

TOWN OF MANCOS
BOARD of ADJUSTMENTS & APPEALS MEETING
November 16, 2022
2:00 p.m.

- A. CALL TO ORDER:** Town Clerk Jamie Higgins called the meeting to order at 2:00 p.m.
- B. Appoint Chairperson & Vice Chairperson:** Gina Roberts made a motion to appoint Brent McWhirter as Chairperson and Peter Brind'Amour as Vice Chairperson. Fred Brooks seconds the motion. Motion passed.
- C. ROLL CALL:** Present: Tony Aspromonte, Peter Brind'Amour, Fred Brooks, Brent McWhirter and Gina Roberts.

Absent: None

Staff Present: Mancos Town Administrator Heather Alvarez and Town Clerk Treasurer Jamie Higgins.

- D. APPROVAL OF THE AGENDA:** Gina Roberts made the motion to approve the agenda. Fred Brooks seconds the motion. Motion passed.

- E. PUBLIC HEARING:** Brent McWhirter opened the public hearing at 2:05pm.

Tim Stubbs and Shani Winer spoke regarding the request for a variance at 422 Grand Ave. A shed and carport were built at this location without a building permit. They read letters from Mike Chapman and Katie Calvert addressing the Board regarding the new shed and carport and their support for the variance, please see letters in Board Packet. Tim Stubbs explained that he did not mean to do anything wrong. He's spent time trying to get ahold of the Town and received no response. His contractor told him it was okay to remove the old shed and build a new. He has spent \$30,000 on this project and now is being told it will have to be removed. Tim and Shani believe they meet the 7 criteria for a variance. Due to gas, water and sewer lines they have nowhere else to put the shed. Board member Gina Roberts explained that all homes along Grand have gas/water/sewer lines along the same back so that does not make your property unique. Gina Roberts asked how long have you been looking at ordinances and talking to the Town? Tim Stubbs – Several years. Shani Winer – We were also saving money for the project. Gina – They are online and it's taking years to figure them out? Tim Stubbs – I did look at the ordinances and saw the 200 sf requirements, setbacks. I have tried repeatedly to get in touch with the building inspector and Town administrator. Nobody got back with me. Nick Manning, a Town Trustee, told me it was okay. Gina – Is the total foot print more than 200 sf? Tim – Yes, but that was not their intention. Their contractor said it was okay to add the carport. Vice Chairperson Peter Brind'Amour – How far is the shed from utilities? At least 5ft? Tim – I believe so. Peter – You could have met setbacks then?

Tim – When he did a line locate, if he could have got hold of the building inspector, to figure it out. Peter – Did you refer to the Mancos Land Use Code? Tim – I’m not sure if I thoroughly looked at the Land Use Code. Shai – that’s why we hired a contractor. Peter – Land Use Code Chapter 16-19-1 states a zoning development permit is required for any development. The homeowner is ultimately responsible to know what’s allowed. It took me 5 minutes to find this. I don’t know how years could go by. Tim – I read that anything over 200ft feet requires a building permit. I spoke with Nick Manning, who is a board member, and he said I did not need a permit. When I asked if we could add a carport, he said it’s okay. Gina – is Nick here to confirm what you are claiming? Shani – they asked him to come but he said someone from the Town told him not to come. Gina – Swain Scales was told a permit was needed. Are you saying that did not happen? Tim – he did not relay that to us. Shani – he was hired to work on another project inside the house, and he said he would look into the permit. He didn’t come back to talk to us about this project. Gina – knows Swain Scales personally and she heard a different story. Heather Alvarez advised that none of that information can be taken into consideration during this public hearing. Only the information presented during this public hearing may be taken into considering when making a decision. Gina – can we discount the information we are hearing about Nick? Heather Alvarez – you are hearing the testimony today so you have to decide now credible the information you are hearing today is. Tom – Swain was not our contractor, they were informally talking to him. He was frustrated because he couldn’t get any information at all. Regardless, I wasn’t given any information at that time. He has emails he can share that unbeknownst to him Heather advised Nick that a permit was required. That information was not shared with him. Brent – confirmed that Nick was not a Board member in February of 2022. Board member Fred Brooks – This is an unfortunate situation, but ultimately the homeowner’s responsibility. Board Member Tony Aspromonte does not have any questions at this time.

