



Anaconda-Deer Lodge County Planning Department

Board of Adjustment Minutes

Thursday, May 28th, 2020

ALDC Building, 1st Floor Conference Room

4 p.m.

Meeting called by Bill Johnson, Chair

Type of meeting Variance Meeting

Minutes taken by Carlye Hansen

Members Present: Bill Johnson, Chair, Donna Kostelecky, Vice Chair, Judy Barber

Members Absent: Stormi Brosseau (Excused)

Staff: Carl Hamming, Planning Director; Gayla Hess; Carlye Hansen, Planning Department Secretary

Guests Present: Please see sign in sheet

AGENDA TOPICS

Call to Order

Meeting was called to order at 4:02 by Bill Johnson, Chair

Mr. Johnson introduced the Board of Adjustment and did review the Board of Adjustment (BOA) Process to the applicants and to the public in attendance.

Approval of Minutes

May 28th, 2020

Motion was made by Judy Barber, to approve the minutes of the May 29th, 2020, Board of Adjustment Meeting as amended by Gayla Hess, Planner II; seconded by Judy Barber.

Motion passed 3-0.



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Public Hearings

Variance 19-005

Request Jerry Lemm, for an extension to an approved variance (V19-005) to allow extended relief from Sec. 24-62 (1), Anaconda Residential Estate District (ARED) 1.0 for the number of single-family dwelling units on a lot of record. Previously, the Board of Adjustments set August 5th, 2020 as the move-by date for a trailer on the property at the Public Hearing held on December 5th, 2019. The subject property is legally described as "NORTH CABLE ROAD, S33, T05N, R1W, COS 445A, ACRES 1.023, LOT 3."

Staff Report

Gayla Hess, Planner I, reviewed the situation and gave a brief update put together by her and her office. The applicant seeks an extension to an approved variance (V19-005) to allow extended relief from seeks from Sec. 24-62 (1), Anaconda Residential Estate District (ARED) 1.0 for the number of single-family dwelling units on a lot of record. Previously, the Board of Adjustments set August 5th, 2020 as the move-by date for a trailer on the property at the Board of Adjustment Public Hearing held on December 5th, 2019.

Please refer to the attached Board Memo, dated July 23rd, 2020, and attached letter from Jerry Lemm, dated May 21st, 2020

Board Question and Comments

Mr. Johnson asked how long of an extension they were asking for. Ms. Hess stated that there was no specific timeframe.

Applicant Comments:

Ott Lemm started out by saying that in regards to comments made in December, 2019, by the Nardacci's, and it didn't hit him until after the meeting, is that the trailer, as it sits now was ruining their view of the mountains. Ott heard the comment and it didn't hit him until later, but Jerry had bought the ground 5 or 6 years ago and at the time he bought the ground, there were 3 trailers on that lot, 2 of them were demolished with cats, rats, and everything else living in one of the trailers. This was by the Nardacci's and they owned the land prior to his son Jerry purchasing this. All the time, up until this particular incident came up, nothing was ever said about the view and the element that they could not see. Mr. Lemm's son, Tom, took the trailer down and eliminated the whole thing, cleaned up the area, got rid of the other two trailers that were dilapidated and unlivable. When the kids came up with the problem that they had to have some place to go to live, he



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had gotten hurt, and money was tight, and they got the trailer. The trailer is what we are talking about right now, that is in the way of this beautiful scenic view....

At this time, Mr. Johnson interrupted and stated that what they are addressing now is not whether the trailer can be there, but rather now is whether or not there will be an extension beyond the time frame. The entire thing in regards to the variance was decided last December. All that the Board is taking action on right now is whether there will be an extension. When they granted the original extension on the variance, they thought it would be rather brutal having folks move a trailer in December. That is why they gave the extension up to August 5th, 2020. So, the issue today deals with the extension that was granted from December 2019 until August 5th, 2020. The fact that the trailer has to be moved has already been established last year, so we are only talking about when this will be moved off of the property.

Mr. Lemm then stated that all questions need to be referred to Cody and Katie Lemm.

Mr. Johnson then asked how long Mr. and Ms. Lemm (Cody and Katie) would need this extension for.

Ms. Lemm, discussed that as far as why they are asking for the extension is because of the Covid, because of the fact that they have not been able to really plan on where they can go, move, or be able to sit down with other people and make any plans. They are very self-conscious. They have a three-year old that has some medical issues and she has another six-year old and she doesn't want to be around what they call "germs". They knew what their plans were back in December. They had an idea of where they would be and where they wanted to be moving to, and what they would have done with the trailer. When the Covid hit, all of those plans were essentially demolished and no one knew what to do in regards to their plans due to the Covid. Where they were going to be moving is not able to happen at this time due to someone living in the potential house due to non-eviction regulations due to Covid. So, with them not being able to move out of their current situation, this is due to the same reason they are being evicted. Her personal opinion is why they are being evicted when someone else is not being evicted, when the place they are wanting to move to is not paying their rent, and should be evicted the same as they are.

Ms. Kostelecky asked what the address is of the house they are moving into and Ms. Lemm stated it is one of Jerry's properties on Cedar Street. He is not able to act on moving forward with the eviction due to the laws in place with Covid. He cannot go to court in regards to eviction. Ms. Lemm was in contact with Jerry as of this morning and once that



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the restrictions are lifted, they can move forward with the process that they began after Covid hit and before Jerry had to stop the process.

Mr. Lemm then stated they started this process on December 25th, on Christmas, and then Covid hit and by law, State of Montana Law, Jerry cannot evict this other person out so the same thing goes, why is being evicted when someone else cannot be evicted?

Mr. Johnson then went on to ask if there is a particular reason as to why they need to move into that particular house at that particular location. He wanted to know if there are other locations that would be acceptable.

Mr. Lemm noted that with him being hurt and still not being released to work, or her being injured also, neither are released to work. He is actually in a position of looking at both of his shoulders being operated on her within the next couple of months.

Mr. Johnson asked how long of an extension they are looking for. Mr. Lemm stated that he does not know and Ott Lemm stated that as long as they cannot evict the other folks, there is really no idea.

Mr. Lemm asked that his extension be until the Covid issue is lifted and until other folks can be evicted.

Ms. Kostelecky asked when the restriction was made by the government in regards to eviction and Covid and Mr. Lemm told her that it was June 1st, 2020. Donna then stated that they had until June to have had this trailer removed. Ms. Lemm then stated that this process was going on prior to the laws coming up relating to Covid and she knows that Jerry Lemm was trying his hardest to get these folks out of his house and everything ended essentially and now he is not sure if this will need to start over or if it will pick up where he left off.

Mr. Lemm states that it has to go to Phase 3 before anything is lifted and we are currently in Phase 2. Ms. Lemm states that even if the time comes where this is lifted, it will still need to go to court and they are working against each other's clock. They have not been able to move forward with their plans made back in December/beginning of January and at this time cannot still cannot act on these plans.

Mr. Johnson states that the BOA gave them eight months. The original deadline was around June 1st and we extended it to August 5th, so there would be time to act on this



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through the summer and he states that they didn't need to wait until the last day to move out.

Public Comment:

Chris Nardacci – 504 North Cable Road, Anaconda

Mr. Nardacci knows that Mr. Lemm is capable of work, and he knows for a fact he works for his father. Mr. Lemm asked him to prove it. Mr. Johnson stated that the disability has nothing to do with any of this at all. Mr. Nardacci stated that Mr. Lemm has lied. Mr. Johnson then stated that the only thing we are here for is to discuss on whether or not to extend the date. Mr. Nardacci says that they should not. Mr. Nardacci states that they have had no intention to move the trailer from the beginning. He states that there was a shed that was brought in and set it up on the end of the trailer. If he has intentions of moving the trailer, why did he set up the shed?

Wendy Nardacci – 504 North Cable Road, Anaconda

Ms. Nardacci thinks that it is the Board's responsibility to make sure that people go about properly acquiring permits and variances so that you know that professionals are doing work and doing this correctly, that soil samples are taken every time that someone digs, building permits are obtained so that buildings are built correctly, and people live in a safe environment. She brought photos that she would like to share in regards to the junk around the property, boats, RV's, broken down vehicles, a 16-ft side dump trailer.

Mr. Johnson thinks that these things should really be brought up to another department. He again states that they are simply discussing the variance and the time extension that was requested and Ms. Nardacci stated that this is this board's job to make sure these problems are fixed and cleaned up. Mr. Johnson states that the only job this Board has to address is this one variance in a set time and the County's responsibility is to make sure this is carried out. Ms. Nardacci then stated that she and her husband have sought out legal advice through Jeff Dahood, Attorney-At-Law, and he has advised them that they have every right to file an injunction and that they can sue the Lemm's and the County for the diminishment of their property and file for amend Amos with the courts if this just continues to go on. She states that there are sewage problems over there, there is water freezing in the winter, they dig, and they have hit gas lines twice and the Nardacci's have been evicted from their home twice by fire personnel. All of this has been done without permits and nobody does any Dig Safe, and they brought in the trailer eight months before they ever applied for a variance, and then the Board gave them another eight months. They really feel that it has been long enough and it is a huge eyesore. Ms. Nardacci would like to show a video just going through the entire property with their house right in the middle



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of all of this junk that is everywhere. They move junk cars every now and again with a backhoe just to make sure that they move them.

Mr. Nardacci just wanted to reiterate that they just feel that this has gone on long enough.

Ms. Lemm stated that as far as why they brought in the shed is due to them not having a garage, so they brought in the shed for the fact that they can clean up their area. As far as the rest of the property, he can't comment on this, as this is not her section of property. In regards to the shed, this is was bought so that they could clean up around their house. The rest of the land is not her responsibility, or her husband's responsibility, it is the other owner's responsibility.

As far as why they haven't cleaned up the trailer is that they feel that why put more money into the trailer or clean this up any more if they are not going to stay. Their plan was to make this look totally normal and make it look nice and they cannot.

Ms. Nardacci's asked if rentals were no longer being rented. There are rentals in the paper, and low-income housing available. Again, Mr. Johnson said that the only reason we are here is to discuss the validity of an extension of the time they should move out.

Ms. Kostelecky stated that if the extension is approved, they should have a monthly report from the Lemm's as to what is going on with the property and the status of the situation. It is Covid. By law, we have to retain the restrictions, but she thinks that they really need to be in contact as we have waited nine months for this to happen and it has not happened and that is her opinion and recommendation for the variance extension. She stated that she probably would not approve this if it were not for the Covid pandemic.

Ms. Barber states that there is no question that the trailer will need to be moved. Mr. Johnson more or less discussed with Ms. Barber, what the end result was as of the last meeting and that this, again, is just dealing with an extension of those approvals.

Ms. Kostelecky asked if they are moving into the uncle's property with free rent. Ms. Lemm stated that they will pay rent, and will have folks come in and help with what needs to be fixed. They will take over rent, the taxes on the house, as Jerry is having a hard time paying the taxes on the house. They have the plan of fixing up the house going into it and that it is needing work. They will be fixing it up. In regards to what Ms. Barber stated, Ms. Lemm agreed that the trailer needs to be moved and if it wasn't for the Covid, then she knows it would have been gone by now, as confirmed by her husband.



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Ms. Kostelecky asked that if they are willing to pay rent to Jerry, then why could they not use that money and just rent another place during the interim. Ms. Lemm stated that she has not been leaving her bubble and she has been trying to stay away from people and has not been around many folks. She is concerned about Covid. Ms. Kostelecky stated that they could have always called on another location and had Cody go down to look at it. She is just looking at all the options that they could or should have considered.

