

**MINUTES
CARBONDALE BOARD OF TRUSTEES
REGULAR MEETING
JUNE 8, 2021
VIRTUAL MEETING VIA ZOOM**

Mayor Dan Richardson called the Board of Trustees virtual Regular Meeting to order on June 8, 2021, at 6:00 p.m.

ROLL CALL:

The following members were present for roll call:

Mayor	Dan Richardson
Trustees	Marty Silverstein
	Lani Kitching
	Heather Henry
	Erica Sparhawk
	Ben Bohmfalk

Absent	Luis Yllanes
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Staff Present:

Town Manager	Jay Harrington
Town Clerk	Cathy Derby
Finance Director	Renae Gustine
Town Attorney	Mark Hamilton
Planner	John Leybourne

CONSENT AGENDA

- Accounts Payable totaling \$384,153.60
- BOT 5-18-2021 Special Meeting Minutes
- BOT 5-25-2021 Regular Meeting Minutes
- Liquor License Renewal – Beijing Tokyo
- Ordinance No. 7, Series of 2021 – Carbondale Fire Training Facility
- Board of Trustees Authorization for Town to Pay June 22, 2021 Accounts Payable
- Recommendation for Appointment – Tree Board

Trustee Sparhawk made a motion to approve the consent agenda. Trustee Kitching seconded the motion and it passed with:

6 yes votes: Richardson, Henry, Silverstein, Kitching, Sparhawk, Bohmfalk

PERSONS PRESENT NOT ON THE AGENDA

There was no one present who wished to address the Board.

TRUSTEE COMMENTS

Trustee Sparhawk stated that Colorado Communities for Climate Action (CC4CA) held a Board retreat. The 38 members voted unanimously to approve the Policy Statement. They also elected new board members; Trustee Sparhawk will be leaving her president role in June.

Trustee Bohmfalk stated that he attended the Bike/Pedestrian/Trails Commission (BPTC) meeting last night. They discussed their role in educating pedestrians, bikers, etc. Trustee Bohmfalk noted that Kevin Schorzman did a great job classifying Carbondale streets. Trustee Bohmfalk asked if the Town is considering water restrictions? Jay answered that staff is carefully monitoring the water levels and will put Stage 1 restrictions into effect when it is appropriate. The Town wants people to continue using ditch water. Trustee Bohmfalk suggested that housing and infill versus sprawl should be topics the Board discusses with the Garfield Commissioners next week.

Trustee Silverstein said the Public Arts Commission Art Walk around town was very successful. He thanked Carol Klein and Dan Bullock for their long-time service on the Public Arts Commission and Tree Board (respectively). Trustee Silverstein stated the rodeo resumed last Thursday and had a huge turn out. Trustee Silverstein announced that this Sunday there will music in the park as COVID restrictions have been lifted.

Trustee Kitching stated that she attended the Association of Governments of Northwest Colorado meeting where they discussed a comprehensive economic development strategy. They also reviewed Broadband. Trustee Kitching attended the Coventure Board meeting. They have a new website. They strategized on how to manage Coventure in the future. Trustee Kitching also attended the Senior Matters meeting. They are updating programming and are making it more robust.

Trustee Henry informed the Board that the Plastics Reduction Bill passed and she asked is this a good time to resume the plastics contract? The Board agreed to re-engage the consultants.

Mayor Richardson stated that the Rodeo was extremely popular. First Friday was well attended, however, open (liquor) containers continue to be a challenge. Mayor Richardson asked people not to speed and be respectful and mindful of pedestrians, bikers, etc. Mayor Richardson attended the COVID Emergency Task Force. They are going to continue to schedule the meetings. Mayor Richardson attended the RFTA meeting. There was an update on the MOVE study. They talked about how to utilize the Rio Grande corridor in Glenwood Springs for transportation. They are going to revisit the cost of youth fares. RFTA buses went back to full capacity yesterday. They have scheduled a retreat for

July. Mayor Richardson thanked staff for their hard work – the town is really busy and staff is very busy during this challenging time.

ATTORNEY'S COMMENTS

The attorney did not have any comments.

