

10/4/2023

Mayor Balch and Board of Trustees,

Following a meeting on 9/25/23 with discussion and a majority vote of 5-0, the Zoning Board of Adjustment requests that you consider the following modification to the Town of Pitkin fee schedule:

- New fee – relocation of a structure within the same property (e.g. setback verification for relocation, new plot plan required) - \$75

In addition, the Zoning Board of Adjustment requests that you consider the following modifications to the Town of Pitkin 2022 Zoning Code:

- The definition of “fence” should include that “any structure of minimal thickness made of wood, cable, chain link, concrete, rocks, plastic, vinyl, or other composite materials can be a fence.” (majority vote 3-2)
- Clarify that above ground markers for OWTS should be exempt from a permit fee (majority vote 5-0)
- Remove the option for anonymous complaints to the Zoning Board of Adjustment (majority vote 4-1)

Thank you,

Sara Gibb, Clerk

On behalf of the Zoning Board of Adjustment

Attachment: Draft minutes 9-25-23 Zoning Board Meeting

Zoning Board Meeting  
Newcomb Community Center

September 25, 2023 at 7pm

MINUTES

1. **Call to Order:** Chairperson Jesse James Garetson called the meeting to order at 7:00pm. Zoning Board members Ed Herman, Rodger Lull, Ed Pianalto, and Gayla Gibb were present. Minutes taken by Clerk Sara Gibb.

**NEW BUSINESS:**

- Discuss and vote to approve the minutes of the 8/21/2023 Zoning Board meeting

Ed Pianalto read the minutes aloud.

**Motion to accept the minutes as read made by Zoning Board member Ed Pianalto. Seconded by Zoning Board member Gayla Gibb. Motion carried 4-0. Zoning Board chairperson Jesse Garetson abstained.**

- Discuss and vote to initiate changes to the 2022 Zoning Code/make recommendation to the Board of Trustees with regard to: movement of buildings within the Town of Pitkin (Section 17A and 20B); language for a fence permit and definition of a fence (including whether a containment around a leach field is considered a fence); anonymous complaints (Section 23)

Zoning Board members Ed Pianalto and Jesse Garetson stated that the Town's fee schedule does not contain a fee for moving a building. Clerk Sara Gibb stated that fees are based on the type of building without regard to its manner of arrival – whether it's built or delivered has no bearing on the fee charged.

Zoning Board member Rodger Lull stated that in section 17A, it should clarify the type of building that can be moved and where it is moved to.

There was question as to whether a home at 719 Main was permitted when it was moved. Clerk Sara Gibb stated that the building was permitted when it was set on its foundation at 719 Main.

Zoning Board member Ed Pianalto stated that the fee schedule should be clearer on when moved buildings require a permit.

It's also not clear how to classify structures when they aren't permanent. Building inspector Tom Gibb stated that the person who had the original structure paid the permit fees and met

setbacks. When the structure is moved, the new owner has to pay permit fees and meet setbacks. Zoning Board member Jesse Garetson stated that if something is moved from one location on a property to another location on the same property and its new setbacks need to be verified then it should be permitted again. Zoning Board member Gayla Gibb stated that if no one inspects for setbacks they are frequently not met.

There was discussion on using the term “relocation permit.”

Zoning Board member Jesse Garetson suggested a fee of \$75 for a relocation/placement/setback verification permit, which is when a property owner relocates a shed from one area of their own property to a new location on their same property. Zoning Board member Ed Herman stated that he agrees with a setback verification fee. He states a plot plan should be supplied for the new location. Zoning Board member Rodger Lull asked if the requirements are the same regardless of district.

**Motion to recommend that the Board of Trustees add clarifying language to the Zoning Code with regard to relocation of buildings within a single property vs. relocation from one property to a new property within the Town of Pitkin and to add a fee of \$75 for the relocation of a building within a single property made by Zoning Board member Ed Pianalto. Seconded by Zoning Board member Gayla Gibb. Motion carried 5-0.**

FENCE/PERMIT/DEFINITION – Building Inspector Tom Gibb stated that he has been an NAWT certified inspector and installer for several years now. The new design for OWTS is a mound system. Some are surrounded by rocks, RR ties, etc. What is stressed in the mound systems is that they must be marked above ground to identify what is below ground. One must protect what is below ground with what is above ground. Mr. Gibb recently encouraged several owners of new OWTS systems to mark their systems. There was no mention of a fence permit for these markings. He asked the ZB to imagine if from the start of OWTS in Pitkin, owners had been required to mark their systems above ground. This is different from a boundary fence, dog run, yard fence, etc. He suggests that the ZB exempt marking above ground for OWTS in any way (rocks, fence, etc.) Zoning Board member Rodger Lull stated these should be considered protective barriers and not a fence. Zoning Board member Ed Herman stated that it's not considered a boundary. Zoning Board member Ed Pianalto stated that in the zoning code, it's not clearly defined when a fence needs to be permitted. It seems that a fence only needs to be permitted for setback review. The OWTS should be checked for setback anyway, and then a fence can go around it. He doesn't want a field to be placed and then a fence scooted out into an alley or someone else's property. Building Inspector Tom Gibb stated that typically the OWTS setback exceeds the required setback. ZB Chairperson Jesse Garetson stated that there is an OWTS boundary fence that doesn't meet setback on a lane. He is concerned about the plow. Building Inspector Tom Gibb stated that he checked the setback at

