



SPECIAL PLANNING AND ZONING COMMISSION MEETING
Monday, February 24, 2014, 4:45 pm
Ketchum City Hall, Ketchum, Idaho

Present: Co-Chairperson Deborah Burns
Commissioner Steve Cook
Commissioner Mike Doty
Commissioner Jeff Lamoureux

Also Present: Joyce Allgaier, Planning Manager
Rebecca Bundy, Senior Planner
Bob Barrow, Applicant
Tom Dabney, Applicant's Architect
Jim Laski, Applicant's Attorney
Jill Eshman, Attorney, representing Neighbor, Irene Blodgett
Rob Shay, Neighbor
Sherry Paul, Neighbor
Mickey Garcia

1. SITE VISIT AT 531 NORTH SPRUCE AVENUE - in regard to the application by BOB BARROW, represented by Tom Dabney, architect, for variances to the zoning code, Title 17 and design review for a fence taller than six feet.

Rebecca Bundy introduced the project and then asked the applicant's representative, Tom Dabney, to describe the requested variances to the code. Tom provided the following information:

- History of the original building projects, including inspections and violations;
- Identification of existing zoning code violations;
- Identification of violations for which a variance is being requested; and
- Identification of the area of wall that exceeds six feet.

The applicant, Bob Barrow, then assured the Commissioners that drainage and all other concerns regarding finishes, landscaping and building code issues would be resolved as part of the building permit process.

The Commissioners had no further questions and the special meeting was concluded at about 5:20 pm.

The Commissioners proceeded to the Regular Planning and Zoning Commission Meeting at City Hall.

A handwritten signature in black ink, appearing to read "DBurns", written over a horizontal line.

Co-Chairperson, Deborah Burns



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Present: **Co-Chairperson Deborah Burns**
 Commissioner Steve Cook
 Commissioner Mike Doty
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Also Present: **Joyce Allgaier, Planning Manager**
 Rebecca Bundy, Senior Planner
 Dan Fletcher, Applicant's Architect
 Brian Vissar, Applicant's General Contractor
 Thad Farnham, Applicant's Construction Supervisor
 John Lee, Neighbor
 Jeff Brown, Neighbor's Representative

1. SITE VISIT AT 171 EAST AVENUE SOUTH - in regard to the application by GREG AND CARI STRIMPLE, represented by Dan Fletcher, architect, for Community Core Design Review.

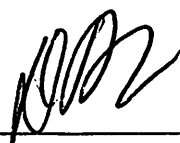
Rebecca Bundy introduced the project and then asked the applicant's representative, Dan Fletcher, to describe the project. The applicant described the project and the site visit was spent viewing the area of the proposed development.

The following features of the proposed project were identified:

- The height of the proposed development was established with a story pole;
- The corners of the proposed building were identified with stakes;
- The condition of the existing sidewalk and the need for replacement was discussed; and
- Paving of the alley was discussed.

The Commissioners had no further questions and the special meeting was concluded at about 5:00 pm.

The Commissioners proceeded to their next site visit and then to the Regular Planning and Zoning Commission Meeting at City Hall.



Co-Chairperson, Deborah Burns



Recorded

**CITY OF KETCHUM
PLANNING AND ZONING COMMISSION MEETING
February 24, 2014, 5:30 p.m.
Ketchum City Hall Meeting Room, Ketchum, Idaho**

Present: Chairperson Deborah Burns
Commissioner Steve Cook
Commissioner Mike Doty
Commissioner Jeff Lamoureux

Absent: Vice-Chairperson Richard Fabiano

Also Present: Ketchum City Attorney Stephanie Bonney
Ketchum Planning Manager Joyce Allgaier
Ketchum Senior Planner Rebecca Bundy
Ketchum Recording Secretary Sunny Grant

1. Chairperson Deborah Burns opened the Regular Planning and Zoning meeting at 5:30 p.m.

2. PUBLIC COMMENT ON ISSUES NOT ON THE AGENDA

There was no public comment at this time.

3. PUBLIC HEARING upon the application by KETCHUM CEMETERY DISTRICT, for a vacation of several portions of public right of way, including two (2) unimproved portions of 10th Street, an unimproved portion of Walnut Avenue and an unimproved portion of alley in Block 94, Ketchum Townsite.

