

**BEFORE THE BOARD OF COUNTY COMMISSIONERS**

**TETON COUNTY, WYOMING**

IN THE MATTER OF: Variance (VAR2023-0005)

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**FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER DENYING A VARIANCE**

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THIS MATTER came before the Teton County Board of County Commissioners (hereafter “Board” or “Board of Commissioners”) for public hearing on January 16, 2024, upon the application of Rachel Ravitz on behalf of Rodney Lewis for a Variance, pursuant to Section 8.8.2., Variances, of the Teton County Land Development Regulations (LDRs), to vary the street setback per Section 3.3.1B1 to build a single-family residence within the required 25-foot street setback. The Board considered a presentation from staff. The Board of Commissioners, being fully advised herein, finds, concludes and orders as follows:

**FINDINGS OF FACT**

1. The property, 22-39-16-26-2-00-007, is owned by Rodney Lewis, which is located off Hoback Junction South Road, consisting of .64 acres in size. The property is zoned Neighborhood Conservation (NC), is within the Natural Resources Overlay (NRO) and is located about .15 miles south of the Hoback Junction Roundabout.
2. The applicant has requested approval of a Variance, VAR2023-0005, to vary Section 3.3.1B1 of the LDRs to allow a single-family residence to be built within the 25-foot street setback along the Hoback Junction South Road, which is a county roadway.
3. The public hearings of the Planning Commission and the Board of Commissioners were properly noticed pursuant to Section 8.2.14.C. of the LDRs.
4. This application was originally scheduled to be heard by the Planning Commission on September 25, 2023, but staff requested a postponement of the application to a date certain of October 9, 2023, to allow for additional response time for the applicant and staff review.

5. On September 25, 2023, the Planning Commission postponed the hearing to October 9, 2023.
6. The application was brought before the Teton County Planning Commission on October 9, 2023.
7. The Planning Commission heard a presentation from staff and a presentation from the applicant on behalf of the property owner. The application was discussed, and public comment was taken.
8. The Planning Commission then voted to continue the application to the following meeting on October 23, 2023.
9. The application was again brought before the Teton County Planning Commission on October 23, 2023, with a recommendation from the Planning Director for denial of VAR2023-0005.
10. On October 23, 2023, the Planning Commission voted 1-3 (Commissioner Rockey was absent) on a motion to recommend approval of VAR2023-0005. Commissioners Muromcew, Nielson, and Lurie in opposition and Commissioner Viehman in favor. Therefore, the motion failed, and the resulting recommendation was one of denial of VAR2023-0005 from the Planning Commission to the Board of Commissioners.
11. The application was originally scheduled to be heard by the Board of County Commissioners on November 21, 2023. Due to one of the three variance applications not having complete information, the applicant requested a postponement to a date certain, December 19, 2023.
12. On December 19, 2023, the applicant was not ready to present the related and necessary Small Wastewater Facility variance. The Planning Director instructed staff to present the three variances together. Since one of the three applications was not ready to move forward an additional postponement was reviewed by the Board of County Commissioners.
13. On December 19, 2023, the Board of County Commissioners approved this postponement request and moved the hearing date to January 16, 2024.

