

TOWN OF RIB MOUNTAIN  
PLANNING COMMISSION MEETING  
May 25, 2016

Acting Chairman Harlan Hebbe called the meeting to order at 6:30 pm. Other Plan Commission members present included Jim Hampton, Ryan Burnett, Christine Nykiel, Tom Steele and Jay Wittman. Laura McGucken was excused. Also present were Community Development Director, Steve Kunst, and Building Inspector / Assistant Zoning Administrator, Paul Kufahl.

MINUTES:

**Motion by Tom Steele, seconded by Jim Hampton to approve the minutes of the April 27, 2016 Plan Commission meeting, as presented. Motion carried 6-0.**

Public Hearings:

- a. *Keith Schmidt, owner, requests conditional use approval for a detached private residential garage in excess of 1,000 square feet at the property addressed 3101 Partridge Way, Parcel #34.755.000.010.00.00, per RMMC Section 17.056(8)(d) – Detached Private Residential Garage, Carport, or Utility Shed. Docket #2016-21.*

Community Director Kunst introduced the request and noted the subdivision in which the applicant is proposing the structure has restrictive and protective covenants also governing the proposal, but the Town has no enforcement over those covenants.

Keith Schmidt, applicant, apologized to the neighbors in attendance for creating unrest, and noted he had two contract and real estate attorneys review the covenants and both indicated he would need to build the structure to remain in compliance with covenant 12 and that the covenants do not definitively say detached garages are prohibited. He also noted that during a walk through the neighborhood, he noticed 22 direct violations of the covenants, 12 of which related to covenant 12 of which he is trying to comply with. Mr. Schmidt also noted he has a secondary option of attaching the structure if the proposal creates too many issues with neighbors.

Plan Commission members and the applicant discussed the lot size, appearance, square footage, and sidewall height of the proposed structure and compared those with the applicable zoning regulations. Tom Steele asked Kunst if staff felt the proposal meets all applicable zoning conditions, to which Kunst noted that strictly based on our zoning ordinances, it does meet the requirements.

Commissioner Hampton noted he felt the neighborhood, in its current condition, with no detached structures and general uniform appearance is good for the neighborhood and the addition of the proposed structure would detract from the appearance and open the door for other residences to build sheds and garages.

Prior to opening public comment, Acting Chairman Hebbe noted the Town had received correspondence from residents unable to attend the meeting. Kunst stated three written letters were received in

opposition to the proposed structure, one of which included 20 signatures from residents in the same neighborhood. Mikki & Ed Koth (3000 Partridge Ave) submitted another letter and an email was received from Darlene Caillouette (3101 Partridge Ave) in opposition. Additionally, a phone call was received in opposition from Paul Hatlestad (3100 Partridge Ave), stating he did not believe the structure was the right fit for the neighborhood.

Harlan Hebbeopened the discussion for public comment.

Ed & Mikki Koth, 3000 Partridge Ave, gave a brief history of the subdivision and noted their legal counsel believes the covenants prohibit detached buildings and that stance has been enforced previously. They stated that they value the integrity of the covenants and the development it has created. They hope the covenants can be enforced neighbor to neighbor and not through legal action. Additionally, they stated that the structure is too large, visually unappealing, and does not fit the neighborhood and asked for Plan Commission to recommend denial.

Plan Commission members discussed additional option (attached or detached), and how our ordinances and their covenants would control development. Discussion indicated that attaching the structure would satisfy both controlling regulations. The applicant stated that attaching the building was a secondary option; however, it would be placed in the same proposed location with a breezeway attaching it to the current garage.

The public comment period closed.

Christine Nykiel and Steele both identified that while the covenants are in place, and there seems to be willingness between both parties to compromise, the Plan Commission can only make recommendations based on the ordinances the Town has in place.

**Motion by Tom Steele, seconded by Christine Nykiel to recommend approval of the Conditional Use request to allow construction of a detached private residential garage greater than 1,000 square feet in area at the property addressed 3101 Partridge Way. Motion Failed 2-3 with Ryan Burnett abstaining.**

- b. Travis Carlson, owner, requests conditional use approval for a detached private residential garage in excess of 1,000 square feet at the property addressed 6909 Butternut Road, Parcel #34.930.002.004.00.00, per RMMC Section 17.056(8)(d) – Detached Private Residential Garage, Carport, or Utility Shed. Docket #2016-22.*

Kunst opened discussion with a description of the request, noting the unique feature with this proposal being that the detached garage would be built concurrently with a new single-family residence. He also noted that Conditional Use approvals are only good for 12 months.

Travis Carlson, applicant, noted he hopes to have the same construction crew work on the detached garage and the house, allowing him to save some time and money in the process. He indicated the

intended use of the garage is for storage of equipment, vehicles and a shop for personal use and that no business activity is related to the structure.

Commission members and the applicant discussed the construction type and appearance of both the detached building and single family home. Commission members indicated they had no issue with the appearance. Kunst noted he did receive one phone call from a notified neighbor. The neighbor had a few questions about the location of the proposed structure and indicated they had no issue with its construction.

Additional discussion about methods of control over the development led to conversation of occupancy bonds and concurrent construction and inspections. Jay Wittman indicated he was in favor of an additional occupancy bond.

