

CASCADE COUNTY  
**ZONING BOARD OF ADJUSTMENT**

4/21/2022

Hybrid Online Format/Zoom Online Video Meeting  
9:00 AM

**Board Members:** *Dexter Busby, David Deffinbaugh, Kathryn Hanning, John Harding, and Ken Thornton.*

**NOTICE:** PURSUANT TO MCA 2-3-212(1), THE OFFICIAL RECORD OF THE MINUTES OF THE MEETING IS IN AUDIO FORM, LOCATED AT CASCADECOUNTYMT.GOV AND THE PLANNING OFFICE. THIS IS A WRITTEN RECORD OF THIS MEETING TO REFLECT ALL THE PROCEEDINGS OF THE BOARD. MCA 7-4-2611 (2)(B). TIMESTAMPS ARE INDICATED IN RED, WITHIN EACH AGENDA ITEM BELOW, AND WILL DIRECT YOU TO THE PRECISE LOCATION SHOULD YOU WISH TO REVIEW THE AUDIO SEGMENT.

THESE MINUTES ARE PARAPHRASED AND REFLECT THE PROCEEDINGS OF THE CASCADE COUNTY ZONING BOARD OF ADJUSTMENTS AND ARE CONSIDERED A DRAFT UNTIL FORMALLY APPROVED BY THE ZONING BOARD OF ADJUSTMENTS.

**STAFF ATTENDEES:** Kevin Angland, Amber Hobbs, Phoebe Marcinek, Alisha Osborne, Jennifer Quick (Online)

**PUBLIC ATTENDEES :** Bev Axelson, Dwight Axelson, Brent Bauman, CC Collins (Online), Bernard Cooper, Nila Fields, Steve Fields, Mike Hryszko, Troy Kalder, Jason Lehmann, Greg Mackenstadt, Linda Nelson, Billie Olson, Ed Olson, John Remy, Dan Sangor, John Stokes, Eric Urban

1. **CALL TO ORDER:** John Harding called the meeting to order at 09:00 AM [00:00:20].

2. **ROLL CALL:**

**BOARD MEMBERS PRESENT:** Dexter Busby, David Deffinbaugh, Kathryn Hanning, John Harding, Ken Thornton.

**BOARD MEMBERS ABSENT:** None.

3. **APPROVAL OF THE MINUTES :**

**A. Draft Meeting Minutes March 17, 2022** [00:01:07]

1. **Board Discussion & Decision**

**John Harding:** Addresses the minutes from March 17, 2022.

**Kathryn Hanning:** Motions to approve the minutes.

**John Harding:** Asks if there is a second.

**Ken Thornton:** Seconds the motion to approve the minutes.

**John Harding:** Asks if there is any discussion. Hearing none, he calls for a vote.

***All in Favor, motion carries 5 – 0.***

4. **OLD BUSINESS:**

**A. Special Use Permit Application # 003-2022, Submitted by Edwin and Margaret Birky for A Quarry tabled on March 17, 2022.** [00:01:32]

## 1. Board Discussion .

**John Harding:** Says he was not present for that meeting though he did read the minutes.

**Phoebe Marcinek:** Says we can quickly summarize in a couple sentences what it was for.

**John Harding:** Says yes.

**Kevin Angland:** Explains the purpose of the Special Use Permit Application that was submitted and gives the reason for the tabling as to provide more time for gathering information on the rock crushing portion and the mitigation of dust, noise and vibration and sight. He explains that the Applicant submitted additional documentation between the time of the last meeting and today and that he could expound a bit more if the Board prefers.

**[Multiple Board members nod their heads in affirmation].**

**Ken Thornton:** Says sure.

**Kathryn Hanning:** Asks if the Board wants him to talk.

**John Harding:** Says yes but he has a couple questions first. He asks whether it concerned number five (5) [of the Conditions] that was the sticking point with Staff as far as a significant item and what are the Staff's thoughts on it.

**Kevin Angland:** Says that in the Cascade County Zoning Regulations, no rock crushing, nor cement plant nor any processing of any kind is allowed outside of I-2 District unless approved by the Zoning Board of Adjustment. It was initially conditioned for no rock crushing at all, however the Applicant would like to do rock crushing, since if they cannot, it would eliminate the need for them to have a gravel pit. The Applicant was asking to remove the specific condition, and that was the reason for the tabling.

**John Harding:** Says that makes sense as to why it was a sticking point. There have been several meetings where the Board has discussed quarries and the previous considerations had included rock crushing. He asks whether the Staff was uninterested in changing the zone to I-2.

**Kevin Angland:** Says we cannot change that to I-2, because it is surrounded by Mixed Use 20, and the only way to do that would be to rezone I-2 from the county line all the way to Black Eagle.

**Dexter Busby:** Says it would be spot zoning.

**Kevin Angland:** Agrees it would be spot zoning if we did just that parcel.

**John Harding:** Asks whether there was conversation with the Applicant for the land use *[inaudible]*. Say he will ask the Board. He asks whether the rock crushing was significant.

