



# Anaconda-Deer Lodge County

## Board of Adjustment Minutes

Thursday, December 5<sup>th</sup>, 2019

ALDC Building, 3<sup>rd</sup> Floor Conference Room 3 p.m.

**Meeting called by** Bill Johnson, Chairperson  
**Type of meeting** Variance Meeting

**Minutes taken by** Carlye Hansen

**Members Present:** Bill Johnson, Chairperson;  
Donna Kostelecky, Stormi Brosseau

**Staff:** Chas Ariss, P.E., Planning and Public Works  
Director; Gayla Hess, Planner I; Joe Ungaretti,  
Code Enforcement Officer; Carlye Hansen,  
Planning Department Secretary

**Guests Present:** Please see sign in sheet

### AGENDA TOPICS

#### Call to Order

Meeting was called to order at 3:09 p.m. by Bill Johnson, Chairman.

#### Introductions

Bill Johnson, Chairman, introduced the Board of Adjustment and did review the Board of Adjustment (BOA) Process to the applicants and the public in attendance

#### Approval of Minutes

Suggested corrections were proposed by Gayla Hess

*Motion was made by Donna Kostelecky to approve the minutes of the May 16<sup>th</sup>, 2019 Board of Adjustment meeting, the May 29<sup>th</sup>, 2019 Board of Adjustment Meeting, and the June 6<sup>th</sup>, 2019 Board of Adjustment meeting, with changes as noted and discussed. This was seconded by Stormi Brosseau. Motion passed 3-0*

#### Public Hearing

#### Variance 19-004

Request by Applicant, William Noble, for a variance (V19-004) to allow relief from Sec. 24-137(1) structural setbacks in the Highway Commercial Development District (HCDD). Applicant proposes to build a two-car garage on a vacant lot (54 1/3 x 25 feet) The subject property is legally described as: Eastern Addition (Anaconda), S02, T04N, R11W, Block 19, Lot 12, S 54 1/3 Ft, Lt 12.

Staff Report:

Anaconda-Deer Lodge County • Courthouse • 800 Main • Anaconda, MT 59711



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Gayla Hess, Planner I, reviewed the staff report put together by her and her office. The applicant seeks relief from Sec. 24-137(1) structural setbacks in the Highway Commercial Development District (HCDD). HCDD setbacks were designed for larger lot sizes. Adhering to the front lot and rear lot line of 25 feet each would preclude the resident from building anything but a very small shed on the lot adjacent to his house.

Please refer to the attached Staff Report dated December 5<sup>th</sup>, 2019.

## Board Question and Comments:

Donna Kostelecky, Vice Chair, asked what would happen with the two power poles that are currently on the property at 105 Jefferson and Gayla stated that the proposed dimensions between the garage and poles are similar to neighboring garages in the alley.

## Applicant Comments:

William Noble, applicant, address of 105 and 107 Jefferson, phoned into the meeting today as he was not in town. Mr. Noble reiterated his variance request and described his plan for building a two-car garage on this property, granted this variance is given, otherwise, this parcel will be too small for anything else. He stated that there are multiple other properties in similar situations within this area. He stated that he is flexible, to a point, in his working with the County in regards to this variance.

Donna Kostelecky, asked the number of vehicles Mr. Roble currently has at this address and he stated that he has two vehicles at this time, his and the one that his wife drives.

## Public Comments:

GJ Walker, 1023 East Commercial, is here for the meeting as both a neighbor of Mr. Noble, and also as Mr. Noble's representative. He himself feels that this variance should be granted as there is nothing else that can be done with this property unless a variance of some sort is granted to the owner of the property for development. He also feels that development of this property would be all in all a better deal for the County as this will generate taxable income for ADLC.

*Motion was made by Donna Kostelecky to approve Variance 19-004 and allow relief from Sec. 24-137 (1) structural setbacks in the Highway Commercial Development District (HCDD) and allow Mr. Noble to proceed with building a two-car garage on this vacant lot. This was seconded by Stormi Brosseau. Motion passed 3-0.*



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## Variance 19-005

Request by Applicant, Jerry Lemm, for a variance (V19-005) to allow 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. ARED 1.0 permits one single-family dwelling per lot of record. Additionally, per Sec 24.63(1) (e) lists “guest house or guest quarters limited to one per lot of record” as a Special Use, subject to MDP. The subject property is legally described as: S33, T05N, R1W, COS 445A, Acres 1.023, Lot 3.

