

**A RESOLUTION OF THE OURAY COUNTY BOARD OF ZONING ADJUSTMENT DENYING VARIANCES FOR JAMES M. SIEGMANN**

**WHEREAS**, James M. Siegmann ("Applicant") filed an application to allow variances from the setback requirements described in Section 3.4 A(5) and 9.3A of the Ouray County Land Use Code ("LUC") and for a variance from Section 24.5B (3) for the requirement for a reserve water supply ("Application") for the property known as Silver Point Millsite, U.S.M.S No. 577B, Uncompahgre Mining District, County of Ouray, State of Colorado ("Property"); and

**WHEREAS**, notice of a Public Hearing on such Application was published on January 5, 2007 in the *Ouray Plaindealer* and on January 10, 2007 in the *Ridgway Sun* and the Board of County Commissioners of Ouray County, Colorado, sitting as the Board of Zoning Adjustment ("Board") held a public hearing on the Application on January 22, 2007 at 11:15 a.m.; and

**WHEREAS**, the Board received and entered into the record letters from Norm Rooker, Chief Paramedic, Ouray County Emergency Medical Services ("EMS"), and Dominic Mattivi, Jr., the Ouray County Sheriff ("Sheriff"), each recommending denial of the variance requests because of public safety concerns; and

**WHEREAS**, the Board heard testimony from Paul DeJulio, Transportation Maintenance Superintendent, Region 5, Maintenance Section 3, State of Colorado Department of Transportation ("CDOT") and Greg Stacy, CDOT, and received and entered into the record a letter, as well as various e-mail communications between representatives of CDOT and representatives of the U.S. Army, discussing avalanche reduction operations in the area of the Property and the likelihood that avalanche control operations would be hampered if the variances were granted; and

**WHEREAS**, the Board reviewed the Application and the Staff Report, heard statements from the Applicant and Ouray County Land Use Staff; and

**WHEREAS**, the Board took public comment on the Application and heard testimony from Alan Staehle, a former Ouray County Commissioner about the Application in general and the scope and intent of Section 4 of the LUC regarding non-conforming structures; and

**WHEREAS**, Section 19.7.D(3) describes the criteria for variances to provisions of the LUC, which section states, in part:

"Where, by reason of exceptional narrowness, shallowness or shape of a specific piece of property at the time of the enactment of this Code or by reason of exceptional topographic conditions or other extraordinary and exceptional situation... the strict application... under this Code would result in peculiar and exceptional practical difficulties to or exceptional and undue hardship upon the owner..., a variance from such strict application so as to relieve such difficulties or hardship, **provided** that such relief may be granted **without substantial detriment to the public good** and without substantially impairing the intent and purpose of this Code." (Emphasis added.); and

**WHEREAS**, based upon the statements and letters in the record from CDOT, EMS, the Sheriff and the public, as well as the information provided in the Application, supporting materials and Staff Report, the Board has determined that granting the variances requested will place an inappropriate burden on public services and safety and will result in substantial impairment of the public good and the intent or purpose of the LUC.

**NOW THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF OURAY COUNTY, COLORADO, SITTING AS THE BOARD OF ZONING ADJUSTMENT AS FOLLOWS:**

1. The Board of Zoning Adjustment unanimously denies the Application for the variances to the setback requirements required in Section 3.4 A(5) and 9.3A of the LUC and for a variance from Section 24.5.B (3) for the requirement for a reserve water supply as submitted by James M. Siegmann

APPROVED AND ADOPTED THIS \_\_\_\_ DAY OF FEBRUARY, 2007 ratifying the action taken by the Board on January 22, 2007.

BOARD OF COUNTY COMMISSIONERS OF  
OURAY COUNTY, COLORADO SITTING AS  
THE BOARD OF ZONING ADJUSTMENT

Attest:

\_\_\_\_\_  
Don Batchelder, Chair

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Heidi M. Albritton

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Michelle Nauer, Clerk and Recorder  
By: Linda Munson-Haley, Deputy Clerk of the Board

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K. Keith Meinert