PUBLIC HEARING – APPEAL OF PLANNING & ZONING DECISION OF 485 MANCOS STREET

John Leybourne explained that this is an appeal of a decision made by the Planning and Zoning Commission to approve a Minor Site Plan Review and Conditional Use Permit for 485 Mancos Street. This is a de novo, or a new public hearing conducted without deference to the P&Z decision. The Board will review the application based upon compliance with the UDC.

The P&Z held two public hearings, one on March 11, 2021, where they continued the hearing to April 15, 2021, so that the applicant could provide more information and to consider public comments on the design of the proposal. The information requested included:

- Clarification on the proposed structure height
- That a solar access study be submitted and confirmed by staff
- To clarify the private outdoor space requirement and the location of the private outdoor space

At the April 15, 2021, continued public hearing, staff noted that the requested information had been provided by the applicant and was included in the packet. After reopening the public comment portion of the hearing, taking public comments and closing the public comments portion, the Commissioners deliberated the application noting the amount of public comment and the merits of the application. A motion was made to approve the application with five Commissioners in favor and one dissenting.

On April 22, 2021, a letter of appeal was received by staff from two of the neighbors. Appeals of a Planning & Zoning decision are heard by the Board of Trustees, hence this new public hearing.

Under the Uniform Development Code (UDC), a proposed Accessory Dwelling Unit (ADU) in the R/LD zone district must go through a Minor Site Plan review before the Planning and Zoning Commission who would issue a decision and findings on the application. A Conditional Use Permit is also required and can run concurrently with the Minor Site Plan Review.

The applicant is proposing to remove an existing detached garage structure and construct a new attached garage with an accessory dwelling unit (ADU) above the new garage.

The Covenants for Colorado Meadows that were recorded in 1975 state that “Lots shall be used for no other purpose than single family residences.” The Town does not enforce covenants as they are agreements between property owners within the subdivision and that the Town is not party to those agreements.

The property is designated as Developed Neighborhoods in the Comprehensive Plan Future Land Use Plan. The properties in this designation represent developed neighborhoods with little to no change occurring. ADU's are encouraged in this designation where they are allowed.

The Property is entirely within the R/LD zone district where an ADU is allowed by a Conditional Use Permit/Minor Site Plan review. An ADU is allowed to be up to 850 square feet and a minimum of 300 square feet. The proposed ADU is 596 square feet in size. The required setbacks in the R/LD zone district have been met by the proposed garage.

Section 5.8.3. of the UDC requires 2.5 parking spaces for the main dwelling, and 2 spaces for an ADU for a total of 4 spaces due to the allowed rounding down. The applicant has provided 4 spaces, three located in the driveway and one located in the new proposed garage.

The proposed garage is setback 14' from the front of the existing house and is proposed to have a stucco finish with accent siding.

The applicant made changes to the private outside space located on the deck. These changes include raising the railing to 42 inches, adding lattice screening and extending the posts so that a solar shade/curtain can be added for screening and shade.

Section 5.12 Solar Access discusses the provision of adequate light to allow solar access on adjacent properties. A solar fence schematic was submitted and is compliant.

A site plan may be approved upon a finding that the application meets all of the following criteria:

1. The site plan is consistent with the Comprehensive Plan.
2. The site plan is consistent with any previously approved subdivision plat, planned unit development, or any other precedent plan or land use approval as applicable.
3. The site plan complies with all applicable development and design standards set forth in this Code; or
4. Traffic generated by the proposed development will be adequately served by existing streets within Carbondale, or the decision-making body finds

that such traffic impacts will be sufficiently mitigated.

Staff recommends that the Board make the following motion: move to approve a Minor Site Plan Review and Conditional Use Permit for an Accessory Dwelling Unit to be located at 485 Mancos, Carbondale, Colorado, with the following Conditions and Findings of Fact:

Conditions

1. The Accessory Dwelling Unit shall not have separate water or sewer service.
2. All other representations of the Applicant in written submittals to the Town or in public hearings concerning this project shall also be binding as conditions of approval.
3. The Applicant shall also pay and reimburse the Town for all other applicable professional and staff fees pursuant to the Carbondale Municipal Code.
4. The applicant shall apply for and receive a building permit as required.

