

Joint Meeting of the Planning Commission, Board of County Commissioner and Board of Zoning Adjustment

November 6, 2013
Custer County Courthouse
Westcliffe, Colorado

Present:

Board of County Commissioners: Lynn Attebery Chairman, Allen Butler Vice Chairman and Kit Shy Commissioner
Planning Commission: Vic Barnes, Bill Donley, Rod Coker
Board of Zoning Adjustment: Ken Patterson, Jean Canterbury and Ken Lankford
Associate Members: Dale Mullen
County Attorney Absent: John Naylor
Staff: Jackie Hobby and Chuck Ippolito
Absent: Dorothy Nepa., Lockett Pitman, Pat Bailey, Cindy Howard, Patrick Lynch and Brad Stam

The meeting was called to order at 1:00 P.M. by KEN PATTERSON Custer County Board of Zoning Chairman.

Pledge;

DALE MULLEN: replaced a seated Board Member.

PATTERSON: We need one Planning Commission Member to complete the Board. Planning Commission member ROD COKER replaced a seated Board Member on the Board of Zoning Adjustment.

PATTERSON: Are there any changes or additions to the minutes. Hearing none the minutes are approved. JACKIE will give us a Zoning report.

HOBBY: Can you move on? I left it in the office.

PATTERSON: We have one agenda item for BRIAN and CHANDRA BIDDINGER. They are applying for an extension of the building permit that expired September 12, 2013. Would the BIDDINGERS make a statement on this application?

BRIAN BIDDINGER: We moved our parents out from Kansas City. We had a house built next to ours and part of the regulation was to have a breezeway to connect both houses, so that it is seen as one unit. We have the house completely done and all the inspections are done. We are asking for a one year continuance for the breezeway between the two homes. We had some unexpected medical emergencies this last year and we had hoped to do it with cash, but we are actually going to have to refinance to complete the project. We have all the wood except the trusses.

PATTERSON: Does the Board have any questions?

MULLEN: Exactly what is the issue here? Is it the breezeway issue? I remember when it was approved back in 2011, and the clock started. Two years have gone by since September and at that point and time they were not authorized to build. Is that a correct statement?

PATTERSON: Yes

MULLEN: So the issue right now is one year extension with or without fee for this extension.

HOBBY: Correct.

MULLEN: With or without a fee, that is our option.

HOBBY: Yes, you allow them an extension for one year with or without a fee.

Mullen: What would the fee be?

HOBBY: Twenty five dollars.

MULLEN: Is there precedent?

HOBBY: No, I don't recall having a breezeway since I have been here. As it stands the BIDDINGER'S are out of compliance with the Zoning Regulations. You are not allowed two homes on one parcel. They need to get an extension to be in compliance with the Zoning Regulations.

COKER: When was the home finished?

BIDDINGER: The final inspection was done in May of 2012.

HOBBY: We don't have any of the finals on the electrical and plumbing.

BIDDINGER: I have them with me for the Zoning Office.

MULLEN: Is the home occupied?

BIDDINGER: Yes

HOBBY: Also I would like to add that the BIDDINGER'S called the office prior to the Zoning permit expiring and asked for an extension.

COKER: If granted an extension, can you give the Board a firm date on the completion of this breezeway?

BIDDINGER: We are asking for a year because of the refinancing process and the weather. We were originally going to do this with cash. We are going to need to refinance to get this done. We were under the impression that we could file for an extension for only the breezeway. We did not realize this is a violation to occupy the house without the breezeway.

MULLEN: Is there a fine for being in violation?

HOBBY: No

PATTERSON: Are there any questions from the audience?

No response

MULLEN: I move that we authorize the variance for one year along with payment of the twenty five dollar fee.

LANFORD: Seconded the motion

PATTERSON: All in favor?

Five in favor and none opposed.

REASONS:

LANKFORD: I voted yes in favor of the motion. I do not see any reason why we can't. They did everything that they were supposed to and I do not see any harm in giving them an extension for one year.

CANTERBURY: I voted yes in favor of the motion for all the same reasons as KEN.

MULLEN: I voted yes in favor of the motion. I believe that it does no damage and is a common sense solution.

COKER: I voted yes in favor of the motion. It's a way to help out the homeowners; it helps to get the violation taken care of.

PATTERSON: I voted yes in favor and agree with everyone else.

MULLEN: I make a motion to adjourn

LANKFORD: Seconded the motion

The motion passed unanimously

Meeting adjourned at 1:20 P.M.

BARNES: Moved to the Chairpersons seat to continue the meeting. We will call the Planning Commission meeting to order at 1:25 P.M.

ATTEBERY: I will make a motion that we reconvene the joint session of the Planning Commission and Board of County Commissioner meeting.

Motion passed unanimously.

Pledge

BARNES: We need to approve the June 4, 2013 minutes.

Any comments

No response

BARNES: Minutes are approved as read. We are short on seated members DALE MULLEN replaced a seated Board Member.

BARNES: JACKIE would you give us a Zoning report please.

