

**Yellowstone County Board of Adjustment
Meeting Minutes, March 8, 2018
To be approved by a motion at the next scheduled meeting**



The County Board of Adjustment met on Thursday, March 8, 2018 in the 1st Floor Conference Room, of the Miller Building located at 2925 3rd Avenue North. Chairperson Hecker called the meeting to order at 4:00 p.m.

Name	Title	03/08/2018									
Blaine Poppler	Vice Chair	1									
Carlotta Hecker	Board member	1									
Troy Boucher	Chairman	1									
Vacant											
Vacant											

Chairman Hecker introduced the County Zoning Commission members and staff in attendance: Nicole Cromwell, Zoning Coordinator; Tammy Deines, Planning Clerk

Others in Attendance: Ron Kaurin; Sandy Kaurin, Rich Naylor, Trevor Heinert

Public Comments: There were no public comments.

Approval of Minutes October 12, 2017

Motion

Board member Boucher made a motion and Board member Poppler seconded the motion to approve the October 12, 2017 meeting minutes as with corrections to the spelling of Board member Reiersen’s name. The motion passed with a unanimous voice vote.

Disclosure of Conflict of Interest: There were no disclosures of conflict of interest.

Disclosure of Exparte Communication

There were no disclosures of exparte communication from the Board.

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.

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Item #1: County Variance 387-321 Calypso Street-Detached Garage Size

REQUEST

Item #1: County Variance 287 – 321 Calypso Street – Detached Garage Size – A variance from Section 27-310(i) requiring the maximum footprint of a detached garage of 1,238 square feet to allow a maximum footprint of 1,500 square feet for a new detached garage in a Residential 15,000 (R-150) zone on Lot 1, Block 7 of Wells Garden Estates, 4th Filing a 26,420 square foot parcel of land. Presented by Nicole Cromwell, Zoning

RECOMMENDATION

Staff recommends conditional approval based on the proposed findings of the 7 criteria for Variance 287.

Staff is recommending the following conditions:

1. The variance is to increase in the allowable footprint area for 1 (one) detached garage from 1,238 sf to 1,500 sf and no other variance is intended or implied.
2. The variance is limited to Lot 1, Block 7 of Wells Garden Estates 4th Filing Subdivision generally located at 321 Calypso Street.
3. The new detached garage will be built in substantial conformance with the submitted site plans. Minor deviations that do not create a violation of another zoning or building requirement are acceptable.
4. There will be no construction prior to 7 am or after 8 pm daily.
5. The applicant will obtain a Zoning Compliance Permit in accordance with the approved variance within 6 months of Board approval.
6. Construction on the approved detached garage will be completed within 18 months of Board approval.
7. 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.

BACKGROUND

This is a request by the owner to re-construct a detached garage in the north east corner of the parcel. In 2015, the owner started and nearly completed construction of a detached 2-story garage that was too large (2,140 square feet) and did not meet the minimum required setbacks from neighboring properties. The Board denied the requested variance and the decision has been upheld by the Montana Supreme Court. The owner has hired a new construction company to design a detached garage that meets the required setbacks and the maximum allowable square footage if this variance request is granted. The maximum allowed area for a detached garage on this parcel is 1,238 square feet. The maximum foot print calculation does not apply in the A-S or A-1 zoning districts but does apply in all other residential zones in the County up to a maximum of 1,500 per detached structure. The owner would like to increase this allowable area by 262 square feet to allow a maximum area of 1,500 square feet. This is a 20% increase over the maximum allowed area. The variance requested in 2015 was for a much larger area - a 73%

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increase over the allowable area - and to encroach into the required 8 foot setbacks and in to the 10-foot utility easements along the north and east property lines.

APPLICABLE ZONING HISTORY:

The owner submitted a variance application in August 2015 - Variance 277 - to allow the construction of a much larger garage to continue and to allow the side and rear setbacks to be less than the required 8 feet. The application for the variance came after construction of the garage was started and nearly completed. The Board eventually denied the requested variance. The denial was appealed first to District Court (13th District) and then to the Supreme Court of Montana. Both courts found the Board's decision was legal and supported by the facts presented. The decision of the District Court and MT Supreme Court are attached. The detached garage associated with the previous variance has been demolished. Construction of the new detached garage will not commence until the decision on this variance has been made.

Discussion

Chairperson Hecker called for questions and discussion from the members of the Board. She asked for clarification of the 1,500 square foot size limitation. Nicole Cromwell explained the 1,500 square foot denotation is a bulk limitation which is the footprint of the building. The height restriction is 34-feet. This structure is shown as 22-23 feet high and will accommodate recreational vehicles, and built on slab with stick built construction. Board member Poppler asked if there will be plumbing fixtures in the building and this question was deferred to the builder.

