



Yellowstone County Board of Adjustment

Minutes

May 12, 2016

The County Board of Adjustment met on Thursday, May 12, 2016 in the 1st Floor Conference Room, of the Miller Building located at 2925 3rd Avenue North. Vice Chairman Bailey called the meeting to order at 4:00 p.m.

Name	Title	01/14/2016	02/11/2016	05/12/2016	06/09/2016									
Bruce Reiersen	Board member	E	-	1										
Blaine Poppler	Board member	1	-	E*										
Carlotta Hecker	Chairperson	1	-	E*										
Delores Terpstra Miner	Vice Chairperson	1	-	1										
Robert Bailey	Board member	E	-	1										

Vice Chairman Bailey introduced the County Zoning Commission members and staff in attendance: Wyeth Friday, Planning Division Manager; Nicole Cromwell, Zoning Coordinator; Tammy Deines, Planning Clerk.

Attending: John R. Miner, Richard Sauter

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

Approval of Minutes: January 15, 2016

Motion

Board member Miner moved and Board member Reiersen seconded to approve the January 15, 2016 meeting minutes as submitted. The motion carried with a unanimous voice vote.

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Disclosure of Conflict of Interest: *Board members Poppler and Hecker are not in attendance today due to conflicts of interest with Yellowstone County Variance #281. 3

Disclosure of Exparte Communication: Planning Division Manager Wyeth Friday noted staff received a letter dated May 11, 2016 from Citizen James E. Logan regarding Yellowstone County Variance #281 and a letter from Citizen Carol Kraft dated February 29, 2016 which was included in the packets. Staff also received an e-mail from Bretz RV Council Brad Farnsworth requesting delay of the hearing for County Variance #281 as he is unable to attend today’s meeting. Zoning Coordinator Nicole Cromwell explained that this Board can decide to approve or deny the request for delay if it finds the applicant has presented “good and sufficient reason.”

Motion

Board member Miner made a motion and Board member Bailey seconded the motion to deny the request for delay and continue will the hearing for Yellowstone County Variance #281.

Discussion

Board member Miner stated the applicant in their request presented no sufficient reason. Board member Bailey concurred, noted the Bylaws, and said that he does not find sufficient reasoning behind the Council's request as to why he cannot appear at this time. Board member Reiersen stated Bretz RV is a major employer and it would be unfortunate to deny the request for delay if the applicant does have a legitimate reason. He said he would like to look for a reason for all parties to be present.

The motion carried, 2-1, with Board member Reiersen voting against the motion. The request to postpone the hearing for Yellowstone County Variance #281 is denied.

PUBLIC HEARINGS: Nicole Cromwell read the procedures for holding a public hearing. Vice Chairman Bailey called for the staff presentation by Wyeth Friday. Wyeth Friday explained this hearing was originally scheduled for the March 2016 BOA meeting but it was delayed due to a lack of a quorum of Board members. The Board was unable to convene in April, and the applicant's representative is unable to attend this meeting. He submitted to the Board the Mr. Farnsworth is able to participate via conference call and the Board may decide to continue the public hearing until the June 9, 2016 meeting to obtain further information. Wyeth Friday continued and gave the presentation below for Yellowstone County Variance #281.

Item #1 Variance #281 – 2999 Old Hardin Road – Entryway Landscaping for Bretz RV – A variance from Section 27-1006 requiring a bermed and landscaped buffer yard along the interstate frontage (1,780 linear feet of frontage) and along the Old Hardin Road frontage (360 lineal feet) requiring a minimum of 5 canopy trees and 10 shrubs per 100 lineal feet and no more than 10% of the area as non-living material; from Section 27-1006 requiring a minimum of 20 square feet of landscaping per parking space, 2 evergreen or canopy trees and five shrubs for each 9 parking spaces, and requiring landscaping islands dispersed throughout the parking lot with raised curb protection; and Section 27-1007 requiring buildings with facades facing the interstate or local street to provide a façade relief every 100 feet to allow a total of 60 trees (131 required), 60 shrubs (267 required); allow up to 50% of the landscaped areas to be non-living material; eliminate all landscaping islands in the parking lot and eliminate the façade relief requirement for the building facades facing the interstate and the local street. Tax ID: D06438A; C04279; C04713; C04714; C04715; C04716

RECOMMENDATION

The Planning Division is recommending denial of Yellowstone County Variance #281.

REASONS

Bretz RV in this variance submittal is asking to significantly reduce the required numbers of trees and shrubs for the property because it states that the requirements "are inappropriate when considering the intended use of the property as a recreational vehicle and boat dealership." However, many commercial businesses have been built in the Entryway Zoning District in the County and City, and have followed the regulations. In addition, the same use has been developed in the Entryway Zoning District and met the landscaping requirements for Pierce RV Supercenter at 3800 Pierce Parkway at the Zoo Drive interchange. The Pierce RV Supercenter is located in an Entryway Light Industrial Zoning District, is adjacent to the I-90 corridor, and was subject to the same requirements as Bretz RV.

Discussion

Vice Chairman Bailey called for questions and discussion from the members of the Board. Board member Miner asked if the applicant knew the landscaping requirements during the approval of the first review. Wyeth Friday said Staff worked with the applicant extensively through a Zoning Compliance Permit, a Building Review, and with the State to achieve a compliant plan. Staff discussed the requirements with the applicant at that time.

