



**MINUTES OF THE REGULAR MEETING OF THE
PALISADE BOARD OF TRUSTEES
May 24, 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, Thea Chase, Bill Carlson, and Stan Harbaugh. Trustee Nicole Maxwell and Mayor Pro-Tem Ellen Turner were absent. A quorum was declared. Also in attendance were Town Manager Janet Hawkinson, Town Clerk Keli Frasier, Town Attorney Jim Neu, Community Development (CD) Director Brian Rusche, Events & Parks (EP) Director Troy Ward, Utilities Director Matt Lemon, Finance Director Travis Boyd, Fire Chief Chuck Balke, and Police Chief Jesse Stanford.

AGENDA ADOPTION

Motion #1 by Trustee Somerville, seconded by Trustee Chase, to approve the agenda as amended to move the *Above the Influence* presentation before the *Mesa County Commissioner's Town Hall*. All other presentations were moved to before *Announcements*.

A voice vote was requested
Motion carried unanimously

PRESENTATIONS

Police Chief Stanford and Palisade High School Principal Dan Bollinger presented a certificate of appreciation to Lilly Preston for her efforts and coordination of the *Live Above the Influence* program at Palisade High School.

MESA COUNTY COMMISSIONERS TOWN HALL

Mesa County Commissioners took time to speak about successful Mesa County and Town of Palisade joint operations and answer questions from Board members and citizens.

Mayor Mikolai called for a five-minute recess to allow the Commissioners to exit the meeting.

PRESENTATIONS

Mayor Mikolai presented a proclamation for Juneteenth to Alise Love, Vice president of Black Citizens and Friends.

Town Manager Janet Hawkinson introduced the Palisade Fire Chief Charles Balke to the Board of Trustees and the citizens in the audience.

PUBLIC COMMENT

Dave Smith 362 W 7th Street, Palisade; read a letter to the Board that will be a permanent attachment to these minutes.

Corinna Scott, 937 Logan Court, Palisade; expressed her concerns about the Highway 6 project.

Scott Winans with COPMOBA and Rondo Buecheler with Rapid Creek Cycles; requested written clarification from the Board regarding a letter of support given to local businesses applying for a Public Utilities Commission (PUC) transportation permit.

TOWN MANAGER REPORT

Town Manager Janet Hawkinson updated the Board of Trustees on Highway 6, the Old Palisade High School Demo Project, the renovations of the old PHS gymnasium bleachers, the Community Clinic design project, and announced that the Town had been awarded a \$1.1 million grant from the Colorado Department of Transportation (CDOT) for sidewalks and bridge reconstruction on Elberta Avenue.

Mayor Mikolai and Trustee Somerville commended Town Manager Hawkinson for her efforts since the Town hired her.

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 – May 4, 2022 – May 19, 2022
- **Minutes**
Minutes from the May 10, 2022, Regular Board Meeting

Motion #2 by Trustee Somerville, seconded by Trustee Carlson, to approve the consent agenda as presented.

A roll call vote was requested.

Yes: Mayor Mikolai, Trustee Chase, Trustee Harbaugh, Trustee Somerville, Trustee Carlson

No:

Absent: Trustee Maxwell, Mayor Pro-Tem Turner,

Motion carried.

PUBLIC HEARING I

Beer and Wine Liquor License Application for Palisade Street Eats, LLC (continued from 5/10/2022)

Mayor Mikolai opened the public hearing at 7:11 pm.

Town Clerk Keli Frasier reviewed her staff report, updating the Board on the information they had requested at the last meeting regarding the application.

Applicant Karina Parenteau explained that the proposed licensed area is the same as originally submitted and that additional parking will be available on the property.

Mayor Mikolai opened the hearing to public comment.

None was offered.

Mayor Mikolai opened the hearing to Board comment.

Trustee Somerville expressed the need for the assistant manager or person on site to be TIPS certified, and he would like that requirement to be in writing as part of the approval.

Trustee Carlson commented that a permanent structure must be erected on the property to secure the liquor and records stored and that the diagram still does not meet the dimensional requirements of the State of Colorado. Trustee Carlson stated that if the applicant wanted to store the liquor in a different location, outside of the licensed premises, a separate license would be required.

Mayor Mikolai asked how the liquor would be secured on the site within the proposed licensed premises?

Trustee Chase inquired about what the local authority is responsible for and if the security of the liquor was a local issue or managed at the State level. Town Clerk Frasier stated that the State of Colorado Liquor Enforcement monitors the security of the liquor and that the local licensing authority is responsible for monitoring that the liquor is stored on the premises only.

Trustee Chase and Trustee Somerville expressed concern over not understanding what exactly the local authority should be looking for within the application for a new license.

Motion #3 by Trustee Somerville, seconded by Trustee Harbaugh, to table the application for a beer and wine liquor license as applied for by Palisade Street Eats, LLC, located at 702 37 1/10 Road, to the next meeting in order to get a complete application with the information regarding the security for the proposed structure, clarification on parking, and additional detail on the site plan.

A roll call vote was requested.

Yes: Trustee Harbaugh, Trustee Somerville, Mayor Mikolai

No: Trustee Chase, Trustee Carlson

Absent: Trustee Maxwell, Mayor Pro-Tem Turner

Motion carried.

Mayor Mikolai closed the public hearing at 7:36 pm.

PUBLIC HEARING II

PRO 2022-10 Brown ADU Variance

Mayor Mikolai opened the public hearing at 7:36 pm.

Community Development Director (CDD) Brian Rusche reviewed his staff report, clarifying the findings of fact, and recommended conditions of approval.

The Town of Palisade received a request for a variance from Section 7.05.A of the Palisade Land Development Code (LDC) to allow for an Accessory Dwelling Unit (ADU) that is greater than fifty percent (50%) of the floor area of the principal structure and whose height is greater than that of the principal structure, located at 221 W. 7th Street (Parcel # 2937-093-38-003), as applied for by the owner Harold "Trey" Brown, pursuant to Section 4.12 of 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 the size and shape of the existing residence.

Section 7.05 of the LDC states that the maximum floor area of any accessory structure shall be no greater than fifty percent (50%) of the floor area of the principal structure. With all the additions, the existing structure is currently 1625 square feet, but it has been determined to be impractical to preserve the entire structure. The applicant is requesting a variance from this section based on the size of the renovated house. The maximum size of an ADU is 650 square feet, which the proposed unit would meet. This section also limits the maximum height of accessory garages with approved accessory dwellings over a garage to twenty-four (24) feet or the height of the principal structure, whichever is less [emphasis added]. The applicant is requesting a variance to allow for 23 feet of height, since the existing residence is only 18 feet high. See attached site and floor plans for exact dimensions.

- 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 Low-Density Residential (LDR). Accessory Dwelling Units (ADUs) are permitted within this zone. The proposed ADU meets all the dimensional standards of Section 7.05.D.1 – however, due to the size and height of the existing residence (built in 1904), it cannot meet the proportional requirements of being half the size and no higher than the primary residence.

- 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 the right to construct a modern accessory dwelling unit that meets modern building codes.

The County Assessor indicates that only 768 square feet of the existing structure currently on the site are heated square footage. This means that if all the substandard additions were removed and a literal interpretation was used, it would only permit a 384 square foot accessory structure, which is smaller than the minimum 400 square feet required for an accessory dwelling unit. In addition, the height of the existing structure is 18 feet, which a literal interpretation of this section would, in practice, allow either a garage or an accessory dwelling unit, but not an ADU above a garage (due to minimum interior building heights required by Code).

- 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 ADU 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 owner has proposed a solution to an otherwise blighted property that would accomplish two objectives: preservation of existing housing and provision of new housing. By removing two arguably uninhabitable units, renovating the original 1904 home, and adding an accessory dwelling unit, the property will overall be improved with an appropriate number of dwelling units; all brought up to current building codes.

The owner has indicated that he has met with the residential neighbors on each side and has their support for this project. The rear of the property borders an alley, which will be used to access the garage, and commercial development.

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

- Preserve and enhance 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;*
- Maintain opportunities for development and redevelopment to respond to changes in the marketplace while respecting the character of surrounding areas;*
- 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 substandard size and condition of the existing building are not the result of the applicant.

In fact, the applicant is attempting to modernize both the existing residence as well as construct a modern accessory dwelling unit.

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 construct an ADU as allowed by the zone.

The ADU does not exceed the maximum size and/or height of an accessory dwelling unit allowed by the Code. The requested variance would remove the constraint that could eliminate the potential for constructing this ADU due to the size of the existing residence. The alternative (not granting this variance) could also eliminate the desire to renovate the historic structure and instead construct a larger home AND accessory dwelling unit, as allowed by the LDR zone.

Applicant Harold Trey Brown 221 W 7th Street; stated that the goal is to retain the historical nature of the home as it fits into the neighborhood.

Mayor Mikolai opened the hearing to public comment.

Rick Fox, 211 W 7th Street; announced that he fully supports the variance and is super impressed with the work done on the property so far.

Gail Evans 126 Majestic Court; questioned if the proposed office will be a public business?

Marlys Griggs 241 W 7th Street; commented that the property looks so much better, but asked if it would be possible to move the staircase proposed on the west side of the ADU to a different side of the house for privacy purposes?

Mayor Mikolai opened the hearing to Board comment.

Trustee Chase was interested in hearing what unusual circumstances justify approving the requested variance.

