

August 27, 2007

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*2 **GEM COUNTY PLANNING AND ZONING PUBLIC HEARING***

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*6 **Date: August 27, 2007***

*7 **Time: 7:00pm - 7:38pm***

*8 **Place: Gem County Courthouse***

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*10 **MEMBERS PRESENT:***

*11 **Don Wilkerson, Debbie Rouwenhorst, David Poole, Will***

*12 **Maupin, and Lawrence Whitsell***

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*14 **MEMBERS ABSENT WITH PRIOR NOTICE:***

*15 **J.B. and Brent Jensen***

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*17 **OTHERS PRESENT:***

*18 **Wendy Akins - Planner 1***

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*24 **This is a summary, not verbatim.***

*25 **Transcription done by Amanda Shaw.***

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2 *Public Hearing - Item No. 1 Variance #VAR-07-004*

3 *Bryan Taylor*

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5 *MR. DAVID POOLE: It appears that we need to pull this*
6 *meeting to order. The item for us on this agenda tonight is*
7 *Variance #VAR-07-004 for applicant Bryan Taylor. You want to*
8 *take it away there, Wendy?*

9 *MS. WENDY AKINS: This is a variance request by Bryan*
10 *Taylor to allow a 24 foot front setback instead of the 30 foot*
11 *front setback as required by the A-2 zone. Here is the site.*
12 *Here is Star Lane. Currently there's just a dirt road that*
13 *comes back out here to Fish and Game. It is proposed that this*
14 *is a future road alignment. This is West Central Road. The*
15 *site is here. It's approximately 1.17 acres.*

16 *MR. DAVID POOLE: You meant Cascade Road.*

17 *MS. WENDY AKINS: I meant Cascade. I'm sorry. This is*
18 *where the old single wide trailer was located and it's where the*
19 *proposed new manufactured home would come in.*

20 *There is an existing well, which is located approximately 3*
21 *feet -- I want to say it's right in this location, which served*
22 *the old single wide trailer.*

23 *The site is 1.17 acres and it is too small for future*
24 *subdivision because it isn't a 5 acre lot. It's in a 5 acre*
25 *zone. So we do not see at this time that we can require*

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1 *obtaining the 40 foot right of way, which is required for*
2 *Cascade Road. When establishing setbacks you usually come to*
3 *the end of the right of way and then you do your setbacks.*
4 *Since the sight is so small that we can't subdivide it, we have*
5 *to try to get out of the right of way as far as possible without*
6 *requiring a right of way dedication. That is a big issue with*
7 *this site. The biggest issue is the road right of way.*

8 *MR. DAVID POOLE: Questions for staff?*

9 *MR. LAWRENCE WHITSELL: What is the right of way on that?*

10 *MS. WENDY AKINS: It says between 40 and 50.*

11 *MR. DON WILKERSON: Are you asking the right of way of the*
12 *existing road or for a future road?*

13 *MR. LAWRENCE WHITSELL: Existing.*

14 *MR. DON WILKERSON: It would be 50 feet out there.*

15 *MS. WENDY AKINS: That's what I'm thinking. It's a total*
16 *60 right now because it's a local road. Your future road would*
17 *be 80 to 100.*

18 *MR. DAVID POOLE: So that's 40 feet from the center line?*

19 *MS. WENDY AKINS: Correct.*

20 *MR. DON WILKERSON: Most County roads today are 50 foot*
21 *right of way, 25 feet from center. Right on this drawing it*
22 *shows 24 feet from center. So I would say your road right of*
23 *way would be 50 feet.*

24 *MS. WENDY AKINS: I just know that maybe the future locals*
25 *are supposed to be 60's.*

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1 MR. DON WILKERSON: The future could be 40 feet or 80 foot
2 total and 40 feet off of center line.

3 MR. LAWRENCE WHITSELL: What would happen when that
4 expanded out to an 80 foot right of way or 100 foot right of
5 way? Then that would be condemned?

6 MR. DAVID POOLE: Well then they would have to purchase it.

7 MR. LAWRENCE WHITSELL: So it really has no bearing on that
8 other than we would just have to deal with it at a later time.

