

CASCADE COUNTY
ZONING BOARD OF ADJUSTMENT

12/15/2022

09:00 AM

Hybrid Online/Zoom Online Video Meeting

Board Members: Dexter Busby, David Deffinbaugh, Kathryn Hanning, John Harding, and Ken Thornton.

NOTICE: PURSUANT TO MCA 2-3-212(1), THE OFFICIAL RECORD OF THE MINUTES OF THE MEETING IS IN AUDIO FORM, LOCATED AT CASCADECOUNTYMT.GOV AND THE PLANNING OFFICE. THIS IS A WRITTEN RECORD OF THIS MEETING TO REFLECT ALL THE PROCEEDINGS OF THE BOARD. MCA 7-4-2611 (2)(B). TIMESTAMPS ARE INDICATED IN RED, WITHIN EACH AGENDA ITEM BELOW, AND WILL DIRECT YOU TO THE PRECISE LOCATION SHOULD YOU WISH TO REVIEW THE AUDIO SEGMENT.

THESE MINUTES ARE PARAPHRASED AND REFLECT THE PROCEEDINGS OF THE CASCADE COUNTY ZONING BOARD OF ADJUSTMENTS AND ARE CONSIDERED A DRAFT UNTIL FORMALLY APPROVED BY THE ZONING BOARD OF ADJUSTMENTS.

STAFF ATTENDEES: Kevin Angland, Carey Ann Haight, Raina Leavens (Online), Phoebe Marcinek (Online), Gary Poore, Alisha Osborne, Charity Yonker.

PUBLIC ATTENDEES: Beau Bilbrey, Raeann Bilbrey, Lowell Harris, Robby Osowski (Online).

1. CALL TO ORDER: John Harding called the meeting to order at 09:00 AM **[00:01:58]**.

2. ROLL CALL:

BOARD MEMBERS PRESENT: Dexter Busby, David Deffinbaugh, Kathryn Hanning, and John Harding.

BOARD MEMBERS ABSENT: Ken Thornton.

3. APPROVAL OF THE MINUTES :

A. Draft Meeting Minutes for Nov 17, 2022 **[00:02:47]**

1. Board Discussion & Decision

John Harding: Asks if there are any changes. Hearing none, he asks for a motion.

David Deffinbaugh: Motions to approve.

Dexter Busby: Seconds the motion.

John Harding: Calls for the vote.

All in Favor, motion carries 4 – 0.

4. OLD BUSINESS: None.

5. NEW BUSINESS:

A. Special Use Permit Application # 2022-018, Submitted by Dwellsmith Holdings, LLC, for A Large Contractor Yard **[00:03:13]**

1. Kevin Angland presents the Staff Report.

Motions Presented for the Board’s Consideration:

A: Move that Special Use Permits #018-2022 to allow a large contractor yard on Parcel #2645660, be denied due to (Board must make findings delineating the legal reason for denial);

Or

B: Move the Board to adopt the Staff Report in its entirety with Findings of Fact and Conclusions and approve Special Use Permits #018-2022 to allow a large contractor yard, on Parcel #2645660, subject to the following conditions:

1. The Applicant obtains any other required county, state, or federal permits and approvals, and comply with the laws, rules, regulations, and/or ordinances associated with any other permits and approvals.
2. Applicant obtains addressing for E911 purposes.
3. Applicant obtains an approved Subsurface Wastewater Treatment System Permit from the City-County Health Department prior to installation of any wastewater treatment system.
4. Landscaping is required along the East and West property lines, per CCZR § 8.18
5. The height of all structures may not exceed one-hundred and fifty (150) feet in height.
6. Hours of operation must be limited to 7 a.m. to 5 p.m.

2. Board Discussion [00:08:22]

John Harding: Asks if there are questions for the Staff from the Board.

Dexter Busby: Asks which lot is being referenced.

Kevin Angland: Says it is the one that is outlined in blue, right up against Stockett Road.

Dexter Busby: Says alright.

John Harding: Asks Mr. Angland if it is that one [he holds up a map to indicate the one he is referencing].

Kevin Angland: Says yes.

Dexter Busby: Says so the access to that is from Stockett Road.

Kevin Angland: Says it is not, the access will be from Silver Mine Lane, for customers, and I cannot remember the name of the other road.

Charity Yonker: Says it is Sapphire.

Kevin Angland: Says yes, that is what it is, Sapphire Lane which comes by US Highway 89 and comes down on the other side.

Dexter Busby: Says so there are two roads.

Kevin Angland: Says yes, both within the subdivision.

John Harding: Says he would speculate that the highway-if that is a State highway-will not be allowed additional access [to the parcel] without some significant planning.

