

**Yellowstone County Board of Adjustment
Thursday, January 9, 2025**



The County Board of Adjustment met at 4:02 p.m. in the Stillwater Building 3rd Floor Room 3108- 316 N 26th St.

	Position	01/09/2025	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	1											
Carlotta Hecker	Board Member	1											
Troy Boucher	Board Member	A											
Blaine Poppler	Vice Chairman	1											
Morgan Tuss	Board Member	A											

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

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

Others in Attendance: Darrell Magnuson, KLJ Engineering

Public Comment

Chairman Bush asked if anyone would like to make a comment regarding items not on the agenda. There was none.

Minutes Approval: November 14, 2024

Motion

A Motion was made by Board member Poppler, seconded by Board member Bush to approve November 14, 2024 meeting minutes. The motion carried with a unanimous vote.

Disclosure of Conflict of Interest. There were no disclosures of conflict of interest.

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Disclosure of Ex Parte Communication. There were no disclosures 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 Variance 300 and is available for members of the public to view.

Public Hearing

Chairman Bush opened the public hearing for Variance 301.

- A. County Variance 301- 547 S 56th St W –Section 27-903 Table 27-900.1** – A variance from Section 27-903 Table 27-900.1 requiring a minimum lot area of 10 acres per parcel to allow a proposed 1.8-acre parcel in an Agriculture (A) zone, on Parcels 4 & 5 of C/S 699, 20.1 acres of land. The purpose of the variance is to allow the division of the parcel for White Aspen Ranch horse facility (481 S 56th St W). Tax ID: D00472.

Karen Husman presented a summary of the variance.

Key Points:

- The applicant is requesting a variance to allow a caregiver to remain on the property.
- The applicant owns two 10-acre parcels, which may not meet the requirements for a lot line adjustment.
- The discussion centers around whether a zoning change might be a better solution than a variance.
- There is no topographical hardship, and the zoning change process seems to be the standard recommendation in such cases.

Recommendation

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

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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. The parcels are 2 10 acre lots currently conforming to the Ag 10 acre minimum. The applicant intends to sell the property and would like to sell the equestrian facility separate from the single family dwelling. Financial hardship is not considered an unnecessary hardship inherent to the land.

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

Denying the variance would not deprive the applicant of rights enjoyed by other tracts in the same district. The minimum lot size of 10 acres is a standard requirement in the Agricultural (A) district, designed to support agricultural functions and preserve land integrity. Allowing a variance to reduce the lot size to 1.8 acres would not deprive the applicant with rights that are already enjoyed by other similarly zoned tracts but rather would introduce a new level of nonconformity not in line with the district's established standards.

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.

Similar to 1 and 2 above, the zoning regulations mandate a minimum lot size of 10 acres in the Agricultural (A) district to ensure the preservation and effective use of agricultural lands. Allowing a reduction to 1.8 acres through this variance would confer a special privilege on the applicant that is inconsistent with the standard requirements applied to other properties in the district.

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 requested variance would compromise these objectives by increasing the non-conforming lot size within an area designated for agricultural use. The intent of the Agricultural district excludes suburban residential uses to maintain its focus on agricultural preservation. This reduction could potentially disrupt the agricultural integrity of the zone and conflict with the overarching goals of the Growth Policy and Zoning Regulations.

Questions

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Board members inquired about property ownership in relation to the request. Staff clarified that the purpose of the request is to allow a caregiver to remain on the property.

Questions were raised about the similarity of the request to a previous variance. Staff explained that the current request involves a smaller variance and noted that similar requests have been approved in the past, including cases involving court orders.

The issue of hardship was discussed. Staff confirmed there was no topographical hardship present.

The size and ownership of the parcel were clarified, with staff confirming that the property consists of two 10-acre parcels under single ownership.

Board members discussed whether a zoning change could achieve the applicant's objective. Staff agreed that a zoning change would be a more appropriate and standard approach.

Further discussion addressed whether a zoning change could be requested for a smaller portion of the property, such as 1.8 acres, and staff confirmed this was possible.

Staff also confirmed that the current regulations provide a mechanism to pursue a zoning change.

Lastly, the feasibility of resolving the issue by removing 1.8 acres from the parcel was explored. Staff explained that a lot line adjustment had been requested, but due to the resulting parcel falling below the minimum 10-acre size, it could not be completed.

Chairman Bush asked if anyone would like to speak on behalf of Variance 301.

Applicant's Agent: Darryl Magnuson, KLJ Engineering – Mr. Magnuson stated that the applicant is seeking to sell the property. The applicant's employee, who has lived in the home on the 1.8-acre parcel for 15 years, has expressed interest in purchasing it. Upon reviewing the exhibit, it was noted that the property is fenced. Although the zoning is Agricultural, there is a subdivision to the west, and to the south, there are residential properties with lot sizes under 10 acres. Additionally, the plat was modified from the initial variance request to include the barn.

Chairman Bush asked if anyone else wished to speak for or against the variance. There were none. The Public Hearing was closed.

Staff recommended conditions for the variance request:

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1. The variance is from YC 27-903.A -- Table 27-900.1 requiring a minimum lot are of 10 acres per parcel to allow ~~aproposed~~ 1.8-acre parcel in a Agriculture (A) zone. No other variance is intended or implied with this approval.
2. The variance is limited to Parcels 4 & 5 of C/S 699, 547 S 56th St. W.
3. The applicant shall complete the exempt plat process within 1 year from the Board of Adjustment approval date.
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, leaseholders, heirs and assigns.

Discussion

The board discussed the variance request, with members expressing differing perspectives. Some supported approval despite the staff's recommendation for denial, while others raised concerns about potential precedent. The discussion touched on zoning considerations, the property's size compared to other parcels, and the wishes of the buyer and current resident. Questions were raised about how to properly phrase a motion for approval, and staff clarified that while hardships are typically considered, the board has discretion in making its decision. Ultimately, there was a preference for consistency in the board's approach.

Motion

Board Member Hecker motioned to approve the application for Variance 301, including the five conditions recommended by staff. Board Member Poppler seconded the motion. Chairman Bush noted that the variance's intent is consistent with the zoning code and similar properties, as referenced in item 3 of the Review Criteria. The Board of Adjustment unanimously approved the motion by voice vote.

Other Business

Nicole Cromwell informed the board that Morgan Tuss' term expired on December 31, 2024, and the position would be posted for applicants.

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The board discussed its leadership positions and unanimously agreed to retain Tyler Bush as Chairman and Blaine Poppler as Vice Chair.

Adjourned: 4:54PM

Brenda Berns, Planning Clerk