



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

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

October 9, 2014 7:00 P.M.

AGENDA

A. CALL TO ORDER

B. ROLL CALL

C. APPROVAL OF MINUTES FROM August 14, 2014

D. PUBLIC COMMENT

E. DISCUSSION ITEMS

F. ACTION ITEMS

1. Approval of Findings of Fact related to Variance Application for setbacks for 60 E. 5th Street
2. Nederland Planning Process Review for the Mayor's Task Force on Building Code Updates

G. OTHER BUSINESS

H. ADJOURNMENT



Town of Nederland Board of Zoning Adjustment

MINUTES

Thursday, August 14, 2014 ~ 7:00 pm
Nederland Community Center
750 Highway 72 North

1) Call to Order

Chairman Stringfellow called the meeting to order at 7:06pm.

2) Roll Call

Present: Chairman Stringfellow, Vice Chairman Ken MacFerrin

Board Members: Debbie Davenport, Leonard Kottenstette, Mark Moll (arrived at 7:22pm), Trustee Liaison Kris Larsen

Also present: Town Administrator Alisha Reis and Deputy Town Clerk Cynthia Bakke.

3) Approval of minutes from January 9, 2014

Motion made by Member Kottenstette, seconded by Chairman Stringfellow, 4 in favor, with abstention from Kris Larsen as he was not on the Board at this time.

4) Public Comment

There was no public comment.

5) Discussion Items

There were no Discussion items.

6) Action Items

Consideration of a Zoning Variance Application for a 15-foot front setback variance for a proposed single-family residence by Architect Wayne Gipp (on behalf of property owner Diana Strokan) at 60 E 5th Street.

Architect Wayne Gipp presented the case on behalf of the property owner/applicant. He explained that the property was recently purchased to build a family home, however in order to meet the Medium Density Residential (MDR) district's 25-foot front setback would require mitigating part of the existing aspen grove, as well as the management of on-site drainage. Gipp indicated that the slope from 5th Street to the property line is +/- 7 feet, requiring

considerable fill to accommodate the front setback, as well as the rear of the house, which would necessitate a 12-foot foundation wall.

Gipp explained that the presented design attempts to address drainage concerns as expressed by Geotechnical Engineer/Hydrologist Mark Weritz to contain the drainage on the property. He said that the property owners would like to disturb the structures, power lines and aspen grove at the rear of the property line as little as possible.

Gipp said that the proposed house is 1700 square feet, with a footprint of 2200 square feet, which is below lot coverage requirements. He proposed a 10-foot setback with fill for an 8% grade from street to garage. He used large format displays of the photos included within the packet. He indicated that nearby houses are in close proximity to the street. The house design includes a garage, thus there would be no on-street parking, he said.

There are currently no proximate structures on lots to the east of 60 E 5th Street.

Chairman Stringfellow inquired if the owner's intend to build the house if the variance is denied. Gipp said that he cannot answer for the applicant without discussion, however he indicated that the property owners didn't want a steeper driveway than proposed, considering it will be icy for most of the year.

Vice Chairman MacFerrin noted the 10-foot utility easement setback at the rear. Chairman Stringfellow asked if the house would meet rear and side setbacks, if in keeping with the front setback requirement. Gipp affirmed that the house design would meet other setbacks, but highlighted the site drainage issues which were factored into the design.

Gipp said that on-site drainage containment has inherent challenges due to site topography. Vice Chairman MacFerrin asked about alternate solutions considered besides a variance. Reis noted that drainage is a consideration, which the town staff confirmed on a site visit, but that the town does not engineer solutions for applicants.

Board discussion continued regarding site drainage, as Gipp noted the hardship of drainage management without neighbor encroachment. Reis stated that the roadway is well above the building site, thus the drainage challenges, which can be further reviewed as adjacent vacant lots may encounter similar issues.

Kottenstette observed that about 70% of the aspens are underneath the power lines, and thus, there are limits to the grove's growth.

Reis explained that an average setback can be derived based on the adjacent homes, per Sec. 16-73 Exceptions to yard requirements. Unfortunately, the home to the west is not faced to 5th Street, and cannot be considered, nor upon the vacant lots to the east. She acknowledged that shorter “urbanist” setbacks seen along 5th Street would not alter the current character of neighborhood.

Member Davenport inquired about criteria that the applicant hasn’t created the hardship, despite another criteria which allows for topographical considerations, such as the slope from street grade and drainage management. As the neighborhood was not developed by the property owner, the criteria can be weighted to take this into account, said Reis.

Chairman Stringfellow asked if town anticipates a future increase in road width. Reis said that there is a forthcoming proposal before the Planning Commission that may include multi-family housing units, however there will be interior circulation within the development. She said that widening of the road would be more likely at the road’s south end.

There is no legal issue for the town to reclaim the right-of-way under any circumstances, unless deeded, said Reis. The driveway connection to the roadway may require an encroachment permit, as building within the town right-of-way is prohibited, she said, noting that encroachments are revocable, and any road widening would necessitate case-by-case negotiation with property owners. Reis said that any encroachments would then be included within the title and survey work.

Chairman Stringfellow asked about solar access, if keeping within the zoning setback of 25-feet. Gipp said that the requested 10-foot setback would improve solar access by allowing the house to be elevated.

Vice Chairman MacFerrin asked Gipp how the 15-foot request was derived. Gipp said he used modeling to create a minimal grade for the driveway (8%) factoring in drainage considerations, which will require a 12-foot foundation wall, as well as a large step from the walk-out.