Dexter Busby: Says they *[inaudible]*.

Kevin Angland: Says the application sent in had nothing about trying to get an approach off of there, so they just knew they would use the approach from inside the subdivision.

John Harding: Says okay and asks if there are any other questions.

Dexter Busby: Asks what the difference is between a large contractor yard and a small one.

Charity Yonker: Says large has to be over one (1) acre.

John Harding: Says it has a lot to do with how much equipment you can park outside.

Kathryn Hanning: Says there is no limitation to a large lot as to number of trucks, and says she is looking at it as we speak. It is page one twenty-one (121).

Charity Yonker: Says a small contractor yard has to be at least one (1) acre, a large has no minimum lot size, so it could be smaller.

Kevin Angland: Says no limitations on the number of trucks, trailers, or heavy equipment. They did indicate there was going to be some exterior storage materials.

Dexter Busby: Says he is not disputing they were going to have a large one, he was just curious as to how the differences were defined.

Kevin Angland: Says the size of building also comes into play. A small contractor yard is capped at three thousand (3000) square feet, and there is no limitation for the large.

Kathryn Hanning: Says you can only have two pieces of heavy equipment in a small lot.

John Harding: Says it is very similar to what the city does for contractor lots, as far as outdoor storage, vehicle equipment and that sort of thing. He asks if there are any other questions. Hearing none, we will open the public hearing.

3. Public Hearing opens at 09:10 AM, [00:11:34].

John Harding: Asks if the Applicant would like to speak.

Robby Osowski: Says no, he is just hear as a representative of Woith Engineering and is here for comments or questions.

John Harding: Says he heard hardly any of that.

Kevin Angland: Says it is Robby Osowski with Woith Engineering, he is the representative for the property owner.

John Harding: Says oh, okay, no comments from the Applicant, then.

Robby Osowski: Affirms.

John Harding: Asks if there are any proponents.

Public Proponents: None.

Public Opponents: None.

General Public Comments Regarding Special Use Permit Application # 2022-018, Submitted by Dwellsmith Holdings, LLC, for A Large Contractor Yard : None.

Public Hearing closes at 09:11 AM.

4. Board Discussion & Action: [00:12:54]

John Harding: Asks if there are worries about spot zoning in something like this.

Kevin Angland: Says no, the zoning district they are in was created through a PUD when Foothills first went through, so that is a true Commercial zoned district.

John Harding: Says in that area which is where the storage units and that stuff is located in that area. I did not see anything in that area that indicated it, and it backs up against residential.

Kevin Angland: Says the satellite imagery is a little behind which is why some of those do not display it, but it is just south of that storage area that was approved last year.

John Harding: Says he was curious about that, as he is familiar with the area.

Dexter Busby: Says this is not a change in zoning it is just a [Special] Use Permit.

John Harding: Says right.

Charity Yonker: Says this is part of the Commercial subdivision.

John Harding: Asks if this subdivision ends one lot past that commercial subdivision and is the commercial subdivision the dark blue on the top of this page.

Kevin Angland: Affirms.

John Harding: Asks if that ends right at the end of the dark blue.

Kevin Angland: Says it is two more parcels south of there.

John Harding: Says okay.

Dexter Busby: Asks if those are occupied.

Kevin Angland: Says he believes those are still vacant, there might be one more vacant lot to the east or to the northwest.

Kathryn Hanning: Moves to adopt the Staff Report.

David Deffinbaugh: Seconds the motion.

John Harding: Says we have a motion and a second and asks if there is any further discussion. Hearing none, he calls for the vote.

All in Favor, motion carries 4– 0.

B. Variance Application #2022-005, Submitted by All State Sign Group, Inc., to Waive the Requirement of Cascade County Zoning Regulations Section 8.1.1 that Prohibits Illumination of Signs in the Urban Residential District. [00:15:45]

1. Kevin Angland presents the Staff Report.

Motions Presented for the Board’s Consideration:

A: I Move that the Board after consideration of the Staff Report, public testimony, and any additional information presented adopt the Staff Report in its entirety, and deny the Applicant’s requested Variance to allow an illuminated sign in the Urban Residential District, otherwise prohibited by Cascade County Zoning Regulations Section 8.1.1, for failure to demonstrate all three (3) variance criteria have been satisfied.

