

CASCADE COUNTY
ZONING BOARD OF ADJUSTMENT

July 23, 2020

01:30 PM

Online Zoom Video Conference Meeting

Board Members: Bill Austin, Charles Kuether, Michele Levine, Leonard Reed, and Rob Skawinski.

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 ADJUSTMENT AND ARE CONSIDERED A DRAFT UNTIL FORMALLY APPROVED BY THE ZONING BOARD OF ADJUSTMENT.**

STAFF ATTENDEES: Anna Ehnes, Destiny Gough, Carey Ann Haight, Amber Hobbs, and Charity Yonker.

PUBLIC ATTENDEES: Corey Meavin and John Tomich.

1. **CALL TO ORDER:** Chair Bill Austin called the meeting to order at 01:32 PM, [00:00:00]

2. **ROLL CALL:**

BOARD MEMBERS PRESENT: Bill Austin, Charles Kuether, Michele Levine, and Leonard Reed.

BOARD MEMBERS ABSENT: Rob Skawinski.

Roll Call for this meeting includes not only the Board members but also the public attendees.

3. **APPROVAL OF THE MINUTES:**

A. **Draft Meeting Minutes for February 13, 2020** [00:01:10]

1. **Board Discussion & Decision**

Bill Austin: asks if Mr. Skawinski is not attending today's meeting.

Charity Yonker: says yes.

Bill Austin: says that there is a quorum nonetheless. He asks if the Board members have had an opportunity to read the draft minutes from February 13, 2020.

Michele Levine: says yes.

Bill Austin: ask if there are any comments or corrections to the draft minutes.

Michele Levine: finds the minutes better than before.

Bill Austin: asks for Mr. Reed's opinion.

Leonard Reed: agrees with Ms. Levine.

Charles Kuether: says that draft minutes are fine.

Bill Austin: understands and agrees with Mr. Kuether. He then goes on to say that he is amazed by the accuracy of the meeting minutes, then he asks for a motion.

Charles Kuether: motions to approve these minutes.

Leonard Reed: seconds the motion for approval.

Bill Austin: calls for a vote.

All in Favor, motion carries 4-0.

4. OLD BUSINESS: None.

5. NEW BUSINESS:

A. SUP #006-2020, Accessory Dwelling Without Principal Use– Casey Kingsland [00:02:36]

Bill Austin: comments on how there is not a lot of items on the agenda for today's meeting. He says that there are two (2) Special Use Permits (SUPs) on today's agenda. He asks who will be reading the first agenda item's Staff Report for New Business.

Anna Ehnes: says that she will be reading the Staff Report today.

Charity Yonker: says that Ms. Ehnes is on another computer in a separate room.

Bill Austin: understands.

Anna Ehnes: agrees and states her reasons for reading in a separate room.

Bill Austin: understands.

1. Anna Ehnes presents the Staff Report.¹

2. Motions:

Alternative 1: "Move the Special Use Permit #006-2020 to allow an accessory dwelling unit at the subject property be **denied due** to (ZBOA member proposing denial must delineate legal reason that the application be denied);"

Or

¹ Due to Technical Difficulties the audio cuts at [00:21:37]. The Staff Report resumes at [00:22:29]. During the time of [00:21:37] and [00:22:29], Mr. Reed makes a joke and Destiny Gough discusses a wall calendar hanging in the Planning Department's conference room.

Alternative 2: “Move the Board adopt the Staff Report and Findings of Fact, and **approve** the Special Use Permit #006-2020 to allow an accessory dwelling unit at the subject property subject to the following conditions:

1. The Applicant obtains any other required county, state, or federal permits and comply with regulations associated with any other permits.
2. The Applicant obtains an address from the Cascade County GIS Department.
3. The Applicant obtains an approach permit from the Montana Department of Transportation for access off Bootlegger Trail, if applicable.
4. The Applicant provides documentation that the taxes owed on the property have been paid to date.”

3. Board Discussion: [00:25:33]

Bill Austin: explains that there was a glitch. Then, he asks if the Board members have any questions.

Charles Kuether: says that he has some questions. He asks in regard to page three (pg. 3) of the Staff Report where it references a parcel with 63.4 acres. He says at the bottom of that page the Applicant is referencing to 5 acres. He asks if the differences in the amount of acreage for this parcel is due to the family transfer that Ms. Ehnes was referring to.

