

Meeting Minutes

Boulder Town Appeals Authority

February 1, 2006, 7:00 p.m.

Board members and alternates present: Loch Wade, Larry Ripplinger, Jeff Sanders, Don Montoya (alternate for Bob Brems), Cookie Schaus, and Peg Smith, secretary. Mark Nelson was absent.

Public attending: Zoning Administrator, Donna Jean Wilson; Planning Coordinator, Curtis Oberhansly; and Sergio Femenias.

Loch brought the meeting to order at 7:20 p.m. Loch read the 1/18/06 minutes, although he requested deferring the vote on approval until a quorum of those present at that meeting were attending. Corrections and additions were noted. Don moved to defer approving the minutes until the next meeting, Jeff seconded the motion, and all approved.

The only other agenda item was to finalize revisions to the appeal and variance applications and instructions. Loch added his version to the revised applications under consideration.

Discussion on Revisions to Appeals and Variance Applications

Don passed along Sydney Fannesbeck's comment that our application fee was too low to cover costs. Donna Jean mentioned that the town only needs to send the additional forms to the applicant; the applicant is responsible for sending adequate numbers of copies. The board acknowledged that complicated cases could easily result in multi-hundred dollar costs, although no one thought it was fair to charge on that basis for a simple variance request to move a garage a few feet. Loch summarized the discussion by suggesting a \$75 application fee, in addition to adding the instruction for applicants to provide 10 copies of all forms and attachments when submitting their application. A recommendation to the town will be forwarded at the same time as the finalized application forms are presented.

Curtis would like to forward the revised applications to the town attorney and to David Church for comment before final approval. The Sanders/Montoya versions include an excerpt from state code defining appeals/variances. Curtis noted that Boulder ordinance 15.03 would need to be changed to meet LUDMA specifications.

Curtis also forwarded another Sydney comment: the Notice of Appeal Authority meeting/hearing needs language regarding date and location of posting.

The discussion continued on the topic of meetings and agenda. Curtis noted the difference again between a public meeting, a work meeting, and a public hearing. He said the Appeal Authority can only take action within a *public meeting*, not at a work meeting, and not at a hearing. The *work meeting* is posted, open to the public, but for the purpose of conducting preliminary work, such as going into the details of plats and attachments. The *public hearing* is posted according to notification requirements and is intended for hearing public comment. A commission can move from a work meeting into a public meeting, then into a hearing, and back to a public meeting, as long as the appropriate motions are made for convening and adjourning the separate segments. Don noted a concern that a single meeting encompassing three distinct purposes could be tricky. He noted that the Appeal Authority is a judicial body, and it might seem strange to conduct business in the middle of

“court.” He also was concerned that the applicants should not be under a time limit at their own hearing.

Back to the application, Don reviewed his rationale for revising the form saying that the current application is too ambiguous and does not give the applicant clear instruction for providing the information that is needed by the board. Jeff also thought the application should provide enough information to make the full case. Curtis said that setting the factual basis at the application stage is the most important thing; the second step is for the applicant to make his or her full case before the board.

Questions Curtis wants to ask about the proposed revisions:

1. Does any information requested or instructions given abridge the rights of the parties?
2. Check the instructions provided on App A and App A1 (Sanders/Montoya).
3. Should the application be in a question format (like Loch’s); should information from the statute be provided directly on the application like the Sanders/Montoya version?

Donna Jean wanted to make sure the application clearly stated what the applicant wanted to accomplish. Curtis reminded the group that most applications would come before the planning commission as a result of preceding decisions by the Planning Commission or issuer of Building Permits, and that much information and context would already be known.

Jeff took the action to revise the Sanders/Montoya applications for appeal and for variance to achieve more of the question format--in effect, a blending of his application with Loch’s.

Loch directed Curtis to review the revisions that Jeff would be sending him and to forward them to Marvin Bagley and David Church for their comments before the board takes further action.

Loch asked that the town council be informed of the delayed decision on the application fee.

Jeff moved to adjourn the meeting, Larry seconded the motion, and Loch adjourned the meeting at 9:00 p.m.

Margaret Smith
Appeals Authority Secretary

Date

Approved: _____ Date: _____