Anaconda-Deer Lodge County
Planning Department

Board of Adjustment Minutes

Thursday, July 30th, 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 4:02 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.

Anaconda-Deer Lodge County
Planning Department

Public Hearings

Variance 19-005

Request Jerry Lemm, for an extension to a denied 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 properly is legally described as "NORTH CABLE ROAD, S33, TO5N, 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 a denied 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

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

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

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 building 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

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.

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 motion. 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 Mt. 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.

MOTION

Motion was made by Donna Kostelecky to approve a request Jerry Lemm, for an extension to a denied 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.

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.

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 the 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 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.

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.

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.

Anaconda-Deer Lodge County
Planning Department

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

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.

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

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

Approved 10/01/2020