**Ken Thornton:** Says it is significant to him as there is a home just east of the proposed quarry location. In this country, if you are east of anywhere, ninety percent of the prevailing winds are out of the west, and there would be significant dust and a homeowner said they were concerned about that. He had hoped that tabling the application would allow the applicant and the homeowner to remedy the situation.

**Kevin Angland:** Asks if he can add that part of the reason for the tabling is that there was not enough information on the actual rock crushing process to allow the Board to make an accurate decision. The tabling allowed more time for the applicant to provide more material on how the mitigation is accomplished.

**John Harding:** Says he thinks rock crushing is not as aggressive as other larger operations such as those in Missoula where there is significant activity versus small operations *[inaudible]*. He asks whether the Board is opening the Public Hearing.

**Phoebe Marcinek:** Says yes.

1. **Public Hearing opens at [09:09 AM], [00:08:12].**

**John Harding:** Asks if the Applicant is present.

**Eric Urban of 1564 Charlie Russell Ln Helena, MT 59601:** Says he is a consultant representing the Birkys and explains the permit application is for a four-acre site which is relatively small and shallow site and so do not expect a long lifespan of the mining. He explains the mitigation efforts to the Board, indicating how the efforts satisfy the requirements of the Board and the neighbor who had the specific concerns. He proposes they operate from seven AM to seven PM and volunteers to limit it to six days a week and have a water truck available to mitigate any potential dust issues that arise, along with an eight-foot berm along the eastern side of the property and the northern boundary to obscure the site and create a significant sound barrier. He explains that all mobile rock crushers in Montana must register with DEQ which gives the DEQ authority to regulate them and do onsite inspections and requires rock crushers to have appropriate mitigation installed to include spray bars. He says due to this, he does not anticipate the duct to be a concern. Almost always the rock crusher will be located in the bottom of the pit, approximately twelve feet and out of sight and mostly out of sound range from the neighbors. The maximum output of the pit would be one hundred thousand yards of material. He anticipates three to five hundred hours of rock crushing spread over many years. Mr. Urban explains the importance of rock crushing during operations to the Board by noting that to make materials for different specifications there would need to be a rock crusher, or it would be considered a borrow site.

**Ken Thornton:** Asks whether the screening process is involved in the crushing and if it is mitigated by water.

**Eric Urban:** Says typically dust is also a major safety concern for operators in addition to being an annoyance to neighbors and therefore, there are at least two major reasons to control it. There will be an air quality permit and people from DEQ on site to ensure mitigation and screening of the site.

**John Harding:** Asks if there are comments.

**Public Proponents:** None.

**Public Opponents:** None.

**Public Hearing closes at 09:16 AM.**

2. **Board Discussion & Action**

**Ken Thornton:** Says he is happy with the mitigation proposals.

**Kathryn Hanning:** Says she would like to change the hours of operation to end at five and suggests the rock crusher only be used Monday through Friday.

**John Harding:** Says he is not sure that would make much difference.

**Kathryn Hanning:** Says she thinks so if people are living out there.

**John Harding:** Says that there is no one in front of the Board saying they do not want it.

**Kathryn Hanning:** Say that is true.

**John Harding:** Says that is his only concern. He explains that when you get into any project there will be comments on the impact to other property owners. There is no one present having that type of issue. The DEQ requirements have stringent rules on dust produced from operations, so that is not a great concern at this point.

**Kathryn Hanning:** Says her concern and suggestion for the timeframe was based on the concerns of the commenter and ask if there are thoughts on the subject.

**John Harding:** Says he is not sure it the position of the Board to micromanage, and that Staff who spent time on the report must have deemed it acceptable as they have provided a

recommendation to the Board. He says he is not inclined to vote to change anything other than the four recommendations listed.

**Kathryn Hanning:** Asks Mr. Harding if he has no problem with hours.

**John Harding:** Says he does not.

**Kathryn Hanning:** Asks the Staff.

**Kevin Angland:** Says not at this time due to lack of comments, but if he had to provide a recommendation it would be Monday through Friday but not opposed to the seven to seven timeframe.

**Kathryn Hanning:** Asks if that is something Mr. Angland had a conversation about with the Applicant.

**Kevin Angland:** Says no, he did not receive anything else and it would be up to the Board for the decision.

**Dexter Busby:** Says he knows the Board has issued other permits for gravel pits, and asks whether it is normal for them to operate seven to seven, six days a week.

**Kevin Angland:** Says for another gravel pit he has done on the outskirts of Foothills, was from seven to five, Monday through Friday to the best of his recollection.

**Dexter Busby:** Says it is not unusual then.

**Kevin Angland:** Says it has been done before, however it is property-dependent and this one is further out with few residents around.

**Kathryn Hanning:** Affirms that the previous similar SUP was next to the subdivision.

**[Inaudible]**

**John Harding:** Says he does not see the motion on the paper.

**Kathryn Hanning:** Asks if there needs to be a motion.

**Kevin Angland:** Says that is correct.

**Ken Thornton:** Says, "I move to adopt the Staff Report in its entirety with Findings of Fact and approve Special Use Permit Application #003-2022 to Allow a Quarry on Parcel number 6120200, subject to the following conditions", and asks whether the Board added one or changed one.

