



Anaconda-Deer Lodge County Planning Department

Board of Adjustment Minutes

Thursday, October 1st, 2020

ALDC Building, 3rd 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 4:00 p.m. 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

June 30th, 2020

Motion was made by Donna Kostelecky to approve the minutes of the June 30th, 2020, Board of Adjustment Meeting with corrections as noted; seconded by Judy Barber. Motion passed 3-0.

Public Hearings

Variance 20-002

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."



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Staff Report

Gayla Hess, Planner II, reviewed the staff report put together by her and her office. The applicant seeks 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."

Please refer to the attached Staff Report dated May 28th, 2020. There was no feedback from any other departments within the County either for or against this request. She did note the Staff Recommendations as noted on the Staff Report.

Applicant Statement

Mr. Counter was present and stated that he will need to go to 40 feet in order to get the efficiency of the windmill, so it is above the trees, otherwise, the wind from the trees will cut the efficiency down a bit more and this is what the engineer stated to him.

Board Question and Comments

Mr. Johnson asked what the purpose is in regards to the height limit of 28 feet out in Opportunity and he would like to know the reasoning behind that. Mr. Hamming responded by saying that in general, since there is structure and height maximums in all the development districts, it is typically so that you are not obstructing the view of your neighbor or infringing upon their space. You would also worry that excessive heights could affect overhead transmission lines, aircraft, etc. Mr. Johnson asked if this would be an issue with the above factors in regards to this windmill and Mr. Hamming stated that it would not. Mr. Johnson then asked what the approximate height is of the windmill out at the rest area. Mr. Counter states that it has to be over 50 feet. Mr. Counter also states that there is a tower out there also that has to be over 100 feet, and he is not sure what that tower is used for. Mr. Johnson then went on to ask how this will be secured to insure that the windmill will not fall over. Mr. Counter stated that they will go down 5 feet to where the ground water is and then pour concrete up to 10 ft. He states that "you could land an airplane on this".

Mrs. Kostelecky asked about the rules out in Opportunity. Ms. Hess explained that this is the regulation as stated in the Opportunity Development District so this is a County regulation.

Public Comment

Ed and Merilee Gessele, 11 North Preston, Anaconda, MT 59711

This was per phone call and they were quoted as stating, "We do not care what he does. He can put up whatever he wants, it is his property."



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MOTION

Motion was made by Judy Barber to approve Variance 20-002 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 with recommendations and conditions listed in the staff report by the ADLC Planning Department; seconded by Donna Kostelecky. Motion passes 3-0.

Variance 20-006

PUBLIC HEARING on a request by Conor Vidulich of 3 Cherry Street 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 their lot at 3 Cherry St; legally described as "ANACONDA ORIGINAL TOWNSITE, S03, T04 N, R11 W, BLOCK 2, Lot 11 – 12, W 3 Ft, Lot 10" The property is located within the Central Business Development District.

Staff Report

Carl Hamming, reviewed the staff report put together by himself and his office. The applicant is seeking 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 their lot at 3 Cherry St

Please see the attached Staff Report dated October 1st, 2020. There was feedback from other County Departments. Police Chief Tim Barkell stated that if the setback was far enough back where it does not impede the view of oncoming traffic, he has no problem, but if it does impede the view then there will be ongoing problems with wrecks in that intersection, Animal Control Officer Rob Roe stated that the large dog can jump the fence and that the variance is needed. He did note the Staff Recommendations as noted on the Staff Report.

Board Questions and Comments

Mr. Johnson asked the reason why the County has a 4-ft fence limit in front of residential properties for the front setback. Carlye Hansen stated that she sees a lot of fences up on the east end of town and she thinks a lot of this has to do with the foot traffic the neighborhoods on the east end of town, and that, along with things she sees on social media, there are a lot of crime issues in the area. Mr. Johnson still asked about the 4-ft height and Ms. Hansen thought that it was added into the ordinance more for the aesthetic value, rather than everyone wrapping their yards in a 6-ft fence, which would become quite unattractive. Ms. Barber stated that it would start to look like we are starting some odd gated community. Mr. Hamming stated that this is why a lot of communities do



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not allow any sort of fencing in areas that are to be attractive and where people would be able to see nice homes rather than a 6-ft or 10-ft fence. Mr. Johnson asked if the County had any objection to this fence being 6-ft. Mr. Hamming did refer to the Recommendations listed on the Staff Report and that they asked that the Mr. and Mrs. Vidulich work with the County to insure that there is a proper vision triangle/line of sight around the corner for safety.

