

# Meeting of the Board of Zoning Adjustment

October 4, 2011  
Custer County Courtroom  
Westcliffe, Colorado

**Present:**

Board of Zoning Adjustment: Skip Northcross, Ken Patterson, Dee Hoag & Dave Tonsing  
Associate Members: Dale Mullen, Brad Stam, Ken Lankford & Lockett  
Staff: Jackie Hobby  
Absent: Dorothy Nepa

The meeting was called to order at 1:05 P.M. by SKIP NORTHCROSS, Board of Zoning Adjustment Chairman.

Pledge of allegiance recited:

NORTHCROSS: Explained the purpose of the BZA to the applicant and the audience and then pointed out the members of each board and the associates. He went over the procedure for the meeting.

NORTHCROSS: Welcome everyone. We will need to do some business first. Then your statement on the application will be read. Then you will have an opportunity to add to your statement and we will read any comments that we have received.

MS. HOBBY do you have a Zoning Office report?

HOBBY: I left the Zoning Office report in the office but you are more than welcome to come over and get a copy. I would like to make a comment that the Zoning Office in the last couple of years adjusted the income of what we projected for permit fees. The last year we adjusted it from about \$120,000 to \$80,000. In the last two years with the economy and building going down we are \$20,000 less in income this year from what we had projected we still have three more months to catch up. We are down in permits this month compared to previous years. We are doing more septic permits this year, last year at this time we had 45 and this year we have 65. We are going through our Zoning Regulations at this time. We are going to try to meet in November and they will be night time meetings. We want the Board of Zoning Adjustment to participate. We will not go through the whole document it will only be the land use issues that have changed or any changes that the Boards would like to see in the Zoning Regulations. In the Zoning Resolution the first part of it is describing the zones and what is allowed in the zones, that would stay the same the only change is the old Zoning Resolution had five zones and we only have four zones. What we would like to do in November if possible is set some night time meeting with the time and subject of what will be discussed so that if the public would like to comment on a certain issue they would be informed on the date and time that we will discuss that issue.

NORTHCROSS: Thank you, we will need to seat an associate member, KEN LANKFORD will replace GERRY DEARBORN.

The July 12, 2011 minutes were distributed. Are there any corrections?

HOAG: Made a motion to accept the minutes as distributed.

PATTERSON: Seconded the motion

NORTHCROSS: We have one agenda item for a multi-dwelling variance for BRIAN and CHANDRA BIDDINGER, 1500 County Road 136. Their applicant's statement is: *Our request is to build a single floor home beside our home for Brian's elderly parents in order to better care for them.* The history of this property is that it is in the eighty acre zone. The well is limited to fire protection and ordinary household purposes and not more than three single family dwellings, water of poultry and irrigation of not more than one acre foot. The applicant will install a new septic system on this property. All zoning permits are closed out and the property is in compliance at this time. MS. HOBBY is going to comment on the property at this time.

HOBBY: This is an eighty acre parcel. This is one parcel in the eighty acre zone and you are allowed a well for thirty five acres or more the property has two wells the agricultural and domestic. So the parcel is one eighty acre piece.

NORTHCROSS: MS. HOBBY did you get any letters?

HOBBY: Yes, six adjoining letters were notified and we received three letters in favor from BROWN, BOSSE and LOPRESTI. We received one letter against the proposal from MICHAELSON. So we have six adjoining property owners three were in favor one against and one interested party that did not respond.

NORTHCROSS: Do you have any comment MR. BIDDINGER?

BRIAN BIDDINGER: I do not have any comments to make that I did not put in my application.

NORTHCROSS: Would you like to respond to the letters?

BIDDINGER: I am appreciative of the three in favor; I do understand the no by MICHAELSON to preserve the eighty acre zoning. I am confused about a separate place could be a guest house. When I spoke with someone in zoning she said that I could have a separate house along as it is connected by a breezeway then I would not need to apply for a variance.

NORTHCROSS: The reasons are density. The use is one dwelling per parcel and also the water. The idea was the closer the house was or if you added on to the structure you would not be renting it out. Then we added ninety feet your breezeway needed to be. That was the intent of all of this.

HOBBY: You may have a bunkhouse or guest house on your property if it does not have a kitchen stove in it. When you were in the Zoning Office Elizabeth explained that you could have a bunkhouse or guesthouse if it did not have a kitchen. The structures need be connected if you want separate kitchen facilities.

BIDDINGER: Yes we were told that we could build a second home minus a cook top. We are trying to be forthright as we could and try for a variance. The second place would be right next to the existing dwelling.

STAM: If the house is built as per the application and circumstances change in the further. If the property was sold to someone else is there anything that would prevent the second house being used as a rental property?

NORTHCROSS: We could place a condition on it but we would need to be able to back it up. Any questions on the site tour?

HOBBY: The applicants showed us where the building would be located. One of the questions was from MR. MULLEN asking if the applicant understood that he had other

options beside a variance request and if he was given those options. BRIAN replied that he was informed of the other options.

NORTHCROSS: Any comments from those on the site tour?

TONSING: I forgot how far away from the existing structure to the proposed new structure?

BIDDINGER: It is less than one hundred feet.

PITTMAN: Would the second structure be on the domestic well?

BIDDINGER: Yes

PITTMAN: So we would have two structures on the domestic well and you are allowed three.

MULLEN: Does this establish precedent or how does this fit in?

NORTHCROSS: As far as we do anything it does not set any precedent for further meetings. The reasons for the ninety foot breezeway is to have them attached for the single dwelling.

MULLEN: The reason for my question is that it flies in the face of the Master Plan.

PATTERSON: I make a motion that we deny the multi-dwelling variance.

LANKFORD: Seconded the motion.

NORTHCROSS: Any discussion? JACKIE will you restate the motion.

HOBBY: The motion is that the multi-dwelling variance is denied.

NORTHCROSS: All in favor raise your hands.

Motion passed unanimously

REASONS:

LANKFORD: No, it is not in the Master Plan and there is no hardship or reason to go outside of the Master Plan. They can add a breezeway or add on to the existing structure.

PATTERSON: No, basically the same reasons the protection of the space and the hardship issue.

TONSING: No, we are charged with upholding the Zoning Resolution and I could not prove an exceptional or extraordinary hardship in this case and I believe there are other ways to solve this problem and meet the requirements of the Zoning Resolution.

HOAG: No, the same reasons that were stated. It goes against the Zoning Resolution and I could not see any reasons to go outside our Zoning Resolution or the Master Plan.

NORTHCROSS: No, I would agree with all that was stated. It goes against the Zoning Resolution and Master Plan as far as density that we are trying to protect. There are alternatives with a breezeway.

NORTHCROSS: Your multi-dwelling variances have been denied.

TONSING: Made a motion to adjourn.

HOAG: Seconded the motion.

Meeting adjourned at 1:39 P.M.