**Kevin Angland:** Clarifies that it would be removing Condition #5.

**Ken Thornton:** Says and remove five.

**John Harding:** Explains that the only part being removed is Condition #5.

**Ken Thornton:** Says that Condition #5 is no rock crushing or other such operations.

**[Inaudible]**

**John Harding:** Says he thinks the Board has a motion and asks if there is a second.

**David Deffinbaugh:** Seconds the motion.

**John Harding:** Asks if there is any further discussion.

**Kevin Angland:** Says there was nothing in there about changing the hours of operation.

**John Harding:** Says he did not hear that in the conditions Mr. Thornton read aloud and calls for a vote.

*All in Favor, motion carries 5 – 0.*

## 5. NEW BUSINESS:

### A. Special Use Permit Application #001-2022 Submitted by Signature Homes, LLC to Construct a Two Unit Townhome [00:23:56]

#### 1. Amber Hobbs presents the Staff Report.

**Motions Presented for the Board 's Consideration :**

**A:** Move that Special Use Permit #001-2022 to allow the construction of a second dwelling unit on Lot 013, Block 015 of the Foothills Ranch Phase III Subdivision in Section 24, Township 20 North, Range 04 East, P.M.M., Cascade County, MT, be **denied** (*Board must make findings delineating the legal reason for denial*);

**Or**

**B:** Move the Board to adopt the Staff Report in its entirety with Findings of Fact and **approve** Special Use Permit #001-2022 to allow the construction of a second dwelling unit on Lot 013, Block 015 of the Foothills Ranch Phase III Subdivision in Section 24, Township 20 North, Range 04 East, P.M.M., Cascade County, MT, subject to the following conditions:

1. The Applicant obtains any other required county, state, or federal permits and comply with regulations associated with any other permits.
2. Applicant obtains addressing from the GIS Department for E911 purposes.
3. Applicant obtains an approved Subsurface Wastewater Treatment System Permit from the City-County Health Department prior to installation of any wastewater treatment system.
4. The second dwelling unit cannot exceed 150 feet in height.

**1. Board Discussion [00:45:30]**

**John Harding:** Asks if there are any questions for Staff.

**Dexter Busby:** Asks for clarification on the multi-unit question having the response of “no negative affect” and what is used as the basis for that statement.

**Amber Hobbs:** Says it is based on the zoning, which is a residential area.

**Dexter Busby:** Asks to confirm whether they have the data to make that statement.

**Amber Hobbs:** Says that data was pulled from Montana cadastral, which does list the tax values of the property which we did look at for existing townhomes and existing townhomes and there was not an extreme difference.

**Dexter Busby:** Says his concern is the intermixing of single-family homes and townhomes which would suppress the value of single-family dwellings to some degree, and raise the townhome value to some degree, and he is not sure where the values come from as it says there is no effect.

**Amber Hobbs:** Says it is mostly obtained from Montana Cadastral, which is run by the Department of Revenue.

**Dexter Busby:** Asks who is responsible for the maintenance of the landscape on a townhome when they are two (2) owners.

**Amber Hobbs:** Says that would be the property owner after it is sold.

**Dexter Busby:** Says it looks like it is not centered in the middle of the lot and asks how the lot is divided.

**Amber Hobbs:** Says she does not know exactly how they do that; however, they have a homeowners' association and restrictions that are specific to the townhomes, which Planning Department does not enforce.

**Dexter Busby:** Says thank you.

**John Harding:** Asks if there are any other questions for staff. Hearing none, he opens the public hearing.

2. **Public Hearing opens at 09:50 AM, [00:48:45].**

**Public Proponents:** None.

**Public Opponents:** None.

**Public Hearing closes at 09:50 AM.**

3. **Board Discussion & Action: [00:49:46]**

**Kathryn Hanning:** Says "I Move the Board to adopt the Staff Report in its entirety with Findings of Fact and approve Special Use Permit #001-2022 to allow the construction of a second dwelling unit on Lot 013, Block 015 of the Foothills Ranch Phase III Subdivision in Section 24, Township 20 North, Range 04 East, P.M.M., Cascade County, MT, subject to conditions one through four."

**John Harding:** Says there is a motion and ask there is a second.

**Dexter Busby:** Seconds the motion.

**John Harding:** Asks if there is any further discussion. Hearing none, he calls for a vote.

*All in Favor, motion carries 5 – 0.*

B. **Special Use Permit Application # 004-2022, Submitted by Greg Mackenstadt to Allow an Accessory Use with a Principal Use. [00:51:14]**

1. **Kevin Angland presents the Staff Report.**

**Motions Presented for the Board's Consideration:**

**A:** Move that Special Use Permit #004-2022 to allow the construction of a accessory use without a principal use on Parcel # 2006000, be **denied** due to (ZBOA member proposing denial must delineate legal reason that the application be denied);

**Or**

**B:** Move the Board to **adopt** the Staff Report in its entirety with Findings of Fact and **approve** Special Use Permit #004-2022 to allow the construction of a accessory use without a principal use on Parcel # 2006000 subject to the following conditions:

1. The Applicant obtains any other required county, state, or federal permits and approvals, and comply with the laws, rules, regulations, and/or ordinances associated with any other permits and approvals.
2. Applicant obtains an approved Subsurface Wastewater Treatment System Permit from the City-County Health Department prior to installation of any wastewater treatment system.
3. The accessory use cannot exceed 50 feet in height.
4. The Applicant must obtain an approved Cascade County Floodplain Permit before issuance of a Location/Conformance Permit.

