

**FREMONT COUNTY BOARD OF ZONING ADJUSTMENT
MEETING MINUTES
December 13, 2016**

Board Members Present

Ed Norden – Associate Member
James J. Javernick
Rich Thatcher
Michael Pullen – Chairman
Larry Baker

Planning Staff Present

Matt Koch, Planning Director
Samantha Kozacek, Planning Assistant

Board Members Absent

Dave Boden, Vice-Chairman

AGENDA

1. **APPROVAL OF MINUTES: November 15, 2016 Board of Zoning Adjustment Meeting.**
 2. **APPROVAL OF AGENDA**
 3. **BOZA 16-003 Herbertson Variance**
 4. **OTHER ITEMS FOR DISCUSSION**
 5. **ADJOURNMENT**
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Chairman Michael Pullen called the Tuesday, December 13, 2016 meeting of The Fremont County Board of Zoning Adjustment (BOZA) to order at 3:00 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 November 15, 2016.

MOTION

Mr. Larry Baker moved to approve the minutes of the November 15, 2016 BOZA meeting, as written.

SECOND

Mr. Rich Thatcher seconded the motion.

Upon a roll call vote, the motion passed unanimously. (4 of 4)

ITEM 2

Chairman Pullen asked if there were any changes, additions or corrections to the December 13, 2016 Fremont County Planning Commission Meeting Agenda.

MOTION

Mr. Thatcher moved accept the December 13, 2016 Board of Zoning Adjustment Meeting agenda as presented.

SECOND

Mr. James Javernick seconded the motion.

Upon a roll call vote, the motion passed unanimously. (4 of 4)

ITEM 3 – BOZA 16-003 Herbertson Variance

Chairman Pullen stated that is was a request for variance from the Fremont County Zoning Resolution (FCZR) by Tami S. Herbertson & LaDonna S. Mourne for property located at 1739 Fremont County Road #95 in the South-Florence Area. The property is located in the Agricultural Rural Zone District. Allow the placement of a 18'X76' Manufactured Home Single Wide (*Defined at 1.5.58.7 of FCZR. FCZR 4.4.2.4 Dwelling, manufactured home (does not include manufactured home single-wide, refer to Section 1.5.58.6 & 1.5.58.7 of this Resolution for definitions)*)[*prohibits manufactured home single-wide*]. The applicant may now make presentation.

Ms. Tammi Herbertson handed out pictures of the mobile home. She stated the home is an oversized single-wide. She has owned this home previously. She had gone through getting the moving permit and getting an address issued for this property. The people who had sold me this property have a single-wide on their property, which is to the south of my property. She stated she had assumed it would have been okay to move her house here. Where the home will be sitting nobody will be able to see it. Gives directions on map to show where the building site will be. Her neighbor Mr. Brian Sullivan had sent in a letter saying he did not want the approval of this variance. She stated that he would not be able to see her home from his property where it will be sitting.

Mr. Ed Norden inquired that if the adjoining property to the left of Ms. Herbertson's (shown on map) was in the Town of Coal Creek.

Ms. Herbertson stated that was correct. She showed on the map the line with the road that runs by her property which area was Coal Creek and which are was County.

Mr. Ed Norden inquired to where the mobile home was sitting right now.

Ms. Herbertson stated that currently the home was sitting out in the open for everybody to see because it had not been placed on the building site.

Chairman Pullen inquired if the home was at the site currently.

Ms. Herbertson stated that yes it was already on the property because she had gotten a moving permit to have it there and that it has been there since August.

Chairman Pullen inquired to the pictures Ms. Herbertson had handed out that they did not reflect where the home was sitting because it looked like the trailer was sitting on a graded pad.

Ms. Herbertson stated that was correct but she did have pictures to show where the home was currently sitting which was not currently the proposed building site. She then stated that in the pictures you could see a van trailer that is currently also sitting on her property. She had rented that trailer to keep all of her furniture in currently. She has had power in and water put into the property as well.

Mr. Javernick inquired to if she had gotten water off of County Road 95.

Ms. Herbertson stated that it came off of the Florence City water main since it ran right through the middle of her property. She stated that she had already invested eighty thousand (80,000) dollars into this property. She had bought the property for fifty thousand (50,000) dollars, a water tap for fifteen thousand (15,000) dollars, and the electric to put in was nine thousand (9,000) dollars and she had to put up five (5) electric poles. She stated she had exhausted all of her resources into this, and that she was disabled and could not work.