Or

B: I move that the Board after consideration of the Staff Report, public testimony, and any additional information presented adopt the Staff Report and make additional finding that all three variance criteria are satisfied, and approve the Applicant’s requested Variance to allow an illuminated sign in the Urban Residential District, otherwise prohibited by Cascade County Zoning Regulations Section 8.1.1, subject to the following conditions:

1. The sign must not be illuminated before dawn or after dusk (times will change based on the time of year).
2. Proper shielding must be installed and used to direct light downward at all times.
3. Warmer color lights (i.e., lights containing more red, orange, and yellow tones) shall be used to limit the shorter light wavelengths, that cause more intensive light toward motorists and adjacent residents.
4. The illumination cannot exceed 60 milliamperes on all exposed tubing or their equivalent, and all animated or flashing portions shall be limited to transformers not exceeding 30 milliamperes on all exposed tubing, or their equivalent.

2. Board Discussion [00:28:43]

John Harding: Says he assumes there will be comments from Applicants and maybe proponents and opponents, perhaps we can limit questions for Staff right now. If there is something that is important you can ask now or wait until the public hearing. He asks how long the sign has been there.

Kevin Angland: Says that is a good question.

Carey Ann Haight: Says it was August.

Kevin Angland: Says we were notified in August.

Charity Yonker: Says yes, on August tenth (10).

John Harding: Says if you do not know, the Applicant can address that when we get to that point. Let us start the public hearing.

3. Public Hearing opens at 09:28 AM, [00:29:34].

Raeann Bilbrey of 2218 1st Ave N, Great Falls: Says she is with All State Sign Group, Inc and the message center was installed in late July of this year, and to address a comment in the report, it was no intention of asking for forgiveness after a mistake, it was a communication breakdown between the owner and the school board and All State Sign Group. Each of us were under the impression that the other had applied for the permit and it ended up being overlooked on both sides. It was not the intention to hide it or try to get away with something. We were also led to believe that it was okayed, that it was not something she had checked into. She was given some misinformation in the beginning. That was why this happened.

She says she understands the lighting situation from the residential aspect, but as you can see in the video, it really is not that bright. We put up many message centers throughout the city and the county and we have never had a complaint. She explains that the newer message center can be dimmed, shut off, on a timer or however it needs to be operated. The issue the complainant had was that when the sign was installed, the school was given instructions and a tutorial video on how to operate it. The webinar was not made use of, however, and the message center defaulted to the brightest setting which is not what a regular message center would be set on. The person responsible for operating the sign had not taken the webinar at the time and therefore had not taken the time to remove the color and brightness. The highest setting is only for marketing the signs and are not meant for this particular zone.

Kathryn Hanning: Asks if they have taken the webinar yet.

Raeann Bilbrey: Says she believes so.

Kathryn Hanning: Says gee, I hope so.

Raeann Bilbrey: Says she believes there is someone from the school that would like to speak as well.

John Harding: Says okay, thank you. Comments by proponents.

Public Proponents:

Lowell Harris of PO Box 6864, Great Falls: Says he represents Five Falls Christian School, and he apologizes for installing a sign without a permit, that was unintended. He clarifies the timeline for the sign and says that August fifth (5) the sign was turned on, and they received a phone call from Cascade County on August 11, 2022 about the complaint and that day we changed the setting so it was off it ran from seven (7) AM to seven (7) PM, then later on August 23 we shut the sign completely off because at that point we realized we did not have the permit. We are happy to shut the sign off at night, no issues we are simply requesting to have a sign that most of the other schools in town have, for information. That is all.

John Harding: Says thank you. He calls for other proponents.

Public Opponents: None.

General Public Comments Regarding Variance Application #2022-005, Submitted by All State Sign Group, Inc., to Waive the Requirement of Cascade County Zoning Regulations Section 8.1.1 that Prohibits Illumination of Signs in the Urban Residential District : None.
Public Hearing closes at 09:33 AM.

4. Board Discussion & Action: [00:34:28]

John Harding: Asks Mr. Angland if the other side of that lot commences Commercial District zoning.

Kevin Angland: Asks if Mr. Harding means the north or the south.

John Harding: Says to the south.

Kevin Angland: Says that is City of Great Falls.

John Harding: Says it is in the city.

Kevin Angland: Affirms.

John Harding: Asks what the zoning in the city is for that area.

Kevin Angland: Says that is a good question and he did not look that up.

John Harding: Says he believes it is M-1 or something.

Dexter Busby: Says mixed use.

John Harding: Says yeah, that is what it probably is. He says he will make a general observation that he always thought that the land across that side of Flood Road was probably Mixed-Use than Residential. Those buildings have been there for a long time, obviously and always seemed kind of commercial or mixed use. There is even a soccer complex going in and he will assume there is going to be a sign at that soccer complex.

Kathryn Hanning: Says yep and asks if they have one at the complex out by the base.

