



**MINUTES OF THE REGULAR MEETING OF THE
PALISADE BOARD OF TRUSTEES
February 22, 2022**

The regular meeting of the Board of Trustees for the Town of Palisade was called to order at 6:00 pm by Mayor Greg Mikolai with Trustees present: Jamie Sommerville, Susan L'Hommedieu, Ellen Turner, Bill Carlson, Nicole Maxwell, and Mayor Pro-Tem Thea Chase. A quorum was declared. Also in attendance were Town Manager Janet Hawkinson, Town Clerk Keli Frasier, Community Development (CD) Director Brian Rusche, Utilities Director Matt Lemon, Finance Director Travis Boyd, and Police Chief Jesse Stanford.

AGENDA ADOPTION

Motion #1 by Trustee Maxwell, seconded by Trustee Turner, to approve the agenda as amended to add Resolution 2022-05 entitled "A Resolution of the Board of Trustees for the Town of Palisade, Colorado, Supporting the Grant Application for a Middle Mile Broadband Grant From the Department of Local Affairs," and Resolution 2022-06 entitled "A Resolution of the Board of Trustees for the Town of Palisade, Colorado, Supporting the Grant Application for a Grant From the Colorado Office of Economic Development and International Trade (OEDIT) for Fruit & Wine Byway Wayfinding Signs" as items B and C (respectively) under New Business.

A voice vote was requested
Motion carried unanimously

PUBLIC COMMENT

Paola Legarre, Owner of Sage Creations (3555 E Road) & the lot at 223 Main Street in Palisade, came before the Board to express her desire to have the parklet in front of her lot at 223 Main Street moved. Ms. Legarre passed out a letter and pictures of the property.

NOTE: A copy of the handout will be a permanent attachment to these minutes.

TOWN MANAGER REPORT

Town Manager Janet Hawkinson congratulated the Board for reaching the demolition phase of the old Palisade High School project.

She went on to address the concerns expressed by Ms. Legarre during public comment. Town Manager Hawkinson stated that the parklets were built as modulars so that moving them in the future would be possible. Staff will be working with Ms. Legarre and surrounding businesses to reach a solution.

Town Finance Director Travis Boyd discussed sales tax collection for special events and why the State of Colorado is responsible for collecting all sales tax, including the Town of Palisade's sales tax.

Town Manager Hawkinson finished her report by requesting permission from the Board to work with the Child and Migrant Center to improve the landscaping, which they are in dire need of assistance with. ***The consensus of the Board is to authorize staff to utilize \$3,000.00 from the Parks Fund and General Fund to build the Child and Migrant Center a new shade structure, purchase a new BBQ grill, and lay crushed granite in the rear area of their facility.***

CONSENT AGENDA

The Consent Agenda is intended to allow the Board to spend its time on more complex items. These items are generally perceived as non-controversial and can be approved by a single motion. The public or the Board members may ask that an item be removed from the Consent Agenda for individual consideration.

- **Expenditures**
Approval of Bills from Various Town Funds – February 4, 2022 – February 16, 2022
- **Minutes**
 - Minutes from the February 8, 2022, Regular Board Meeting
- **Resolution 2022-04**
“A Resolution of the Board of Trustees for the Town of Palisade, Colorado, Amending the Time for the Tourism Advisory Board Meetings for the Town of Palisade, Colorado.”

Motion #2 by Trustee Turner, seconded by Mayor Pro-Tem Chase, to approve the consent agenda as presented.

A roll call vote was requested.

Yes: Mayor Mikolai, Trustee Turner, Trustee Somerville, Mayor Pro-Tem Chase, Trustee Carlson, Trustee L’Hommedieu, Trustee Maxwell

No:

Absent:

Motion Carried.

PUBLIC HEARING I

PRO 2022-6 Cope Setback Variance

Mayor Mikolai opened the public hearing at 6:19 pm.

CD Director Rusche reviewed his staff report citing the findings of fact and staff recommendations.

The Town of Palisade has received a request for a variance from Section 5.03.E – Table 5.6 of the Palisade Land Development Code (LDC) to allow for a ten (10) foot front yard setback where twenty (20) feet is required, for the property located on the east side of North River Road, north of East Third Street (Parcel # 2937-091-00-042), as applied for by Colorado Land Advisor, on behalf of the owner Rachel Cope, pursuant to Section 4.12 of the LDC.

Section 4.17.F. Variance Findings of Fact:

NO VARIANCE SHALL BE APPROVED BY THE BOARD OF ADJUSTMENT UNLESS ALL OF THE FOLLOWING FINDINGS ARE MADE:

1. **There are exceptional conditions pertaining to the particular piece of property in question because of its shape, size, or topography that are not applicable to other lands or structures in the same district [or there is a peculiar characteristic of an establishment which makes the parking and/or loading requirements of this LDC unrealistic];**

There are exceptional conditions pertaining to this piece of property because of its triangular shape, narrow depth, and the topography of the hillside adjacent to the river.