9 MS. WENDY AKINS: Correct.

10 MR. DON WILKERSON: But if we granted the 24 feet -- maybe
11 we ought to wait until we get into that.

12 MR. DAVID POOLE: Any other questions for staff?

13 MR. DON WILKERSON: Do you have any pictures besides that?

14 MS. WENDY AKINS: The applicant did provide some.

15 MR. DON WILKERSON: So do you have a picture of Cascade
16 Road looking east and west that maybe supports the letter?

17 MR. DAVID POOLE: Shes got one up behind you, Don, on the
18 screen.

19 MS. WENDY AKINS: Your 24 feet was from the center line to
20 the ditch?

21 MR. BRYAN TAYLOR: Yes. From the center line to the edge
22 of the footing of the foundation is 48 feet. The setback is 30
23 feet. So I'm 24 feet from the property line to the edge of the
24 footing for the foundation.

25 MS. WENDY AKINS: And your calling the property line right

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1 here?

2 MR. BRYAN TAYLOR: Yes. So I'm 6 feet short.

3 MR. DAVID POOLE: State your name and address.

4 MR. BRYAN TAYLOR: It's Bryan Taylor and I live in Emmett
5 at 1449 Mill Road.

6 This property is about a mile west of the sand plant. I
7 purchased the property back in March and then there was a house
8 on it up against that tree that you see in the center there. So
9 I tore the house down and I moved the foundation as far as I
10 could to the north. I'm right up against the well. So I'm 6
11 feet shy of the 30 foot setback to put my foundation in. That
12 foundation is 56 by 27 feet.

13 MR. DON WILKERSON: Do you have a picture looking west or
14 not?

15 MS. WENDY AKINS: No. West is the driveway and the
16 outbuildings.

17 MR. BRYAN TAYLOR: The closest portion of the center of the
18 Highway is 48 feet and then it gets a little bit wider.

19 MR. DAVID POOLE: Since we forged right ahead and got into
20 the public hearing portion of this, Bryan, I have a question.
21 Has the Health Department taken a look at this application at
22 all?

23 MR. BRYAN TAYLOR: Yes. I got a permit from Southwest
24 District Health to install my septic system.

25 MR. DAVID POOLE: So do you have enough room for

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1 everything?

2 MR. BRYAN TAYLOR: Not only have enough room but I have
3 enough room for an alternate system too.

4 MR. DAVID POOLE: Well that's required.

5 MR. BRYAN TAYLOR: So I had to stop on it 3 weeks ago.
6 They were ready to install it. I just told them to hold off
7 until we get this thing organized.

8 MR. DAVID POOLE: So the real problem for getting your
9 setback here is your well?

10 MR. BRYAN TAYLOR: Basically. I can't move it any farther
11 to the north. Even if I moved it up against the well, I'm still
12 short. So rather than to shift my footings, I just applied for
13 the 6 foot variance. So I'm 24 foot from my property line and
14 the setbacks are 30 foot. So I'm 6 feet short. The old house
15 that was on there was 10 feet closer to the road.

16 MR. DAVID POOLE: Those are things we're trying to correct.

17 MR. WILL MAUPIN: You say you bought the property March
18 2007?

19 MR. BRYAN TAYLOR: Yes.

20 MR. WILL MAUPIN: And when did you purchase the new home
21 that's going to go on the property?

22 MR. BRYAN TAYLOR: Back in March.

23 MR. WILL MAUPIN: The same time?

24 MR. BRYAN TAYLOR: Yes.

25 MR. LAWRENCE WHITSELL: Have you checked into trying to

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1 move the well? Is that not practical or very expensive to do?

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2 MR. BRYAN TAYLOR: The way it's set up is the well is 107
3 feet from the septic tank. If I move the well, I could move it
4 north a few feet but I wouldn't be gaining anything. I'd just
5 be moving it to be moving it.