Findings of Fact

1. The site plan is consistent with the Comprehensive Plan as Section 4.4 of the Comprehensive Plan (Developed Neighborhoods) states the ADU's will continue to be allowed on lots that can accommodate the units and the required parking.
2. The site plan is consistent with any previously approved Colorado Meadows subdivision plat.
3. The site plan complies with all applicable development and design standards set forth in this Code.
4. Traffic generated by the proposed development will be adequately served by existing streets within Carbondale.

Discussion ensued.

Trustee Bohmfalk asked if the covenants are not enforced how do they go about enforcing them? John answered normally a Homeowner's Association (HOA) or a property management company would enforce the covenants but they don't have either. Mark Hamilton explained that covenants are private contracts between owners. Individual owners would need to pursue enforcement.

Trustee Bohmfalk asked what are they allowed to build by right? Could they build a bigger addition if it's not an ADU? John answered that if they don't have a cooking appliance they could build a bigger addition.

Trustee Henry asked if we can impose a condition that they can only go forward if the HOA approves it? Mark responded that he would be hesitant to delegate approval to a private party.

Trustee Kitching asked if Town Code supersedes covenants. Mark answered that Town Code does not trump covenants. Trustee Kitching asked if the owner has to live in the main house in order to have an ADU? John responded no.

Applicant Rob Classen said that there has never been a formal HOA in Colorado Meadows. Two other ADU's exist in the subdivision. An ADU is less impactful than an addition would be. The neighbors don't realize the impact of an addition which could be built with a building permit.

Trustee Bohmfalk asked the applicant what steps he took to reduce the impacts of the ADU? They are allowed to build up to 850 sq. ft., the ADU is 596 sq ft. They redesigned the roof and reduced its height, provided a front entrance to protect the neighbor's privacy, and added a Spruce tree for privacy.

Trustee Henry asked the applicant to describe the existing house. The siding is original and is in bad need of repair. It's a bi-level home. They will match the roof pitches and they have designed it so that the existing structure and ADU will look like a single-family house. It will be one of the nicer homes in the subdivision.

Mayor Richardson opened the public comment portion of the public hearing.

Bob Kaplan stated that an 850 sq ft ADU is allowed but many restrictions govern the actual square footage. He questioned the validity of the applicant's calculations.

Anne Krimmer, Mesa Verde, stated she would like to ask for a continuance because letters from previous meetings are missing from the packet. She is concerned about the mass and scale of the ADU. She is also concerned that it will have two entrances on the street. The applicant keeps ignoring what the neighbors have said about the project.

Laura Sugaski stated that she is bothered by the square footage. She is concerned about the rear projection and her privacy. If it didn't need 4.5 parking spaces, it wouldn't need to be pushed back on the lot. The deck will overlook her backyard. This neighborhood has the smallest lots in Carbondale. The ADU doesn't fit, it is being squeezed in.

Cari Kaplan stated that this is a neighborhood issue. Zoom meetings produce a feeling of angst, contention, a feeling of disconnect and there is a language barrier. She asked for a continuance. The covenants need to be amended and they need time to form an HOA.

Mayor Richardson closed the public comment portion of the public hearing.

Mayor Richardson asked the applicant to describe the outreach he conducted with neighbors. The applicants stated he met with neighbors around him, showed them the plans and at the time everyone liked it. Then a neighbor petitioned against the project. He did extensive outreach and kept the neighbors' concerns in mind.

Trustee Henry asked staff if there is anything missing from the packet that was in Planning & Zoning's packet? John answered no, one of the neighbors claimed a letter was missing but it is in the packet.

Trustee Henry inquired about the square footage calculations. John explained that he discussed the calculations with the building official and the square footage is correct and meets Code. Trustee Henry asked when and where do we acquire an accurate survey? John responded that there is a survey on the site plan stamped by a certified surveyor.

Trustee Bohmfalk noted that the alternative to an ADU is a use by right. The ADU was pushed back because it requires more parking. If there isn't an ADU the building is pushed forward but it won't have a stove. They are trading the impact of the deck with parking.