Commissioner Steve Cook moved to continue the public hearing upon the application by Ketchum Cemetery District to May 12, 2014. Motion seconded by Commissioner Michael Doty, and passed unanimously.

4. PUBLIC HEARING upon the application of Robert Barrow, for a variance to the City of Ketchum Zoning Code at 531 North Spruce Avenue (Ketchum Townsite, East 60' of Lot 6, Block 90). The applicant is seeking a variance to Chapter 17.16, Limited Residential District (LR), Sections 17.17.E. Minimum Front Yard, I. Minimum Rear Yard, J. Minimum Side Yard, and L. Maximum Lot Coverage; and Chapter 17.128, Supplementary Location and Bulk Regulations, Section 17.128.I., Decks More than Thirty (30") in Height and CONSIDERATION for Design Review for a fence taller than six (6) feet.

*Also Present: Applicant, Bob Barrow
Applicant's attorney, Jim Laski
Applicant's architect, Thomas Dabney
Jill Eshman, attorney, representing neighbor Irene Blodgett
Neighbor, Sherry Paul
Citizen, Mickey Garcia*

The P&Z Commission visited the site before this meeting.

Ketchum Planning Manager Joyce Allgaier said the site has a lot of history and turmoil, and that the building project currently has a stop work order placed on it. She cautioned the P&Z to focus on the applicant's current application for a variance.

Ketchum Senior Planner Rebecca Bundy said that the subject lot is a substandard lot. It is very small lot in the Limited Residential (LR) zoning district, where standard lot size is 9,000 square feet.

The variance request is for zoning code violations on an existing structure that was built but never received a Certificate of Occupancy. The original building permit application was for an addition to an existing non-conforming building that was allowed to remain in accordance with non-conforming section of the Zoning Code. The house as currently exists, much of which is three stories tall, was supposed to be constructed adjacent to the original non-conforming building, but in fact it replaced the original building. A survey from 2003 shows the *original* house footprint and the footprint of the "addition" that was under construction at that time. The footprints are off by a few inches, and there is very little evidence of the original non-conforming building. In addition, the "deck" is built over a basement living area underneath its entire area, and the house as constructed is built about a foot south of the permitted footprint. The current applicant proposes to rectify any building permit issues and to remove two of the three kitchens in the building to make the house a single family residence.

Per the zoning code, a 33 foot tall building could be put on a 550 square foot footprint as a brand new project; or the applicant could do a 20 foot tall building on an approximately 800 square foot footprint. The applicant can repair the garage right-of-way encroachment or get an encroachment permit from the City.

Bundy then described the requested variances to the front yard setback, back yard setback, side yard setback, building coverage (which could depend on the definition and interpretation of deck or building), and decks greater than 30 inches in height. The applicant also is requesting the Commission grant a waiver to the required wall height through the Design Review process.

There are slight violations to the front yard setback, since the existing building was granted permission in 2003 to be built on the original non-conforming footprint, but it was not constructed exactly on the footprint of the original structure.

The deck that was built over a basement would be considered a "building" today. In 2003, it was considered a deck (with the condition it was not greater than 30 inches high), and it was not required to meet rear yard setback requirements. A portion of the deck is in fact greater than 30 inches above grade and encroaches into the rear yard setback and the side yard on the south. The south wall of the building encroaches about 18 inches into the south side yard setback, due to the height of the building. There are also issues with the deck on the north side of the building.

The concrete wall on the rear of the property is more than 6 feet high.

The lot is very very small and non-conforming to the LR Zoning District. There is some topography on the lot.

Staff reminded the Commission of the definition of and criteria for granting a variance.

Variance: A modification of the requirement of this title as to lot size, lot coverage, width, depth, front yard, side yard, rear yard, setbacks, parking space, parking areas, height of buildings, or other title provisions affecting the size or shape of a structure or the placement of the structure upon lots, or the size of lots.

