

MINUTES

Board of Adjustment

Community Center, 3rd Floor Conference Room



Thursday, January 26th, 2023, at 4 pm | Meeting called to order at 4:00 pm by Donna Kostelecky, Chairperson

Attendance

Members Present: Donna Kostelecky, Chairperson; Judy Barber; Jerry Arneson; Steve Boyer

Members Absent: Bill Johnson

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

Guests Present: Please see sign-in sheet. **See attachment**

Ms. Kostelecky reviewed the Board of Adjustment process for all applicants and those attending this meeting.

Approval of Minutes

April 28th, 2022

Motion was made by Jerry Arneson to approve minutes from April 28th, 2022; seconded by Judy Barber. Motion passes 4-0.

Nomination and Vote for 2023 Chairperson

Motion was made by Judy Barber to nominate Donna Kostelecky as 2023 Chairperson of the ADLC Board of Adjustments; seconded by Jerry Arneson. Motion passes 4-0.

Nomination and Vote for 2023 Vice-Chairperson

Motion was made by Donna Kostelecky to nominate Judy Barber as 2023 Vice-Chairperson of The ADLC Board of Adjustment; seconded by Jerry Arneson. Motion passes 4-0.

Public Hearings

Variance 23-001 Greg Warner

PUBLIC HEARING on a request by Greg Warner for a variance to allow relief from [Sec. 24-105](#) of the Code of Ordinances of ADLC, which prohibits vehicular access from the street when alley access is available in the Goosetown Neighborhood Conservation District. Owners wish to develop a driveway from 5th St at 805 E. 5th St when property has alley access. Property is legally described as:

EASTERN ADDITION (ANACONDA), S02, T04 N, R11 W, BLOCK 64, Lot 8

Staff Report

Gayla Hess, Planner II, reviewed and presented the staff report put together by her and her office. All content can be located on the ADLC website. Ms. Hess reviewed the nature of the request by Greg Warner to request relief from [Sec. 24-105](#), which prohibits vehicular access from the street when an alley is available in the Goosetown Neighborhood

Conservation District (GNCD). Owner wishes to build a garage at the lot formerly addressed as 805 E. 5th with vehicular access from 5th St. The proposed garage would attach to the existing residence at 803 E. 5th St.

Ms. Hess stated that the applicant is looking for access from the street for increased parking.

Ms. Hess did receive comment from Wayne Wendt, ADLC Road Foreman, and he stated that "Driveway on 5th Street would take up almost 2 parking spots (driveway size and 5 feet on either side for sight triangle). Vehicular access should be from the alley only."

The Planning Department has recommended denial of the variance request, however if the Board finds that there are criteria to grant relief, they recommend six (6) conditions, and these are reviewed.

Questions from the Board

Donna Kostelecky, asked about a past variance that was brought before the Board on East 4th Street, that was denied in the past and this was confirmed.

Applicant Report

Greg Warner, 804 E. 6th

Mr. Warner explained that he would like to build an attached garage. He did a general review of his project and what he can and cannot do with either aggregating or not aggregating these lots, which would determine how he could or could not construct the garage. He states that Mr. Wendt's information is incorrect. He is also concerned about a property that is currently behind him and is right to the property line and so that if he is trying to remodel or build in this area, there is no real good way for him to turn the trucks around and back into this area and he sees no way he can keep his truck in there. He did bring several letters from neighbors that were provided to Ms. Hess to be read during the public hearing. Mr. Warner described one letter that is from Joe Weber that lives next to the vacant property and cannot park his truck in his garage at all as there is a fence right across from his garage and is only able to get his wife's car in his garage and that is another problem they would face if he had to build the garage in the back. He feels that the area would look a lot better, otherwise, he will just need to put up a cedar fence across the front of his property. Mr. Warner did write a letter regarding the reasons he would like to seek this variance (**see attached**).