Trustee Larsen read the 5 specific criteria which the Board must consider. Reis reminded the Board that they must agree that all criteria be met in order to grant the variance.

The Board discussed whether the property complies with the criteria. Member Davenport said that she feels it qualifies for the first condition with unique topographical considerations as setbacks would not be an issue upon a larger lot to include a driveway with a switchback. Chairman Stringfellow disagreed stating that there are ways to design for a less-steep driveway. Gipp stated that

an east-west facing garage would be 22-foot deep, pushing the house farther south.

Reis clarified that the criteria is about the lot, not how it will be developed, and asked the Board if there are unique or peculiar aspects warranting the variance request.

Chairman Stringfellow asked Gipp if the lot can be developed in conformity without a variance. Gipp stated that he would not recommend building a reasonably-sized house and garage upon this lot due to size and slope. Discussion ensued about developing the site with a detached garage with differing setbacks, or without a garage. Trustee Larsen asked the board to consider creating a lesser variance for the garage, and a lesser setback for the house than requested.

Member Moll noted that if conforming to the setbacks, it would be the only house to do so along the road. Member Kottenstette said that other houses to be built upon the vacant lots would have the example set by this house. Vice Chairman MacFerrin noted that the current character of the neighborhood is the criteria consideration. Reis said it is reasonable to consider neighbor alterations, as vacant lots will have a precedent set regarding the front setback.

Reis noted that a paved driveway would increase the lot coverage percentage. Member Davenport added that this percentage would also be increased by pushing the house further south. Chairman Stringfellow asked if the house can be developed in conformity with driveway standards and current district setbacks. Gipp said that neither he nor the applicant would desire this, which may max out the grade for driveway standards.

Gipp stated that he would need to communicate with the property owner as to see if she wants to proceed, pending the Board's decision.

Chairman Stringfellow and Member Moll argued that it is not a steep lot for Nederland. Chairman Stringfellow stated that the lot may require a higher development cost; however this is not a variance consideration.

Gipp noted that the road narrows further east, though Reis responded that most roads in town are not built to proper right-of-way width. The houses further east would then get a "buy-down average", which would be the average between the 25-foot setback and front setback if variance granted to Strokan/Gipp, thus re-establishing the setback along the road. This would then be an administratively-approved variance for future developments, said Reis. Vice Chairman MacFerrin acknowledged the Board's responsibility to establish the minimum variance due to this consideration.

Vice Chairman MacFerrin asked Gipp what additional design challenges would be faced if granted a 10-foot variance, rather than the requested 15 feet. Gipp said that more fill would be required to bring the house up from existing grade, with retention on the sides for drainage, so as to not encroach upon neighboring properties.

Reis stated that property owners will bear the impact if 5th Street is widened, with respect to right-of-way, such as is being experienced with 2nd Street. Chairman Stringfellow said that he is concerned about further development along 5th Street and thinks that the lot can be developed in conformity with NMC Sec. 16-33.

Gipp asked if town will allow drainage to the utility easement, at the rear of the property. Reis said that any less than a 5-or-10 year storm event must be contained to infiltrate upon the site. She acknowledged that no site will contain all drainage, but as much on-site management as possible is required.

Reis said that the Board appeared unable to qualify the second criteria as the house design can be altered, although the proposed design may not be able to be built to conformance.

Member Moll noted that road access may qualify for a partial variance, as Gipp stated that the property would sit 7-feet below the road. Vice Chairman MacFerrin said that lot being below road grade and the drainage issues may not require a variance of 15-feet. Chairman Stringfellow asked the Board to consider the minimum variance to achieve the desired result with respect to these concerns.

Motion to approve a 7½-foot variance to the front setback, due to unique characteristics of drainage and roadway elevation of the lot made by Vice Chairman MacFerrin, seconded by Kottenstette, all in favor. The Findings of Fact will be drafted for review, to be voted upon on October 9.

7) Discussion Items

There were no discussion items.

8) Other business

The recommendations of Mayor's Task Force on Building will come before the BZA for the NPP review, said Reis. Chairman Stringfellow requested a separate work session. Reis said a Doodle poll for dates will be forwarded.

Reis said that the Master Infrastructure Plan was approved by the Board of Trustees on August 9.

9) Adjournment

Motion to adjourn at 9:12p.m. by Trustee Larsen, seconded by MacFerrin, with all in favor.

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

Mark Stringfellow, Chairman

ATTEST:

Cynthia Bakke, Deputy Town Clerk

In Re: Application of Diana Strokan, 60 East 5th Street for a front yard setback variance

FINDINGS AND DECISION

THIS MATTER COMES before the Town of Nederland Board of Zoning Adjustment (the “Board”) upon the application of property owner Diana Strokan (the “Applicant”) for a front yard setback variance in the Medium Density Residential (MDR) zone district located at 60 East 5th Street in Nederland, Colorado (the “Property”). The Board, having conducted the required public hearing and being fully advised in the matter, enters the following Findings and Decision.

