

**A RESOLUTION OF THE
OURAY COUNTY BOARD OF ZONING ADJUSTMENT
TO APPROVE A VARIANCE FOR
BRAD WALLIS AND THE WALLIS FAMILY TRUST**

WHEREAS, Brad Wallis, on behalf of the Wallis Family Trust (“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 169 Ridgway Hills Drive, Ridgway, Colorado (“Application”); and

WHEREAS, the Applicant has requested that the required setback be reduced from fifty (50) feet to twenty-five (25) feet on Lot 1, Ridgway Hills, also known as 169 Ridgway Hills Drive, Ridgway, Colorado (“Property”); and

WHEREAS, the Property is subject to a utility easement that cuts across the middle of the Property, a significant drainage swale on the southern portion of the property, and a portion of the property is very narrow, all of which limit available building areas on the Property; and

WHEREAS, notice of a Public Hearing on such Application was published on April 3, 2009 in the Ouray County Plaindealer and on April 1, 2009 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 April 14, 2009 at 10:15 a.m.; and

WHEREAS, the Board reviewed the Application and supporting materials, the Staff Report, and heard statements from the Applicant and the Ouray County Planner; and

WHEREAS, it appears that the utility easement, the configuration of the Property and the drainage issues on the Property result 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 was precipitated, in part, by a prior incorrect determination from the Land Use Department that the underlying setbacks (25 feet) described in the Protective Covenants for Ridgway Hills would apply rather than the setbacks required by Section 3.4 H (5) of the LUC and the fact that other property owners within Ridgway Hills have been permitted to build with smaller than required setbacks, without the necessity of first obtaining a variance; and

WHEREAS, the Board has determined that a waiver of the normal fee for a variance is equitable in this instance given the County’s role in creating the conflict in required setbacks;

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 interior

property lines of Lot 1, Ridgway Hills. Specifically, a minimum setback of twenty-five feet from the interior property lines is approved rather than the required fifty-foot setback. No portion of any structure, overhang or deck may be constructed or located within such twenty-five foot setback. This variance is subject to the following conditions:

- a. The Applicant shall not commence construction without an approved building permit.
 - b. The Applicant agrees to comply with all regulations regarding Visual Impact as detailed in Section 9 of the Ouray County Land Use Code.
 - c. The Applicant will be charged all normal and customary charges typically associated with a building permit application.
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 APRIL, 2009 RATIFYING THE ACTION TAKEN BY THE BOARD ON APRIL 14, 2009.

BOARD OF COUNTY COMMISSIONERS
OF OURAY COUNTY, COLORADO

Attest:

Heidi M. Albritton, Chair

K. Keith Meinert, Vice-Chair

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

Lynn M. Padgett, Commissioner