



Yellowstone County Board of Adjustment

Minutes

April 9, 2015

The County Board of Adjustment met on Thursday, April 9, 2015 in the 1st Floor Conference Room, of the Miller Building located at 2925 3rd Avenue North. Vice Chairperson Bailey called the meeting to order at 4:00 p.m.

Name	Title	02/12/2015	04/09/2015										
Bruce Reiersen	Board member	E	1										
Carlotta Hecker	Chairperson	1	E										
Dolores Terpstra	Board member	1	1										
Robert Bailey	Vice Chairperson	1	1										
Blaine Poppler	Boardmember	-	1										

Vice Chairperson Bailey introduced the County Zoning Commission members and staff in attendance: Nicole Cromwell, Zoning Coordinator; Dave Green, Planner I.

Attending: Nicole Cromwell and Dave Green

Public Comments

Vice Chairperson Bailey 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. Vice Chairperson Bailey closed the public comment portion of the meeting.

Approval of Minutes: February 12, 2015

Motion

Board member Terpstra made a motion and it was seconded by **Board member Reiersen** to approve the February 12, 2015 minutes. The motion carried with a unanimous voice vote.

Disclosure of any Conflict of Interest-Members of the Commission and Staff

There was none.

Disclosure of an Outside (Ex Parte Communication)-Members of the Commission and Staff

There was none.

PUBLIC HEARINGS:

Vice Chairperson Bailey read the determinations for granting a variance and Zoning Coordinator Nicole Cromwell reviewed the rules for the procedure by for conducting public hearings. Nicole Cromwell read the legal description for the first item and Dave Green reviewed the staff report with a PowerPoint presentation for the audience.

Item 1. Variance 273 –1810 and 1824 Lenhardt Lane, Lot area - A variance from 27-308 requiring a minimum lot area of 10 acres to allow a lot area of 8.365 acres and 3.29 acres in an Agriculture-Open Space (A-1) zone on Tract 3A and Tract 3B of C/S 2085, a 5.829 acre and 5.828 acre parcels of land respectively. Tax IDs: D04723J and D04723B

REQUEST

The Planning Division is forwarding a recommendation of Conditional Approval.

REASONS

This is a request for a variance from Section 27-308 requiring a minimum lot area of 10 acres to allow a lot area of 8.365 acres and 3.29 acres in an Agriculture-Open Space (A-1) zone on Tract 3A and Tract 3B of C/S 2085, a 5.829 acre and 5.828 acre parcels of land respectively.

This tract of land was granted a variance in 1988. Variance 117 was to divide the original Tract 3 into two tracts equal in size. County records show that in 1988 the house was built on Tract 3A and the house on Tract 3B was constructed in 1985. In the passing years other buildings have been built on Tract 3B. One of those building has been built over the property line. This brings up an issue that needs to be corrected with a lot line relocation. When a structure is built over a property line it effectively causes the lots to become one, you cannot sell either lot separately. The two lots share a building in common so they are no longer separate lots.

Certificate of Survey 2085 was created on the 17th of June 1981 originally creating 8 tracts of land ranging in size from just over 10 acres up to just over 11 acres. Tract 1 is now Cornerstone Subdivision with a church and school on it. Tract 6 is now Carls Subdivision with 3 lots and has residential/residential professional uses on it. This leaves Tracts 2, 3, 4, 5, 7 and 8 in the original Certificate of Survey 2085. Of those remaining 6 tracts of land only Tract 4 is still in original configuration. Tracts 2, 3, 5, 7 and 8 have all been divided one more time. Variance 117 allowed the division of Tract 3 into two equal parcels. Variance 182 allowed the division of Tract 7 into 2 parcels sized 9.917 acres and 1 acre. Variance 246 allowed the division of Tract 8 into 2 parcels sized 1.002 and 9.19 acres. These parcels of land are all in Agriculture Open zoning which requires 10 acre minimum lot size. Tracts 2 and 5 are zoned Agriculture Suburban and are required to have 1 acre minimum lot size. Tracts 2 and 5 are currently split into 5 or 6 acre parcels. Parcels 3A, 3B, 7A, 7B, 8A1 and 8A2 Certificate of Survey 2085 have all obtained variances in the past for smaller lots than what is required by zoning.

The owner, according to the letter submitted, wishes to relocate the common lot line between 3A and 3B to clean up some problems with buildings over lot lines and make it so in the future there is no problems with who owns what. This will also allow the sale of the lots separately.