Mayor Richardson said he is sorry that this has caused a problem for the neighborhood. Growth can cause anxiety and frustration. However, there is a limit to what the neighbors can protest. The applicant addressed the impacts to the best of his ability. Covenant enforcement is tricky and is not binding to the Town. ADU's benefit the community and we have to accept the impacts. He believes these impacts aren't unreasonable.

Trustee Henry stated that ADU's were created to be able to solve the affordable housing problem. The key is a hearing for an ADU is required and build by right doesn't get reviewed. We are reviewing this against the UDC, not covenants. The project meets the Code – setbacks, height, etc.

Trustee Sparhawk stated she supports the ADU. The 596 sq ft ADU is not a monstrosity. It's the way single family neighborhoods are going. This is what the community has been asking for – it's a way to get affordable housing.

Trustee Bohmfalk made a motion to approve a Minor Site Plan Review and Conditional Use Permit for an Accessory Dwelling Unit to be located at 485 Mancos, Carbondale, Colorado, with the Conditions and Findings of Fact(listed above). Trustee Sparhawk seconded the motion and it passed with:

6 yes votes: Kitching, Bohmfalk, Henry, Silverstein, Sparhawk, Richardson

Trustee Bohmfalk stated that he appreciates the public's involvement. The Trustees have heard you. This project had three public hearings. He believes the decision is in the best interest of the Town as a whole.

TOBACCO TAX DISCUSSION WITH COALITION OF YOUTH PROVIDERS

The Board met with Anna Cole, Roaring Fork School District, Jami Hayes, YouthZone, and Kyle Crawly, Stepping Stones, to discuss their proposal on how to spend the tobacco tax revenue. It was agreed that:

- A Youth and Family Advisory Council are necessary
- The Town will not provide in-kind fiduciary management
- The Waldorf School should be voting member
- The Coalition will create a grant program parallel to the Town's Community Request grants and the Advisory Council will give recommendations to the Board
- The Town will provide the Coalition with access to the BangtheTable portion of the Town's website for communication purposes

SENATE BILL 1318

At the May 25th meeting Patrick Hunter, representing the Environmental Board (EBoard), informed the Board that Wilderness Workshop asked the EBoard to endorse Senate Bill 1318. The Bill would create an outdoor equity grant program. Patrick asked the Board if they would be willing to endorse the Bill. The Board agreed to discuss the endorsement at the June 8th meeting.

Discussion ensued.

Trustee Bohmfalk feels this is a random request - usually the Board endorses Bills that have a direct impact on the Town. He asked out of all of the Bills in the legislature why did they chose this one? Trustee Henry noted that the Bill may impact certain people in Town – it's aimed at inequalities.

Mayor Richardson stated that when the Wilderness Workshop asks us for an endorsement he pays attention, but he is not inclined to support the Bill.

Trustee Sparhawk stated it is too late to write a letter, we would have to contact our Representative via email. Mayor Richardson stated he is willing to phone Representative Will if the Board desires to endorse the Bill.

Trustee Henry made a motion to support the Mayor calling Representative Will to give the Town's endorsement of Senate Bill 1318. Trustee Sparhawk seconded the motion and it passed with:

6 yes votes: Henry, Silverstein, Sparhawk, Bohmfalk, Kitching, Richardson

2020 AUDIT

Paul Backes of McMahan & Associates presented the 2020 Audit.

Paul stated that the Town's General Fund is \$3,987,779. The net change in the fund balance is a \$1,113,348 increase. Sales tax revenue was better than anticipated.

During the audit they noticed that the water and waste water rates billed from January through November, 2020 were not updated to reflect the approved (increase) rates in Appendix A. Renae has put a system in place where this should not happen again.

Trustee Bohmfalk commented that revenue seems to have changed significantly due primarily to internet sales – we can put the money to good use.

ADJOURNMENT

The June 8, 2021, regular meeting adjourned at 9:07 p.m. The June 22, 2021 Board of Trustees meeting has been cancelled. The next regularly scheduled meeting will be held on July 13, 2021, at 6:00 p.m.

APPROVED AND ACCEPTED

ATTEST


Cathy Derby


Dan Richardson, Mayor