Criteria: A variance shall not be considered a right or special privilege, but may be granted to an applicant only upon demonstration of undue hardship because of unique characteristics of the site, when the variance is not in conflict with the public interest. Accordingly, a variance shall be granted by the Commission only if the applicant demonstrates all of the following:

A. The strict enforcement of the provisions of this Title create undue hardship to the property owner. Staff feels the property is being held to the same regulations as other properties in the LR Zoning District. The owner purchased the property with full disclosure of existing Zoning Code violations. There are other options for dealing with the substandard size of the lot. The Zoning Code violations could be rectified by modifying or demolishing the existing building. A single family house could be built on this lot and meet setback requirements.

B. The variance is necessary because of the unique size, shape, topography or location of the subject property. The property's size makes it challenging. The standard lot size is 9,000 square feet; this lot is 3,287 square feet in size. Standard lot width is 80 feet, whereas this lot is on 55 feet wide. The lot is buildable. There is some slope on the property, but it's not extreme. The shape and location are typical for the LR Zoning District.

C. The subject property is deprived, by provision of this Title, of rights and privileges enjoyed legally by other properties in the vicinity and under an identical zone. Staff does not feel this standard has been met.

D. The need for the variance is not the result of actions of the applicant or property owner. The applicant did not create the violation, but was in full disclosure of the zoning and building code violations when he purchased the property.

E. The variation does not create health and safety hazards. The project does not really create health and safety hazards, although there are some questions about drainage. The applicant is willing to get a drainage study in the future if appropriate.

F. The variance does not relieve an applicant from any of the procedural provisions of this Title. Staff feels this is met.

G. The variance does not relieve an applicant from any standard or provision that specifically states that no variance from such standard or provision is permitted. Staff feels this is met.

H. The variance does not relieve an applicant from conditions established during prior permit review. Planning staff placed two specific conditions on the *original* building permit: If the rear deck is built to a height of greater than 30 inches, the deck must conform to setbacks; and the existing non-conforming aspect of this project shall not be expanded or replaced. Portions of the deck are currently greater than 30 inches above the adjacent grade, and current Planning staff believes that non-conforming aspects of the project were replaced.

The building permit application showed the proposed structure as 30 feet tall, but it was built 33'-6" tall, which makes the 15 foot setback on the south side non-conforming.

I. The variance does not allow establishment of a use that is not otherwise permitted in the zone in which the subject property is located. The applicant proposes to return the use to single family residential.

J. The variance is the minimum necessary to grant relief to the applicant. The subject property is already developed and the variance request criteria is being judged by a “post-development” condition. Staff feels the variance requests are greater than the minimum that would grant relief in that building walls could be moved to meet setbacks or building height could be reduced.

Staff does not feel all criteria for a variance have been met, and does not recommend approval of this variance. If the Commission does approve this variance request, staff recommends the variance should only be for construction of the existing residence per the plans included in this variance application and subject to all conditions of approval placed on the approval by the Commission. A variance approval shall not constitute approval for the project in any form whatsoever except under the strict parameters of the variance. If the Commission denies the application, the applicant can appeal to the City Council.

Applicant’s representative Jim Laski said the applicant group felt they had been encouraged to apply for a variance and were disappointed in the staff report. It is difficult to consider a variance unless one looks at the site as including the pre-existing structure that was there over 10 years ago when the building project started, as well as the existing structure that was permitted and constructed, and inspected and approved by the City in November 2003 through December 2006, including inspections of the stucco layers.

Laski said the file on this parcel from 2003 to present is lengthy. The City made attempts over time to remedy the various violations; and he asked that the whole project file be included in the record to be sure the history is complete.

Laski said State standard for a variance is undue hardship due to site characteristics and that it will not conflict with public interest. Ketchum’s ordinance basically mimics language of the state statute. The applicant asks the Commission to view site characteristics, including pre-existing structures, in their consideration of this request.

Laski also said that, on June 27, 2012, an email from Bundy said the deck at the rear of the house needed to be brought into compliance or demolished and the deck could not be higher than 30 inches above original grade. The City would not normally permit a structure under the deck in the setback; however, since it was permitted as a full basement, staff will allow it to remain if the height issue were rectified. The basement was clearly permitted. Concrete inspections in the file show that it was poured and inspected and approved with the full basement the way it is right now. The building permit allows a 35 foot building height, but the Planning Administrator at the time wrote 30 feet on her review. The applicant is offering a reasonable way to fix the situation without having to redo the entire building.