Staff feels that because three of the four lots in the A-1 zoning have had a variance to create smaller lots than allowed by the underlying zoning and since two of those lots are 1 acre lots the proposed lot sizes for 3A and 3B will fit into the neighborhood. Lot 3B is proposed to be 3.89 acres which is almost 4 times larger than lots 7A and 8A1 in the same Certificate of Survey 2085.

Discussion

Vice Chairperson Bailey asked the Board for questions and discussion. In response to a question by Board member Poppler, Dave Green stated Lot 7 was not a mortgage exemption all the others were through variances. Variances on Lots 7, 8 and 3. Board member Reiersen asked whether the building was built over the property line after the variance and Dave Green replied it was. Board member Poppler stated the County does not enforce covenants. Dave Green explained that the neighbors enforce the Covenants and Restrictions and that is strictly a subdivision issue within the neighborhood.

Public Hearing

Vice Chairperson Bailey opened the Public Hearing and asked if anyone would like to speak in favor or against the variance.

Mark Lenhardt, 1810 Lenhardt Lane, applicant

Mr. Lenhardt stated he is not sure how the building was built over the property line. His mother lives on the adjacent lot. He said they need to clean up the lot lines so they have a clear title and also need to clean up the irrigation for his lot. Mr. Lenhardt stated the neighbors are all in favor of the application. Board member Poppler asked why Mr. Lenhardt decided to request a variance instead of changing the zoning. Agent Marshall Phil explained there is already a variance in place so the zone change was not really necessary but the previous variance condition will need to be changed. He stated the property history pushed them toward the variance application instead.

There was no other testimony.

Motion

Board member Terpstra made a motion and Board member Reiersen seconded the motion to conditionally approve Yellowstone County Variance #273 and adopt the findings of the 7 criteria. The conditions are as follows:

1. A variance from 27-308 requiring a minimum lot area of 10 acres to allow a lot area of 8.365 acres and 3.29 acres in an Agriculture-Open Space (A-1) zone on Tract 3A and Tract 3B of C/S 2085, a 5.829 acre and 5.828 acre parcels of land respectively.
2. The variance is limited to Tract 3A and Tract 3B of C/S 2085, generally located at 1810 and 1824 Lenhardt Lane.
3. The applicant will go through the process of re-locating the common lot line within one year of the board of adjustment approval.
4. Failure to begin or complete actions by the time specified will void the variance granted.
5. 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

There was no further discussion.

The motion carried with a unanimous voice vote.

Nicole Cromwell read the legal description for the second item and Dave Green reviewed the staff report with a PowerPoint presentation for the audience.

Item #2 Variance 274 –1839 S. 56th St West – South Greensleeves Estates Cluster Subdivision, Blanket Variance Lot Area - A variance from 27-308 requiring a minimum lot area of 1 acre for each new lot to allow a minimum lot area of 27,116 square feet (.622 acre) up to 54,325 square feet (1.24 acres) for 25 new residential lots in a new cluster subdivision in an Agriculture Suburban (A-S) zone, on Tracts, 1-4 of C/S 3191, a 37.1986 acre parcel of land. Tax IDs: D00758, D00759, D00760 & D00761

REQUEST

The Planning Division is forwarding a recommendation of Conditional Approval.

REASONS

This is a request for a variance from Section 27-308 requiring a minimum lot area of 1 acre for each new lot to allow a minimum lot area of 27,116 square feet (.662 acre) up to 54,325 square feet (1.24 acres) for 25 new residential lots in a new cluster subdivision in an Agriculture Suburban (A-S) zone, on Tracts, 1-4 of C/S 3191, a 37.1986 acre parcel of land. This property is generally located on South 56th Street West south of Hesper road about 1/3 mile.

This variance is unique in that it is required by Yellowstone County Subdivision Regulations (YCSR). This proposed subdivision is the first use of what is termed a ‘Cluster Development’. Below is from the YCSR regulations about Cluster Development.

Canyon Creek is the north border of these parcels of land. The more easterly parts of the parcels are in the 100 year floodplain of Canyon Creek. Lands that are in the 100 year flood plain are not allowed to be developed. With the cluster development option developers are encouraged to develop using clustered/smaller lots than what is allowed by zoning in exchange for setting aside the area that is not developable. To determine how many lots are allowed the developer can use the entire acreage, then they can make the total number of lots smaller to preserve a minimum of 30% open space. This development could have a total of 37 lots, they are developing 25. This leaves approximately 17.5 acres open. There are three ‘common lots’ two have community septic systems in them the third one is the Open Space. There are approximately 15 acres along Canyon Creek that will be left as open space. The applicant, when they do a final plat, is required to provide a ‘Legal Instrument for Permanent Protection of Open Space’ Section 7.8 A YCSR. This ensures the open space cannot be developed in the future. In this open space the developer has built a trail system for the use of those in the neighborhood and a public trail along Canyon Creek.