2. **Board Discussion [01:10:49]**

**John Harding:** Says he hears nothing.

**Dexter Busby:** Asks what the basis is when the regulations state it cannot exceed fifty feet in height.

**Kevin Angland:** Says that is from the Joint Land Use Study from the Military Overlay District.

**Dexter Busby:** Says it is the JLUS.

**Kevin Angland:** Affirms.

**John Harding:** Asks if there are any question. Hearing none, we will open up the public hearing.

**3. Public Hearing opens at 10:11 AM [01:11:21].**

**Greg Mackenstadt of 80 Eaton Ave Great Falls, MT :** Says thanks to the Board for listening and trying to get the process behind us. He explains he does not really know what the purpose of the Special Use Permit is, but he is learning and invites the Board to ask him questions.

**Dexter Busby:** Asks if the building is a replacement structure.

**Greg Mackenstadt:** Says the property has been in his family for over forty-five years and there was a mobile home on it when his family bought it around 1976. He says he is putting up a nice pre-engineered Cleary building that will look good, as they are short of work space and storage. In the fire, we lost two homes, six buildings, and six vehicles so we need space to put things.

**John Harding:** Says thank you and calls for proponents.

**Public Proponents:**

**Jason Lehmann of 67 Gibson Flats Road:** Says he is in favor of both the Applicant's proposals.

**John Remy of 62 and 48 Eaton Ave:** Says he is favor of this.

**Ronald Ameline of 78 Eaton Ave:** Says he is Mr. Mackenstadt's next door neighbor and is in favor of this.[1:14:00].

**Mike Hryzko of 70 Gibson Flats Rd:** Says he is also a neighbor of Mr. Mackenstadt and he is not opposed to it at all.

**Bernard "Marty" Cooper of 4 Eaton Ave:** Says he has been a resident of Gibson Flats since 1939 and his house was the second house on Eaton Avenue before it burned down, and he is in favor of rebuilding everything.

**Troy Kaldor of 59 Eaton Ave:** Says he and the others are all members of the Gibson Flats community and they are all in support of what Mr. Mackenstadt is trying to accomplish on his property and the Board will see many of the permits come in as people try to rebuild there and he is in full support of Mr. Mackenstadt.

**Brent Bauman of 81 Eaton Ave:** Says he is in full support of Mr. Mackenstadt rebuilding.

**Edward Olson of 105 Gibson Flats Road:** Says he supports Mr. Mackenstadt rebuilding.

**Linda Johnson of 71 Eaton Ave:** Says she in support of Mr. Mackenstadt rebuilding.

**John Stokes of 61 Eaton Ave:** Says he is in full support.

**Justin Hickman of 28 Eaton Ave:** Says he is in full support of Mr. Mackenstadt rebuilding.

**Steven Fields of 46 Eaton Ave:** Says he is in support of Mr. Mackenstadt.

**Billie Olson of 84 Gibson Flats Rd:** Says seeing the support for Mr. Mackenstadt is generating a lot of emotion due to historic and sentimental reasons. An example of what the property resembled before can be seen at 24 Eaton Ave, where time and hard work have raised the property values over the last two years. He says that the family has gone through a lot.

**Dwight Axelson of 132 Gibson Flats Rd:** Says he has been out there since 1974, and he supports Mr. Mackenstadt's project.

**John Harding:** Asks if there are any other proponents.

**Amber Hobbs:** Says someone has just come in from the waiting room.

**Ronald Ameline:** Says that forty-two years of his life is gone and he is going to have to start over. It has been hard on him.

**Amber Hobbs:** Says she is asking to unmute CC Collins and asks if there is anything they would like to say.

**CC Collins:** Says she is just watching as she is curious of the process.

**Amber Hobbs:** Says thank you.

**John Harding:** Says last call for Proponents, and that he hopes there are no Opponents. He calls for Opponents.

**Public Opponents:** None.

**Public Hearing closes at 10:21 AM.**

**4. Board Discussion & Action: [01:20:40]**

**Kathryn Hanning:** Says Mr. Chair, "I move the Board to adopt the Staff Report in its entirety with Findings of Fact and **approve** Special Use Permit #004-2022 to allow the construction of an accessory use without a principal use on Parcel # 2006000 subject to the following conditions one (1) through four (4)."