Applicant Bob Barrow said he realizes there is a lot of anger about the project directed toward the previous owner and the City for allowing this to happen. Barrow said he is not the previous owner and didn’t create the problem. He is not a big developer, but a contractor who likes to come to the mountains and ski. He looked for a project to allow him to work in Ketchum and be part of the Ketchum community. Barrow looked at the house and all its violations and felt he

could provide a solution that would make the neighbors happy and provide a solution to the rundown dilapidated safety hazard.

Barrow said the major problems were the wall on the south side that is 18 inches over the side setback and the height of the deck that wraps around the back. He felt most problems were minor, and he could build a big beautiful house on the lot. The cost of the lot requires the house be as big as possible. Barrow said it does not make sense to tear the house down or significantly modify it due to the throwaway of significant resources, the emissions and impact of thousands of vehicle trips up and down the hill.

Barrow said he could fix every one of the Building Code violations and drainage, wiring, etc., modify the street view, and make it worthy of the neighborhood it is in, all in 120 days. Barrow said he could rebuild the house, but it would take a year to do so.

Project architect Tom Dabney showed Commissioners the proposed exterior improvements: new siding, trim, windows, a new railing and finished landscaping. The South wall would have to be pushed back about 18 inches based on setbacks and current height, but could otherwise look the same.

PUBLIC COMMENT:

- Sherry Paul is a new owner of the house just below this property. She said Ketchum had design codes to protect everyone from encroachment issues. The Codes are to create a harmonious environment and to create a critical standard-bearer for this project and the whole town. She advised Ketchum to abide by its codes and enforce them fully, both for this project and as a precedent for development going forward. The house is too big for the lot—too high, too close to neighbor properties—and provides all kinds of environmental issues.
- Mickey Garcia said the house fits the neighborhood and the owner is willing to do reasonable things to bring it into conformity. The variance is okay and is in the public interest.
- Jill Eshman, representing Irene Blodgett, neighbor in the house immediately north of the subject property, asked Commissioners to look at the situation as it is today, with multiple non-compliance issues. The neighbors have consistently over the years asked the property owner to comply with building permits and the City to enforce its Code. Eshman said State Law is not discretionary or negotiable. Eshman also suggested that Jim Lasky's representation of the applicant was a conflict of interest, in that his firm represented her client in 2007, asserting the position that the zoning violations and building code should be complied with.

Allgaier said P&Z had received letters from:

Irene Blodgett	February 20, 2014	Sherry Paul	February 14, 2014
Andrew Browning Dumke	February 14, 2014	Akiko Maeda	February 18, 2014
Tif and Dabney Mann email	February 20, 2014	Trina Peters	February 17, 2014
Robert Shay	February 24, 2014		

Laski said the applicant respects the public's concerns and will allow the Commission discretion to apply its ordinance.

COMMISSION DELIBERATION: The Commission made decisions on the evaluation criteria as follows:

- A. Commissioners Doty, Burns, Cook and Lamoureux found that the standard has not been met. Burns said the current owner had purchased the property with full disclosure of the existing zoning violations.
- B. Commissioners Doty, Cook, Burns and Lamoureux found that the standard has not been met. Chairman Burns said a house on a substandard lot needs to be smaller. Lamoureux felt there were other procedures the applicant could pursue, such as rezoning the lot.
- C. Commissioners Doty, Cook, Burns and Lamoureux found that the standard has not been met. Burns said it is possible to build a single family dwelling on the subject property in conformance with zoning, a right commonly enjoyed in the neighborhood.
- D. Commissioners Doty, Burns, Cook and Lamoureux found that the standard has not been met. Lamoureux respects the applicant's effort to resolve the situation in some fashion, but there is not justification for granting a variance.
- E. Commissioners Doty, Burns and Cook found that the standard has not been met. Doty expressed concern that the garage ramp at the southern end of the garage with the 33% apron might be a safety hazard for someone trying to back out onto the street. Lamoureux felt conditions could address this standard and that the applicant could fix the concerns.
- F. Commissioners Doty, Burns, Cook and Lamoureux agreed that the standard has been met.
- G. Commissioners Doty, Burns, Cook and Lamoureux agreed that the standard has been met.
- H. Commissioners Doty, Burns, Cook, and Lamoureux found that the standard has not been met. Cook sympathized with conditions and restrictions imposed upon this lot but did not find undue hardship.
- I. Commissioners Doty, Burns, Cook, and Lamoureux found that the standard has been met.
- J. Commissioners Doty, Burns, Cook, and Lamoureux found that the standard has not been met.

