



*Town of Alpine
Board of Adjustments Meeting Minutes*

DATE: June 8, 2021
TIME: 6:30 p.m.

PLACE: Council Chambers
TYPE: Special Meeting

1. **CALL TO ORDER:** Meeting called to order at 6:34 p.m.
2. **ROLL CALL & ESTABLISH QUORUM:** Ms. Christine Wagner, Planning and Zoning Administrator established roll call; members present were Mr. Floyd Jenkins Mr. Mike Kirkwood, Mr. Dave Jenkins Mr. Tim Hartnett, and Mr. Rex Doornbos. A quorum was established.

It was noted that other in attendance were Mr. Nathan Bianchin (Applicant/Petitioner {by telephone}), Ms. Audrey Cohen-Davis (Legal Representative for Mr. Bianchin {by telephone}) Ms. Leah Schwartz, (Legal Representative for the Swickard's {by telephone}). In the audience were: Mr. and Mrs. Deane Swickard (Adjoining Property Owners) and Mr. Travis Ladner (Alpine Meadows Property Owners Association, President).

3. **TONIGHT'S APPOINTMENTS/NEW BUSINESS:**

- **Bianchin, Nathan: Lot #37 Alpine Meadows, 499 Aster Loop – (#V-01-2020) {Setbacks}:** Chairman Mr. Rex Doornbos gave all those in attendance a brief review of the petitioner's request for variance of the established/allowable setbacks for the property located in Alpine Meadows, due to the encroachment of the neighboring structure that was built outside of the established building envelope. This is currently a vacant piece of property, with the intention to build a residential home in the future. It is understood by all that this is of no fault of the petitioner (Bianchin), the adjoining property owner (Swickard) or the Town of Alpine. The Board suggested that the two (2) parties work out their dispute with a property lot line adjustment as suggested at the December 2020 Alpine Board of Adjustments meeting. It was understood by all that since this is a continuation of the request from December 2020 no new mailings were sent to area property owners.

A brief overview of the variance application is as follows:

- 1 The applicant is requesting that eight feet, eight-inch (8.8) foot east and west setback adjustment to his Lot #37, due to the setback (building envelope) encroachment of the structure located on Lot #38.
- 2 Applicant is also requesting a variance for the established building envelope, which is found on the plat maps #306A and 306B.
- 3 The applicant is seeking a boundary adjustment on the west side of his property, which is adjacent to the Town of Alpine property.

The Applicant stated the reasons for this variance, in which is stated in the applicant's submittal documentation as prepared by Audrey Cohen-Davis {applicants' legal representative} further attached hereto as "Attachment A" which has been incorporated into the documented meeting minutes.

The Zoning Administrator presented all participants with a copy of the correspondence received from the Alpine Meadows Homeowners Association (HOA) specific to the HOA permit approval document, Lincoln County Residential Use Permit Application, Lincoln County permit approval document, which included a conceptual site plan for the submitted project and a copy of the final site inspection, signed by the HOA. As requested by the Chairman these documents were sent to the Town of Alpine's Legal Counsel identify three (3) questions/statements for his review and comment. Those were identified as:

- Verbal acceptances and/or considerations made regarding non-conforming structures.
- Building permits were issued in the County; and
- County setbacks allow for a ten (10) feet side setback however the recorded building envelope map identifies standard building setback from the lot boundaries at a fifteen (15) foot side setback, which applies to all developable lots, unless otherwise annotated.

Mr. James Sanderson, Town Legal Counsel responded with the following three (3) statements:

- A verbal acceptance would not be valid.
- Any prior non-conforming use is allowed.
- If a structure is non-compliant according to the subdivision covenants, it is an issue for the HOA.

Chairman Doornbos stated that it was pretty clear at the last meeting that a lot line adjustment between the two (2) property owners would be the best solution to this issue. Chairman Doornbos addressed the applicant's letter submitted by his legal counsel identifying that he is not amenable to the solution proposed by the Board and was asking for reconsideration of their previous comments.

At this time Chairman Doornbos asked Mr. Bianchin and/or his legal representative for their comments and/or thought for moving forward at this point. Mr. Bianchin addressed all those present by stating he would like to move his setback to the east, which will allow more space between the houses and for the Town to consider a boundary adjustment on the west side of the property known as Lot #37, the Town owned property.

The Board members reviewed the submitted letter date June 7, 2021, prepared by Mr. Bianchin's legal representative Ms. Audrey Cohen-Davis. All of those in attendance discussed his request for an arduous time period. It concluded that Board members did not see the reasonable change in the request, from the last meeting, and that since this is a vacant lot and no plans have been prepared that there appears to be no apparent hardship, further identifying the setbacks are not currently restricting his mountain views, noting that it is unknown what the properties across the street will be preparing for projects on their lots.