**John Harding:** Says there is a motion and asks if there is a second.

**Dexter Busby:** Seconds the Motion.

**John Harding:** Asks if there is any discussion. Hearing none, he says he would like to make a couple of comments about what a terrible thing it was that happened out at Gibson Flats last winter, but it nice to see everyone come together, so thank you for that, I appreciate it and it is a good American thing to do and I hope it goes well. We will do everything we can to help here.

**[Multiple Speakers]:** Say "Thank you."

**John Harding:** Calls for a vote.

*All in Favor, motion carries [5 – 0].*

**C. Variance Application #2022-001, Submitted by Greg Mackenstadt to Waive Section 8.6 of the Cascade County Zoning Regulations [01:22:08]**

**1. Kevin Angland presents the Staff Report.**

**Motions Presented for the Board's Consideration:**

**A:** Move to **deny** the Applicant's requested Variance from Cascade County Zoning Regulations § 8.6 stating "A Location/Conformance Permit shall not be issued for any residential structure within a designated floodplain area until a Letter of Map Change (LOMC) has been obtained from the Federal Emergency Management Agency" on the property at, 76 Eaton Ave. described as Lot 06D, Block 001, Eaton Suburban Addition Amended, Section 20, Township 20 N, Range 4 E, P.M.M., Cascade County, MT due to not meeting one or more the variance criteria (ZBOA should specify findings supporting which criteria have not been satisfied)."

**Or**

**B:** Move the Board adopt the staff report and findings of fact and **approve** the Applicant's requested Variance from Cascade County Zoning Regulations § 8.6 stating "A Location/Conformance Permit shall not be issued for any residential structure within a designated floodplain area until a Letter of Map Change (LOMC) has been obtained from the Federal Emergency Management Agency" on the property at, 76 Eaton Ave. described as Lot 06D, Block 001, Eaton Suburban Addition Amended, Section 20, Township 20 N, Range 4 E, P.M.M., Cascade County, MT. subject to the following conditions:

1. The Applicant will obtain and comply with all other necessary federal, state, and local permits and approvals.
2. The Applicant shall obtain an approved Cascade County Floodplain Permit.

2. **Board Discussion [01:33:07].**

**Ken Thornton:** Says he has one question. The variance is for the County Zoning Regulation 8.6, but they still must meet the floodplain requirements which is seven feet higher than it is now, on pilings and asks if that is part of it.

**Kevin Angland:** Says yes and explains that according to Floodplain Regulations, structures may be lifted on fill or pilings, but due to County Zoning Regulations there must be a Letter of Map Change (LOMC), would have to be brought in fill and what is called a LOMR-F or Letter of Map Revision based on Fill. The variance is requested from the fill requirement, so pilings can be used.

**Ken Thornton:** Asks if they are still requiring seven feet.

**Kevin Angland:** Says it will still need to be two feet above.

**John Harding:** Asks if there will difficulty obtaining a LOMC and a Floodplain Permit, and whether that is out of the Board's hands and a reasonable process.

**Kevin Angland:** Says the Planning Department has nothing to do with the Letter of Map Change, as that is for the Applicant to submit to FEMA with data that an engineer has provided. Their timeline can be much longer than the Planning Department's Floodplain Permit depending on the type of project, so that varies and may hinder the ability to rebuild in a timelier fashion.

**John Harding:** Asks if there are any other questions.

3. **Public Hearing opens at 10:36 AM, [01:35:22].**

**Greg Mackenstadt of 76 Eaton Ave:** Says the house he is wanting to replace was only (4) four years old and he had obtained all the proper permits for it though he never had to go through this step four years ago so it is a new experience. It was on a concrete footing which had been approved through the county and there was no variance need. Now, if he needed to do this it would block access to the Cline property. There has been a house on the property for over seventy (70) years. He lists the Base Flood Elevation and describes how the livable space will be above the Base Flood Elevation. He says he plans to floodproof the bottom elevation so there is a garage underneath and living space above. He explains how his brother builds houses in Kalispell and says that it would be an easy build. He thanks the Board.

**Kathryn Hanning:** Asks if Mr. Mackenstadt has started to route the paperwork for the FEMA part.

**Greg Mackenstadt:** Says he has done everything times two (2).

**Kathryn Hanning:** Asks if he has gotten started on the Floodplain Permit.

**Kevin Angland:** Says if I may, Mr. Mackenstadt has turned in the Floodplain Application and that process has started. He does not believe the FEMA paperwork has been turned in yet, as he is awaiting the Board's decision on the variance matter.

**Kathryn Hanning:** Says okay.

**Greg Mackenstadt:** Says he did not know he had more paperwork as every time he turns in paperwork, he finds out he has more to turn in, and it is six months into this fire incident, and he is living in an apartment he does not want to be in. There are four more homes to be rebuilt and six more garages. He wishes there were a way to streamline the process.

**Public Proponents:**

**Ed Olson of 105 Gibson Flats Rd:** Says he is in favor of the Mackenstadt's rebuilding.

**Justin Hickman of 28 Eaton Ave:** Says he is a hundred percent in favor of the rebuild. He asks the Board how many slept in their own beds at night, and how many got woke up at two-thirty to be told everything was on fire. He says we all did *[indicating the crowd of attendees behind him]*. He says they are now in this meeting trying to get permission to put stuff back where it was. He asks

if the Board can see the hoops that everyone must jump through to complete the process. He says the Board needs to help get the neighborhood put back together.