Questions from the Board

Steve Boyer asked if he was planning to connect 803 and 805 East 5th. Mr. Warner stated that he is planning on attaching the garage to the house that is at 803 East 5th and he will aggregate the lots together. Ms. Hess then stated that if Mr. Warner chooses not to aggregate or combine the lots, he would need to come back to the Board of Adjustments for a variance request to build an accessory structure without a primary structure on the vacant lot.

Mrs. Kostelecky stated that she drove by the properties in question and appreciates his remodeling of this. She is asking what the obstructions of the alley are that make this so difficult? Mr. Warner states that the biggest problem is that from the alley looking down, the biggest problem that he has is a green garage that is back there and Mr. Weber's garage, along with the fence and the house behind him. This just makes it too tight to put any larger vehicle back there or make a turn into the area. Mr. Boyer confirmed that he would need to demo the small garage when he builds the attached garage. He shows Ms. Parrow's house and the green garage in pictures he has on his cell phone. Mrs. Kostelecky then asked about demolition of the other little structures, and he said he has already worked on that, resided it, put on new doors, new roof, etc. He is also attempting to not take too much space out of his yard if he can avoid it.

PUBLIC HEARING

Proponents

Gary Warner - 804 East 6th Street

Mr. Warner wanted to state that he is in support of this project. He feels that this will be a win-win for all involved with and around the property. He feels that if he puts this garage there, he will not need to have to come back to get another variance approval. They bought the other house to tear down as this was beyond repair with all the dogs and such that had been in there. He states that you cannot get through the alley. If you take up one parking spot in front, then you will gain the rest. If you don't have the garage, you will be parking all the vehicles in front which is short of parking now. He feels that there will be a pad in front of the garage and the setbacks will be met, and no one will be parking on the

sidewalk. He states that this will be safer as if you are walking down the sidewalk and the cars are parked there, you must climb over the hoods to get around these vehicles. He states that from a factual sense, he would like to see this approved today. He says that it just makes sense to attach the garage so you can combine the two lots.

Audrey Parrow - 511 Ash Street

Ms. Parrow called in and gave her comment over the phone to Ms. Hess. She called the office and stated that she does not feel that this pertains to her property. She lives across the alley and she is okay with the proposal.

Mr. Warner did bring in some letters from his neighbors and Ms. Hess did share these with the Board.

Norbert Weber, III - 807 East 5th (see attached)

Mr. Webber notes that he has no issues with the proposed access to a driveway from 5th Street.

Logan Hegg - 815 East 5th Street (see attached)

Mr. Hegg notes that he is okay with Mr. Warner doing what he needs to do to have street access to his property including building a driveway.

Chris Yerkich - 804 East 5th Street (see attached)

Mr. Yerkich noted that he does not object to the garage and 5th Street access that Greg Warner has asked him about.

Opponents

None

Public Comment

None

Board Discussion

Mrs. Kostecky asked the Planning Department staff why they do not feel that this should be allowed and therefore, denied? Mr. Hamming stated that this is per the Goosetown District Standards and that these standards state this should not be allowed. If there is an alley and access from that alley, then they would recommend denial with there being an alley with legal access to it. He then stated that it was up to the Board to make the change in order to alter somewhat what the initial Goosetown neighborhood was set up to look like. Ms. Kostecky then asked how many lots he is asking to be able to drive in. Mr. Boyer stated two. Ms. Kostecky then asked if that would not give him enough room to park in the back. Mr. Hamming stated that this is the claim from the applicant.

Mr. Arneson asked if the lots were 25 or 30 ft wide and it was confirmed that they are 30 ft x 140 ft. The alley is 20 ft wide.

Mr. Warner then asked if he could ask a question. He understands that what the Planning Department is suggesting is just them doing their job, but he would like to know if the job setting for the Department was set aside, would the Planning Department be onboard with him for approval of this variance.

Ms. Barber and Ms. Kostecky both stated that this is a loaded question and Ms. Kostecky stated that Mr. Hamming is doing his job and doing what he is supposed to be doing. Mr. Warner was just hoping for an opinion.