Both Mr. Johnson and Ms. Kostelecky are leery of a timeline. Mr. Johnson feels that they made the decision in December and the reason to give the Lemm's time was due to them all agreeing that it was not right to force folks to move, especially in December. Well, we are now in the middle of August and he still doesn't see the objection there anymore. At some point, you have to comply with the law. This is his position and he would like to hear a timeline before he moves forward with a notion. If he heard 30 days, then possibly, but if they say we would like to let them go and report every month to us, then that this will not get us anywhere. Ms. Kostelecky doesn't feel that the virus is going to end, and neither does Mr. Johnson, and she has mixed feelings about this issue and where responsibility lies. She states that they need to be into Phase 3, but Mr. Johnson states that this is for them to move, not to move the trailer. Ms. Kostelecky asked if they could move this to a different location and set this up. The Lemm's asked where. Mr. Nardacci asked about Hunter's Trailer Court, and Mr. Lemm stated that they are not accepting any new trailers until next summer. Ms. Lemm stated that they have looked to move the trailer somewhere else. The only way to move the trailer and set it up somewhere else would be to purchase land. At this time, they would not be able to purchase land and that would go against Covid. The time is limited on how much time you can spend in the banks.

Herb Lutey, 105 Washington, Anaconda

Mr. Lutey is actually here to present his own variance, but did mention that there is a trailer court, east of the storage units, and there are not many trailers in there, but they could fit one in there. Ms. Lemm said she is open to all options.

Mr. Hamming stated that if they do want to move towards a slightly extended extension, say as 30-days with a weekly report, he would recommend that at the end of the 15-days, 30-days, or even if they don't decide to go that route, that the file would then move over to the County Attorney's desk if it is not resolved in the time frame given. The County Attorney is aware of this issue and he has been informed on the matter so action can be taken at that time if the trailer has not been moved by the date given.

Donna Kostelecky feels that this would be the route to go so that the Board is covered and that the County Attorney could then take over the legal aspects of this.



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MOTION

Motion was made by Donna Kostelecky to approve a request Jerry Lemm, for an extension to an approved variance (V19-005) to allow extended relief from Sec. 24-62 (1), Anaconda Residential Estate District (ARED) 1.0 for the number of single-family dwelling units on a lot of record. This would be given for 30-days after August 5th, 2020, and then referred to the County Attorney after that time if the trailer has not been removed from its current location; seconded by Judy Barber. Motion passes 3-0

Variance 20-002

Request by Daniel Counter of 5 North Preston for a variance (V20-002) to allow relief from Sec. 24-275 (2) of the Development Permit System (DPS) which limits maximum structural height of 28 feet for structures within the Opportunity Development District (ODD). Applicant proposes to build a forty (40) foot pole for a windmill. Property is legally described as "OPPORTUNITY ORIGINAL TOWNSITE, S10, T04 N, R10 W, Lot 57, ACRES 0.75, N2W150 FT."

At this time, Mr. Daniel Counter again did not show up to attend the meeting.

Please refer to the attached Staff Report, dated May 28th, 2020.

MOTION

No motion is made at this time.



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Variance 20-004

Request by Lora Baumann for a variance to allow relief from Sec. 24-105, Goosetown Neighborhood Conservation District (GNCD), to allow vehicular access from the street when an alley is available. Applicant owns the vacant lot and uses it for storage. The subject property is legally described as "EASTERN ADDITION (ANACONDA), S02, T04 N, R11 W, BLOCK 55, Lot 8."

Staff Report

Gayla Hess, Planner II, reviewed the staff report put together by her and her office. The applicant requests from Sec. 24-105, Goosetown Neighborhood Conservation District (GNCD), to allow vehicular access from the street when an alley is available. Applicant owns the vacant lot and uses it for storage.

Please see the attached Staff Report dated July 30th, 2020.

Board Questions and Comments

Ms. Kostelecky did ask for the comments received by the Planning Board Office

Ms. Hess did state that they had a phone call from Walter Sofich of 807 East Fourth Street, Anaconda, on July 17th, and he cited concerns. He also sent a letter which is included in the packet and he had concerns in regards to using the lot for storage of vehicles, the lot diminishing his property value, and he also asked the Code Enforcement Officer, Joe Ungaretti, for an analysis of this situation.

The second public comment came from Chris Yerkich, at 804 East Fifth Street, Anaconda, on July 17th, and he also voiced concerns about constantly pulling the trailer in and out of the lot and blocking Fourth Street. He also mentioned the junk stored on the lot.

The third public comment was from Mr. Vance Reece, an email. He owns 803 and 803 ½ East Fourth Street, Anaconda,

He stated that he wants to say that he is against putting in a driveway when alley access is available. He thinks that due to the size of the lot, that regulations were passed in the first place for a reason – this is to be residential and not a junk yard designation. That being said, Mr. Reece's property is in escrow and will have a new owner next week, Matt Kelly. Mr. Kelly was sent information regarding this meeting.



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Applicant Comments

Lora Baumann, is asking for this variance as she has a 32-foot mobile home that she cannot swing through the alley onto her lot. There is not enough clearance for her to do this. There is a power pole and the width of the alley does not give her enough room.

In regards to addressing the complaints about junk, Mr. Ungaretti, had approached her about the junk on the lot. For 19-years, she states that she had a huge road block, which was her husband. In March, she filed for divorce and he has been removed from her home. She has rented three large dumpsters, and she has about 2/3 of said junk off of the property and she has been having junk vehicles being removed by Nazer's Towing.

Mr. Johnson stated that the junk on the property is not the Board's concern. Their concern is her getting access to the lot. She states that she has no parking behind her back of her fence as there are a couple of houses back there that folks live in and they do not have any parking at all. Her fence was brought in 8 ft. and people park behind that back fence. She has to hunt them down and ask them to move their vehicle so she can pull out. Anything on her lot is difficult to get out due to this and it is difficult to get a truck and trailer out the back alley.

Ms. Kostelecky asked if there was a travel trailer on this property. Ms. Bauman stated that yes, her trailer is on there, and that here is no sewer, water, or power on this property. She reconfirmed that she cannot get out the back and then stated that in Anaconda, it is illegal to park motor homes in front of properties on city streets. There is no side walk there right now. Atlantic Richfield removed that sidewalk and she is not sure why. She has no problem with replacing the sidewalks along with the driveway if she is granted the variance, as it was mentioned in the letter. If the variance is granted then she would like a driveway put in along with sidewalks and she has no problem doing this. She is putting up the fence, she has not stopped putting up the fence, and just ran into a couple of roadblocks on Mr. Softich's side. She has a large bush and five large apple trees that need to be removed. She states that she is working on this and she just needs access to the RV and be able to get out of the lot.

Ms. Kostelecky then asked about the Highway Department in regards to letting people pull out onto Fourth Street. Ms. Hess did speak with MDT, but this would only be referred to local permitting if this variance would be granted.

Mr. Johnson, confirmed that they would be backing a 32-foot trailer into Fourth Street to get out of there? Ms. Baumann states that she has never stopped traffic on Fourth Street. He asked about the opinion of the County on setting up a situation where she would be backing up a 32-foot trailer out into Fourth



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Street, which is a busy street. Mr. Hamming states that yes, there would be concerns if you are blocking traffic. Mr. Johnson feels that the traffic would be his primary concern.

Ms. Kostelecky asked how she got the motor home in their in the first place? Ms. Baumann stated that she backed it in from Fourth Street. She stated that she has owned this property for 19-years. She never know that it was against the law for her to access my property through the front until recently, She now states that she is doing everything that she is supposed to do, coming in and applying for the variance, and to move towards permitting in regards to the curb, installation of a driveway, and installation of a sidewalk..

Ms. Kostelecky asked if the County has determined whether or not she can get the trailer in through the alley. Ms. Hess stated that this alley is a standard sized alley and this is a longer vehicle, and that she, herself, is not very good at estimating as she doesn't drive a 32-ft trailer. However, the alley in questions is a standard sized alley.

Mr. Johnson stated that they do run into this often as originally this part of the city was designed for carriages, many of what we would call garages and storage sheds were actual carriage houses. Now, vehicles are getting bigger and bigger and if you get a Dodge Ran with full seats, full bed, they are not going to fit into these buildings and/or lots and Goosetown is not designed for them.

There are pictures that Ms. Hess has provided. Ms. Kostelecky now asked about the bus and asked Ms. Bauman if that is her bus? Mrs. Bauman states that this is her buss and she asked if this is one of the vehicles that would be removed from the property. Ms. Bauman stated that eventually she will move the bus out, when she gets it done. She is remodeling the bus. She stated that she won the bus in a raffle. She didn't intend on winning the bus, just wanted help this poor kid out and she bought a raffle ticket and she won the bus. Fortunately, the bus does run. She did not want to leave it on the city streets, so she put this in the back with her motor home and her Harley. She does have a new fence going up in the back with a rolling gates.

Mrs. Kostelecky asked if the pole between the bus and the RV is being used. Ms. Baumann stated that this was only a 4x4, and that it is coming out. When she puts her new fence in, how is she going to pull the new fence out every time she wants to use the alley? She states that even if she dropped the fence, the house is too close to even try and back this up.

Mr. Johnson asked that before she purchased the 32-foot motorhome, did she have any ideas on where she would store it. She stated that she planned from the beginning to store it on her property, as she did not know at the time that she wasn't able to access her property by driving over the curbed area of the property in the front.



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Mr. Johnson asked if she was planning on removing all the fence and is asking if there is a gate of sorts that can be used to swing. He stated that it looks like the area is plenty wide to come in from the alley with the 32-foot motorhome in if you have the correct gate, if everything is set right. He understands that this would be difficult, and is not saying it would be easy, but this is just his observation.

Ms. Kostelecky stated that after she read Mr. Softich's letter, she had the County talk to Mr. Ungaretti on what is being held on that property and that is why he is at the meeting today. She asks how many vehicles can be kept on a property like this without being considered a junk yard.

Mr. Ungaretti stated that the State of Montana has the junk vehicle flyers. Anything over four vehicles classify as a junk vehicle. If it is currently licensed, with not a permanent plate, but a current plate, it does not classify as a junk vehicle even if it is wrecked, abandoned, dismantled, it does not classify. It has to meet all the criteria, wrecked, junked out, parted out, unlicensed, and if it has a permanent plate, and is within the other categories, then it is a junk vehicle according to the State of Montana. If this is over four, you do need a license from the State of Montana DEQ, to be permitted.

Ms. Kostelecky asked how many vehicles are on the property and Ms. Bauman stated that there are 7 vehicles on this lot, and only two are not running. She has gotten rid of all that did not run other than the two she mentioned earlier. She states that the vehicles are big part of her income. She pulls motors, sells the motors, and then will get rid of the vehicles. When she purchased the lot, she asked what she could do with it and she was told that she could use this for storage as long as she put up a fence and kept this from the view of the public, so there has always been a fence there. Now, that her husband is gone, she can actually do what she is supposed to do or wants to do with the lot, which is clean it up, put up a nice greenhouse, put a nice white, vinyl fence around it, be able to park her RV and her boat. And she also wants to finish her bus. She states that when her husband left, all of her income went with him. She also had to clean out all of the junk at her house across the street that her husband had accumulated, and she did all of this. She is really trying to clean up the properties and she does feel bad for Jim next door and always has. She states that she gone above and beyond to clean these two properties up.

The two vehicles that are not running are not licensed. So, it would fit into the Junk Vehicle category? Ms. Baumann stated absolutely. She has given her son a time limit to get the rest of those parts out of the wrecked Durango that is out there.

