

**A RESOLUTION OF THE  
OURAY COUNTY BOARD OF ZONING ADJUSTMENT  
TO APPROVE A VARIANCE FOR WAYNE D. PHINNEY AND LESLIE PHINNEY**

**WHEREAS**, Wayne D. Phinney and Leslie Phinney ("Applicant") filed an application to allow a variance from the setback requirements described in Section 3.4 A(5) of the Ouray County Land Use Code ("LUC") for the property located at 3715 County Road 17, Ouray, Colorado ("Application"); and

**WHEREAS**, notice of a Public Hearing on such Application was published on July 6, 2007 in the *Ouray Plaindealer* and on July 11, 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 July 23, 2007 at 2:30 p.m.; and

**WHEREAS**, the Board reviewed the Application and supporting materials, the Staff Report, and heard statements from the Applicant's Agent, Doug McFarlane, and the Applicant Leslie Phinney; and

**WHEREAS**, based upon the statements in the record, the Application, supporting materials and Staff Report, the Board has determined that the Staff recommendation, finding that the Application falls within the definition for a variance set forth at Section 19.7.D(3), is supported by the record; and

**WHEREAS**, the Ouray County Road and Bridge Superintendent has expressed concerns about the possible difficulties of having to back slope CR 17 in this location if road damage occurs in this area in the future and concerns were expressed about the stability of the residence in such event and it appears from the statements and information appearing in the record that the issues relative to the proximity of CR 17 to the property can be mitigated; and

**WHEREAS**, Ouray County owns property in excess of a 60-foot right-of-way for CR 17 and Ouray County also owns the 100-foot railroad right-of-way in this area; therefore, such additional property in excess of the 60-foot right-of-way allows for the possibility of widening CR 17 in the future; and

**WHEREAS**, it appears that the siting of the house on the Applicant's property, as proposed by Applicant, will minimize the soil disturbance associated with constructing the home on this site; and

**WHEREAS**, it appears that exceptional topographic conditions exist on the property and the strict application of the setback requirements would result in exceptional practical difficulties upon the Applicant and that granting the variance will not result in substantial impairment of the intent or purpose of the LUC, as described in Section 19.7.D (3) 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 approves a variance to the minimum setback requirements set forth in Section 3.4 A (5) of the LUC for the east property line, adjacent to CR 17. Specifically, a minimum setback of eight feet is approved for the property line adjacent to CR 17 described in the Application rather than the required twenty-five-foot setback. No portion of

any structure, overhang or deck may be constructed or located within such eight-foot setback.

2. To address the concerns relative to the Ouray County Road and Bridge Department's ability to back slope CR 17 in this area, the approved setback of eight feet is conditioned upon the footers on the east property line being engineered and constructed to a depth of six feet below ground level, or bedrock, or such other engineered recommendations required for safety reasons to ensure that Ouray County Road and Bridge is able to perform all necessary work on CR 17, including possible expansion of the road toward the Applicant's residence and the residence remaining structurally fit to allow such work. Any portion of the foundation on the eastern property line of the property that is more than twelve and one-half feet from the property line shall only be required to have footers to the depth ordinarily required by the LUC.
3. Prior to pouring any portion of the foundation, the Applicant shall clearly flag the eight-foot setback as approved by Ouray County.
4. Applicant shall ensure that no damage is done to CR 17 during construction and all natural drainage shall be maintained. Applicant shall obtain an encroachment permit for the driveway prior to issuance of a building permit.
5. As provided by Section 19.7.D (3) of the LUC, this variance shall expire one year from the date it is granted unless the use for which it has been requested has occurred.

APPROVED AND ADOPTED THIS \_\_\_\_ DAY OF AUGUST, 2007 RATIFYING THE ACTION TAKEN BY THE BOARD ON JULY 23, 2007.

BOARD OF COUNTY COMMISSIONERS  
OF OURAY COUNTY, COLORADO

Attest:

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

\_\_\_\_\_  
Heidi M. Albritton, Vice Chair

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

\_\_\_\_\_  
K. Keith Meinert, Commissioner Member