6 MR. LAWRENCE WHITSELL: It's a drilled well then, I'm
7 assuming.

8 MR. BRYAN TAYLOR: Yes. It's got a well that's down there
9 inside. I don't know what you call it.

10 MR. DAVID POOLE: Versatile pump.

11 MR. BRYAN TAYLOR: Yes.

12 MR. LAWRENCE WHITSELL: Is it a pretty decent well?

13 MR. BRYAN TAYLOR: It's a good well; 10 gallons a minute.

14 MR. DAVID POOLE: What's the depth of the well?

15 MR. BRYAN TAYLOR: 40 feet.

16 MR. DAVID POOLE: I'm just thinking about this because I've
17 put wells under houses before. So as long as you use a flex
18 line and the proper pressure tank in the home, you can do that.

19 MR. BRYAN TAYLOR: Sure.

20 MR. DAVID POOLE: But again that's an additional cost. I
21 understand that. At least this day in age, I don't know what
22 that additional cost is. I don't know how far -- if you have
23 your setbacks from your property line, if you move your
24 manufactured home to the north end of it.

25 MR. BRYAN TAYLOR: On the back side of it, if you can look

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1 at this picture right here, I don't know how many hundreds of

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2 acres that is. It's like a game reserve or something.

3 MR. DAVID POOLE: Yeah but you've got a property line that
4 requires certain setbacks for your well and your home.

5 MR. BRYAN TAYLOR: I mean it's squeezed right in there.
6 The only thing is I'm 6 feet short on the highway side.

7 MR. WILL MAUPIN: How many extra feet do you have to the
8 north of your property line?

9 MR. BRYAN TAYLOR: I'm right out there in the middle.

10 MS. DEBBIE ROUWENHORST: Excuse me, Wendy, what is the
11 setback for the property line?

12 MS. WENDY AKINS: It's 8 feet.

13 MR. DON WILKERSON: It's 8 feet on the back side.

14 MR. DAVID POOLE: So that north east corner of your home
15 approaching your 8 feet?

16 MR. BRYAN TAYLOR: It is. You can see the tree line. It's
17 about 10 feet. When we staked it out, I mean we just put it
18 right where we absolutely had to.

19 MR. LAWRENCE WHITSELL: So moving the well is really not an
20 issue then. The property line boundary is your biggest issue.

21 MR. BRYAN TAYLOR: Exactly. Everything has been improved
22 since I bought that property. I took down old buildings and
23 rebuilt them. I put up a new garage, new shop, new fence and
24 gates, and landscaping. I'm right down to the house. So that's
25 where I'm at.

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1 MR. DON WILKERSON: Mr. Taylor, your going to put in a
2 brand new septic system.

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3 MR. BRYAN TAYLOR: Yes.

4 MR. DON WILKERSON: Okay. You've got an existing well.

5 Have you considered moving your house to the west of the shop?

6 If you have to put in a new septic system, it doesn't matter

7 where that goes. All you'd have to do is extend some piping to

8 the new house.

9 MR. BRYAN TAYLOR: It wouldn't look right. I'd have to

10 move all my power.

11 MR. DON WILKERSON: No you wouldn't have to move it all,

12 just extend it to the new house.

13 MR. BRYAN TAYLOR: The location of the old house is where

14 everything was built around and that's where all my landscaping

15 is and it wouldn't look right over there.

16 MR. DON WILKERSON: But it's possible.

17 MR. BRYAN TAYLOR: Anything's possible.

18 MR. DON WILKERSON: Now if you had to replace both the

19 septic tank and your well, I'd understand.

20 MR. DAVID POOLE: We never gave you an opportunity to

21 address this, Bryan, but since it's just you and our previous

22 Commissioner here, I think we can talk pretty openly.

23 MR. NORVIL ELLIOT: Can I say something?

24 MR. DAVID POOLE: Certainly.

25 MR. NORVIL ELLIOT: My secretary got me at the wrong

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1 meeting. So I don't have anything to say here.