Anna Ehnes: say yes. She says that the Applicant is looking at the parcel as already being 5 acres. However, the Planning Department has to look at the parcel as being 63.4 acres for the family transfer has yet to have gone through.

Charles Kuether: asks about the access road regarded in the Condition of Approval number three and Point B of Goal 3 of the Staff Report. He asks which road that is and where it is located.

Anna Ehnes: says that the improved road that the Applicant is referring to is off of Bootlegger Road. She says it is a possibility that this access point already has a permit through MDT (Montana Department of Transportation). Regardless, the Applicant needs to get a copy of the approved permit sent to the Planning Department to get the SUP approved permit from the Planning Department.

Charles Kuether: asks if the Applicant had to pay \$450 for the SUP, \$50 for the Location/Conformance Permit, and \$25 for the Address Assignment Permit.

Anna Ehnes: says yes.

Charles Kuether: says he would like to discuss this topic at a later time.

Bill Austin: says that he missed Mr. Kuether's reason for the question.

Charles Kuether: says that he was not aware that the Applicant must apply and pay for both the SUP and the Location/Conformance Permit. He says that he was also not aware that Address Assignments had a \$25 service fee.

Bill Austin: understands.

Charles Kuether: says that he does not find that this topic of the fee schedule needs to be discussed at this time.

Bill Austin: understands and asks if there are any other additional questions or comments by the Board members. Hearing none, he moves to open up the Public Hearing for SUP #006-2020.

4. **Public Hearing opens at 02:02 PM, [00:27:12]**

Proponents: none

Opponents: none

Public Hearing closes at 02:04 PM

5. **Board Discussion & Action: [00:31:23]**

Bill Austin: asks if the Board members have any other comments regarding this SUP.

Charles Kuether: says that he would like to make a motion.

Bill Austin: agrees.

Charles Kuether: says, "Move[s] the Board adopt the Staff Report and Findings of Fact, and **approve** the Special Use Permit #006-2020 to allow an accessory dwelling unit at the subject property subject to the following conditions:

1. The Applicant obtains any other required county, state, or federal permits and comply with regulations associated with any other permits.
2. The Applicant obtains an address from the Cascade County GIS Department.
3. The Applicant obtains an approach permit from the Montana Department of Transportation for access off Bootlegger Trail, if applicable.
4. The Applicant provides documentation that the taxes owed on the property have been paid to date."

Bill Austin: calls for a second.

Michele Levine: seconds the motion for approval

Bill Austin: calls for a vote.

All in Favor, Motion carries 4-0.

B. **SUP #007-2020, Minor Utility Installation– NorthWestern Energy [00:32:39]**

Bill Austin: moves to the next new business item agenda item. He states that there is a representative for NorthWestern Energy present today.

John Tomich: introduces himself and states that he is available for any questions regarding their permit.

Bill Austin: thanks him and asks who will be presenting the Staff Report.

Charity Yonker: states that Amber Hobbs will be presenting the Staff Report.

Bill Austin: asks if Ms. Hobbs is ready to give her report.

1. Amber Hobbs presents the Staff Report.

2. Motions:

Alternative 1: “Move the Special Use Permit to allow the minor utility installation for a gas gate station on the property referenced as Parcel# 0002019013 be **denied** due to (ZBOA member proposing denial must delineate legal reason that the application be denied);”

Or

Alternative 2: “Move the Board adopt the Staff Report and Findings of Facts and **approve** the Special Use Permit to allow the minor utility installation for a gas gate station on the property referenced as Parcel# 0002019013, subject to the following conditions:

1. The Applicant obtains any other required county, state, or federal permits and comply with regulations associated with any other permits.
2. The Applicant obtains addressing from the Cascade County GIS Department for E911 purposes.”

3. Board Discussion: [01:00:27]

Bill Austin: asks if there are any questions from the Board members.

Charles Kuether: says no.

Bill Austin: asks if the representative would like to speak.

John Tomich: says that in 2018, NorthWestern Energy had submitted this SUP. However, this project was postponed, and the original application expired. He says that there are no significant changes that have been made to this application. NorthWestern Energy hopes this SUP is approved so they can start this project in the summertime.

Bill Austin: thanks Mr. Tomich for his input and asks if the Board members or the County Staff any input as well. Hearing none he opens the Public Hearing.