Mr. Bianchin stated he is looking for options and at the outcome of the request before preparing any proposed project on his property. All Board members were hoping for a neighborly solution, but it is just not working.

Board member Mr. Floyd Jenkins suggested that a lot line adjustment could be completed with the neighboring Town lot that would be a parallelogram, thereby no one would be losing any acreage and that this would give each owner private space and allocated setbacks that are needed, without losing any acreage. Board member thought that this was a very workable solution. However, Mr. Bianchin is not sure that he likes this idea. Chairman Doornbos stated to Mr. Bianchin that the permit application has run its course and that if he needs additional time to think about this suggestion/proposal that he will need to apply for a permit extension. Permit application for this

type have expiration dates and this application has achieved that date. Permit extension is One Hundred (\$100) Dollars, and this would extend the application out by another six (6) months if he needs to confer with his legal counsel. However, a decision on this proposal should not take that much time. Mr. Swickard is the one with the non-conforming property. Mr. Bianchin stated that this has already cost him a significant amount of money and he is not willing to pay any more funds due to this issue; therefore, if the Board is going to deny him, they might as well do it tonight.

Mr. Deane Swickard addressed the Board stating that he has been trying to work out a solution to this issue for over a year; he feels that there is a solution, however, there has not been much communication for that viable solution; he has also inherited this problem/issue as well as Mr. Bianchin and he is just trying to come up with a neighborly compromise, however the communication between the parties has been futile. He has filed a variance with the HOA Board, and they are awaiting the Town decision on this issue.

Mr. Travis Ladner, Alpine Meadows Homeowners Association President, addressed the Board, stated, in his personal opinion, that he agrees with Mr. Bianchin, and they are looking at the Town for a possible solution to this issue, as there is no specific entity that is really responsible for this situation, however, everyone is affected by this non-conformance and that it is time to move on and decide.

Board members concluded with the disappointment that a resolution was not reached over the winter months, this application has gone on longer than needed, therefore it is time to decide on this application.

Mr. Tim Hartnett moved to approve the variance application #V-01-2020 for Nathan Bianchin, Lot #37 Alpine Meadows, 499 Aster Loop. Mr. Mike Kirkwood seconded the motion. Chairman Doornbos called for a vote of all in favor; Vote: 0 yes 5 no, 0 abstain, 0 absent.

Both of the legal representatives, via telephone {Ms. Leah Schwartz, Attorney for Swickard's and Ms. Audrey Cohen-Davis, Attorney for Applicant/Petitioner} called for a straw pole on the vote: which was reiterated as follows:

Mr. Floyd Jenkins, No; Mr. Mike Kirkwood, No; Mr. Dave Jenkins, No; Mr. Tim Hartnett, No; and Mr. Rex Doornbos, No. This motion was denied by a unanimous vote.

Chairman Rex Doornbos stated to Mr. Bianchin and his representative, that the Town of Alpine Ordinance #257 – 2018-07; Land Use and Development Code Regulations; Sub-Section 5-103 - Rules for Appealing Proceedings Before Alpine Board of Adjustment; does allow for an appeal process, which identifies: "Appeals to the Alpine Board of Adjustment may be received from any person aggrieved, or by any officer, department or agency affected by any decision of the Planning & Zoning Commission or Building Official. Such appeal shall be made in writing on forms provided by the Zoning Administrator or Town Clerk and delivered to the Town of Alpine within ten (10) days from the date of the action being appealed; should he not be satisfied with the final outcome of tonight's decision.

4. APPROVAL OF MINUTES:

- **Alpine Board of Adjustments Meeting Minutes:** January 12th, 2021 – Board members reviewed the Alpine Board of Adjustment Meeting minutes that were distributed prior to the meeting date.

Mr. Tim Hartnett moved to approve the meeting minutes from the January 12th, 2021, Alpine Board of Adjustment Meeting. Mr. Dave Jenkins seconded the motion. All in favor;

Vote: 5 yes 0 no, 0 abstain, 0 absent. Motion carried.

5. **ADJOURN MEETING:** Mr. Dave Jenkins moved to adjourn the meeting. Mr. Floyd Jenkins seconded the motion. All in favor; Vote: 5 yes 0 no, 0 abstain, 0 absent. Motion carried.

Meeting Adjourned at 7:19 pm.


Rex Doornbos, Chairman

7-17-21
Date

Taken and transcribed by:


Christine Wagner
Planning & Zoning Administrator

July 13, 2021
Date

** Minutes are a brief summary of a recorded meeting **