John Harding: Says he does not know, but he assumes so. There has to be something there, and when you pull up to a school it is common to see a reader board.

Dexter Busby: Says they have to get that portion of their message out some way or another to designate who they are and what they are doing. Now, illuminated or not is another thing.

John Harding: Says you have seen some of those signs going up and down 10th Avenue and some of them can be obnoxious, especially at night. He asks what the difference is between the Applicant's request for a variance and the Location/Conformance Permit and where we are right now.

Kevin Angland: Says if the Applicant had come in preliminarily and submitted an application, the Department would have caught that illuminated signs are not permitted in that zoning district, resulting in the Applicant being able to adjust the type of sign they were going to use, such as a sign where the letters were arranged manually.

John Harding: Says so the illuminated sign would have been through the variance process no matter what. They could have still pursued but it would have been a variance at that point.

Kevin Angland: Says correct.

Charity Yonker: Says a variance or we would have denied the Location Conformance Permit for an illuminated sign and then it would be an appeal process.

Gary Poore: Asks if he can interject.

John Harding: Says yes.

Gary Poore: Says they do have a sign for the school that sits right out front, and in the Notice of Violation there is a photograph. There are actually three (3) signs, one was a mobile sign that was

removed, one was a non-illuminated sign that has been approved for which they had submitted a post-work application for, and now they are trying to get a variance for the second sign.

John Harding: Says the property is a mixed use and not a house, it is not residential. He asks how it ends up in that district and stay in that district and not get re-zoned due to the use.

Kevin Angland: The school itself was built in the 1980's and so is non-conforming as it was prior to countywide zoning. It would have then been compared to the surrounding use in 2005 when the zoning districts were created. Not having been present for that I cannot give you an answer.

Charity Yonker: Says a school is incidental to residential services so it is not unusual for these types of uses to be allowed in residential districts.

Kevin Angland: Says and being a private school the Department of Revenue (DOR) classifies it as a commercial use, so we have included that in there. It is a school; however it is a private school.

Charity Yonker: Reads the definition of the intent of the Urban Residential District aloud to the Board for clarification of the meaning of Residential Services.

Kathryn Hanning: Asks Mr. Harris what the use of the sign entails, and whether it can be used for emergency and safety notification purposes to a better degree than a manual, non-illuminated sign.

Lowell Harris: Says the previous sign was a manual change sign, and the wind was always blowing the letters off the board. It was a never-ending headache.

Kathryn Hanning: Says she can imagine. She asks Ms. Bilbrey if the sign still works if it is not illuminated and if it can be read.

Raeann Bilbrey: Says no.

Kathryn Hanning: Says it is just on or off, okay, thank you.

Dexter Busby: Says it is total electronics.

John Harding: Asks if they have any idea what sixty (60) milliamperes are.

Kathryn Hanning: Says the Applicant can answer.

Beau Bilbrey: Says that should not be on there.

John Harding: Asks if the Board moves in a way to allow the sign, whether there is a way to guarantee that the sign remains un-obnoxious.

Raeann Bilbrey: Says she emailed the information over, but she can send it again, which includes the specifications for the lighting down to the dimmable settings ranging from five (5) percent to a hundred (100) percent including all the timing information.

John Harding: Says not to provide a scolding or anything, but what happens with after the fact variances like this, is it creates a lot of pressure on folks like us, because then we must come up with a from-the-heart idea and the next person comes along and wants the same thing. He explains that after the fact variances are harder to justify granting.

Raeann Bilbrey: Says they apologize for that as it really was a misunderstanding, though if they had applied for a Location/Conformance Permit, it would have been denied and they would still have had to apply for a variance.

Dexter Busby: Says they would probably have recommended you go the route being taken now, rather than an outright denial.

Raeann Bilbrey: Says she understands, that means they would have had to apply for the variance either way.

David Deffinbaugh: Asks if the complainants had been contacted regarding this and whether they were going to be happy with the outcome.

Kevin England: Says notices were sent out to the adjacent property owners and there were no responses.

Charity Yonker: Says there was no luck with phone calls either.

Kathryn Hanning: Says maybe somebody had a bad day that day.

Charity Yonker: Says yes.

John Harding: Asks whether the sign shielding on item number two (2) which directs the light toward the ground is something that the sign installers handle.

Kathryn Hanning: Asks if the Board can have his name for the record.

Beau Bilbrey: Says it is Beau Bilbrey.

Kathryn Hanning: Says she is trying to help the Administrative Assistant.

John Harding: Asks what the Board thinks.

Dexter Busby: Says he is inclined to reluctantly approve this variance as it is a post work rather than a prework. He says he can take the Applicant at their word that it was an error. He says he does not want to say that the requirements for the variance criteria have been met.

