

MATANUSKA-SUSITNA BOROUGH

350 E. Dahlia Ave., Palmer, Alaska 99645

CHAIRPERSON

Terry Nicodemus

VICE CHAIR



BOARD MEMBERS

Tina Crawford
Jesse Rongitsch
Jay Van Diest

ALTERNATE BOARD MEMBERS

Larry Schmidt
Brian Swanson

AGENDA

BOARD OF ADJUSTMENT AND APPEALS ASSEMBLY CHAMBERS 350 EAST DAHLIA AVENUE PALMER, ALASKA

APPEAL HEARING

10 A.M.

NOVEMBER 8, 2024

- I. CALL TO ORDER
- II. ROLL CALL
- III. APPROVAL OF AGENDA
- IV. ITEMS OF BUSINESS
 - A. Elect Chairperson
 - B. Elect Vice Chairperson
 - C. Minutes
 1. May 24, 2022
 2. June 30, 2022
 3. August 17, 2022
 4. September 8, 2022
 - D. Hearing, BOAA Case No. 24-02, Appeal of the Approval of the Preliminary Plat for Lazy Moose Run Subdivision, Abby Pochatko, Appellant
 1. Borough Staff (*10 minutes to present the decision below and to set forth the evidence and rationale of the decision maker*)
 - a. Matthew Goddard, Platting Technician
 2. Appellant (*15 minutes*)

- a. Abby Pochatko
3. Entitlement Applicant (*15 minutes*)
 - a. Thomas or Megan Van Diest
4. Borough (*15 minutes*)
 - a. John Aschenbrenner, Deputy Borough Attorney
5. Other Interested Parties (*5 minutes each*)
 - a. Shelly Nielsen
 - b. John Nielsen
 - c. Gail Volt
 - d. Jerry Hupp
 - e. Amanda Wolfe
6. Appellant for Rebuttal (*5 minutes*)
 - a. Abby Pochatko

V. ADJUDICATORY SESSION

VI. BOARD COMMENTS

VII. ADJOURNMENT

I. CALL TO ORDER

An appeal hearing was held on May 24, 2022, at the Borough Assembly Chambers, 350 E. Dahlia Avenue, Palmer, Alaska. The meeting was called to order at 10 a.m. by Chair Terry Nicodemus.

II. ROLL CALL

Board members present and establishing a quorum were:

Terry Nicodemus
Claudia Roberts
Tina Crawford
Jesse Rongitsch
Jay Van Diest

Staff in attendance were:

Ms. Brenda J. Henry, MMC, Assistant Borough Clerk
Ms. Shannon Bodolay, Assistant Borough Attorney

III. APPROVAL OF AGENDA

Chair Nicodemus queried if there were any changes to the agenda.

GENERAL CONSENT: The agenda was approved as presented without objection.

IV. APPROVAL OF MINUTES

There were no minutes presented.

V. ITEMS OF BUSINESS

- A. MOTION HEARING: BOAA Case No. 22-02, Hearing on Appellant's Motion for Stay Pending Appeal of the Planning and Land Use Director's Decision Regarding the use of Personal Watercraft on Morvro Lake, Rodney Wayne Oliver, Appellant (*Timeframes for presenting testimony are determined by the Chairperson and can only be extended by a vote of the Board.*)

Ms. Henry advised that the appellant had filed an amended motion for stay. Stated that code does not provide for filing of an amended motion for stay. Noted that it would be up to the BOAA if they admit it or not. Advised that the BOAA should consider allowing Ms. Bodolay to speak to it prior to a decision being made.

Chair Nicodemus queried if there was any objection to inviting Ms. Bodolay to speak to the appellant's amended motion for stay.

There was no objection noted.

Ms. Bodolay spoke in opposition to allowing an amended motion for stay.

MOTION: Ms. Crawford moved to approve the amended motion for stay.

VOTE: The motion failed unanimously, and the amended stay was not admitted to the record.

1. Appellant Statement (*5 Minutes*)

Rodney Wayne Oliver testified in support of the motion for stay.

2. Matanuska-Susitna Borough's Statement (*5 Minutes*)

Ms. Bodolay testified in opposition to the motion for stay.

VI. ADJUDICATORY SESSION

MOTION: Ms. Crawford moved to enter into adjudicatory session.

VOTE: The motion passed without objection and the Board entered into adjudicatory session at 10:18 a.m.

MOTION: Mr. Rongitsch moved to exit adjudicatory session.

VOTE: The motion passed without objection and the Board exited the adjudicatory session at 10:32 a.m.

Chair Nicodemus requested Ms. Henry to read the draft decision into the record.

Ms. Henry read the draft decision into the record.

