

# Meeting Minutes, Boulder Town Planning Commission

## July 9, 2015

Commissioners present: Loch Wade, Donna Jean Wilson, Alyssa Thompson, and Caroline Gaudy. Tabor Dahl was absent. Peg Smith, Secretary; Peter Benson, Town Liaison. Members of the public: Kelly Wade, Mark Nelson, Bill and Judith Geil, Tim Sexauer. Loch called the meeting to order at 7:05 p.m.. Caroline moved to approve the June 2015 minutes with one minor correction. Alyssa seconded the motion, and all approved.

### ***Town Request to Revise Zoning Ordinance: Replace Board of Adjustment with Land Use Hearing Officer***

Loch reviewed the recommendation by Bruce Parker to replace the five-person board with a single person Land Use Hearing Officer (LUHO). Bruce had recently called the town clerk to ask about action regarding his recommendation, so the town sent the an application to the Planning Commission to discuss changing the ordinance. The town's reasoning was the Board of Adjustment only infrequently has business to conduct, so it's difficult to stay fresh on the ordinances and it's also hard to fill all five seats.

Loch asked for a motion to close the regular meeting and open the public hearing. Donna Jean so moved, Caroline seconded the motion, and all approved.

Public hearing comments:

[At Mark Nelson's request for more information, Loch read the original Bruce Parker recommendation.] Mark asked about the number allowed on the Board, saying he didn't like the idea of one person, but maybe five is too many. Three may be a good, odd number. He wasn't sure there needs to be a change. "It's an opportunity for more people to participate in town government. It's up to the chair to provide training and make sure the members are up on their knowledge. I think you always need someone there as a backup, maybe staggered so one or two people are available to know what's going on and so people are being trained as they move up the ladder. It's hard for one person to cover all the bases. You'd need more than one person anyway. If that person gets sick, moves, then you're left with no one. Either keep it as it is, or just change to a three-member board.

Judith Geil: Could the role of the Board of Adjustment be explained? Caroline explained: the BoA is the group that hears applications for variances, and they are also the group that handles non-conforming uses and structures.

Bill Geil: Are they the last word? In the sense of the Planning Commission only recommending action to the town? Loch explained: The BoA/Appeal Authority is quasi-judicial body. They don't create law; they hear application on variance and applications on non-conforming uses. They have five, state-required criteria that need to be met in order for a variance to be approved. An appeal on that decision goes next to district court.

Bill, continuing: So you have a one-person board. That person makes a decision on a variance. Maybe it doesn't meet all five criteria or is questionable. If the town council is unhappy with the decision, they can't reverse the decision, but can remove the person?

Judith: Have they (the BoA) ever made any decision that's been challenged? [Answer: no.]

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Bill: One person is too few.

Judith: I agree; one person is too few.

Kelly Wade: Agreed.

With no other comments from the public, Caroline moved to close the public hearing and open discussion; Alyssa seconded the motion, and all approved.

Loch reopened the regular meeting to discuss and make a recommendation:

Alyssa: I believe one person is too few, but if the town insists on going that way, I would insist that a LUHO does not hear variances and non-conformities; that function should be moved to the Planning Commission. Non conformities are serious issues and we'll be dealing with handfuls of them. Maybe advertising or better promoting the position will help. I like the idea of a three-person board. I would like to require at least quarterly attendance at our (Planning Commission) meetings.

Tabor: I agree it would be good for them to attend our meetings. I still think the five members is good and is maybe more representative; definitely more than one person. Maybe there hasn't been an urgency because there's not a lot to do. That can change. It's good to be ready. If they were attending our meetings that would give them something to do...ask a little more of them.

Caroline: I'd like to keep the BoA. I don't think a single-person LUHO suits Boulder. It's not realistic to ask them to attend our meetings more than quarterly. We can play with the number of BoA members later, but we have more important things now.

Donna Jean: One person is not enough. It's better to have more people involved so it's not so personal. If you have more than one person, the others will remember what someone forgot.

Loch: I agree with everyone for the same reasons. There's a danger of pressure being exerted on one individual that can be mitigated by a larger board. It's good to spread around, it's just a lot of pressure on one. I think there's plenty of people (who would step up). I'd like to recommend the BoA attends our meetings, particularly training sessions or when relevant topics are on the agenda. They can do their yearly training with us.

**Loch made a motion: To recommend that Boulder keeps its Board of Adjustment as is, and not switch to an individual Land Use Hearing Officer; that it retains with five-person board at present, with the additional recommendation that BoA members attend at least quarterly and annual training with the Planning Commission. Alyssa seconded. All approved.**

Alyssa: Question on nonconformities, which the Planning Commission has been handling. Even if it's a sign or something they're suddenly told they can't do. BoA says we don't know. Depends on state code, but Tabor said it might be a mistake to take that on when it's their responsibility. Caroline said, before someone comes with an application, they can ask for guidance.