Carey Ann Haight: Says that is a legal requirement with this part to move forward.

Dexter Busby: Says is it required as a motion.

Carey Ann Haight: Says absolutely. The Board needs to make a finding as to how the Applicant has accomplished those three criteria, as they are a prerequisite to getting to the next step.

Dexter Busby: Says for the variance for the sign.

Carey Ann Haight: Affirms.

Dexter Busby: Says that is what he is afraid of. He asks whether shutting off the sign is considered a part of the compliance and satisfies the variance criteria.

Charity Yonker: Says no, for them to illuminate the sign they need to obtain the variance.

Dexter Busby: Says he agrees and asks whether it satisfies any of the three criteria and the fact the Applicant recognized the error and shut it off.

Charity Yonker: Says no.

Multiple speakers: *[Inaudible]*.

Charity Yonker: Says regarding the variance criteria, is that a condition can be imposed to get it to where it can comply with the variance, that is an option. The three (3) criteria state that one (1) it cannot be contrary to the public interest, which we have recommended that there can be conditions imposed to make it so that that specific criteria can be satisfied. Number two (2), there must be some unnecessary hardship that is unique to the physical characteristic of the property, that makes it different from other properties in the Urban Residential District.

Carey Ann Haight: Says we see these things and they are a natural condition to the property such as a cliff that requires us to modify a setback, it must be something unique to the property and is not just something that they are just trying to work around because they want a bigger building. It is physical issue with the property that makes it a unique situation and that in order to utilize the property and have the functionality there is a variance requirement. That is what this is about.

Kathryn Hanning: Asks if the uniqueness could be due to the use of the property, since it is a school and could be a safety issue.

Dexter Busby: Says that was his next question.

Carey Ann Haight: Reiterates that it is a condition unique to the property.

Kathryn Hanning: Says so not the use.

Carey Ann Haight: Says it has to do with the property.

Kathryn Hanning: Says the reason she asked that was because in this day and age, safety in schools is a big issue.

Dexter Busby: Affirms.

Kathryn Hanning: Says it is used for immediate information for parents.

Carey Ann Haight: Says there are technological advantages to this kind of message board, the problem is the location of this property for this use, and the criteria.

Charity Yonker: Says looping back to the variance definition, which says 'owing to conditions peculiar to the property and not the result of the actions of the applicant', so they can create the hardship, but it is about the physical characteristics of that property which creates the hardship.

John Harding: Asks if Ms. Yonker is suggesting they cannot meet that criteria.

Dexter Busby: Says if they cannot meet it, the Board must deny it.

John Harding: Says he has lived in that area for a long time and it is unfortunate in that it should have been zoned differently when zoning regulations were first being put in place. He asks whether the uniqueness of the property cannot have the hardship of wrong zoning district attributed to it as unique, as it never should have been zoned as such.

Charity Yonker: Says it may be Mr. Harding's conclusion, but at the time of the zoning that was not the Board's conclusion.

John Harding: Says the use should have been changed a long time ago, they probably should have applied for a use change before anything else.

Charity Yonker: Says if the variance is not approved, they can still apply for a zoning text amendment to change that requirement to allow for illuminated signs.

John Harding: Says that would be a zoning change at that point and that probably would not be the direction the Board would want to go to allow illuminated signs in residential districts. That would not be a zone change we would want to see.

Kathryn Hanning: Says she does not think this is a residential district.

John Harding: Says that is what he deems to be the hardship, the fact that it seems to be zoned incorrectly and was surprised to learn the area was zoned residential.

Dexter Busby: Says he was also surprised.

John Harding: Says he drove by a church that is right above the Town Pump on 6th Street and they have a sign very similar to this right on the highway and it is surrounded by houses.

Dexter Busby: Says that is in town.

John Harding: Says it is in town.

Carey Ann Haight: Says Holy Spirit is very bright.

Kathryn Hanning: Says county has a different [zoning].

Dexter Busby: Says these signs are not uncommon generally in residential areas, with churches and schools and [so forth]. It just happens to be unique to this zoning situation at this location.

John Harding: Says to him it seems like they could satisfy [criteria] number two (2) by declaring the hardship seems to be the way it has been zoned over time. He asks Ms. Haight if that puts the Board in trouble.

Carey Ann Haight: *[Shakes her head]*.

John Harding: Asks whether she agrees or not.

Kathryn Hanning: Says that is why she is here.

Charity Yonker: Says they can also petition to rezone their property.

Dexter Busby: Says which would be a long-term Planning Department problem.

