

**FREMONT COUNTY BOARD OF ZONING ADJUSTMENT
MEETING MINUTES
FEBRUARY 21, 2017**

Board Members Present

Ed Norden – Associate Member
James J. Javernick
Dave Boden – Vice Chairman
Michael Pullen – Chairman
Larry Baker

Planning Staff Present

Marshall Butler, Planning Coordinator
Samantha Kozacek, Planning Assistant

Board Members Absent

Rich Thatcher

AGENDA

1. **APPROVAL OF MINUTES:**
 2. **APPROVAL OF AGENDA**
 3. **BOZA 17-001 Anderson (Journey Quest)**
 4. **OTHER ITEMS FOR DISCUSSION**
 5. **ADJOURNMENT**
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Chairman Michael Pullen called the Tuesday, February 21, 2017 meeting of The Fremont County Board of Zoning Adjustment (BOZA) to order at 3:03 P.M.

Roll call was completed with the aforementioned members present.

ITEM 1

Chairman Pullen brought to the floor this agenda item which is to hear recommendations regarding the approval of the minutes of the BOZA meeting held on December 13, 2016.

MOTION

Mr. Larry Baker moved to approve the minutes of the December 13, 2016 BOZA meeting, as written.

SECOND

Mr. Jim Javernick seconded the motion.

Upon a roll call vote, the motion passed unanimously. (5 of 5)

ITEM 2

Chairman Pullen asked if there were any changes, additions or corrections to the February 21, 2017 BOZA Meeting Agenda.

MOTION

Mr. Baker moved accept the February 21, 2017 Board of Zoning Adjustment Meeting agenda as presented.

SECOND

Mr. David Boden seconded the motion.

Upon a roll call vote, the motion passed unanimously. (5 of 5)

ITEM 3 – BOZA 17-001 Anderson (Journey Quest)

Chairman Pullen stated that is was a request for variance from the Fremont County Zoning Resolution (FCZR) by Mark Anderson (Journey Quest) for property located at the Northwest corner of the intersection of US Highway 50 and Fremont County Road 27 in the Texas Creek Area. The property is located in the Agricultural Forestry Zone District.

The variance request is for a Front-yard setback of 25.0 feet (*easterly, FCR #27*) and a Side-yard setback of 17.5 feet (*southerly, US Highway 50*).

The FCZR 4.1.5.5.1 Minimum allowed front-yard setback is 75 feet (*easterly*) and FCZR 4.1.1.5.2 Minimum allowed side-yard setback 50 feet (*Southerly*).

Chairman Pullen asked the applicant please explain the reason for this variance?

Mr. Mark Anderson stated that Journey Quest will be applying for a Zone Change to Rural Highway Business. The reason they are renting out a building to the back of the Barry's Den. The issue we have is we are a growing company. We are pushing the limits of what that building can do for us. At the end of the last summer we were told we needed to move because the Barry's Den property would be sold and the persons buying the property indicated that they did not want Journey Quest to be there. So we started looking into where we could go. We wanted to be able to move our business somewhere and still be able to do what we were doing. We will not be a commercial kitchen or restaurant, but we are going to have food storage there. We also need this building for business offices, equipment storage and some housing for our boat guides during the rafting season. We have designed all sorts of buildings to try and fit our needs. The building needed to be a thirty (30) feet by fifty (50) feet building that size would do what we needed. The problem was that the corner of that building then would fall into a Federal Emergency Management Agency (FEMA) designated flood plain. So that is why we are requesting the variance to move the building into the setback area so it doesn't protrude in the flood plain as much.

Mr. Ed Norden inquired what authorities we have to move a building within a flood plain. What kind of allowances do we have to do this?

Mr. Marshall Butler, Planning Coordinator, stated that there no allowances to be able to do move the flood plain boundaries unless the file a LOMA with FEMA. In order to do that they will have to study all of the upstream flow and has to justify that then to FEMA. They have been working with the County Engineer for a Fremont County Flood Damage Prevention Permit which would allow them to construct. Mr. Anderson wants to build as far as he can from that flood zone.

Mr. Norden inquired to Mr. Anderson how close they were to the actual flood way.

Mr. Anderson stated that it was in the notes provided.

Mr. Norden inquired would they be elevating the building.

Mr. Anderson stated that they do not want to elevate the structure because that would draw them in more with FEMA. They reason they are here is so that they can build in the setback area so they aren't even in the flood plain at all.