Mr. Johnson again stated that the only reason we are here is for access to the property from the front., nothing else.

Mr. Reece was had called in for the meeting and was on the phone, but was hard to understand due to the social distancing.



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Herb Lutey, who is actually here for another variance, is questioning a few of the ordinances and Mr. Johnson told him that it is the commissioners who pass the ordinances and they represent the people of Anaconda, so if someone comes to the Board, what they are asking the Board to do is go against the laws of Montana, so they evaluate and have to have a good and legitimate reason to grant a variance.

Ms. Kostelecky then again restated that she feels that if the pole in the back was removed from the back part of her yard, she would be able to maneuver the RV more easily and she would be able to get in and out.

MOTION

Motion was made by Donna Kostelecky to approve Variance 20-004 to allow relief from Sec. 24-105, Goosetown Neighborhood Conservation District (GNCD), to allow vehicular access from the street when an alley is available and to comply with the recommendations set forth by the ADLC Planning Department. Applicant owns the vacant lot and uses it for storage; seconded by Judy Barber. Motion fails 3-0.

Variance 20-004

Request by Herbert Lutey of 105 Washington St. for a variance to allow relief from Appendix A, Division 2 Regulation A.1 of the Development Permit System (DPS) which prohibits fencing within or bounding a required front setback from exceeding 4 feet in height. Applicant proposes to erect a six (6) foot fence on the west portion of his lot at 103 Washington St; legally described as "EASTERN ADDITION (ANACONDA), S02, T04 N, R11 W, BLOCK 21, Lot 11 - 12, LESS S 7.16 FT" The area is within the Goosetown Neighborhood Conservation Development District (GNCD).

Staff Report

Carl Hamming, Planning Director, reviewed the staff report put together by him and his office. The applicant seeks relief from Appendix A, Division 2 Regulation A.1 of the Development Permit System (DPS) which prohibits fencing within or bounding a required front setback from exceeding 4 feet in height. Applicant proposes to erect a six (6) foot fence on the west portion of his lot at 103 Washington St; legally described as "EASTERN ADDITION (ANACONDA), S02, T04 N, R11 W, BLOCK 21, Lot 11 - 12, LESS S 7.16 FT" The area is within the Goosetown Neighborhood Conservation Development District (GNCD).

Please refer to the Staff Report dated July 30th, 2020

Questions From the Board



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Mrs. Kostelecky asked what the setback is from the railroad tracks and Mr. Lutey stated that it is a 30-foot setback. He stated that he talked to the fire department and they told him that the setback from the fire hydrant would need to be 3 feet, but he plans on going farther in at 10 feet.

Mr. Lutey at this time described his project in detail. He states that with the fence and matching paint, etc., this would make the entire piece of property look much better. He then gave a brief history of the house and who had lived there previously and a fire that had taken place several years back.

Ms. Kostelecky asked about why 6 ft.? Mr. Lutey states that the ground comes up so that will be a short fence on that end if he only goes 4 ft. He states that it will roughly be between 4' and 5' all around. He is going to do all of this for a little bit more security as well as privacy since he is surround by two local bars and does get quite a bit of foot traffic from both of these establishments.

Mr. Hamming stated that the only need for the variance would be due to the 6 feet along the front of the property on Washington Street. He states that with the decline from the Railroad Track, it will affect the height of the fence, so he wants to start with the six feet and it will shorten to four feet by the time you get to the incline to the tracks.

Mr. Lutey states that this will make the property worth a little more than the surrounding properties around him.

Mr. Johnson asked if the county has any objection to this and Mr. Hamming was asked to read the Public Comments.

Mr. Hamming stated that three comments were received by the County.

Barbara Killoy, owners of the Mother Lode Gifts States that she and her husband are okay with the fence and that this will be no problem or concern to them.

Theresa Nordholm, owner of the rental units directly behind Mr. Lutey's property on Washington and Park Street

She stated that she has also had some issues with things being vandalized on her property as well and she understand the need and the concern and need for a 6 foot privacy fence.



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Matt Mavrinac, Rarus Railway

He is representing Rarus Railroad and they are not concerned with it as long as they are consulted prior to construction of the 6 foot fence to be sure that it is not infringing on their right of way.

Ms. Kostelecky asked the County's recommendations. Mr. Hamming did want to mention that Wayne Wendt, ADLC Road Foreman also had no concerns if there was to be a 6 ft. fence there. He thinks that this is a justified request and that ordinance does allow privacy fencing up to 6 feet of height for smaller enclosures near a home and due to the size of this lot, I think you can make an argument that you are making a 6 foot privacy fence for something such as security in this case. One thing he didn't mention in the potential conditions for approval would be to install a sidewalk along Washington Street and he feels that this would probably help with those folks that he states are staggering home from the bar and will keep folks from trespassing on the property.

MOTION

Motion was made by Donna Kostelecky to approve Variance 20-005 relief from Appendix A. Division 2 Regulation A.1 of the Development Permit System (DPS) which prohibits fencing within or bounding a required front setback from exceeding 4 feet in height. to comply with the recommendations set forth by the ADLC Planning Department, Applicant proposes to erect a six (6) foot fence on the west portion of his lot at 103 Washington St; legally described as "EASTERN ADDITION (ANACONDA), S02, T04 N, R11 W, BLOCK 21, Lot 11 - 12, LESS S 7.16 FT" The area is within the Goosetown Neighborhood Conservation Development District (GNCD).; seconded by Judy Barber. Motion passes 3-0.

Miscellaneous



Anaconda-Deer Lodge County Planning Department

Matters from the Staff:

None

Matters from the Board:

Mr. Johnson stated that as long as they have a few more folks on the BOA, we should probably have another election of officers at the next meeting.

Public Comment

None

Next Meeting Date

TBA

Adjournment

Meeting was adjourned at 5:17 p.m.

Respectfully submitted,

Carlye Hansen

Carlye Hansen, Planning Department Secretary

Attachments

Staff Reports

- Jerry Lemm
- Daniel Counter
- Lora Bauman
- Herb Lutey

**ANACONDA-DEER LODGE COUNTY
PLANNING DEPARTMENT**

800 South Main
Anaconda, Montana 59711
Phone No. (406) 563-4010



BOARD MEMO

July 23, 2020

To the Members of the Board of Adjustments,

This memo is to serve as a cover sheet to the letter received from Jerry Lemm. Mr. Lemm is requesting an extension to the grace period set for the denied variance application 19-005. At the December 5th, 2019 meeting, a move by date of August 5th, 2020 was set by the BOA.

For the application, report, and comments provided for the first public hearing, please visit:
<https://drive.google.com/drive/folders/1Y1gg3xbzkM1UbiJ-1cRY9VaqpiiL8fy8?usp=sharing>

Minutes from the December 5th meeting are available online at:
<https://www.adlc.us/AgendaCenter/ViewFile/Minutes/12052019-736>

For printed copies of the linked materials, please contact the Planning office to schedule a pick-up time.

The extension request was noticed published twice in the Leader and letters were sent to neighbors within 150 feet of the subject land. No comments have been for this request to date.

Thank you for your consideration of this request.

21 May 2020

Anaconda-Deer Lodge County Planning Department

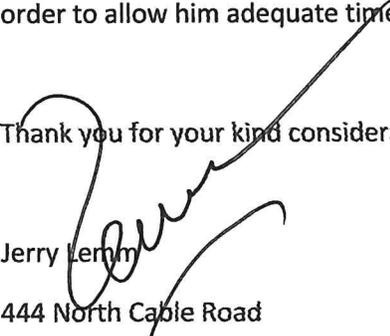
To Whom This May Concern:

In November 2019, your department voted that my nephew Cody Lemm and his family were to vacate my property on North Cable Road by 1 August 2020. As you can imagine, moving a trailer and family during the winter months is next to impossible, so nothing could be done to facilitate your directive until Spring. Before spring breakup occurred, our country, state and county were hit with the Covid-19 pandemic, forcing social distancing and quarantine conditions.

The Governor has just yesterday issued the decree that as of 1 June, 10 days from the date of this letter, the state will move into phase 2 of the quarantine, allowing our county to adjust the rules as need be. That said, Cody has had no time to make any arrangements or preparations to move his family and dwelling.

Through this letter I am asking if the planning department will consider a comparable extension for this order to allow him adequate time to make the necessary contacts and arrangements.

Thank you for your kind consideration.



Jerry Lemm
444 North Cable Road
Anaconda, Mt. 59711
(406)-560-3895

'20 JUN 11 PM12:53



BILLINGS MT 591

09 JUN 2020 PM 1 L



ANACONDA COP. HANNOY
800 MAIN ST
ANACONDA MT 59711

597112950



**ANACONDA- DEER LODGE COUNTY
Board of Adjustments**

**Staff Report
Variance Request by Daniel Counter
May 28, 2020**

A report to the ADLC Board of Adjustments on a request from Daniel Counter for a variance to allow a structure taller than the maximum structural height of twenty-eight (28) feet at **5 North Preston** within [Opportunity Development District \(ODD\)](#).

Applicant: Daniel R. Counter
5 North Preston
Anaconda, MT 59711

Property is legally described as:
OPPORTUNITY ORIGINAL TOWNSITE, S10, T04 N, R10 W, Lot 57, ACRES 0.75, N2W150 FT

Summary of Request:

Applicant requests relief from ODD standard Sec. 24-275. (2) which lists maximum structural height at 28 feet. Resident proposes to erect and maintain a forty (40) foot tall windmill for electricity generation. Location is outside of the Airport Safety Overlay District.

Resident intends to install renewable energy sources (wind and solar) to power home and rock shop business¹.

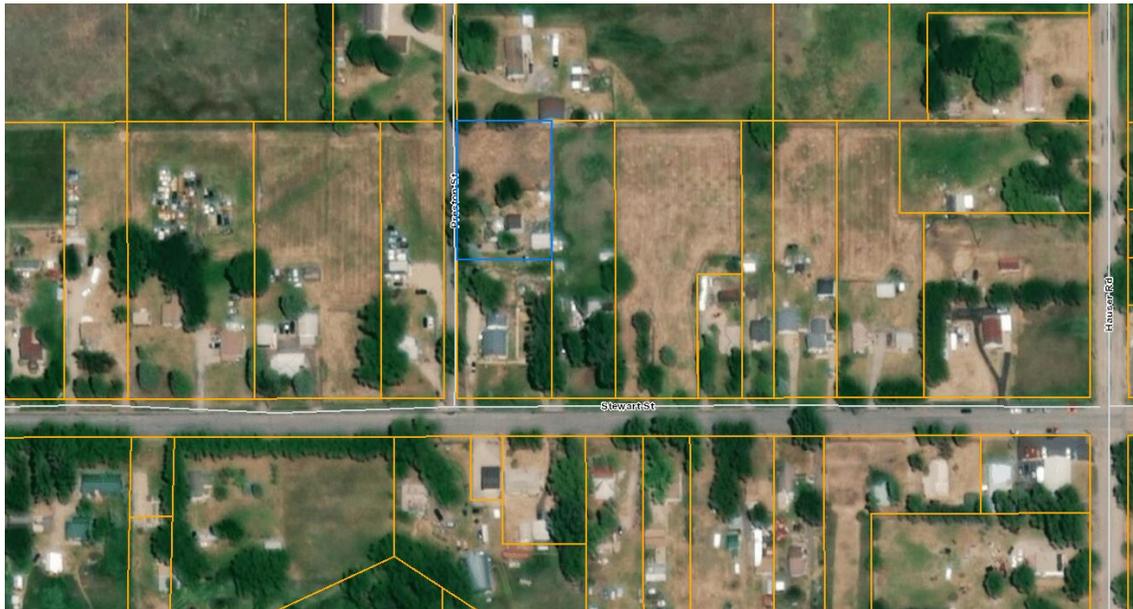
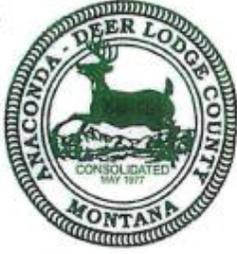


