

**FREMONT COUNTY BOARD OF ZONING ADJUSTMENT
MEETING MINUTES
September 17, 2024**

Board Members Present

Ed Norden-Chairman
Gardner Fey
Timothy Bennett
Kevin Brown

Planning Staff Present

Mike Fowler, Planning Coordinator
Joanne Kohl, Office Manager
Danielle Adamic, Senior Coordinator

AGENDA

- 1. APPROVAL OF THE SEPTEMBER 17, 2024, BOARD OF ZONING ADJUSTMENT MEETING AGENDA.**
- 2. APPROVAL OF THE AUGUST 20, 2023, BOARD OF ZONING ADJUSTMENT MEETING MINUTES.**

3. BOZA 24-002 Fluckey:

Requesting approval for a variance from the Fremont County Zoning Resolution for the property located at 17225 State Highway 115, Penrose CO.

Applicant: Anna Fluckey

4. OTHER ITEMS FOR DISCUSSION

5. ADJOURNMENT

Chairman Ed Norden called the Tuesday, September 17, 2024, meeting of The Fremont County Board of Zoning Adjustment (BOZA) to order at 3:02 P.M.

Roll call was completed with the aforementioned members present.

ITEM 1:

Chairman Norden stated there was 1 item on the agenda if there were any other changes, additions, or corrections to the September 17, 2024, BOZA Meeting Agenda. He stated he would hear a motion to approve the agenda.

MOTION

Mr. Fey motioned to approve the agenda of the September 17, 2024, BOZA meeting.

SECOND

Mr. Bennett second the motion.

Motion passed unanimously. (4 of 4)

ITEM 2:

Chairman Norden asked if there were any other changes, or discussions to the August 20, 2024, BOZA Meeting Minutes. He stated that actually since 2 of the BOZA members that had attended that meeting are not present today and there are 2 new BOZA members that were not present to see that meeting, the BOZA board will not be able to approve the August 20, 2024 minutes until the next scheduled BOZA meeting since they don't have a quorum for the minutes, and they can vote when all members have seen the meeting from August 20, 2024.

Coordinator Adamic stated that she spoke to the county attorney and stated that if the new members had watched the meeting on You Tube, they could vote on the minutes. However, the new members did not watch the August 20, 2024, meeting.

Chairman Norden said they will put it on the next agenda.

Chairman Norden welcomed two new members to the BOZA board, Mr. Kevin Brown and Mr. Timothy Bennett.

Chairman Norden starts with stating he has some procedural questions before they begin, an email that Coordinator Adamic sent out stating that there were some misleading inaccurate and false information provided at that meeting and he would like to inquire if any of that was intentionally submitted to be misleading or was it overlooked.

Coordinator Adamic stated that she does not believe it was intentional, she thinks a lot of it was overlooked. She discovered it when she started listening to the minutes and comparing the application to what was proposed.

Chairman Norden comments that he looked through the highlights that staff provided and there are several items that need to be reconsidered. His question is, if the board wants to consider approval of the variance, are they considering each item. He would like to stagger it a bit and talk about each item before they look at everything as a total package and vote on each of them separately.

ITEM 3:

BOZA 24-002 Fluckey

Coordinator Adamic states that on the application #20K it stated that there is one off street parking space and per the Fremont County Zoning Resolution for a Mini Storage facility, it's one space per 100 units, one space for employee and then one space ADA required and right now they are proposing just one space. That would be their first variance. Staff does recommend denial for the off-street parking. Per section #20. k. – States 1 required off-street parking. Per Fremont County Zoning Resolution section 5.4

Mini-Storage Facility	1 space / 100 units + 1 space / employee
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Section 5.4.3.1

Total Parking Spaces in Lot	Minimum Number of Accessible Spaces
1 to 25	1

The required off -street parking is 2 standard spaces and 1 ADA space. Coordinator Mike Fowler stated in the staff report that the request was for all four setbacks. Ms. Anna Fluckey stated that they were only requesting the setback variance for the property line adjacent to the State Highway 115. Coordinator

Adamic states that section 7432 for the BOZA powers, department feels this is an unnecessary hardship, the owner of the property is creating upon themselves. Section 7433 BOZA powers, the overall shape of the property does not make this property undevelopable. This is a conforming lot and can meet all minimum requirements of section 4145. The applicant is only calling out one parking space and it is not an ADA, just one standard space.