4. Public Hearing opens at 02:34 PM, [01:01:21]

Proponents: none

Leonard Reed: asks if Mr. Tomich could refresh the Board's memory on the subject's property location.

Bill Austin: asks Mr. Tomich to please reply.

Leonard Reed: says that the representative might not have heard him speak.

John Tomich: says that the subject's location is one-mile east of Bootlegger Trail and it is on the corner of Judson Lane and East Country Lane.

Leonard Reed: understands.

Bill Austin: agrees.

Leonard Reed: agrees.

Bill Austin: resumes calling for public comments.

Opponents: none

Public Hearing closes at 02:35 PM

5. **Board Discussion & Action:** [01:02:53]

Bill Austin: asks if the Board has any questions or comments.

Charles Kuether: says no.

Bill Austin: calls for a motion.

Leonard Reed: moves to approve.

Bill Austin: asks if Mr. Reed means Alternative 2. He then asks for a second for the motion of approval.

Carey Ann Haight: asks if Mr. Reed could please read the full motion aloud for the record.

Bill Austin: agrees.

Leonard Reed: says that he forgot to bring his papers.

Bill Austin: says that he cannot see.

Leonard Reed: says that he does not have his glasses today. He asks if someone else could read it for him.

Bill Austin: says that he will read it for Mr. Reed. He reads Alternative 2: "Move the Board adopt the Staff Report and Findings of Facts and **approve** the Special Use Permit to allow the minor utility installation for a gas gate station on the property referenced as Parcel# 0002019013, subject to the following conditions:

1. The Applicant obtains any other required county, state, or federal permits and comply with regulations associated with any other permits.
2. The Applicant obtains addressing from the Cascade County GIS Department for E911 purposes."

Leonard Reed: thanks the Chair.

Bill Austin: calls for second on the motion for approval.

Carey Ann Haight: says thank you.

Charles Kuether: seconds the motion for approval.

Bill Austin: calls for a vote.

All in Favor, Motion carries 4-0.

Bill Austin: says good luck to NorthWestern Energy on their project.

6. BOARD MATTERS: [01:05:32]

Bill Austin: asks if there are any other Board Matters besides the Board review their Tentative Meeting Schedule.

Charles Kuether: is curious about the Planning Department's fee schedule for SUP, Location/Conformance (L/C) Permit, and the Address Assignment. He says that he is concerned that they are doubling the process and fees by requiring applicants to obtain not only a SUP but other permits as well. He says that years ago, he obtained an address for free from the post office and was told by the post office that he could make up whatever address that he felt like. However, he says that it seems that a person would need to check that address with the county to ensure that it is registered with the E911 system. He says he was told that the County has pre-established addresses for every parcel in the county. He says that he went to the County Addresser and was given a different address than what he received from the post office. He says that he did not pay a fee for the addressing service and he thinks that all of the parcels already have been pre-addressed. He says that he does not understand why the county is charging these additional fees on top of the SUP fee.

Bill Austin: understands and says that he thought that all of the fees are included within the \$450 charge.

Charles Kuether: says that was his assumption as well. He says that he wonders if the Board could come up with a solution or at least discuss this topic.

Bill Austin: says that he has been wondering about this topic for a while. He used to find that the \$450 fee for the SUP was high until he understood that the cost covers press notices and so forth. However, he is unaware of who they shall go too with this concern of theirs.

Charity Yonker: says that the fees are general administrative fees and costs that the County has found fair to charge applicants. These administrative fees and the cost cover the processing fees, public notices fees, and the County Staff's time spent working on the permit project. She goes on to say that Mr. Kuether does bring up a good point. She says when she started as the Director for the Planning Department, she was told that historically the Department required both payments for the SUP fee and the L/C Permit fee. She says there have been countless times when an L/C Permit is submitted before the SUP application is submitted. During an L/C Permit review, they may discover that the L/C Permit submitted is a special use and that the applicant will need to pay for a SUP and fill out a SUP Application. Likewise historically, the Planning Department has hinged some SUP approvals on an L/C Permit. In other words, if a SUP Permit is approved, the L/C conditions have not been met yet. Therefore an Applicant in that situation would not get the L/C Permit, which means they cannot start building their project yet. She says this type of situation of a SUP hinging on an L/C Permit happens the other way around as well. Furthermore, she says

Cascade County GIS and Addressing Department, run by Tom Mital, has separate fees from the Planning Department. Tom Mital assigns people addresses and registers the address with the emergency E911 system, which allows emergency personnel to find people in need. Overall, she says these are some of the reasons why the fees and other permits are imposed on applicants. She is open to any suggestions.