2 MR. DAVID POOLE: You better get to the right meeting then,

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3 *Norvil. Anyway, since we're not going to have any public input,*
4 *I should ask if anybody's had any ex parte communications, or*
5 *site visit, or anything like that.*

6 *(All of the Commissioners present denied having ex parte*
7 *communications.)*

8 *MR. BRYAN TAYLOR: I also took Kim Reed from the County*
9 *Highway District out there and he had no problem with what I'm*
10 *doing.*

11 *MR. DAVID POOLE: As long as the house is not in the right*
12 *of way was his comment. The only way the house would be in the*
13 *right of way could be if they went to a hundred foot right of*
14 *way. That would be my biggest question. I think we had one*
15 *from the Bilbrey Ditch Company. They just wanted to make sure*
16 *that their right of ways were in tact.*

17 *MS. WENDY AKINS: And I apologize. I did contact them. We*
18 *had a phone conversation. I was expecting a letter from them.*
19 *They have no issues with the variance. I did ask for a written*
20 *letter stating that but I didn't receive it. I know the*
21 *Commission has requested written comments and I did make that*
22 *request for that but never received it.*

23 *MR. DAVID POOLE: Then I think the only thing we're looking*
24 *at here, Commissioners, is the fact that we're 6 feet out, as*
25 *far as making the standard 30 foot setback. So that's the*

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1 *reason for the application for the variance. So let's stick to*
2 *that issue. Any questions for the applicant in regards to that*
3 *lack of the 6 feet? I think we've answered most of those*

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4 questions; haven't we, Commissioners? Okay. Then I guess we'll
5 close the public portion of this meeting and bring it before the
6 Board.

7 MR. DON WILKERSON: On page 4 of the staff report, it says
8 "the staff finds the proposed home would be better protected
9 from future road improvement projects if it were relocated to
10 the western property line, outside any future right of way
11 dedications." I think that's an item that we really ought to
12 look at. This road is considered a minor arterial, which is
13 subject to a right of way from center line up to 40 feet for a
14 total of 80. It seemed like the staff kind of contradicts
15 themselves here. If you look on page 5, the staff, without
16 relocating the home on the other side, it appears that this is
17 the only location option. The applicant does have another
18 option. He has plenty of property there and the new home could
19 be located to the west of the shop, put in the new septic tank
20 at a new location, and run piping to the new home location. So
21 there appears to be a little conflict there. At the bottom on
22 Item 8, the staff supports the application.

23 At this time, with the information I got I think the
24 applicant has plenty of room. I don't believe I can support the
25 application for the variance to go less than 30 feet. If it

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1 doesn't get approved, it looks like the only option is to move
2 the home location. Thank you.

3 MR. DAVID POOLE: Commissioner Rouwenhorst.

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4 **MS. DEBBIE ROUWENHORST:** *Looking at the site location with*
5 *the trees and all is a good area. However, I agree with Don*
6 *that there is plenty of property and that it can go over on the*
7 *other side of the shop. It's a nonconforming, and our purpose*
8 *is to make nonconforming lots to go with the new ordinances.*

9 **MR. DAVID POOLE:** *Commissioner Maupin.*

10 **MR. WILL MAUPIN:** *I tend to agree with both the*
11 *Commissioners. When I asked the question earlier, when was the*
12 *land purchased and when was the home purchased, it's a question*
13 *in my mind of diligence. Make sure what you're buying will fit.*
14 *I'm under the impression that there is other places where this*
15 *structure can be placed and for that reason I support the two*
16 *Commissioners.*

17 **MR. LAWRENCE WHITSELL:** *If you locate your home at another*
18 *location, do you feel it would cause you a lot of hardship?*

19 **MR. BRYAN TAYLOR:** *Well, it would. It's not only the fact*
20 *that I have to move the well or put a new well in. I'd have to*
21 *redo the driveways. I've got two driveways in there and*
22 *everything is set up for where the existing house was before.*
23 *There's a pasture there I've planed. I've got about an acre of*
24 *pasture with fence, and new gates, and everything else. The*
25 *whole property is set up. It's not a square piece of property.*

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1 *It's pie shaped and so it's restricted where I can do things.*
2 *Where the driveway and the trees are right now is where they're*
3 *supposed to be. The garage is 10 feet away from the front steps*
4 *of the house. If I had to move the house to the other side of*