HOBBY: In the month of October we did eight septic inspections, seven compliance and six special conferences. In 2012 year to date we issued sixty six septic permits compared to this year of fifty one septic inspections. Zoning permits at this time last year were one hundred and sixty three compared one hundred and sixty this year.

BARNES: Thank you JACKIE. We have one agenda item, it's a request for a Special Use Permit. We only have five members present and we normally have seven members. It is your decision if you would like to continue or wait for a full complement and delay it one month?

ELIN GANSCHOW: I will continue.

BARNES: As you all know this is a presentation for a Special use Permit and this is a two part process. We will hear about what is involved and then next month's meeting will be the hearing. We will have another opportunity to review the material and if there is any new information and then we will take action. The Planning Commission will make a recommendation the County Commissioners. This is a Special Use Permit and I will read the applicants statement.

Music Meadows Ranch requests a special use permit for guest ranch operations including:

Horseback Riding-Day rides

Overnight and Multi-Night Stays at Existing Vacant Ranch House-Three bedroom/2 bath house sleeps up to nine. "In House" meals provided

Horse Related Retreats/Clinics- With " In House" meals provided.

Agri-Tourism Group Visits & Cook Out-Organized through coordination with Ralph McPherson of El Pueblo History Museum.

BARNES: ELIN would you please step up to the podium and tell us what you would like to do.

GANSCHOW: That pretty well summarizes what I would like to do. I can't think of much that I would add to that. We have had horseback riders coming to our ranch since 1995. That was only day rides. The only thing new we're doing now is the overnight stays at the ranch house and the potential of in house meals being prepared for people as an option. I have applied for a food service license. We may do the Agri- Tourism which is something new with RALPH MCPHERSON and Mrs. URBAN involved in it as well. I don't know for sure the size of the

groups, probably twenty or less. They would be coming to the ranch to see what we do and a lunch that would take place in the barn. The house has been there since 1968 when my parents bought the ranch. We did not add on to it and it has a house well. The report from the Water Commissioner states that it is not a permitted well and I actually believe it is. I will go dig up my paper work. The use of the water for the commercial operation is less than if it was occupied by a family twelve months out of a year. It will be used only in the summer months. We always provide a porta-potty down by the barn for our guests. If we have the Agri-tour events, a porta-potty would also be provided. I brought some published handouts for everyone so that you can see what we offer. I also have filed the lodging tax for the last two years.

BARNES: I will mention a couple of things; I know everyone has received a packet. We received two letters and I believe everyone has copies of those. One is from Division II Water Resources and also one from BEN LENTH representing San Isabel Land Protection Trust.

BARNES: Were letters set to the adjoining land owners?

HOBBY: Yes I sent out ten letters and did not receive any replies.

BARNES: Planning Commission, any questions?

COKER: When you talk about agriculture uses, obviously that means ranching activities. Horseback riding is an agricultural use. How far down that trail do you go that you need a Special Use Permit? If you have people stay at the ranch house, could that be when you need a Special Use Permit? Agra-tourism isn't that agricultural use or is it? I am trying to get a handle on why they have to get a Special use Permit? At what point did that trigger needing a Special Use Permit?

BARNES: The reason that the Office requested this is basically when you get into the Bed and Breakfast type of activity. That is the main trigger point when you are getting away from the agriculture.

COKER: From the information that we received it looks like Division II Water is an area that needs to be addressed. Part of her operation may not need to be addressed.

BARNES: Reading through this letter from Division II, they indicated that there were two options. They are a commercial exempt and commercial non-exempt. Commercial non-exempt is a lengthy process, you have to go to water court. With a commercial exempt, based on the information that was sent in, the cap may need to be adjusted. I would imagine that you would want to go with a commercial exempt.

COKER: The problem we have is with a commercially exempt she would not be able to water horses.

GANSCHOW: Neither one of these are acceptable.

COKER: You would need to give up some of your water rights.

GANSCHOW: That is what I am saying there is a problem here.

BARNES: Do you water your livestock out of your well?

GANSCHOW: It depends whether we're in a drought or not.

BARNES: This is an area that we need to take a look at.

GANSCHOW: I believe that their estimates are high. Spending money to go to water court is not going to work, having it limit us on using the water outside.

BARNES: That is not our jurisdiction.

HOOD: Do you have more than one well?

GANSCHOW: We have one well at the house. The other well is a livestock well that is quite a distance away.

DONLEY: Do you have any live water in the corral.

GANSCHOW: Yes, normally we use that.

BARNES: Any other questions?

MULLEN: Yes, a couple, I am looking at the flyer and to some degree you are already in a commercial operation and have been for some time.

GANSCHOW: Yes, this is the first time we have offered the house. We were operating before and we were in contact with the Zoning Office four or five years ago and had the green light to operate under the agriculture status at that time.

MULLEN: As I read these four or five items here, I would like to say I think it's great you are opening up a business to bring outsiders in. The potential is to have quite a commercial operation, obviously you are asking for a Special Use Permit, which could be open ended. Is that correct?

BARNES: No, it would not have an end date. It would be limited to the items that are listed in the Special Use Permit.

