



Yellowstone County Board of Adjustment

Meeting Minutes, July 9, 2020 – Virtual Video Conference

DRAFT-To be approved at the next scheduled meeting

Due to the COVID-19 health concerns, the format of the County Board of Adjustment meeting will be held in a virtual videoconferencing environment. The normal hearing room on the 1st Floor at 2825 3rd Ave North (Miller Building) will be closed during the meeting and no one will be attending this hearing in person. Public comment will be taken only during the Public Comment periods as indicated on the agenda, and during the Public Hearings under the Regular agenda. Comments may be sent to the Board via email before 1:00 PM on Wednesday, July 8, 2020. All emails received prior to this time will be read into the record for the public hearing. The Public may call in during specific Public Comment periods at **(406) 237-6165**. All callers will be in a queued system and are asked to remain on hold and be patient. Calls will be taken in the order in which they are received. Callers will be restricted to 3 minutes of testimony as is customary. Live coverage can be viewed here; <https://www.facebook.com/Billings-Planning-Community-Services-Department-1738982159659260/?ref=bookmarks>

For the purpose of reviewing the following item:

Name	Title	03/08/2018	05/10/2018	11/08/2018	01/10/2019	06/13/2019	09/12/2019	07/09/20			
Blaine Poppler	Vice Chair	1	1	1	1	1	1	1			
Carlotta Hecker	Board member	1	1	1	1	E	1	1			
Troy Bush	V Chairman	1	1	1	1	1	1	1			
Tyler Bush	Chairman	-	-	-	E	1	1	1			
Vacant		-	-	-	-	-	-	-			

Chairman Bush introduced the County Zoning Commission members and staff in attendance: Nicole Cromwell, Zoning Coordinator; Karen Husman, Planner I, Tammy Deines, Planning Clerk

Other Participants: Tim Filz, Christensen, Fulton & Filz, PLLC, representing Timothy and Rebecca Anderson.

Public Comments: Chairman Bush announced the public comment period. Planning Clerk Tammy Deines announced that no calls have been received from the public. Three e-mails were received by Staff regarding County Variance #294, In Favor: Kelly Compton, 4905 Verde Lane, Billings MT; and Brandon Wooley, brandon@mtwooley.com Opposition: Karla Niemann, gakaiyaa@gmail.com, Hazelnut Avenue, Billings, MT

Approval of Minutes September 12, 2019

(The June 11, 2020 YC BOA meeting was postponed due to a lack of a quorum of Board members).



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Motion

Board member Hecker made a motion and Board member Poppler seconded the motion to approve the September 12, 2019 meeting minutes as submitted. 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. An email was received from Kelly Compton stating the applicant had asked her to send a not to Staff regarding her opinion on his request. Ms. Compton is not opposed to this request.

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.

Item #1: County Variance #294-120 Sunlight Circle. Karen Husman, Planner I, presenting.

Nicole Cromwell read the rules and procedures for a public hearing and the legal ad for County Variance #294. Planner Karen Husman presented the staff report.

REQUEST (Postponed from June 11, 2020, due to a lack of a quorum of Board members).

County Variance 294 - 4902 Verde Lane - A variance from section 27-310 requiring a maximum detached structure size of 1,500 square feet, to allow a maximum of 3,000 square feet in a Residential-15,000 (R-150) zone, on Block 1, Lot 12, Verde Meadows Sub., a 1.12-acre parcel of land. The purpose of the variance is to allow a detached accessory structure of 3,000 square feet. Presented by: Karen Husman, Planner I

Ms. Husman stated there is no record of a zoning compliance permit for this property. The house was completed before the garage. She stated that the application does not meet criteria for granting this variance:

- No significant hardship with the land
- County Board of Adjustment has not granted similar variances in the neighborhood or in the district
- This will not fit in with the area and the neighborhood

RECOMMENDATION:

Staff is recommending denial of the application based on the determinations detailed within the Summary section of this staff report

Discussion

Chairperson Bush called for questions and discussion from the members of the Board. He asked regarding a similar structure down the street from this parcel. Ms. Husman clarified and stated



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that the property owner he referred to built the structure with a permit but this property owner did not.

Public Hearing

Chairperson Bush opened the public hearing and asked if there is anyone wishing to speak in favor or against County Variance #294.

Tim Filz, Christensen, Fulton & Filz, Billings, MT

Mr. Filz represents Timothy and Rebecca Anderson. Mr. Filz asked for clarification of the current zoning code related to building in the County. Ms. Cromwell stated building permits are not required for properties located in Yellowstone County. Building codes for electric and plumbing are enforced through the Montana State Building Codes Division. The Yellowstone County Public Works Department addresses access to the property. The property owner is responsible for obtaining a zoning compliance permit from the Planning Division. Mr. Filz read aloud a prepared statement. He stated the property owners' intention is to have the structure design consistent with the house. They are proposing to construct fencing to minimize the visual impact of the shop. The applicants are requesting a 2400 square foot building and the variance request be granted. He pointed out that the opposition letter spoke about the adjacent house and not this property.

Chairman Bush closed the public hearing and called for a motion.

Motion

Board member Hecker made a motion and Board member Bush seconded the motion to forward a recommendation to the Board of County Commissioners of conditional approval of County Variance #294 with the Findings and Criterion presented by Staff.

The conditions of approval are as follows:

1. The variance is to increase the allowed square footage for a detached accessory building from 1,500 square feet to allow a maximum of 3,000 square feet. No other variance is intended or implied by this approval.
2. The variance is limited to Block 1, Lot 12, Verde Meadows Sub., generally located at 4902 Verde Lane.
3. The applicant will develop the new accessory building in substantial conformance with the site plan submitted.
4. Construction of the single-family dwelling must be completed prior to completion of the detached structure.
5. The applicant will submit for a Zoning Compliance Permit for construction of the new accessory building within one year (12 months), and will be completed within two years (24 months) of Board of Adjustment approval.
6. The applicant shall comply with all other codes and ordinances that apply including restrictions and regulations regarding placement and installation of septic system, cistern and well.
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.



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Discussion: Discussion points:

(Poppler) There are eight other buildings in this area with out zoning compliance permits. In the past a property owner was required to tear down his unpermitted garage.

(Bush) regarding Criterion 2/3: the existin home was the first home visible from the road

(Poppler) The developer 's failure to rely on zoning presents hazards to other property owners. Buyers rely on the developer who doesn't wish to diminish sale of the lots.

(Hecker) Board member Hecker made a site visit. She voiced concern with what the neighborhood will look like as it seems like a large building for a shop.

The motion carried with a unanimous voice vote. 3-0. Variance #294 is conditionally approved.

Other Business/Announcements

- **Announcement:** The August 13, 2020 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. Nicole Cromwell announced the first public meetings with the City Zoning Commission for Project Re:Code which will be held at the Billings Senior Center and posted on Facebook.

Adjournment: Adjourned 4:45 p.m.

Tamara L. Deines, Planning Clerk

DRAFT- T0 BE APPROVED BY A MOTION AT THE NEXT SCHEDULED MEETING