The site is uniquely constrained by its narrow dimensions and the limited construction area beyond the crest of the steep slope along the Colorado River. A slope stability engineering analysis from Huddleston Berry Engineering completed in 2017 indicates that the proposed construction is not expected to cause any adverse impacts. However, the report recommends that the structure foundations be set back from the crest of the slope a minimum of 10 feet.

Additionally, automatic irrigation should be extremely limited. Staff recommends that the applicant adheres to all the recommendations in the Huddleston Berry Report attached to this staff report. The applicant shall also retain Huddleston Berry to provide materials testing, special inspections, and engineering oversight during all phases of the construction as recommended by the report.

2. **Granting the variance requested will not confer upon the applicant any special privileges that are denied to other residents of the district in which the property is located.**

Granting the variance requested will not confer upon the applicant any special privilege.

The property is zoned Mixed Use (MU), which permits residential development. As noted above, the site is uniquely constrained by the narrow dimensions and the limited construction area beyond the crest of the steep slope. While other properties to the north slope to the river, this property is the narrowest. The owner's representative has compiled a survey of existing front yard setbacks along North River Road and adjacent streets (see attached project report). This analysis shows several properties with residential uses having setbacks less than the standard 20 feet. This indicates that a residential use can be viable with a reduced setback in this neighborhood and that the owner would not be receiving a special privilege because of the requested variance.

3. **A literal interpretation of the provisions of the LDC would deprive the applicant of rights commonly enjoyed by other residents of the district in which the property is located.**

A literal interpretation of the code would deprive the applicant of a rational solution for accomplishing development on the site.

The applicant desires to construct a residence and garage, with an ADU, on a site that is severely limited in size. Compliance with the required building setbacks would, for all purposes, eliminate any future development on the site. The setback of 20 feet along the front would require new construction to encroach beyond the crest of the steep slope and within the existing drainage easement. The variance allows construction on stable land closer to the property lines. Although the buildings would be 10 feet from the surveyed property line, they would be at least 26 feet from the street pavement surface.

The purpose of the variance procedures, as outlined by the Land Development Code, are to provide a process to grant limited relief to the "strict application" of the Land Development Code that would result in exceptional or practical difficulty or hardship. The construction that is proposed would not be possible without relief from the building setbacks that would otherwise apply.

4. The requested variance will be in harmony with the purpose and intent of this LDC and will not be injurious to the neighborhood or to the general welfare.

The requested variance and proposed residence will be in harmony with the purpose and intent of the LDC and will not be injurious to the neighborhood or to the public.

The front yard setback of 20 feet is due, in part, to the likelihood of parking in front of a residence in a conventional neighborhood layout. The proposed layout for this property turns the garage entrance to avoid having vehicles back into North River Road. As noted earlier, other structures along the east side of North River Road have setbacks less than the current requirement of 20 feet, which does not appear to impact their use for residential purposes.

There is sufficient right-of-way along North River Road for improvements that are anticipated to be constructed at some point in the future. This further increases the distance from the residence to the current edge of the road and in line with other structures along the road.

A “neighborhood meeting” was held on January 5, 2022, to discuss the proposal and answer any questions prior to the public hearing on the variance. Notes from this meeting are attached.

Overall, the group in attendance was supportive of the project

In addition, the application is consistent with the following purposes as outlined under Section 1.01 D of the Land Development Code:

- to preserve and enhance the integrity, stability, and livability of residential neighborhoods;
- maintain property values by stabilizing expectations and ensuring predictability in development;
- balance the protection of community and neighborhood resources with the need to promote the economic development and protect individual property rights;
- and establish a process that effectively and fairly applies the regulations and standards of the Land Development Code and respects the rights of property owners and the interests of citizens.

5. The special circumstances are not the result of the actions of the applicant.

The parcel configuration and physical constraints are not the results of the applicant.

In fact, there is evidence that a prior use was on this site long before the advent of the current zoning standards.

6. The variance requested is the minimum variance that will make possible the legal use of the land, building, or structure.

The requested variance is the minimum necessary to use the land for a residential structure allowed by the zone.

The improvements would meet all other standards of the Land Development Code, except for one, due to the limitations that result because of the physical hardships of the property.

Applicant Jeffrey Flemming with Colorado Land Advisor and property owner Rachael Cope gave a presentation of the request and referred to the application materials included in the packet.

Mayor Mikolai opened the hearing to public comment.

Kris Frazier, 573 Milliman Street, Palisade, expressed concern over the proximity of the proposed structures to the riverbank.

Mayor Mikolai opened the hearing to Board comments.

Trustee Maxwell responded to Mr. Frazier's concern, stating that the applicant has worked with an engineer to ensure she can build safely where structures are proposed. *Trustee Somerville* added that he agrees with the concern but that this application does not pertain to that side of the property and cannot be considered in regard to this application.

Trustee Somerville went on to request clarification on Mesa County right-of-way on North River Road and the access where structures and concrete are being proposed.

Trustee L'Hommedieu identified her concern about building a structure so close to the narrow turn on North River Road. CDD Rusche noted that the house would be as far away from the turn as possible (toward Second Street).