MOTION: Ms. Crawford moved to approve the decision as read into the record by the Clerk.

VOTE: The motion passed without objection and the stay was not granted.

VII. BOARD COMMENTS

There were no comments provided.

VIII. ADJOURNMENT

The meeting adjourned at 10:33 a.m.

MATANUSKA-SUSITNA BOROUGH
BOARD OF ADJUSTMENT AND APPEALS

TERRY NICODEMUS, Chairperson

ATTEST:

BRENDA J. HENRY, MMC, Assistant Borough Clerk
Minutes Approved:

I. CALL TO ORDER

An appeal hearing was held on June 30, 2022, at the Borough Assembly Chambers, 350 E. Dahlia Avenue, Palmer, Alaska. The meeting was called to order at 10 a.m. by Chair Terry Nicodemus.

II. ROLL CALL

Board members present and establishing a quorum were:

Terry Nicodemus
Claudia Roberts
Tina Crawford
Jesse Rongitsch
Jay Van Diest

Staff in attendance were:

Ms. Brenda J. Henry, MMC, Assistant Borough Clerk
Ms. Shannon Bodolay, Assistant Borough Attorney
Mr. Alex Strawn, Planning and Land Use Director

III. APPROVAL OF AGENDA

Chair Nicodemus queried if there were any changes to the agenda.

GENERAL CONSENT: The agenda was approved as presented without objection.

IV. APPROVAL OF MINUTES

A. April 20, 2022

Chair Nicodemus queried if there were any changes to the minutes as presented.

GENERAL CONSENT: The minutes were approved as presented without objection.

V. ITEMS OF BUSINESS

A. HEARING: BOAA Case No. 22-02, Appeal of the Planning and Land Use Director's Decision Regarding the use of Personal Watercraft on Morvro Lake, Rodney Wayne Oliver, Appellant (*Timeframes for presenting testimony are determined by the Chairperson and can only be extended by a vote of the Board.*)

Ms. Henry advised she received a late-filed notice of interested parties form from Ms. Virgie Thompson. Stated that code does not provide for the acceptance of late-filed notice of interested parties form. Noted that it would be up to the BOAA to accept that or not.

Chair Nicodemus queried if there was any objection to allowing the late-filed notice of interested parties form.

There was no objection noted.

1. Borough Staff (*10 minutes to present the decision below and to set forth the evidence and rationale of the decision maker*)
 - a. Alex Strawn, Planning and Land Use Director

Alex Strawn presented the decision below and set forth the rationale of his decision.

Ms. Crawford asked questions of Mr. Strawn.

Chairperson Nicodemus asked questions of Mr. Strawn.

2. Appellant (*15 minutes*)
 - a. Rodney Wayne Oliver

Mr. Oliver provided his opening testimony.

Chairperson Nicodemus asked questions of Mr. Oliver.

3. Borough Attorney's Office (*15 minutes*)
 - a. Shannon Bodolay, Assistant Borough Attorney

Ms. Bodolay provided her opening testimony.

Mr. Van Diest asked questions of Ms. Bodolay.

Chairperson Nicodemus asked questions of Ms. Bodolay.

Mr. Rongitsch asked questions of Ms. Bodolay.

4. Interested Parties (*5 Minutes each*)
 - a. Michael Adams

Michael Adams provided his testimony in support of the Planning and Land Use Director's decision.

b. Randy Talvi

Randy Talvi did not appear and did not provide testimony.

c. Lia Talvi

Lia Talvi did not appear and did not provide testimony.

d. Glen Tilghman

Glen Tilghman provided his testimony in support of the Planning and Land Use Director's decision.

e. Duane Steele

Duane Steele did not appear and did not provide testimony.

f. Karla Steele

Karla Steele did not appear and did not provide testimony.

g. Sheila Borer

Sheila Borer provided her testimony in support of the Planning and Land Use Director's decision.

h. Virgie Thompson (late filed interested party)

Virgie Thompson provided her testimony in opposition of the Planning and Lane Use Director's decision.

5. Appellant for Rebuttal (*5 Minutes*)

Rodney Wayne Oliver provided his rebuttal.

VI. ADJUDICATORY SESSION

MOTION: Ms. Crawford moved to enter into adjudicatory session.

VOTE: The motion passed without objection and the Board entered into adjudicatory session at 11 a.m.

MOTION: Ms. Crawford moved to exit adjudicatory session.

VOTE: The motion passed without objection and the Board exited the adjudicatory session at 2:01 p.m.

Chair Nicodemus requested Ms. Henry to read the draft decision into the record.

Ms. Henry read the draft decision into the record.

MOTION: Ms. Crawford moved to approve the decision as read into the record by the Clerk.

VOTE: The motion passed with members Nicodemus and Roberts in opposition.