FINDINGS

1. Under Nederland Municipal Code (“Code”) Sec. 16-33, the front yard setback applicable to the Property is 25 feet. The Applicant has requested a 15-foot variance from this setback requirement, which would result in a front yard depth of 10 feet, to permit development of the lot for a single-family residence.
2. On July 21, 2014, the Applicant submitted a variance application, including all letters, maps, plats and exhibits thereto (the “Application”).
3. The Applicant proposes to reduce the front yard setback to 10 feet to accommodate the proposed design for a single-family residence.
4. The Application states the following: The existing grade of the Property slopes downward from the street approximately 3 ½ feet within the first 6 feet from the edge of the road. After this initial drop, the grade is reduced to approximately 1 foot in 5 feet +/- . The grade drops approximately 7 feet from the edge of the existing road surface to the front Property line. The Applicant desires the elevation of the first floor of the proposed residence to be relatively close to the street elevation and to keep the grade as flat as possible for winter access. The proposed driveway grade is 8.33%, with the maximum allowable grade of 12%. Drainage is proposed to be routed to the southwest corner of the Property, as advised by the then-Town Engineer. To accomplish that drainage and meet the 25 foot front yard setback would require removal of a small stand of aspen trees on the south side of the Property.
5. Code Section 16-233 requires the Board to conduct a public hearing on any variance application. After due and proper notice, the Board conducted a public hearing on the Application on August 14, 2014.
6. At the hearing, the Application was received into evidence.
7. The Applicant was represented at the hearing by Architect Wayne Gipp. He testified that the Applicant desires to develop the proposed single-family residence with a 10-foot front yard setback

from 5th Street. Mr. Gipp stated that this will allow easier access in winter and reduce the disturbance to the Property in general, as well as the stand of aspen trees to the south.

8. Board member Kottenstette observed that about 70% of the aspen trees are underneath the existing power lines, and thus, there are limits to the grove's growth.
9. Mr. Gipp testified that the Applicant purchased the Property in 2014.
10. Mr. Gipp acknowledged that the proposed design for the house would encroach upon the street right-of-way, but opined that the encroachment would be preferable for access and management of on-site drainage.
11. Town Administrator Alisha Reis testified that any encroachment onto Town right-of-way would require an encroachment permit, which the Town may revoke at any time.
12. Mr. Gipp testified that the hardship was created prior to the Applicant's ownership, as other homes in the surrounding neighborhood have shorter setbacks. He said the house would meet other setback requirements, if conforming to the 25-foot street setback.
13. Mr. Gipp testified that he arrived at the 15-foot requested variance by using modeling to create a minimal grade for the driveway (8%) factoring in drainage considerations, which will require a 12-foot foundation wall, as well as a large step from the walk-out.
14. Reis testified that the roadway location above the lot exacerbates drainage concerns. She also testified that shorter "urbanist" setbacks would not alter the essential character of the neighborhood.
15. In response to a question concerning whether the Property can be developed in conformity without a variance, Mr. Gipp testified that he would not recommend building a reasonably-sized house and garage upon the Property due to its size and slope.
16. No members of the public appeared to testify on the Application.
17. The Board closed the Public Hearing and began its deliberations.
18. The Board referred to the topographic Site Plan, dated May 12, 2014, prepared by Christopher Hartman and the accompanying elevation and directional photographs included within the application.
19. The Board advised the Applicant that no further encroachment is permitted beyond any encroachment that might be granted by a variance.
20. Chairman Stringfellow expressed concerns relating to the uniqueness of the condition of the Property. Similarly-situated lots along 5th Street will develop in the future. If all will expect or deserve a similar variance for similar reasons, the purpose of a variance is lost. Chairman Stringfellow stated his belief that the Property can be developed in conformity with the Code.
21. Board Member Moll stated that road access may qualify for a partial variance because the front lot line is approximately 7 feet below the grade of the finished edge of adjacent 5th Street.

22. Vice Chairman MacFerrin stated that the Property being below road grade and the difficulty of on-site drainage containment may justify some variance, but perhaps not the requested 15-foot variance.

16. Code Section 16-232(a)(1) authorizes the Board to approve a variance from the strict application of the provisions of Chapter 16 of the Code (the Town's zoning regulations) when the Board finds that all of the following criteria are 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 [Chapter 16];
- 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 [Chapter 16's] provisions which are in question.

17. Based upon the testimony and evidence received at the hearing, the Board makes the following findings with respect to the Application's compliance with Code Section 16-232(a) (1):

- a. There are unique physical circumstances and conditions peculiar to the Property, specifically the distance and slope from the town right-of-way to the front lot line, as well as the grading and topography within and around the Property which renders on-site drainage containment difficult.
- b. The Property cannot support the location of a reasonably-sized house and garage with a driveway of reasonable grade, while also providing on-site drainage containment and maximum maintenance of existing vegetation, in conformity with the provisions of Chapter 16 of the Code.
- c. The Applicant did not create the hardship presented by the unique physical condition of the Property, as the property owner did not develop the neighborhood.
- d. Allowing a front yard setback of less than 25 feet on the Property would 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. Other lots in the area are either undeveloped or also do not meet the 25 foot setback,

and

- e. The requested 15 foot variance is **not** the minimum variance that will afford relief and represents the least modification possible of the relevant front yard setback. However, the Board finds that a lesser variance in the amount of **7 1/2 feet** would adequately allow the Applicant to develop the Property for single-family dwelling purposes with a reasonable grade to access adjacent 5th Street and the ability to provide on-site drainage.

