FLATHEAD COUNTY BOARD OF ADJUSTMENT
MINUTES OF THE MEETING
FEBRUARY 6, 2018

CALL TO ORDER
5:58 pm

A meeting of the Flathead County Board of Adjustment was called to order at approximately 5:58 p.m. at the South Campus Building, 40 11th Street West, Suite 200, Kalispell, Montana. Board members present were Mark Hash, Ole Netteberg, Cal Dyck, Roger Noble, and Gina Klempel. Donna Valade and Mark Mussman represented the Flathead County Planning & Zoning Office.

There were 3 members of the public in attendance.

APPROVAL OF MINUTES
5:58 pm

Dyck motioned, seconded by Netteberg, to approve the January 2, 2018 minutes as written. The motion passed by quorum.

ELECTION OF OFFICERS
5:58 pm

Netteberg motioned, seconded by Noble, that Hash remain chairman of the board. The motion passed by quorum.

Klempel motioned, seconded by Netteberg, that Dyck remain vice-chairman of the board. The motion passed by quorum.

PUBLIC COMMENT
(Public matters that are within the jurisdiction of the Board 2-3-103 M.C.A)
6:00 pm

None

JEFFREY FUNK (FCU-17-15)
6:00 pm

A request from Jeffrey Funk for a conditional use permit to establish a 'Camp and Retreat Center' on property located at 990 McCaffery Road. The applicant intends to develop a camp and retreat center incorporating blacksmithing with blacksmithing themed educational activities and cabins for guests in the future. The property is located within the Bigfork Zoning District, zoned *SAG-10 (Suburban Agricultural)* and contains approximately 10 acres.

STAFF REPORTS
6:00 pm

Valade reviewed the Staff Report FCU-17-15 for the board.

BOARD QUESTIONS
6:02 pm

Hash asked that Valade discuss some of the changes that were made in the report regarding the noise concerns. Valade said it was regarding the quiet hours. It was decided the hours of operation for noise generating class activity would be between 8 am and 6 pm. The reasonable quiet time for the camp and retreat center would be between 10 pm to 7 am.

APPLICANT PRESENTATION
6:03pm

Jeffrey Funk, 990 McCaffrey Rd, reviewed his application. He wanted to make clear his intentions were to not start a camp and retreat center but to focus on creating a school for blacksmithing with the opportunity of residence during the class. Due to the nature of what he was teaching, he would draw in students from all over the country. He had been working there for nearly 20 years under the impression that it was a home occupation. The permit he applied for was to incorporate the current activities and allow for additional students. He had taught around the country and felt like he had a better facility than other places he had been to. He wanted to teach 1/4 to a 1/3 of the year and the rest of the time he would continue to do his work.

BOARD QUESTIONS
6:06 pm

Hash wondered if Funk had any concerns regarding the conditions that were placed by BLUAC. Funk said that he thought the BLUAC meeting went really well and was in agreement with their conditions. He stated that he was also sensitive to noise and had taken that in to consideration with the placement of the buildings. He planned on having class hours be between 8 am to 6 pm and felt like perfect quiet hours would be from 10 pm to 7 am and reasonable quiet hours from 6 pm to 10 pm. He said there had been discussion about not having class time during the reasonable quiet hours and he advocated that it would be classroom time but not hands on time. He addressed that the conditional use permit would need to be re applied for should the property change hands. Valade said that was listed as condition #11. Kempel wanted to know if that was at his request. Funk said it was not at his request but he had been interested in that.

Klempel wondered if he anticipated more than 8 students at a time and he said no. He found that there was a lot of interest in the program and wanted to do local short term classes. He intended to keep it between 6 to 8 students.

Klempel wondered if the plan submitted was the actual site plan. Funk said that the cabin placement was not officially set in stone. He referred to the site map and showed the options of where the cabins could go but also identified one of the options as being more expensive. He expressed his desire to leave some of the trees and natural environment as is. He said that he had to work with the DEQ on the subdivision change.

Funk wanted to make sure that the board knew their intention was not to be RV oriented. There would not be hookups provided. He wanted to provide a place for students to stay if they could not afford or book a place to stay in Bigfork.

Betsy Funk, a resident on subject property, also wanted to address the board. She spoke highly of Mr. Funk's teaching ability and blacksmithing skills. She felt that he had been super thoughtful throughout the planning process. She said that blacksmith schools were primarily located in the east and felt like this was a great opportunity to be a central location and invite people to the Pacific Northwest. In her opinion the school would be conducive to the Bigfork area, which she felt was well grounded in crafts and art.