Public Comment was opened and closed with no input

**Motion by Jay Wittman, seconded by Tom Steele to recommend approval of the Conditional Use request for a detached private residential garage in excess of 1,000 square feet at the property addressed 6909 Butternut Road under the conditions that construction of the detached garage does not outpace the construction of the new single family dwelling and the project is subject to a \$1,000 occupancy bond which will be reimbursed upon compliant completion of the garage. Motion carried 6-0.**

NEW BUSINESS:

- a. Steve Miller, agent, requests special use approval for excavation of a residential pond at the property addressed 7800 Starflower Drive, Parcel # 34.208.000.009.00.00, per RMMC Section 17.056(8)(n) – Drainage Structure. Docket #2016-23.*

Kunst began discussion with a brief review of the special use procedure and the applicable considerations needed for a drainage structure/pond. Kunst noted all criteria appear to be met and that the applicant met with Marathon County representatives and the pond is designed in conformance with the standards they have in place.

Nykiel questioned the impact on neighbors and environment, to which Mr. Miller indicated the only impact will likely be equipment noise during the construction process and that trees and other vegetation which currently creates a visual buffer will remain in place after the pond is constructed. Miller also indicated he attempted to contact the neighbors on two occasions to make them aware of the proposed pond, but was unable to speak with them. He also indicated there appears to be no negative environmental impact and that there are benefits for wildlife and rain runoff control.

Kunst noted he had spoken with two of the applicants neighbors on an unrelated topic and mentioned the proposed pond, to which the neighbors indicated they had no issue with its construction. Commissioner Burnett asked for clarification of County versus Town jurisdiction and Mr. Steele questioned what items the Commission needs to consider for this application. Kunst indicated the

County has jurisdiction if the proposal is within a Floodplain or Shoreland area and that Plan Commission needs to consider if it will create increased drainage onto neighboring properties.

Mr. Miller and the Commission discussed the construction of the pond, its depth and directed overflow method. Mr. Miller indicated that they have done some hydrology studies to determine the size of the pipe/drain tile required to handle potential high water events.

**Motion by Tom Steele, seconded by Ryan Burnett to Approve the Special Use request for excavation of a pond at the property addressed 7800 Starflower Drive. Motion carried 6-0.**

*b. Discussion and recommendation on the keeping of chickens in residential zoning districts. Docket #2016-24.*

Kunst opened discussion by noting that staff has received a significant number of phone calls related to the keeping of chickens in residential neighborhoods and Town Board is interested in getting Plan Commissions direction on the topic.

Commission members indicated they have discussed this topic in the past and they have chosen to maintain the balance between forward thinking and the area's history, as well as, the overall appearance of the neighborhoods. They believe allowing chickens in the smaller lot neighborhoods would detract from Rib Mountain's appeal and appearance. The Commission noted they want to keep Rib Mountain residential neighborhoods residential.

**Plan Commission's general direction is to continue prohibiting the keeping of chickens in residential zoning districts.**

*c. Discussion of RMMC Section 17.056(8)(x) – Detached Energy Systems related to solar panels. Docket #2016-25.*

Harlan Hebbe reintroduced the subject in an effort to change the definition for roof-mounted solar panels and to potentially allow staff to approve these systems with performance standards rather than a conditional use public hearings and additional fees to residents. Jim Hampton indicated in previous discussions the Plan Commission had indicated a desire to see more applications before making that judgement.

Steele stated he would like to see some criteria that would allow staff to approve flush mounted solar panels, but proposals outside of those criteria would still be handled as a conditional use. Other Commission members agreed that if constructed correctly, flush roof mounted panels pose little issue to the public. Nykiel also addressed State Statutes which limit the amount of enforcement for municipalities as it relates to solar energy systems.

**Plan Commission directed staff to review and provide potential definition changes for roof mounted solar energy systems along with applicable performance standards that would allow for staff to review and approve such applications without the need for conditional use approval.**

CORRESPONDENCE/QUESTIONS:

*a. Electronic Message Centers*

Kunst noted that Town Board has not yet made a final decision on Plan Commission's recommendation to prohibit Electronic Messaging Signs, due in part to additional language requested to exempt fuel stations from the prohibition. Additionally, Kunst noted that an application for conditional use of an electronic message sign has been received and will be on the next Plan Commission agenda.

PUBLIC COMMENT:

*a. Future Concerns for Covenant Restrictions*

Hampton questioned whether the Town or Plan Commission should do more to aid in the enforcement of subdivision's restrictive covenants. He suggested the possibility of creating a review board, so that potential neighborly disputes may be handled prior to any formal Town action that may contradict the restrictive covenants. Nykiel stated that from an attorney's point of view, the Town is not a party to those private contracts and she believed it would be a drastic overreach for the Town to intervene in private matters.

Kunst noted the Town typically requires within a developer's agreement that the Town be made aware of, and receive a copy of the restrictive and protective covenants when a new plat is approved. He also noted that staff currently (and will continue) to make an effort to make applicants aware of existing covenants, but that the Town cannot prohibit residences from applying based on the covenants in place.

**ADJOURN:**

**Motion by Jay Wittman, seconded by Christine Nykiel to Adjourn. Motion carried 6-0. Meeting adjourned at 8:18 pm.**

Respectfully Submitted,

Paul Kufahl, Building Inspector / Assistant Zoning Administrator