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5 *the property, it defeats the purpose of a garage.*

6 *MR. LAWRENCE WHITSELL: Would it be an option to try to get*
7 *a variance on the back side of the property rather than the*
8 *front? Then that would not be the issue of effecting the road*
9 *right of way later on.*

10 *MR. BRYAN TAYLOR: That would be a lot better than moving*
11 *it clear on the other side.*

12 *MR. DAVID POOLE: How high is your foundation going to be?*

13 *MR. BRYAN TAYLOR: 2 feet.*

14 *MR. DAVID POOLE: So it may require a little taller*
15 *foundation. If you rotated that home --*

16 *MR. BRYAN TAYLOR: I looked at that. It wouldn't work to*
17 *turn it the other way because the narrow section --*

18 *MR. DAVID POOLE: No. I'm saying, if you rotate it off of*
19 *the back east corner so that it was parallel with the back*
20 *property line, would anything like that generate the setback? I*
21 *can understand the trees. The trees are very important. I*
22 *understand all that. All I'm trying to do is get into a*
23 *situation where we're getting you into the setback that's*
24 *required. I know it's a pain to have the well under the home.*

25 *MR. BRYAN TAYLOR: If that's my only option, then that's*

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1 *what I'd have to do. I'd have to get Valley Pump to come out*
2 *and structure that well however it has to be to accommodate the*
3 *house.*

4 *MR. DAVID POOLE: Can you go back to that picture that*

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5 showed the well?

6 MR. LAWRENCE WHITSELL: It appears that it's almost on the
7 edge of the house.

8 MR. BRYAN TAYLOR: So you say I'm probably 3 feet away from
9 that well. So I'd have to break up that foundation there and
10 move the footings over the top. I could move that holding tank
11 anywhere.

12 MR. DAVID POOLE: Yeah.

13 MR. BRYAN TAYLOR: If I move the foundation, let's say 3
14 feet, then I'd need a 3 feet variance on the other side.

15 MR. DAVID POOLE: Not knowing what the setback is on that
16 north east corner, that's what your problem is. If this is
17 drawn to scale, it looks like it's going to be that 8 or 10 feet
18 setback at that north east corner.

19 MR. BRYAN TAYLOR: See I got a 40 foot shop, a 30 foot
20 shop, and a 560 square foot garage and everything is lined up
21 correctly.

22 MR. DAVID POOLE: What is the distance between the garage
23 and the home now?

24 MR. BRYAN TAYLOR: About 10 feet.

25 MR. DAVID POOLE: But see what your calling 24 feet to the

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1 property line --

2 MR. WILL MAUPIN: 10 feet to the garage actually looks like
3 50 feet on the drawing.

4 MR. DAVID POOLE: That part is out of perspective and I'm
5 just trying to get that perspective from maybe an image you've

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6 got.

7 MR. BRYAN TAYLOR: I took a graph and put it together.

8 MR. LAWRENCE WHITSELL: I got a question for the other
9 Board Members. Would there be an issue in trying to get a
10 variance on the back property line as opposed to the variance on
11 the County right of way?

12 MR. WILL MAUPIN: Who owns the property to the north? Is
13 that a State Fish and Game?

14 MS. WENDY AKINS: Yes. My recollection is that it's wet
15 lands.

16 MR. BRYAN TAYLOR: So the property is perhaps 4 feet above
17 that. It drops off. If you look on the other side of that
18 holding tank, it drops off about 3 or 4 feet.

19 MR. DAVID POOLE: I see the power pole here though.

20 MR. WILL MAUPIN: I wonder how hard it would be to get just
21 a few feet from Fish and Game.

22 MR. DAVID POOLE: They may have to be notified. I have no
23 idea if we did that sort of thing. Wendy, if we tried to change
24 this from front to back, do we have to go through the whole
25 process again?

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1 MS. WENDY AKINS: I don't think so. Let me double check
2 with our attorney though.