Noble asked Funk what type of tools he used in his blacksmith craft. They discussed what he would specifically be teaching during a school session.

Klempel noted that she felt like trade schools were super important.

PUBLIC COMMENT
6:16 pm

Dave Dolan, 110 Sandy Ln, spoke in favor of the concept of the school but had a few questions about the placement of the upcoming infrastructure. He said that he understood that it was easier to put in cabins closer to the existing structure but he was concerned about his property value going down as the new infrastructure would be so close to his property line. He felt like it would be more suitable if the new infrastructures were placed on the other side of the applicant's property.

STAFF REBUTTAL
6:19 pm

None

APPLICANT REBUTTAL
6:19 pm

Funk wondered what Dolan meant by moving the infrastructure. Dolan clarified that he meant any buildings yet to come and that he specifically wished the cabins be moved to the other side of Funk's property so that it would not conflict with his own property.

Funk said his original desire was to put the cabins on the other side but it would be more expensive to do. He had not made a decision yet. He also looked in to the cabins being movable.

BOARD DISCUSSION
6:21 pm

Noble had questions about the site map, the draining field, the septic system, and the bathhouse. He wondered if those were to serve *all* the cabin units. Funk said that the cabins would be rustic and would not have water hookups. The bathhouse would be in a centralized location to serve all the cabins. They discussed the location of the draining field in relationship to the topography. Noble, in response to the public comment, felt that it would be desirable to keep the cabins near the bathhouse. There was discussion about using the current well.

Netteberg brought up the good neighbor policy. He shared his opinion that if he were to come and visit the school he would want to stay in the cabins near the trees. Funk said that was his initial concept but he was under the impression he did not have to make a final decision for building placement at this time.

Hash brought up that a part of the board's job was to look at the effect on the neighborhood which included placement where sound was going to be. They also looked at building placement on properties. He said that if granted, they would expect it to be built in accordance to the plans that were provided. Hash asked Valade where the buildings were going to be if it was granted. Valade went over the zoning and setback regulations that would apply. Hash asked if there was going to be anything on the application that would show them where the buildings were going to be. Mussman said that it might only be problematic if the applicants were to increase the number of cabins. He discussed the possibility of putting a condition on the cabins to meet either definitions of dwelling units or accessory structure but felt like, in this case, the issue would be the number of cabins. He also felt that in order to address the neighbors concern a condition could be put on how close the cabins could be towards the property line. As they were now, they would meet setback requirements.

Hash wondered about conditions being put on the number of RV units that could stay. Mussman suggested they limit the maximum potential number of RVs that could be on the property. He also suggested that they condition it so that if RV's were to be there, it would only be in conjunction with students enrolled in the program as well a limitation to how long an RV could stay on the property.

Netteberg wanted clarification about the RVs not having septic accommodations. Funk said there will not. He did not want to preclude the idea of having RV's but they did not want to emphasize it either. He wanted to offer it as a possibility for someone who only had access to an RV and perhaps did not have the opportunity to go rent a motel.

Dyck wondered where the RV parking would be located. Funk said that there were a number of places but said there would be no hookups for them. He also asked to address the public comments made and discussed in detail his thinking behind where he wanted to place the cabins. He felt like it was going to be a positive impact between the two properties.

Hash followed up that sometimes the retreats in residential areas can bring some type of hardships, especially on the weekend. He wondered if BLUAC had made any weekend restrictions. Funk said that he planned on having school Monday through Friday, maybe some teaching on Saturdays, and no activity on Sunday. Hash asked if that meant there would be noise activities on Saturdays and Funk said that it could be. Hash asked Funk if there would be a problem if they put a condition that there be no noise activity on Sundays. Funk said he did not have a problem with it and believed in having strong boundaries. He did not anticipate a great amount of noise.

Klempel wondered if there was going to be power going to the cabins or if it was going to be very rustic. Funk clarified that he might have it hooked up for internal lighting only. Klempel also asked about the size of signage that he would have and he replied the size of a mailbox to identify the property.

STAFF COMMENTS
6:39 pm

None

BOARD DISCUSSION
6:39 pm

Klempel said that a CUP ran with the property. She suggested that if Funk were to sell his property he should go to the staff director and tell them that it needed to be deleted. She did not feel like it needed to be an existing condition. Hash felt like it needed to stay on as a condition so that it could not be expanded or could be reviewed again in the case the property was sold. Mussman pointed out that it was not unprecedented that, in special circumstances, a CUP would not run with the land. He used short term rentals as an example. This CUP would be vested in the ownership, similar to the condition that the BLUAC put on the property. He said that if it was vested in the ownership than it made it easier for the administration to revisit. He said that in specialized instances, such as this, it should be considered that the CUP was vested with the property owner.