Figure 1: Aerial photo from Cadastral with property highlighted

¹ ADLC Business License #2024 for Opportunity Rocks



Figure 2: Google maps aerial photo of the house with yard to the north



ANACONDA-DEER LODGE COUNTY
ADMINISTRATIVE DEVELOPMENT APPLICATION (ADP)

(Please Fill Out Entire Application)

ABSOLUTELY DO NOT BEGIN PROJECT UNTIL ALL PAPERWORK IS FINALIZED AND PHYSICAL PERMIT HAS BEEN OBTAINED

SITE PLAN DRAWING

DIMENSIONS MUST BE PROVIDED

IF BUILDING PERMIT IS NEEDED, ENGINEERED DRAWINGS WOULD BE ACCEPTED

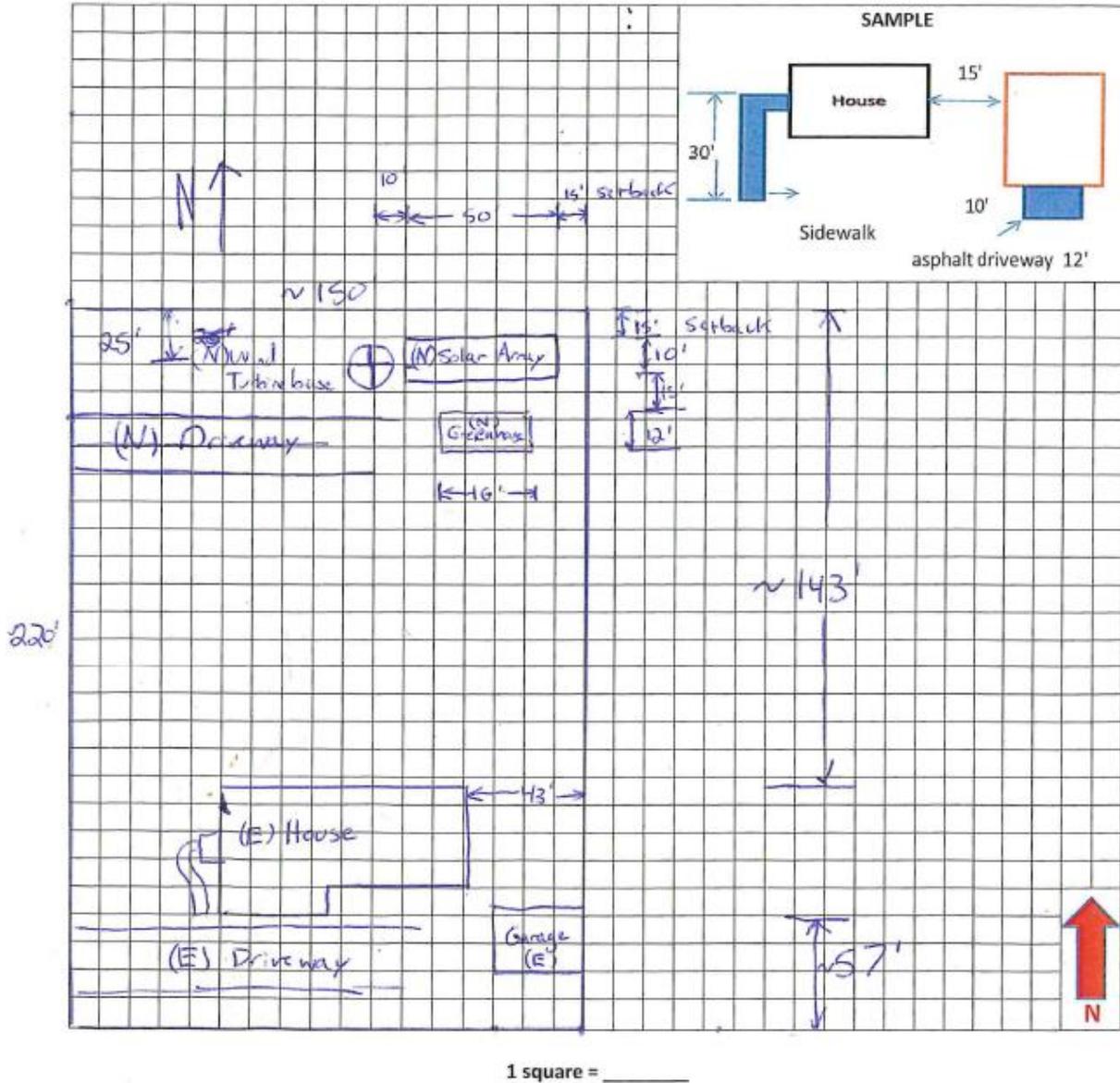


Figure 3: Site plan from ADP 20-023 application

Surrounding Neighborhood: Primarily Residential with a Commercial use to the south (0.12-acres QWEST CORPORATION).

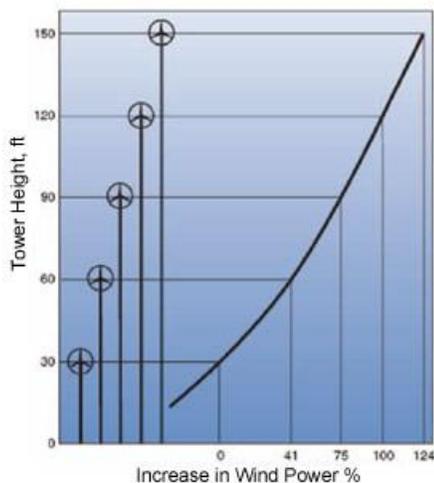
Variance Criteria: Per Sec. 24-33(5), in order to grant relief from the provisions of the Development Permit System (DPS), the Board must find that:

- a. *The variance is necessitated due to exceptional and/or extraordinary circumstances or conditions that are unique to the subject property and are not generally characteristic of similarly situated properties.*

The applicant claims that forty feet are required to have sufficient power generation from the wind. Wind generation does significantly increase as turbine height increases, however, increasing height also increases strain on anchoring system and risk of dislodgement and accident.

- b. *Approval of the variance(s) will preserve a property right or use that is generally enjoyed by owners of similarly situated properties, and conversely, approval of a variance will not bestow a special privilege on the applicant that is not generally enjoyed by the owners of a similarly situated properties.*

Opportunity values its small town feel and agricultural activities. Small scale renewable energy for primarily personal use is enjoyed by residents throughout the county. The County shall not discourage the use of renewable energy when installed and implemented correctly.



(source: <https://www.windpowerengineering.com/high-small-wind-turbine/>)

- c. *The alleged hardship has not been created by the applicant.*

Hardship has not been created by the applicant. Applicant is pursuing renewable energy sources for his home-based business.

- d. *Specific relief from these DPS Regulations shall be the minimum necessary to accomplish the applicant's stated objectives.*

Applicant must apply for permits (including building and electrical permits) if variance is granted for the 40-foot-tall windmill and the anchoring system shall be reviewed by the ADLC Building Inspector.

- e. *Adverse impacts associated with granting relief from the **DPS Regulations** are avoided or effectively mitigated.*

Applicant will be required to submit specs and have anchoring system reviewed and inspected by the building inspector to ensure safety and compliance. If applicant wishes to increase height or turbine size or erect additional turbines, permission must be granted by the ADLC Planning Department.

Public Comment (received by 05/20/2020):

Merilee & Ed Gessele (11 N. Preston) called 05/19/2020 to say that they were not concerned about the windmill. "We don't care what he does. He can put up whatever he wants- it's his property."

Findings and Recommendation: Should the Board find that the criteria for granting relief from DPS relief from ODD standard Sec. 24-275. (2) which lists maximum structural height at 28 feet to allow a structure of 40 feet, and therefore, takes action to grant the requested variance; staff recommends the following conditions:

1. Permits and approvals required; copies (Items a-c) must be provided to the Planning Department
 - a. Electrical
 - b. NorthWestern Energy (NWE) Pre-Approval
 - c. NWE Installation Verification Form
 - d. Building for foundation and anchoring system.
2. Turbine must be installed within 12 months of approval with an option for approval extension from the Planning Department for up to twelve additional months
3. Alterations to the turbine (height change, turbine size, additional turbines) must be approved, in writing, by the Planning Department

Attachments:

- (1) Variance Application
- (2) Opportunity Development District standards
- (3) Cadastral Property Record Card
- (4) Deed
- (5) NWE email (05/19/2020)
- (6) AIRPORT MGR EMAIL RESPONSE (05/19/2020)



ANACONDA-DEER LODGE COUNTY
Variance Permit Application

(Applicant - Please fill out #1 through #10 in full)

Variance: 20-002

Date: 20 APRIL 2020

- Legal Description: Opportunity Original Townsite, S10, T04N, R10W, Lot 57, Acres 0.75, N2W150
- Property Owner Name: Daniel R. Counter Telephone: 406-560-7926
- Physical Address of Property: 5 North Preston
- Contractor: Self ADLC License #: _____
- Contractor Address: _____ Telephone: _____
- Architect or Engineer (if applicable) _____
- Architect or Engineer Address: _____ Telephone: _____
- Describe the activity for which a variance is requested (please attach complete plans for project): _____
Build 40' Pole for Windmill.
- Describe the undue hardship by which the variance is justified: Mr. Counter wants his own energy source - manufacturer recommended 40' rather than height allowance for Opportunity, - Need for
- Signature: _____

Variance due to this

This signature acknowledges that all information on this application and that attached plans is true and correct, AND that the activity permitted will be conducted in full compliance with all ordinances of Anaconda-Deer Lodge County, State and Federal law, AND that the activity conducted will be in full compliance with an and all conditions imposed on this variance's approval or the approval of previous permits required, Note that conditions attached to approval of a variance will be binding no future development permits issued on the site.

This permit expires in one year if the activity authorized is not commenced and diligently pursued toward completion, OR if the activity is commenced but abandoned for one year at any time before completion.

[Signature]
Applicant Signature/Representative

20 APRIL 2020
Date

At this time, are there any open or upcoming court cases regarding the property involved in this variance? Yes No



ANACONDA-DEER LODGE COUNTY
Variance Permit Application

(Applicant – Please fill out #1 through #10 in full)

ADMINISTRATIVE USE ONLY

Application Received By: cmh Date: 5/4/20

Application Fee (\$50.00)/Public Notice Fee Billed/Received: will invoice Receipt #: _____ By: _____
Please note that application and permit are void if check does not clear

Copy of invoice attached N/A

Notice Published in Anaconda Leader: 5/13 / 5/27

Notice Sent to Surrounding Neighbors: _____

Board of Adjustment Hearing Date: 5/28/20

Variance Approved _____ Denied _____

Letters to Applicant Regarding Decision Sent: _____

Conditions Imposed: _____

Additional sheets if needed

Final Sign-Off: _____
Carl Hamming, ADLC Planning Director

Date

ARTICLE XXIV. - OPPORTUNITY DEVELOPMENT DISTRICT (ODD)

Sec. 24-271. - Purpose and Intent.

