

**FLATHEAD COUNTY BOARD OF ADJUSTMENT
MINUTES OF THE MEETING
DECEMBER 2, 2014**

**CALL TO
ORDER
6:01 pm**

A meeting of the Flathead County Board of Adjustment was called to order at approximately 6:00 p.m. at the Earl Bennett Building, Conference Rooms A and B, 1035 1st Ave W, Kalispell, Montana. Board members present were Gina Klempel, Ole Netteberg, Mark Hash, Cal Dyck and Roger Noble. Erik Mack and Alex Hogle represented the Flathead County Planning & Zoning Office.

There were 6 people in the audience.

**APPROVAL OF
MINUTES
6:02 pm**

Klempel motioned and Noble seconded to approve the November 5, 2014 minutes. The motion passed unanimously.

**PUBLIC
COMMENT
(not related to
agenda items)
6:03 pm**

None.

**DEETTA BOYCE
AND DJ LOPEZ
(FCU-14-14)
6:03 pm**

A request by DeEtta Boyce and DJ Lopez, for a Conditional Use Permit for a manufactured home park on a lot located at 433 Mountain View Drive. The parcel is within the Evergreen Zoning District and zoned 'R-3 One-Family Residential'.

STAFF REPORT

Mack reviewed Staff Report FCU-14-14 for the Board.

**BOARD
QUESTIONS**

Netteberg asked where the pictures in the presentation came from. They were not included in the packets.

Mack said they were from the violation file so they were not included in the packet the board received. The pictures better illustrated what he was reviewing.

Mack and Klempel discussed which mobile home would be removed.

Noble and Mack discussed where the wording for Condition #5 came from.

Noble said the wording should be the exact wording as the

recommendation from Environmental Health so it would be consistent.

**APPLICANT
PRESENTATION**

DeEtta Boyce, 433 Mountain View Drive and DJ Lopez said they did not want to add any more trailers to the park. They wanted to make what they had in place legal. She acknowledged a complaint concerning a barking dog and thought they had resolved the issue. She asked if the board had any questions.

**BOARD
QUESTIONS**

None.

**PUBLIC
COMMENT**

John Christian, 502 Mountain View Drive, was against the application.

Baron Jensen, 460 Mountain View, was against the application.

Kal Jagst, 436 Mountain View Drive was against the application.

**APPLICANT
REBUTTAL**

Boyce said they planned on getting rid of the trailer which was an eyesore. It was currently partially torn down.

Lopez agreed with Boyce. The complaint filed against the property had been personal. She thought they had the barking dog problem solved. They did not want a trailer park. They wanted to keep the trailers they had. They would narrow the driveway so it would come into compliance.

**STAFF
REBUTTAL**

Mack said the applicants were not proposing the addition of trailers. They would need to come back for another conditional use permit (CUP) to add trailers. They clarified which trailer would be removed.

**BOARD
DISCUSSION**

Mack and Netteberg discussed if the word 'park' had to be used in the CUP.

Hash clarified with Mack that even with the designation, they were not allowed to add trailers. A subdivision review would be required if they added more trailers.

Jensen asked if someone were to buy the property could they enlarge it.

Hash said they would also be bound by the CUP conditions. He asked if the board had any other questions.

Mack and the board briefly discussed a typo in the staff report.

Hash and Mack discussed alternate wording for condition #5.

Noble offered alternate wording for condition #5.

Netteberg voiced his concern over no time limit on removing the trailer.

Hash asked the applicant if she had a time line in mind for the removal of the trailer.

Boyce said she would have it removed by March 1st, 2015.

Hash asked if she would mind if the board put the removal date as a condition on the CUP if it was approved.

Boyce said she would not mind at all.

Klempel raised a concern about condition #1.

**MAIN MOTION
TO ADOPT
F.O.F.
(FCU-14-14)**

Noble made a motion seconded by Netteberg to adopt staff report FCU-14-14 as findings-of-fact.

**BOARD
DISCUSSION**

None.

**ROLL CALL TO
ADOPT F.O.F.
(FCU-14-14)**

On a roll call vote the motion passed unanimously.

**BOARD
DISCUSSION**

The board and Mack discussed possible wording for a motion.

**MAIN MOTION
TO AMEND
CONDITION 1,
CONDITION 5,
ADD
CONDITION 9
AND APPROVE
(FCU-14-14)**

Noble made a motion seconded by Netteberg to approve with amendments to Condition 1 and 5, the addition of Condition #9: to read:

1. The ~~cabin~~ *cabin-manufactured homes and one stick built house* on the subject property shall be in substantial conformance with the application materials and site plan as submitted and approved by the Board of Adjustment and modified by the

conditions below [FCZR Section 2.06.010].

~~5. The proposed use shall be reviewed and approved by the Flathead City County Department of Environmental Health and the Montana Department of Environmental Quality in order to obtain a well, septic and storm drain permit applicable to the new cabins. A copy of the approved permit shall be available upon request by Flathead County Planning and Zoning.~~

5. In accordance with MCA 76.4.102(16), this facility must be reviewed under the Sanitation in Subdivisions. Review will include water supply, waste water treatment and disposal, storm water drainage, and solid waste disposal.

9. *The trailer used for storage shall be removed by March 1st.*

**ROLL CALL TO
AMEND
CONDITION 1,
CONDITION 5,
ADD
CONDITION 9
AND APPROVE
(FCU-14-14)**

On a roll call vote the motion passed unanimously.

**KYJACO
PROPERTIES
(FCU-14-13)
6:28 pm**

A request by Barry Johnston on behalf of Kyjaco Properties LLC, for a Conditional Use Permit to allow the existing building located at 301 Eagle Bend Drive in Bigfork to be utilized for professional office space. The subject property is located within the Bigfork Zoning District and zoned 'RC-1 Residential Cluster'.

