

MINUTES

Board of Adjustment

Community Center, 3rd Floor Conference Room

4 p.m.



Thursday, April 28th, 2022, at 4 pm | Meeting called to order at 4:01 pm by Donna Kostelecky, Chairperson

Attendance

Members Present: Donna Kostelecky, Chairperson; Judy Barber; Jerry Arneson; Steve Boyer

Members Absent: Bill Johnston

Staff Present: Carl Hamming, Planning Director; Carlye Hansen Planning Department Secretary

Guests Present: Please see sign-in sheet. **See attachment**

Ms. Kostelecky reviewed the Board of Adjustment process for all applicants and those attending this meeting.

Approval of Minutes

March 31st, 2022

Motion was made by Jerry Arneson to approve minutes from March 31st, 2022, with corrections as noted; seconded by Judy Barber. Motion passes 4-0.

Public Hearings

Variance 22-00 5 Dave and Stephanie Cole

A PUBLIC HEARING on a request by David and Stephanie Cole for a variance to allow relief from the Pintler Vista lakeshore setback of roughly 99 feet at this location with intentions to build approximately 75 feet from lakeshore. Property is within the Georgetown Lake Development District and is legally described as:

PINTLER VISTA PHASE 1, S07, T05 N, R13 W, Lot 13, ACRES 1.31 PLAT 299A

Staff Report

Carl Hamming, Planning Director reviewed and presented the staff report put together by he and his office. All content can be located on the ADLC website. Mr. Hamming reviewed the nature of the request by David and Stephanie Cole to request relief from the lakeshore setback (100') agreed upon when the subdivision was approved by Anaconda-Deer Lodge County (ADLC) in 1999. The applicant has stated the the requested setback be 75' and that the rest of the proposed construction will comply with all other standards set forth in Section 24 of the DPS.

Mr. Hamming stated that the applicant simply states that, "With the setback of Highway 1 (60') and setback off the lake (100') on this lot, does not allow for a house to fit north to south on the lot. Only leaves roughly 45' for the house to fit."

Mr. Hamming did not receive any calls, inquiries, or comments regarding this hearing.

The Planning Department has recommended approval of the variance request and they do have three (3) proposed recommendations, and conditions, and these were gone over in detail.

Questions from the Board

Jerry Arneson had a question about the wells in the area and whether they are too close to each other? Mr. Hamming stated that he has not talked with Chad Lanes, Tri-County Sanitarian, regarding this, but he is stating that perhaps the applicant can address this. They will make sure that the well and isolation zones will be adhered to or to what the DEQ approved previously.

Ms. Kostecky asked that Mr. Hamming go through the findings and recommendations. This was done per the staff report by Mr. Hamming.

Steve Boyer is not understanding the situation regarding the septic system. He understood during the last variance in this same subdivision that the septic and drain field were across the highway from the proposed building site. Mr. Hamming stated that he believed this to be true through the entire subdivision as a part of their DEQ approval that it is being pumped across and underneath the highway. Ms. Kostecky also asked about a perc test for the well, as this is another protection later and Mr. Hamming confirmed this.

Applicant Report

David Cole, 36 Saddle Spur Road, Bozeman, MT 59715

Mr. Cole and his wife Stephanie purchased this property just over a year ago. They are Montana natives. They live in Gallatin Valley with their three children and are excited about being able to spend more time this direction and are looking at being in this area as much as they can with proximity to Bozeman. They have adopted two girls from Haiti and have a little boy. They are excited to be near the ski hill as their daughters skied their first Black Diamond last year and they are quite proud of that and want to make more memories here as a family.

He reviewed the lot and what they would like to achieve as far as developing this property and with the angle of the property, they are trying to angle the property keeping it as far back from the road as far as they can and creating a bit of a buffer and keeping as many existing trees as possible between the road and the house. Therefore, there is an L-shape to the home. Rather than encroaching on the road they would just like to ask if it is possible to ask for the variance to get a little closer to the water, more like what the other lots are as they were indicating it is not consistent throughout the area within the subdivision.