DECISION

Based upon the foregoing findings and its review of the entirety of the evidence and testimony presented at the public hearing, the Board hereby APPROVES a **7 1/2 -foot** variance from the 25-foot front yard setback requirement applicable to the Property owned by Diana

Strokan located in the MDR district at 60 E. 5th Street, Nederland, Colorado. The permissible front yard depth of the Property upon the granting of this variance is 17 ½ feet.

APPROVED AND ADOPTED by the Nederland Board of Zoning Adjustment this 9th day of October, 2014.

Mark Stringfellow, Chairman

ATTEST:

Cynthia Bakke, Deputy Town Clerk

CERTIFICATE OF MAILING

I certify that on October _____, 2014, a true and correct copy of the foregoing **FINDINGS AND DECISION** was placed in the United States mail, postage prepaid, and addressed to:

Mrs. Diana Strokan
2717 Lakeview Circle
Plattsmouth, NE 68048

Cynthia Bakke, Deputy Town Clerk



AGENDA INFORMATION MEMORANDUM NEDERLAND Planning Commission

Meeting Date: September 24, 2014
Prepared By: Alisha Reis
Dept: Administration
Information Discussion Action

AGENDA ITEM:

Presentation of recommendations of the Mayor's Task Force on Building Code Updates.

SUMMARY:

The Task Force has met twice a month since being seated in March, with their efforts culminating in the attached recommendations memo. Highlights include recommendations to: 1) Adopt the 2012 International Code Council building codes, 2) Adopt the 2008 National Electrical Code, 3) Adopt an exception to the 2012 building codes for residential sprinklers to be encouraged by not mandated in new construction and alterations of 20 percent of floor area or more, 4) Adopt code changes to ensure safety in marijuana cultivation operations, 5) Adopt code changes to support affordable housing, 6) Adopt codes changes to clarify driveway, drainage, ignition-resistant materials, design guidelines and other standards, and other actions.

The Task Force appreciated the opportunity to consider and weigh in on the building codes and thanked the Board for the invitation.

Next Steps

Building safety contractor SAFEbuilt has received the recommendations for review, as has Town technical staff. These reviews will likely occur over the next couple of months. At the Board's direction, Town staff can draft an ordinance to update the building codes as recommended. If the Board wishes to pursue code updates, staff recommends these be made effective Jan. 1, 2015, in time for the next building season. The Nederland Planning Process (NPP) review will be conducted for the Planning Commission, Board of Zoning Adjustment, and the Sustainability Advisory Board.

HISTORY AND PREVIOUS BOARD ACTION:

The Mayor directed on Feb. 18, 2014 that a Mayor’s Task Force review and make recommendations related to the updating of the Town’s building codes. The Town is currently under the 2006 International Code Council building codes. Members were compiled from the various trades, with advisement from staff of the Town and the Nederland Fire Protection District.

Members included:

Ken Bradley, electrician
Debbie Davenport, architect
Jeff Fruth, builder
Steven Roszell, builder
Mark Stringfellow, builder
Stephen Taylor, builder
Rich Tillotson, builder
Alisha Reis, Town staff

On advisement:

Rick Dirr, Fire Chief
Jason Morrison, Public Works
Manager
Mark Weritz, Town
engineering/geotechnical
Chad Johnson, building official
(SAFEbuilt)

The group has been working since early March. Their plan of work included: 1) influence of the Comprehensive Plan on the building codes, including land use and code enforcement concerns; 2) all building, fire, mechanical, fuel gas, plumbing, energy and electrical codes, including discussion on the new sprinkler requirements; 3) wildfire/fire resistant materials and mitigation; 4) hillside development/drainage/grading/erosion control/driveway standards; and 5) permitting processes.

ATTACHMENTS:

1. Final Task Force Recommendations Memo
2. BOT Minutes of Feb. 18, 2014 (relevant portion)
3. Recommendations by Trustee Kevin Mueller
4. Recommendations by Task Force member Rich Tillotson

FINANCIAL CONSIDERATIONS:

Recommendation reviews and ordinance drafts will require staff hours and Town Attorney hours.



MEMORANDUM

To: Board of Trustees
CC: Town Administrator Alisha Reis
From: Mayor's Task Force on Building Code Updates
Date: July 15, 2014
Re: Task Force Recommendations

The Mayor's Task Force on Building Code Updates was seated March 13, 2014, upon the February 18 request of the Board of Trustees to seek the opinion of builders and other trades professionals related to updates to the Town building codes. The Town's building contractor SAFEbuilt has recommended adopting the 2012 International Code Council codes (IBC, IRC, IECC, etc.) and the 2014 International Electrical Code. The Task Force reviewed materials provided by SAFEbuilt, the Nederland Fire Department, Town Staff and others, discussing pros and cons of various parts of the codes before arriving at several recommendations.

The Task Force respectfully submits the following recommendations for the Board's consideration.

Regards,

Ken Bradley
Debbie Davenport
Jeff Fruth
Steven Roszell

Mark Stringfellow
Stephen Taylor
Rich Tillotson

General Issues

General Code Discussion

- **RECOMMENDATION:** Review off-street parking codes for opportunities to remove barriers for mixed-use projects and to encourage car-free living.

