



**Yellowstone County Board of Adjustment  
Thursday, October 12, 2023  
To be Approved By Motion**

**The County Board of Adjustment met at 4:00 p.m. in the Miller Building 1st Floor Conference Room, 2825 3rd Ave. North.**

	Position	01/12/2023	02/09/2023	03/09/2023	04/13/2023	05/11/2023	06/08/2023	07/13/2023	08/10/2023	09/14/2023	10/12/2023	11/09/2023	12/14/2023
<b>Tyler Bush</b>	Chairman	A	C	C	C	C	1	V	C	C	1		
<b>Carlotta Hecker</b>	Board Member	1	C	C	C	C	1	1	C	C	1		
<b>Troy Boucher</b>	Board Member	1	C	C	C	C	E	1	C	C	A		
<b>Blaine Poppler</b>	Vice Chairman	1	C	C	C	C	1	E	C	C	1		
<b>Morgan Tuss</b>	Board Member	-	C	C	C	C	-	E	C	C	A		

**Chairman Bush** opened the meeting and introduced the YCBOA Board members and Planning Division staff.

**Staff Present:** Zoning Coordinator Nicole Cromwell; Karen Husman, Planner I; Brenda Berns, Planning Clerk

**Public Comment**

Chairman Bush asked if there was anyone wishing to speak during the public comment portion of the meeting. 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 three minutes of testimony as is customary. There were no public comments.

**Approval of Minutes: July 13, 2023 (The August 10, 2023 & September 14, 2023 meetings were cancelled due to a lack of applications).**



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**Motion**

A Motion was made by Commissioner Hecker, seconded by Commissioner Poppler to approve the July 13, 2023 meeting minutes as submitted. The motion was carried 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.

No one wished to comment regarding items not on the agenda.

**Public Hearing**

**Chairman Bush opened the public hearing and asked if there is anyone wishing to speak regarding Variance 298.**

Zoning Coordinator Nicole Cromwell read aloud the procedures for a public hearing.

**Item 1:**

**A .County Variance 298 -- 2133 East Echo Drive -- Section 27-1009.D(1) Max footprint of Detached Accessory Structure. Submitted by Karen Husman, Planner I.**

**Request**

A variance from 27-1009.D(1) requiring a maximum footprint of a detached accessory structure of 3,000 square feet to allow a footprint of 3,600 square feet in a Rural Residential 1 (RR1) zone, on C/S 1175, Parcel 6B, a 1.05-acre parcel of land. The purpose of the variance is to allow a completed 3,600 square foot shop building to remain in place. Tax ID: D05120. Presented by Karen Husman, Planner I.



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**Recommendation**

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

Planning Staff is recommending denial based on draft findings of the review criteria for variances:

**1) There is a hardship with the property** that is not applicable to other lands in the same district.

*There are no special circumstances that exist which are peculiar to the land.*

**2) Denying the variance might deprive this owner of similar rights** enjoyed by others in the area.

*Staff found no other parcels in the surrounding area, and in this subdivision that had detached structures of this size. Denying the variance would not deprive the applicant of rights enjoyed by other tracts in the same district.*

**Background**

This is a request for a variance from 27-1009.D(1) requiring a maximum footprint of a detached accessory structure of 3,000 square feet to allow a footprint of 3,600 square feet. The property owners have requested this variance to allow an existing building they have constructed stay in place. The variance request is the result of a County Code Enforcement complaint filed after the building was mostly complete. A Zoning Compliance Permit should have been submitted and approved through the City-County Planning Division for the building plans, which would have directed the owner to the size limitations for detached accessory structures in the RR1 zoning district. The applicant submitted a Zoning Compliance Permit application on May 10, 2023, and on May 12, 2023, the applicant was notified through the permit portal there were corrections requiring the building size to be reduced to 3,000 square feet to approve the permit. On May 31, 2023, the applicant contacted our office inquiring about the status of the permit and was informed that they needed to reduce the size of the building to 3,000 square feet, or



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they may apply for a variance to allow the additional 600 square feet of structure. The application for a variance was received on July 24, 2023. Staff did not receive any comments from other departments or any of the property owners notified within the 150-foot notification area surrounding the property. Staff has had one concerned neighbor just outside the 150-foot notification area that was concerned about the size and height of the structure as well as the access coming off of Hawthorne Lane, a City right of way (comments in attachments). The applicant has obtained a permit to access Hawthorne Lane from the City of Billings Public Works Department.

