

Meeting of the Board of Zoning Adjustment

February 5, 2013
Custer County Courthouse
Westcliffe, Colorado

Present:

Board of Zoning Adjustment: Ken Patterson, Ken Lankford, Lockett Pitman,
Jean Canterbury and Dorothy Nepa
Associate Member: Dale Mullen
Staff: Jackie Hobby, Chuck Ippolito
Absent: Brad Stam

The meeting was called to order at 1:00 P.M. by JACKIE HOBBY, Custer County Planning and Zoning Office Director/ Code Enforcement.

Pledge of allegiance recited;

HOBBY: Introduced the new seated member, JEAN CANTERBURY. As this is the first meeting of the year we must elect a Chairperson and Vice-Chairperson and also do other housekeeping duties. Each board member was given a nomination slip at the beginning of the meeting to mark their choice for Chairperson and Vice Chairperson. HOBBY asked IPPOLITO to verify that there are five (5) slips of paper.

IPPOLITO: Confirmed

HOBBY: Announced and IPPOLITO verified the nomination for Board of Zoning Adjustment Chairperson as KEN PATTERSON and Vice- Chairperson KEN LANKFORD.

HOBBY: asked if they would accept the positions, both agreed. PATTERSON and LANKFORD were both elected.

PATTERSON: Moved to the chairpersons' seat to continue the meeting. We need to elect a secretary, do I have a nomination for JACKIE.

PITMAN: Yes, I nominate JACKIE

NEPA: Seconded the nomination.

PATTERSON: All in favor? All opposed?

Motion passed unanimously.

PATTERSON: We need to have a posting and advertising for public notices. In the past it has been the Wet Mountain Tribune and the Custer County Courthouse bulletin board. Do I have a motion?

CANTERBURY: Yes, I make a motion that Custer County Courthouse bulletin board and the Wet Mountain Tribune be the posting places.

LANKFORD: Seconded the motion.

PATTERSON: All in favor? All opposed?

Motion passed unanimously.

PATTERSON: JACKIE will give us a zoning report.

HOBBY: Everyone is welcome to come to the Planning Commissions workshops concerning the draft Zoning Resolution. You may pick up copies in the Zoning office. They will be from 1:00 P.M. to 4:00 P.M. on the 6th and 13th. The first meeting will cover the comments that we have received from the Planning Commission members and then we will take public comments. We plan on having a couple of meetings at night.

PATTERSON: We need to approve or amend the minutes from November 13, 2012. Is there any additions or corrections?

No comment

PATTERSON: The minutes are approved.

PATTERSON: The agenda item is a setback variance for DANNY and ALISA WARREN. The schedule number is 100-92-450 at 25 Democrat Circle in Westcliffe. The applicant's statement reads: "Garden Shed. Stupidity on my part not knowing the code plan to build home in the future on the same lot." Are there any comments from the site tour?

HOBBY: No, I want to refresh everyone's memory. Mr. WARREN was sent a letter from the Zoning Office telling him that he did not get any Zoning permits for these two structures. MR. WARREN paid the fee at three times the amount and had sent in a plot plan and floor plan. When MR. WARREN sent in the fee and the paper work it was noticed that his structures were not fifty feet from the property lines. Before we could process the Zoning permits MR, WARREN had to apply and get approval for two setback variances.

PITMAN: Did he pay a fine?

HOBBY: Yes, he paid a fine of three times the original amount.

MULLEN: He paid a fine for not getting a permit; he did not pay a fine for the issue before us.

HOBBY: Yes, that is correct. MR. WARREN is asking for a 5' (five foot) variance on his existing 18' x 18' garden shed. The adjoining land owners were contacted and no one had a problem.

MULLEN: Question did they respond or they did not have a problem because they didn't respond?

HOBBY: Yes, they did not respond.

MULLEN: So, you are assuming they did not have a problem?

HOBBY: Yes

PATTERSON: Is the applicant present?

HOBBY: Yes

PATTERSON: Would you please step up to the podium and tell us who you are.

