



MINUTES

Board of Adjustment

Community Center, 3rd Floor Conference Room

4 p.m.

Thursday, March 31st, 2022, at 4 pm | Meeting called to order at 4:05 pm by Donna Kostelecky, Chairperson (

Attendance

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

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

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

At this time, Ms. Kostelecky wanted to introduce the newest members of the Board, Mr. Jerry Arneson, and Mr. Steve Boyer.

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

Approval of Minutes

October 7th, 2022

Motion was made by Bill Johnson to approve minutes from October 7th, 2021; seconded by Jerry Arneson. Motion passes 5-0.

Nomination and Vote for 2022 Chairperson

Motion was made by Bill Johnson to nominate Donna Koste~~lecky~~ as the 2022 Chairperson for the Board of Adjustment; seconded by Judy Baber. Motion passes 5-0.

Public Hearings

Motion was made by Bill Johnson to nominate Judy Barber as the 2022 Vice-Chairperson for the Board of Adjustment; seconded by Jerry Arneson. Motion passes 5-0.

Public Hearings

Variance 22-001 Steve Locati

PUBLIC HEARING on a request by Steve Locati for a variance to allow relief from the Pintler Vista lakeshore setback of roughly 75 feet with intentions to build approximately 50 feet from lakeshore. Property is within the Georgetown Lake Development District and is legally described as:

PINTLER VISTA PHASE 1, S07, T05 N, R13 W, Lot 4, ACRES 1.28, PLAT 299A

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 Steve Locati to get relief from the lakeshore setback (75') agreed upon when the subdivision was approved by Anaconda-Deer Lodge County (ADLC) in 1999. The applicant has stated the the requested setback be 50' and that the rest of the proposed construction will comply with all other standards.

Mr. Hamming stated that the applicant simply states that he wants to preserve a grove of pine trees on the property as well as grade as little of the property as possible and to maintain a safe buffer between the highway and their future residence.

Mr. Hamming did not receive any calls or inquiries regarding this hearing.

The Planning Department has recommended approval of the variance request and they do have three (3) proposed recommendations, and conditions, and these were gone over in detail.

Questions from the Board

Mr. Johnson asked what the setback is at the lake for other homes that are not part of the subdivision. Mr. Hamming stated that the Georgetown Lake Protection Zone is 20', so this is still 30' outside of that lakefront zone. This is one of the smaller lots in this subdivision. The orientation of the lot is between Hwy 1 and the lake, the lake has a 60' setback with a subdivision having a 75' setback from the high-water mark. This doesn't leave much room for any sort of construction or development.

Mr. Boyer asked about the septic situation. Mr. Hamming stated that this is a DEQ approved system and that Chad Lanes, Tri-County Environmental Health will be following this. Steve Locati, the applicant, states that they have an engineered system that has been designed and that has been submitted for review and they are waiting to hear back from the engineers on this. This was an approved system 23 years ago. The drain field is on the other side of Hwy 1 and there is an existing sleeve underneath the highway. The approved system is just needing to be redesigned a bit to today's standards and this will be a better performing system.

Applicant Report

Steve Locati, 1007 East Main, Bozeman, MT

Mr. Locati just wanted to state that he is an architect and that this will be a home for his family. His wife and himself are both native from Butte, both operate businesses in the Butte/Anaconda area, and they have been looking for a place to build on for years. They are very excited about this and to have been able to purchase lakefront property.

His approach to the design of the property is to minimize the impact to the site. He is stating that this variance will help to limit the amount of grading they will need to do and to allow the driveway to wrap around the pine trees and then must remove these trees to get the driveway through.

Mr. Locati did bring an aerial view of the property area and did present and discuss this with the members of the board.

Questions from the Board

Mr. Johnston asked if we will be enforcing subdivision covenants or rules at this time. Mr. Hamming discussed that this subdivision is unique on the base of the plat. It states that this was the ADLC Planning Department that agreed to this setback, so this was ADLC approved.

