



*Town of Alpine  
Board of Adjustments Meeting Minutes*

**DATE:** November 9<sup>th</sup>, 2021  
**TIME:** 6:30 p.m.

**PLACE:** Council Chambers  
**TYPE:** Special Meeting

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1. **CALL TO ORDER:** Meeting called to order at 6:32 p.m.
2. **ROLL CALL & ESTABLISH QUORUM:** Ms. Christine Wagner, Planning and Zoning Administrator established roll call; members present were Mr. Floyd Jenkins Mr. Tim Hartnett and Mr. Dave Jenkins; Mr. Mike Kirkwood and Mr. Rex Doornbos, were absent and excused from the night's meeting. Mr. Tim Hartnett was the acting chairman of tonight's meeting. A quorum was established.

It was noted that others in attendance were Mr. Dean Swickard (Applicant), Mr. Nathan Bianchin (adjacent property owner) and Ms. Audrey Cohen-Davis (Legal Representative for Mr. Bianchin).

3. **TONIGHT'S APPOINTMENTS/NEW BUSINESS:**
  - **Swickard, Deane & Valerie: Lot #38 Alpine Meadows, 515 Aster Loop - (#V-01-2021) {Setbacks}:** Ms. Christine Wagner, Zoning Administrator presented the staff report and gave a brief review of the petitioner's request for variance of the established/allowable setbacks for the property located in Alpine Meadows, to those in attendance. The application was present to review and discuss the variance request/application. A brief overview of the variance application is as follows:

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**Variance Request:**

The Swickard's specifically request a reduction of the setback requirement along the eastern lot line from the required 15 feet to between 14.9 to 6.2 feet consistent with the dimensions of the non-conforming triangular portion of their existing structure, as depicted in the attached survey map labeled Exhibit "A".

Applicant has stated the reasons for their variance request, which can be found on the attached correspondence submitted by their Legal Counsel Ms. Leah C. Schwartz of Ranck & Schwartz, LLC. (See Attachment)

The applicant has received a variance from the Alpine Meadows Homeowners Association, in which has been recorded by the Lincoln County Clerk. (See Attachment.)

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The Zoning Administrator presented all participants with a copy of the prepared correspondence and all the documents that are associated with the application that have been received by the Town of Alpine. Ms. Wagner went over the application procedures and the review process, which is outlined below.

### **Application Submittal and Process:**

- 1** Application and related forms and filing fees have been submitted and processed by the Town of Alpine, Zoning Administrator. Submitted Application Form {attached} has been deemed acceptable.
- 2** Property Owners within the five hundred (500) foot radius of the property have been notified of the proposed setback "reduction" request and property owners have been given the opportunity to respond to the submitted application. A response deadline was given, the established deadline is up until the Board of Adjustment Hearing Date of November 9<sup>th</sup>, 2021, at 6:30 PM. (Attached Notification)
- 3** Included in the application was a letter from Mr. & Mrs. Swickard's attorney, identifying their request and reasoning for the variance from the Town of Alpine's allowable setbacks as established in the adopted Alpine Land Use and Development Code (LUDC). (Attached Letter)
- 4** Also, included in the submitted documentation is a copy of the portion of the property map that establishes the "building envelope {setback} map" and the structure placement specific to the established setbacks. (Attached)
- 5** The Zoning Administrator has reviewed the application and submittal documentation for the acceptance of the variance request. The merits of the variance request were deemed acceptable for the process to move forward.

**It should be noted that when the single-family structure was built the building permit was issued was by the Lincoln County Planning and Engineering Office; in which they do not require inspections and/or a Certificate of Placement for the project/structure; additionally, a Certificate of Occupancy is not issued by the Lincoln County Officials. So, the setback encroachment would have never been identified, if not for the owners planned landscaping and doghouse installation.**

### **Application and Process have been completed.**

The Zoning Administrator prepared staff report is as follows:

#### ***Response from Zoning Administrator:***

The application has been based on its own merits of submission, documents/findings and submitted comments.

*Reviewing the adopted Land Use and Development Code (LUDC), Section 3-202, Sub-Section (e)(1) Minimum Setbacks: Front Yard: primary residential structures will be setback no less than twenty-five (25) feet from the front property line; both street frontages of corner lots shall be considered front yards. (2) Side Yard: primary residential structures will be setback not less than fifteen (15) feet from the side property lines. This setback requirement would apply to all lots located within the incorporated boundaries of the Town of Alpine.*

*The structure clearly is in violation of the adopted setbacks with the placement of the existing structure.*

The Town of Alpine did accept and approved the recorded plat map and identified building envelope maps that were filed with Lincoln County on the 21<sup>st</sup> of June 2005 for the Alpine Meadows Subdivision. Subsequently the Town of Alpine annexed the Alpine Meadows Subdivision into the Town's incorporated boundaries on February 20<sup>th</sup>, 2018 (Attached Resolution.)