At this point, Mr. Gary Warner stood up and explained that this is what the Board of Adjustment is supposed to do, to make positive changes and that this is why the Board is here, to make the changes. Ms. Kostecky stated that the Board of Adjustment is here to protect the property owners around the property in question and that things must be done safely, correctly, and according to the laws that they have been given. She again stated that if you have two lots, she feels that you should be able to get the parking in the back somehow.

Motion

Motion is made by Steve Boyer to approve Variance 23-001 with the proposed condition as recommended by the ADLC Planning Department; seconded by Judy Barber. Motion passes 3-1*

Poll of Board: Jerry Arneson - yes; Judy Barber - yes; Steve Boyer - yes; Donna Kostelecky - no.

*Immediately following the vote, there was discussion and significant confusion regarding the wording of the motion. Mr. Arneson did not understand, and he thought they were voting on the recommendation by the Planning Department that they deny the request, not understanding that the motion intended approval of the variance with the six proposed conditions recommended by the Department.

Mr. Hamming then suggested a reset as there was significant misunderstanding and thought that calling for a new motion would be in the best interest of the Board.

At this time, Ms. Kostelecky asked again about the reasoning behind the board denying the motion several months back in regards to a property on East 4th Street. She is unsure who was all involved with that particular variance, and wanted the new members to have it brought to their attention. Mr. Boyer believes that his understanding is that the only objection to this is the maintaining of a parking spot on 5th Street. Ms. Kostelecky explained that there will be a new approach built off the street and Mr. Hamming confirmed this with the addition of no more than one parking space.

Mr. Arneson then again stated that he misunderstood the original motion and that due to this misunderstanding, he would have voted no.

Due to the confusion of the first motion, at this time, Mr. Hamming suggested that the board start over with a new motion seeing as there was significant misunderstanding. He just wants this to be clarified for the Board and for the members of the audience.

Motion

Motion is made by Judy Barber to reset the motion: seconded by Jerry Arneson. Motion passes 4-0.

Motion

Motion is made by Judy Barber to approve Variance 23-001 to allow relief from [Sec. 24-105](#) of the Code of Ordinances of ADLC, which prohibits vehicular access from the street when alley access is available in the Goosetown Neighborhood Conservation District. Owners wish to develop a driveway from 5th St at 805 E. 5th St when property has alley access with the proposed conditions as recommended by the ADLC Planning Department; seconded by Steve Boyer. Motion tied at 2-2.

Poll of Board: Jerry Arneson - no; Judy Barber - yes; Steve Boyer - yes; Donna Kostelecky - no.

At this time Mr. Arneson said with the tie, that we need to discuss this. He states that his reason for denying this variance is due to the fact that Mr. Warner has access from the back and there is no reason to allow the street access. He states that down in that area of town, everything is tight anyway, so now you are going to block streets when he has access and he has 60' to put a truck in there. He states that he lives in a cramped neighborhood and he can certainly navigate his alley.

Ms. Kostelecky said that the County has not given its approval of this by any means.

Mr. Boyer states that the only negative that he sees is that there is possibly going to be a parking spot taken away and this is a public street, they are not private. He has also looked at the fact that there are other approaches approved. He is only aware of one that was denied, and this was before he was on the Board, and he asked and received a recap on that by Ms. Kostelecky.

Ms. Barber also stated that in the case that was denied, there was concern regarding a motor home coming out into 4th Street, and she was able to get the motor home in and out if she had to, but that was her reasoning for ease in moving this large vehicle on and off the property.

Mr. Boyer feels that Mr. Arneson makes a very valid point with the two lots equaling a width of 60 ft and nothing but a little garage there, you still have over 30 ft. He feels that if you wanted to, you could certainly maneuver around the garage with the other 30 ft. Jerry states that you can still build the garage in the spot, just not without the street access and will need to come in from the alley.