Mr. Boyer asked how far the nearest neighbor will be from Mr. Locati and he stated roughly 50 ft.

PUBLIC HEARING

Proponents

There was a letter from the adjoining neighbors, John and Keren Schutter, received and they are in full support of this project.

Opponents

None.

Public Comment

None

Board Discussion

At this time, there was a significant conversation had between the Board and the applicant. They were able to look over his plat and see what his plans for the driveway are and regarding the setback he is requesting.

Motion

Motion is made by Bill Johnson to approve the variance requested by Stephen Locati to get relief from the lakeshore setback (75') agreed upon when the subdivision was approved by Anaconda-Deer Lodge County (ADLC) in 1999, with the proposed conditions and recommendations set forth by the Planning Department Staff; seconded by Steve Boyer. Motion approved 5-0.

Variance 22-002 JT Ranches, LLC

PUBLIC HEARING on a request by Tim Hilmo on behalf of J T Ranches LLC for a variance to allow relief from [Sec.24-275\(3\)](#) of the Development Permit System which requires a minimum lot size of 2.5 acres in the Opportunity Development District. Applicant proposes to create a 2-acre lot separating an existing residence and garage from area used as a hay field. Property is legally described as:

OPPORTUNITY ORIGINAL TOWNSITE, S15, T04 N, R10 W, Lot 63, ACRES 10

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 Tim Hilmo, of JT Ranches, LLC, to get relief from [Sec.24-275\(3\)](#) which requires newly subdivided lots to be a minimum of 2.5 acres in the Opportunity Development District (ODD).

Mr. Hamming stated that the applicants intend to subdivide the property to sell the existing house and to irrigate and pasture the remaining 8-acres. The applicant has stated that they are willing to apply agricultural covenants to the proposed irrigated 8-acres if the subdivision and variance are approved.

Mr. Hamming only received one comment from Tri-County Sanitarian, Chad Lanes who stated, "I see no issue with this, there is an existing well and septic for the house and adequate room replacement of facilities. The remaining acreage will be exempt from sanitation review and the 2-acre parcel will also be exempt as it has existing prior approved facilities".

The Planning Department has recommended approval of the variance request and they do have three (3) proposed recommendations, and conditions, and these were gone over in detail.

Questions from the Board

There were no questions currently.

Applicant Report

Tim Hilmo, 207 S. Leslie, Anaconda, MT 59711

Mr. Hilmo is here today with his wife, Jolene. They own JT Ranches, LLC. This is a cattle and hay ranch in Opportunity, and they also have land in Granite County. They have owned this property for 10 years and it came with the house and acreage as it adjoined their existing hay fields, and they could run cows on this, and they could put up hay and expand on the number of cows on it. It came with the house, several outbuildings, a garage, and a renter. They have maintained this for about ten years now. They are just finding it hard to

maintain this place and they don't necessarily make any money off the rent, so they want to sell the 2-acres and get someone who can take care of this and appreciate it, and have a home in Opportunity, but they also want to keep the 8-acres for the haying and cattle operation. Therefore, they are willing to put the restrictions on the 8-acres. They don't want to see more homes or development in this area.

Questions from the Board

Mr. Johnson would like to ask why they are not doing 2.5 acres as the zoning requires, why just 2-acres? Mr. Hilmo states that there are two areas that are important to them and that this plan will grant them access off Hauser Street and they store all the hay in a staging area for the hay. Therefore, the canopy area is important to them. Mr. Johnson asked how large this area is and it was stated that this is possibly 1/4-acre. Mr. Johnson stated that when the zoning commission passed the rules, they received input from everyone, and the county acted on behalf of the people. He states that for the BOA to be granting variances without solid reason, it goes against what the people have decided. Mr. Hilmo stated that they tried to get this as close to 2.5 as they could without interrupting or compromising the ranching operation

Mr. Boyer asked about any infrastructure. Mr. Hilmo stated that they have fencing to keep in the cows and horses. There are no storage buildings or other buildings.

