



CITY OF LANDER
BOARD OF ADJUSTMENT & PLANNING COMMISSION MEETING

Thursday, May 02, 2024 at 6:00 PM
City Council Chambers, 240 Lincoln Street

MINUTES

Join Zoom Meeting

<https://us06web.zoom.us/j/85768470104?pwd=NDFJZ01nTlZwMEYvSTFiS2lMYzB4QT09>

Meeting ID: 857 6847 0104

Passcode: 339483

Rob Newsom was absent without notice and Hunter Roseberry tried to call in but ran out of service before the Zoom meeting participant sound was fixed and the official meeting started.

1. CALL TO ORDER / PLEDGE OF ALLEGIANCE

This meeting is being recorded electronically. All petitioners to the Board of Adjustments will receive a written decision and order within thirty (30) days of this hearing. The decision will be clearly stated with findings of fact and conclusions of law. Anyone wishing to appeal against a decision and order may do so through District Court.

Anyone wishing to speak tonight, must first be recognized, come to the podium, take the oath, and state your name prior to speaking.

Let it be known that there were technical issues with the zoom link allowing sound of the virtual participant, Liz Zerga. The applicant was finally heard by making her a co-host but the official recording began almost 20 minutes late.

2. APPROVAL OF MINUTES

A. BOA and PLANNING COMMISSION MINUTES of April 4, 2024

Kara moved to accept the minutes as presented. Kristin seconded. Motion passed.

3. BOARD OF ADJUSTMENT - NEW BUSINESS

4. BOARD OF ADJUSTMENT - OLD BUSINESS

A. Take off the table NCU 23.23 690 Evergreen

Kristin moved to remove NCU 23.23 off the table. Seconded by Dave. Motion passed.

B. NCU 23.23, 690 Evergreen, Zerga

At the request of Mr. Schumacher, RaJean handed out copies of a public comment email submitted the afternoon of the last meeting. Zach recognized the March 7, 2024, public comment from Mr. Englert generally in support of the nonconforming use application.

John Schumacher took the oath as representative for the clients Liz Zerga and the Zerga family. His opening remarks stated that the zoning code procedure is for the building official to make these determinations with a zoning compliance certificate and this matter should not have come before this Board. He stated that the City took its own initiative to take this to the Board. Citing that since Mr. Roseberry inspected the property and has submitted a letter of determination, the applicant waives that right and agrees to proceed with the hearing before the Board. Mr. Schumacker stated that the City and applicant have removed some of the issues stated in the Dec 7, 2024, letter and the issues have been narrowed down.

Applicant believes there are 5 separate structures before the board needing deliberation, being structures 1/2, 3, 4, 5, and 6. He stated that Building Official Hunter Roseberry inspected all the structures and submitted a letter of findings. (This letter was in the agenda packet and distributed to all Board members before the meeting) Mr. Schumacher stated his opinion that Mr. Roseberry's letter is consistent with applicant's interpretation that the existing nonconforming uses can continue.

Mr. Schumacher went on to state that the Building Official's determination letter found the following: Structures 1/2(combined) and 3 are residential structures and are eligible for nonconforming permits. He also stated that the Building Official determined that Structures 4, 5, and 6 do not meet these requirements stating that, upon inspection, these structures have been abandoned.

Mr. Schumacher asked the Board to agree with the Building Official's findings and that the City issue a Certificate of Zoning Compliance for structure 1/2 and 3 are nonconforming detached residential structures, Structure 5 remains an accessory building, and that 690 Evergreen is a nonconforming lot without the necessary 50-foot street frontage.

Zach verified that Structure 1/2 be considered as one residence, to which the applicant agreed.

City Attorney Phillips verified that Mr. Roseberry did a thorough job. The Board can "agree" with or "support" Mr. Roseberry's letter, however, the Board cannot issue zoning compliance as that is not within their purview.

Zach verified that the applicant's definition of abandonment includes both action and intent, to which Mr. Schumacher agreed.