The Opportunity Development District (ODD) implements the *Plan* by preserving the small town feel, *Scale*, and *Character* of the Opportunity community while allowing for modest residential and limited commercial growth. Regulations reflect the limitations posed by the lack of central water and sewer, and by marginal drainage.

Sec. 24-272. - Permitted Uses.

The following are *Permitted Uses* in the Opportunity Development District, subject to an *ADP* unless otherwise noted:

- (1) *Single-family Dwelling Units*, including *Class A Manufactured Homes* and *Class B Manufactured Homes* (one unit per *Lot* of record).
- (2) Residential *Accessory Structures* (Section 24-274 below).
- (3) Typical and customary agricultural activities including but not necessarily limited to pasturing, crops, and the raising and caring for livestock. Such activities are exempt from *ADP* requirements pursuant to Section 24-22(1)(b) of these *DPS Regulations*.
- (4) *Tourist Homes* which are limited to one *Dwelling Unit* or a portion thereof.
- (5) One guest house or quarters per primary residence. An *Accessory Residential Unit (ARU)* may be substituted for a guest house or quarters.
- (6) *Day Care Homes*.
- (7) *Home Occupations*.
- (8) Equine boarding and boarding facilities.

Sec. 24-273. - Special Uses.

All other uses of land not listed in Section 24-272 above are considered *Special Uses* subject to *MDPs*.

Sec. 24-274. - Accessory Uses and Structures.

The following *Accessory Uses* and *Accessory Structures* are permitted in the ODD, and are considered to be customary and incidental to the primary use of the property for residential purposes. Most *Accessory Structures* are subject to *ADPs*:

- (1) Garages, attached or detached, for private residential or *Home-based Business* use only.
- (2) Sheds for storage of firewood, tools, seasonal equipment and similar household items only. Storage for rent and storage of commercial goods and equipment not associated with a legal *Home-based Business* on the premises is expressly prohibited.
- (3) Outdoor storage that meets the standards of Appendix A, Division 5 of these *DPS Regulations*.
- (4) *Private Breeding Kennels*.
- (5) Use of *Recreational Vehicles* is allowed pursuant to Appendix A, Division 6 of these *DPS Regulations*.
- (6) Gardening and the raising and keeping of livestock on residential *Lots*. Enclosures such as pens and corrals for the confinement and concentration of animals are not permitted within 100 feet of any lake, stream, or wetland as set forth in Appendix C, Sec. J.8 of these *DPS Regulations*.

Sec. 24-275. - Development Standards.

The following standards apply to all new and expanded *Principal Structures* and *Accessory Structures* within the ODD. These standards may be superseded by stream bank *Setbacks* or other environmental standards as applicable:

- (1) *Setbacks* :
 - (a) *Front Lot Line* - 35 feet.
 - (b) *Side Lot Lines* - 10 feet.
 - (c) *Rear Lot Line* - 10 feet.
- (2) Maximum *Structural Height* : 28 feet.
- (3) Minimum *Lot* size: 2.5 acres.
- (4) Minimum *Lot* width at *Building Setback Line* : 50 feet.

Sec. 24-276. - Keeping of Animals.

Enclosures such as pens and corrals for the confinement and concentration of animals are not permitted within 100 feet of any lake, stream, or wetland as set forth in Appendix C, Sec. J.8 of these *DPS Regulations* . Standards for keeping animals on residential property are set forth in Appendix A, Division 5.E.

Secs. 24-277—24-280. - Reserved.

Property Record Card

Summary

Primary Information

Property Category: [RP](#)

Subcategory: [Residential Property](#)

Geocode: [30-1286-10-3-03-15-0000](#)

Assessment Code: [0000352900](#)

Primary Owner:

PropertyAddress: [5 N PRESTON ST](#)

[DEUTSCHE BANK NATIONAL TRUST COMPANY AS TRUSTEE](#)

[ANACONDA, MT 59711](#)

[1661 WORTHINGTON RD STE 100](#)

COS Parcel:

[WEST PALM BEACH, FL 33409-6493](#)

NOTE: See the Owner tab for all owner information

Certificate of Survey:

Subdivision: [OPPORTUNITY ORIGINAL TOWNSITE](#)

Legal Description:

[OPPORTUNITY ORIGINAL TOWNSITE, S10, T04 N, R10 W, Lot 57, ACRES 0.75, N2W150 FT](#)

Last Modified: [12/20/2019 2:04:06 PM](#)

General Property Information

Neighborhood: [230.008.A](#)

Property Type: [IMP_U - Improved Property - Urban](#)

Living Units: [1](#)

Levy District: [30-A236-1010](#)

Zoning:

Ownership %: [100](#)

Linked Property:

[No linked properties exist for this property](#)

Exemptions:

[No exemptions exist for this property](#)

Condo Ownership:

General: [0](#)

Limited: [0](#)

Property Factors

Topography: [1](#)

Fronting: [4 - Residential Street](#)

Utilities: [7, 8, 9](#)

Parking Type:

Access: [1](#)

Parking Quantity:

Location: [5 - Neighborhood or Spot](#)

Parking Proximity:

Land Summary

<u>Land Type</u>	<u>Acres</u>	<u>Value</u>
Grazing	0.000	00.00
Fallow	0.000	00.00
Irrigated	0.000	00.00
Continuous Crop	0.000	00.00
Wild Hay	0.000	00.00
Farmsite	0.000	00.00
ROW	0.000	00.00
NonQual Land	0.000	00.00
Total Ag Land	0.000	00.00
Total Forest Land	0.000	00.00
Total Market Land	0.750	16,535.00

Deed Information:

Deed Date	Book	Page	Recorded Date	Document Number	Document Type
-----------	------	------	---------------	-----------------	---------------

10/26/2018	360	757	10/31/2018	203451	Trustee's Deed (and Deed of Trust) Quit Claim Deed
2/1/2006	315	518	4/10/2013	191027	
2/21/1997	111	14			
9/5/1995	103	282			
2/13/1990	76	373			

Owners

Party #1

Default Information: [DEUTSCHE BANK NATIONAL TRUST COMPANY AS TRUSTEE](#)
[1661 WORTHINGTON RD STE 100](#)

Ownership %: 100

Primary Owner: "Yes"

Interest Type: [Fee Simple](#)

Last Modified: [2/6/2019 9:24:54 AM](#)

Other Names

Other Addresses

Name

Type

Appraisals

Appraisal History

Tax Year	Land Value	Building Value	Total Value	Method
2019	16535	128020	144555	COST
2018	15724	106650	122374	COST

Market Land

Market Land Item #1

Method: [Acre](#)

Type: [Primary Site](#)

Width:

Depth:

Square Feet: [00](#)

Acres: [0.75](#)

Valuation

Class Code: [2101](#)

Value: [16535](#)

Dwellings

Existing Dwellings

Dwelling Type	Style	Year Built
SFR	08 - Conventional	1943

Dwelling Information

Residential Type: [SFR](#)

Style: [08 - Conventional](#)

Year Built: [1943](#)

Roof Material: [10 - Asphalt Shingle](#)

Effective Year: [1965](#)

Roof Type: [3 - Gable](#)

Story Height: [2.0](#)

Attic Type: [0](#)

Grade: [4](#)

Exterior Walls: [1 - Frame](#)

Class Code: [3501](#)

Exterior Wall Finish: [5 - Maintenance Free Aluminum/Vinyl/Steel](#)

Year Remodeled: [0](#)

Degree Remodeled:

Mobile Home Details

Manufacturer:

Serial #:

Width: [0](#)

Model:

Length: [0](#)

Basement Information

Foundation: [2 - Concrete](#)

Finished Area: [0](#)

Daylight: [N](#)

Basement Type: [0 - None](#)

Quality:

Heating/Cooling Information

Type: Central
Fuel Type: 3 - Gas

System Type: 2 - Hot Water/Water Radiant
Heated Area: 0

Living Accomodations

Bedrooms: 3
Family Rooms: 0

Full Baths: 2
Half Baths: 0

Addl Fixtures: 3

Additional Information

Fireplaces:

Stacks: 0
Openings: 0
Cost & Design: 0
Description:

Stories:
Prefab/Stove: 1
Flat Add: 0
Description:

Garage Capacity: 0
% Complete: 0

Dwelling Amenities

View:

Access:

Area Used In Cost

Basement: 0
First Floor: 1528
Second Floor: 630

Additional Floors: 0
Half Story: 0

Attic: 0
Unfinished Area: 0
SFLA: 2158

Depreciation Information

CDU:
Desirability: Physical Condition: Average (7)
Property: Average (7)
Location: Average (7)

Utility: Average (7)

Depreciation Calculation

Age: 53 Pct Good: 0.62 RCNLD: 123930

Additions / Other Features

Additions

Lower	First	Second	Third	Area	Year	Cost
	14 - Porch, Frame, Enclosed			54	0	2529

There are no other features for this dwelling

Other Buildings/Improvements

Outbuilding/Yard Improvement #1

Type: Residential Description: RRG3 - Garage, frame, detached, unfinished
Quantity: 1 Year Built: 1967 Grade: 2
Condition: Functional: Class Code: 3501

Dimensions

Width/Diameter: Length: Size/Area: 336
Height: Bushels: Circumference:

Commercial

Existing Commercial Buildings

No commercial buildings exist for this parcel

Ag/Forest Land

Ag/Forest Land

No ag/forest land exists for this parcel



205970 Book: 369 RECORDS Page: 681 Pages: 2
 STATE OF MONTANA ANACONDA-DEER LODGE COUNTY
 RECORDED: 9/26/2019 3:16 PM KOI: WARRANTY DEED
 John Sholey CFO/Clerk & Recorder CLERK AND RECORDER
 FEE: 14.00 By: James Weeks, Deputy
 TO: FIRST AMERICAN TITLE - PHILIPSBURG P.O. BOX 770 120 WEST BR

AND WHEN RECORDED MAIL TO:

Daniel Counter
 415 E Front St
 Anaconda, MT 59711

Filed for Record at Request of:
 First American Title Company

Space Above This Line for Recorder's Use Only

Order No.: 862579-R
 Parcel No.: 352900

SPECIAL WARRANTY DEED

KNOW ALL MEN BY THESE PRESENTS: That 2019 Castle LLC, a New York limited liability company , whose address is 333 Westchester Ave West Bldg Ste W2100, White Plains, NY 10604

For the consideration of Ten and NO/100 dollars, and other valuable consideration, as GRANTOR herein, does hereby grant to:

Daniel R. Counter

as GRANTEE, the following described real property situate in Deer Lodge County, Montana,

The following described property is located in the North Half of Tract 57 of the Opportunity Tracts, Deer Lodge County, Montana:

The North Half (N½) of the West One Hundred Fifty feet (150') of a 2½ acre tract conveyed by R.E. Howe to David R. Kellog and conveyed by the Deer Lodge Valley Farms to R.E. Howe by deed dated May 1, 1916 and recorded in Book 48, Page 9 of Deed Records, Deer Lodge County, Montana, and which land is described by metes and bounds as follows, to-wit:

Beginning at the Southeast corner from which the Quarter section corner common to Section Twelve (12) and One (1) of Township Four (4) North, Range Ten (10) West, Montana Principal Meridian, bears North 62°44'7" East, a distance of 11, 475.8 feet, thence North 89°27' West, a distance of 850 feet; thence North 0°33' East, a distance of 217.18 feet to the point of beginning, the Southeast corner of the land hereby conveyed, Thence North 0°33' East, a distance of 217.8 feet; thence North 89°27' West, a distance of 150 feet; thence South 0°33' West, a distance of 217.8 feet; thence South 89°27' East, a distance of 150 feet to the place of beginning.

