

Meeting Minutes

Boulder Town Appeals Authority

February 15, 2006, 7:00 p.m.

Board members and alternates present: Mark Nelson, Loch Wade, Larry Ripplinger, Don Montoya, and Peg Smith, secretary. Jeff Sanders was absent.

Public attending: Planning Coordinator, Curtis Oberhansly and Donna Owen.

Mark brought the meeting to order at 7:10 p.m. Don moved to approve the Jan 18 minutes with corrections, and Loch seconded the motion. All approved. Peg read the edits to the Feb 1 minutes; Loch moved to approve the Feb 1 minutes as corrected, and Don seconded the motion. All approved. Loch moved to approve the agenda for the meeting, Larry seconded the motion, and all approved.

Finalize Revisions to Appeal and Variance Applications

Curtis had forwarded his comments on the Appeal Application to members prior to the meeting. Along with tightening some of the verbiage, most of his comments dealt with wording in the “Notice to Applicants” page. He noted that the conditions for appeal have been narrowed within the state code; the new statute now contradicts wording still in Boulder town ordinance. Appeals should be based only on decisions from the Land Use Authority, which, in Boulder, is the Town Council. The appeal is limited to a complaint of ruling in an unlawful manner or ruling in an arbitrary or capricious manner. Curtis’s comments were based on that new distinction.

Donna asked if appeals only related to land-use issues. Mark answered “yes” based on reading Boulder ordinances.

Requiring Attendance at Hearing

The Board next discussed whether applicants should be required to appear in person for their hearing. Mark and Loch first argued that they should be required to appear, as the board may want to ask for information not necessarily provided on the application. Curtis said the burden of proof is on the applicant. This is their opportunity to make their case, and if they choose not to present it in person, they bear the results. Loch suggested a distinction between the appeal and request for variance: the appeal is narrowly defined, and as such, the applicant would not need to present much additional evidence that the board wouldn’t already have. The variance, with its five tests, is where the applicant has to meet their burden of proof.

Notifying Applicant of Decision

Donna wanted some assurance that requests wouldn’t be pigeon-holed and dragged out forever. On the current draft, the “Notice to Applicants” states that the board will inform the applicant of its decision within 30 days. The board agreed that the post-hearing time period was not to drag things out, but to make sure they left themselves sufficient time in case a request involved additional work, such as recording, transcription, engineering or legal consultation, etc.

Curtis wanted to delay a decision on the time period for notice of findings until he can check the state statute.

Donna asked if the hearing, subsequent discussion, the vote, and a draft of the findings all require separate meetings. Not necessarily, said Curtis. Mark said that a decision can be made the night of the hearing, if the board believes it has all the information it needs. Typically, the board would have already done its homework before the hearing, and would be able to direct their questions to specific matters. However, Larry added that new information may be revealed at the hearing that would behoove the board to reinspect the property, or obtain additional consultation before rendering a decision.

Submitting Final Draft of Applications to Town Council

Loch agreed with Curtis's edits, and suggested that he carry the same types of edits over to the variance application. Don requested that the final formatting included check boxes that provide the applicant with clear visual cues on material they need to provide with the application.

Peg agreed to complete the formatting of the two applications, and forward them to the board for review before the next meeting.

Loch moved to conclude the meeting, and Larry seconded the motion. Mark adjourned the board at 8:45 p.m.

Margaret Smith
Appeals Authority Secretary

Date

Approved: _____ Date: _____