Ms. Kostelecky asked how they would access this property. Mr. Hilmo stated that they would access this through the field into the hay storage area and they can access this through Hauser Street at times when you cannot drive across the fields.

Mr. Boyer stated that if he understands this correctly, and if this is approved, then there would be an agricultural convenience that will go with this land. The only way a building could go up on this property would be if this was nonresidential and agricultural only.

Jolene Meshnick, 207 S. Leslie, Anaconda

She stated that accessing the property off Hauser is their only access for heavy equipment as the field above is irrigated and there is no access for heavy equipment and there is a weight limitation there, as well.

At this point, there was a significant conversation had between the Board and the applicants. They were able to look the s projected plans and see what the plans are for this area regarding them haying a cow operation, as well as access to the property.

PUBLIC HEARING

Proponents

Rick Hamilton, 109 S. Hauser

Mr. Hamilton lives kitty-corner across Hauser from the property in question. He states that the proposal they are suggesting will not change anything and that this is the way this property has been used forever. What they are proposing has been done before with the Silzly property when she wanted to sell off some of her property when her husband passed away. The Solan family has also done this. This has been allowed and he doesn't see why this cannot be continued and he feels that the DPS really hasn't been used to its advantage in Opportunity and he feels that it would be detrimental to Mr. Hilmo and Ms. Meshnick if this variance is not granted and allowed.

Opponents

None

Public Comment

None

Board Discussion

Mr. Arneson realizes that there is a lot of past practice and they have tried to get as close to the 2.5 acres as possible and he feels they have a good reason to notch this out as they have.

Motion

Motion is made by Judy Barber to approve the variance requested by Tim Hilmo to get relief from [Sec.24-275\(3\)](#), which requires newly subdivided lots to be a minimum of 2.5-acres in the Opportunity Development District (ODD), with the proposed conditions and recommendations set forth by the Planning Department staff; seconded by Jerry Arneson. Motion approved 5-0.

Variance 22-003 Sandy Palakovich on behalf of her parents, Lois and Allyn Harris

PUBLIC HEARING on a request by Sandy Palakovich on behalf of Lois & Allyn Harris to allow relief from [Sec. 24-255\(5\)](#) minimum lot size of 5-acres in the Spring Hill Development District. Applicant proposes to re-align boundaries yielding a 4.03-acre and a 3.52-acre lot. Property is legally described as:

S22, T05 N, R12 W, ACRES 10.06, G.LOTS 27, 28 & 44

Staff Report

Gayla Hess, Planner II, reviewed and presented the staff report put together by she and her office. All content can be located on the ADLC website. Ms. Hess reviewed the nature of the request by Sandra Palakovich to get relief from [Sec. 24-255\(5\)](#) which is a minimum lot size of 5-acres in the Spring Hill Development District. Applicant proposes to realign boundaries yielding a 4.03-acre and a 3.52-acre lot.

Ms. Hess did not receive any calls or inquiries regarding this hearing.

The Planning Department has recommended approval of the variance request and they do have two (2) proposed recommendations, and conditions, and these were gone over in detail.

Questions from the Board

Mr. Johnson wants to verify that both lots will be increased in size. He doesn't understand this. #28 is just slightly above 5 acres, so actually this will be a decrease and #27 will be increased.

Applicant Report

Sandy Palakovich, 483 Valley High Drive, Bozeman, MT

Dale Harris, 513 Olson Gulch Road

Ms. Palakovich states that the property belongs to her parents, and they bought all three lots in question at different times. The original lot is where their home is and then they purchased the other two. They are in the process of trying to sell some of the property as her mom is ill and they are trying to keep her home but want her to have someplace where she can be comfortable and want to sell at least one or two of these pieces to cover future healthcare costs. They do agree that the easement for the drain field is important and that is something they are trying to do as well.

