



Planning Department

Powell County Planning Department 409 Missouri Ave., Suite 114
Deer Lodge, Montana 59722 406.846-9795 planning@powellcountymt.gov

MINUTES PLANNING BOARD

The Powell County Planning Board met in a regular session on Thursday, September 10th, 2020 at 1 PM.

Members Present: Bill Pierce, Justin Williams, Tracy Manley, Rick Hirsch, Earl Hall, Randy Mannix, John Beck and John Wagner

Members Absent: John Hollenback

Staff: Jerry Grebenc (Interim Planner), Kathryn McEnergy, Ann O'Toole

Public: None

President Hirsch called the regular meeting to order at 1:05 PM.

Agenda Item #1 – Attendance

With eight members being present, a quorum was established.

Agenda Item #2 Approval of Agenda

The Board changed the Agenda to discuss Item #6 the Saari Cabin Construction issue after approving the minutes. This change was approved by overall consent.

Agenda Item #3 – Approval of Minutes

A copy of the August minutes was not included in the Planning Board packet and Member Manley made a motion to postpone review and approval of the August minutes until the October meeting. This was seconded by Member Williams and unanimously approved.

Agenda Item #6 – Continued or Tabled Business

Saari Cabin Construction

The Saari's attorney, Calli Michaels, participated in the meeting mainly via cell phone due to difficulties with Zoom. With Ms. Michaels on the phone, Mr. Grebenc describe events that had transpired since the August Planning Board hearing. This included:

- The County Attorney sending a letter to the Saari Family Trust asking the owners of the trust to participate in the September Planning Board meeting to discuss the issue with the Board.
- A phone conversation between the Saari's attorney Calli Michaels and Mr. Grebenc regarding the issue.
- A written response from the Saari's attorney Calli Michaels to Mr. Grebenc in which she indicates that there has been a misunderstanding and miscommunication regarding the Saari's intent with the property.

Mr. Grebenc provided Ms. Michaels and the Planning Board with a memo describing the situation. The memo includes all of the written documentation related to the issue. Mr. Grebenc then asked Ms. Michaels if she has anything to add. Ms. Michaels briefly added the Saari's perspective on the situation.

The County Attorney Kathryn McEnery asked several question of Ms. Michaels related to how the Saari's intended to use the property, with the point that no overnight lodging was intended with the structures.

Member Williams asked Ms. Michaels why the Saari's placed No Trespassing signs up on the property after members of the County Planning Board and staff started inquiries into what was taking place on the property. Ms. Michaels indicated she would ask the Saari's about this matter.

Member Pierce asked Ms. Michaels is it was possible that her client had contacted the State Building Codes Division regarding permitting versus the County staff. Ms. Michaels indicated that she would ask her clients about this.

Member Hall asked if Ms. Michaels could provide the Board with photos of the interiors of all the buildings. Ms. Michaels indicated that she would ask her clients about this.

There were no further questions for Ms. Michaels, and she departed the meeting via the phone.

The Board had a general conversation about the situation.

The Board members then overwhelmingly indicated that it would be important that in the future a property owner or their representative attend the meeting in person. The Board indicated that they would make no decisions unless they had an authorized individual attending the meeting to answer questions.

Agenda Item #4 – Non-Public Hearings

Yoder/Sommers Boundary Line Relocation

Mr. Grebenc described the proposed boundary line relocation and that it complies with the County Zoning requirements for the Gold Creek area and with the County Subdivision Regulations.

Member Manley made a motion to approve the boundary line relocation and Member Pierce seconded the motion. The motion was approved unanimously.

Agenda Item #5 – Public Hearings

Harbour Conditional Use Permit

President Hirsch open the hearing and explained the procedures that the Board would follow. President Hirsch then asked Mr. Grebenc for a brief report. Mr. Grebenc explained that the hearing had been noticed twice in the Silver State Post. In addition, Mr. Grebenc handed out photos of the installation of the septic system being used for the adjacent home and an email from the County Sanitarian Chad Lanes describing the installation.

Mr. Grebenc then gave a brief description of the project, which includes the construction of a building for commercial metalworking and fabrication. Mr. Grebenc explained that the proposal appeared to comply with all of the requirement of the County Zoning Regulations and that staff was recommending approval based upon

President Hirsch then opened the discuss up to Board members.