Charity Yonker: Says yes if it is not an issue with spot zoning. It is all residential down there at the county.

Dexter Busby: Says not all of it is, there is a railroad track that runs right behind there.

Kathryn Hanning: Says plus there is the soccer field.

Dexter Busby: Agrees.

Charity Yonker: Says that would be annexation.

John Harding: Says they will have a sign, I guarantee it.

Dexter Busby: Says yes, you are right.

Kevin Angland: Says that is spot zoning.

Dexter Busby: Asks if it would be spot zoning.

John Harding: Asks if it would be spot zoning if it were just that piece right there.

Kevin Angland: Says yes, as it is only surrounded by Urban Residential District, and then the city, and if the city had different requirements, they could annex in. I do not know if the cost of annexation outweighs the cost of the sign.

John Harding: Says he would think it does.

Dexter Busby: Says Mr. Harding is right, but they will have multiple signs and the question is whether they will be illuminated or not. The signs were not this technologically advanced when the area was zoned.

Charity Yonker: Says that is why we have the sixty (60) milliamperes terminology.

Dexter Busby: Says the old neon signs. He jokes that we need a pub right in the middle of that with a big neon sign.

Carey Ann Haight: Says a text amendment would allow for further vetting of size and brightness and hours of operation. She opines that it would be the better way to go about this. She understands the Board's view of the issue, but the regulations are in place for a reason and it creates a problem for us going forward based on the logic.

Dexter Busby: Asks what Ms. Haight suggests the Board do aside from deny the application.

Carey Ann Haight: Says she thinks the Board is struggling to identify a legal reason how the project complies with the three (3) criteria.

Dexter Busby: Says absolutely.

Carey Ann Haight: Says that the Planning Department was unable to identify where the criteria were met in their review of the application.

Dexter Busby: Says he does not disagree, but there must be a path forward and thought it may not be immediate and may not like it, there must be a way forward for both the Planning Department and the school.

John Harding: Says he is stuck on the issue of unnecessary or undue hardship. He asks whose definition of undue is used, and then gives an example of a side yard variance he requested thirty (30) years ago and says that it was surely not the same definition of undue hardship that is used currently. He explains that he considers the property unique due to the area it is in and the proximity to the railroad tracks and required easement which is one hundred (100) feet. The wedge of property adjacent to it will never have a structure due to this. Everything going down Flood Road is turning into what he deems to be Mixed Use.

Dexter Busby: Says there are churches along there.

John Harding: Says there is a sign for Holy Spirit church as well, it is not illuminated but there absolutely is a sign.

Carey Ann Haight: Says Mr. Harding is articulating criteria that the Board is using to get to these criteria. This is the Board's decision to make and decides that that is what they consider to be an undue hardship. The Board needs to make that finding as part of its record in moving forward. You must get through these three (3) criteria, identify how they have met those, and then having met them, what the Board wants to see about allowing the project to be utilized, which is why there are additional conditions suggested.

John Harding: Says criteria number one (1), 'Cascade County Zoning Regulations will not be contrary to the public interest'. We got a complaint, so the complainant started the process here so if this gets approved it would clear up the first issue. There were no comments at the public hearing in opposition, therefore nothing that was significant. Looking at the criteria, if we approve it would fix number one (1). Number two (2), the hardship could be defined because of the uniqueness of the property in how it has been zoned and where it sits. I am not talking about if it were in the middle of a subdivision across the street, that would be a different scenario and would not work. This one sits on the other side of Flood Road and everything that is going to be built down there will be in the vicinity of mixed use.

Dexter Busby: Says it is not going to be somebody's [home].

John Harding: Says yes, to him it would satisfy that criteria. He says, 'The spirit of the section will be observed, and substantial justice done by granting the variance'. Well, that is why we are doing it, for the spirit of it. That is a unique property, in my opinion, and that could easily be the unnecessary hardship. He says they do not have to have a lighted sign, but that is where the world is at today, there are lighted signs everywhere.

Kathryn Hanning: Says she thinks it is a safety issue, and with the way the world is today, people must have signs and need to know where their kids are, and this is [the reason] why we should proceed with this.

Dexter Busby: Says this is why he was reluctant, as it was prework versus post-work, but agrees because today's school system both public and private is a whole world different than it was even five (5) to seven (7) years ago.

Kathryn Hanning: Says and it needs to be right then, it needs to be immediate information to families.

Dexter Busby: Says in case they have to move everybody out for some reason or another.

Kathryn Hanning: Says exactly.

John Harding: Says Meadowlark School has an illuminated sign.

Dexter Busby: Affirms.

