



**TOWN OF NEDERLAND
BOARD OF ZONING ADJUSTMENT
REGULAR BUSINESS MEETING**

**NEDERLAND COMMUNITY CENTER
750 Hwy 72 Nederland, CO 80466**

April 12, 2012, 7:00 P.M.

AGENDA

A. CALL TO ORDER

B. ROLL CALL

C. APPROVAL OF MINUTES FROM JANUARY 12, 2012

D. SCHEDULED BUSINESS

1. Discuss newly amended Nederland Municipal Code Section 16-232(a)(1) to clarify variance criteria applicability, Ordinance number 706.

E. OTHER BUSINESS

F. ADJOURNMENT



Town of Nederland Board of Zoning Adjustment

MINUTES

Thursday, January 12, 2012 ~ 7:00 pm
Nederland Community Center
750 Highway 72 North

1) Call to Order

Vice Chairman MacFerrin called the meeting to order at 7:08 pm.

2) Roll Call

Present: Vice Chairman Ken MacFerrin; Board Members Debbie Davenport, Mark Moll, Leonard Kottenstette; Trustee Liaison Chris Perret; Alternate Board Member Roger Cornell

Also present: Town Administrator Alisha Reis, Town Clerk Teresa Myers.

Absent: Chairman Mark Stringfellow

3) Approval of minutes from October 13, 2011

Motion to approve the October 13, 2011 minutes was made by Member Kottenstette, seconded by Member Davenport, and approved unanimously, with Trustee Perret abstaining due to his absence from the previous meeting.

4) Scheduled Business

- a. Consideration of a new language to amend Nederland Municipal Code Section 16-232(a)(1) to clarify variance criteria applicability.

Vice Chairman MacFerrin provided some background for the item and Reis explained the need for the amended sections. Alternate Member Cornell spoke in support of the amendment. Board Member Davenport questioned whether the Board would be informed and trained on new

criteria as enacted by the Board of Trustees, prior to having to apply them to an applicant. Reis assured her they would.

Motion to approve the suggested amendments to NMC 16-232(a)(1) as written and recommend them to the Board of Trustees was made by Vice Chairman MacFerrin, seconded by Board Member Kottenstette, and approved unanimously.

- b. Consideration of a variance request for the Community Center to allow a new sign to be constructed that exceeds code requirements for size.

Reis provided the background on this item and explained the sign variance portion of the Code. She further explained the basis for the staff recommendation.

Dale Porter, of the Nederland Community Center Foundation Board, explained the design of the proposed sign. Member Kottenstette asked some questions about how the sign would be secured, and Vice Chairman MacFerrin reminded the Board that the only issue before them is the size of the sign, because that is the only aspect of it requiring a variance. Member Moll asked some questions about the size of the lettering on the sign, and Porter clarified that the larger size would allow more messages and clearer posting of the tenants' names. Vice Chairman MacFerrin sought clarification on the basis for the Board's decision from Reis, and clarification as to the need for a larger-sized sign.

Myers questioned Board Member Kottenstette on a potential conflict of interest that he had raised with staff, concerning his residential proximity to the sign at issue. Board Member Kottenstette stated that he could see the sign from his kitchen window, that he'd made up his mind prior to tonight's meeting, and that he believed he could be fair and impartial in his decision-making. Vice Chairman MacFerrin asked whether Board Member Kottenstette had made up his mind prior to the meeting based on his personal feelings or based on the contents of packet. Board Member Kottenstette replied that he'd reached his conclusions based on the contents of the packet. Myers announced that he did not need to recuse himself and could vote on the issue.

Alternate Board Member Cornell expressed his support for the variance, citing that there are many businesses located in the Community Center, and they will all be sharing this one sign.

Vice Chairman MacFerrin asked if any public comment was received by Town Hall, and Reis informed him none had been received. Board Member Davenport noted that, given the location of the sign on a curve and the speed on Hwy. 72, the larger sign would be appropriate for the businesses and those trying to find them. Vice Chairman MacFerrin agreed.

Motion to approve the sign variance for the Community Center sign was made by Board Member Davenport, seconded by Board Member Moll, and approved unanimously.

Reis informed the Board that the issue will be before the Board of Trustees on February 7th to approve all aspects of the sign.

5) Other business

The next meeting is scheduled for April 12th.