Loch: Right now the only remedy for a nonconforming use is to ask for a variance. Basically someone would be asking for a variance to continue a nonconforming use.

Tabor: Realistically, if you have this big issue, this group, plus the Town Council would find out about it. There would be a lot of discussion. This group as well as the Town Council could be involved in the meeting.

### ***Review Applications for Conditional Use Permits***

Peg had drafted the letters to BOSS and BFWC regarding information requested on their conditional use permits (or lack thereof), and Loch read the letters for review.

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Alyssa: I don't think an onsite meeting [by the Planning Commission] is appropriate. They just need to come here to talk through the situation. We mainly need to verify whether there's paperwork on the actions.

The commissioners requested the addition of a time limit for a response: within 30 days. A "response" should be either copies of the requested paperwork or a new application within 30 days.

The commission continued review of the next set of application, these from 2001 and earlier:

Anthony Coombs, Nov 15, 1999. Cowboy Country service station/ convenience store, rest station, on the rodeo grounds. Minutes from that hearing indicate the Planning Commission wanted parking on the side or back, not in front like he wanted. The application was apparently abandoned with no further action. **Action:** Voided July 9, 2015.

The Burr Trail Village application was voided at last month's meeting.

### **CUPs 2001-2002:**

Emergency vehicle storage in gravel area adjacent to firehouse, 9/7/01: Can't find minutes from Oct 2001. Assumption is that this was approved. (Before firehouse was expanded.) **Finding:** This use is still in force.

Concrete batch plant, Anthony Coombs. July 10, 2002. Passed by Planning Commission on Aug 22, 2002. Sold to Mark Austen, sold to Gary Powell. The CUP stays with the land, as long as the conditions aren't being violated. We don't have the minutes to verify any additional conditions were imposed; the application shows road easement resolved from east of tanks; Lighting. Portapotty following EPA guidelines. Fuel kept in proper containers. **Finding:** In compliance, good.

Yo Ranch employee housing, Lisa Vargo, 8/24/2002. Passed by Planning Commission on Sept 11, 2002. No additional comments in the minutes; approved as submitted, with the stated height limitation, setbacks, and private drive access. **Finding:** OK

Expansion of parking lot west of firehouse, submitted Oct 5, 2002. **Finding:** need minutes from the meeting; don't know what was approved.

Town Park north end of C street. 2002. No minutes, **Finding:** Need minutes to verify action.

Shane Robison: accessory building, employee housing, May 8, 2002. Only condition arising from the public hearing is that the barn no longer be used for employee housing. A motion was made to approve the permit if the barn is used as an accessory building only. **Finding:** OK, conditions met and still in force.

Temporary housing while building house Dec 17, 2003, Bill Muse. **Finding:** Need to find minutes to resolve.

Burr Trail Grill construction, and replace freestanding sign at August 18, 2004. Public hearing minutes, Feb 23, 2004. Ingress/egress to be determined before approval at March 2004 meeting. March 2, 2004 minutes: all requirements have been met; moved to approve. **Finding:** OK, with no additional conditions on the building site. Action on signage unknown.

Boulder Recycles , May 15, 2013--- **Finding:** get minutes.

Town Park Sign. **Finding:** need minutes from Feb 8, 2013.

Tabor: We need to create a sheet to track this information easier.

Discussion on the CUPs ended. Peg will forward the tracking sheet she'd previously sent out.

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Caroline asked to add a discussion item to the August agenda: a discussion zoning overlays to add to our town plan. “I have a feeling we’ll continue to have new proposals that will challenge our current zoning ordinance. If we would consider, in some parts of town, an overlay over existing zoning to consider lots under five acres. Another is for additional commercial space and modifications to existing space. My rationale is that we may need to talk about allowing certain situations, so it’s not an all or nothing across the whole town. In other words, there may be some ideas we want to prepare ourselves for the future.

Loch had done training earlier in the year on zoning overlays. Caroline would like to refresh the Planning Commission’s knowledge... to “kick it around before our feet are to the fire.” Loch said we can always say no to a request for a smaller lot size. If a significant portion of town wants it in General Plan. I’m all for talking about possible tools. Caroline said the time to start is now. “Planning Commissions plan. They’re supposed to consider future needs. I’m not necessary pro overlay. I’m just interested in discussion and forethought.”

### ***Aug 20 Meeting and Agenda***

The Planning Commission agreed to change the date of its August meeting to August 20 to ensure a quorum.

- Discussion of overlays—15 min.
- Continue reviewing CUPs.
- Alyssa: training on Board of Adjustment duties on nonconforming uses.

Caroline moved to adjourn the meeting, Tabor seconded the motion, and Loch adjourned the meeting at 8:39 p.m.

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Peg Smith, Planning Commission Clerk

Date