

**FLATHEAD COUNTY BOARD OF ADJUSTMENT
MINUTES OF THE MEETING
SEPTEMBER 6, 2011**

**CALL TO
ORDER**

A meeting of the Flathead County Board of Adjustment was called to order at approximately 6:00 p.m. Board members present were Gina Klempel, Scott Hollinger, Mark Hash, Gary Krueger and Terry Kramer. BJ Grieve represented the Flathead County Planning & Zoning Office.

There were 20 people in the audience.

**APPROVAL OF
MINUTES**

Klempel motioned and Kramer seconded to approve the July 5, 2011 minutes. The motion passed unanimously.

**PUBLIC
COMMENT
(not related to
agenda items)**

None.

**LODGEPOLE
INC
(FCU 11-03)**

A request by Lodgepole, Inc., for a Conditional Use Permit to allow for the continued use of professional offices operating within the Bigfork, RC1 (Residential Cluster) Zoning District. The property is located at 836 Holt Drive.

STAFF REPORT

BJ Grieve started to review staff report FCU 11-03 for the Board.

Hollinger asked for clarification on the difference between the file number on the agenda and file number stated.

Grieve continued to review staff report FCU 11-03.

**BOARD
QUESTIONS**

Klempel asked for clarification on the address of the property.

**APPLICANT
PRESENTATION**

Tom Hoover, attorney for Lodgepole Company, said they largely agreed with the staff report. The reason for the application was to bring the present building use into conformity with the applicable zoning regulations. He gave a history of the property, why the application came into being and what the occupations of the occupants of the building were. He did mention the occupants would like to have a wider range of operating hours. They were unsure if the signage on the building was conforming or not conforming. He was available for questions from the board.

**BOARD
QUESTIONS**

Klempel and Hoover briefly discussed how long the signs were possibly in place.

**PUBLIC
COMMENT**

None.

**STAFF
REBUTTAL**

Grieve said the office took the hours of operations from the application which said normal professional office hours. He said whatever hours the board decided was appropriate, given the character of the neighborhood, were fine with the office.

Hollinger and Grieve discussed issues which concerned signage and what processes needed to be followed to remedy the situation.

**BOARD
DISCUSSION**

The board, Grieve, and Hoover discussed at length the hours of operation, businesses which surrounded the property, whether or not to remove totally the condition of hours of operation and the pros and cons of the condition. They also briefly discussed if surrounding businesses had hours of operations.

**MAIN MOTION
TO STRIKE
FINDING OF
FACT #15 AND
ADOPT F.O.F.
(FCU 11-03)**

Hash made a motion seconded by Kramer to strike finding of fact #15 to read;

~~**Finding #15** – The proposed use is anticipated to have minimal impact on the surrounding neighborhood because the types of professional offices proposed are not anticipated to create any noise, vibration, dust, glare, heat, smoke, fumes, gas or odors out of character with a mixed use residential area, and the hours of operation would be consistent with other professional offices, ranging from 8:00 AM to 5:00 PM Monday through Friday.~~

and adopt staff report FCU 11-03 as findings-of-fact.

**BOARD
DISCUSSION**

None.

**ROLL CALL TO
STRIKE
FINDING OF
FACT #15 AND
ADOPT F.O.F.
(FCU 11-03)**

On a roll call vote the motion passed unanimously.

**BOARD
DISCUSSION**

Grieve and the board had a brief discussion on process.

**MAIN MOTION
TO APPROVE
WITH
CONDITIONS #1
- #8 AND
STRIKE
CONDITION #9
(FCU 11-03)**

Hash made a motion seconded by Kramer to approve with conditions #1 through #8 and strike condition #9 to read;

~~Condition #9 – Hours of operation for the professional office building shall be from 8:00 AM to 5:00 PM, Monday through Friday.~~

**BOARD
DISCUSSION**

None.

**ROLL CALL TO
APPROVE WITH
CONDITIONS #1
- #8 AND
STRIKE
CONDITION #9
(FCU 11-03)**

On a roll call vote, the motion passed unanimously.

**101 O'BRIEN,
LLC
(FCU 11-04)**

A request by Vincent Grillo on behalf of O'Brien, LLC, for a Conditional Use Permit to expand an existing 2-unit complex into a 6-unit multi-family complex within the Bigfork, RA-1 (Residential Apartment) Zoning District. The property is located at 101 O'Brien Terrace.

STAFF REPORT

BJ Grieve reviewed staff report FCU 11-04 for the board.