WARREN: Yes, I am DAN WARREN and I own the property at 25 Democrat Circle and I built the garden shed and carport. I was unaware of the Zoning and as I looked through the Zoning Regulations on 4.4 I do have a topography issue on my property.

PATTERSON: Any questions?

MULLEN: I have a question for JACKIE; in the Zoning Regulations in that section it states that a variance shall not be awarded to the applicant if the applicant created the problem.

HOBBY: Yes, that is correct.

MULLEN: How does that not apply to this case?

HOBBY: I don't believe that MR. WARREN knew he was in violation of a setback.

MULLEN: Do you believe there are mitigating circumstances that should over ride this case?

HOBBY: Yes, I do.

PATTERSON: One other thing an undersized lot is a hardship that is not created by the present owner.

HOBBY: Correct but this is not an undersized lot.

MULLEN: The alternative is the applicant would be required to tear down the buildings to become compliant.

PATTERSON: Yes

NEPA: Could he explain what that excavation is?

HOBBY: No, we are only dealing with the two variances.

NEPA: Without knowing that there is a flatter place.

WARREN: That is for parking and a future home.

NEPA: The rest of the site with exception to where these two building are really on a grade also a large ditch.

MULLEN: Another question for JACKIE based upon what I have seen so far, the applicant plans to get a building permit and you have failed to abide by the Zoning Regulations. Past predicts the future is there any other issues that he is going to have to come obtain permission from the county before he starts construction. Would you educate me on what those are?

HOBBY: Prior to doing any construction you need to obtain a Zoning permit, you cannot do any excavation. You can only do a structure that is 25' (twenty five) feet tall from the natural grade so you will have to have a benchmark if you use this excavated area for anything other than a parking area.

WARREN: Yes, I don't have a problem with that. The confusion was that you did not have any structural inspections so I did not think you had any code.

PATTERSON: Do we have a motion?

NEPA: I make a motion that the 18x18 garden shed be approved for a 5' (five foot) setback.

LANKFORD: Seconded the motion.

PATTERSON: All in favor? All opposed?

Motion passed unanimously

REASONS:

LANKFORD: We are only talking about five feet and the topography.

NEPA: No neighbors have a problem and the topography.

PITMAN: I agree with no comments from the neighbors and also from going on the site tour the lot has a topography issue.

CANTERBURY: Yes, the same reasons the topographical problems and none of neighbors had problems.

PATTERSON: Yes, for all the same reasons, neighbors had no problem and the topography of the property.

HOBBY: The variance was approved for a 5' (five) foot variance for a garden shed.

PATTERSON: The applicant is requesting a 19' (nineteen) foot variance for a carport. Are there any questions?

PITMAN: The house that is behind the shed is that their property?

WARREN: Different land owner.

PITMAN: Is there any reason why you can't move the carport?

WARREN: Yes, I could move it. If I did it would make the incline to get into it real steep.

PATTERSON: Any more questions? Do we have a motion?

LANKFORD: I make a motion that we approve the variance of 19' (nineteen) feet for the carport on the northeast side.

CANTERBURY: Seconded the motion

PATTERSON: Any discussion?

NEPA: If he leaves it open that is permitted at a different rate. If he proposes to come back what happens.

HOBBY: If MR. WARREN encloses the carport then he would need to pay the difference in the fee for an enclosed structure. MR. WARREN was granted a variance for the structure whether it's enclosed or open.

PATTERSON: Any other discussion?

No comment

PATTERSON: All in favor? All opposed?

Motion passed unanimously

Reasons

PATTERSON: Same reasons it's a small lot.

LANKFORD: Same reasons that were given for the garden shed, topography and no comments from the neighbors.

NEPA: Still have a topography issue and if it's enclosed or open it doesn't seem to bother the neighbors.

PITMAN: Same reasons as the garden shed.

CANTERBURY: Yes, I agree with all the same reasons.

Motion was approved for a nineteen foot variance on the northeast for a carport.

PITMAN: I make a motion that we adjourn

LANKFORD: Seconded the motion.

Meeting adjourned at 1:48 P.M.