

**A RESOLUTION OF THE
OURAY COUNTY BOARD OF ZONING ADJUSTMENT
TO APPROVE A VARIANCE FOR CAROLE RESCIGNO**

WHEREAS, Carole Rescigno, by and through her agent Tom Tyler (“Applicant”), filed an application to allow a variance from the setback requirements described in Section 3.4 H (5) of the Ouray County Land Use Code (“LUC”) for the property located at 258 Whispering Pines, Ouray, Colorado (“Application”); and

WHEREAS, the Applicant has requested that the required setback be reduced from fifty (50) feet to one (1) foot on the west boundary of the property located at 258 Whispering Pines, Ouray, Colorado (Lot 5, Whispering Pines) (“Property”); and

WHEREAS, the variance is being requested by the Applicant in order to allow a diversion wall to be erected to help to protect the residence on the Property from future flooding and debris flow from Corbett Creek, an event that did occur on August 8, 2008; and

WHEREAS, notice of a Public Hearing on such Application was published on September 26, 2008 in the Ouray County Plaindealer 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 October 13, 2008 at 11:15 a.m.; and

WHEREAS, the Board reviewed the Application and supporting materials, the Staff Report and heard statements from the Applicant’s Agent, Tom Tyler; and

WHEREAS, it appears that the potential for future flood damage to the Property because of its proximity to Corbett Creek results in an extraordinary and exceptional circumstance and the strict application of the setback requirements would result in exceptional practical difficulties for the Applicant and 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; and

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

WHEREAS, Staff has recommended that the normal fees that would be required to process a variance request be waived as the request for the variance to build the diversion wall within the setback was caused by natural occurrences and was not the fault of the Applicant; the Ouray County Building Official required that the diversion wall be built before further repairs to the residence on the Property would be allowed; and Staff time for processing the variance was minimal;

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 H (5) of the LUC for the west property line adjacent to Corbett Creek. Specifically, a minimum setback of one foot is approved rather than the required fifty-foot setback. No portion of any structure, overhang or deck may be constructed or located within such one-foot setback.

2. 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.
3. All fees that would normally be required to process a variance application are waived.

APPROVED AND ADOPTED THIS ____ DAY OF NOVEMBER, 2008 RATIFYING THE ACTION TAKEN BY THE BOARD ON OCTOBER 13, 2008.

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

Attest:

K. Keith Meinert, Chair

Don Batchelder, Vice Chair

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

Heidi M. Albritton, Member