the request of the installer and the lane is not in the right place. The pins of the property are in the driving lane and the boundary fence meets setbacks.

The Zoning Board would like the definition of a fence to be broader and include rocks, a cable, etc. – anything that marks a boundary or restricts movement. ZB Gayla Gibb would encourage vertical, visible definitions around a soil treatment area. She does not think defining a soil treatment area is a fence. The question was raised as to whether rocks constituted a fence. Zoning Board member Gayla Gibb stated that she believes rocks constituted a fence. Zoning Board member Ed Pianalto stated that boundary rocks must then meet setbacks. He believes that a “boundary” should be located around an OWTS field. Zoning Board member Rodger Lull asked how to handle his block, for example, in which there are discrepancies about where the boundaries are located. He stated that he and his neighbors have a boundary agreement. Zoning Board member Gayla Gibb stated that if a property owner puts up a temporary rope to keep people from driving across their property, it should not be considered a fence.

Motion to recommend that the Board of Trustees to define a fence as a structure that can be comprised of wood, cable, rope, concrete, or rocks made by Zoning Board Chairperson Jesse Garetson. No second, motion failed.

**Motion to recommend that the Board of Trustees update the definition of “fence” to state that any structure of minimal thickness made of wood, cable, chain link, concrete, rocks, plastic, vinyl, or other composite materials can be a fence made by ZB Chairperson Jesse Garetson. Seconded by Zoning Board member Ed Pianalto. Motion carried 3-2. Zoning Board members Gayla Gibb and Rodger Lull opposed.**

**Motion to exempt above ground markers for OWTS from a permit fee made by Zoning Board member Gayla Gibb. Seconded by Zoning Board chairperson Jesse James Garetson. Motion carried 5-0.**

Anonymous complaints – Chairperson Jesse James stated that anonymous complaints are causing a lot of problems and hearsay. He wonders if these are putting the Clerk in jeopardy. Zoning Board member Ed Pianalto stated that anonymous complaints can be made without merit and can be hearsay. He also believes that one person can make many complaints. He does not think anonymous complaints should be allowed. Any person that makes a complaint should read the complaint form and fill it out, not just send an email to the Clerk. Zoning Board member Gayla Gibb stated that the Clerk may note the complainants name (to avoid multiple complaints) but that it might not be published elsewhere. She understands the need for anonymity in a small town where friends of a person being complained about might treat a complainant poorly. ZB member Ed Pianalto stated that he will not hear an anonymous complaint. Clerk Sara Gibb stated that she has taken anonymous complaints from several people who were concerned about being targeted for complaining. ZB member Gayla Gibb stated that she has been bullied for complaining. ZB member Rodger Lull stated that there is

no enforcement officer so how can a complaint be investigated? ZB Chairperson Jesse Garetson stated that if a zoning complaint form is fully completed, there is an opportunity to follow up on an anonymous complaint.

**Motion to recommend to the board of trustees to remove anonymous complaints from the zoning complaint form as it is currently written made by ZB member Ed Pianalto. Seconded by ZB member Ed Herman. Motion carried 4-1. ZB Gayla Gibb opposed.**

Public comments: Ramon Reed, Jim Fisher, Henry Kahanek

#### **OLD BUSINESS:**

- Discuss updates to Building Permit spreadsheet and any new permits

The Daniel family provided a written update to the Zoning Board via email. The Board accepted their progress report.

ZB requests automatic updates on changes to the spreadsheet.

ZB requests a column for OWTS

ZB member Ed Pianalto requested clarification on the additional plan review fee. Clerk Sara Gibb explained the fee. ZB member Ed Pianalto stated that he would like this to be clearer on the fee schedule.

**ADJOURN: Motion to adjourn made by ZB member Gayla Gibb. Seconded by ZB member Ed Pianalto. Meeting adjourned at 9:05pm.**

If special accommodation or alternative access is required, please contact the Town Clerk at [thetownofpitkin@gmail.com](mailto:thetownofpitkin@gmail.com) or (970)787-0031 at least 48 hours prior to the scheduled meeting