14. The application was brought before the Board of County Commissioners on January 16, 2024.
15. A staff report dated January 16, 2024, was submitted to the Board of County Commissioners for review regarding the Variance (VAR2023-0005) pursuant to Section 8.8.2, of the LDRs, to vary Section 3.3.1.B.1 of the LDRs to allow a single-family residence to be built within the 25-foot street setback off Hoback Junction South Road.
16. As set forth in the January 16, 2024, staff report, the recommendation from the Planning Commission and the Planning Director to the Board of County Commissioners was for denial of the Variance (VAR2023-0005).
17. The Board heard a presentation from staff and a presentation from the applicant on behalf of the property owner.
18. The Board heard public comments. The Chair closed public comment, and the Board discussed the application.
19. The Board of County Commissioners reviewed the six findings for a Variance pursuant to Section 8.8.2. of the LDRs which are:
  - a. There are special circumstances or conditions which are peculiar to the land or building for which the variance is sought that do not apply generally to land or buildings in the neighborhood.
  - b. The special circumstances and conditions have not resulted from any willful modification of the land or building.
  - c. The special circumstances and conditions are such that the strict application of the regulation sought to be varied would create a hardship on the applicant far greater than the protection afforded to the community.
  - d. The variance sought is the minimum variance necessary to provide balance between the purpose of the regulation sought to be varied and its impact on the applicant.
  - e. The granting of the variance will not be injurious to the neighborhood surrounding the land where the variance is proposed and is otherwise not detrimental to the public welfare.
  - f. The granting of the variance is consistent with the general purpose and intent of these LDRs.
20. On January 16, 2024, the Board voted on the matter with no conditions of approval, which vote was 1 to 4 with Commissioner Gardner voting in the

affirmative resulting in the motion failing and the Board's denial of the Variance (VAR2023-0005).

### **CONCLUSIONS OF LAW**

- I. Based on the presentation and staff report from the Planning Department, the information presented by the applicant and agent, the application from Rachel Ravitz for a street setback Variance (VAR2023-0005) does not comply with all applicable provisions of the Teton County Land Development Regulations.
  
- II. The Board concludes and hereby finds that the application dated July 17, 2023, for a Variance (VAR2023-0005) does not comply with and does not meet all six (6) findings required pursuant to Section 8.8.2. of the LDRs to vary Section 3.3.1.B.1 to allow for a single-family residence to be built within the 25-foot street setback along Hoback Junction South Road.

1. *There are special circumstances or conditions which are peculiar to the land or building for which the variance is sought that do not apply generally to land or buildings in the neighborhood.*

**Can be made.** The parcel is narrow in shape and is adjacent to both the Hoback River and Hoback Junction South Road. 80% of this parcel contains slopes over 30% so the development is already limited for development. The location for this proposed development is determined by the portion of the property that has slopes less than 30%. The area containing slopes less than 30% is the section of the property that is directly next to the county roadway, within the required 25-foot street setback. This property has been vacant for many years with residential units surrounding its location. It has been determined in this finding that special circumstances exist on this parcel that do not apply generally to the neighboring land or buildings.

***All County Commissioners could make this finding.***

2. *The special circumstances and conditions have not resulted from any willful modification of the land or building.*

**Can be made.** The creation of this parcel's legal description occurred prior to our current Teton County Land Development regulations and has remained vacant for over 40 years. This parcel was included as part of a larger legal description in 1966. In 1982 when the current property owner purchased this property, he extracted the existing legal description from a larger legal description and recorded a map of survey outlining the parcel's boundary lines.

***All County Commissioners could make this finding.***

3. *The special circumstances and conditions are such that strict application of the regulation sought to be varied would create a hardship on the applicant far greater than the protection afforded the community.*

**Cannot be made.** The street setback for the Neighborhood Conservation Zone is 25 feet. The only area on the property not containing slopes over 30% is located directly adjacent to a county roadway. Technically most of the buildable area on this parcel is within the 25-foot street setback. Due to the dimensions of the parcel, and steep slopes, a structure cannot be permitted at this location unless multiple variances are approved. These dimensions do pose a hardship to the applicant. But the hardship to the applicant does not outweigh the potential impacts the development of the parcel could have on the surrounding community. This property is located right next to Hoback Junction South Road. The development could have major impacts to safety of the established roadway as well as erosion once the development has begun. The 25-foot street setback has been created as a safety measure to protect the community from potential issues with traffic and snow plowing in relation to their proximity to any roadway within Teton County. The development could not only temporarily impact this bridge access that neighbors use to access their home, but if anything were to happen during construction regarding potential hazards during development, the bridge access could be blocked entirely, negatively impacting the Hoback community. So, although there are unique circumstances that do create hardships for the applicant in developing this parcel, they are not greater than the protection afforded to the surrounding community.