Kathryn Hanning: Says she believes that little property is unique and should have been changed in its zoning and that it needs to happen as we develop.

Dexter Busby: Asks where we are.

Kathryn Hanning: Says we are at Mr. Busby again.

Dexter Busby: Asks if there is anything else that we should be adding. He says he is not trying to say circumvent, but to circumvent the specific language the Board is stuck on.

Carey Ann Haight: Says no, the Board is articulating and making findings with regard to the criteria, which the Board is establishing as part of the record, for the basis of your decision that outline your rationale under those three criteria. In terms of any other conditions, if you decide

that you are going to move forward and allow that, the additional conditions would be those factors necessary to make it workable in that location, not just have it but how it needs to work, which is how you identify it as not being on at night, or other modifications to operating.

Dexter Busby: Says interesting discussion, folks, I am going to continue on this, and we can vote on it at the end. He motions to adopt the Staff Report.

David Deffinbaugh: Seconds the motion.

John Harding: Says we can get into a discussion, and we have discussed the heck out of it, and I am not sure there is a lot more to discuss. We can discuss further if the Board is interested.

Dexter Busby: Says he thinks there is a list of good reasons to approve this, and the only bad reason would be the language. He says he does not believe they are circumventing the intent of the rule by approving the variance.

John Harding: Says he does not believe that either, he believes there is uniqueness and it will not open the flood gates to folks who put signs in residential areas, considering the way we have discussed this and vetted it. We have a motion and a second. He asks if there is further discussion. Hearing none, he calls for the vote.

All in Favor, motion carries 4– 0.

Dexter Busby: Asks if the Planning Department can review and report back on what could possibly be done with that area from a zoning point of view.

John Harding: Says he thinks Mr. Angland is right, I do not think you can change it, because adjacent to it is the city, then you have the little chunk next to the tracks in the road, which will never be buildable. If you take that one little spot and turn it into something that is other than residential, it is spot zoning because it would be the only one.

Kevin Angland: Asks if Mr. Harding was talking about a text amendment or a map change.

Multiple Board members: [Inaudible].

Kathryn Hanning: Asks what a text amendment would do.

Kevin Angland: Says it reworks the words in the actual regulations to allow an illuminated sign.

John Harding: Says that is not a good idea.

Dexter Busby: Says it changes what can be done.

Kathryn Hanning: Says how the text reads it is an inadequate system, they do not use those types of lights.

Gary Poore: Says that needs to be changed.

Kathryn Hanning: Says the Planning Department can do that.

Kevin Angland: Says we have flagged it for review.

Kathryn Hanning: Says there you go.

Dexter Busby: Said we should have a formal review because it is a narrow piece of property as the Board should not be put into position to determine what can be done with a property that should be zoned differently and based on regulations that are outdated and does not apply to a school.

Carey Ann Haight: Says that is where the text amendment would be the efficient way to remedy that, and carve out schools, private schools, and churches.

John Harding: Says there you go, that makes sense.

Kathryn Hanning: Says that would be good, especially for schools.

Kevin Angland: Says he thinks the map change is almost entirely out of the question.

Dexter Busby: Says it probably is, but that was a recommendation.

Kathryn Hanning: Asks if they have to hear the text amendment or if Planning Department handles that.

Dexter Busby: Says he thinks they should ask for a review and then they will go about that.

Carey Ann Haight: Says the Planning Board would be the entity that would review the changes, and based on that outcome it would go to the Board of County Commissioners. It would then come to you all to apply.

Charity Yonker: Says unfortunately, we have several pockets similar to this one, where they really should be annexed into the city, which is what is creating the issue.

Dexter Busby: Says that is a hardship in its own.

Charity Yonker: Says yes, it is.

Dexter Busby: Says for everybody involved.

John Harding: Says the city jumped that property to get to the other ones on the same side of the road, it would have been nice to have brought that in and keep it continuous.

Kathryn Hanning: Says there is no good way to make them do that.

John Harding: Says it creates problems with emergency services, as even though the city would still respond if there were a fire, it is confusing with one property in the county and ones adjacent to it are in the city. The cost of annexing is why it is still there.

Kathryn Hanning: Says she thinks the text change would be good.

John Harding: Asks if it is on a well or where that property gets its water.

Kevin Angland: Says he believes it is on a well, and on the public septic system.

John Harding: Says the city had a policy change that requires annexation in return for public services in county properties that are wholly surrounded by city or else have the services shut off. Then when they come to apply for annexation, they would need to pay for curb and gutter and all of that.

Kathryn Hanning: Says that is expensive.

John Harding: Says that is something they are doing, but I do not think they are as aggressive as when they started.