Ms. Barber mentioned that she drove the streets in question and there is a very wide curb and there is no problem that she sees in regards to seeing around that corner.

Mrs. Kostelecky sees this triangle as a solution that could work for Mr. and Mrs. Vidulich.

Public Comment:

None.

MOTION

Motion was made by Donna Kostelecky to approve Variance 20-006 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 their lot at 3 Cherry St; with recommendations and conditions listed in the staff report by the ADLC Planning Department; seconded by Judy Barber. Motion passes 3-0.

Variance 20-007

PUBLIC HEARING on request by Jeffrey Snow of 107 Alder 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 their lot at 107 Alder Street; legally described as "EASTERN ADDITION (ANACONDA), S02, T04 N, R11 W, BLOCK 23, Lot 10 - 12, S90' LTS 10-12 & S 90' LT 1 BLK 31 ORIG" The property is located within the Goosetown Conservation Development District.

Staff Report

Gayla Hess, Planner II, reviewed the staff report put together by her and her 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 their lot at 107 Alder Street;

Please refer to the Staff Report October 1st, 2020. There was feedback from Animal Control Officer Robert Roe who reported the animals do jump the fence and recommended granting the variance.



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The Treasurer's Department also stated that currently the dogs owned by Mr. Snow are currently not licensed in Anaconda-Deer Lodge County. She did note staff recommendations as noted on the staff report.

Applicant Statement

Mr. and Mrs. Snow were not able to attend the meeting today, but did send someone to represent them. Katie Gruss, representative for the Snow's read a letter sent by Mr. and Mrs. Snow. They had several reasons for obtaining this variance, including dogs, and the fact that at this time there is a sexual/violent offender, living in the house south of them.

Questions from the Board

Mrs. Kostelecky did ask about visibility from the alley and asked if this would cause any issues with visibility on either side of the alley. Ms. Hess stated that again, the Planning Department would like to coordinate with them in regards to the placement of the fence along with the Road Department.

Public Comment

Mrs. Snow states that she has talked to the owner of Giddy-Up Tack and Feed and they told her that he has no objection to this 6-ft fence.

Carlye Hansen, stated on behalf of Walter Hansen, her father, that she has seen the dogs, and they do run at, and along, the fence line. That is what German Shepherds do, they are protectors. She also knows that with or without the fence, the Snows should be concerned about the folks living in the house with the sexual/violent offender, and there are a lot going on at all times day or night and with much traffic into that particular house as well as the 4-plex next to that. She said that it was only after Mrs. Snow had talked to her father, that she realized there was an offender living in that house. Her father stated that they need to do what they need to do to protect their kids.

MOTION

Motion was made by Donna Kostelecky to approve Variance 20-007 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 their lot at 107 Alder Street, with recommendations and conditions listed in the staff report by the ADLC Planning Department; seconded by Judy Barber. Motion passes 3-0.



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New Business

1. Discussion and possible nomination of new Board of Adjustment chairperson
2. Discussion and possible nomination of new Board of Adjustment vice-chair

Mr. Johnson stated that at the last meeting, he brought up the possibility of voting and selection of a new chairperson. He, himself, has no problem with stepping down or continuing and that it doesn't take a lot of his time, Ms. Kostelecky thought it would be nice if there was a new person that could take this position. Ms. Barber stated that she doesn't know enough about this. Mr. Johnson was thinking about Ms. Brosseau as she is fairly young and she may like something like this on her resume, but she hasn't been to the last two meetings. At this time, it was decided to table this item to the next meeting agenda.

3. Board of Adjustment Annual Report to Commission

Gayla Hess, Planner II, stated that per code and the bylaws for the Board of Adjustment, regular reports to the Commission need to occur and even though a lot boards are not doing this, we are trying to move more into compliance as a County, so she did draft what she thought could be provided to the Commission, a quick summary of some of the variances heard by the Board of Adjustment and she would encourage someone from the Board to make a presentation at the Commission and say a few things about membership, and types of cases being heard by the BOA over the year. Mr. Johnson stated that he would do this on the next Commission Work Session which is October 13th, 2020. and she did stated that these meetings are now being done WebEx, at 6 p.m. and Carl Hamming stated that he will go over this with him prior to the meeting if he wishes to do so.

Miscellaneous

Matters from the Staff:
None

Matters from the Board:
None

Public Comment

None



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TBA

Next Meeting Date

Meeting was adjourned at 4:38 p.m.

Adjournment

Respectfully submitted,

Carlye Hansen

Carlye Hansen, Planning Department Secretary

DRAFT