### Staff Report:

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

Please refer to the attached Staff Report dated December 5<sup>th</sup>, 2019.

### Board Question and Comments:

Bill Johnson, Chairman, asked to clarify the number of buildings currently on the property in question. Gayla noted at this time, there are three residences on this property, one occupied by Tom Lemm and his wife, the second by a person by the name of Carmen who apparently has lived there for a number of years, and now the “temporary” trailer owned by Jerry Lemm’s nephew, Cody Lemm and his wife Katie. At this time, there were no permits for ADP, well, or septic. They are planning on replacing the current septic system in the spring/summer of 2020.

Bill Johnson, Chair, asked what the county’s recommendation are at this time and this was forwarded on to Chas Ariss, Planning and Public Works Director. He stated that back in 2013, this was developed into a subdivision by Mr. Nick Nardacci and his family and was developed as a housing area rather than a trailer court. Mr. Nardacci has submitted a letter in this regard and is opposed to the additional home. Chas also stated that on this parcel of property, all the homes are on a shared septic system, including Chris Nardacci, who is connected on this septic system and resides on the next parcel over. Mr. Ariss also stated that there have been multiple problems with the pumps and that the drain field is on the other side of Cable Road. He also stated that based on our current code, there should be no additional single-dwelling units on this property, and if this is temporary, then the Board of Adjustment will have to determine a specific time limit for the temporary dwelling unit in question, to remain on this site. At this time, no one in the Lemm family can define what the term “temporary” means due to some financial constraints at this time by the Lemm family.



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## Applicant Comments:

Jerry Lemm, applicant, address of 558 North Cable Rd #23, sent his father Ott Lemm to represent him today as Mr. Lemm works out of town and was unavailable today to attend this meeting. Mr. Lemm started out by saying that unfortunately, there has been much animosity between his son and the Nardacci family. Jerry ultimately wanted to make the purchase of 15 acres at the time of the sale and he ended up purchasing Lots 2 and 3, by which were separated by the parcel owned by Chris and Wendy Nardacci. No one, including Ott or Jerry, were aware that the trailer park denotation was no longer applicable. It was at this time that Jerry offered his nephew a place to set up his mobile home as this is a young couple, with two small children, and both have been unfortunately dealing with some medical issues. Jerry saw this as a way of helping his family and didn't see where this would become an issue. Ott states that the property, overall, looks better with the work that has been done over multiple years. He does state that the water and septic is in rough shape, but again, they are looking to make those improvements in the future.

Bill Johnson, Chairperson, again asked Ott about how long he was thinking this trailer would need to be on the property in regards to the temporary status and Ott stated that he did not know, but that it was not going to be permanent by all means and says that this was only done for the sake of family and certainly not to harass the neighbors.

According to the County, the property was subdivided in 2013, Jerry Lemm purchased this property in 2014, and the last trailer park license renewal was in 2015.

## Public Comment:

Chris and Wendy Nardacci, 504 North Cable Road, Unit 1

Mr. Nardacci stated that he is not without any sort of heart with this situation and that they have been neighbors with the Lemm family for many years and that he likes and respects the family. He states that his concerns are not personal, and he is concerned about residential issues only. His biggest concern is that this old mobile home is practically sitting on his house. Everyone in that subdivision uses wood heat and there is always a lot of smoke coming down towards his house, to the point where the fire department has actually shown up at his home. He also reiterated again that all lots were sold separate and in no way was this to be considered a trailer court. He is also very concerned about the old septic system, its potential failure, and just how long Cody Lemm plans to live there with his wife and children. Wendy Nardacci stated that at this time there is only one remaining trailer from the original trailer court and this is owned by a person named Carmen and it has been there for a number of years and is in very good shape and there has never been issue in regards to this person living there. Wendy is also concerned about the overload on the septic.

Donna asked what the footage was from the Nardacci house to the trailer in question and it is roughly 35 to 40 feet and the sewer access is currently between the two residences and then crosses Cable Road over to the other side.



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Ott then states that while the trailer is old, it is all the kids could afford at this time with their current situation and he would like to know what the issue is if they were putting this trailer in a spot where an old trailer previously existed. Wendy states that the trailer in question is devaluing the property around it.

Constance (Connie) Bucholz, 516 North Cable Road

Connie lives west of the properties in question and she does not like what is going on amongst the Lemm's and the Nardacci's and she supports Jerry, Tom, and Cody Lemm. She feels that they are doing right by their family as family does come first and no one is hurting anyone by any of this.