VII. BOARD COMMENTS

There were no comments provided.

VIII. ADJOURNMENT

The meeting adjourned at 2:03 p.m.

MATANUSKA-SUSITNA BOROUGH
BOARD OF ADJUSTMENT AND APPEALS

TERRY NICODEMUS, Chairperson

ATTEST:

BRENDA J. HENRY, MMC, Assistant Borough Clerk
Minutes Approved:

I. CALL TO ORDER

A hearing to take up reconsideration was held on August 17, 2022, at the Borough Assembly Chambers, 350 E. Dahlia Avenue, Palmer, Alaska. The meeting was called to order at 10 a.m. by Chair Terry Nicodemus.

II. ROLL CALL

Board members present and establishing a quorum were:

Terry Nicodemus
Claudia Roberts
Tina Crawford
Jesse Rongitsch
Jay Van Diest

Staff in attendance were:

Ms. Brenda J. Henry, MMC, Assistant Borough Clerk
Ms. Shannon Bodolay, Assistant Borough Attorney

III. APPROVAL OF AGENDA

Chair Nicodemus queried if there were any changes to the agenda.

GENERAL CONSENT: The agenda was approved as presented without objection.

IV. ITEMS OF BUSINESS

Ms. Henry advised that this cultivation facility is located in her neighborhood and that she has not engaged in any discussion for or against the facility. Stated that due to it being in her neighborhood, she sought on outside legal opinion to ensure that there was no conflict of interest between her position as Assistant Borough Clerk and staff support to the BOAA and her having the right to have a personal interest in the facility as a private citizen. Advised that she is only about process and that she is in no way a decision maker and that she voluntarily forfeited her right as a private citizen to take a position for or against the facility in favor of her job as staff support to the BOAA. Invited anyone with questions to ask them.

No questions were asked.

Ms. Henry advised that Mandy Bledsoe had late-filed written comments. Noted that it up to the BOAA to admit them or not.

Chairperson Nicodemus queried if there was any objection to admitting the late filed comments.

There was objection to accepting the late-file documents.

VOTE: The motion failed unanimously and the comments from Mandy Beldsoe were not admitted into the record.

Ms. Henry advised that late on August 12, the Borough Attorney's Office filed a motion to supplement the record. Noted that she was unable to reach the Chairperson until August 15, who requested that the motion be addressed at the hearing today. Stated that the supplement, if admitted consists of lists of addresses that the notice of public hearing for the conditional use permit were sent to. Stated that the documents were originally 2-sided but were produced for the record as 1-sided. Stated that it would be up to the BOAA to grant the motion to supplement the record.

Chairperson Nicodemus queried if there was any objection to granting the motion to supplement the record.

GENERAL CONSENT: The motion passed without objection.

Ms. Lisa Day, appellant, noted that an interested party was unable to attend the hearing today due to work requirements. Requested to read his statement into the record.

Chairperson Nicodemus stated that the BOAA does not generally allow that as they stick to the code and its requirements. Stated that he is not in favor of that occurring. Queried if there was any objection.

There was objection noted.

VOTE: The motion failed unanimously, and the statement was not read into the record.

Chairperson Nicodemus queried if there were any other prehearing issues that need to be addressed or if anyone had any questions.

No questions or comments were noted.

A. Hearing, BOAA Case No. 22-03, Appeal the Approval of a conditional use permit to operate a marijuana cultivation facility, 3097 South Sylvan Lane, Tax Id. No. 6315B01L011.

1. Borough Staff (*10 Minutes To Present The Decision Below And To Set Forth The Evidence And Rationale Of The Decision Maker*)

a. Peggy Horton

Ms. Horton presented the decision below and set forth the rationale of the decision maker.

2. Appellant (*15 minutes*)

a. Lisa K. Day

Ms. Day provided her opening statement.

Chairperson Nicodemus asked questions of Ms. Day.

3. Entitlement Applicant (*15 Minutes*)

a. Jana Weltzin, Attorney for Entitlement Applicant

Ms. Weltzin provided her opening statement on behalf of the entitlement applicant.

Chairperson Nicodemus asked questions of the entitlement applicant, Ryan McKay.

Chairperson Nicodemus asked questions of Ms. Weltzin.

4. Borough Attorney (15 minutes)

a. Shannon Bodolay, Assistant Borough Attorney

Ms. Bodolay provided her opening statement.

Chairperson Nicodemus asked questions of Ms. Bodolay.

Ms. Crawford asked questions of Ms. Bodolay.

Mr. Rongitsch asked questions of Ms. Bodolay.

(The meeting recessed at 11:15 a.m. and reconvened at 11:20 a.m.)