Chairman Norden ask if there are any other questions on #20K.

Mr. Brzostowicz states that they can provide three. There are no employees on this site, so they only had provided one space.

Coordinator Adamic moves onto the next item, #21D, they are requesting a front yard setback of 10ft. In the Business zone district, the setback is a minimum of 40ft. There will be a change in this, right now they only have a temporary access from CDOT. Their front yard will actually become their side yard then it would be a 25ft. minimum setback and that is part of the application, #21H. #21E requests the rear yard setback at 10ft, but on their site plan it does show a 60ft. setback, Application #21G, requests a side yard setback adjacent to a street of 10ft., H Street is platted along the side which will actually be the front once they improve H Street then it would be a required of 40ft. setback.

Chairman Norden comments that this will eventually go to the BOCC for a Commercial Development Plan, if H Street is developed, then CDOT will not allow that access off 115. Wouldn't it make sense if you are going to improve H Street before BOZA issues a variance.

Coordinator Adamic comments that does make sense, but they cannot give them that variance knowing, they can't say it's going to be improved right now. The transportation office will not be liable for improving the roadways, the developer would be responsible for it.

Ms. Fluckey states that she is sure reading through the comments, by the time she got done with them, reading the words misled, misinformation was frustrating, at the moment, the comments the board received just last week, she did not receive until 3 days after the last BOZA meeting, she was never given those comments before they walked in the room. Regarding H Street, none of that was discussed ahead of time. The emails she has from staff and CDOT say they will not be developing H. The owner is not planning to build H. They have been working on this job for almost 4 years and have given several submittals to staff and CDOT. Another issue she wants to address is the inaccuracy of their application, it is correct that it was wrong. If they had been given that staff review before they came to BOZA, they would have corrected it and clarified it. Also, when it can meet setbacks along Beaver Park Water Brush Hollow, that ditch is not something they are asking for a setback on, that was a mistake in the application.

Mr. Fey comments that the problem he sees is if you get to build this plan and with these setbacks and if H street is built, then what do you do. The setbacks would be illegal at that point.

Ms. Fluckey states that they are more the happy to work with the confines of the one on H, they are open to adjusting that.

Coordinator Adamic feels that their CDOT permit should be more of a permanent access than a temporary one because later down the road, if the adjoining property goes to develop it, now H Street will be improved and per CDOT permit, it's only temporary. Once H Street is developed, that will be their front access.

Chairman Norden stated that he was going off the brief paragraph from Michael Whitt that the Department of Transportation said that he didn't think the 10ft. setback would be adequate for sight line.

Coordinator Adamic states that if H Street is improved, it's a 40ft. setback because it would be considered the front yard and their department does not recommend approval on this due to section 414551, minimum setback of 40ft. when H Street is improved the access will be then the side yard off of the one that is adjacent to State HWY 115, that minimum setback is 25ft. per the BOZA power 7432, the department feels this is an unnecessary hardship the owner of the property is creating upon themselves. In section 7433 BOZA powers, the overall shape of the property does not make this property undevelopable. It is a conforming lot and can meet all development requirements.

Chairman Norden asks the applicant what they are seeking in the variance and to state what they are willing to comply with in the staff review regulations.

Mr. Brzostowicz states they are seeking relief from the setbacks along HWY 115. They want a setback of 10ft. They are also seeking a setback, this plan has a setback depicted of 13.3ft. on future H Street, they could live with something more than that but less than 40ft.

Ms. Fluckey states that they are willing to give all 3 parking spaces that were requested.

Chairman Norden states that if they could fashion a motion, they could provide the variance if H Street is not developed. He states he would entertain a motion.

MOTION

Chairman Norden motions to allow the variance and approve the setback on HWY 115 to 10ft.

SECOND

Mr. Fey second the motion.

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

MOTION

Chairman Norden motions to reconsider and deny the variance that was approved on August 20, 2024.

SECOND

Mr. Bennett second the motion.

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

MOTION

Mr. Fey motions to deny the requested variance for parking.

SECOND

Mr. Bennett second the motion.

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

MOTION

Mr. Fey motions to deny the 10ft. side yard setback variance request.

SECOND

Mr. Bennett second the motion.

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

ITEM 7 – ADJOURNMENT

With no further items for discussion, Chairman Norden declared the meeting adjourned at 4:00 P.M.



Chairman, Fremont County Board of Zoning Adjustment



Date