

Codington County/City of Watertown  
Joint Planning Commission/Joint Board of Adjustment Minutes

September 27, 2017

The Codington County/City of Watertown Joint Planning Commission/Board of Adjustment met for meeting on September 27, 2017 at the Codington County Extension Complex. Members of the Joint Planning Commission/Board of Adjustment present were: Bob Fox, Mark Stein, Mark O'Neill, John Stonebarger, and Luke Muller (Planner at First District Association of Local Governments/ Codington County Zoning Officer).

Others present were Mel Ries, Charles Rossow, Rodney Klatt, Cory Zietz, Teresa Jungers, Greg Hamman, Larry Berg, Chad Rohde, Lynn E. Johnson, John H. Johnson, Marcy Argo, Nathan Meland, Jeff DeVille, Jim Czech, Lindsey Jungers, Matt Jungers, and Becky Goens.

Commission Myron Johnson resided on the board in place of absent board member Brenda Hanten.

Chairman Fox brought the meeting of the Joint Board of Adjustment to order.

Motion by O'Neill, second by Johnson, to approve the June 19, 2017 meeting minutes. Motion passed unanimously.

Motion by Johnson, second by Stonebarger, to approve the variance request by Jeff and Marcy Argo. Property is located in Lot 3 of Mack's Subdivision in SW1/4, Section 34-T117N-R53W. Motion by Johnson, second by Stonebarger, to amend the motion to include only the 6' variance to the side yard setback. Argo's are proposing to construct a storage shed and the variance is requested so the shed can be accessed easier with less tree removal involved. Muller reviewed Staff Report (attached). Fox opened public hearing for comments on both side and rear yard variances. Muller read a letter submitted by Patricia Hustead and Kathleen Kolb opposing the variances. The east landowner has concerns about water runoff and would like to see gutters installed on the structure so the runoff can be redirected away from his property. Public hearing closed. Motion failed unanimously.

Motion by Johnson, second by Stein, to approve a 10' variance request to the rear yard setback for Jeff and Marcy Agro. Their property is located in Lot 3 of Mack Subdivision in SW1/4, Section 34-T117N-R53W. Motion failed unanimously.

Motion to adjourn by Stein, second by Stonebarger. Motion passed unanimously.

Respectfully Submitted,

Becky Goens, Secretary

**SEPTEMBER 2017  
CODINGTON COUNTY/CITY OF WATERTOWN  
JOINT PLANNING COMMISSION/ JOINT BOARD OF ADJUSTMENT  
STAFF REPORT**

**MONDAY – SEPTEMBER 27, 2017 – 9:00 a.m.**

**CODINGTON COUNTY/CITY OF WATERTOWN JOINT BOARD OF ADJUSTMENT**

**ITEM #1 VARIANCE**

**Owner/Applicant: Jeff and Marcy Argo**

**Property Description** Lot 3 of Mack's Subdivision in SW1/4, Section 34-T117N-R53W, Codington County, South Dakota. (Lake Township)

**Action Item – Variance – 10' Rear Yard Setback Variance (3.13.04.2) and 6' Side Yard Setback Variance**

**Zoning Designation:** Rural Residential District

**Request:** The Argo's seek to place a shed 15' from the North (rear) property line; and 9' from the east (side) property line.

**History/Issue(s):**

**Specifics of Property/Request:**

1. The Argo's live at the above described 165' x 630' lot.
2. Shelterbelts are located on the west side of the Argo's property and the west edge of the neighbor (east) property.
3. The shed is requested as far east and north as possible to make ingress/egress easier due to the current situation of the shelterbelt on the property and the width of the lot.
4. There is no floodplain or wetlands on this property.

**Ordinance/Variance History regarding this request:**

1. Structures are required by ordinance (regardless of the presence of nonconforming structures) to be located at least 25' from rear and 15' from side property lines.
2. The Codington County Board of Adjustment has allowed variances to side and rear yard setbacks to be consistent with City of Watertown setbacks in the past in properties expected to be annexed in the future. In the "R1" Residential District in the City the applicable setbacks are:
  - a. Rear = 25' (greater than requested by applicant)
  - b. Side = 9' (as requested by applicant)
3. The Board has a history of granting variances for some side/rear yard relief where >72% or more of the lot is unbuildable due to setbacks in residentially zoned parcels, and/or as described above.
4. 21.5% of this lot is unbuildable due to areas reserved for setbacks.
5. In 2016, the Board granted variance to Charles Cameron to reconstruct a shed 10' from the rear property line on a triangular shaped lot where a shed had been previously located 1' from the property line abutting a railroad right-of-way. (The property was zoned Agricultural.)

6. On June 21, 2004, the Board denied a variance (25' side yard setback variance) to Mark Fiechtner on an agriculturally zoned lot. On May 21, 2012, the Board denied variance to James Patrick to construct less than 25' from the rear setback on his conforming agriculturally zoned property.

Staff Summary and Recommendation:

Staff Summary – Staff recommends handling the variances to side and rear yard setbacks with separate motions. This lot is shaped similarly to numerous lots granted side yard variances which conform to Residential setbacks for the City of Watertown, near the City of Watertown. The Board does not have a history granting rear yard setback variances on similarly sized lots, especially where the lot is conforming and has less than 75% of the area covered by setbacks.

Staff recommendation – **6' Variance to Side yard Setback**- The Board could table, deny or approve the request. Staff recommends that if approved the Board could use the following findings:

- a. The Board has granted similar side yard variances to a parcel meeting these circumstances for properties in the Joint Jurisdiction Area since October of 2006. Therefore the Board has previously determined that these circumstances provide a unique hardship and criteria for the granting of side yard variances and therefore the granting of this variance will not confer upon the applicant a special privilege.

If denied the Board could use the following findings:

- a. The lot is not so unique to necessitate the relaxation of the setback requirement in that:
  - 1) The lot size still allows up to 75% of the lot to be built upon.
  - 2) A buildable area of approximately 90' in width is still available in this area (more if trees are removed).
- b. The Board has not granted variances in the Rural Residential District for setbacks since the adoption of the Joint Jurisdiction Ordinance was adopted. All previous variances referenced were granted prior to the JJO adoption.
- c. The granting of this variance would confer upon the applicant special privilege denied to others in the Rural Residential District.

**10' Variance to Rear yard Setback**- The Board could table, deny or approve the request. Staff recommends that if approved the Board could use the following findings:

If the Board chooses to deny the variance it could use the following findings, similar to those used in previous denials of setback variances:

- a. The lot is not so unique to necessitate the relaxation of the setback requirement in that:
  - 1) The lot size still allows up to 75% of the lot to be built upon.
  - 2) Ingress/egress will still be available if the building is shifted 10' south, with 442' available to build upon.
- b. The Board does not have a history of granting variances to allow less than a 25' rear yard on conforming lots adjacent to agriculturally used property.
- c. The Board has denied requests for variance to the 25' rear yard setback on conforming lots in the past.
- d. The granting of this variance would confer upon the applicant special privilege denied to others in the Rural Residential District.

If the Board chooses to approve the variance it would need to determine its own findings to support the request as staff is unable to determine any based upon the information presented.