Mr. Javernick inquired if there was a septic system put in yet.

Ms. Herbertson stated that she had the septic permit and it wasn't put all the way in yet. She stated that they have been at a standstill because of the Department.

Mr. Javernick stated that he was probably more familiar with the property then the rest of the Board members because they have an oil well that sits below the applicant's property on the map. I notice that you did come in a different way to the property.

Ms. Herbertson stated that they did get a new road to the property.

Mr. Javernick stated he could attest to that where her property is that it would be hard to see the home in the area she is.

Ms. Herbertson stated that it would be even harder to see after it gets put in its final place.

Mr. Norden inquired that would the applicant still have to cross somebody else's property to get to theirs.

Ms. Herbertson stated that they are using an easement to gain access.

Mr. Matt Koch stated the applicants did make application and submit all of the required paperwork. It was published in the newspaper and all of the adjoining landowners were notified through mail. He stated that he would show pictures of the property that Code Enforcement took.

Mr. Javernick inquired to what they were looking at with one of the pictures that had a lot of debris scattered around.

Ms. Herbertson stated it was her mess to clean up she just hadn't had the time since her shoulder surgery.

Mr. Koch stated that had been a concern as well from Code Enforcement.

Mr. Koch inquired while showing the pictures what was the concrete cylinder that was protruding from the ground.

Ms. Herbertson stated that it was the Florence City water main.

Mr. Baker inquired to what were all of the vehicles they were looking at in the pictures.

Ms. Herbertson stated they belonged to her neighbor Mr. Troy Rix.

Mr. Koch stated that Code Enforcement had made note of situations they had seen while out on that property that day.

Mr. Baker inquired if the vehicles were operational.

Ms. Herbertson stated she believed they were not useable and they just sat there.

Mr. Koch stated that with regulations there can only be three (3) licensed vehicles and anything beyond that the Department will start questioning the use of them. At some points situations like this result in junkyards, Code Enforcement is looking into this.

Mr. Koch finished showing pictures of property and surrounding area. He stated that as it is apparent there are other single-wide and manufactured homes in this area.

Mr. Javernick inquired that if the road to the property was located on the property itself or was access given through a right-of-way.

Ms. Herbertson stated that access was gained through an easement.

Mr. Koch inquired to Ms. Herbertson if she had received a moving permit from the County and if she had it could he get a copy of it.

Ms. Herbertson stated she had received one and then she provided Mr. Koch with a copy.

Mr. Norden inquired to Mr. Koch what he had asked.

Mr. Koch stated that he had inquired about the moving permit and if there was one granted because there was a question of if there had been a moving permit granted from the County.

Mr. Norden inquired that if the moving permit includes setting the home on the property.

Mr. Koch stated that no it does not include setting the home on the property. It just allows moving along county roads.

Ms. Herbertson stated that the Department made her get an address before even moving the home.

Mr. Norden inquired to Ms. Herbertson if she received a permit from the Building Department to set the home on the property.

Ms. Herbertson stated she had not received one she had just moved the home to the property.

Mr. Norden inquired if Ms. Herbertson had gotten a permit to set the home.

Ms. Herbertson stated the home is not yet set, it is just sitting on the property.

Mr. Norden inquired that the only permit that Ms. Herbertson had received was to move the home.

Ms. Herbertson stated yes.

Mr. Norden inquired to Mr. Koch as to what was the normal routine for the process to place a manufactured home. Was it the Planning Department or the Building Department that checks out the relocation address first?

Mr. Koch stated the whole point of the moving permit is to verify the property that the home is being moved to. Not to verify the zone district of the property. When the Building Permit is submitted for is when the Department would verify zoning and setbacks for that property.

Mr. Norden stated that then Ms. Herbertson went to the Building Department to make application to have the home set. So then a zoning verification would be done on the property and it showed that the land use zoning didn't match up for what she wanted to do.

Mr. Koch stated that was correct.

Ms. Herbertson stated she had already paid for the permit and covered all of the costs.