Rich Naylor, MHS Construction, 423 S 25th Street, Billings, Montana

Mr. Naylor said he was contacted in December by the homeowner to rectify the previous situation with the District Court and Supreme Court rulings. No plumbing fixtures will be included in this building. The old structure has been demolished. The slab will be removed and a new monolithic slab will be poured. The footprint of the garage is 1,484 square feet and will be held to the 10-ft setbacks to meet the utility easements. It will not exceed the height of the house and will be 23-feet 8" tall to accomplish the second story loft requirements. Once the slab is demolished in the next 4-5 weeks, the new slab will be re-poured to the proper depth. Once construction begins, the 18-month construction project time frame will be met. Due to budget constraints, the plan is to finish the interior next year. In response to question by Board member Boucher, Mr. Naylor stated the 18-month time frame requirement should be met to finish the exterior of the building, including the siding, roofing and windows. There is stone work planned for the south side that may extend into early 2019 based on the cost. Board member Poppler asked regarding the garage doors. Mr. Naylor stated there will be one primary garage door with a 16-foot glider door on the west side of the building.

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Public Hearing

Chairperson Hecker opened the public hearing and asked if there is anyone wishing to speak in favor or against County Variance #287.

Ron Kaurin, 5051 Hazelnut, Billings, Montana

Mr. Kaurin spoke in opposition. He asked noted the current slab has a drain which dumps towards the property line to the east. He asked about the requirement for the overhang for the roof. Nicole Cromwell responded and stated 1.5 feet of overhang is allowable. He asked where the septic system drain field is located in relationship to the new slab and if it is legal to position the driveway along the property line legal? Nicole Cromwell stated County Public Works regulates driveways and they have reported no concerns with this variance application.

Rich Naylor, MHS Construction, 423 S 25th Street, Billings, Montana

Mr. Naylor Working with the engineer and planner designed the building with 2-foot eaves. He pointed out the location of the septic system on the posted plat map. The leach field is not very large in this area of the lot. There is a community well system. The slab drain will be removed along with the existing slab. He said the owner's intent with this project is to have a place to showcase his classic cars.

Sandee Kaurin, 5051 Hazelnut, Billings, Montana

Ms. Kaurin said the neighbor's view shed is deterred by the garage. Mr. Naylor said the previous building was 26'3" tall. The new structure will be shorter and moved away from the property line.

Discussion

Board member Poppler pointed out the last contractor failed to obtain a zoning compliance permit. He asked Mr. Naylor if any other permits are needed for construction. Mr. Naylor said a State permit for electrical. He said the previous contractor did not follow through as agreed for demolition. Mr. Naylor scheduled a meeting with the Yellowstone County Legal Department and City/County Planning Division to create a plan rectify the issues. He communicated with Mr. Frank and the neighbors to resolve issues. Mr. Naylor stated he followed through the prescribed commitments.

Chairperson Hecker asked if there is anyone else wishing to speak in favor or against County Variance #287. There was none. Chairperson Hecker closed the public hearing at 4:34 p.m. and called for a motion.

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Discussion

Chairperson Hecker called for discussion. Board member Poppler said there are no further objections from the neighbors. The corrected setbacks will alleviate the previous storm water and runoff issues. The fact that Mr. Carlson and Mr. Naylor have tried to comply is admirable he will vote in favor of this variance. compliance.

Motion

Board member Hecker made a motion and it was seconded by Board member Poppler to conditionally approve County Variance #287 based on the proposed findings of the 7 criteria as presented by staff.

Name	FAVOR	AGAINST	ABSTAIN
Board member Poppler	1	-	-
Board member Hecker	1	-	-
Board member Boucher	1		

The motion carries 3-0. County Variance #287 is approved.

Other Business/Announcements

- **Reassignment/Election of 2018 YC Board of Adjustment Officers:** Board members Reiersen and Bailey have resigned. Board member Hecker will continue on this Board but has requested another member serve as chairperson. *It is the consensus of the Board that Board member Boucher will serve as Chairperson and Board member Poppler will serve as Vice Chairperson for the 2018 term.*
- **Announcement:** The April 12, 2018 Yellowstone County Board of Adjustment meeting is cancelled due to a lack of applications. The next meeting will be held as legally announced and advertised.

Adjournment: Adjourned 4:40 pm.

DRAFT-To be approved at the next schedule YC Board of Adjustment Meeting
--T Deines, Planning Clerk