

**BOARD OF ADJUSTMENT
FOR THE TOWN OF DEWEY-HUMBOLDT
REGULAR MEETING NOTICE
Tuesday, March 26, 2019 9:00 A.M.**

**BOARD OF ADJUSTMENT MEETING
2735 S. HWY 69**

**COUNCIL CHAMBERS, TOWN HALL
DEWEY-HUMBOLDT, ARIZONA**

AGENDA SUMMARY

1. **Call To Order** Board Member Ulys Brooks called the meeting to order at 9:00 a.m.
2. **Roll Call** Board Members Ulys Brooks, Gary Ford, Linda Horvath and Cheryl Taylor were present.
3. **Pledge of Allegiance** Led by Veteran Michael Doole.
4. **Election of Officers** BM Horvath made a motion to nominate BM Brooks for Chair. BM Brooks made a motion to nominate BM Taylor for Chair. A vote was taken to nominate BM Taylor for Chair: BM Brooks – aye; BM Ford – aye; BM Horvath – aye; BM Taylor – aye. The motion passed unanimously. No action was taken on the first motion. Chair Taylor made a motion to nominate BM Brooks for Vice-Chair, seconded by BM Horvath. A vote was taken to nominate BM Brooks for Vice-Chair: BM Brooks – aye; BM Ford – aye; BM Horvath – aye; Chair Taylor – aye. The motion passed unanimously.

5. Consent Agenda

A. Approval of Minutes of March 14, 2017, Board of Adjustment Meeting

BM Ford made a motion to approve the Minutes of March 14, 2017, Board of Adjustment Meeting, seconded by BM Horvath. Chair Taylor called for the vote on the motion: BM Ford – aye; BM Horvath – aye; Vice-Chair Brooks – aye; Chair Taylor – aye. The motion passed unanimously.

6. Public Hearing Agenda Discussion and Possible Legal Action may be taken.

A. ITEM #: V-19-001

Request: Approve a variance of the front yard setback to allow a 25-foot front setback, where a 50-foot setback is required. The property is located at 9310 E. Chestnut Hill Avenue in the Town of Dewey-Humboldt, being Yavapai County Assessor's parcel number 402-03-157B.

1. Staff Report

Planning Consultant Steven Brown stated the applicant is seeking a variance to allow a 25-foot front yard setback, where a 50-foot setback is required by code. The property is located at 9310 E. Chestnut Hill Avenue in the northeast corner of the town. The terrain in this particular area of town is characterized by roadways developed along the ridgelines of hills, with the buildable portion of the lots falling off steeply almost immediately upon leaving the roadway. In the case of this property, the grade reaches in excess of 20% grade (new information indicates a lot of the property is in excess of 27% grade) within the first 75 feet of the lot measured from the roadway.

PC Brown stated Town Code 153.093 provides for deviations to the required setback where circumstances warrant. Yard deviations were not in conflict. On lots rising in elevation from front to center and exceeding 26% grade thereon, the front yard maybe reduced, not to exceed 50% of the required minimum. Staff had a problem in making

an administrative determination based on that clause, in that it reads exceeding 26% grade rising front to center. The code should have been written to clarify the rise and the fall, then we could have granted an administrative variance. The applicant has requested a 25-foot front setback variance to comply with the Town Code.

Chair Taylor asked if the applicant would like to speak about their plans.

Michael Doole spoke about the garage, which is inside the setback. The living portion of the house adheres to the setback. The terrain is so steep that building any further back would incur horrendous costs. We would like to build the house as designed. A redesign would be costly. The structure will not be visible from the road.

PC Brown stated he concurs with everything Mr. Doole has presented. Staff has no objections to the facts as he stipulated them.

Chair Taylor stated Chestnut Hill Avenue is one step up from a two rut road. Is there any chance that, in the future, they would have to widen the road for safety concerns and, how would that work for any structures that have reduced the setbacks. PC Brown stated that will be a factor when they go to do that. If he is setback 25' and other people are setback 25', I can't anticipate that it would be a 50-foot paved section going through there. At best, it would two lanes and perhaps 24', with half being taken from each side of the centerline.

Vice-Chair Brooks asked if there is anything on any of the adjacent properties. PC Brown stated there are four other structures, one on the corner of Chestnut Hill Avenue, one building is cantilevered over, one that is occupied and one dilapidated building which has been the subject of code enforcement for a long time. Vice-Chair Brooks asked if the surrounding property owners are aware of what the applicant wants to do. PC Brown stated yes. The notice of the hearing was advertised and notices were mailed to everyone within 300'. Vice-Chair Brooks asked if there were any problems. PC Brown stated there are no concerns, only one person calling wanting to know the outcome when it occurs.

BM Ford asked, from the street front, what is the distance from the side of the garage to the toe of the cut. Mr. Doole's contractor stated it is about 20'. BM Ford asked what is the distance from the back wall of the house to the top of the fill. The contractor stated about 20-25', as there is approximately 10' of patio. BM Ford stated the building code does have some conditions and restrictions on where you can place a building in relation to a cut and a fill. He asked if this was going to be an issue with the house. The contractor stated he talked to the building department and they said no.

2. Open Public Hearing and Receive Public Comments

None

3. Close Public Hearing

Chair Taylor closed the Public Hearing at 9:15 a.m.

4. Staff Recommendation

PC Brown gave his recommendation for the variance. He stated there are several findings for the variance, which are as follows:

1. The property is associated with "special circumstances" that make building on these steep slopes challenging in the extreme.

2. The variance is necessary to assure that this property owner enjoys the same rights and privileges as other property owner in the same locale.
3. The special circumstances are not self-imposed, as the property was subdivided back in 1964 in roughly the current configuration, and the property owner acquired the property in 2015.
4. The granting of the variance will not be detrimental to persons working or living in the vicinity. It is safe to say that owners of property throughout this vicinity will be faced with the same development challenges in future when they build.

PC Brown stated that following your deliberation, you might want to vote to find that the evidence and testimony presented provides compelling grounds to grant the variance of the front yard setback for the property located at 9310 E. Chestnut Hill Avenue to allow a 25-foot front yard setback. Conversely, the Board may find evidence and testimony that it does not provide such grounds. Therefore, you can choose from those two findings and they will be legally supportable

Chair Taylor asked if we have to meet all of the criteria. PC Brown stated you do have to meet the four criteria.

BM Ford made a motion to approve the variance, seconded by Vice-Chair Brooks. Chair Taylor called for the vote on the motion: BM Ford – aye; BM Horvath – aye; Vice-Chair Brooks – aye; Chair Taylor – aye. The motion passed unanimously.

PC Brown stated there will be another Board of Adjustment meeting on April 23, 2019.

BM Ford asked what is the procedure to get that verbiage corrected. PC Brown stated we are currently reviewing of our zoning code and this will be one that we will ask Town Council to consider.

7. Adjourn The meeting was adjourned at 9:19 a.m.