***Commissioner Gardner and Commissioner Epstein could make this finding. Commissioner Newcomb and Commissioner Macker were silent on this finding. Chair Propst could not make this finding.***

4. *The variance sought is the minimum variance necessary to provide balance between the purpose of the regulation sought to be varied and its impact on the applicant.*

**Can be made.** The applicant has requested to build a single-family home on this parcel. They are asking for relief from this 25-foot street setback since the part of the parcel closest to Hoback Junction South Road is the only part that doesn't contain slopes 30% or greater. The applicant proposes this location and design in combination with two additional variances, to make this proposal feasible. The request is for minimal relief as 80% or the parcel contains slopes 30% or greater. If the applicant proposed to build on these steep slopes, an additional variance would be required. If this variance is approved, there may be impacts to the neighboring community and Hoback Junction South Road due to the construction of the development and need for

the installation of a Small Wastewater Facility, but the relief requested is the minimum necessary to allow a structure to be built on this property.

***All County Commissioners could make this finding.***

5. *The granting of the variance will not be injurious to the neighborhood surrounding the land where the variance is proposed*

**Cannot be made.** Due to the size of the parcel and its layout, one of the major concerns that was expressed by Teton County Road and Levee Department was that there is already limited space for snow removal in that area and along Hoback Junction South Road. The proposed residential structure includes two separate accesses along the county road, one on the northeastern edge of the property and one along the southeastern edge adjacent to the bridge. If this variance is approved, and the property developed, this could cause issues with snow removal and storage along that county roadway and at that location. The parcel's dimensions are so narrow that the snow storage for the property is also limited. If snow is placed too close to the road, there could be negative impacts to traffic; if snow is placed closer to the river, there could be additional negative impacts. Overall, the development itself could be injurious to the neighborhood surrounding the parcel.

***Commissioner Gardner could make this finding. The other 4 could not make this finding.***

6. *The granting of the variance is consistent with the general purpose and intent of these LDRs.*

**Cannot Be made.** The intent of this variance request is to allow for a single-family residence to be built on a parcel that is precariously between Hoback Junction South Road and the Hoback River. Due to the lack of a Zoning Compliance Verification, the history of this parcel makes it challenging to track its validity as a residential site. The street setback poses as an issue for developing the parcel as 80% of the parcel contain steep slopes not suitable to build on and the only section that is deemed buildable is located within 25 feet of the county roadway. This variance request is not consistent with the general intent of the physical standards of the LDRs as well as the intent of the neighborhood.

***Commissioner Gardner could make this finding. The other 4 could not make this finding.***

- IV. These conclusions are based upon the analysis of the findings as detailed in the January 16, 2024, staff report, as well as the Board's analysis of the required findings for the Variance, that occurred at the January 16, 2024, public hearing on the matter.

**IT IS HEREBY ORDERED:**

The Board **DENIES** the application for a Variance dated July 17, 2023, VAR2023-0005, to vary Section 3.3.1.B.1 to allow for a single-family residence to be built within the 25-foot street setback, not being able to make all six (6) findings of approval for a Variance pursuant to Section 8.8.2. of the Teton County Land Development Regulations.

DATED this \_\_\_\_ day of February 2024.

BOARD OF COUNTY COMMISSIONERS  
TETON COUNTY, WYOMING

BY: \_\_\_\_\_  
Luther Propst, Chairman

ATTEST: \_\_\_\_\_  
Maureen E. Murphy, County Clerk

**CERTIFICATE OF SERVICE**

I, Maureen E. Murphy, Teton County Clerk, do hereby certify that I sent a true and correct copy of the FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER GRANTING APPROVAL OF VARIANCE, postage prepaid by U.S. Mail or other delivery as indicated below on this \_\_\_\_ day of February 2024 to the following addresses:

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Keith Gingery, Deputy County Attorney  
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Maureen E. Murphy, County Clerk