**BOARD
QUESTIONS**

Hash and Grieve discussed when the project would need to be started after approval, what the requirements were and if that information needed to be stated in a condition.

Krueger and Grieve discussed how parking was arranged and what constituted parking for the application.

**APPLICANT
PRESENTATION**

Dawn Marquardt, represented the owners of the property, spoke about the distance of the centerline of Crestview to the centerline of the first driveway and the covenants and the applicant's compliance with them. She also said the applicant did not plan

to construct the units himself; he wished to sell the property with more units approved. She was available for any questions the board might have.

**BOARD
QUESTIONS**

Krueger asked if the units had garages.

Marquardt said yes, they did.

**PUBLIC
COMMENT**

Brenda Baldi-Woalhaus, represented the owners of 125 O'Brien Terrace, was generally against the application.

John Crismore, 218 Crestview Drive, was generally against the application. He presented the board with copies of letters against the application.

Karen Cromwell, Crestview 80 Home Owners Association, was generally against the application and presented the board with copies of letters against the application.

Barry McCahill, 145 Crestview Dr, was generally against the application.

Billie Smith, 110 Crestview Dr, was generally against the application.

Mike Thompson, 105 & 109 O'Brien Terrace was generally against the application.

Mark Lang, 199 Crestview Dr, was generally against the application.

Mary Jane Whidden, 152 Crestview Dr, was generally against the application.

Harry Whidden, 152 Crestview Dr, was generally against the application.

Georgia Christianson, 110 Church St, was generally against the application.

Paul Ellis, 148 South Crestview Terrace, was generally against the application.

Steve Felt, 108A Sunrise Terrace, was generally against the application.

**STAFF
REBUTTAL**

Grieve said the board had received excellent comments both written and verbal. He urged the board to have enough time to contemplate the information. He explained the staff report technically was a research paper and the board had received additional information at tonight's meeting. He could assist with updating or changing findings of fact based on what the board felt after reviewing the additional comments received tonight.

**APPLICANT
REBUTTAL**

Marquardt said she had nothing to add since she had not seen the additional public comment letters. If issues were raised which needed addressing, the applicant would be willing to table the application until those issues were resolved.

**BOARD
DISCUSSION**

The board took a 10 minute break.

The board and Grieve discussed stormwater issues, possible remedies, the board's role in the process and the adequacy of the application. They also discussed safety issues, what would happen if the application would be denied, and how many lots were in the Crestview area. They continued to discuss traffic flow and if the road was county or private.

Marquardt, who was recognized by Hollinger, had finished reading the public comments and had no additional comments.

Krueger said the application was not reviewable as it was now and asked if the board had the latitude to set aside the staff report and make a decision without it. He had no problem with the staff report. He felt the application itself was inadequate for the board's review. He wanted to make a motion to reflect his feelings.

Hollinger said Marquardt could choose to withdraw the application.

Grieve and the board discussed at length the process which would need to be followed.

Marquardt asked to withdraw the application.

Grieve addressed the board and public saying nothing could happen on the property without another public notice and proper

process.

Hash said the public would still be able to submit their comments, etc. if an application was to come before the board again.

Kramer said it was easier to accept the withdrawal than to go through every finding of fact and amend them.

Krueger said they would need to amend nearly every finding of fact because he felt the application was lacking.

**MAIN MOTION
TO ACCEPT
APPLICANT'S
WITHDRAWL
OF
APPLICATION
(FCU 11-04)**

Krueger made a motion seconded by Kramer to accept Marquardt's offer to withdraw the application on behalf of her clients.

**ROLL CALL TO
ACCEPT
APPLICANT'S
WITHDRAWL
OF
APPLICATION
(FCU 11-04)**

On a roll call vote the motion passed unanimously.

OLD BUSINESS

None.

NEW BUSINESS

Grieve explained a permit tracking calendar for permits which were coming due the office was implementing. He also updated the board on violations which the office was closing.

Hollinger asked if the violations were variances or anything the board had granted which were running amok and if the board needed to know what was going on.

Grieve said mostly they were complaints.

Kramer and Grieve discussed what happened if there were issues such as financing the CUPs, which had been granted, were bumping up against.

The board and Grieve briefly discussed in broad terms what was slated for the meeting next month.

ADJOURNMENT The meeting was adjourned at approximately 8:00 pm. on a motion by Kramer. The next meeting will be held at 6:00 p.m. on October 4, 2011.

Scott Hollinger, Chairman

Donna Valade, Recording Secretary

*APPROVED AS **SUBMITTED**/CORRECTED: 10 / 4 / 11*