Mr. Harris is Ms. Palakovich's brother. The lots that were sold during this time frame back when his folks purchased property have set a bit of a precedent as these lots have been subdivided and made smaller across the road.

Questions from the Board

At this point in the meeting, there were multiple folks in attendance, as well as multiple questions and comments. Being in a new venue for the meeting this afternoon made it very difficult to present and folks were coming up to the table to look at the plans in question and there ended up being quite a bit of side conversation that we were not able to capture. This all led to significant conversation regarding all aspects of the property, including drain field, septic, wells, easements, access, setbacks, buildable area, etc.

PUBLIC HEARING

Proponents

Aprill Barber, 640 Olson Gulch Road

Ms. Barber is walking the line of both pro and opposing, only because her home is right on the border of their property and she is worried that if someone builds, it will end up being 10 ft away from her garage. Mr. Harris stated that he didn't feel that would be a problem as the location that she is talking about has no room for a septic system. The setbacks for these lots would be based on the approach and how they would want to place a future residence. There are the issues with the drain field and there are well isolation zones that would also determine where a home could be built. Mr. Johnson again asked what setbacks are for the Spring Hill Development District and the front lot line setback is 35' and the side and rear setbacks are 10'.

Ed Jones, 177 Coyote Drive

Mr. Jones' property states that there is only a corner of their property that touches the property being discussed. He is pro for folks being able to subdivide a bit with there being a right situation. He is concerned about the same thing that Ms. Barber is concerned about and part of the reason he is here is for the same questions that she has asked. As a neighbor, he is friendly with all the Harris', but is just really interested in whether the spot in question is truly buildable. This is the only concern that he has. He states that this is a very steep embankment and a prime spot to build would be on top, in which there is no access to, so the next best space would be in the bottom and his question is just whether Dale has investigated placement of a septic, well, and everything based on the proximity of the house and the existing septic.

Opponents

None

Public Comment

None.

Board Discussion

Again, much conversation was had on this between the applicants, the board, and folks in attendance.

Motion

Motion is made by Bill Johnson to approve the variance requested by Sandy Palakovich to get relief from [Sec. 24-255\(5\)](#), which requires a minimum lot size of 5-acres in the Spring Hill Development District, with the proposed conditions and recommendations set forth by the Planning Department staff; seconded by Jerry Arneson. Motion approved 5-0.

Variance 22-005 QRS Signs on behalf of Trish Handy

PUBLIC HEARING on a request by QRS Signs on behalf of Trish Handy to allow relief from [Sec.8-186\(b\)](#) of the county code of ordinances which limits two signs per property. The applicant proposes to install 4 signs to advertise a business within the Highway Commercial Development District. Property is legally described as:

S02, T04 N, R11 W, ACRES 0.41, TRIANG TK IN S2

Staff Report

Gayla Hess, Planner II, reviewed and presented the staff report put together by she and her office. All content can be located on the ADLC website. Ms. Hess reviewed the nature of the request by QRS Signs to get be granted relief from [Sec.8-186 \(b\)](#) which limits the number of signs per property to two. The applicants propose to install three signs to advertise a business within the Highway Commercial Development District (HCDD)

Ms. Hess did receive several comments on this variance request.

The first was from Commissioner Kevin Hart stating that these looked very professional and would not interfere with oncoming traffic. Commissioner Hart also continued by saying that this blended well with the current businesses, and he would be in favor of the request.

We did have a negative comment from Mark Syverson, who suggested to keep the two-sign rule in place. She did receive a phone call from a neighboring property owner, Mr. Gary Warner, and he is in favor of the third sign and that this would make sense and that the business would need to advertise. The Planning Department has recommended approval of the variance request and they do have three (3) proposed recommendations, and conditions, and these were gone over in detail.