MULLEN: Once it becomes a commercial operation there may be a number of items listed that you may or may not like. I am not sure if we don't have the cart before the horse. As I read this right here we are not in the water business. This piece of paper is part of the Special Use process and until this is resolved this cannot exist.

BARNES: Have you had any communication with Water Resources?

GANSCHOW: Not yet.

BARNES: That is something that will need clarification. Is there anything else that you think you would be doing? During the preconference you indicated some retail activity.

GANSCHOW: Yes, that is correct. We do plan have some items for sale for people that stay at the ranch. Designate a little cabinet with some gift items that they could buy.

BARNES: It would be worth it to take some time and look ahead, as you are growing your business, for anything else that you have that may need to be on the Special Use permit.

HOOD: You need to take a look at what Painted View Ranch has on their Special Use Permit.

GANSCHOW: One thing that will limit us on getting too carried away is that we will not be adding infrastructure, I can guarantee that. My family has a Conservation Easement that restricts and you cannot go build a strip of cabins. It's not going to happen.

BARNES: Keith makes a good point. We did the same thing on Painted View.

MULLEN: One more question so that you can clarify this. You mentioned that you intend to offer in house meal service. Will you cater this for your guests or they will prepare these themselves?

GANSCHOW: Both are offered.

MULLEN: You will need a food service license. You mentioned that you are using someone else's permit?

GANSCHOW: No, we applied for our own. It's that you need to have a commissary to apply for a permit. The place that qualifies needs to be a certified kitchen.

MULLEN: Your permit actually has your address on it?

GANSCHOW: Yes, I am actually waiting to get the permit. I have paid the fee and as of now they have not corresponded with me. I will need to follow up with them. I applied for it in August.

BARNES: Any other questions?

No comment

BARNES: Mr. Chairman do the Commissioners have any questions?

ATTEBERY: Thank you, I have to comment about something that you said. When we received the letter back from Division II Water Resources they gave you two options. You said that neither one of them were acceptable. Where does that leave us?

GANSCHOW: I will need to call them.

ATTEBERY: They spelled out here what the two options were.

GANSCHOW: I know, I just don't know what the costs are, to go to water court and doing that route. I know where we stand in just doing a ranch. If it's too expensive I will not have a business. I don't want to say it's a commercial exempt well and we are still pumping water to the corral or watering the grass. I also believe that the well is registered.

DONLEY: Don't worry about it; a lot of wells in Custer County are not registered.

ATTEBERY: Allen any comments?

BUTLER: BILL brought up a good point there are a lot of wells in Custer County that are not registered, but they did not ask for an exemption. So you are on the radar. You will have to have a commercial kitchen whether it's catered or not. You will need a commercial refrigerator and sinks, all that stuff.

GANSCHOW: A Bed and Breakfast does not have to do all of that. There are other rules to that.

BUTLER: That's good because that is a lot of money.

SHY: I am confused about the water, not on your side but this letter that I have gotten. I look at this 108,000 gallons a year and that is the way it's calculated a year, which is 297 gallons a day. A three bedroom house is calculated by the State Engineer at 375 gallons. 125 gallons per bedroom per day is how they calculate water for a single family residence. I am a little confused on this. If you are going to use it in a commercial way they are calculating every single day. You may only be open ninety days a year. You could take that 108,000 and put it over ninety days instead of 365 days. That is a lot less use if you went that direction. I believe that is a reasonable thing to do. The other thing that I wonder about is a pickup tank that has 300 gallons in it. That is the use allowed under an exempt well permit. There is some flexibility with the water to have that on standby. Hauling that from elsewhere and using the other and still not trying to exceed your 108,000. I don't know how they came up with this number unless they looked at this three bedroom home being occupied every night.

GANSCHOW: We did in our application; the season of our operation of 150 days.

HOBBY: Division II now has an application that needs to be submitted to them regarding proposed land use actions. We put on the application number of employees 3 and then that is times 3. We also stated 175 days with 9 customers a day. Because of the way the application was filled out, that is how they based the water usage.

GANSCHOW: What we need to do is give them an average, because it is about four or five people.

HOBBY: I will give you a copy of this paper work and you can take it with you when you go to Division II.

BARNES: If you met the requirements of commercial exempt and do not water the livestock?

GANSCHOW: Yes, most the time we have stream water.

BARNES: And like KIT mentioned you could have a pickup with a tank and water.

BARNES: Any other comments?

SHY: Remember that your bottom number is 108,000 whether that works out to be 300 a day every day or 600 a day for half the year. That's the wiggle room in that type of well permit. You might want to take a trip down there and speak with them.

BARNES: Any questions from the audience.

No comment

BARNES: Any questions from the Planning Commission?

NO comment

BARNES: Elin you have some work to do on this permit. We will meet for the second part of this application on December 10, 2013. JACKIE do you have any further business?

ATTEBERY: We will adjourn the County Commissioners session at 2:02 P.M.

BARNES: Do I have a motion to adjourn?

DONLEY: I make a motion to adjourn

COKER: Seconded the motion

Meeting adjourned at 2:03 P.M.