- RECOMMENDATION: Review SRU requirements for duplexes and multi-family zoning categories.
- RECOMMENDATION: Review 48-inch frost depth requirement for foundations/footers. Group says the frost depth was once 30 inches and worked well for the area. The substrate in the area provides for good drainage, and frost risk is minimal. Requested more information on the study behind this move to the deeper depth.
 - Group unaware of any foundation issues at 30 inches; at 48 inches, getting to needs for blasting; lots of rock and sturdy ground here; not sure why the Town went to this level
- RECOMMENDATION: Investigate whether possible to provide engineering support for requests contrary to building code, to handle this exception administratively rather than requiring a full variance.
- RECOMMENDATION: Update to the 2008 National Electrical Code (NEC) rather than the 2014 NEC, as the 2008 NEC provides a good level of additional safety without high costs that come with newer codes. Also, the Town's inspectors, SAFEbuilt, are most familiar with the 2008 NEC requirements.
 - Bradley -- 2008 NEC to today changes were the big ones (went to arc fault for general living areas) – don't know that SAFEbuilt is all up on the new changes, even the case with State electrical inspectors and Boulder County inspectors
 - Mostly of concern is the arc fault requirements
 - Might consider updates later, with more knowledge by inspectors, etc.
 - Costs are going up tremendously with new codes – extra \$2K to \$3K in new requirements and not for benefits Bradley can see but recognizes don't know all the changes so far; getting cost-prohibitive to do things
- RECOMMENDATION: Take care with adoption of newer energy efficiency codes (2012), as it becomes a trade-off between relying upon natural and mechanical ventilation. Whole house mechanical ventilation, introduced with the 2012 IECC, comes with its own issues, e.g. failure of the system, rendering the home generally uncomfortable, etc.
 - Look at ways to meet goals but not go to full requirements (e.g. that would trigger whole house ventilation).
- RECOMMENDATION: Offer Town incentives for exceeding efficiency measures required by code in order to encourage higher levels of efficiency without mandating them.
- RECOMMENDATION: Review requirements for water service line materials – could we use plastic instead of copper. Town code requires copper while wells, etc. allow for plastic.
- RECOMMENDATION: Lighting requirements – in the 2012 IECC (energy code), 75 percent of all lighting must not be incandescent. The trigger for compliance should be at new build or 20 percent or more alteration (as referenced in N.M.C. Sec. 18-5, triggering additional building code compliance).
- RECOMMENDATION: Soffit vents should be permitted, with proper screening.

- RECOMMENDATION: The Town had been considering updating to the 2009 ICC Codes, as of 2011, but is now considering a move to the 2012 ICC Codes, based upon advice of SAFEbuilt. Given that there is no significant difference between the 2009 and 2012 codes, the Town should adopt the 2012 codes but not mandate fire sprinkler systems except in commercial building and ERVs.
- RECOMMENDATION: Any building and trades professional who works on a job in Nederland should have a Town business license. All workers on a job (including sub-contractors) should be identified and then have to pull a business license with Town.
- ✓ INFO NEEDED: Question remaining regarding the 2012 code requirement for drywall to be added around floor joists and crawl spaces – how does this impact fire protection? The group referenced the R501.3 (fire protection of floors) deletion in the Windsor code. Supports deletion in Nederland code.

Cost Considerations

- Group discussed on a number of occasions the cost impacts of new code requirements, including sprinkler systems, energy efficiency requirements, etc.
- Taylor proposed the idea of remaining with current code and offering amendments to incorporate certain new codes based upon proven technologies, studies or similar data.

Specific Issues

Affordable Housing Considerations

- RECOMMENDATION: Review Code to promote affordable housing, e.g. minimum size of 750 square feet for units, as well as accessory dwelling units. Recommend change to 500 minimum square feet and maximum of 1,000 square feet (limit size for ADUs, with 2 BD), as long as it is built to building code. (Could consider lack of minimum sizes).
 - Recommend allowing for shared utilities on ADUs (with main home/use) are investigated to reduce the cost of building such housing.
 - Reference Accessory Dwelling Unit codes from Boulder, Portland, and Lyons.
 - These concepts are necessary because the Town doesn't have a lot of land mass and folks need places to live.
- RECOMMENDATION: Explore cabin zoning concept – 800- to 1,200-square foot units being suggested by Norris Design.
- RECOMMENDATION: Review Zoning Code regarding the allowance of efficient building materials, e.g. SIPs panels, recycled shipping containers, and other pre-manufactured options. Include reference to options also for framed building in efficient manner, as well as insulation options to increase energy efficiency.
- RECOMMENDATION: The Town should clarify goals for mixed-use developments related to sustainability and walkability and adjust the code to reflect these goals, e.g. parking and drainage requirements.

Driveway Specifications

- RECOMMENDATION: Changes to N.M.C. Sec. 11-70 Private Driveway Standards:
 - Point 10 – group recommends use of native materials/on-site/other suitable materials for driveway surfacing rather than requiring Class 6 road base (3/4-inch minus), unless no suitable on-site material is available.
 - Points 12 and 13 should be reviewed, appear to be the same
 - Point 13 – recommends change of 6% maximum grade for 50 feet to same for 30 feet for driveway
 - Point 14 – recommends definition of the turning radius, clarifying whether this is inside or outside the turn; recommends it be measured at the centerline of the road and clarify this definition, as an inside measurement of 40 feet would require major excavation and outside might be too tight.
 - Point 16 – recommends definition of historic drainage flows and how/by whom these are identified
 - Point 18 – recommends deletion, as Town routinely does not maintain driveways
- POLICY QUESTION: Should the driveway specifications appear in the new infrastructure construction specs?
 - Look at code related to existing driveway and requirements for standards to fix driveways with major permits (alterations, etc.). How do we deal with properties with steep driveways and still deal with off-street parking and drainage issues, if they want to do additional development on their property?

Hillside Development Requirements

- RECOMMENDATION: Change N.M.C. Sec. 18-2, 106.2.1 to read “licensed architect or engineer of record” instead of “responsible architect”.
- RECOMMENDATION: Change N.M.C. Sec. 18-5 (3), 4 to read that an SRU certificate is required for development of 10,000 s.f. or more, which is the current SRU requirement per N.M.C. Sec. 16-60.
- RECOMMENDATION: Create definition of a “hillside area”.

Ignition-resistant Building Materials

- RECOMMENDATION: Review Boulder County codes for fire mitigation and ignition-resistant materials. Need to address wildfire materials in general, because only vaguely addressed in Town Code.
 - This is standard practice now – Gilpin County has an incentive program for this.
 - Would be nice to offer an incentive for these materials, etc. If you want to do better than requirements, we can offer break on permitting fees, etc.
- RECOMMENDATION: Require rock, cement, metal (or like) wainscoting on buildings and 3 to 4 feet worth of rock around a house.

Marijuana Cultivation

- RECOMMENDATION: Develop standards and limits for marijuana cultivation licensees related to water use, energy use, electrical and building safety, ventilation, chemical byproducts, etc.
 - Suggested requiring licensed cultivators to buy into Xcel alternative energy program, install a water recycling system, LED lights, etc.
 - Could look at including a special charge in the water utility rates for going over a certain gallonage use limit.

Permitting Issues

- RECOMMENDATION: Review requirements for topographical surveys, as well as grading and drainage plans, to streamline permitting requirements related to residential development particularly.
 - Examine the possibility to meet the intent of a site plans without professionally engineered plans – how else can this be done?
- RECOMMENDATION: Create definition of “steep” lots, which would require engineered site plans.
- RECOMMENDATION: Establish Town policy related to asbestos abatement requirements, based upon asbestos inspection reports and landfill acceptance. Review State and current Town requirements for clarity.
- RECOMMENDATION: Draft a comprehensive addendum to the Code that includes all changes to the building code, as well as Firewise, drainage and other related requirements.
- RECOMMENDATION: Set permitting turnaround goal at two weeks.
 - Offer same-day permitting for subcontractors.
- RECOMMENDATION: Offer pre-permit code meetings on commercial and multi-family projects (e.g. with SAFEbuilt) to ask questions (recommended hourly charge for this service).
- RECOMMENDATION: Clarify requirements for design standards, landscaping requirements, and consultant fees.

Sprinklers

- RECOMMENDATION: Encourage installation of residential sprinklers in new homes, but do not mandate their installation.
 - The requirement for residential sprinkler systems was discussed in-depth by the group, which concentrated primarily on the 13R standard for sprinkler system design and installation.
 - Group supports educational info regarding proper use of wood stoves and disposal of ashes, as many fires start due to these issues.
 - The group discussed the average cost per square foot of installing sprinklers in new homes. Costs are much higher in the mountains, where tanks and pumps are often needed to support the system with water pressure, putting

the cost at about \$3 to \$5 per square foot. The group estimated approximately \$15,000 to \$25,000 additional for a building project.

- Fire Department cautioned that sprinklers could assist in saving homes in light of poor building materials in older homes (on permits for additions), low water pressure, steep driveways, and limited firefighting resources. Homes built to new code standards are less at risk.
- RECOMMENDATION: If residential sprinklers are mandated, they should be required only in new construction or at 20 percent or larger footprint alterations/expansions.
- ✓ INFO NEEDED: Additional data on needs for water quantity, pressure, etc. for sprinklers. Need to gather info regarding what other communities are adopting, e.g. for the trigger point for sprinkler installation requirements.

Wildfire Regulations

- ✓ INFO NEEDED: Dirr said the biggest thorn in fire code adoption is maintenance – it's good in the beginning (mitigation) but over time, properties are not well-maintained for defensible space. Local amendments could require maintenance, with inspections by the fire department. The 2012 fire code offers updated wording regarding stronger authority for the fire department to prohibit prescribed burns during unsafe conditions. The Fire District will send amendments to the group offered by local fire departments related to these issues.

Influence of the Comprehensive Plan

The plan encourages infill development in a thoughtful manner, building to the highest feasible standards of energy efficiency and environmental sensitivity.

Specific action items/policies in the Comprehensive Plan related to this effort include:

- Promote a range of desirable and affordable housing options in Nederland, such as through encouraging mixed use development downtown and higher density residential units within walking distance of the town core.
- Encourage the design of new housing to fit the personality and character of Nederland, which is admittedly enigmatic and eclectic. Appropriate scale, context to surrounding properties, harmony with the natural environment, and use of sustainable building practices and materials are all attributes to promote.
- Promote a compact, sustainable land use pattern in Nederland that emphasizes infill and redevelopment of existing developed land, is well-connected and encourages decreased auto-dependence, incorporates green building technologies, and is in harmony with the natural environment and character of the community.
- Require that any proposed land use or development must identify hazardous areas, i.e., floodplains, drainage areas, steep slopes, and geological hazards and with intention to either avoid those areas altogether or in some cases, where feasible, mitigate those hazards.
- Discourage light pollution that interferes with dark skies and the character of town. Exterior lighting should be at a minimum for safety and security. Update and enforce the Municipal Code as it relates to downward indirect lighting in residential and commercial districts.