SUBJECT TO: Existing taxes, assessments, liens, encumbrances, covenants, conditions, restrictions, rights of way and easements of record,



And, in accordance with, and as limited to, those warranties set forth at §70-20-304 (a) and (b), MCA, the Grantor does warrant the title to Grantee, its successors and assigns, subject to the matters above set forth, against any person whomsoever lawfully claiming or to claim by, through or under said Grantor the above described property, and no further.

IN WITNESS WHEREOF, the Grantor has caused its name to be signed by the undersigned officers thereunto duly authorized, on September 25, 2019

By: X
Victor Naar, Manager

STATE OF NY)
COUNTY OF Westchester) ss.

On September 25, 2019, before me a Notary Public, personally appeared **Victor Naar**, known to me to be the Manager of 2019 Castle LLC.

[Signature]
Signature of Notarial Officer

RAQUEL HELENA DESOUZA
NOTARY PUBLIC-STATE OF NEW YORK
No. 01DE6380847
Qualified in Westchester County
My Commission Expires 09-17-2022

Notary Public for the State of
Residing at:
Commission Expires:

Gayla Hess

From: NorthWestern Energy NetMeter <NorthWesternEnergyNetMeter@northwestern.com>
Sent: Tuesday, May 19, 2020 1:15 PM
To: Gayla Hess
Subject: RE: Request for info

Hello Gayla,

It was great talking to you today. Below you will see the link to our Small Generator Interconnection page on our website. The process documents and application forms as well as the Qualified Installer List and some consumer guides on generation systems are located here. Click on the red arrow to the right of each menu to expand the selections. Most residential systems and small business systems fall under the Level 1 Small Generator request. Depending on the size of the system they are installing, they may need to apply under the Level 2, 3, or 4 process. The Interconnection Application is under that Level 1 Small Generator Interconnection Request on the site.

<http://northwesternenergy.com/our-company/interconnection/small-generator-and-net-metering>

High Level Process Steps for Level 1 Applications and Requests

- Interconnection Application with \$200 non-refundable Interconnection Request Fee
- Pre-Approval granted by NWE to proceed
- NWE provides Interconnection Agreement to customer
- Customer executes Agreement and returns to NWE
- NWE executes Agreement and sends fully executed copy to customer.
- Customer proceeds with permitting, installation, and final inspection of their system
- Customer provides Installation Verification Form signed by installer (part of agreement documents) and permit number/final inspection date
- Net Meter Request sent to Meter Shop/Meter Techs

If I can help with anything else please let me know.

Thank you!

Melissa Masters

Generation and Transmission Interconnection Specialist

melissa.masters@northwestern.com

☎ (406)497-4165

11 East Park Street | Butte, MT 59701-9394



Gayla Hess

From: Greg Bahr
Sent: Tuesday, May 19, 2020 12:38 PM
To: Gayla Hess; District 4 Commissioner
Cc: anacondafirechief@gmail.com; Wayne Wendt; Paul Puccinelli; Chad Lanes; Tim Barkell; Lynette Williams; Bill Everett; Carl Hamming; Michael Marker
Subject: Re: Variance 20-02

Thank you for including me in this, I have no concerns of this project moving forward. The project is not in a flight path nor is of a height to have any affects on Bowman Field Airport.

Greg Bahr
Bowman Field
Airport Manager
(406)593-1702

From: Gayla Hess <ghess@adlc.us>
Sent: Friday, May 15, 2020 4:35:01 PM
To: Greg Bahr <gbahr@adlc.us>; District 4 Commissioner <PSmith@adlc.us>
Cc: anacondafirechief@gmail.com <anacondafirechief@gmail.com>; Wayne Wendt <wwendt@adlc.us>; Paul Puccinelli <ppuccinelli@adlc.us>; Chad Lanes <clanes@adlc.us>; Tim Barkell <tbarkell@adlc.us>; Lynette Williams <lwilliams@adlc.us>; Bill Everett <beverett@adlc.us>; Carl Hamming <chamming@adlc.us>; Michael Marker <mmarker@adlc.us>
Subject: Variance 20-02

All:

A PUBLIC HEARING on a request by Daniel Counter of 5 North Preston for a variance to allow relief from [Sec. 24-275\(2\)](#) of the Development Permit System (DPS) which limits maximum structural height of 28 feet for structures within the Opportunity Development District (ODD). Applicant proposes to build a **forty (40) foot pole for a windmill**. Property is legally described as "OPPORTUNITY ORIGINAL TOWNSITE, S10, T04 N, R10 W, Lot 57, ACRES 0.75, N2W150 FT."

Mr. Counter's variance application and ADP application (site plan on page 3) are attached. Please let me know if you have questions, concerns, or would like to discuss.

Responses received by noon 5/20 will be included within the report provided to the Board of Adjustments. Applicant has also submitted an MDP application (same info provided as on ADP) to be heard at the upcoming Planning Board meeting to discuss his windmill should this variance be approved.

Thanks for your review.

Gayla Hess
[Planning Department](#)
Anaconda-Deer Lodge County
T: 406-563-4012 | M: 406-479-4710

**ANACONDA- DEER LODGE COUNTY
Board of Adjustments**

**Staff Report
Variance Request by Lora Baumann
July 30, 2020**

A report to the ADLC Board of Adjustments on a request from Lora Baumann for a variance to allow vehicular access from the street in the Goosetown Neighborhood Conservation District (GNCD) when an alley is available (Sec. 24-105).

Applicant: Lora Baumann
805 E. 4th St
Anaconda, MT 59711

Subject property is vacant (no street address) and is across the street from the applicant's residence; legally descriptions: EASTERN ADDITION (ANACONDA), S02, T04 N, R11 W, BLOCK 55, Lot 8. Lot is 140 x 30 feet.

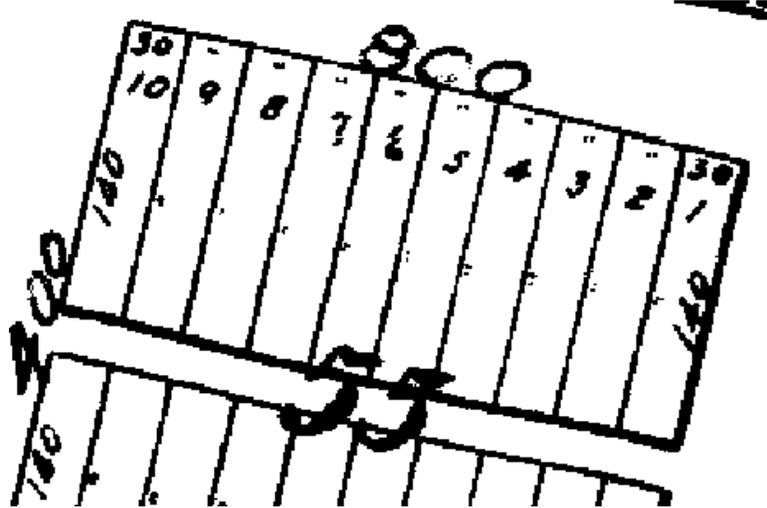


Figure 1: Lot dimensions shown on portion of 139-A (1917)

Summary of Request: Applicant requests allowance of a driveway on 4th Street when an alley is available from the rear of the lot. This lot is currently used as for storage, including vehicles. A fence was built (ADP 20-028) and partially screens property from the street.

Applicant wishes to store an RV on the property and reports that due to its length access from the alley is not possible.

Surrounding Neighborhood: Residential



Figure 2: Aerial from MT Cadastral (lot highlighted in blue)



Figure 3: Street view of subject lot (facing S-SE)

Variance Criteria: Per Sec. 24-33(5), in order to grant relief from the provisions of the Development Permit System (DPS), the Board must find that:

- a. *The variance is necessitated due to exceptional and/or extraordinary circumstances or conditions that are unique to the subject property and are not generally characteristic of similarly situated properties.*

Alley access for longer vehicles can be difficult due to the width of alleys and electrical poles.

- b. *Approval of the variance(s) will preserve a property right or use that is generally enjoyed by owners of similarly situated properties, and conversely, approval of a variance will not bestow a special privilege on the applicant that is not generally enjoyed by the owners of a similarly situated properties.*

Numerous residences throughout Goosetown have alley and street access; majority of these are on side streets. Fourth street is considered a “minor arterial” by MT Dept. of Transportation (MDT).

- c. *The alleged hardship has not been created by the applicant.*

No hardship has been created by the applicant.

- d. *Specific relief from these **DPS Regulations** shall be the minimum necessary to accomplish the applicant’s stated objectives.*

Applicant must apply for and obtain required permits if variance is granted.

- e. *Adverse impacts associated with granting relief from the **DPS Regulations** are avoided or effectively mitigated.*

Road Foreman Wendt identified the need for a driveway approach permit and installation of sidewalk and a lay down curb should the variance be granted on 07/23/2020.

MDT Joe Walsh discussed requirements with staff on 07/23/2020. Any modification to the sidewalk/driveway approach would be required to be compliant with current standards, including ADA, should modifications occur.

Public Comment received by 07/23/2020:

Walter Softich, 807 E. 4th St, voiced opposition on 07/17/2020 citing concerns with use of the lot for storage, the junk vehicles, and the lot diminishing his property value. He spoke of communications with the Code Enforcement Officer about the property. A letter was also submitted and is attached.

Chris Yerkich, 804 E. 5th St, called 07/17/2020 to state his objections. Mr. Yerkich had concerns about the “constantly pulling in and out trailers and blocking 4th street,” and also mentioned the junk stored on the lot.

Findings and Recommendation: Should the Board find that the criteria for granting relief from DPS Sec. 24-105 to allow vehicular access from the street when an alley is available, and therefore, takes action to grant the requested variance; staff recommends the following conditions:

1. Applicant must install sidewalk.
2. Applicant must modify curb for vehicular access.
3. The proposed driveway approach is subject to a Driveway approach permit and inspection.
4. Driveway approach is subject to an ADP.
5. Fencing be installed or closed to block view of stored items.

Attachments:

- (1) Variance Application
- (2) GNCD Development District standards
- (3) Softich letter (postmarked 07/20/2020)



ANACONDA-DEER LODGE COUNTY

Variance Permit Application

(Applicant - Please fill out #1 through #10 in full)

Variance: _____

Date: 5/12/20

- 1. Legal Description: Lot Number Eight (8) in Block Numbered Fifty-Five (55) of the Eastern Addition to the City of Anaconda, County of Deer Lodge, State of Montana.
- 2. Property Owner Name: Lora J Baumann Telephone: (406) 465-6575
- 3. Physical Address of Property: 805 East 4th St Anaconda Mt, 59711
- 4. Contractor: _____ ADLC License #: _____
- 5. Contractor Address: _____ Telephone: _____
- 6. Architect or Engineer (if applicable) _____
- 7. Architect or Engineer Address: _____ Telephone: _____

8. Describe the activity for which a variance is requested (please attach complete plans for project): I Need to ACCESS my property from the street for storage

9. Describe the undue hardship by which the variance is justified: I am unable to access my property from the Alley due to the length of my R.V. and the width of my Property there is not enough room and I depend on

10. Signature: this property for all my storage needs.

This signature acknowledges that all information on this application and that attached plans is true and correct, AND that the activity permitted will be conducted in full compliance with all ordinances of Anaconda-Deer Lodge County, State and Federal law, AND that the activity conducted will be in full compliance with an and all conditions imposed on this variance's approval or the approval of previous permits required, Note that conditions attached to approval of a variance will be binding no future development permits issued on the site.