Trustee Carlson asked for verification of where the easement for water flow is currently at. Mr. Flemming showed the Board where the concrete storm drain is located on the drawings included in the packet.

Mayor Pro-Tem Chase complimented the thoroughness of the application, the neighborhood meeting, and the survey of the neighborhood setbacks.

Mr. Flemming addressed the safety concerns of the public and the Board.

Motion #3 by Trustee L'Hommedieu, seconded by Trustee Turner to approve *PRO-2022-6 Cope Setback Variance*, finding that the criteria of Section 4.17.F have been met and that, as a condition of variance approval, construction shall adhere to the recommendations in the Geotechnical Investigation conducted by Huddleston Berry Engineering, Testing.

A roll call vote was requested.

Yes: Trustee Turner, Trustee Somerville, Mayor Pro-Tem Chase, Trustee Carlson, Trustee L'Hommedieu, Trustee Maxwell, Mayor Mikolai

No:

Absent:

Motion carried.

Mayor Mikolai closed the public hearing at 6:43 pm.

NEW BUSINESS

Dump Truck Replacement

Utilities Director Matt Lemon described the complications that the Town's current dump truck is having, and while he appreciates the work and time that the Town Mechanic has been putting into the truck, it is safer and more cost-effective to purchase a newer vehicle.

Motion #4 by Trustee Turner, seconded by Trustee Somerville, to authorize staff to purchase a replacement dump truck not to exceed \$35,000.00 with 50% of the amount coming from the Water Fund and 50% coming from the General Fund (Streets).

A roll call vote was requested.

Yes: Trustee Somerville, Mayor Pro-Tem Chase, Trustee Carlson, Trustee L’Hommedieu, Trustee Maxwell, Mayor Mikolai, Trustee Turner,

No:

Absent:

Motion carried.

Resolution 2022-05 supporting DOLA Grant Application

Town Manager Hawkinson announced that DOLA contacted her today and advised her of a grant opportunity for “middle-mile broadband” that is due no later than March 1, 2022.

Trustee Maxwell explained what middle-mile broadband is and how it would benefit the Town.

Motion #5 by Trustee Maxwell, seconded by Trustee Turner to approve Resolution 2022-05 supporting the DOLA grant application for middle-mile broadband.

A roll call vote was requested.

Yes: Mayor Pro-Tem Chase, Trustee Carlson, Trustee L’Hommedieu, Trustee Maxwell, Mayor Mikolai, Trustee Turner, Trustee Somerville

No:

Absent:

Motion carried.

Resolution 2022-06 supporting OEDIT Grant Application

Town Manager Hawkinson explained that the Tourism Advisory Board (TAB) would like to submit a grant application for wayfinding signs for the Fruit & Wine Byway and that the matching funds required by the grant would come from TAB’s budget.

Motion #6 by Trustee Maxwell, seconded by Trustee Turner to approve Resolution 2022-06 supporting the OEDIT grant application for Fruit & Wine Byway wayfinding signs.

A roll call vote was requested.

Yes: Trustee Carlson, Trustee L’Hommedieu, Trustee Maxwell, Mayor Mikolai, Trustee Turner, Trustee Somerville, Mayor Pro-Tem Chase

No:

Absent:

Motion carried.

The consensus of the Board is to direct Trustee maxwell, Trustee Turner, and Town Manager Hawkinson to seek additional funding for broadband from Mesa County.

OPEN DISCUSSION

Trustee Maxwell inquired about the timeline for Conditional Use Permits and their required start dates.

The Board directed staff to bring information/updates regarding CUPs and project start times to a future Board meeting. Trustee Maxwell went on to inquire about the future of the skatepark and the proposed half-pipe that was discussed in the early stages of the skatepark design. ***Staff was directed to***

put up a fence or other safety structure for the immediate needs of the area and then to look into cost estimates and design possibilities for the 2023 budget.

Trustee Turner asked that Code Compliance begin looking at alleyway properties that have been out of compliance with the Town Code regarding clutter and property maintenance.

Trustee L'Hommedieu commended the Palisade Police Department for going above and beyond with school kids and the "lunch with a cop" program.

Trustee Carlson complimented the Fire Department and the recent awards banquet. He went on to admire the work of Parks Director Troy Ward in continuing his effort to clean up Russian Olive at Riverbend Park.

Mayor Pro-Tem Chase encouraged the Board to review the op-ed in the Daily Sentinel today about the concept of social enterprise.

Mayor Mikolai announced his approval of seeing the demolition of the old Palisade High School begin, and commented that the demo crew is doing a first-rate job.

COMMITTEE REPORTS

Board members briefly explained the various meetings they had recently attended.

ADJOURNMENT

Motion #7 by Trustee Somerville, seconded by Trustee L'Hommedieu to adjourn the meeting at 7:18 pm.

A voice vote was requested.
Motion carried unanimously.

X 

Greg Mikolai
Mayor

X 

Keli Frasier
Town Clerk