It has been established that any previous and/or existing buildings/structures would be deemed to be "grandfathered" and therefore would not require any special circumstances to be brought into compliance, **if left as is.**

**However**, in identifying the regulations found in the Land Use and Development Code (LUDC) Section 3-302 (a) if any changes or additions are made to a building and/or structure would put the building and/or structure in a "Nonconforming Structure" status and would be held to the expansion and/or enlargement of an accumulative amount of twenty (20) percent of the existing structure.

It is acknowledged that this nonconformance would run with the property, for the current owner and/or any future property owners.

Subject property is **approximately** Twenty-Two Thousand, Six Hundred (22,600) square feet in size, which comes out to approximately 0.46 of an acre. Minus approximately Ten Thousand Nine Hundred Twenty Feet (10,920) for the established setback areas; that would leave approximately Eleven Thousand Six Hundred Eighty (11,680) feet available for future structure enlargement; most of the property for an allowable enlargement is to the west of the property with a smaller portion available on the back southwest portion of the property.

A total of Thirty-Seven (37) notifications were mailed; some of the notifications were to property owners that have more than one (1) property within the notification zone.

**The staff report has been updated to reflect the submitted responses to the prepared mailing notification:**

1. Comments received from the resident Ted and Laura Ladd, which owns two (2) lots in the notification area, attached e-mail (October 17, 2021); in favor of the variance.
2. Letter received via e-mail dated November 4<sup>th</sup>, 2021, from Audrey Cohen-Davis, Legal Representative of Nathan Bianchin, (Owner of Lot #37); in opposition of the variance.
3. Verbal Inquiry received in the Town office on Friday, November 5<sup>th</sup>, 2021; stating property owner, Charles McCarthy is fine with approving the variance.
4. Received response from resident Levi Poyer, in addition, Mr. Poyer currently sits on the HOA Architectural Review Committee, attached e-mail (November 7<sup>th</sup>, 2021); in support of the variance.

The Town of Alpine Zoning Administrator has no objections to granting the variance, the structure is already in a permanent place, by granting a variance this would make future alterations in compliance with the intent of the LUDC.

It is noted and agreed that this encumbrance is not a result from any act of the applicant.

**However, I would make a consideration that if there are to be any future alterations, additions and/or modifications to the existing structure that those alterations, additions and/or modification only be allowed on the southwest portion of the existing structure and that no enlargements be allowed in the original setbacks that have been established.**

Report prepared and submitted by: Christine Wagner, Zoning Administrator

Mr. Deane Swickard addressed the Board members regarding his petition/application and gave a brief history of the property and how the situation occurred. Mr. Swickard stated that he has been trying to work out a solution to this issue for over a year; he feels that there is a solution, however, there has been no direction communication from Mr. Bianchin regarding a viable solution; he has inherited this problem/issue as well as Mr. Bianchin and he is just trying to come up with a neighborly compromise, however the communication between the parties has been futile. Previous to submittal of the Town of Alpine (TOA) variance application, Mr. Swickard filed a variance with the Alpine Meadows Homeowners Association (AMHOA) Board, sometime in July of 2021 the AMHOA Board approved a setback variance for Mr. & Mrs. Swickard.

Public comments were provided by Mr. Nathan Bianchin and Ms. Audrey Cohen Davis regarding, their disappointment of the previous decision on Mr. Bianchin's denial of a variance and respectfully requests that the Alpine BOA rejects the Swickard's variance application.

Board members reviewed the submitted documents and discussed the unfortunate predicament that both parties are in. Reminding those in attendance that they tried to suggest a viable solution with the adjusting of the lot's lines between both property owners; but to no avail the suggestion was rejected. It was determined by the Board that approval of the variance would allow for the Swickard's to move forward with bringing their property into compliance.

**Mr. Tim Hartnett moved to approve the variance application for Deane and Valerie Swickard, by allowing the setback reduction along the eastern lot line from the required fifteen (15) feet to between fourteen point nine (14.9) to six point two (6.2) feet consistent with the dimensions of the non-conforming triangular portion of their existing structure. Mr. Floyd Jenkins seconded the motion. All in favor; Vote: 3 yes 0 no, 0 abstain, 2 absent (Doornbos and Kirkwood). Motion carried.**

***ADJOURN MEETING:* Mr. Floyd Jenkins moved to adjourn the meeting. Mr. Tim Harnett seconded the motion. All in favor; Vote: 3 yes 0 no, 0 abstain, 2 absent (Doornbos and Kirkwood). Motion carried.**

Meeting Adjourned at 7:31 pm.

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Tim Hartnett, Vice-Chairman

2.8.2022  
Date

Taken and transcribed by:

  
Christine Wagner  
Planning & Zoning Administrator

  
Date

\*\* Minutes are a brief summary of a recorded meeting \*\*