

**FLATHEAD COUNTY BOARD OF ADJUSTMENT
MINUTES OF THE MEETING
AUGUST 4, 2009**

**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 Scott Hollinger, Gina Klempel and Gary Krueger. Mark Hash and Craig Wagner had an excused absence. Dianna Broadie, Andrew Hagemeyer and Jeff Harris represented the Flathead County Planning & Zoning Office.

There were 2 people in the audience.

**APPROVAL OF
MINUTES**

There were no minutes to approve.

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

None.

**NORM
GOODNOUGH
(FZV 09-03)**

A request by Norm Goodnough & Mary Ross-Goodnough for a Zoning Variance to property within the Fish Hatchery, R-1 (Suburban Residential) Zoning District. The applicants are requesting a variance to Section 3.09.040(3) (A) of the Flathead County Zoning Regulations which requires the side setbacks to be 20 10 feet each. The property is located at 305 Marco Bay Road in Somers.

STAFF REPORT

Andrew Hagemeyer reviewed Staff Report FZV 09-03 for the Board.

**BOARD
QUESTIONS**

None.

**APPLICANT
PRESENTATION**

Norm Goodnough spoke of the gentleman's agreement regarding the three septic systems and whether he would be bound by the two other property owners.

Hagemeyer stated the Lakeside Community Council decided to put that as a finding-of-fact and not make it a condition so he would not be bound by it. It just states it is part of their plan.

Mary Ross-Goodnough stated that according to Dick Taylor, the property owner to the east, it is not just a gentleman's

agreement, it is in writing. If one of the three property owners decides to build or fails to do so, they would all go in and hook up to sewer so they would ultimately take three septic systems off the lake.

**BOARD
QUESTIONS**

Klempel asked if it was in a legal binding document.

Ross-Goodnough said she believes so; it should be on file with the Lakeside Sewer District.

Hollinger stated they were being required to hook up to sewer because of the application before the board and everybody should seize that opportunity.

**AGENCY
COMMENTS**

None.

**PUBLIC
COMMENT**

None.

**APPLICANT
REBUTTAL**

None.

**STAFF
REBUTTAL**

None.

**BOARD
QUESTIONS**

Krueger asked if there were any comments or correspondence from the neighbors on either side.

Hagemeier said he did have any in the file and therefore did not put anything in the staff report as it did not weigh in on his decision whether or not he felt the variance was appropriate. He felt the variance was appropriate without the fact they are going to hook into the sewer system.

**MAIN MOTION
TO ADOPT
F.O.F. AND
APPROVE THE
VARIANCE**

Klempel made a motion seconded by Krueger to adopt staff report FZV 09-03 as findings-of-fact and approve the variance.

**BOARD
DISCUSSION**

None.

**ROLL CALL TO
ADOPT F.O.F.
AND APPROVE
THE VARIANCE**

On a roll call vote the motion passed unanimously.

**GRL INC
(FCU 09-06)**

A request by GRL Inc. for a Conditional Use Permit to construct and operate a recreational vehicle storage facility within the Evergreen, I-1 (Light Industrial) Zoning District. The property is located at 456 Ash Road.

STAFF REPORT

Dianna Broadie reviewed FCU 09-06 for the board.

**BOARD
QUESTIONS**

Krueger asked if Evergreen Fire Department had been contacted.

Broadie explained the road length and width.

Harris stated the fire department reviews things on a case by case basis and whenever there is a pull through the department is typically pretty happy. If they have to back in or back out then they would work with staff a lot more.

Krueger stated he just wanted to know if it was a pull through. He thought they should have a condition that it can't be fenced or stays a pull through.

Broadie stated it has security gates.

Krueger thought there should be something that states it remains an emergency access or something like that, should the property sell.

**APPLICANT
PRESENTATION**

None.

**AGENCY
COMMENTS**

None.

**PUBLIC
COMMENT**

None.

**BOARD
DISCUSSION**

Hollinger said visually this would be an improvement to the neighborhood and could possibly slow down vandalism.

Klempel asked if this would be a metal building.

Broadie said yes it would be.