**John Remy of 62 Eaton Ave:** Says he is favor of the rebuild. He expresses his frustration with the conditions and FEMA requirements of elevation and refers to City overflow as a cause of flooding in the area. He states the Board is forcing the residents out by way of frequent changes in floodplain elevations and tells them they need to find a way to get a variance applied to the entire area. He states he has documents that go far back and show the flood water never existed if the Board has questions and would like to see them. He says he hopes the Board will tell Mr. Mackenstadt to go ahead and build on grade and save the cost of elevating.

**John Harding:** Says as a note for the folks sitting in the audience, there will be no flack from the Board, so please keep that in mind.

**Jason Lehmann of 67 Gibson Flats Rd:** Says it is important to hear the frustrations from folks regarding FEMA rules and elevations and references the lack of ditch maintenance and oversaturation from County and City authorities as reason for flooding and affecting the water tables.

**Dan Sangor of 52 Eaton Ave:** Says he has been in construction for over forty years and explains that if dirt fill is used on a slope, the surrounding properties will be flooded, and the waters will not go to Sand Coulee Creek where they are supposed to. He asks the Board to not make it difficult and insurance is not paying for the cost.

**Dwight Axelson of 132 Gibson Flats Rd:** Says in 1976 there was a flood due to being blocked by a cottonwood tree and that the FEMA 1981 map is outdated and the floodplain is not where it noted as being located. He asks Mr. Angland what is to be done about that.

**Kevin Angland:** Says he does not think we are here to answer questions, as this time is for the proponents to be heard.

**Dwight Axelson:** Says it is all based on the floodplain elevation.

**Kevin Angland:** Says when the meeting is over it can be discussed.

**Dwight Axelson:** Says something needs to be done about it as it has caused a lot of problems for a lot of people.

**Bernard Cooper of 4 Eaton Ave:** Says he has lived there all his life and has seen many engineering studies that drive him crazy. He states that the Department of Agriculture did a study that states that area is farmland, and as the years have gone by, they have changed it from farmland to wetland to floodplain. It seems the engineers are just trying to make the city look good because so much water is running off from the City of Great Falls.

**John Harding:** Asks if there are any other proponents.

**Billie Olson of 84 Gibson Flats Rd:** Thanks the Board for listening to the concerns of the residents of Gibson Flats, and says she approves of the project. She mentions the water runoff issue the area is having and how it is caused by a certain business. She asks that there be requirements for pavers for parking lots so water can drain instead of run off into the surrounding area.

**John Harding:** Asks for any other proponents and reminds the attendees that the Board is dealing with a Variance Request and that he does not foresee any resistance to it. He requests that commenters keep the comments brief and on topic.

**Brent Bauman of 81 Eaton Ave:** Says he is a neighbor of Mr. Mackenstadt and he has worked as a geotechnical geologist and a hydrogeologist and worked with Tetratek and other companies. He says he is going to take his own elevations with his equipment and plans to get involved with people at the Irrigation District concerning the water table problem. He says he is in support of Mr. Mackenstadt. He mentions he was told the elevation was one height, and then several years later he was told it was another height. He asks what the elevation is and how high it needs to be to build out in the area.

**Kevin England:** Says it needs to be two (2) feet above base flood elevation and gives the elevation of the Mackenstadt property as an example.

**Brent Bauman:** Says he is not scolding anybody and that it is an issue he is concerned about.

**John Harding:** Says last time for proponents and reminds the attendees once again that the Board cannot control the floodplain.

**Troy Kaldur of 59 Eaton Ave:** Says he is in favor of what Mr. Mackenstadt is trying to do. He says there are a lot of passionate people and they have gone through a tragedy. He says he understands the Board cannot do anything about the floodplain, but that the residents have brought their concerns to the Board because they want someone to listen because no one else is listening and the issues are not being addressed.

**John Stokes of 61 Eaton Ave:** Says he is the newest person on in the Gibson Flats area and he is in favor of Mr. Mackenstadt's project.

**John Harding:** Calls a last time for proponents.

**Amber Hobbs:** Asks if anyone online would like to say anything, to please raise their hand to be unmuted during the hearing.

**Public Opponents:** None.

**Public Hearing closes at 11:02 AM.**

**4. Board Discussion & Action: [02:02:25]**

**John Harding:** Says before someone makes a motion he will make some comments. He says the Board is doing everything they can do in this scenario to move this process forward. He says that sometimes situation like this show government regulations when they are at their worst. This is the jurisdiction of the FEMA folks who control the watershed and the floodplain; they change the rules, and what is going on in Gibson Flats and Great Falls is happening all over the country. Being involved in waterways of the US and have been fighting it for decades and the FEMA folks do not care. It is very difficult, and I know you do not want to hear this, but the place to go is to your U.S. Congressman. It will not build your house though, and it does not fix any of this. He says he wishes there was something the Board could do differently than that, but in this scenario here we will do everything we can to help you along and voting in favor of this variance is probably where this Board is headed. Those are my comments, thank you.