Laski withdrew the application for Design Review.

Commissioner Michael Doty moved to deny the application of Strata Capital, Inc. Robert Barrow, for a variance to Zoning Code Title 17, Chapter 17.16, Limited Residential District, Section 17.16.010.e Minimum Front Yard, 17.16.010.i Minimum Rear Yard, 17.16.010.j Minimum Side Yard, and 17.16.010.l Maximum Lot Coverage in Chapter 17.128.020.l Supplementary Location and Bulk Regulations Section 17.128.020.l Decks more than 30" in height and require that a building permit application meet all requirements of Zoning Code Title 17. Motion seconded by Commissioner Steve Cook, and passed unanimously.

- 5. PUBLIC HEARING upon the application of Greg and Cari Strimple for Townhouse Subdivision Preliminary Plat consideration at 171 East Avenue South (Ketchum Townsite**

Lot 7A, Block 22) for a two (2) unit townhouse development, and CONSIDERATION of Community Core Design Review – Multifamily Home in the Community Core, Subdistrict C, Urban Residential zoning district.

*Also Present: Applicant's architect, Dan Fletcher;
Applicant's contractors, Thad Farnham and Brian Visser;
Applicant's engineer, Josh Gilder
Neighbors, John and Tracy Lee and Jeff Brown
Citizen, Mickey Garcia*

P&Z Commission and staff visited this project on site before the meeting.

Ketchum Senior Planner Rebecca Bundy said that this a proposal for a two-unit townhome, adjacent to John Lee's building at the corner of East Avenue and Second Street and Teresa Jenson's on the corner of East Avenue and First Street.

The applicant has chosen Type 4 Multi-Family Home as their building type. Each residence is approximately 3,000 square feet in size. The site plan shows public entrances to the building off of East Avenue. Unit A on the north side, Unit B on the south side. The applicant proposes to pave the alley with driveway and a two-car garage for each unit off the alley. The applicant proposes a floor area ratio (FAR) of under 1.0, which would require no community housing.

Bundy presented elevations. The drawings show quite a bit of undulation on the façade. One unit has a higher roof on the south elevation. While the chimney reaches the building height limit, it is actually exempt by Code from the height limit restrictions. The proposed building is set back 5 feet from the front property line, 5'-2" from each side property line, and meets the minimum alley setback of 3 feet.

The applicant proposes to pave the alley 14 feet wide. Ketchum Street and Utilities departments would like to see the alley paved to a full 20 foot width. There is an encroaching shed on a neighboring property, so staff has proposed a condition that the alley shall be paved to 20 feet in width where possible.

The alley is designed to drain to the east, be collected in a catch basin and go into a drywell on the proposed site. The Ketchum Spring Water line runs down the alley, but a new building may not be served by the old Spring Water line. Since the Spring Water line runs down the alley, the applicants must comply with conditions to not disturb the line and are responsible for repairing it if it is damaged during construction. Any drywell must be a minimum of 25 feet from the Spring Water line. Staff suggests a condition be added that the applicant provide an easement to the City to catch water at a catch basin in the alley and direct it to the applicant's drywell on private property. Drainage from roof drains, driveway, etc., is also directed to the drywell. Public Works has suggested a ribbon gutter to catch water on the east side of the alley and direct it down to a trench that connects to a catch basin.

Applicant's representative, Dan Fletcher, said the project is compliant with City regulations. The applicant accepts the conditions of approval as listed in the Staff Report. He said the house was designed to fit within the zoning ordinance, but he understood neighbors' concerns.