Ms. Barber states than when it comes to the alleys, when she drives down these, it is like there are many vehicles parked not in the garage, but on the sides of the alley. She states that this makes this much more than just tight. She can see where folks may have problems with it. She, herself, feels when it comes to the Goosetown regulations, she feels the historic value is one thing and maybe she is just not as in tune to that and as houses get torn down in Goosetown, this area will eventually have a different feel to it. This is true that at some point, it will look different and is not just going to be the side by side by side houses at some point in time in the future. She doesn't have a problem with the changes that they are proposing.

Mr. Arneson does believe that it is good that he is using two lots, and took down one, and is putting up another, but by having a second lot, this should give him adequate access. He states with folks coming in and out into a main street, this is a hazard.

Motion

Motion is made by Judy Barber to rescind the previous motion and vote that resulted in a 2/2 tie; seconded by Jerry Arneson. Motion passes 4-0.

Motion

Motion is made by Steve Boyer to approve Variance 23-001 to allow relief from [Sec. 24-105](#) of the Code of Ordinances of ADLC, which prohibits vehicular access from the street when alley access is available in the Goosetown Neighborhood Conservation District. Owners wish to develop a driveway from 5th St at 805 E. 5th St when property has alley access with the proposed conditions as recommended by the ADLC Planning Department; seconded by Judy Barber. Motion tied at 2-2.

Poll of Board: Jerry Arneson - no; Judy Barber - yes; Steve Boyer - yes; Donna Kostecky - no.

Mr. Boyer stated that his issue is that it almost feels that the applicant is going to be penalized for having two lots. If he had only one lot, then he wouldn't be able to put the garage in there, and Ms. Kostecky stated that that would definitely makes a difference. He feels that with a new garage being put there, it would improve the neighborhood, and this should not detract from the neighborhood and if he has a driveway coming through, it is not going to be that different than a lot of other blocks.

Ms. Barber confirmed this as she stated there are a lot of houses in town whose driveways go from the house to the street.

Mr. Arneson states that his lot at his own residence is the same as the one being discussed here this afternoon and he has no problem with parking his vehicle along with an extra vehicle into the back.

Mr. Hamming asked if he could recommend tabling this at this time and circle back to this after the other hearings as they are being held up.

Motion

Motion is made by Jerry Arneson to table Variance 23-001 until the end of this meeting; seconded by Judy Barber. Motion passes 4-0.

**After completion of the remainder of the Public Hearings for today, the remainder of the meeting for Variance 23-001 is resumed at 5:22 pm.

At this time, Ms. Kostecky thought that, as the Chairperson of the Board, she could break a vote, but Mr. Hamming instructed her that she votes once, so she would not be able to break the tie, as you cannot vote twice.

Mr. Boyer asked if they could do another vote at this time.

Motion

Motion is made by Steve Boyer to take Variance 23-001 off of the table; seconded by Jerry

Arneson. Motion passes 4-0.

Motion

Motion is made by Steve Boyer to approve Variance 23-001 to allow relief from [Sec. 24-105](#) of the Code of Ordinances of ADLC, which prohibits vehicular access from the street when alley access is available in the Goosetown Neighborhood Conservation District. Owners wish to develop a driveway from 5th St at 805 E. 5th St when property has alley access with the proposed conditions as recommended by the ADLC Planning Department; seconded by Judy Barberr. Motion fails 3-1.

Poll of Board: Jerry Arneson - no; Judy Barber - yes; Steve Boyer - no; Donna Kostelecky - no.

Variance 23-002 Curt and Jennifer Gannon

PUBLIC HEARING on a request by Curtis and Jennifer Gannon to allow relief from [Sec.24-245](#) of the Code of Ordinances of ADLC requiring a 50 feet front lot line structural setback. Owners are proposing to build 15 feet from Bear Gulch Road at 1918 Bear Gulch Rd. Property is in the Big Hole Development District and is legally described as:

S35, T02 N, R12 W, C.O.S. 212D-250A, ACRES 1.202, TRACT A-2, IN N2N2

Staff Report

Gayla Hess, Planner II, reviewed and presented the staff report put together by her and her office. All content can be located on the ADLC website. Ms. Hess reviewed the nature of the request by Curtis and Jennifer Gannon to request relief from Sec. 24-225, which requires 50 feet between the front lot line and structure in the Big Hole Development District. The applicants wish to build a garage/storage shed approximately 15 feet from the property line fronting Bear Gulch Road.