This permit expires in one year if the activity authorized is not commenced and diligently pursued toward completion, OR if the activity is commenced but abandoned for one year at any time before completion.

Lora Baumann
Applicant Signature/Representative

5/12/20
Date

At this time, are there any open or upcoming court cases regarding the property involved in this variance? Yes No



ANACONDA-DEER LODGE COUNTY
Variance Permit Application
(Applicant – Please fill out #1 through #10 in full)

ADMINISTRATIVE USE ONLY

'20 MAY 15 PM 1:29

Application Received By: 05/15/2020 gh Date: _____

Application Fee (\$50.00)/Public Notice Fee Billed/Received: will invoice Receipt #: _____ By: _____
Please note that application and permit are void if check does not clear

Copy of invoice attached

Notice Published in Anaconda Leader: 07/15/2020 / 07/24/2020

Notice Sent to Surrounding Neighbors: 07/15/2020

Board of Adjustment Hearing Date: 07/30/2020

Variance Approved _____ Denied _____

Letters to Applicant Regarding Decision Sent: _____

Conditions Imposed: _____

Additional sheets if needed

Final Sign-Off: _____
Carl Hamming, ADLC Planning Director

Date

ARTICLE VIII. - GOOSETOWN NEIGHBORHOOD CONSERVATION DISTRICT (GNCD)

Sec. 24-101. - Purpose.

The purpose of the Goosetown Neighborhood Conservation District (GNCD) is to preserve the **Character** and **Scale** of this historic east side neighborhood while allowing for compatible infill and redevelopment. Standards are generally based on the standards to which this neighborhood was originally built, with additional provisions for open space and public safety.

Sec. 24-102. - Permitted Uses.

The following uses are **Permitted Uses** in the GNCD, subject to an **ADP**:

- (1) **Single-family Dwelling Units** and **Two-family Dwelling Units** .
- (2) **Day Care Homes** .
- (3) **Home Occupations** .
- (4) Residential **Accessory Structures** .

Sec. 24-103. - Special Uses.

The following are **Special Uses** in the GNCD, subject to a **MDP**:

- (1) **Religious Institutions** .
- (2) **Cottage Industries** .
- (3) **Community Residential Facilities** .
- (4) **Accessory Residential Units** .

Sec. 24-104. - Development Standards.

The following **Development** Standards apply in the GNCD to all **Principal Structures** and **Accessory Structures** :

- (1) Minimum lot area: 3,500 square feet for **Single-family Dwelling Units** ; 5,000 square feet for **Two-family Dwelling Units** .
- (2) Front build-to: Defined by the average build-to line on the same block and on the same street. Once the average is established, the foundation wall of the **Structure** may be placed back or forward by no more than 10%.
- (3) Minimum side yard: **Prevailing Setback** for **Principal Structures** and **Accessory Structures** , but not less than 2.5 feet.

- (4) Minimum rear yard: 5 feet.
- (5) Maximum **Structural Height** : 30 feet.
- (6) Maximum **Lot Coverage** : 70%.
- (7) Minimum **Landscape Ratio (LSR)** : .20.

Sec. 24-105. - Vehicular Access.

If an alley is available, no vehicular access from the street is permitted. If an alley is not available, vehicular access from the street is permitted subject to an ADP.

Sec. 24-106. - Urban Area/Planned Unit Development Option.

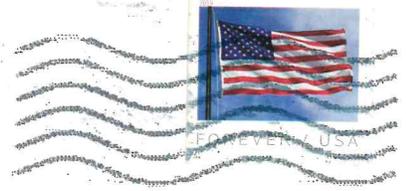
Through the use of the Urban Area/Planned Unit Development Option (UA/PUD), alternative **Dwelling Units** not included in the Permitted Uses in the GNCD may be allowed, including cottage homes, patio homes, and **Multi-family Dwelling Units**, provided that no single **Building** contains more than four (4) living units. Dimensional standards and **Lot** standards may also be varied through the use of the UA/PUD. See Article XXXII.

Secs. 24-107—24-110. - Reserved.

Mr. Walter Softich
807 E. 4th St.
Anaconda, MT 59711

BILLINGS MT 591

20 JUL 2020 PM 1 L



Carlye Hansen
Planning Dept #LPC
800 South Main
Anaconda MT

Carlye Hansen

This letter is concerning the Request of Lara Baumann for Access to Property on the 800 Block of East Fourth Street.

I am opposed to this Request. This Property is being used to store an old School Bus and some junk cars and other junk items. I believe this lot was not intended for such use. There is also no cement side walk crossing the front of this lot. I believe that Violates City Code. This Property use decreases my Property Value at 807 East Fourth Street. I have asked that the County Code Enforcer make an assessment and I will abide by his decision.

Gratefully
Walter C Softich

From: vince reece <vincereece@gmail.com>
Sent: Thursday, July 30, 2020 8:55 AM
To: Gayla Hess
Cc: redeeminghomes@gmail.com
Subject: Request for variance east 4th street

This is Vance Reece,owner 803 and 803 1/2 E 4th st. I say no to the request to put a drive in when alley access is available. I think because of the size of lots that regulation was passed in the first place.....I think it should be a residential area and not a junk yard.

That being said my property is in escrow and will have a new owner next week.His name Matt Kelly with Redeeming Homes. I have sent him the information of this meeting coming up.

Thank you for notice of this request. Vince Reece

Q: How can I comply with the law if a junk vehicle has been abandoned on my property?

A: Montana has specific laws regarding the disposition of abandoned vehicles. Contact your local law enforcement agency and request their help in contacting the owner or in obtaining authorization to have the vehicle removed.

Q: What are the penalties if I don't comply with the junk vehicle law?

A: The junk vehicle statutes provide for criminal penalties of up to \$250 and/or 30 days in jail. Civil fines of up to \$50 for each day of violation may also be imposed.

Q: Who can I contact for more information or to arrange to have a junk vehicle removed from my property?

A: You may contact your Board of County Commissioners, County Sanitarian, or the office listed below:

Montana was one of the leading states in enacting junk vehicle legislation. Its primary purpose is to control junk vehicles from being scattered throughout the countryside, thereby helping to help preserve the beauty of our state. This program also provides for the recycling of the junk vehicles collected so that this valuable resource may be utilized again. This program is paid for from the small fee you are assessed when you license your vehicle. The benefits of this program are available to all Montanans; please use it.



THE MONTANA JUNK VEHICLE LAW

QUESTIONS AND ANSWERS

Q: What is the Montana Junk Vehicle Law?

A: In 1973 the Montana Motor Vehicle Recycling and Disposal Act was enacted for the establishment, control, operation, and licensing of public and private motor vehicle wrecking facilities. This law requires commercial and county motor vehicle storage and wrecking yards to obtain an annual license, keep pertinent records and shield their junk vehicles from public view. This law also requires the control of junk vehicles at locations other than motor vehicle wrecking facilities.

Q: What is a "Junk Vehicle"?

A: A junk vehicle is defined as any "discarded, ruined, wrecked, or dismantled motor vehicle, including component parts, which is not lawfully and validly licensed and remains

inoperative or incapable of being driven. A vehicle must meet all three parts of the definition to be classified as a junk vehicle.

Q: What is a "Public View"?

A: Public view is defined as "any point 6 feet above the surface of the center of a public road from which a junk vehicle can be seen". A public road is any publicly owned or maintained highway, street, road or alley.

Q: Do I have to shield my vehicles if I'm not in the commercial motor vehicle wrecking business?

A: Yes, all vehicles which meet the three part definition of a junk vehicle must be shielded from public view.

Q: If I only have one junk vehicle do I need to shield it?

A: Yes, all junk vehicles regardless of number must be shielded from public view.

Q: How can I shield my junk vehicles from public view?

A: You can move the vehicle to a location that will shield it, such as into a garage or behind a solid fence, hill or building. You may also construct shielding using permanent fencing materials. Certain construction specifications are required for proper shielding. If you intend to shield your vehicles, contact the agency listed on the back of this pamphlet for more information prior to construction. Placing tarps or plastics over the vehicles is not acceptable shielding.

Q: Can I do anything else other than removing or shielding the vehicle?

A: Yes, you may repair the vehicle to make it operable, or license it. Either action will remove the vehicle from the classification of a junk vehicle.

Q: What if I no longer want to keep the vehicle?

A: If the vehicle has value from its parts, contact a licensed private motor vehicle wrecking facility. Most commercial wrecking facilities will buy vehicles that have marketable parts. If the vehicle's value is low, they may haul it away free in exchange for its parts. Some vehicles have little or no parts value and the private wrecking facility may not be interested in buying or hauling it. If this is the case, contact your local county junk vehicle program listed on the back of this pamphlet. They will arrange to haul and dispose of your junk vehicle at no charge to you.

Q: Do I need to shield items such as engines, transmissions, and fenders?

A: Yes, any component part of a vehicle must also be shielded.

Q: Do I need to obtain a motor vehicle wrecking facility license for my own junk vehicles?

A: If you have four or more junk vehicles at any one location or if you buy, sell or deal in secondhand motor vehicle parts you are required to obtain a license.

Q: If I have more than four junk vehicles and decide I want to start dealing in used parts who do I contact for licensing information?

A: Information on the requirements for obtaining a Montana motor vehicle wrecking facility license can be obtained from your County Sanitarian; the office listed on this pamphlet; or the Montana Department of Health & Environmental Sciences, Solid & Hazardous Waste Bureau, Helena, MT 59601.







**ANACONDA- DEER LODGE COUNTY
Board of Adjustments**

**Staff Report
Variance Request by Herbert Lutey
July 30, 2020**

A report to the ADLC Board of Adjustments on a request from Herbert Lutey for a variance to allow a fence taller than four (4) feet in height along the front of the lot adjacent to **103 Washington St.** within the urban area (Goosetown Neighborhood Conservation District (GNCD)).

Applicant: Herbert Lutey
105 Washington St.
Anaconda, MT 59711

Property is legally described as:

EASTERN ADDITION (ANACONDA), S02, T04 N, R11 W, BLOCK 21, Lot 11 - 12, LESS S 37.16 FT

Summary of Request:

Applicant requests relief from [Chapter 24 Appendix A. Division 2](#) Regulation A.1 which prohibits fencing within or bounding a required front setback from exceeding 4 feet in height¹. Applicant wishes to erect a six (6) foot solid panel fence on the western portion of their lot for “security and privacy.”

The 6’ privacy fence location is proposed to be built around the perimeter of the vacant lot at 103 Washington St. The Resident owns and resides in the property immediately south of 103 Washington at 105 Washington St. Planning Department representatives met with residents on July 9, 2020 for consultation and confirmation of Mr. Lutey’s plans.



Figure 1: Staff photo, facing eastward

¹ “Urban and suburban areas. In the HDRD, LDRD, MDRD, CBDD, HCDD, and in the WVDD on residential **Lots** of 15,000 square feet or less and in all commercial **Development**, no fence, hedge, or freestanding wall (not part of a **Building**) located within or bounding a required front **Setback**, may exceed forty-eight inches (4 feet) in height...”



Figure 2: Facing SE from Commercial Ave.