- Encourage infill development and redevelopment as the primary response to growth in Nederland. Such projects must be careful to consider the context of surrounding properties, which might be rustic, historic, and small in scale.
- Require new construction permits to begin with meetings with Town staff to identify any potential inconsistencies with the *Comprehensive Plan*, *Zoning Code*, and other relevant policy documents prior to formal development review by the Planning Commission.
- Protect natural drainageways, prevent erosion, minimize impacts of storm drainage and flooding on private and public property, and maintain surface water quality by reviewing development within the flood zone and riparian corridors. Consider the use of focused infrastructure improvements where the greatest hazards exist. Encourage the installation of indigenous plant materials, and the removal of dead or diseased trees to improve drainage conditions to prevent erosion throughout Nederland.
- Update the Town Municipal Code to reflect the guidance of the Future Land Use Map, encouraging focused development and redevelopment of mixed use and multi-family housing projects. Update Town development regulations and zoning codes to align with the policies and objectives of this plan, and to provide regular code enforcement.
- Identify incentives for improving energy efficiency (e.g., new windows, solar panels, etc.).
- Explore creative housing concepts to meet the community's affordable housing needs, including small-scale housing (e.g. cabin zoning concepts), accessory dwelling units, multi-generational development, etc. Review the Town zoning code to prepare for changes to allow for such concepts.
- Review Town codes for any barriers to high-efficiency building materials, e.g. pre-manufactured panels, etc.

Town of Nederland Board of Trustees Regular Meeting Minutes February 18, 2014 7:00 PM

Nederland Community Center
750 Hwy 72 Nederland, CO 80466

A. CALL TO ORDER

Meeting convened at 7:01 PM.

B. ROLL CALL

Present: Mayor Joe Gierlach, Trustees Randy Lee, Peter Fiori, Chris Perret, and Ledge Long.

Absent: Mayor Pro Tem Kevin Mueller and Trustee Annette Croughwell.

Also present: Alisha Reis, Town Administrator, Eva Forberger, Town Treasurer, and Michele Martin, Town Clerk.

C. CONSENT AGENDA

- Approval of February 18, 2014 Accounts Payable, Schedule A.
- Approval of February 18, 2014 Accounts Payable, Schedule B.
- Approval of February 4, 2014 Regular Meeting Minutes.
- Approval of Frozen Dead Guy Days (FDGD) Public Property Lease Agreement renewal.

Trustee Lee asked to pull the FDGD Agreement from the consent agenda for discussion.

Motion to approve the Consent Agenda, Schedules A and B and the regular meeting minutes from February 4, was made by Trustee Perret, seconded by Trustee Fiori and passed unanimously.

served an additional 110 clients per month. She said statistically, the Nederland Food Pantry serves 25% of the working poor in Boulder County. She encouraged everyone to attend the event this Sunday from 2:30-6:30 PM.

The Board was unanimous in their decision to grant the full fee waiver.

Motion to approve the fee waiver request for the Nederland Food Pantry for their Stone Soup Fundraiser, was made by Trustee Perret, seconded by Trustee Fiori and passed unanimously.

I. DISCUSSION ITEMS

1. Consideration of an ordinance to update the building codes to 2012 (IRC, IBC).

Reis introduced the item. The Board had considered updating the building codes before in August of 2012, from the 2006 version to 2009. At that time the Board decided to wait until after the Comprehensive Plan was adopted before looking at building code upgrades. The Comprehensive Plan was adopted in the late fall of 2013. Reis said that since this is considered adopting a code by reference, the process is to first have the ordinance introduced to the Board, and then schedule a public hearing for it to be considered for adoption. This is the introduction, and the public hearing is tentatively scheduled for May 20, for the ordinance to become effective July 1. Reis said that staff recommends adopting the same ancillary hillside development and wildfire zone codes.

Chad Johnson, SAFEbuilt Building Official, was present to discuss some of the primary differences. He recommends adopting the 2012 International Codes along with the 2014 National Electrical Code (NEC). He said that municipalities should stay within a code cycle, lagging too far behind causes too much confusion.

Trustee Fiori questioned the refund section, as to why it would be based on a percentage rather than a fixed rate. Reis said staff can review that prior to the public hearing.

Trustee Lee had several questions, which Johnson answered. Reis said that prior to adoption, staff plans to hold a building and planning 101 Course as a public outreach, with plans to invite realtors, contractors, architects, engineers, and the public.

Mayor Gierlach emphasized the fire hazard of where we live. He suggested a Mayor's Task Force to consist of local contractors, professionals and folks familiar with the Comprehensive Plan to weigh in on these proposed changes, such as sprinklers, ventilation, combustible

materials, and tree mitigation and to advise what would be most beneficial to Nederland rather than what the 2012 International Building Code (IBC) generically covers. The Board was in favor and Reis said staff would coordinate that.

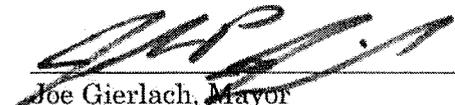
Johnson said the Town does have the option to opt out of certain regulations such as sprinklers and ventilation. He said there are also options of listing fire resistant materials and paints, such as Contego Fire Retardant Paint, into the ordinance.

J. OTHER BUSINESS

K. ADJOURNMENT

Motion to adjourn was made by Trustee Perret, seconded by Trustee Lee, and approved by unanimous voice vote. The meeting was adjourned at 9:46 PM.

Approved by the Board of Trustees.



Joe Gierlach, Mayor

ATTEST:



Michele Martin, Town Clerk



From: Kevin Mueller <kevinlmuller@gmail.com>
Sent: Tuesday, July 15, 2014 8:21 PM
To: BOT@nederlandco.org; Alisha Reis
Subject: Code Updates

Mayor's Task Force on Building Code Updates

- Recommend focusing on energy efficiency and resource utilization (or is this included at the end of 6...and other actions?)
- Recommend adopting code similar to Boulder County Build Smart that allows for prescriptive and performance path code compliance with minimum performance criteria that goes above and beyond International Code compliance and is more suited to our environmental conditions and sustainability goals.

Scope: BuildSmart serves the County's stated goals of promoting and encouraging high performing, sustainable residential development and redevelopment in the unincorporated areas of Boulder County by: Promoting development that will create energy efficient structures that reduce both the production of greenhouse gases from residential buildings and the amount of material sent to landfills; Conserving water and other natural resources in the homebuilding process; and insuring proper indoor air quality. BuildSmart also furthers the goals and measures outlined in the Colorado Climate Action Plan and the County's Sustainable Energy Plan. The production and efficient use of energy will continue to play a central role in the future of Colorado and the nation as a whole. The development, production, and efficient use of renewable energy will advance the security, economic well-being, and public and environmental health of Colorado, as well as contributing to the energy independence of our nation. The 2010 revision to BuildSmart includes both a performance and a prescriptive option for compliance, providing additional flexibility in selection of the most cost-effective design for each project.

- Next Steps
 - Recommend obtaining input from professionals with experience in drafting and implementing high performance building code.
 - How can we go above the minimum requirements of the International Code to really affect our building stock for future generations? (refer to scope above)
- Cost considerations:
 - First cost of cost of ownership?
 - Mentions offering amendments based upon proven technologies, studies or similar data. When can we expect these amendments that help us become more sustainable?
- Affordable Housing
 - Increasing energy efficiency of rental units helps address affordable housing issue, i.e. cost to heat a leak shack.
 - Recommend developing program that results in increasing the efficiency of rental units similar to City of Boulder.
- Driveway Specifications/hillside development
 - Recommend utilizing the Life's Design Principles for Water (provided by the EPA's biomimicry professional) that focuses on addressing collection, storage, distribution, use and filtration of water through natural means and use of natural systems.
- Marijuana Cultivation
 - Mention focus on safety, but recommendations appear to only consider energy efficiency.
 - Recommend having Safebuilt review the current code and list out sections that pertain to installation of cultivation facilities (electrical, plumbing, ventilation). Then develop a process in which the Town can coordinate with and assist all cultivation facilities to become safe and code compliant.
 - Recommend holding off on efficiency/performance regulations. Xcel and the City of Boulder are already analyzing the process and identifying potential cost effective upgrades and incentives.

- Regarding water: will this type of charge to promote water conservation be included in our rate study and would it not apply to all users, not just cultivators?
- Permitting:
 - What is intent of allowing same day permitting to sub contractors?
- Regarding Influence of Comprehensive Plan
 - Recommend adding explanation on how selected recommendations satisfy the policy stated in the comprehensive plan.

From: Kevin Mueller <kevinlmuller@gmail.com>
Sent: Tuesday, July 15, 2014 8:37 PM
To: BOT@nederlandco.org; Alisha Reis
Subject: code updates

The below highlighted policy does not appear to be addressed in the recommendations provided.

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- Discourage light pollution that interferes with dark skies and the character of town. Exterior lighting should be at a minimum for safety and security. Update and **enforce the Municipal Code as it relates to downward indirect lighting in residential and commercial districts.** (Have we utilized the code enforcement to observe night time foot candles/lumens readings?)
- Encourage **infill development and redevelopment as the primary response to growth in Nederland.** Such projects must be careful to consider the context of surrounding properties, which might be rustic, historic, and small in scale.
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Alisha Reis

From: rich tillotson <handmade@indra.com>
Sent: Saturday, July 12, 2014 9:19 AM
To: alishar@nederlandco.org
Subject: task force recommendations

Alisha,

I really cannot think of anything additional to add, but simply a few points to emphasis from the discussions I was involved with:

Pg. 2 – Frost depth: bring back in line with Boulder County 30” depth requirement which has not been an issue for decades. Especially with our predominantly weathered rock, colluvial and alluvial substrates. Boulder County had the appropriate engineering studies made to establish the 30” frost requirements.

Pg. 2 – I believe what we recommended was move with the 2009 IECC and not to the 2012 IECC. 2009 has totally adequate energy requirements without the mechanical ventilation requirements for residential.

Pg. 6 – “Steep lots”- In my experience anything above 40% (40 foot rise over a distance of 100 foot run) is difficult to walk. So starting point for discussion may be : 40% for more than 100 foot distance to define “steep”.

Pg. 6 – Residential sprinkler issue: Not to be made a requirement for new single family residences , but only perhaps a recommendation. Because:

- 1) New structures are not the problem due to the high level of building safety codes now in place
- 2) Fire resistant materials and fire mitigation principles further reduce likelihood of large house fires
- 3) Multifamily structure (including duplexes) are more of an issue for life and safety reasons

Thank You for the opportunity to be involved in this important process.

Rich Tillotson