



# Yellowstone County Board of Adjustment

## Minutes

December 11, 2014

The County Board of Adjustment met on Thursday, December 11, 2014 in the 1<sup>st</sup> Floor Conference Room, of the Miller Building located at 2925 3<sup>rd</sup> Avenue North. Chairperson Hecker called the meeting to order at 4:00 p.m.

Name	Title	01/10/13	02/14/13	03/14/13	04/11/13	05/09/13	06/13/13	07/11/13	08/08/13	03/13/2014	04/10/2014	05/08/2014	07/10/2014	12/11/2014
<b>Bruce Reiersen</b>	Board member	-							-	-	-	-	-	1
<b>Brenda Robison</b>	Board member	1							1	E	-	R	-	-
<b>Carlotta Hecker</b>	Chairperson	1							1	1	-	1	1	1
<b>Delores Terpstra</b>	Vice Chairperson	1							1	1	-	1	1	1
<b>Robert Bailey</b>	Board member	-							-	-	-	1	1	E

**Chairperson Hecker** introduced the County Zoning Commission members and staff in attendance: Nicole Cromwell, Zoning Coordinator; Dave Green, Planner; Tammy Deines, Planning Clerk.

**Attending:** Randy L. Lowe, Troy Boucher

### Public Comments

Chairperson Hecker opened the public comment portion of the meeting and asked if anyone wished to speak on an item not on today's agenda. There was none. Chairperson Hecker closed the public comment portion of the meeting.

### Approval of Minutes: July 10, 2014

### Motion

**Delores Terpstra made a motion and it was seconded by Bruce Reiersen to approve the July 10, 2014 minutes as submitted. The minutes of July 10, 2014 were approved as presented with a unanimous voice vote.**

### PUBLIC HEARINGS:

Chairperson Hecker asked Dave Green to give the determinations for granting a variance and review the rules for the procedure by for conducting public hearings. Mr. Green read the legal description and reviewed the staff report with a PowerPoint presentation for the audience. Staff received a letter dated December 8, 2014 from "A concerned neighbor".

**Item #1 County Variance #270 – 1336 Cimarron Pass – Detached Shop > 1,500 square feet** – A variance from 27-310(j) requiring a maximum 1,500 square feet for a detached accessory structure to allow a maximum of 2,100 square feet for an existing detached shop in a Residential 15,000 (R-150) zone on Tract 1B1 of C/S 1764, a 1.47 acre parcel of land. Tax ID: D05020A.

## **REQUEST**

This is a variance from 27-310(j) requiring a maximum accessory building size of 1,500 square feet to allow a maximum accessory building size of 2,100 square feet in a Residential 15,000 (R-150) zone. This variance request resulted from a County Code Enforcement complaint after the building was mostly constructed on the property. Tract 1B1 of C/S 1764, a 1.47 acre parcel of land, Tax ID: D05020A, Randy Lowe and Shawne Medeiros owners. The Planning Division is forwarding a recommendation of conditional approval.

Staff is recommending conditions of approval as follows:

1. The variance is to increase the allowed square footage for a detached accessory building from 1,500 square feet to 2,100 square feet. No other variance is intended or implied by this approval.
2. The variance is limited to Tract 1B1 of C/S 1764, generally located at 1336 Cimarron Pass.
3. The use of the existing accessory building will be limited to the personal use of the residents of the property.
4. These conditions of variance approval shall run with the land described in this authorization and shall apply to all current and subsequent owners, operators, managers, lease holders, heirs and assigns.

## **Discussion**

Chairperson Hecker asked the Board for questions and discussion. Board member Hecker said she visited the site and voiced concern that the building is larger than any other detached building in the area. She asked if the building could be altered to meet the code if the variance is not approved and Dave Green explained the owners would have to remove 600 feet of the building at their expense. Board member Hecker said the applicant claims to have contacted the Building Division and was told they did not need a building permit. Planner Dave Green said he is unable to verify this one way or the other. He clarified and stated the City would not have required a building permit but a zoning compliance permit is required within zoned parcels in the County. He commented the State is responsible for electrical and plumbing inspections but may not have required a permit in this instance.

Applicant Randy Lowe said she purchased the property in 1998, and they were told there were no covenants or zoning on the property. She said they lost their building to a microburst. She contacted the City to inquire about permit requirements. The staff told her to obtain an electrical permit from the state but a building permit was not needed. Ms. Lowe said Code Enforcement officer notified them of the infraction after the building was constructed. She said they had to do something as they needed storage space for their hay and equipment.

Board member Reiersen asked if there is a past history of these type of variances. Dave Green said it is not an unusual occurrence to have someone construct a building and find out later a permit is

needed. Board member Reiersen asked how many times applicants in this situation have had to remove the building. Nicole Cromwell replied she is not aware of any instances during her tenure at the City. Board member Reiersen commented it seems the landowner is caught in a difficult situation. He said from the photos presented it looks as if they have constructed a nice looking building.

Board member Hecker said there was a similar occurrence a year ago wherein the applicant was misinformed. Nicole Cromwell said the Building Division gave them accurate information as far as their regulations but failed to refer the applicant to the Planning Division for zoning information and a zoning compliance permit. She said staff may have reinforce this information with the clerks. Chairperson Hecker concurred and stated this issue should be brought to the Building Division's attention in order to avoid these types of situations in the future.

### **Public Hearing**

Chairperson Hecker opened the Public Hearing and asked if anyone would like to speak in favor or against Yellowstone County Variance #270.

### **Randy Lowe, 1336 Cimmaron, Billings, Montana**

Ms. Lowe said the damage from the microburst was the determining factor in their need for a new structure and they contracted with Cleary Building Corporation as they have built seven buildings in this area. She said she thought they were safe as there no Covenants and Restrictions on this property. Ms. Lowe stated they wanted to clean up the property, accommodate the neighbors, and protect the aesthetics of the neighborhood.

### **Troy Boucher, 3149 Conestoga Way, Billings, Montana**

Mr. Boucher is a neighboring property owner. He stated he is sympathetic with this situation as there is some confusion with the zoning requirements in this surrounding "donut area". He suggested staff revisit some of the regulations for lot coverage as the square footage calculations can be confusing. Mr. Boucher asked the Board to approve this variance request.

Chairperson Hecker asked if anyone else would like to speak in favor or against Yellowstone County Variance #270. There was none. Chairperson Hecker called for a motion.

### **Motion**

**Robert Bailey made a motion and Delores Terpstra seconded the motion to approve Yellowstone County Variance #270 with the conditions recommended by staff.**

**The motion carried with a unanimous voice vote.**

### **Other Business**

Elections for the 2015 officers will be held at the next scheduled meeting. There is one opening for a board member on this County Board of Adjustment to be filled.

**Adjournment:**

**The meeting was adjourned at 4:20 p.m.**

**ATTEST:**

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**Carlotta Hecker, Chairperson, Yellowstone County Board of Adjustment**

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**Tammy Deines, Planning Clerk**