**MAIN MOTION
TO ADOPT
F.O.F. AND
APPROVE THE
CUP**

Krueger made a motion seconded by Klempel to adopt staff report FCU 09-06 as findings-of-fact with the addition of a condition stating an emergency egress is maintained with that property.

**ROLL CALL
TO ADOPT
F.O.F AND
APPROVE THE
CUP AS
AMENDED**

On a roll call vote the motion passed unanimously.

OLD BUSINESS

Discussion regarding updates to the bylaws. Changes will be made and brought to the next regular meeting for the board's consideration.

Krueger commented that he went through the zoning regulations and found a little something where it talks about the duties of the zoning administrator. One of the duties is to collect the application and turn it over to the Board of Adjustment staff for their review and evaluation. He felt they get a review and evaluation from staff and a recommendation. The recommendation is supposed to come from the zoning administrator. He questioned how the board received the staff report with a recommendation on it. He believed the staff report, if you go by the letter of the zoning regulations, should be reviewed by the Board of Adjustment staff and then that staff report is presented to the zoning administrator and the board and the zoning administrator should make a recommendation. If they were doing it that way, the board should see the staff report and then get a recommendation from the zoning administrator. That's the way he reads the zoning regulations.

Harris said the staff report represents the office and the zoning administrator. When the board gets a staff report, it may not have the zoning administrator's signature on it, but we could do that if the board so desires. He doesn't get to vote, he doesn't want to vote, he is staff to the board and responsive to the board. Staff and the board could have a discussion at the next meeting if the board has a particular preference on how to work it.

Hollinger commented that he understood it that the zoning administrator reads the reports and the findings and recommendations; it just doesn't have his signature on it.

Krueger asked does staff review it and then is it re-written at the time it is reviewed by the zoning administrator. The applicant is not allowed to change anything in their application, and then the staff report comes out. He wanted to know if things were changed in the staff report from the review to the recommendation.

Harris stated maybe in one percent (1%) of the applications, and that's all of the applications submitted, when it may be very contentious or he might have information they don't. The other ninety-nine percent (99%), that never happens. The staff report is what they get and quite often he is so busy doing other things he is reading the staff report when the board is reading the staff report.

Hollinger stated that part of the function of the hearing is to go through the report and the recommendation and see then from a third party position.

Krueger said what he is asking for is, if they have a staff that reviews an application and passes it on and then it is changed then brought to the board, they really lose that first review. He wants to look at a staff report and wants to see things that may not go along with what the board ends up deciding but they've taken those things into account. To see half a staff report doesn't work for him.

Harris said when staff presents any report they do so as part of the public record. The board has the total discretion to direct staff to do something else. If they are not comfortable with the staff reports, after taking testimony in the public hearing, as part of the board's discussion they can direct staff to go back and do other things. They can chuck the staff report if they want, it's totally their call. Staff tries to be objective and tries to give the board the best professional advice they can. It's up to the board to either accept it or not.

NEW BUSINESS

Update regarding agenda items for board review in September.

Klempel had a recommendation; when there is a variance and a conditional use permit (CUP) she thought the variance should go

through review first. Without the variance the CUP is no good.

Harris said ideally staff would like to do it that way. He will talk to the planners about that. Sometimes they don't really figure out they need a variance until they are 2/3 of the way through their review and it's been scheduled for the hearing. He'll take her thoughts back to staff.

Klempel stated she knows there will be times it is unavoidable but if staff knows there has to be a variance she thought that should come first.

Hollinger made the comment about setbacks and if the zoning regulations could just do ten percent (10%) of the lot width. He wanted to recommend that anything less than 100 feet the setback should be 10% of the lot width.

Harris said that was a great idea and staff would have to amend the regulations to reflect that. Maybe when they go through the next amendment process he'll throw that out there, it makes sense.

ADJOURNMENT The meeting was adjourned at approximately 7:00 pm. on a motion by Klempel. The next meeting will be held at 6:00 p.m. on September 1, 2009.

Scott Hollinger, President

Mary Sevier, Recording Secretary

APPROVED AS SUBMITTED/CORRECTED: 9/1/09