Dexter Busby: Says it seems they got in trouble.

John Harding: Says it is still a process, though.

Kathryn Hanning: Says they annexed an area and it does not guarantee they got streets or anything, which NeighborWorks did homes for there. They were annexed in and they were all gravel roads and no sidewalks. It was an interesting deal, though they may have changed it by now as it was long ago.

John Harding: Says he hopes we did not move you guys in a direction we did not want to go in.

Dexter Busby: Says eventually it must be dealt with, and my view is better sooner than later. As mentioned, they are building a soccer or football field out there and we are going to have the same conversation if we do not fix this.

6. BOARD MATTERS [01:14:09]

A. Reminder-Board Member Applications Due to Commission Office by Friday, Dec 16, 2022.

John Harding: Says if you must send your application back in by tomorrow. He asks if everyone has sent their applications in.

Charity Yonker: Says we are just missing Mr. Thornton's.

John Harding: Says Mr. Thornton was here and asks where he went.

Charity Yonker: Says he had to leave.

Kathryn Hanning: Says she is sorry.

B. Approve Tentative ZBOA 2023 Meeting Schedule.

John Harding: Says also we need to approve the tentative meeting schedule in your packet. He says he thinks that stays the same as where we are now. He asks if this is correct.

Dexter Busby: Says we are on the third Thursday of each month.

Kathryn Hanning: Says yes.

John Harding: Asks if it is the same time, nine (9) o'clock.

Dexter Busby: Says it is just the dates that are different.

Multiple Board Members: *[Inaudible]*.

Charity Yonker: Says we will make changes to the third Thursday of every month, the only one (1) that is questionable for next year is December, when the third Thursday falls on December twenty-first, and if you wanted to move that up to December fourteenth, we could do that.

Dexter Busby: Says or just dispense with the December meeting.

Charity Yonker: Says oh the dates are all wrong.

Kathryn Hanning: Says the December meeting should probably be moved. She says she will be here because she is dedicated but Mr. Angland will probably want to spend time with family.

Kevin Angland: Says a sabbatical might be nice.

Kathryn Hanning: Says people might not be here.

John Harding: Asks if there needs to be a motion.

Charity Yonker: Says yes, please.

John Harding: Says okay.

Kathryn Hanning: Motions to move the December date in 2023 to December 14, 2023 and then continue with the third Thursday after that.

Dexter Busby: Says so the third Tuesday is the Planning Board meetings.

Charity Yonker: Affirms.

Dexter Busby: Asks if that is the twelfth.

Carey Ann Haight: *[Inaudible]*.

Charity Yonker: Says that falls on the twentieth; no that is this year. It falls on the nineteenth. It is like this year, where we would have Zoning Board of Adjustments meeting first.

Dexter Busby: Says oh, I see.

Kathryn Hanning: Says that works.

Dexter Busby: Says I do not know if it works or not.

Kathryn Hanning: Says it works for Kate.

John Harding: Says there is a motion for the calendar day for 2023.

Dexter Busby: Seconds the motion.

John Harding: Calls for the vote.

All in Favor, motion carries 4 – 0.

7. PUBLIC COMMENTS REGARDING MATTERS WITHIN THE BOARD 'S JURISDICTION [01:17:04]

John Harding: Asks if there are any comments.

Charity Yonker: Says there is just one thing to add, and discusses the mileage summary for the past year and reimbursements.

Dexter Busby: Says jokingly that he gets rich on that.

Kathryn Hanning: Says you do, on thirty-five (35) cents do you. Kind of like jury duty.

Charity Yonker: Says it is one of the only incentives you get.

John Harding: Asks if there are any other comments.

Charity Yonker: Says with parking passes, those are always up in the air so once we get the Board appointments, we will reach out to the City and see if they are still providing parking passes to the Board members.

John Harding: Says tell them they need to, because it is nice to park right across the street.

Kathryn Hanning: Says we did not even have that on our meeting [agenda], did not even ask the [City Parking] Commission about parking.

Dexter Busby: Says that parking becomes an issue at times.

Kathryn Hanning: Says she thinks it becomes an issue, too.

John Harding: Says he has always parked in some parking spot before we got the passes, whichever spot was available, and no one ever said anything.

Kevin Angland: Says they do double park in those spots.

Kathryn Hanning: Says that is an interested thing about your location.

John Harding: Says he likes to show up about two (2) minutes before the meeting starts and needs to park really close.

8. Adjournment at 10:18 AM [01:18:59]

John Harding: Asks for a motion to adjourn.

Kathryn Hanning: Says so moved.

John Harding: Says we are adjourned.

DRAFT