraordinarily small being less than a tenth an acre as well as being encumbered by both the minimum front yard of thirty feet (30') and minimum water quality of thirty feet (30'). This lot considered pre-existing, non-conforming also has a total area of three thousand seven hundred forty-four square feet (3,774ft²) and it's approximately 78' depth drops eighteen feet (18').

D. 16.2 (4). Under no circumstances shall the Board of Adjustment grant a variance to allow a use not permissible under the terms of these regulations in the district involved, or any use expressly or by implication prohibited by the terms of these regulations in said district.

The request is for variances to the front yard only the single family residence, therefore granting of this variance would not result in a non-permitted use under these regulations.

CONCLUSION

In applying a balancing test, Staff finds the request would not substantially harm the character of the neighborhood, and such as that there are no alternative means to obviate the property owner's predicament without a variance.

STAFF RECOMMENDATION

Staff recommends approval of the variance to allow a reduction in the minimum required front yard to zero feet (0'), with the additional conditions:

1. The Applicant is required to pay all fees associated with the public notice prior to a Resolution being recorded.
2. If granted the variance shall only be applicable to the new construction of a single family dwelling/residence.
3. This SHALL NOT be construed as a variance to any regulations under Section 14.5 Three Lakes Design Review Area or as a zoning approval for the building permit.

Commissioner Silverio asked if the applicants were on the call.

Bruce & Carolyn O'Donnell, the applicants, are on the call along with Scott Munn from Munn Architect. Bruce thanked the Community Development staff and Alex Taft and stated they are available for any questions.

Scott Munn, Munn Architect introduced himself and stated he is available to answer any questions.

Commissioner George Davis stated he has a couple questions. The zero setback, is that where the foundation will start?

Scott Munn replied, no construction of any type would be past the zero front setback, so roof overhangs would also be included within the zero foot setback. When we hopefully get the opportunity to design this home, we need to be respectful of plowing and road situations and also having the opportunity on the south side (the upper hill side) to do landscape buffers etc.

Commissioner George Davis continued, so the house right now has not been designed?

Bruce O'Donnell, the applicant responded that is correct. I would add to what Scott has said, it is our understanding that no encroachment of any kind can occur in a setback, so this gives us the opportunity, for example, to maybe build a retaining wall or some necessary structure when we begin to build. We don't intend to have a wall of the home be right on the setback line. The other important thing that has not been said is that by trying to move the building envelope up the hill toward Jericho Road, it affords us the opportunity to not encroach into the 30 foot water quality setback on the lake side of the lot.

Commissioner George Davis asked will there be a garage and how are you going to deal with the parking?

Bruce O'Donnell replied the idea is to provide all of the parking on the other side of Jericho Road but on the same Lot 14 but on the uphill portion of Lot 14 above the road. That is the piece that Alex showed using the aerial photos. It is relatively flat for a depth of 50 feet before it starts to get steep.

Commissioner George Davis asked have you allowed for snow removal.

Scott Munn replied no they will not use the lot in that particular area for snow storage.

Commissioner Marcus Davis stated that obviously this is standard procedure for Jericho Road. Typically, we have a proposed building when we see a variance request so we approve a very specific variance to a setback, and in this case, a front yard setback. It is certainly not unheard of with Jericho Road to have a zero foot front. A couple reasons behind the parking, retaining wall, etc., I don't really have a problem with this variance except that we are breaking our trend that we normally have a very specific request. Maybe if we change Staff Recommendation Condition Number 2 and recall that variance is a finality and it must be maintained throughout. Maybe we could change the wording to state something about "if granted, the Variance shall only be applicable to the new construction of a Single Family Dwelling residence and any appurtenances, such as required retaining walls to minimize erosion." Then a second statement to said what Scott Munn just said with no portion of the dwelling including eaves and overhangs shall extend beyond the zero foot setback. So that we are a little bit more specific in the request and that gives you guys flexibility to put in a walkway. The thing I don't want to have happen is, I don't want to see this project again in 6 months where you go "well you asked for Single Family Dwelling because that is what is in the Resolution but we didn't talk about a retaining wall", on staff Recommendation Number 2, which would be part of the Resolution.

Alex replied he agreed with the condition. This way we do not have to worry about any issues with encroachment into Jericho Road.

Commissioner Marcus Davis added, can we add a Condition Number 4 which would be relative to an Improvement Location Certificate (ILC) upon staking of the future building and any pertinences to further attach to this variance or through the Building Department process that would reflect the variance.

Alex replied yes we can add that. I will leave myself a note to just add an ILC for the moment. I know we have language that I can add to the final Resolution.

Commissioner Marcus Davis said amendment to Condition #2 and addition of Condition #4, which would be relative to an ILC.

Bruce O'Donnell had a question. The new Condition #4 that you are discussing is that just to confirm that whatever gets built is in compliance with...

Commissioner Marcus Davis replied that it is. In general the building permit process will follow through with that and we would typically ask for that seeing a set of plans for that building and then have a contingency condition that states verification to follow. The building permit process does this anyway, but because a variance is a finality I like to add it as part of our recommendation, so we know that we have verified. At least through the resolution so the owner, architect, everybody is aware that there is not going to be any lenience down the road. We don't want to ask for forgiveness later we are asking for permission now.

Scott Munn stated we have no issues with the 2 conditions, we will comply. Everything that we turn in we will make certain that we meet Grand County building regulations.

Commissioner Silverio stated she wanted to commend the conservancy to the water quality setbacks since this property is right on Grand Lake. I had a question about erosion mitigation and also the local plants. Is there going to be an attempt to conserve the plants or replant them that need to be moved for construction?

Bruce O'Donnell replied one of our plans that is enabled by the lot being split by Jericho Road is that we can take advantage of the uphill side which is not as lush as the downhill side. We can put the water well on the uphill and park cars up there and maybe storage. Our hope is that this affords us the opportunity to have less impact on the lower lot including the vegetation and trees there. We don't have a final plan yet but those are the discussions we have been having.

Commissioner Marcus Davis stated maybe Alex can speak to Three Lakes Design Review in this area and the requirements thereof.

Alex stated I think as Scott and Bruce have acknowledged they are still going to go through the design stage where they will submit Three Lakes Design Review area samples. Administratively, through the building department, we will review that and make sure it is compliant with Three Lake Design Review.

Commissioner Silverio stated a zero front yard setback is not uncommon on Jericho Road and given the outpour of support from your neighbors (which is not always common), it seems to be a good project.

Commissioner Silverio asked if there were any comments from the public. Hearing none she asked for a motion.

Motion to recommend approval by Marcus Davis for Lot 14, Adams Addition to Grand Lake – Front Yard Variance request for a zero yard front variance with the amendments to Condition #2 and addition of Condition #4 and otherwise as presented. Seconded by George Davis. No further discussion. All in favor "aye", none opposed. Motion carries.

Motion to close the public hearing. So, moved by Marcus Davis. Seconded by George Davis.

Motion to Adjourn. So moved by Marcus Davis Seconded by George Davis. All in favor, “aye” all opposed, hearing none this meeting is adjourned.

Meeting Close 6:10pm