STAFF REPORT

Hogle reviewed FCU-14-13 for the board.

**BOARD
QUESTIONS**

Klempel and Hogle discussed if the height for the sign was taken at ground level.

Noble and Hogle discussed what could be done concerning an easement for the northern water main.

Hogle said without a CUP, only one business was allowed in the building. The building was built and the realty use was conducted well after the zoning was in place in 1993. He talked about the possibility of turning the space into independently owned offices if they obtained a CUP. In that event, Bigfork Water and Sewer would require separate ownership with

separate water lines for each business. Right now they did not have the capability to reasonably do that in accord with the water and sewer district operating standards.

Hash and Hogle discussed if the owners did offer independently owned offices in the building if it would increase the usage and where the easement was to the existing line. They also discussed what would happen if they did not have an easement to the northern water main.

Hogle and the board discussed property around the northern main, where the property received its services, what the benefits were to conditioning an easement, what the goal of an easement would be. They also discussed if the offices could be individually owned if the easement was not conditioned, what processes were in place for condominiumization and what the water and sewer's responsibility was. They also discussed the scope of the board, why the issue had been raised to the board, if providing an easement was unreasonable and why the applicant was not present at the meeting.

Hogle said the applicant did not attend the BLUAC meeting.

The board and Hogle discussed how big the easement would be, where the existing easement was and if there was the possibility of an easement boundary line adjustment.

Hogle and Hash discussed BLUAC's recommendation the board condition an easement for the water main, what property was involved, the members of BLUAC present at the meeting and why they recommended the conditioning of an easement. They continued to discuss the consequences of conditioning an easement or not conditioning the easement.

Hash asked Hogle what he thought the board should do.

Hogle said it was not unreasonable for the board to condition the easement for that property, what was in the applicant's control and the applicant was not asking for an entitlement but a matter of grace at the discretion of the board of adjustment.

Hash and Hogle discussed where the amendment would occur, what was over the possible easement and if the board would be taking from the applicant.

Hash voiced regret the applicant was not present to question.

Hogle said the amendment appeared to be under the criteria under the Flathead County Zoning Regulations for consideration of a conditional use, specifically under section C availability of public services and facilities which had a number of criteria including sewer, water, storm water drainage, fire protection and police protection.

The board discussed alternate ways to resolve the northern water main issue, the absence of the applicant, the avoidance of creating an undue hardship on the applicant, the fact Bigfork Water and Sewer did not give dimensions of the easement requested, which water main was the service line and if it was the responsibility of the board to become involved in an issue between the applicant and Bigfork Water and Sewer.

Hash suggested the applicant and Bigfork resolve the issue and come back before the board in December.

The board and Hogle discussed the feasibility of Hash's suggestion and alternate solutions which included amending findings of fact, the need to create a record of the discussion, the repercussions for the decision of the board on this issue.

**APPLICANT
PRESENTATION**

No applicant present.

**PUBLIC
COMMENT**

No public present.

**BOARD
QUESTIONS**

Noble and Hogle discussed possibilities for cleaning up the signing issue.

The board and Hogle discussed if the signing standard was Bigfork's or the county's, alternate wording for finding of fact #9 and Condition 6 and the option of not addressing the water issue and making note of the discussion in the minutes.

Hash said the board had insufficient evidence from the applicant as well as the Bigfork Water and Sewer District to determine the consequences of requiring or not requiring the easement at this time.

Hogle and Hash briefly discussed the statement for the minutes

and the goal of the statement.

The board and Hogle discussed Hogle contacting the water district to explain the board's actions.

Noble suggested stating there was insufficient information instead of evidence to determine appropriate easement.

The board discussed wording for the record and other possible alternatives.

**MAIN MOTION
TO AMEND
F.O.F #9 AND
ADOPT F.O.F.
(FCU-14-13)**

Noble made a motion seconded by Netteberg to amend finding-of-fact #9 to read:

9. Staff observation after the November 20, 2014 BLUAC meeting identified the existing signage on the property does not comply with the RC-1 specific signage standards outlined in Section 5.11.040(3) FCZR because the sign face is approximately 19.5 square feet and 6'7" tall and signage in that district is limited to a single sign not exceeding 16 square feet per face and 6 feet in height.

and adopt staff report FCU-14-13 as findings-of-fact.

**BOARD
DISCUSSION**

None.

**ROLL CALL TO
ADOPT F.O.F.
(FCU-14-13)**

On a roll call vote the motion passed unanimously.

**BOARD
DISCUSSION**

The board and Hogle briefly discussed wording for a motion.

**MAIN MOTION
TO AMEND
CONDITION 6
AND APPROVE
(FCU-14-13)**

Dyck made a motion seconded by Netteberg to amend Condition 6 to read:

6. Existing and future signage on the subject property shall comply with the applicable provisions found in Section 5.11 of the Flathead County Zoning Regulations. The subject property is permitted one freestanding sign or ground sign not to exceed 6 feet in height or 16 square feet per face *and therefore the existing sign shall be modified in order to comply with the applicable RC-1 signage standards* [Section 5.11.040(3)(A thru E) FCZR].

and approve.

**BOARD
DISCUSSION**

None.

**ROLL CALL TO
APPROVE
(FCU-14-13)**

On a roll call vote the motion passed unanimously.

**OLD BUSINESS
7:17 pm**

None.

**NEW BUSINESS
7:17 pm**

None.

ADJOURNMENT

The meeting was adjourned at approximately 7:17 pm. on a motion by Noble. The next meeting will be held at 6:00 p.m. on January 6, 2015.

C. Mark Hash, Chairman

Donna Valade, Recording Secretary

APPROVED AS **SUBMITTED**/CORRECTED: 1 / 6 / 15