This subdivision has gone through a public hearing with the Yellowstone County Planning Board where it a recommendation of approval was forwarded to the Board of County Commissioners with a unanimous vote. The Yellowstone County Planning Board felt it was a very well designed subdivision because of the open space they were going to be providing with trails and for the smaller lots but higher end homes. The Board of County Commissioners also preliminarily approved the subdivision with a unanimous vote with the same enthusiasm as the Yellowstone County Planning Board.

This subdivision was preliminarily approved by the Yellowstone County Commissioners on July 8, 2014. Since that time the applicant has put in all the required infrastructure for the subdivision which

also includes a 30,000 gallon tank for fire suppression. This tank will also be a benefit to the surrounding neighbors should there be a fire and the fire department needs water.

Staff, at the time of the writing of this staff report, has not received any comments from surrounding neighbors.

Discussion

Vice Chairperson Bailey asked the Board for questions and discussion. In response to a question by Board member Terpstra, Dave Green stated this property will be served by individual wells. Board Member Poppler asked about the community septic system. Mr. Green stated all the homes will be connected by a low pressure sewer system. Board member Poppler asked if DEQ has already approved the system. Mr. Green stated the DEQ has approved the system and a traffic study will be completed. Mr. Green stated the Fire Department has signed off on fire suppression. Mr. Green stated the owner is moving forward to final plat. In response to a question from Board member Terpstra, Bryan Alexander of Sanderson Stewart stated there will dryland native grass and the existing trees will remain in native state to support the riparian habitat in the open space. Mr. Alexander state the common open space area is for everyone. In response to ta question from Board member Reieron, Mr. Green stated cluster subdivision are beneficial since re-zoning would still allow development in flood plain but leave “waste” areas. Mr. Reieron stated this is his first experience with a cluster subdivision. Board member Poppler asked why not a re-zoning to R-150 instead of a variance. Mr. Green stated a zone change would require 2 public hearings and a BOCC decision. Cluster development allows the option to get a variance instead of the zone change. Poppler stated the cluster subdivision was good for this site. No BOCC hearing just the BOA. Mr. Green stated the subdivision will also have covenants and restrictions.

Public Hearing

Vice Chairperson Bailey opened the Public Hearing and asked if anyone would like to speak in favor or against Yellowstone County Variance #274.

Bryan Alexander of Sanderson Stewart, agent for the applicant

Mr. Alexander stated the cluster subdivision would make the best use of the land because of the flood plain. He stated the owner cannot put any wells or drain fields in the flood plain. He stated the owner decided a cluster subdivision would benefit the property. Mr. Alexander state the cluster Subdivision and variance is less time consuming and cumbersome than a zone change. He stated the main objective is to allow the cluster subdivision to move to final plat. Canyon Creek flood plain challenged traditional subdivision with 1 acre lots appropriate for this site. He state the owner wanted all of the home sites out of the flood plain.

Vice Chairperson Bailey asked if anyone else would like to speak in favor or against Yellowstone County Variance #274. There was none. Chairperson Bailey called for a motion.

Motion

Board member Terpstra made a motion and Board member Poppler seconded the motion to conditionally approve Yellowstone County Variance #274 and adopt the findings of the 7 criteria. The conditions of approval are as follows:

1. A variance from 27-308 requiring a minimum lot area of 1 acre for each new lot to allow a minimum lot area of 27,116 square feet (.662 acre) up to 54,325 square feet (1.24 acres) for 25 new residential lots in a new cluster subdivision in an Agriculture Suburban (A-S) zone. No other variance is intended or implied by this approval.

2. The variance is limited to Tracts, 1-4 of C/S 3191, a 37.1986 acre parcel of land, generally located at 1839 South 56th Street West.
3. Lot sizes in the subdivision will stay within the proposed minimum lot area of 27,116 square feet (.662 acre) up to 54,325 square feet (1.24 acres).
4. There is not time frame for completion because this is a subdivision and completion will be dictated by market.
5. No construction will take place before 7 am or after 8 pm.
6. 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

The motion carried with a unanimous voice vote.

Other Business

- A. Due to a lack of agenda items, the May 14, 2015 Yellowstone County Board of Adjustment meeting is cancelled.

Adjournment:

The meeting adjourned at 4:35 p.m.

ATTEST:

Vice Chairperson Bailey, Chairperson, Yellowstone County Board of Adjustment

Nicole Cromwell, Zoning Coordinator (Clerk pro tem)