

Board of Adjustment, Public Meeting Minutes

November 7, 2005, 8 a.m.

Board members and alternates present: Mark Nelson, Larry Ripplinger, Don Montoya (replacing Bob Brems), Jeff Sanders, Loch Wade, Cookie Schaus, Weston Albrecht, Randy Ripplinger, and Peg Smith, secretary

Mark brought the meeting to order at 8:05 a.m. The agenda for the meeting was:

- Set dates for future meetings
- Elect chair and vice-chair
- Discuss October 27 training by Sydney Fannesbeck
- Discuss board procedures
- Decide upon communication and notification policies

As a preliminary order of business, Larry made a motion to enter into the record the Fannesbeck workshop training notes of October 27 (subject to corrections), with Lock seconding the motion, and all approving.

Set Meeting Dates

Mark reminded the group that the Board is required to meet at least once a year, even if only to set the meeting dates for the following year. After discussion on the pros and cons of various options, Lock moved to schedule meetings on the **first and third Wednesdays of each month**, at 7 p.m. in winter months and 8 p.m. in summer months. Larry seconded the motion, and approval was unanimous. The meetings will begin on that schedule starting December 7.

Elect Chair and Vice-Chair

Mark instructed the Board that the chair holds his or her position for two years; the term for all Board members is five years. Since the make-up of the previous Board has been decimated and meetings have not been held for the past several years, Mark suggested establishing a new starting point for periods of service, starting with the Town Council appointment of the new members November 3.

Don moved to name Mark Nelson as chair, and Larry seconded the motion. Mark abstained; the other four approved. Larry nominated Loch to serve as vice-chair. Jeff seconded the motion; Loch abstained; the other four approved.

Because the terms of Board members typically are staggered, Weston suggested that the Town Board may have to amend end-of-service dates for some of the members.

Mark Nelson will serve as chair of the Board of Adjustments for the next two years. Loch Wade will replace him in that position for the following two years.

Discuss October 27 Training Workshop by Sydney Fannesbeck

The Board discussed general thoughts and impressions of the workshop, conducted by training rep Sydney Fannesbeck, from the Utah League of Cities and Towns. Loch thought Sydney represented more of a big-city perspective, which Boulder doesn't necessarily need to emulate. For example, as Jeff agreed, fees may indeed need to be established to minimize frivolous

appeals to the Board, but should be kept reasonable. The Board will suggest to the Town Council that fees for consideration by the Board of Adjustment be set at \$30.

Mark reviewed the Board's responsibilities: 1) to hear appeals on procedure, and 2) to hear requests for variances. The discussion at that point turned to the Board's procedures.

Discuss Board Procedures

These points summarize a general discussion that followed no particular order:

Policy on Individuals Speaking to Applicants

In a small town, applicants may discuss their appeal to individual Board members. This cannot be avoided, and may even be helpful, but the Board agreed to the following policy:

1. Talking is OK, but no commitments can be made by an individual Board member to the applicant.
2. The Board member must inform the rest of the Board of the conversation and any information that was shared.

General Requirements

1. Mark wanted the group to clearly note this guiding, legal principle: *The Board cannot discuss the specifics of any case unless a public meeting has been announced, that item is on the agenda, and proper notice has been given.* In addition, no meeting can be held on a given case unless the applicant has been notified of the discussion.
2. Mark wanted to require the Board and the alternates to conduct pre-hearing, onsite inspections of any property under appeal or variance request.
3. The group requested that draft minutes of the previous meeting be available for their review before the next meeting. The importance of 'doing their homework' was reiterated, including reviewing minutes and associated documentation on the given cases.
4. The Board alternates need to stay generally informed, as they may be called to substitute without much warning.
5. The Board can table decisions on issues about which they need more information or time to deliberate.
6. Stipulations required by the Board in granting a variance must be written as a contract, and will stay with the land even after sale.
7. Meeting minutes are the legal record of the meeting. All decisions must be clearly noted and referenced. Board members are responsible for diligently reviewing the minutes for accuracy before approving them.

Additional Notification

In addition to state-mandated notification requirements, the Board discussed the notification policy they would like to uphold for Boulder Town. This included a 7-day written notification to adjacent landowners of any appeal or variance application. The Board generally agreed that the more input they receive from a variety of sources, the better informed decision they can make.

The policy is a courtesy that should be extended, particularly in a town with so many absentee landowners.

Procedures at a Meeting

- Loch suggested adopting the 'sample meeting procedure' that Sydney gave in the training and was covered in the October 27 notes. This procedure helps maintain an orderly flow of events and helps the chair educate the participants in what to expect from that meeting.
- Don suggested that all persons who wish to speak to an issue stand and state their name and interest for the record. (Even though everyone will likely know everyone else in the room, this courtesy will help clarify the minutes and provide a better record should the need arise.
- The applicant should be given as much time as necessary to present his or her case. However, in preparing for the hearing, the Board can request a 'clear, concise presentation of materials' and the applicant will have the chance to answer questions from the Board and from the audience.
- Meetings can be tape recorded, at the option of the Board.
- According to Fannesbeck, the Board of Adjustment does have the power to subpoena information, since an appeal to the Board is the last step before a court case. Conversely, the Board is conducting an open meeting and has requirements on itself to make information available to the public. To what extent, and in what logistical manner this can be accomplished needs to be discussed further. For example, simple notification of a hearing is straightforward; but how much accompanying material can be readily available to the interested public?
- The Board will continue fine-tuning 1) Preparation for the Meeting (notice to the public; associated documentation available to public; request for an organized presentation by the applicant, and 2) In-Meeting Procedures ('staff' input'; format of question/answer session; format of public discussion).

At 10:45 a.m., Larry made a motion to adjourn, seconded by Don. All approved, and the meeting was adjourned.