



**AN AMENDMENT TO TITLE 8 TO ADD A NEW SECTION:
LAPSE OF VARIANCE AUTHORIZATION**
Planner: Curt Moore
Prepared June 8th for the board of County Commission
Public Hearing of June 16, 2011

- APPLICANT:** Teton County Planning Department
- APPLICABLE CODE:** Title 8 Teton County Zoning Ordinance
- REQUESTS:** Add Section 8-8-1-J Lapse of Variance Authorization
- APPLICABILITY:** County wide, all zoning districts

BACKGROUND: The proposed section of code provides a standard clause found in most city and county zoning codes. The proposed text makes it clear that the granting of a variance is valid for one year and should be acted upon within that time frame. To grant a variance and not obtain the associated building permit for several years is not an effective way to administer an ordinance. Some variances may involve uses that do not require a building permit. In order to be effective, there needs to be a set time frame established from the date of issuance of a permit and the activity or structure for which the permit was granted. One reason for the timeframe requirement is that the decisions of adjacent landowners to construct building or arrange uses on their lot are oftentimes based on the land uses or structures on the adjacent lot. If a setback or height variance is granted, then the variance holder needs to act on it and thereby give certainty to adjacent landowners as to the land uses that will take place on those nearby locations.

AMENDMENT TO TITLE 8 TETON COUNTY ZONING ORDINANCE

J. LAPSE OF VARIANCE AUTHORIZATION: Unless otherwise provided by the decision-making body, the Applicant shall apply for any needed building permits within twelve (12) months of the approval of the Variance. If no building permit is required for the variance, then the activity associated with the variance shall commence within one year of the date of approval of the variance. The Variance approval shall automatically lapse and be of no further force and effect if the Applicant fails to apply for a building permit or does not commence with the permitted activity within the twelve (12)-month period.

STANDARDS FOR REVIEWING AMENDMENTS TO THE TEXT OF THE COUNTY ORDINANCE:

Consistent with purposes. The proposed Variance regulation is consistent with Section 8-1-3 Purposes of Zoning Ordinance and with 9-1-3 Purposes and Scope of Title 9 of the Teton County Subdivision Ordinance.

Consistent with Comprehensive Plan. The proposed regulation is consistent with the Teton County Comprehensive Plan 2004-2010 and any trends that are apparent in the on-going comp plan surveys.

Consistent with other sections of the Zoning and Subdivision Ordinance. The proposed amendment is consistent with other provisions of the Teton County Code.

Additional flexibility. The proposed amendment to the text could provide additional flexibility in meeting the objectives of Title 8 the Teton County Zoning.

PLANNING COMMISSION PUBLIC HEARING

A public hearing was duly noticed for May 12, 2011 and the text amendment was advertised in the Teton Valley News. The proposed amendment was opened for public comment and the Commission deliberated on the amendment. The meeting minutes for the public hearing are attached. The Commission voted unanimously to approve the text amendment.

PLANNING COMMISSION & STAFF RECOMMENDATION:

Having found that the proposed text amendment is consistent with the Purpose and Scope statements in the Teton County Zoning and Subdivision Ordances, the Teton County Planning & Zoning Commission and Planning Staff recommend the Board adopt the proposed code sections as enumerated in this report.

TETON COUNTY PLANNING AND ZONING COMMISSION
Draft Meeting Minutes from May 10, 2011
County Commissioners Meeting Room, Driggs, ID

COMMISSIONERS PRESENT: Mr. Dave Hensel, Ms. Jennifer Dustin, Mr. Matthew Eagens, Mr. Ryan Colyer, and Mr. Shawn Hill

DEPARTMENT HEADS PRESENT: Mr. Curt Moore, Planner and Mr. Angie Rutherford, Planner

Mr. Hensel called the meeting to order at 5:01 PM

Approval of Minutes:

The Commission reviewed the draft minutes of April 12, 2011.

Mr. Colyer moved to approve the draft minutes of April 12, 2011, as amended. Mr. Hill seconded the motion. The motion passed unanimously.

PUBLIC HEARING: Amending Title 8, Chapter 8 Teton County Zoning Regulations, Variance Clarifying requirements/findings and adding a section to address expiration of a Variance The proposal is to amend Title 8.8.2 Teton County Zoning Ordinance Variance Procedures to clarify the requirements/findings and add a section regarding the expiration of a variance after it has been granted by the Planning & Zoning Commission.

Mr. Moore explained the provision would require variance requests to have a time limit for commencing activity. The language was taken from existing codes, which were fairly consistent within other jurisdictions.

Mr. Hill asked if someone gets a variance for a structure that is then removed, would the variance still apply to a new structure in the same location. Mr. Moore did not have a concrete answer, but he felt the variance was for the existing structure only. He thought a new building permit for a structure would require a new variance as well. Mr. Hill referred to the boat house variance approved at the last meeting and was concerned if someone took down the boat house that will be built in order to build something larger or for a different use, would the recently approved variance be valid. Mr. Moore did not feel it would because the approved variance specifically described a boat house.

Public Comment:

There was no public comment.

Commission Deliberation:

The Commission felt the amendment was acceptable as proposed in the staff report.

Motion: Mr. Colyer moved to recommend approval of amending Title 8 adding a new section 8.8-1-J Lapse of Variance Authorization, as presented in the staff report. Mr. Eagens seconded the motion.

Vote: The motion was unanimously approved.