Ms. Hess did receive any comments before the staff report was committed.

The Planning Department has recommended approving the variance request with five (5) proposed recommendations and conditions and these are reviewed.

Questions from the Board

Ms. Kostelecky asked how much right away there is for the road? Ms. Hess specified that the pictures is not that great but usually a road right away is 50 to 60 ft. They are asking to build their garage 15 ft from their property line that fronts Bear Gulch Road. Mr. Hamming then reiterated that the 15 ft requested setback is not 15 ft from the center of the road, but is 15 ft from the property line.

Applicant Report

Curt and Jennifer Gannon - 18 S. Hauser

Mr. and Ms. Gannon are here today to discuss how they are trying to make the land is their property on Bear Gulch Road more usable. The acreage is 1.2 acres and the actual usable acreage due to a very steep hill covers roughly 2/3 of that acreage. The lot is quite small in terms of usability of this. This is rural and with the way it lays, they really don't want to eat up the whole center of the lot with a building just to store stuff in and this is why they have chosen this route.

Questions from the Board

Mr. Boyer confirms where exactly this property is located and Mr. Gannon explains that this is west of Wise River, where Mill Creek comes over, two miles east of Mill Creek highway and then two miles up the road. This is between Mill Creek highway and Dickey Bridge.

PUBLIC HEARING

Proponents

None

Opponents

Audrey Mattson - 14847 East Side Road

Ms. Mattson is here today on behalf of herself and her family. They own the property below Mr. and Mrs. Gannon's property. Her mother is 97-years old and lives with her sister, and they have asked her to look into this. She states that she is not necessarily opposed to this, but when she looked at the variance paperwork online, she felt that there was inadequate information. She feels that the wrong information was posted on the website because the one that she has states that this is going to be a 14' x 24', and now it is 16' x 32'

Mr. Gannon stated that he submitted a build plan for a 14' x 24' structure just to give an idea of what is being planned and there are notes in the paperwork that note that this is going to be a 16' x 32' structure.

Ms. Mattson had a document that she submitted this evening with all of her concerns, issues, and additional questions raised by this variance application. There were also some questions regarding a creek and a culvert near these properties and she discussed this. She reviewed this document. **(see attached)**

Public Comment

None

Questions from the Board

Mr. Boyer has a question for Mr. and Mrs. Gannon. Why are they choosing 15 ft, as that does seem close? Mr. Gannon states that it is 15 ft from the property line and will run parallel so there would be 16 ft, so now the inside edge of the structure is creeping in. If they go to 50 ft, this will be built right in the middle of the property where they have a fire pit and essentially a yard for property. This is where the only grass and open area is on the lot. This is where the 15 ft puts it. There is also a tuft of trees where they are wanting to put it, and Ms. Gannon stated that most of those trees are dead so they wanted to get the trees down anyhow due to the increased chance of fires and they want to clean up the property. She stated that the fire season came a little too close to them last summer.

Motion

Motion is made by Jerry Arneson to approve Variance 23-002 to allow to allow relief from [Sec. 24-245](#) which requires 50 feet between the front lot line and any structure in the Big Hole Development District. Applicants wish to construct a garage/storage shed approximately 15 feet from the property line fronting Bear Gulch Rd, with proposed conditions as recommended by the ADLC Planning Department; seconded by Steve Boyer. Motion passes 4-0.