**Ken Thornton:** Says in reference to Mr. Harding's comments, the Flood Insurance Program is approximately fifty (50) billion dollars in arrears due to floods. Floods are increasing due to climate change, just like we are increasing wildfires due to climate change. Locations such as Augusta have flooded three (3) out of the last seven (7) years. Above Gibson there were eight (8) inches of rain in one day. These are things we have never seen before, and these are increasing. These are the problems that are coming, and we need to take that into account, which takes bureaucracy to do that.

**John Harding:** Asks if there is a recommendation.

**Kathryn Hanning:** Says " I move the Board to Adopt the Staff Report and findings of fact and **approve** the Applicant's requested Variance from Cascade County Zoning Regulations § 8.6 stating "A Location/Conformance Permit shall not be issued for any residential structure within a designated floodplain area until a Letter of Map Change (LOMC) has been obtained from the Federal Emergency Management Agency" on the property at, 76 Eaton Ave. described as Lot 06D, Block 001, Eaton Suburban Addition Amended, Section 20, Township 20 N, Range 4 E, P.M.M., Cascade County, MT. subject to conditions one (1) and two (2)."

**David Deffinbaugh** : Seconds the motion.

**John Harding** : Asks for further discussion. Hearing none, he calls for a vote.

*All in Favor, motion carries 5– 0.*

5. **BOARD MATTERS [02:26:26]**

**Kathryn Hanning** : Says *[inaudible]*.

**Phoebe Marcinek** : Says *[inaudible]* rating.

**Amber Hobbs** : Says our rating, yes.

**Phoebe Marcinek** : Says she thinks someone should ask an engineering firm to do the work and have enough money to do the project and would eliminate the engineering costs.

**John Harding** : Says so the one gentleman who mentioned the flood of 1976 *[inaudible]* floodplain change because of it, they determined that there was an engineering firm that went back out there and re-established the floodplain. He asks Ms. Marcinek if she has any idea how long that change takes to get through the floodplain process. Mr. Harding says folks need to be careful what they wish for, if in fact there is a change, they may find out that it is higher than one thinks it is.

**Phoebe Marcinek** : Agrees.

**Ken Thornton** : Says there is significant development on the south side of Great Falls and it is Gibson Flats, which is a significant point about the topography.

**Kathryn Hanning** : Says *[Inaudible]*.

**Ken Thornton** : Says there is not much you can do; the water is going to go downhill.

**Kathryn Hanning** : Says there will be more people coming into the area wanting to rebuild. She states that Mr. Mackenstadt is doing a great service by being the first person through the process. Ms. Hanning says she has heard from a contact at DNRC that FEMA had been considering adjusting the map, but it takes seven (7) years. It would be nice to have a streamlined system for them.

**Phoebe Marcinek** : Says she believes it was requested that we look over this specific area again.

**Ken Thornton** : Says that one nice that engineers now got drones to survey the areas that need re-mapped and that is done in a day versus a crew of people several weeks to complete the project.

**Kathryn Hanning** : Says she has not spoken to Mr. Mackenstadt about his project, but there are people who would like to volunteer, and if there is an engineering company that would like to do this, we could ask for them. She asks whether an engineer needs to know what an applicant needs to rebuild in order to shoot an elevation.

**Phoebe Marcinek** : Says perhaps they may need to be project specific.

**Kevin Angland** : Says FEMA would go out and shoot the entire area and do an entire hydraulic analysis. Planning Department requires it to be based on project design as there are different requirements for residential and non-residential. There is a difference in what we require versus what FEMA requires.

**Kathryn Hanning** : Says every one of those families that want to rebuild out there will have to have an engineer that proves their elevation and they will have to have their plan.

**Phoebe Marcinek** : Says they will go through the entire Floodplain Permit, which is why I think asking an engineering group to do the work pro bono would get people over the hump.

**Ken Thornton** : Says he has one project he just got done after a year and a half because the engineers are so overwhelmed and shorthanded and notes it may not be feasible.

**Kathryn Hanning** : Says all we can do is ask.

**Ken Thornton:** Says it is a great idea.

**John Harding:** Says there is no fast process.

**Dexter Busby:** Asks if there is any way to come up with language the Board can come up with that can initiate blanket waiver for rebuild projects.

**Kathryn Hanning:** Says that is an interesting question.

**John Harding:** Says that was talked about at the second hearing on the townhomes, and that is about the eighth one, we have asked and were told there is not a way around the process.

**Dexter Busby:** Says it would have to be researched on your side *[addressing Ms. Marcinek]*.

**Kathryn Hanning:** Says there is a hardship and these people are victims already and it is not their fault and says she would like to know if these circumstances would apply.