5. Interested Parties (5 minutes each)

a. Wendy Richerson

Wendy Richerson spoke in support of the appeal.

b. Karri Donahue

Karri Donahue did not appear and did not provide testimony.

c. Mandy Bledsoe

Mandy Bledsoe did not appear and did not provided testimony.

d. Christopher Smith

Christopher Smith spoke in support of the appeal.

e. Jarrett Carson

Jarrett Carson did not appear and did not provide testimony.

f. Nicole Martin

Nicole Martin spoke in support of the appeal.

g. Pat Martin

Pat Martin spoke in opposition to the appeal.

6. Appellant for Rebuttal (*5 minutes*)
 - a. Lisa K. Day

Ms. Day provided her rebuttal.

V. ADJUDICATORY SESSION

MOTION: Ms. Crawford moved to enter into adjudicatory session.

VOTE: The motion passed without objection and the Board entered into adjudicatory session at 11:40 p.m.

MOTION: Ms. Crawford moved to exit adjudicatory session.

VOTE: The motion passed without objection and the Board exited adjudicatory session at 2:54 p.m.

Chairperson Nicodemus requested Ms. Henry to read the draft final decision into the record.

Ms. Henry read the draft final decision into the record.

MOTION: Ms. Crawford moved to approve the final decision as read into the record by the Clerk.

VOTE: The motion passed without objection.

V. BOARD COMMENTS

There were no comments provided.

VI. ADJOURNMENT

The meeting adjourned at 2:56 p.m.

MATANUSKA-SUSITNA BOROUGH
BOARD OF ADJUSTMENT AND APPEALS

TERRY NICODEMUS, Chairperson

ATTEST:

BRENDA J. HENRY, MMC, Assistant Borough Clerk
Minutes Approved:

I. CALL TO ORDER

An appeal hearing was held on September 8, 2022, at the Borough Assembly Chambers, 350 E. Dahlia Avenue, Palmer, Alaska. The meeting was called to order at 10 a.m. by Chair Terry Nicodemus.

II. ROLL CALL

Board members present and establishing a quorum were:

Terry Nicodemus
Claudia Roberts
Tina Crawford
Jesse Rongitsch
Jay Van Diest

Staff in attendance were:

Ms. Brenda J. Henry, MMC, Assistant Borough Clerk
Ms. Shannon Bodolay, Assistant Borough Attorney
Mr. Alex Strawn, Planning and Land Use Director

III. APPROVAL OF AGENDA

Chair Nicodemus queried if there were any changes to the agenda.

GENERAL CONSENT: The agenda was approved as presented without objection.

IV. ITEMS OF BUSINESS

A. BOAA Case No. 22-02, Hearing To Take Up Petition For Reconsideration Of The Final Decision For BOAA 22-02, Appeal Of The Planning And Land Use Director's Decision Regarding The Use Of Watercraft On Morvro Lake, Rodney Oliver, Appellant. (*Order of agenda and timeframes are determined by the Chairperson of the BOAA*)

1. Borough Staff (*10 Minutes*)
 - a. Shannon Bodolay, Assistant Borough Attorney

Ms. Bodolay stated that she had an exhibit that she would like to use. Noted that it is information that is already contained in the record, so it is not something new. Stated that she had copies for everyone. Requested permission to use the exhibit.

Chair Nicodemus queried if there was any objection to allowing Ms. Bodolay to use the exhibit?

There was no objection noted.

Ms. Bodolay presented her case in support of the motion for reconsideration.

No questions were asked of Ms. Bodolay.

2. Appellant (*10 minutes*)
 - a. Rodney Oliver

Rodney Oliver presented his case in opposition of the motion for reconsideration.

No questions were asked of Rodney Oliver.

V. ADJUDICATORY SESSION

MOTION: Mr. Rongitsch moved to enter into adjudicatory session.

VOTE: The motion passed without objection and the Board entered into adjudicatory session at 10:22 a.m.

MOTION: Mr. Rongitsch moved to exit adjudicatory session.

VOTE: The motion passed without objection and the Board exited adjudicatory session at 10:58 a.m.

Chairperson Nicodemus requested Ms. Henry to read the draft final decision into the record.

Ms. Henry read the draft final decision into the record.

MOTION: Mr. Rongitsch moved to approve the final decision as read into the record by the Clerk.

VOTE: The motion passed without objection.

V. BOARD COMMENTS

There were no comments provided.

VI. ADJOURNMENT

The meeting adjourned at 11 a.m.

MATANUSKA-SUSITNA BOROUGH
BOARD OF ADJUSTMENT AND APPEALS

TERRY NICODEMUS, Chairperson

ATTEST:

BRENDA J. HENRY, MMC, Assistant Borough Clerk
Minutes Approved: