



**Yellowstone County Board of Adjustment
Meeting Minutes, January 12, 2023
DRAFT-To be approved at the next scheduled meeting**

The County Board of Adjustment meeting will be held in the 1st Floor Conference Room, 2825 3rd Ave North (Miller Building).

Citizens are invited to:

- Review the Agenda Packet on the City’s website at: <https://ci.billings.mt.us/117/Agendas-Minutes>
- View the meeting live online at Facebook: <https://tinyurl.com/yckr478k>

Public comment will be taken only during the Public Comment periods as indicated on the agenda and during the Public Hearings, if any are scheduled, under the Regular agenda. Comments may be sent to Board via email before 10:00 AM on the meeting date. All emails received prior to this time will be read into the record for the public hearing. Comments may be submitted by: mail to: City/County Planning Division, 2825 3rd Ave N 4th Floor, Billings, MT 59101 Email: deinest@billingsmt.gov

Call in during the Public Comment periods as indicated on the agenda: Citizens may call in during specific Public Comment periods at **406.237.6165**. All callers will be placed 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 limited to 3 minutes of testimony as is customary.

Name	Title	01/12/2023									
Blaine Poppler	Vice Chair	1									
Carlotta Hecker	Board member	1									
Tyler Bush	Chairman	A									
Troy Boucher	Board member	1									

Commissioner Poppler introduced the County Board of Adjustment members and staff in attendance: Nicole Cromwell, Zoning Coordinator, Karen Husman, Planner I, Tammy Deines, Planning Clerk

Other Participants: Caleb Bruski, Lee Eastburn, Tyler Weyand, John Rigney, Anna Vickers, IMEG; Amber Lang, IMEG

Email: Nikki Downer Opposition Variance 296; Lisa Slovak, Opposition Variance 296; Mary Magness, Opposition Variance 296

Public Comments Commissioner Poppler announced the public comment period. There were no Public Comments.



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Approval of Minutes October 13, 2022

Motion

Board member Hecker made a motion and Board member Boucher seconded the motion to approve the October 13, 2022 meeting minutes with corrections. 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:

Planner Karen Husman 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.

REQUEST County Variance 296 -- 3720 Basin Creek Rd -- Second Principal Structure in RR3 - A variance from Section 27-305, Table 27-300-4 allowing only one principal structure in a Rural Residential 3 (RR3) zone, to allow a second principal structure (dwelling) on Lot 24, Block 1 of Blue Creek Views Major Subdivision, a 4.124 acre parcel of land. The purpose of the variance is to allow a second dwelling to remain on the property. Tax ID: C12844.

RECOMMENDATION:

Planning Staff has reviewed this application and is forwarding a recommendation of conditional approval based on the determinations for review within this report.

Staff is recommending the following conditions for the variance request:

1. The variance from Section 27-305, Table 27-300-4, to allow a second principal structure (dwelling). No other variance is intended or implied with this approval.
2. The variance is limited to on Lot 24, Block 1 of Blue Creek Views Major Subdivision, generally located at 3720 Basin Creek Road.
3. The applicants will submit an application for a Zoning Compliance Permit within six months and complete construction within one year of BOA approval.
4. The applicant shall meet all other state and county code requirements with the exception of this variance.
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.



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Discussion

Ms. Husman explained that the applicant has constructed the foundation. DEQ has not addressed the sanitation and the applicant is waiting for approval. Chairman Boucher asked when the construction started. Clarification was given by Zoning Coordinator Nicole Cromwell on the RR (Rural Residential) zoning and this variance request. Board member Hecker asked if the present owners owned the property when it was under the previous zoning code.

Nicole Cromwell said under the previous Code, the southern portion of the parcel was R-15,000 and the AG suburban parcel was on the north part of the lot. The new zoning has maximum lot area for a Rural Residential zone.

Public Hearing

The public hearing was opened and to anyone wishing to speak in favor or against County Variance #296.

Anna Vickers, IMEG, 175 North 27th Street, Billings, Montana

Ms. Vickers is the agent for applicant Caleb Bruski. She said initially the property was vetted for an accessory dwelling unit but the house is too large. The best way forward was to go forward with the variance request. Ms. Vickers asked for amendment to allow for DEQ review timelines which could take as long as nine months. She said she did not understand that ongoing compliance didn't allow for interdepartmental review and there isn't a way to enforce a right-of-way for safety. Board member Hecker asked why the applicant would build there is no approval from DEQ. Ms. Vickers said IMEG advised the applicant to stop construction until approval is received and the zoning requirements were vetted.

