



# Yellowstone County Board of Adjustment

## Minutes

October 13, 2016

The County Board of Adjustment met on Thursday, October 13, 2016 in the 1<sup>st</sup> Floor Conference Room, of the Miller Building located at 2925 3<sup>rd</sup> 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	10/13/16							
Bruce Reiersen	Board member	E	-	1	1	E							
Board member Poppler	Board member	1	-	E*	1	1							
Carlotta Hecker	Chairperson	1	-	E*	E	1							
Delores Terpstra Miner	Vice Chairperson	1	-	1	* CC	1 CC							
Robert Bailey	Board member	E	-	1	1	E							

**Proteome Chairman Poppler introduced** the County Zoning Commission members and staff in attendance: Nicole Cromwell, Zoning Coordinator; Karen Husman, Planning Clerk Tammy Deines, Planning Clerk. \*\*Board member Hecker participated via Conference Call.

**Attending:** John Thiel, Katheryn Thiel, Ken Peterson

**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.

**Approval of Minutes: June 9, 2016**

**Motion**

**Board member Miner moved and Board member Hecker seconded to approve the June 9, 2016 meeting minutes as submitted. The motion carried with a unanimous voice vote.**

**Disclosure of Conflict of Interest:** There was none.

**Disclosure of Exparte Communication:** Zoning Coordinator Nicole Cromwell stated staff has not received any communications following the preparation of the staff report.

**PUBLIC HEARINGS:** Zoning Coordinator Nicole Cromwell reviewed the procedures for public hearing and stated the Board will open a public hearing and allow public comment this evening. She reviewed the hearing and presentation processes for the meeting for reviewing and acting on each variance. She stated three votes in favor of the Board of Adjustment are required to pass a variance. This evening there are 3 Board members attending. A unanimous vote will approve requests.

Vice Chairman Bailey called for the staff presentation by Ms. Cromwell

**Item #1 County Variance 283 – S 44th St West – Lot Area** – A variance from Section 27-308 requiring a minimum lot area of 10 acres to allow a minimum lot area of 5 acres to accommodate the court order division of property between 2 parties in an Agriculture Open-Space (A-1) zone on Tract 2A2 of C/S 2007. Tax ID: D00350A.

### **RECOMMENDATION**

This is a variance from Section 27-308 requiring a minimum lot area of 10 acres to allow a minimum lot area of 5 acres to accommodate the court order division of property between 2 parties in an Agriculture Open-Space (A-1) zone on Tract 2A2 of C/S 2007. Tax ID: D00350A. The Board of Adjustment determinations for variances are included at the end of the staff report. The Planning Division is forwarding a recommendation of conditional approval.

Staff is recommending conditions of approval as follows:

1. The variance to decrease the required lot area from ten acres to five acres to accommodate a court ordered division of land; Montana Twenty-Second Judicial District Court, Bighorn County, MT No. DR-10-42. No other variance is intended or implied by this approval.
2. The variance is limited to Tract 2A2 of C/S 2007.
3. The applicant must submit the plat for review within 60 days of Board of Adjustment approval.
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**

Board member Poppler asked for clarification on the point of division of the parcel and the location of the access easement. It was noted a pre-application review meeting is not required for an exempt survey. The variance will allow the property owner to have 5 acres instead of the 10-acre minimum required by the zoning. Clarification was given by Zoning Coordinator Nicole Cromwell on Ag-Open and Ag-Suburban zoning allowable uses and allowable sizes for accessory building. In response to further question by Board member Poppler, she explained that should the property owner decide to build a structure a zoning compliance permit will be required but not a variance.

### **Public Hearing**

Proteome Chairman Poppler opened the public hearing at 4:19 p.m. and asked if there is anyone present wanting to speak in favor or against County Variance #283.

### **Kenneth Peterson, 424 8th St West, Billings MT**

Mr. Peterson represents Katheryn and John Thiel. He stated the property will be governed by the Agricultural-Open zoning when the property is divided. Should development take place, a zone change will be needed and/or subdivision review. The applicants have no plans for development at this time and this request is due to a divorce. The exempt survey is ready to be filed, and the only review comments received were from the County Attorney stating the variance is needed in order to have the judge's rules enforced and have the plat become of record. This will not change the character of the area. There are no proposed future uses contemplated or decided.

Proteome Chairman Poppler asked if there is anyone present wanting to speak in favor or against County Variance #283. There was none. Proteome Chairman Poppler closed the public hearing at 4:25 pm and called for a motion.

### **Motion**

**Board member Hecker made a motion and it was seconded by Board member Terpstra-Miner to conditionally approve Variance #283 with the conditions presented by staff.**

**Discussion**

Board member Poppler said this request is appropriate. He voiced concern a zone change may be more appropriate as the likelihood is high that future development will entail a minor plat. Per Board member Hecker’s request Ms. Husman read the Conditions of Approval aloud. There was no further discussion on the motion.

Board member	Yes	No	Recused	Absent
Blaine Poppler	x			
Carlotta Hecker (Chairman)	x			
Delores Terpstra Miner	x			
Robert Bailey (Vice Chairman)		x		
Bruce Reiersen		x		

**The motion carried, 3-0. Yellowstone County Variance #283 is conditionally approved.**

**Other Business**

The County Board of Adjustment will meet on November 10, 2016 to consider a Land Use Contrary to Zoning for a future parking lot at the Yellowstone County Detention Facility.

**The meeting was adjourned at 4:30 p.m.**

**ATTEST: DRAFT TO BE APPROVED BY A MOTION ON NOVEMBER 10, 2016**