Bill Austin: says that he does not and that he understands better now.

Charles Kuether: asks if there is some way that an Applicant can put up a structure on a parcel and only pay for one fee rather than two fees.

Charity Yonker: says that could work for the Planning Department. They could consolidate permit prices per regulations. For example, rather than charging an applicant for both an L/C Permit fee and a SUP fee. They could charge an applicant just for the SUP fee.

Charles Kuether: says that he finds it fair to the County in terms of reimbursement. He asks if the Planning Department needs a motion or a clear direction to conduct business this way.

Charity Yonker: says that it is in her discretion as the Planning Director, but they could also check with the County Attorneys.

Carey Ann Haight: says that she agrees that it is a Planning Director's decision and not a Board matter. She will have to check to ensure that there is not a resolution adopting those fees and establishing that they are paid out separately and that it is just by departmental discretion.

Leonard Reed: agrees.

Charles Kuether: understands.

Bill Austin: asks if Ms. Yonker is okay with this decision.

Charity Yonker: says it is duly noted.

Charles Kuether: thanks her.

Bill Austin: tells Mr. Kuether that was a good point and moves the Board to discuss the Tentative Meeting Schedule. He says that he finds the schedule to be a good idea. He asks if he is understanding the schedule correctly that these meetings will occur unless there is no agenda item imposed for that tentative meeting. If that is the case, then the County Staff will notify the Board that the meeting will be canceled.

Charity Yonker: say yes.

Bill Austin: finds the schedule to be a good idea.

Charles Kuether: agrees. and states that he has no conflict with those tentative meeting dates.

Bill Austin: asks for the Vice-Chair's opinions.

Michele Levine: says that she is reviewing her calendar and that a majority of the days work for her.

Bill Austin: asks if she has anything else to look forward to or schedule conflicts.

Michele Levine: says that a majority of the days work for her except October.

Carey Ann Haight: says that the Zoning Board of Adjustment Bylaws require that the meetings have at least three (3) members to form a quorum. So, if at least three Board members attend the October meeting, they will still be able to have a meeting that month.

Michele Levine: understands.

Bill Austin: says okay.

Charity Yonker: explains how this schedule will help the Board and the Staff be more prepared and organized.

Bill Austin: thanks her for creating the schedule.

Charles Kuether: asks if Mr. Skawinski is absent due to it being construction season.

Charity Yonker: says that she is unaware of why he is absent today. However, he has been contacted prior to today about today's meeting and has been sent today's Board packet materials.

Bill Austin: says that Mr. Skawinski seems like a busy man.

Charles Kuether: explains that he was asking as it may be a schedule conflict for him presently and in the future.

Leonard Reed: says that he makes a motion to adjourn.

Michele Levine: seconds Leonard Reeds motion to adjourn.

Carey Ann Haight: says that they cannot adjourn yet as they have not had Public Comment on subject matters within the Board's Jurisdiction that were not presented on this meeting's agenda.

Michele Levine: understands.

7. PUBLIC COMMENTS REGARDING MATTERS WITHIN THE BOARD'S JURISDICTION: None. [1:20:30]

Bill Austin: calls for Public Comment.

Charles Kuether: makes a joke.

Bill Austin: says that he cannot hear him.

Charles Kuether: makes another joke.

Charity Yonker: asks if the Board would like to approve the tentative schedule.

Leonard Reed: recommends approving the Tentative Schedule.

Charles Kuether: agrees.

Bill Austin: asks if someone could place that into a motion.

Charles Kuether: motions to approve, post, and adopt the Tentative Schedule.

Bill Austin: calls for a second.

Leonard Reed: seconds the motion for approval.

Bill Austin: calls for a vote.

All in Favor, Motion carries 4-0.

8. Adjournment: 02:54 PM, [01:21:48]

Bill Austin: calls for a motion to adjourn.

Leonard Reed: motions to adjourn.

Bill Austin: seconds the motion to adjourn.

All in Favor, Motion carries 4-0.

DRAFT