Caleb Bruski, 3720 Basin Creed Road, Billings, MT

Mr. Bruski is the applicant and property owner. He said he relied on the contractor who assured him that everything would be fine. He said he did not understand there was a process and later reached out to IMEG. Mr. Bruski explained that he considered the process in 2019 as to whether building could take place. In 2021 the property values increased and he had available funds for the project. The process started mid to late summer of last year. Mr. Bruski reported that Tim Miller, Yellowstone County Public Works, visited the lot, conferred with the contractor, and spoke with him regarding the septic requirements. He stated he wished to correct this situation and get everything right. In response to question by Board member Hecker, he said the existing house was there. He would like to utilize the property and the two elevations. Mr. Bruski stated he was not aware that the property would not allow for additional houses and the covenants and restrictions do not clearly state only one residence is allowed.

Rick Cortez, 3790 Vista View Road, Billings, MT

Mr. Cortez is the Fire Chief for the Blue Creek Fire Department. He is opposed to this request as the grade of the road and range of where the foundation is located does not provide enough safety pull-off requirement for a fire event. The dirt moved into an existing coulee will impact Basin Creek Road as it is a water shed and will create issues for adjacent property owners entering their properties. He



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feels the zoning request should have been addressed earlier. This parcel does not have a dry hydrant installed which would be required under subdivision review. In response to question by Board member Poppler, Mr. Cortez said it is satisfactory as it stands with the one home. Board member Hecker asked regarding the foundation and Mr. Cortez said it is a full 8-foot foundation.

John Rigney, 3745 Basin Creek North, Billings, MT

Mr. Rigney's concern is allowing a second structure will set a precedent for future property owners and it will add additional traffic. He doesn't want a potential rental property in the subdivision. He said there would be a potential increase in the homes from 34 to 68 and this should be avoided. Mr. Rigney said Caleb is great but what about future owners?

Tyler Weyand, 3845 Vista View Road, Billings, MT

Mr. Weyand is opposed to this request due to safety factors, and the Covenants and Restrictions which restrict the lots to one home. Mr. Weyand doesn't agree with Caleb's reading. He is opposed 100% and feels approval will open the door to more problems. He doesn't agree with making exceptions for this project.

Lee Eastburn, 3715 Vista Blue Circle, Billings, MT

Mr. Eastburn is marginally opposed to this request. He asked why there is a 60-ft driveway which will create a blind corner. He said they had to dig the ditch near his property to avoid water runoff. Mr. Eastburn is in agreement with having a mother-in law home and not splitting the lot. He does not want rental property or use as an "Air BnB".

Rebuttal

Anna Vickers, IMEG, 175 North 27th Street, Billings, Montana

Ms. Vickers said the storm water will be mitigated and the zoning allows a second structure. She said they will continue to work with Rick Cortez, Blue Creek Volunteer Fire Department and with County Public Works for approval of the drive approach.

Caleb Bruski, 3720 Basin Creed Road, Billings, MT

Mr. Bruski according to the CCRs, single-family only is the structure type. He said there is no flooding. The lot has 1+ acres of flat area on the lower lot.

The public hearing was closed.

Discussion:

Board member Hecker pointed out that DEQ has not approved the site. Board member Poppler said the people and the contractors started this project with incomplete information. The zoning is clear. There were no other lots in this subdivision with two structures. He stated this variance request is not justified and there is no hardship.



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Motion

Board member Boucher made a motion to approve County Variance #296 with the conditions recommended by staff.

Discussion

Board member Boucher stated he agrees with the staff findings. A lot the zoning code was changed and there was a lot of miscommunication.

The motion died for lack of a second.

Motion

Board member Hecker made a motion and it was seconded by Board member Poppler to deny County Variance #296.

Discussion

Board member Hecker stated it is unfortunate that the applicant hired someone who did not know what was required. She stated approval of the variance in this case would grant a special privilege.

The motion carried 2-1, with Board member Boucher voting against the motion.

Yellowstone County Variance #296 is denied.

Other Business/Announcements

- **Announcement:** The February 9, 2023 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.
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Adjournment: Adjourned 4:35 p.m.

Tamara L. Deines, Planning Clerk

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



City-County Planning Division
Thursday, January 12, 2023
Yellowstone County Board of Adjustment



Printed Name		Address
Caleb Bruski:		3720 Basin Creed rd
Lee Eastburn		3715 Vista Bloc Cir
TYLER WEYAND		3845 VISTA VIEW ROAD
John Rigney		3745 BasinCreekRd N.
Anna Vickers		175 N. 27 th St Ste 132 Billings
Amber Long		"
Rick Cortez		3790 VISTA VIEW RD.