Member Williams expressed concern about several issues including:

- The photos showing standing water around the septic tank and drainfield installed in the Fall of 2019.
- Potential impacts of the septic system upon adjacent wells.
- A drainage ditch channeling water off the site onto adjacent property owners.
- Impacts to wetlands on the property.
- Hoyt Creek crosses part of the property.
- Appropriateness of wet soils on the property to construct such a structure.
- Potential RV holding tank buried on the property.

Member Hall discussed fire protection and the storage of hazardous materials in the new building.

Member Pierce asked about the building size and discussed whether the new building would have to be constructed to State of Montana building codes as it was a commercial structure.

Member Manley briefly discussed Hoyt Creek and whether it was classified as a perennial stream.

No other comments or questions were brought forward by the Board.

President Hirsch asked if the petitioner or their representative was present. Ms. O'Toole indicated that Mr. Harbour was not in attendance and had planned to call in. The Board members briefly reiterated that it would be important that in the future the property owner or their representative attend the meeting in person.

President Hirsch then opened the Public Hearing. The following people testified:

- Fred Valetton indicated concerns about the shallow depths to groundwater, potential for a “mother-in-law” apartment in the new building, wet and spongy soils and the septic system that was installed for the home on the adjacent lot.
- Howard Fly indicated that Hoyt Creek is located on the property and that he is concerned about the installation of the septic system for the home on the adjacent lot. He indicated that the septic tank was full of water and that the property owner has discussed constructing a French drain and potentially a “mother-in-law” apartment in the new building.
- Peggy Fly indicated that she and her husband asked Mr. Harbour why he did not simply replace the existing shop building as the soil and site are more appropriate. She also mentioned the potential for having an RV and storage tank on the subject property.

No further comments were made, and President Hirsch closed the public meeting.

President Hirsch asked if the Board had any further comments. Member John Beck indicated that he would recuse himself from any decision as Ben Harbour was a former employee.

Member Pierce made a motion to postpone any decision until the next Board meeting and contingent upon Mr. Harbour attending the meeting to provide more information regarding the Board's and residents concerns. Member Manley seconded the motion. The motion passed unanimously. The Board asked staff to contact Mr. Harbour and explain the situation.

Agenda Item #7 – Planning Board Comments

Mr. Grebenc indicated that he was unaware that the Board members would like to have the entire conservation easement packet including the detailed easement language and therefore all he had mailed in the Board packets were the summaries and maps of the easements. Ms. O'Toole was kind enough to make hardcopies while Mr. Grebenc described the easements.

Brander Conservation Easement

Mr. Grebenc briefly describe the location and size of this easement which is just north of the community of Avon.

Rohrer Conservation Easement

Mr. Grebenc briefly describe the location and size of this easement which is southwest of the community of Helmville.

The Board asked that a staff member from the Montana Land Reliance attend the October Board meeting to answer questions about each easement. Mr. Grebenc indicated he would contact the Reliance to arrange that.

Agenda Item #8 – Staff Comments

The County Attorney Katheryn McEnery explained that she will be extremely busy with a coming court case, but that she would be available to provide advice and guidance on topics such as the Saari Cabin issue. She explained that the County Commissioners had formally adopted the new family conveyance criteria into the subdivision regulations.

Mr. Grebenc explained that he would be on vacation for two weeks. He further indicated that there would be at least two minor subdivisions and one conditional use permit on the Board agenda for October.

Mr. Grebenc then introduced the incoming County Planner Peter Scholz. Mr. Scholz described his experience and engage in a question and answer session with the Board members.

Agenda Item #9 – Public Comments

Derek Ellis introduced himself to the Board and indicated that he and his partner were looking at purchasing property up Braziel Creek and hopefully constructing a new residence.

Agenda Item #10 – Announcement of the October Meeting

President Hirsch announced the Planning Board would hold their next meeting on October 8th at 1 PM.

Agenda Item #11 – Adjourn

President Hirsch adjourned the meeting at 3:30 PM.

Respectfully Submitted,
Jerry Grebenc
Interim Powell County Planning Director

President Rick Hirsch

Date