



**Yellowstone County Board of Adjustment
Thursday, November 14, 2024
To be Approved By Motion
at the next County BOA meeting**

**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	C	I	
Carlotta Hecker	Board Member	C	C	C	C	C	C	C	C	I	C	A	
Troy Boucher	Board Member	C	C	C	C	C	C	C	C	A	C	V	
Blaine Poppler	Vice Chairman	C	C	C	C	C	C	C	C	I	C	I	
Morgan Tuss	Board Member	C	C	C	C	C	C	C	C	A	C	A	

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

Staff Present: Anna Vickers, Planning Division Manager; Karen Husman, Planner; Brenda Berns, Planning Clerk

Others in Attendance:

Don Marty, Janelle Lende, Dan Wells, Sherri Maxwell, Kent Ickes

Public Comment

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

Approval of Minutes: September 12, 2024



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Motion

A Motion was made by Board member Poppler, seconded by Board member Boucher to approve the September 12, 2024 meeting minutes. The motion carried with a unanimous voice vote.

Disclosure of Conflict of Interest

There were no disclosures of conflict of interest.

Disclosure of Ex Parte Communication

There were no disclosures of Ex-Parte communication from the Board. Staff advised there was a letter submitted as ex parte from Brian Wheeler in opposition to the Variance 300 and is available for members of the public.

Public Hearing

Chairman Bush opened the public hearing for Variance 300. Karen Husman, Planner read aloud the procedures for a public hearing.

Item 1:

A. County Variance 300- 392 Light Stream Lane– Front Yard location for accessory building - A variance from Section 27-304, Table 27-.300.3(6) requiring an accessory building (garage) to be located in a rear yard, to allow a garage under construction to remain in the front yard in a Large Lot Suburban Neighborhood Residential (N4) zone district on Block 2, Lot 1 of Sundance Subdivision, a 24,570 square foot parcel of land. The purpose of the Variance is to allow the completion of construction of a new garage in the front yard at 392 Light Stream Lane.

Tax ID: C18094



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Planner, Karen Husman presented a summary of the variance. Karen stated there are no other lots within subdivisions in the surrounding area that have garages in the front yard and granting a variance is not usually a special privilege. Staff agree the location of the septic system may limit the placement of a garage elsewhere on the property but it would not be impossible.

Recommendation

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.

The special circumstances that exist which are peculiar to the land are centered around the location of the septic system drainfield as required by DEQ and the prohibited access to 48th Street West from the rear yard

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

Allowing the variance would give the applicant rights not commonly enjoyed by other tracts in the same district. There have not been any similar variances granted in the area or surrounding neighborhoods. The requirement for a rear yard location for detached accessory structures was added to the County Zoning regulations in 2020.



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3) That granting the variance requested will not confer on the applicant any special privilege that is denied by this zoning code to other land in the same district.
Granting this variance would confer a special privilege as similar detached barns and garages in the frontyard are not apparent in this subdivision and in similar neighborhoods in the area. The house sits to the rear of the property, limiting space to construct a detached garage and access to it in the rear yard. However, the garage could be reduced in size to fit towards the rear of the lot, or attached to the house and eliminate the proposed front yard location.

4) That the granting of the variance will be in harmony with the general purpose and intent of this zoning code and with the Growth Policy.
The variance is not in harmony with the general purpose and intent of the zoning regulations and the growth policy. The Growth Policy encourages compatibility in neighborhoods and approval of this variance does not encourage compatible character. There are not any other garages in the front yards in this subdivision and surrounding neighborhoods.

Discussion

Chairman Bush clarified the subject property is adjacent to a property that is not part of the subdivision, it was already in existence and the subdivision built around it.

Karen affirmed and stated it was an existing parcel previously developed. The garage is in the rear of this parcel, which backs up to Sundance Subdivision.



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Chairman Bush further explained that if the house on the subject property were built at the front of the lot, like the others in the subdivision, it would face directly into the wall of the neighboring barn. Instead, the house appears to have been set back to avoid obstructing the view and to provide some distance from the barn.

Karen affirmed but stated the location of the house could also be due to the soil tests and where the septic system was allowed on the lot.

Board member Poppler asked if this is a new house or how long it has been there. Karen stated the home had been in place for two years.

Karen further stated there is a 'no access' strip located along 48th ST West, prohibiting access from the arterial to the back of the subject property.

Chairman Bush asked in anyone would like to speak on behalf of Variance 300.

In Favor

Applicant: Dan Wells, Developer – 5847 Whispering Woods; Mr. Wells mentioned that the barn on the neighboring property was already in place when the land for the subdivision was purchased. Efforts were made to design the subdivision around it, including positioning the residence 150 feet away from the two irrigation canals to meet the required distance from the drain field to any structure. After considering several options, Mr. Wells concluded that the final design was the most effective. The plan is to maintain the same architectural style for the residence to ensure it does not resemble a box or create a distraction from the other homes in the subdivision.



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Board member Poppler noted that the applicant's letter mentioned a preapproval letter from Dan Wells and the HOA for building the garage in the front yard and inquired about the source of that letter. Dan Wells clarified that he serves as the Chairman of the Design Review Committee and operates independently from the HOA. As Chairman, he would have been the one to issue the preapproval letter.

Chairman Bush asked if the opposing parcel is a vacant lot. Dan Wells affirmed it is.

Board member Poppler asked about the vacant lots and the intentions for building them out. Dan Wells stated that he believes there will be a home built.

Kent Ickes 3217 Flamingo Way; Mr. Ickes stated he is a realtor and represented the purchaser of the subject property. Mr. Ickes reviewed the restrictions for building a larger shop and modifying the drain field, approved by the County.

Don Marty 392 Light Stream Lane; Mr. Marty purchased the subject property in March 2024, with the intention of building a garage on the property and having done everything that has been requested of us, including reducing the size of the garage and matching the exterior to the main residence.

Sherrie Maxwell 392 Light Stream Lane; Ms. Maxwell stated the garage will only be used for storing automobiles and recreational vehicles versus parking them in the yard. It will not be used for any other purposes, such as business.



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Opposed

Janelle Lende 4619 Shining Light Lane; Ms. Lende expressed her opposition to the variance request for a shop to be built in the front yard at 392 Light Stream Lane. She pointed out that Dan Wells is both the developer of the Sundance Subdivision and involved with the HOA. Ms. Lende raised concerns about the number of HOAs or Design Review Committees Mr. Wells is involved with, suggesting a potential conflict of interest. She strongly opposed any changes to the building code and noted that she had raised her objections to the Design Review Committee early in the process.

Furthermore, Ms. Lende emphasized that the neighboring property at 393 48th St W is not part of the HOA and should not be used as justification for the variance. She argued that placing a shop in the front yard would lower property values in her subdivision, and if the shop were used for business purposes, it could increase traffic and contribute to higher crime rates.

Chairman Bush closed the public hearing.

Discussion

There was discussion regarding the potential hardship due to the size of the lot and DEQ requirements regarding drain fields.

Karen Husman read the conditions for approval.



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Motion

Board member Boucher made a Motion, seconded by Board member Bush to Approve Variance 300 based on the review criteria. The Motion was approved by the BOA with a unanimous voice vote.

Other Business

There was no other business.

Adjourned: 4:38pm