Board member Reiersen said he wanted to query the applicant as to why they agreed to the landscape requirements, as it appears they only did so in order to get the project moving forward. He asked if there is merit to their alternate proposal? Wyeth Friday clarified and said some of the plantings can be clustered instead of creating a barrier. This request is more than a 50% reduction in landscaping for the entire site to the point it does not meet the intent of the code. Board member Reiersen commented on his site visit to Pierce RV and said they planted the trees but have not replaced those that died. He stated he finds it bothersome nothing that can be done with this situation as there seems to be a discrepancy in the code for plant maintenance. Discussion followed on potential development of the adjacent parcel to Bretz RV. The Board concurred that they would like to get an understanding of the applicant's thinking. Vice President Bailey asked Wyeth Friday to attempt to contact Mr. Farnsworth by phone.

Brad Farnsworth, 4800 Grant Creek Rd, Missoula, MT, 59808-1454, Office (406) 541-4800

Vice Chairman Bailey introduced himself and stated the e-mail received from Mr. Farnsworth related his inability to attend today's hearing but did not present sufficient reasoning. Mr. Farnsworth stated he is unable to attend today's meeting due to personal matters. He said it doesn't seem fair to move forward without the applicant's full presentation. He voiced concern with the County's response to follow the lead of Pierce RV on the west end of Billings. He stated he feels it is misleading to say Pierce RV is in compliance as they have less than 60 trees on their parcel. Mr. Farnsworth said he had hoped to present photos of Pierce RV along with their proposed site plan to take into consideration.

Public Hearing

Vice President Bailey opened the public hearing at 4:46 pm. and continued with Mr. Farnsworth's testimony. Board member Reiersen stated the applicant why they decided to submit this request when they had agreed to the previous proposal.

Mr. Farnsworth stated due to the time of the year, they were under strict timelines for construction. They did not want to address this question at that time as they planned to appeal in the spring for the landscaping requirements. Mr. Reiersen asked about long term plant maintenance. Mr. Farnsworth explained they would install sod work, trees, and shrubs as per their proposal; and if this is insufficient, they would add the required trees and shrubs.

Board member Bailey commented the comparison to Pierce RV is difficult for him to understand. He asked who assures the gateway businesses are in compliance. Wyeth Friday said the review for the project at the time of development is conducted through a Zoning Compliance Permit. The Yellowstone County Code Enforcement Division considers complaints of violations following construction. Board member Bailey commented he doesn't feel the compliance of Pierce RV should be part of a valid determination of today's request; and it should be determined whether or not Bretz RV will comply with the language in the code as presently stated. He stated there was more than enough time for the applicant to submit the photos to the staff for today's meeting.

Mr. Farnsworth stated the visual presentation would alleviate misconceptions of the proposed plan. He said he doesn't feel the Board can make an accurate determination without the visual presentation.

Board member Reiersen asked regarding the importance of comparing other properties.

Mr. Farnsworth voiced concern with the need for consistent application of the zoning regulations. He stated he wishes to show how aesthetically pleasing this plan will be to the area as they plan to be the "shining star" in the area with their landscape plan.

Richard Sauter, 3011 Old Hardin Road, Billings, Montana

Mr. Sauter's property is adjacent to Bretz RV on the east side of the fence line. He pointed out a gravel roadway along his property line and said it was his understanding the access would not be located there. Mr. Sauter stated his home has been affected by dust and dirt from the traversing construction and delivery vehicles to Bretz RV. He has made requests but they have refused to water the road down to alleviate the dust. He stated Bretz RV removed the existing trees and there is no barrier to the visual from his home. He asked if he has to spend his life looking at the back side of RVs'?

Nicole Cromwell said since Mr. Sauter's property is an adjacent residential use, the code requires a 10 foot buffer yard along Mr. Sauter's property line with 10 trees and shrubs for every one hundred feet. She explained this road is to be gated and used as an emergency access only. Mr. Sauter said the gates remain open and the road is used for construction and delivery trucks. Nicole Cromwell said the Code requires a buffer yard with shrubs and trees and she advised the Board of their ability to alter or amend package with conditions. Wyeth Friday stated this issue can be addressed aside of the request for a variance.

Motion

Vice Chairman Bailey made a motion and it was seconded by Board member Reiersen to continue the public hearing for Yellowstone County Variance #281 until the June 9, 2016 meeting to obtain more information from the applicant.

Discussion

Board member Miner said this the 2nd time this applicant is requesting a variance. She said this is setting a precedent and it is time to move on. She said she is unable to attend the June 9, 2016 meeting. Mr. Farnsworth offered to provide staff and the Board with photographs via e-mail prior to the meeting. He stressed that there was no other representative for Bretz RV as he is the only representative that has reviewed the request and prepared a presentation. Board member Reiersen voiced concern with timeliness and the potential for no quorum of members at the June 9, 2016 meeting. Vice Chairman Bailey pointed out the code provides a procedure for these types of requests and in this case, there was no valid reasoning included in the e-mail other than his desire to reschedule the hearing.

The motion carried 2-1, with Board member Miner voting against the motion. The public hearing for Variance #281 will be continued at the June 9, 2016 Yellowstone County Board of Adjustment meeting.

The motion carried with a unanimous voice vote, 3-0.

Other Business

A. Elections for the 2015 officers will be held at the next scheduled meeting.

Adjournment:

The meeting was adjourned at 5:20 p.m.

ATTEST: DRAFT TO BE APPROVED BY A MOTION ON JUNE 9, 2016