Mr. Butler stated that if you look at the map in the packet the dashed line shows the one hundred (100) year flood plain in conjunction of where their building would be. Public notice was published for this meeting. The Department sent out all of courtesy notices to all of the adjoining property owners. The Department has only received one comment back and that was from Arkansas Headwaters Recreation Area, Rob White, Park Manager stating "it does not have any immediate concerns."

Chairman Pullen inquired to Mr. Butler if it was unusual to apply for setback variance when they would already be applying for a Zone Change. The Department has seen pending Zone Changes come before the BOZA with Variances applied for. If I were the applicant I would want to see if the variance was allowed before I went through and applied for a Zone Change. I believe this is a good first step in the process. I did not get a chance to talk to Mr. Anderson before he applied. He has to go to the Rural Highway Business Zone District to have the rafting business as an allowed use. It is the only zone district it is allowed in. If the variance is granted I feel it needs to be contingent on Mr. Anderson applying for a Zone Change.

Mr. Norden inquired that if the applicant understands the risk that he proceeds with that if something happens to the Zone Change.

Mr. Butler stated that he does understand that this variance would be considered null and void if the Zone Change is not approved.

Mr. Norden stated that any action permitted by the BOZA would not influence any action for the Zone Change.

Mr. Butler stated that is correct. The video that was made of the property is not working today but there are pictures that the BOZA can see of the property that he passed to the BOZA.

Mr. Javernick inquired that if the BOZA approved this application, if the applicant still has to go to Planning and Zoning and go before the Commissioners.

Mr. Butler stated that was correct. They would still need to go through the Zone Change process and Development Plan.

Mr. Norden inquired that the setback variance was from the property line, which is also the right-of-way line, does the Colorado Department of Transportation (CDOT) have any problem with that?

Mr. Butler stated that the Department did not receive comment back from CDOT. It is their right-of-way that would be impacted by this. I would like to caution Mr. Anderson that CDOT not only controls their right-of-way but also access to a County Road within three hundred (300) feet of their right-of-way.

Mr. Anderson stated that their Engineer has been in contact with CDOT.

Mr. Butler stated well as long as you have had contact with them and do realize they can influence where driveway access can be taken from. They can also influence if there needs to be asphalt or any other changes made even if it is off of a County Road.

Chairman Pullen inquired if CDOT did have an issue it could come up during the Zone Change.

Mr. Butler stated that this would not be the end of the discussion either. The right to access I am sure will come up during the Zone Change. My understanding is the applicant is not planning direct access off of Highway 50, but will gain access from County Road 27. It will also involve the Fremont County Department of Transportation.

Mr. Norden inquired that if ATV Tours from Play Dirty still had anything to do with this property anymore.

Mr. Anderson stated that Play Dirty no longer does business on this property.

Mr. Javernick inquired that if there used to be two businesses on this property.

Mr. Anderson stated that was correct.

Mr. Norden stated that Play Dirty was operated out of a trailer and they had a phone that plugged into the phone pedestal in the pictures.

Mr. Anderson stated that they are under new ownership and not on the property.

Chairman Pullen asked, what sort of precedence will this set?

Mr. Butler stated he didn't think it would set one. Each case is handled individually. The BOZA has had numerous variances along Highway 50 on the river corridor, with a wide range of setback requests.

Mr. Norden stated that they will have more hoops to jump through with a Zone Change than they would with the BOZA.

Mr. Butler stated that was correct.

Mr. Baker inquired to how many people they put on the river last year.

Mr. Anderson stated about twenty-two hundred (2,200) and their goal is three thousand (3,000).

MOTION

Mr. Norden moved that to approve the variance request as previously stated, with the contingency that the applicant apply for a zone change to the Rural Highway Business Zone District.

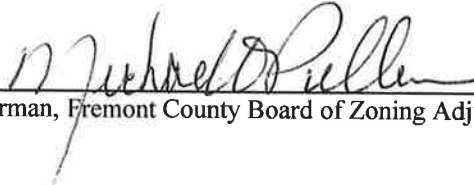
SECOND

Mr. Boden seconded the motion.

Chairman Pullen call for the vote, the motion passed unanimously. (5 of 5)

ITEM 4 - ADJOURNMENT

With no further items for discussion, Chairman Pullen declared the meeting adjourned at 3:27 P.M.



Chairman, Fremont County Board of Zoning Adjustment

4-18-17
Date