Mr. Norden inquired to Mr. Koch that if something in the process needed to be changed with the moving permit to safeguard from issues like this showing up in the future.

Mr. Koch stated that based on the last two (2) BOZA (Board of Zoning and Adjustment) requests that were made I have had the Code Enforcement Officers alter their review and sign off of moving a singlewide would be allowed to where it would be getting moved to.

Mr. Norden inquired to Mr. Koch that the issue had been handled administratively through the office.

Mr. Koch stated that was correct.

Mr. Javernick stated he had encountered the same problem in the past where they had moved the trailer and then had to take it back off of a property.

Chairman Pullen inquired when a moving permit comes in and is requesting to be moved that if the zoning didn't match up with what the applicant wanted to do then what would Department would do.

Mr. Koch stated that the Department would then contact the applicant and let them know the zoning wouldn't work for what they wanted. Then the Department would tell them the different avenues they would take be with through BOZA, a rezone of the property or it not being able to happen at all.

Mr. Norden stated that the Board had letters from a Merrill and Rachel McGlamery who were the original owners of the property. The letter stated that there were other singlewide homes to the East and West. The letter also stated that the property should have been zoned Agricultural Living instead based on size and location.

Mr. Koch stated he was not sure why the property was zoned the way it was. It seemed to be randomly chosen to be zoned that way. These are large parcels in that area and are typically zoned differently than what these properties are zoned.

Mr. Norden inquired to what the property was currently zoned.

Mr. Koch stated it was currently Agricultural Rural. Penrose is primarily zoned Ag. Rural.

Mr. Norden inquired what the other zones that were around the applicant's property.

Mr. Koch stated it was Ag. Rural to the South, Coal Creek to the West, Ag, Rural to the East and Ag. Living or Ag. Estates to the North.

Mr. Norden inquired to the North would be a zone district that singlewides would be allowed.

Mr. Koch stated yes.

Mr. Baker inquired that the size of this single wide is eighteen (18) by eighty (80) feet. What would be considered a double wide unit?

Mr. Koch stated that they vary in size. Some are sixteen (16) feet wide. This is a wider single wide but it is built to the code of being a singlewide.

Mr. Baker stated he just wanted to clarify things. You had stated that most doublewide homes start at sixteen (16) feet, so this is bigger than that.

Mr. Koch stated it is because that is not the way it was manufactured. It is the way Building Department looks at it and the way Code looks at it. Typically a doublewide home come in two (2) or three (3) pieces. A singlewide is built as one unit and it built to a different code I believe.

Mr. Javernick stated that one reason this singlewide exists is back in the Seventies they were metal sided and pretty much eyesores. The city I know recommended that anything before a certain year not be allowed and it had to be wood sided. We did not distinguish between single and doublewides at that point. I feel that's why these regulations came in. The older ones were dangerous and they were not good looking homes.

Mr. Koch stated that Attorney Brenda Jackson stated they did do certain zones that didn't include singlewides was for that reason. They didn't want some of the older eyesores in certain areas. The way they are built today they seem to be making a comeback to homeowners.

Mr. Norden inquired about Mr. Sullivan's letter that his zoning could be done as one (1) acre estate homes, has he developed any one (1) acre estate homes on that parcel?

Mr. Koch stated no he has not. There may be one home but there is not a subdivision.

Mr. Javernick stated he could speak for that. Mr. Sullivan had purchased that property when there was a boom in housing out in that area before it crashed down. There is also another property across the way out there that has a couple places. That area didn't grow like they thought they would.

Mr. Koch stated that in the upcoming year Planning and Zoning is looking to change some of the regulations and include singlewides in areas that they were not always allowed to be in just because of the new manufacturing and setting restrictions on dates.

Mr. Norden stated based on the Departments photos and the applicants statements that the pad is out of sight of people seeing it that is fully supported by evidence submitted.

MOTION

Mr. Javernick moved that the Board approve the variance to allow the placement of a 18'X76' Manufactured Home Single Wide.


SECOND

Mr. Baker seconded the motion.

Chairman Pullen call for the vote, the motion passed unanimously. (4 of 4)

ITEM 4 - ADJOURNMENT

Chairman Pullen declared the meeting adjourned at 3:32 P.M.



Chairman, Fremont County Board of Zoning Adjustment

2-21-17
Date