Questions from the Board

None

Applicant Report

Bob Smiley, QRS Signs, behalf of Tricia Handy

Mr. Smiley states that given the uniqueness of the property being sandwiched between Park and Commercial, and the small side street, they are just requesting to have that sign on the east elevation so that the traffic coming into town on Hwy 1 would be able to see the business before they passed it as the two signs would be parallel with Commercial and Park Street.

Questions from the Board

Mr. Arneson asked if the sign in question would be like the one in the photo. Mr. Smiley stated that it will be a 4' round sign that would be closer to Commercial than Park.

Mr. Johnson asked if the county had any guidelines for the Board as far as signs and Mr. Hamming stated that this would still be up to the Board's discretion. With the new sign ordinance, there was no criteria for the Board of Adjustment to evaluate a situation such as this.

Ms. Kostelecky stated that because they are in between two major properties and at the end of town, that they three signs do make sense, and this was also agreed upon by Mr. Arneson.

Public Hearing

Proponents

None

Opponents

None

Public Comment

None

Board Discussion

None

Motion

Motion is made by Jerry Arneson to approve the variance requested by QRS Signs to get relief from [Sec.8-186\(b\)](#) which limits the number of signs per property to two with the proposed conditions and recommendations set forth by the Planning Department staff; seconded by Bill Johnson Motion approved 5-0.

New Business

Ms. Kostelecky and Mr. Hamming just wanted to let the Board know that after the last meeting, in which Mr. and Mrs. Wargo were denied their variance, it was discussed with Ben Krakowka, County Attorney, and he determined that with the lack of members, and the majority rule, that Mr. and Mrs. Wargo's variance should have been approved. Mr. and Mrs. Wargo were notified of this.

Miscellaneous

Matters from the Staff

Mr. Hamming just wanted to give a huge thanks to the Board for their continued time and commitment to the Board and wanted to welcome both new members to the Board

Mr. Hamming also wanted to discuss that they received another variance application four days after notice was put out for this afternoon's meeting and he is hoping that we can schedule another meeting on April 28th, 2022, to hear this variance. Everyone agreed that this could take place. Mr. Johnson will be unavailable for this meeting.

Matters from the Board

None

Public Comment

None

Next Meeting

Thursday, April 28th, 2022

Adjournment

Motion was made to adjourn by Judy Barber; seconded by Jerry Arneson. Motion approved 5-0.

Final Minutes Approved

Thursday, 03/31/2022

Respectfully Submitted,

Carlye Hansen

ADLC Planning Department Secretary

Attachment: Guest Sign-In List

Board of Adjustment
 Anaconda-Deer Lodge County
 March 31st, 2022
 Hearst Free Library, Second Floor
 4 p.m.
 Sign-In Sheet

Are you an attorney or legal representative?

Name Robert Smiley

Address Box 978 Boulder, MT

E-Mail Address bob5@gresisns.com

Yes No

Name Sandy Palakovich

Address 483 Valley High Dr Bozeman MT 59718

E-Mail Address spalakovich@gmail.com

Yes No

Name Kim Jones

Address 177 Coyste Dr

E-Mail Address _____

Yes No

Name April Barber

Address 440 Olson Guick Rd

E-Mail Address _____

Yes No

Name ED JONES

Address 177 Astor Dr

E-Mail Address BIGHOVCTG@AIM.COM

Yes No

Name Steve Locati

Address 1007 E. MAIN BOZEMAN

E-Mail Address STEVE@LOCATIARCHITECTS.COM

Yes No

Name STH. DEANEY

Address ON FILE

E-Mail Address _____

Yes No

Name Dale Harris

Address 513 Olson Guick Rd

E-Mail Address DHarris_Gasthudson@gmail.com

Yes No

Name Bob Hamilton

Address 109 S. Housick

E-Mail Address whiskeyniter@hotmail.com Yes No

Name John Meadell

Address Opportunity

E-Mail Address Yes No

Name Tom Hillme

Address OPPerlandy

E-Mail Address Tom.Hillme@RRP.com Yes No

Name _____

Address _____

E-Mail Address Yes No

Name _____

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