



**Yellowstone County Board of Adjustment
Thursday, September 12, 2024
To be Approved By Motion**

The County Board of Adjustment met at 4:00 p.m. in the Stillwater Building 3rd Floor Room 3108- 316 N 26th St.

	Position	01/11/2024	02/08/2024	03/14/2024	04/11/2024	05/09/2024	06/13/2024	07/11/2024	08/08/2024	09/12/2024	10/10/2024	11/14/2024	12/12/2024
Tyler Bush	Chairman	C	C	C	C	C	C	C	C	I			
Carlotta Hecker	Board Member	C	C	C	C	C	C	C	C	I			
Troy Boucher	Board Member	C	C	C	C	C	C	C	C	A			
Blaine Poppler	Vice Chairman	C	C	C	C	C	C	C	C	I			
Morgan Tuss	Board Member	C	C	C	C	C	C	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; Tate Johnson, Planner; Emma Hardy, Clerk.

Public Comment

Chairman Bush asked if anyone would like to make a comment regarding items not on the agenda.

Approval of Minutes: October 12, 2023

Board member Hecker noted a correction in the minutes from October 12, 2023, pointing out that the board members were mistakenly referred to as ‘Commissioners’ and suggested that a correction be made.



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Motion

A Motion was made by Board member Hecker, seconded by Board member Poppler to approve the October 12, 2023 meeting minutes with the correction. 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.

Public Hearing

Chairman Bush opened the public hearing for Variance 299. Zoning Coordinator Nicole Cromwell read aloud the procedures for a public hearing.

Item 1:

A. County Variance 299 – 335 S 48th St W -- Lot Area – A variance from Yellowstone County Zoning Regulations Section 27-903.A – Table 270900.1 requiring a minimum lot area of 10 acres in an Agriculture (A) zone, to allow a lot area of 2.37 acres. The variance of lot size is requested for property currently legally described as Tract 1 of C/S 2142 in Section 10, Township 1 south, Range 25 east, a 10-acre parcel of land. The variance is requested to allow a boundary relocation between two parcels in the same ownership, both zoned Agriculture. Tax ID: D00485A



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Planner, Tate Johnson presented a summary of the variance, noting that enforcing its provisions would not impose any undue hardship on the landowners. Furthermore, granting this variance would not infringe on the landowners' rights, as no comparable variances have been approved. Approving it would grant a special privilege for this same reason and would go against the intent of our zone regulations. Consequently, the planning staff recommend denying the variance request.

Recommendation

Planning staff has reviewed this application and is forwarding a recommendation of Denial based on the determinations for review within this report and the criteria outlined in Yellowstone County Zoning Regulations Section 27-1626. D.

Discussion

Board member Poppler pointed out that there are numerous lots smaller than 10 acres but questioned whether a variance was truly needed. Ms. Johnson replied that a zone change would be a better fit for this situation.

Board member Hecker inquired whether, if the variance were approved, this lot would be the only one under 10 acres. Ms. Johnson confirmed that it would be.

Board member Poppler then asked if there was a timeline for development. Tate stated that there was none.

Chairman Bush asked in anyone would like to speak on behalf of the variance 299.

In Favor

Scott Aspenlieder, Performance Engineering Billings MT – Mr. Aspenlieder clarified that they are requesting a boundary line adjustment, not the establishment of a subdivision. He mentioned that the plot is already non-compliant due to its size of less than 10 acres. He contended that granting the variance would not cause harm or set a precedent, as it would only increase the existing nonconformity rather than create a new one.



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Mr. Aspenlieder echoed Board member Poppler's observation that there are many residential lots smaller than 10 acres. He also noted that pursuing an alternative, like a zone change, would be expensive with an estimated cost of \$10,000.

Opposed

None in opposition.

Discussion

Board member Poppler inquired whether there is a sewer project on the property. Mr. Aspenlieder confirmed that there is one, although it has not yet been completed in its entirety.

Board member Hecker stated that the house remains in Agriculture zoning thereby offering reduced taxation. Planner, Ms. Huffman stated taxes are based on the use of the land, not the zoning.

Chairman Bush questioned if the lot's zoning might change due to the large number of rezones. Mr. Aspenlieder responded that it is unlikely, and the trust does not wish to manage a rental.

Board member Poppler asked if granting this variance would create issues with agricultural use. Mr. Aspenlieder assured him that it would not.

Chairman Bush asked about the discrepancy in land surveys, noting that the city counts the lot as 10 acres while Mr. Aspenlieder affirms it is smaller. Mr. Aspenlieder explained that the old survey includes the area of the county road.

Board member Poppler noted that this property is expected to be annexed and developed within the next 10 years. He pointed out that approving the variance would not negatively impact the surrounding rural land, and that it's becoming increasingly challenging to find top-quality farmers for these parcels. He further stated that granting the variance wouldn't confer any special privileges to the applicant, as many homes in the agricultural zone are already on smaller lots. Therefore, he concluded that there are no downsides to approving this variance.



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Board member Hecker acknowledged the importance of both development and farming needs, suggesting that the house be separated from the farmland to allow the agricultural land to be sold without affecting the farming acreage. Anna Vickers, Planning Division Manager responded by clarifying that the house would continue to be designated as agricultural zoned.

Board member Hecker then inquired whether the landowners would receive any special benefits, such as lower taxes on the agricultural land. Planner Karen Husman clarified that they would not receive any special tax benefits and would not be taxed as agricultural land.

Chairman Bush asked why a zone change would incur a cost of \$10,000. Ms. Husman confirmed that a zone change itself does not cost that much. Mr. Aspenlieder explained that his professional fees for managing the zone change would range from \$8,000 to \$10,000 for the homeowners.

Chairman Bush asked if there was any potential cost to the County or City. Ms. Hufman stated that there are no costs, however it sets a precedence. Mr. Aspenlieder stated the requested variance is not precedence setting.

Motion

Board member Hecker made a Motion, seconded by Board member Poppler to Approve Variance 299 with the recommended review criteria. The Motion was carried with a unanimous voice vote.

Other Business

Nicole Cromwell, Zoning Coordinator announced there will not be a meeting in October 2024. There was no other business.

Adjourned 4:44pm