Commissioner Steve Cook said one purpose of Design Review is to ensure that the general appearance of a building design should be orderly and harmonious with the appearance and character of the neighborhood. Cook empathized with the applicant, but questioned the

building's compatibility and continuity of materials and colors with the neighborhood. The applicant is proposing a structure over 30 feet tall in-between two small preserved older structures on the same half block. Cook questioned the exterior's finish materials, contrasting colors and lack of horizontal aspect in particular.

Project architect, Dan Fletcher, said that making revisions to some of the materials would be easy to do. He said, however, that the structure was in compliance with the zoning ordinance.

Commissioners' comments:

- Chairman Burns said she liked the building, but it was hard to picture it in this location and that the P&Z has to consider the criteria of the Code.
- Commissioner Lamoureux said the applicant has designed what the Zoning Code asks for. If the community does not like it, then they should change the code.
- Commissioner Doty said the form-based code calls for certain things, which have been met by this design. He suggested that the front elevation could be tweaked. He said the roof overhang may make the building look taller than it really is. Commissioner Doty asked about the amount of glass proposed along the sides of the building, given the proposed 5 foot setbacks there.

PUBLIC COMMENT:

- Ketchum Senior Planner Rebecca Bundy submitted written comments from Theresa Jensen and Jody Herlich.
- John Lee, neighbor, said it was a tough lot to work with. He liked the building, but it was completely different from everything else on the block. Lee asked to see the north elevation with his building imposed in front of it. He asked that the materials be reworked to date the building a little. Lee also asked how the drainage was going to work and how it would affect his unpaved parking lot.
- Mickey Garcia said the building fits the evolving neighborhood. The buildings next door are old ramshackle buildings; and other buildings on the street had flat tops and lots of glass.
- Tracy Lee, neighbor, agreed that it's a challenging piece of property to design something that will fit in. She did not think the design fit in that location, but agreed that it was designed to Code. She asked Commissioners to avoid making a decision that would make people walking down the street groan when they see the new house; and suggested Commissioners look at the design in the context of the whole block.
- Jeff Brown, owner of the lot directly across East Avenue, said he understands the zoning. He asked that the owners/architects do their best to minimize the impact of a new building in an historic part of town. With the building lot line to lot line, there's no option to minimize the impact with landscaping.

Planning Manager Joyce Allgaier reiterated that the Commissioners were concerned about this building in relation to smaller buildings on the lot. The large roof overhang seems to call attention to the size of the building. The Commissioners suggested that the applicant provide more depth of materials on the façade and increase the horizontal aspect of the design.

Applicant's representative Josh Gilder said that his driveway design tried to minimize the amount of paving in the rear in order to increase landscaping opportunities.

The Commissioners suggested that drainage on the lot and alley needs to be reevaluated and the drywell should be designed to handle the lot and alley without impacting access to the neighboring properties. If runoff from the lot and alley are going into the private drywell, there should be a maintenance agreement with the City. The Ketchum Spring Water line must be protected according to EPA guidelines.

The Commissioners felt the design met the form-based code in general. They asked the architect to rework colors and horizontality, lessen the roof statement, soften the edges of the building, review drainage and address landscaping.

Commissioner Steve Cook moved to continue to March 10, 2014, the application of Greg and Cari Strimple Community Core Design Review for a two (2) unit townhouse development, and Preliminary Plat Approval for the same property. Motion seconded by Commissioner Michael Doty and passed unanimously.

6. CONSENT AGENDA

a. FINDINGS OF FACT for Philbrick – Townhouse Subdivision Preliminary Plat

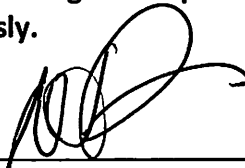
Commissioner Steve Cook moved to approve Findings of Fact with amendments for Philbrick Addition Mountain Overlay Design Review, File 13-119. Motion seconded by Commissioner Michael Doty, and passed unanimously.

7. COMMISSION COMMENTS

- Sign hanging off the edge of Velocio.
- Abba Towing sign.
- Commissioner Cook asked how evaluation standards Section 17.96.090 fit the Strimple project. Staff said there were different standards in the Community Core.

8. ADJOURNMENT

Commissioner Michael Doty moved to adjourn the meeting at 8:11pm. Chairman Deborah Burns seconded the motion, and it passed unanimously.



Chairperson Deborah Burns

CC: City Council