3 MR. DON WILKERSON: I think you'd have to readvertise it
4 because it's a new application. Also, maybe some of the public
5 will want to come in and testify for or against it.

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6 I have a couple other items. The applicant just mentioned
7 that he'd have to drill a new well. I don't see where you would
8 have to do that. You'd just have to dig a line from the well to
9 the house. You mentioned about moving it back against the north
10 property line. Your back door would be right to the swamp and I
11 don't know if you're going to put that new patio cover on top of
12 your new home or not.

13 MR. BRYAN TAYLOR: No.

14 MR. DON WILKERSON: But you've got double doors back there.
15 You'd have no room for it.

16 On page 1 of the staff report, the last sentence states
17 that variances shall not be granted on the grounds of
18 convenience or profit. So I think we need to take that into
19 consideration also. That's per the Ordinance.

20 MR. DAVID POOLE: Any further questions, Commissioners?
21 Any further comments? Do you guys have a plan of action?

22 MR. DON WILKERSON: I make a motion that we, as a Board,
23 deny this application for the variance #VAR-07-004 at 4974
24 Cascade Road, Emmett, on the grounds that there's plenty of
25 property at the location where the proposed structure can be

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1 moved to meet the setbacks and because Cascade Road is
2 considered a minor arterial with the possibility of the future
3 right of way being as much as 40 feet from center line. If we
4 granted this variance, we'd end up back to about 9 feet from the
5 road right of way. Thank you.

6 MR. DAVID POOLE: Is there a second to that motion?

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7 MS. DEBBIE ROUWENHORST: I second it.

8 MR. DAVID POOLE: Discussion on the motion? If not, all

9 those in favor of the motion signify by saying 'I'. Opposed

10 same sign. Motion carries.

11

12 (Vote unanimous.)

13

14 MR. DAVID POOLE: Bryan, if you wish to appeal with the

15 Board of County Commissioners, I believe there is the

16 opportunity to do so. You'll be notified by the P&Z office. I

17 believe there is an appeal process.

18 MR. BRYAN TAYLOR: How long does that take?

19 MR. DAVID POOLE: They could probably tell you.

20 MR. DON WILKERSON: After they make the written decision,

21 you have 20 days in which to file an appeal.

22 MS. WENDY AKINS: But after that I don't know.

23 MR. DON WILKERSON: Well then it will go in front of the

24 Board of Commissioner.

25 MR. DAVID POOLE: I think if you get your setbacks

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1 everywhere, then we don't have to be involved.

2 MS. WENDY AKINS: That's correct.

3 MR. DAVID POOLE: It's just a matter of them issuing a

4 permit.

5 MS. WENDY AKINS: As long as you meet that setback, then

6 you don't have to do a variance.

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7 **MR. DON WILKERSON:** *You don't have to worry about the east*
8 *and west sides on this piece of property.*

9 **MR. BRYAN TAYLOR:** *What are the setbacks on the back?*

10 **MS. WENDY AKINS:** *8 feet.*

11 **MR. BRYAN TAYLOR:** *So if I can move it back, the more room*
12 *I've got.*

13 **MR. DAVID POOLE:** *So the closer you get it to the garage,*
14 *the further you can set it back. How far is that power pole*
15 *from your garage?*

16 **MR. BRYAN TAYLOR:** *It's probably 12 feet.*

17 **MR. DAVID POOLE:** *I think you can get within 6 feet of*
18 *that, for a manufactured home.*

19 **MR. DON WILKERSON:** *We've got one item here that you*
20 *missed. There is the signing of the minutes.*

21 **MR. DAVID POOLE:** *Did that. I did that before you even got*
22 *here.*

23 **MR. BRYAN TAYLOR:** *Well I'll get in touch with the building*
24 *inspector.*

25 **MR. DAVID POOLE:** *I think that's the best approach, Bryan.*

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1 **MR. WILL MAUPIN:** *I'll make the motion to adjourn.*

2 **MS. DEBBIE ROUWENHORST:** *I'll second.*

3 **MR. DAVID POOLE:** *Motion carries.*

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