Kent Simon, 670 Evergreen, took the oath. He is curious as to how the County tax rolls are classified as farm utility buildings and why that does not have bearing on the definition of abandonment. Zach stated that is understanding is that the tax designation is a County label for tax purposes, which is not under consideration as a City matter.

Kristin asked what motion could be made to approve the nonconforming use application. Zach deferred to the applicant. Mr. Schumacher suggested that the motion state that the Board accepts the findings of Mr. Roseberry as to nonconforming use so the City could issue a Certificate of Zoning Compliance. Attorney Phillips stated that the motion would have to approve the application. Kristin moved to approve the application for nonconforming use. Dave Seconded. Kara and Adam asked for clarification on the motion. Zach suggested that Structures 1/2 and 3 should be considered as nonconforming single family uses while structures

4 and 5 would not be single family dwellings. Mr., Schumacher stated he felt there were 3 items being Structures 1/2 and 3 are nonconforming single-family dwelling uses, Structure 5 remains an accessory building, and that the lot is granted nonconformance 4-11-6 for frontage on a street. Attorney Phillips stated that those are not all on the original application, but the client could revise or accept an amendment to the original application. Recording secretary RaJean Strube Fossen reminded the Board that at the last motion to table the matter, each structure was being considered individually. Discussions were held on how to recognize the Building Officials letter and whether individual motions for each structure are in keeping with the original application. Kristin amended her motion to allow nonconformance to use Structure 1/2 as a single residential structure. Tom seconded the amendment. Tom, Dave, and Zach voted Aye. Joe, Kristin, and Kara voted Nay. Attorney Phillips clarified that the motion failed due to the 3-3 tie vote.

Kristin moved to approve nonconformance for structure 3, Kara seconded. Tom, Dave and Zach voted Aye. Joe, Kristin and Kara voted No. 3-3 tied motion fails.

Kristin moved to approve nonconformance for structure 4, Kara seconded. Motion failed 5-1 with Tom as the only Aye vote.

Kristin moved to approve nonconformance for structure 5 to allow single residential use, Tom seconded. Kara wanted to verify that motion is to approve nonconformance for the structure as a home business accessory structure and not as a residence. Zach clarified that this structure already has a home business permit. Mr. Schumacher stated that a home business can be run from a residence or an accessory structure. Board members recognized that Mr. Roseberry's letter reported the hazardous structural integrity of the building. Kristin and the applicant's representative, Mr. Schumacher, both agreed that the determination at hand is to approve Structure 4 as a residential structure. The vote was taken with the understanding that the motion was to approve Structure 4 as a nonconforming residential structure. Motion failed 5-1 with Tom casting only Aye vote.

Zach clarified with the applicant that Structure 6 was also to be determined as a residential structure. Dave asked if Structure 6 was removed from the application from prior proceedings. Mr. Schumacher replied that it was not removed from the application. Kristin moved to allow Structure 6 as a residential structure, Kara seconded. Motion failed unanimously.

Zach explained to the applicant that a Decision and Order stating the findings of fact and conclusions of law will be issued within 30 days. The Decision may be appealed in District Court.

Mr. Schumacher asked for Board action of the property as a nonconforming lot pertaining to street frontage. Motion was made by Kara to approve the lot as a nonconforming character of the lot due to the lack of proper street frontage. Motion was seconded by Kara, Seconded by Kristin. Motion passed unanimously.

Kara verified what was the disposition of the tied votes. Councilwoman White stated that following Robert's Rules of order for a majority vote, a tie vote is considered a failed motion.

5. PLANNING COMMISSION - NEW BUSINESS

6. PLANNING COMMISSION - OLD BUSINESS

A. Title 4 changes, graphics review

Board discussed sample graphics in the back room. Kara will meet with the graphic artists to make the suggested changes.

7. ADJOURNMENT

Meeting adjourned at 7:40 pm