6) Adjournment

Motion to adjourn was made by Vice Chairman MacFerrin, seconded by Member Moll, and approved unanimously. The meeting was adjourned at 7:38PM.

Approved by the Town of Nederland, Board of Zoning Adjustment.

Ken MacFerrin, Vice-Chairman

ATTEST:

Teresa Myers, Town Clerk

TOWN OF NEDERLAND, COLORADO

ORDINANCE NUMBER 706

AN ORDINANCE AMENDING SECTION 16-232 OF THE NEDERLAND MUNICIPAL CODE CONCERNING VARIANCE APPROVAL CRITERIA

WHEREAS, pursuant to C.R.S. § 31-23-307, the Board of Trustees (“Board”) of the Town of Nederland, Colorado (“Town”) possesses the authority to provide for the appointment of a Town board of adjustment; and

WHEREAS, under this authority, the Board previously adopted an ordinance creating the Town of Nederland Board of Zoning Adjustment (“BZA”) and setting forth the powers and duties of the BZA; and

WHEREAS, Nederland Municipal Code (“Code”) Section 16-232 authorizes the BZA to approve applications for variances from the strict application of the Town’s zoning requirements under certain limited circumstances; and

WHEREAS, the Board finds and determines that it is in the public interest to amend the variance approval criteria set forth in said Section 16-232 as set forth herein.

NOW THEREFORE, BE IT ORDAINED by the Board of Trustees of the Town of Nederland, Colorado, as follows:

Section 1. Section 16-232 of the Nederland Municipal Code, concerning the power and authority of the Town Board of Zoning Adjustment to hear and decide variance applications, is hereby amended as follows:

Section 16-232. Powers of Board.

(a) The Board shall hear and decide appeals from and review any order, requirement, decision or determination made by any administrative official charged with the enforcement of this Chapter. It shall also hear and decide all matters referred to it and the following matters as required under this Chapter:

(1) Hear and decide applications for variances where there are practical difficulties or unnecessary hardships in the way of carrying out the strict letter of this Chapter. The Board has the power to vary or modify the application of the regulations or provisions of this Chapter relating to the use, construction or alteration of buildings or structures, or the use of land, so that the spirit of this Chapter is observed, public safety and welfare secured and substantial justice done, provided that the Board finds that all of the following criteria, insofar as applicable, have been satisfied:

a. That there are unique physical circumstances or conditions, such as irregularity, narrowness, shallowness or size of the lot, or exceptional topographical or other physical conditions peculiar to the affected property;

b. That, because of such physical circumstances or conditions, the property cannot reasonably be developed in conformity with the provisions of this Chapter;

c. That such unnecessary hardship has not been created by the applicant;

d. That the variance, if granted, will not alter the essential character of the neighborhood or district in which the property is located nor substantially or permanently impair the appropriate use or development of the property; and

e. That the variance, if granted, is the minimum variance that will afford relief and is the least modification possible of this Chapter's provisions which are in question.

(2) Hear and decide such other matters as the Board of Trustees may by ordinance provide.

(b) Where feasible, the Board may vary or modify the application of this Chapter for the purposes of considering access to sunlight and wind for renewable energy devices and achieving sustainability criteria adopted by the Board of Trustees.

(c) Under no circumstances shall the Board grant a variance that would have the effect of increasing the density of use than would otherwise apply to the parcel.

Section 2. Should any one or more sections or provisions of this Ordinance or of the Code provisions enacted hereby be judicially determined invalid or unenforceable, such judgment shall not affect, impair or invalidate the remaining provisions of this Ordinance or of such Code provision, the intention being that the various sections and provisions are severable.

Section 3. Any and all Ordinances or Codes or parts thereof in conflict or inconsistent herewith are, to the extent of such conflict or inconsistency, hereby repealed; provided, however, that the repeal of any such Ordinance or Code or part thereof shall not revive any other section or part of any Ordinance or Code provision heretofore repealed or superseded.

INTRODUCED, ADOPTED AND ORDERED PUBLISHED THIS 20th DAY OF MARCH, 2012.

TOWN OF NEDERLAND, COLORADO




Joe Gierlach, Mayor

ATTEST:



Teresa Myers, Town Clerk

APPROVED AS TO FORM:



Carmen Beery, Town Attorney