**Phoebe Marcinek:** Says normally we can waive the 250-dollar fees.

**Kathryn Hanning:** Asks whether a blanket variance could be applied.

**Multiple Board Members:** *[Inaudible]*.

**Dexter Busby:** Suggests we could dispense with this piece of the process only.

**Phoebe Marcinek:** Asks if the Board means a blanket variance to *[inaudible]* what the Board has done today.

**Ken Thornton:** Says right, so they do not have to use backfill that they pile up to the proper elevation.

**Phoebe:** Says it could possibly be a resolution.

**Kevin Angland:** Says it would have to go through a Zoning Text Change to get that removed from the Zoning Regulations.

**Phoebe Marcinek:** Asks *[inaudible]*.

**Kathryn Hanning:** Says for Ms. Marcinek to please check on that and let the Board know because it takes an action from the Board.

**Ken Thornton:** Says the Planning Board can do that.

**Dexter Busby:** Affirms.

**Ken Thornton:** Says they have done that before.

**Phoebe Marcinek:** Says she does not know if we want a change in the language entirely.

**Dexter Busby:** Says that it could be narrowed down to fit the specific scenario of the rebuild.

**Kathryn Hanning:** Asks if the Planning Board would have a timeline of the construction for it.

**Dexter Busby:** Says yes.

**Kathryn Hanning:** Says she likes sending that back to the Planning Board.

**Dexter Busby:** Says he is on the Planning Board.

**Kathryn Hanning:** Says good, Mr. Busby can take care of that.

**Dexter Busby:** Says he would need a great deal of help.

**Kathryn Hanning:** Says she is sure he will do that too.

**Kevin Angland:** Says he will try.

**John Harding:** Says there were only four houses lost out there.

**Dexter Busby:** Says they have approved one (1) the other was a garage. He says he does not know whether those need to go through the process.

**Phoebe Marcinek:** Says the garages also need to go through the Floodplain process.

**Kevin Angland:** Affirms.

**Kathryn Hanning:** Says the Planning Board could do fire or flood replacement.

**Phoebe Marcinek:** Says that is unfortunate especially and she is frustrated for the people who are now rebuilding homes there.

**Kevin Angland:** Says there is a misconception amongst the residents of Gibson Flats is that as they talk amongst themselves, they think it is a one size fits all, but it is property dependent and may fall under a different category or regulations. We have not received any other application sat this time except for Mr. Mackenstadt's, and so we do not know anyone else's plans.

**John Harding:** Says part of the whole process in planning and zoning is that during significant changes such as disaster or doubling the lot size, that kicks in new requirements and helps bring the community up to the standards the rest of the community have built. That is how it works, and it is unfortunate that I am thinking, "Where would we be sitting if we were not talking about fire, but about a flood?"

**Dexter Busby:** Says it is the same conversation.

**John Harding:** Says right, we are taking on disaster and instead of fire we are calling it a flood. If one potentially tries to change the rules, there is a reason those rules exist. It is really unfortunate, and if you look at the west side and what happened out there; most people just expected that to happen on a regular basis.

**Ken Thornton:** Says the rules came out of the flood.

**Katie Hanning:** Says for the variance, it will not change what their requirements are in having to do that, it would just mean they would have to come in front of the Board.

**Dexter Busby:** Says we can snip away a little piece of the red tape.

**Kathryn Hanning:** Says it is not that she does not want to hear Mr. Angland read again, but if that extra step is confusing and does not need to be done, it can be omitted.

**Phoebe Marcinek:** Says *[inaudible]* additional materials that can be used.

**Kevin Angland:** Says that is definitely something we have discussed with the Planning Director about, going through the Text Revision process to get rid of it, because as a CRS community, we actually do not receive any points from FEMA for that zoning regulation. The Director thinks it was a holdover from a past legislative session.

**Kathryn Hanning:** Asks if the Planning Department will look into it.

**Kevin Angland:** Affirms.

**Kathryn Hanning:** Says she would like to see the folks not have to have a Special Use Permit.

**Phoebe Marcinek:** Says *[inaudible]* session to be there and answer those questions.

**Dexter Busby:** Says unless you have been through this a few times you would not be used to dealing with government.

**Phoebe Marcinek:** Says or retiring.

**Dexter Busby:** Says most of these folks cannot afford to retire

**Phoebe Marcinek:** Says that is what she meant.

*[Inaudible]*

**Dexter Busby:** Says he is trying to imagine his dad going through the process, if he were still alive.

**John Harding:** Says Mr. Cooper is an example of that.

**Phoebe Marcinek:** Asks Mr. Cooper's age.

**Kathryn Hanning:** Says around ninety (90).

**John Harding:** Says if anyone knows Mr. Cooper's brother, he will probably end up in a retirement facility.

**Kathryn Hanning:** Says she does not know about having fundraisers for folks to rebuild. We will see what happens.

**John Harding:** Says he thinks that was probably part of Board matters.

6. **PUBLIC COMMENTS REGARDING MATTERS WITHIN THE BOARD 'S JURISDICTION [02:18:12]** None.

7. **Adjournment at 11:18 AM [02:18:21]**

**John Harding:** Motions to Adjourn.

**David Deffinbaugh :** Seconds the motion.

**John Harding:** Says so moved.

*All in Favor, motion carries 5--0.*