Dyck wanted clarification that there would not be a maximum of 10 students at a time. Funk said that he did not plan on it. Dyck wondered if it would be acceptable to Funk if they put a condition on that would maximize it to 10 students at a time. Funk said that, from a planning standpoint, he wanted to

leave things flexible. Dyck asked Mussman if the neighbors had a right to challenge the permit if the applicant were to violate the terms of the conditions. Mussman said it would then become a violation that would be investigated and the Planning and Zoning would seek compliance. He said ultimately the CUP approval, through a process, could be revoked by the board that granted the CUP.

Funk wondered how the board would assess the impact of the neighborhood (i.e. if his neighbor sold his house in a couple of years). Netteberg said that it would be up to a realtor to give a "buyer be aware" and that it would be done by disclosure. Mussman reiterated that if neighbors were to call in to complain and all the conditions were being met, then it would not be considered a violation.

Netteberg said that he was in approval of the idea but still felt like the good neighbor policy should be kept in consideration and was concerned about the placement of the cabins.

Noble was also concerned about the cabins and the immediate neighborhood impact. He felt like that there should be a condition put in that any future cabins would be put on the west side of the access road.

Hash asked Valade what her thoughts were on a possible addition of a condition regarding the cabins. She said that she could see both points and explained why. Hash wondered, based on her site visit, if she felt like there would be an impact with the cabins there. She said that he had offered an alternative site for placement of the cabins. They reviewed site pictures and placement of current structures and property lines.

Klempel wondered what the measurements between the drawings of where the cabins would be and the neighbor's current shop/apartment was currently. Valade said there would be a fair distance between and Funk said it would be about 100' away.

Noble wondered what type of fence was on the property line. Funk said it was barbed wire.

MOTION TO ADOPT F.O.F (FCU-17-15)
6:57 pm

Dyck made a motion, seconded by Klempel, to accept Staff Report FCU-17-15 as Findings-of-Fact.

ROLL CALL TO ADOPT F.O.F
6:58 pm

Motion passed unanimously by a roll call vote.

MOTION TO APPROVE (FCU-17-15)
6:58 pm

Dyck made a motion, seconded by Netteberg, to approve the applications.

BOARD DISCUSSION
6:59 pm

Hash wanted to protect the neighbors with some conditions, like an RV restriction. He also felt like it was important, especially on Sunday, there would be no noise activity. He wanted to keep the neighborhood in mind and they talked about putting a condition on that would limit adding cabins.

Noble wondered if a condition limiting the amount of time an RV could stay there would be beneficial. He also wanted to see a condition added for a fence on the property line. Hash asked Valade if a fence would be a good idea. She discussed different fence options and how they might help or not help with their concerns (i.e. noise and visual concerns).

Dyck wondered if there was a requirement in SAG10 for fencing for screening. Valade said no. Dyck was concerned that they did not restrict too much. He understood what the applicant was trying to do but in time things could change. He said he was ok with putting a restriction on RV's that would allow him to get started while he was building cabins. They discussed further what those amendments might be and how to word them.

AMMEND MOTION TO ADD CONDITION #12 and #13 (FCU-17-15)
7:05 pm

Dyck motioned, seconded by Netteberg, to amended his motion to also include a condition #12 and condition #13 to state the following:

> **Condition 12 -** The time and number of RVs associated with the operation of classes to be parked on site shall be limited to no more than six (6) RVs for a time no more than two (2) days before scheduled classes to two (2) days after scheduled classes end.
>
> **Condition 13 -** No noise generating class activities shall be held on Sundays.

ROLL CALL TO APPROVE (FCU-17-14)
7:06 pm

On a roll call vote the motion passed unanimously.

NEW BUSINESS
7:07 pm

Netteberg questioned how many agenda items were on the docket for next month. It was noted that there were 5. The board and director discussed how to handle extra-long meetings.

OLD BUSINESS
7:14 pm

None

ADJOURNMENT
7:14 pm

The meeting was adjourned at approximately 7:14. The next meeting will be held at 6:00 pm on March 6, 2018.

Cal Dyck, Vice-Chariman

Angela Phillips, Recording Secretary

APPROVED AS SUBMITTED/CORRECTED 3/6/2018