Variance 23-003 - Mike Martelli

PUBLIC HEARING on a request by Mike Martelli to allow relief from [Sec. 24-104](#) of the Code of Ordinances of ADLC. Owner wishes to relocate common boundaries of 822 E Park Ave and 116 Washington St to create a residential lot smaller than the minimum lot size and for relief from structural setbacks. Properties are within the Goosetown Neighborhood Conservation District and are legally described as:

EASTERN ADDITION (ANACONDA), S02, T04 N, R11 W, BLOCK 22, Lot 23-24, S 105 FT LTS 23-24

Staff Report

Carl Hamming, Planning Director, reviewed and presented the staff report put together by he and his office. All content can be located on the ADLC website. Mr. Hamming reviewed the nature of the request by Mike Martelli which requests relief from Sec. 24-104 (1 and 3) which requires newly created (or reconfigured) lots to be a minimum of 3,500 square feet for single-family dwelling units in the Goose Neighborhood Conservation District (GNCD) and for the side yard setback to be a minimum of 2.5 feet in the GNCD. (The existing structures encroach into the proposed side yard setback).

Ms. Hess did receive comment from Wayne Wendt, ADLC Road Foreman, and he stated that "Driveway on 5th Street would take up almost 2 parking spots (driveway size and 5 feet on either side for sight triangle). Vehicular access should be from the alley only."

The Planning Department has recommended approving the variance request with two (2) proposed recommendations and conditions and these are reviewed.

Questions from the Board

None

Applicant Report

Mike Martelli - 117 S. Mountain View

Here today to speak to the group to get a variance to split two entities. There is currently a property line that goes right through a structure. There are two different lots. He is not aware of any other properties down in that area that have these sort of entities combined with residential and commercial. He would just like to have the approval so he can move forward and do his remodeling of the former Mother Lode and will give this a nice curbside appearance and hopefully he can continue to add to the community.

Questions from the Board

Ms. Kostelecky is asking if they are still going to conduct business from the old Mother Lode building? He states that this will enhance his shipping, UPS, FedEx abilities. This has been there for nearly 30 years and they are continuing with those contracts and they will be offering other services and keep this a working business for the community.

PUBLIC HEARING

Proponents

Gary Warner - 804 East 6th Street

Mr. Warner stated that he owns property across the road from this area on Park Street. He feels this is a really good idea and he feels that this will enhance this as he is fixing it up and cleaning it up and it will look very nice. He is in full support of this and feels that this will be great for the community and that it only makes sense to make this a usable lot. He thinks this is a great idea and he supports Mr. Martelli's work ethic.

Ms. Hess did receive a phone call today from Theresa Nordholm. She owns 113 Washington Street. She stated that she has no objections in what Mr. Martelli does with his business.

Opponents

Ms. Hess received a call today from Melissa O'Dell of 816 East Park. She had questions and concerns about the setback standards, addressing, and access. She is quoted as saying, "there is no parking in the neighborhood with the existing businesses and she thinks that this plan would restrict parking for the house property."

Public Comment

None

Board Discussion

Mr. Boyer asked if the green home that is currently there, whether or not this was staying the same. Mr. Martelli stated that this is a 2-bedroom residential dwelling.

Ms. Kostelecky again asked what the concerns were from Ms. O'Dell, and Ms. Hess reiterated that she had concerns about parking in the neighborhood. Mr. Boyer understands this as saying that Ms. O'Dell has concerns that if something happens to the green home that the parking in front of the green home would be jeopardized. Ms. Kostelecky stated that this is a public street so, there was nothing to really do with this at this time.

Motion

Motion is made by Jerry Arneson to approve Variance 23-003 to allow relief from [Sec. 24-104](#) to relocate common boundaries of 822 East Park Ave and 116 Washington Street to create a residential lot smaller than the minimum lot size and for relief from structural setbacks. There are proposed conditions as recommended by the ADLC Planning Department; seconded by Jerry Arneson; Motion passes 4-0.

Old Business

None

New Business

None

Miscellaneous

Matters from the Staff

Mr. Hamming stated hat at this time, they have no new applications.

Matters from the Board

None

Public Comment

None

Next Meeting Date

TBD

Adjournment

Meeting was adjourned at 5:29 by Ms. Kostelecky

Respectfully submitted,
Carlye Hansen
Planning Department Secretary