Trustee Harbaugh stated that while serving on the Planning Commission, he had not seen this type of case come up and asked CD Rusche why these types of rules were originally put in place restricting home height? CD Rusche explained the Ordinance and its proportionality requirements and what he feels the purpose of the Code was intended to serve.

Trustee Carlson asked the applicant how difficult it would be to move the stairs to accommodate Ms. Griggs's privacy concerns? Mr. Brown was confident that moving the stairs would not be an issue.

Mr. Brown addressed Trustee Chase's questions by stating that the existing home on the property was built in 1904 and is 24' X 24' square. The variance request is to be able to have a garage for off-street parking and to have a nice livable space above said garage.

Mayor Mikolai stated that he appreciated the applicant's desire to preserve the historical nature of the existing home and all of the work he has put in to cleaning up the property.

Motion #4 by Trustee Somerville, seconded by Trustee Harbaugh to approve PRO 2022-10 Brown ADU Variance because it meets all of the Land Development Code requirements.

A roll call vote was requested.

Yes: Trustee Harbaugh, Trustee Somerville, Trustee Carlson, Mayor Mikolai, Trustee Chase

No:

Absent: Trustee Maxwell, Mayor Pro-Tem Turner

Motion carried.

Mayor Mikolai closed the public hearing at 8:00 pm

NEW BUSINESS

Ordinance 2022-12 - Moratorium on Subdivisions

Town Manager Hawkinson explained that this Ordinance is being proposed due to the overwhelming opposition from citizens to a recent concept plan presented to the Palisade Planning Commission for a large subdivision. This Ordinance would put a temporary moratorium on all new applications for large residential developments.

Town Attorney Jim Neu added that this Ordinance is one solution for the Town to consider.

Trustee Somerville and Trustee Harbaugh both spoke in favor of the Ordinance and added that PD Zoning needs to be addressed when creating the new Comprehensive Plan.

Motion #5 by Trustee Somerville, seconded by Trustee Chase to approve Ordinance 2022-12, placing a temporary moratorium on large residential developments.

A roll call vote was requested.

Yes: Trustee Somerville, Trustee Carlson, Mayor Mikolai, Trustee Chase, Trustee Harbaugh

No:

Absent: Trustee Maxwell, Mayor Pro-Tem Turner

Motion carried.

OPEN DISCUSSION

Trustee Chase inquired about obtaining more bike racks downtown. Town Manager Hawkinson stated that they have already been ordered and are on their way.

Mayor Mikolai clarified that the open discussion time for Board members to speak needed to be considered a little more carefully in that Board members should be opening discussions amongst each other and not individually directing staff.

Trustee Chase asked that staff share the timeline for the Comprehensive Plan with the Board.

Trustee Carlson lamented that he had spent a lot of time cleaning up windblown trash from the Crest Haven subdivision and questioned where in the Code it spoke about covered trash receptacles being required for commercial construction. Town Manager Hawkinson read the section of the Code to the Board for clarification.

Trustee Somerville reminded the Board that in a previous meeting, discussions had begun about the potential for the Town of Palisade to take over Palisade Pipes and Laterals. Because school is out for the summer, Trustee Somerville has more time to focus on this endeavor and asked the Board if they would support him moving forward with discussion and exploration of the process. ***The consensus of the Board is for Trustee Somerville to move forward with discovery and discussion with Palisade Pipes and Laterals.***

COMMITTEE REPORTS

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

ADJOURNMENT

Motion #6 by Trustee Chase, seconded by Trustee Somerville to adjourn the meeting at 8:22 pm.

A voice vote was requested.

Motion carried unanimously.

X 

Greg Mikolai
Mayor

X 

Keli Frasier
Town Clerk



Dave Smith
362 W 7th St.
Palisade, CO 91526
5/24/2022

Town of Palisade
341 W 7th St
Palisade, CO 81526

Board of Trustees:

In the last Town Board of Trustees meeting, May 10th, two separate parties made public comments asking the Town for letters of support endorsing them in the State licensing process. On the meeting agenda it clearly states, "Neither the Board of Trustees nor staff will respond to comments at this time. The Board may direct staff to look into specific comments to bring back as an Agenda item at a future meeting." This was not done. A letter of support was granted and issued within two days.

I strongly suggest that the town consider developing policies and procedures for endorsements and includes guidelines such as "requests have to be made a minimum of two weeks in advance." This gives the citizens a chance to comment.

Frankly, I believe the Board should not be approving writing letters for individuals or commercial purposes, unless it is for a grant or community project.

The Town of Palisade and the Board of Trustees should not take a position on controversial or contentious matters, in particular, if there is a hearing or other legal proceeding involved to which the town is not a party of.

Thank You



Dave Smith