**Discussion**

Chairman Bush sought clarification on the chronological order of events related to the applicant's process. Karen Husman explained that they initially inquired with the Billings Public Works department about permits and were informed that a building permit was unnecessary. However, they were later advised in May that a zoning/compliance permit was required, although construction had already commenced. Subsequently, upon application for the zoning/compliance permit, there ensued a series of communications with City staff regarding necessary corrections. The application for Variance was submitted in July.

Commissioner Poppler inquired whether the violation came to light because of a complaint. Karen indicated that she believed it was prompted by a complaint from County Code Enforcement.

Commissioner Poppler noted the submission of around six letters from a single neighbor to the Board, suggesting they might have initiated the complaint. Additionally, he mentioned that upon being approached by County Code Enforcement, the Applicants took steps to rectify the situation. Karen affirmed this and reiterated that construction of the garage was underway.

Commissioner Poppler queried the current status of construction. Karen clarified that only the garage doors were yet to be installed to complete construction. She mentioned not having taken additional photographs beyond those from the original application.

Commissioner Poppler asked if the request met any of the four necessary criteria. Karen responded that, in her interpretation, it did not satisfy any of the criteria.



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Chairman Bush inquired about accessing zoning regulations for a specific property on a zoning map. He suggested that if an architect prepared plans for a garage, they would likely check the necessary requirements. Karen explained that information and contact details for additional permits, zoning requirements, certificate of occupancy, etc., for Yellowstone County and areas beyond the City limits, could be found on the County Zoning website.

Chairman Bush asked if anyone would like to speak on behalf of the variance 298.

**In Favor**

**Kareasa Busch 2133 E. Echo Dr.**

Mrs. Busch expressed that at the outset of this process, they believed they had diligently conducted their research. Opting for a local builder boasting three decades of experience, they were assured that no permit was necessary since their property fell within the County jurisdiction. She mentioned attaching a letter sourced through a Google search, which did not indicate a permit requirement. Mrs. Busch admitted her surprise when a Code Enforcement officer visited their residence. Subsequently, upon learning of the permit necessity, they undertook all necessary steps to address the issue. She emphasized that this situation posed a significant hardship for their family.

**Discussion**

There was discussion regarding the preliminary groundwork conducted by the contractor and engineers, as well as the current state of the garage today. The applicant's advised they have made no additional improvements to the garage since being notified there was an issue and needed a variance.

**Kim Connolly 2121 E Echo Dr.**

Ms. Connolly stated she is a neighbor, and their house sits adjacent to the applicants. We are on a similar sized lot, approximately 1 acre with a shop. The applicants moved in approximately 3 years ago and have been good neighbors. They have a beautiful shop, and it appears to be well built. We see their property from our deck, including the garage, and we have no issue with it.

**Chairman Bush asked if anyone else would like to speak on the Variance. There were none.**



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**Discussion**

There was discussion regarding the potential for an approved variance to set a standard for other homeowners. The Board addressed the importance of residents to fully research the zoning regulations for their property before beginning a construction project which alters their existing structure or adds structures. The Board discussed the fact that the builder should have had knowledge of the zoning regulations, and thereby shoulders some level of responsibility.

**Motion**

Chairman Bush called for a motion.

Commissioner Hecker made a Motion, seconded by Commissioner Poppler to deny approval of Variance 298. The Motion was carried with a unanimous voice vote.

**Other Business**

There was none.

**Adjourned: 4:49PM**