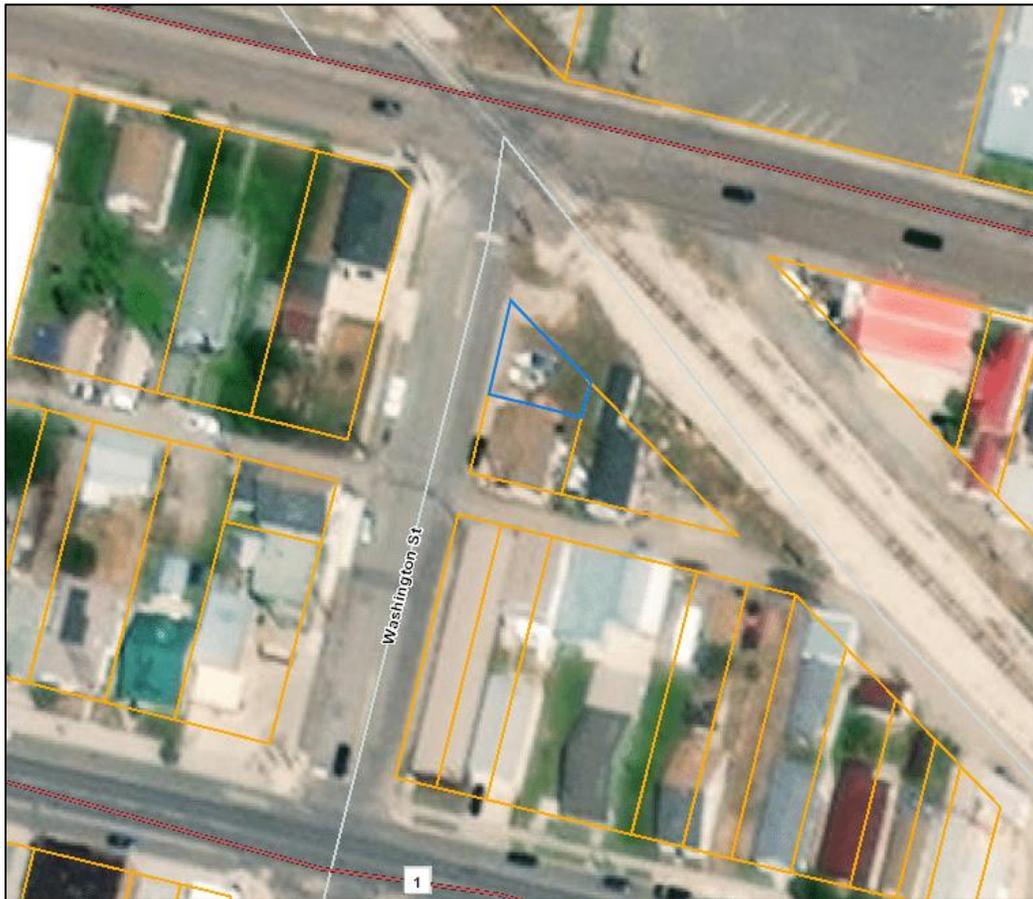


Figure 3: highlighting the vacant lot to be fenced with a 6' privacy fence

Surrounding Neighborhood: Mix of residential and commercial (and defunct railroad right-of-way).

Variance Criteria: Per Sec. 24-33(5), in order to grant relief from the provisions of the Development Permit System (DPS), the Board must find that:

- a. *The variance is necessitated due to exceptional and/or extraordinary circumstances or conditions that are unique to the subject property and are not generally characteristic of similarly situated properties.*

Mr. Lutey owns the two neighboring lots on Washington St. Despite his Washington Street address, his front door is situated along the dead-end alley. Mr. Lutey's vacant property is uniquely situated along the railroad right-of-way that abuts his property on the northeastern side.

- b. *Approval of the variance(s) will preserve a property right or use that is generally enjoyed by owners of similarly situated properties, and conversely, approval of a variance will not bestow a special privilege on the applicant that is not generally enjoyed by the owners of a similarly situated properties.*

Similar to other Goosetown lots that promote higher density living, Mr. Lutey is seeking to increase the privacy surrounding his two lots. Due to the arrangement of his property and the tracks, 103 Washington St. is setback from Commercial Ave. Therefore, an obstructed vision triangle should not be created by the proposed fencing.

- c. *The alleged hardship has not been created by the applicant.*

No hardship has been created by the applicant.

- d. *Specific relief from these **DPS Regulations** shall be the minimum necessary to accomplish the applicant's stated objectives.*

The proposed six-foot privacy fence along Washington St. would be the only variance granted. Others in the GNCD also have 6' privacy fences. Applicant must apply for an Administrative Development Permit (ADP) if variance is granted.

- e. Adverse impacts associated with granting relief from the **DPS Regulations** are avoided or effectively mitigated.

Placement of fence will allow for adequate visibility on the corner of Commercial Ave. and Washington Street.

Mr. Wayne Wendt, Road Foreman, had no concerns regarding the proposed 6' fence as long as Mr. Lutey does not encroach upon either the road or railroad right-of-way.

Public Comment (received by 7/23/2020): None

Findings and Recommendation:

Planning Department staff recommend that the petitioner, Mr. Lutey, is granted a variance to construct a six (6) foot privacy fence along Washington St. on his property at 103 Washington St.

Should the Board find that the criteria for granting relief from DPS Appendix A. Division 2 Regulation A.1 which prohibits fencing within or bounding a required front setback from exceeding 4 feet in height, and therefore, takes action to grant the requested variance; staff recommends the following conditions:

1. Administrative Development Permit would be required
2. Applicant does not encroach into the railroad right-of-way or into the Washington Street right-of-way and that the proposed fencing on 103 Washington St. does not inhibit pedestrians utilizing the sidewalk.

Attachments:

- (1) Variance Application
- (2) Chapter 24 Appendix A



ANACONDA-DEER LODGE COUNTY

Variance Permit Application

(Applicant - Please fill out #1 through #10 in full)

'20 JUL 13 PM 1:00

Variance: V20-005

Date: JULY-13-2020

1. Legal Description: Eastern add'n, 502, TOWN, RIW, Block 21, LOT 11-12, LESS 5 37.16 FT
2. Property Owner Name: Herbert J Lutey Telephone: 406 498 1156
3. Physical Address of Property: 103 Washington
4. Contractor: SELF ADLC License #: _____
5. Contractor Address: _____ Telephone: _____
6. Architect or Engineer (if applicable) _____
7. Architect or Engineer Address: _____ Telephone: _____
8. Describe the activity for which a variance is requested (please attach complete plans for project): 103
160 FT 6 FT Fence on Washington
9. Describe the undue hardship by which the variance is justified: Security
Privacy

10. Signature:

This signature acknowledges that all information on this application and that attached plans is true and correct, AND that the activity permitted will be conducted in full compliance with all ordinances of Anaconda-Deer Lodge County, State and Federal law, AND that the activity conducted will be in full compliance with an and all conditions imposed on this variance's approval or the approval of previous permits required, Note that conditions attached to approval of a variance will be binding no future development permits issued on the site.

This permit expires in one year if the activity authorized is not commenced and diligently pursued toward completion, OR if the activity is commenced but abandoned for one year at any time before completion.

Herbert J Lutey
Applicant Signature/Representative

JULY-13-2020
Date

At this time, are there any open or upcoming court cases regarding the property involved in this variance? Yes No



ANACONDA-DEER LODGE COUNTY

Variance Permit Application

(Applicant - Please fill out #1 through #10 in full)

'20 JUL 13 PM 1:00

ADMINISTRATIVE USE ONLY

Application Received By: John Markin Date: 07/13/2020

Application Fee (\$50.00)/Public Notice Fee Billed/Received: 0 Receipt #: 954449 By: JM

Please note that application and permit are void if check does not clear

will invoice advertising and letters @ later date

Copy of invoice attached

Notice Published in Anaconda Leader: 7/15/20 and 7/24/20

Notice Sent to Surrounding Neighbors: 7/15/20

Board of Adjustment Hearing Date: 7/30/20

Variance Approved _____ Denied _____

Letters to Applicant Regarding Decision Sent: _____

Conditions Imposed: _____

Additional sheets if needed

Final Sign-Off: _____
Carl Hamming, ADLC Planning Director

Date

Division 2: - Fencing and Retaining Walls

- A. Fencing.** Fences are allowed as *Accessory Structures* in all *Development Districts*, subject to *Development Permits*. The following standards shall apply:
1. Urban and suburban areas. In the HDRD, LDRD, MDRD, CBDD, HCDD, and in the WVDD on residential *Lots* of 15,000 square feet or less and in all commercial *Development*, no fence, hedge, or freestanding wall (not part of a *Building*) located within or bounding a required front *Setback*, may exceed forty-eight inches (4 feet) in height. In the WVDD the front *Setback* for purposes of this section is assumed to be 25 feet. Fencing other than in the front *Setback* in the HDRD, LDRD, MDRD, and in the WVDD on residential *Lots* of 15,000 square feet or less shall not exceed six (6) feet in height. Allowable fencing materials and designs include:
 - a. Wood or vinyl (including PVC) picket or rail fencing.
 - b. Wood or vinyl board fencing.
 - c. Wood or vinyl board-on-board fencing.
 - d. Chain link and woven metal fencing.
 - e. Other similar materials and designs as approved by the *Administrator*.
 2. Rural areas. In all rural *Development Districts*, no fence may exceed a height of six (6) feet, with the following exceptions:
 - a. Open security fencing for commercial and industrial storage areas as set forth in sub-paragraph 8. below.
 - b. Corrals, stalls, and pens to control livestock at close quarters may be constructed up to eight (8) feet in height.
 3. Residential privacy fencing. 100% sight-obscuring privacy fencing up to six (6) feet in height is allowed in residential applications around decks, patios, pools, hot tubs, and similar outdoor living spaces. Such fencing must be no more than 20 feet from the primary residential *Structure* and may not encroach in any *Setback*.
 4. Institutional security fencing. Open security fencing up to six (6) feet in height may be allowed by the *Administrator* for schools, correctional facilities, and other public and quasi-public institutions when necessary for the safety or restraint of the *Occupants* thereof, without regard to the *Setbacks* specified in sub-paragraph 1. above.
 5. No portion of any fence shall pose a continuous visual obstruction between the heights of 2½ and 10 feet at a street intersection within a triangular area defined by measuring 30 feet along the pavement lines of the intersecting streets, beginning where their pavement lines meet.
 6. Ornamental pedestrian entries, such as arches or arbors, shall not exceed ten (10) feet in height.
 7. Vehicular entries for *Subdivisions*, parks, and *Development* projects (including farms and ranches) shall not exceed twenty (20) feet in height and thirty-six (36) feet in width.
 8. Within the Anaconda Planning Area and in the WVDD on *Lots* of 15,000 square feet or less, barbed wire, razor wire, concertina wire, and similar wire products are not allowable fencing materials, except that for commercial and industrial storage areas in all *Development Districts* located in side or rear yards, open security fencing may be constructed up to ten (ten) feet in height and may be topped with barbed wire. The barbed wire course is calculated as part of the allowable fence height.
 9. Outside of the Anaconda Planning Area, including the WVDD for *Lots* over 15,000 square feet, all fencing to control pastured livestock shall meet guidelines set forth in the Montana Department of Fish, Wildlife,

and Parks publication, *A Landowners Guide to Wildlife Friendly Fences: How to Build Fence with Wildlife in Mind*.

10. Wildlife exclusion fencing up to eight (8) feet in height is allowed for gardens, haystack yards, and similar areas, provided that the guidelines set forth in *A Landowners Guide to Wildlife Friendly Fences: How to Build Fence with Wildlife in Mind* are followed.
11. Any fence, or any portion of a fence such as entry ways and arbors, that exceed six (6) feet in height is subject to a **Building Permit**.

B. Retaining Walls. *Retaining Walls* over four (4) feet in height require a **Building Permit** and must be designed by a professional engineer (PE) registered in the state of Montana.

(Ord. No. 241A, § 3, 8-16-2016)