

RESOLUTION No. 2010-042

**A RESOLUTION OF THE
OURAY COUNTY BOARD OF ZONING ADJUSTMENT
TO APPROVE A VARIANCE FOR DANIEL DE FREVAL**

WHEREAS, Daniel De Freval ("Applicant") owns an interest in property described as the Golden Crystal Lode, U.S. Mineral Survey No. 7050 ("Property"); and

WHEREAS, Applicant has filed an application to allow a variance from the requirements described in Section 3.4 A. (5) of the Ouray County Land Use Code ("LUC") for setbacks, requesting a reduction in the setback from twenty-five (25) feet to twenty-two (22) feet for the northwest corner of the 16' x 22' day-use-only cabin located on the Property ("Application"); and

WHEREAS, the Applicant states that the Property is subject to shallow bedrock as well as visual impact constraints; and

WHEREAS, Land Use Staff states that the owner's ability to relocate or rotate the structure is limited due to several factors including but not limited to the extreme grade of the property (*topographic conditions*); the shallow bedrock and the problems that it poses to establish an additional foundation (*condition of such piece of property*); and to relocate, rotate or shift the building would result in a visibility increase of the structure from Hwy 550 that would result in potential violation of the visual impact regulations (*extraordinary and exceptional situation or condition impacting such piece of property*). Staff further states that the siting of the structure is currently well done to keep it hidden as is the intent of Section 9; and

WHEREAS, notice of a Public Hearing on such Application was published on September 17, 2010 in the *Ouray County Plaindealer* and on September 22, 2010 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 October 4, 2010 at 3:30 p.m.; and

WHEREAS, on October 4, 2010 the Board reviewed the Application and supporting materials, the Staff Report, and heard statements from the Applicant, the Ouray County Planning Technician and the Applicant's nearest neighbor, Sandor Ringhoffer; and

WHEREAS, it appears that the topography of the Property, the shallow bedrock and the constraints of meeting visual impact 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

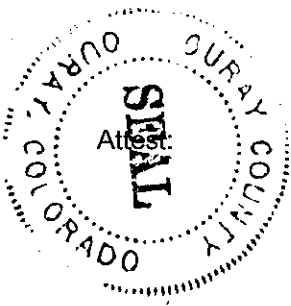
WHEREAS, the Applicant made a verbal request at the hearing for a waiver of the \$1,000.00 application fee for the variance application; and

WHEREAS, the Board considered the waiver request and noted that a very unique situation exists due to the fact that it was a day use only cabin, that the project size was quite small and the setback violation was nominal in relation to the total required fee.

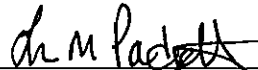
NOW THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF OURAY COUNTY, COLORADO, SITTING AS THE BOARD OF ZONING ADJUSTMENT, AS FOLLOWS:

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 cabin located on the Property, specifically the northwest corner of the structure and a minimum setback of twenty-two feet from the property line is approved rather than the required twenty-five foot setback. No portion of any structure, overhang or deck may be constructed or located within such twenty-two foot setback.
2. Applicant shall complete construction of the cabin and comply with all requirements of Building Permit 2010-036 as soon as practicable and in any event within one year of the date of this variance being approved.
3. 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.
4. A fee waiver in the amount of \$750.00 is granted to the Applicant and a refund of such amount is authorized.

APPROVED AND ADOPTED THIS 1st DAY OF NOVEMBER, 2010 RATIFYING THE ACTION TAKEN BY THE BOARD ON OCTOBER 25, 2010.



BOARD OF COUNTY COMMISSIONERS OF
50OURAY COUNTY, COLORADO SITTING AS
THE BOARD OF ZONING ADJUSTMENT



Lynn M. Padgett, Chair

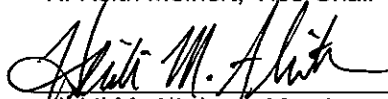


K. Keith Meinert, Vice-Chair



Michelle Nauer, Clerk and Recorder

By: Linda Munson-Haley, Deputy Clerk of the Board



Heidi M. Albritton, Member