Janice Bryan, 319 Bauer Ave Mancos CO, signed up to speak at this public hearing. She asked the Board of Adjustments to deny the variance request. She does not want this to become a precedent. We need to follow the rules. Ultimately, it would be on me as a homeowner to be sure my contractor is applying for the right permits.

Town Administrator Heather Alvarez asked if the Board has any questions for her. Gina – Approximately how long have you personally been dealing with this? Heather – Correspondence with this property owner started in 2018. I would like to point out that my emails with Nick Manning in February of 2022 stating they need a building permit, Nick Manning was not a Trustee at that time. I did get an email from the property owner that he is working with Nick Manning and Swain Scales. All of my correspondence is in this board packet. By expanding the footprint they are required to get a building permit, which was in my emails. It is incumbent on the property owner to know the rules. It is not the fault of the Town for the lack of communication between the property owner and his contractor. A condition of a variance is that the hardship can not be caused by the property owner. The building was constructed without a building permit so I denied the

variance. The Town is asking for the variance to be denied and that they be given 30 days to remove the building. Gina – when did you speak with Swain? Heather – February 14 he came into Town Hall and was advised that a building permit was required. We did not hear anything after that. Peter – Is there anything in writing that states you need a permit? Heather – my email to Nick Manning and my conversation with Swaine Scales on February 14, 2022. Most of my emails with the homeowner I asked for more information. Tony – requested copies of the emails from 2018 and 2019. Heather provided that information to the Board. Peter – Asked if rear setbacks are correct? Heather – Unable to verify. Brent – Had they not added the carport, there are different rules because it was 200 sf. Heather – they still would have needed a building permit because it's on a permanent foundation. Brent – 12/13/18 email stated tearing down and rebuilding would require it be built to current setbacks. Tim – I have a vague recollection of this conversation with Heather. She made a reference of a site plan and I was confused. Swaine didn't understand how to get a hold of the building inspector. I got no response from the building inspector. We could have done things differently if we understood. Once we hired a local contractor and he was a board member we put our faith in him. I know better now. Brent – I understand your frustration of not knowing the rules of the land use code. It's up to the land owner to find the answers. Gina – August 5, 2019 you emailed asking about a portable shed permit. 3 years later I have a hard time understanding that you didn't know you needed a permit. Tim – at that time my question was specifically about a pre-built structure.

Public Hearing closed at 2:50 p.m.

Peter – Maybe there is another way. The shed is within the 200sqft footprint, maybe just take the carport down and have them go through the application process. Fred – Does this address the setbacks? Peter – Neighbor to the west, no. Gina – Does it address the setback to the alley? Tim – I do not know for sure, but I believe it's 5ft back. Peter – You measured? Tim – Yes. Gina – Not from the existing building but is it 5 ft back from the alley property line? Tim – I do not know where the alley property line is. Peter – so it's an unanswered question. Brent – we don't know that for a fact. Gina – We can't keep letting it go. We have ordinances for a reason. If the community does not like our ordinances we have ways to appeal and change them. Tony – The process is working backwards. I struggle with the fact a property owner can't replace a building on their property without the same footprint. I would lean toward removing the carport and allowing the shed. Gina – He doubled the footprint. Has he made improvements, yes. Detrimental to the community, no. Follow the rules, no. Fred – we have to follow the rules. I know there's a lot of cash/time at stake, and he wishes the carport could be removed. All the signs were that the he needed to get a permit and did not. Shed needs to be moved or torn down.

No more discussion.

Gina Roberts made a motion to deny the variance and have the building removed by the second week in January because we have multiple holidays coming up and getting something done during the holidays is impossible so let's call it January 15, 2023 that the building has to be removed. Fred Brooks seconds the motion.

Voting Yes: Brent, Gina and Fred.

Voting No: Tony

Abstained: Peter

Motion Passed.

L. ADJOURNMENT Fred Brooks made a motion to adjourn at 3:03pm