Wendy Nardacci then stated that she understood this had gone residential rather than trailer park to improve the land area around them and that this trailer is not improving the looks of the land.

Bill Johnson reiterated that at this time, the Board of Adjustment is meeting only to deal with the variance of Jerry Lemm and the trailer Cody and his wife are living in currently, and that everyone was getting a bit off topic. He asked what the current acreage of this property is and Gayla responded with 1.023 acres.

At the end of this discussion Bill stated that December and the holidays is hardly the time for anyone to move especially with small children and he feels that a variance could be set for a period of six months.

Donna stated the same thing and says that the development district standards are set for a reason and folks do need to follow the said rules of their development district.

Stormi stated that this does need to remain temporary and right now is posing as an eyesore, but her question would be as to how long they leave it there with the winter, the holidays, etc., and it will take time to find another acceptable living space for them.

*Motion was made by Donna Kostelecky to deny Variance 19-005 which would allow 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. ARED 1.0 permits one single-family dwelling per lot of record. At this time, she would recommend that Cody Lemm and his wife Katie, be given 8 months, which would bring them to August 5<sup>th</sup>, 2019, to move the trailer off of the parcel and make other living arrangements. This was seconded by Stormi Brosseau. Motion passes 3-0.*



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## Variance 19-006

Request by Applicant, Matt Krattiger, personal representative for Dixie Dye Estate, for a variance (V19-006) to allow relief from Sec. 24-275 (3) of Article XXIV for minimum lot size within the Opportunity Development District (ODD). The applicant requests to divide property within the ODD per inheritance. Two single family dwellings exist on Lot 39 with addresses of 912 Rickards (built 1937) and 918 Rickards (1971). The subject property is legally described as: Opportunity Original Townsite, S10, T04N, R10W, Block 222, Lot 39, Acres 2.79.

### Staff Report:

Gayla Hess, Planner I, reviewed the staff report put together by her and her office. The applicant requests to divide property with the ODD per inheritance.

Right now, there are currently two residential buildings on this lot of record. Mr. Krattiger has submitted a proposal to split this lot, which would put both properties below the minimal lot sizes required in Opportunity, but would allow for adding another septic system at a later date. The proposed amended plat would show the property at 912 Rickards at being 0.347 and 918 Rickards being 2.446 acres. Each residence would have their own well and the amended plat does depict a replacement septic for 912 Rickards with the entire system being within the property boundaries. At this time, the septic system is shared with 918 Rickards.

At this time, the other party of the land split has retained legal counsel and they have proposed a second proposal (Proposal B) in which there would be an equal division of the property. This would also put both properties under the 2.5 minimums lot size. However, the issue that has come up with this is that this would put the newly proposed property line through an existing garage on the property.

Bill Johnson, stated that this had nothing to do with the variance and that it would remain between parties in regards to the garage and most likely would need a court decision regarding the garage.

Matt then went on to say that he knows of multiple examples of properties in Opportunity that are smaller than the 2.5 acre minimum and Donna agreed and stated that the Board of Adjustment has dealt with this before.

Matt was asked how he came about obtaining this property and he stated that he was named the personal representative of the decedent. He was considered a non-blood son to the decedent and was very close to her. The house on the left (918) was lived in by the decedent. The other residence (912) was always used as a rental.



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Ben Everett, Attorney at Law, was present for representation of the other party in this matter. He stated that the second proposal (Proposal B) does not do away with the driveway, which is actually a shared road and used to access both properties. He states that Matt Krattiger is using the Board of Adjustment process as an excuse until a court hearing determines for or otherwise. Matt argues that the driveway never did access both homes.

At this time, Bill stated that he feels this variance should be tabled until the courts decide on the final outcome of this property division and then grant a variance at that time, if needed.

Chas then stated that the county is more concerned about the septic system and the potential problems that could come about with only one, and especially if this land is ever sold or rented out and there only being one septic for two properties. At that time, whose responsibility would it be to maintain this? Matt stated that Chas Lanes, Sanitarian, has already agreed to the replacement system for this.

*Motion was made by Stormi Brosseau to table Variance 19-006 until such a time the courts have made their decisions regarding this property boundary adjustment. This was seconded by Donna Kostelecky. Motion passed 3-0.*

Next Meeting Date

TBA

Adjournment

Meeting was adjourned at 4:43 p.m.

Respectfully submitted,

Carlye Hansen

Carlye Hansen, Planning Department Secretary



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