Mr. Cole has his contractor here from 406 Construction, located at 3292 Baker Creek, in Bozeman. He stated that Mr. Cole has hit the nail on the head as far as asking for a variance for 25' and that this will allow the house to fit much better on the lot.

Questions from the Board

Ms. Kostecky asked if the setback from the lake guarantees that there is no damage from the water or just as a site point. Mr. Hamming stated that this subdivision is unique. As far as the Lakeshore Protection Zone is only 20'. They are trying to shave this down to where you are safely off the road and have plenty of face for families to play, but also allow room for snow removal, utilities, but then to not be environmentally damaging to the lake itself. She is still asking about liability with the water coming to the house and Mr. Hamming stated that all the lakeshore controls are within Granite County and there is a whole mess of stakeholders with this including a very active homeowner's association, as well as Flint Creek irrigators, FWP, etc.

Ms. Kostecky asked if they were planning on putting a dock in and Mr. Cole stated that they are. Mr. Hamming also stated that the county has specification on what kind of docks can be constructed.

Mr. Cole just wanted to add that they are going to be proximate to all their family with this new construction and the ability to get together doesn't happen very often, so their goal is to create a space to do dedicated time with both sides of the family.

PUBLIC HEARING

Proponents

None

Opponents

None

Public Comment

None

Board Discussion

None.

Motion

Motion is made by Steve Boyer to approve Variance 22-005 to allow relief from the Pintler Vista lakeshore setback of roughly 99 feet at this location with intentions to build approximately 75 feet from lakeshore. Property is within the Georgetown Lake Development District, with the proposed conditions as recommended by the ADLC Planning Department; seconded by Jerry Arneson. Motion passes 4-0.

New Business

Board of Adjustment Review and Training

Mr. Hamming stated that Gayla Hess, Planner II, was the person who originally drafted the information that was in the orientation email that was sent out to the board members. However, she is unfortunately sick today and could not be in attendance. He stated that they would just like to be able to answer any questions or let any board members who have been on the board for awhile talk about interesting cases, or historical ones, or some that were appealed afterwards.

Mr. Boyer stated that he only wants to reiterate that he is hoping that all notifications have gone out and that opposing views have been heard and dealt with, so he was a little nervous when the question about objections came up and he was also wondering about public notice. He is now aware of the fact that all the notifications did go out and that folks with opposing views have been heard. Mr. Hamming stated that he does try to give an overview of the application staff report to touch upon these oppositions or comments in general. Sometimes there will be some between publishing the staff report and the meeting date, and if there is something else received, he will just read this into the record. He also stated that some folks just like to show up in person and voice their opinions at the hearing itself.

Ms. Barber had no questions or comments

Mr. Arneson just wanted to state that he is just going to piggyback on Mr. Boyer's comments, and really has no other questions or comments.

Ms. Kostecky just wanted to review and tell some stories about different variance requests that they have seen over the years. These included a paintball course in Opportunity, a parcel of land in Foster Creek where there is a covenant and a gentleman wanted to multiple spots on the lot and this was turned down. There was also a gentleman who wanted a three-car garage. The Board had voted against this, but with the issue of not a full board, it was advised by the County Attorney that this did pass. There was also the issue of the palm trees that were being put down at a casino at the east end of Anaconda. There have also been multiple variances regarding fences and those, believe it or not, can become most challenging.

There was just some general review on all the variances mentioned above as well as some others.

Mr. Hamming also wanted to state that there may be another variance coming down the road about a new garage up in the Georgetown area.

Ms. Kostecky also discussed that it seems like the Goosetown Development District has a lot of challenges when it comes to setbacks, lot sizes, etc. She states that with issues such as these, the BOA needs to protect the neighbors as much as possible when considering the variances.

Miscellaneous

Matters from the Staff

None.

Matters from the Board

Mr. Boyer just wanted to say that if there is a need for more meetings, he thinks that if the government is keeping things from happening, then we should be meeting as often as needed to get this accomplished.

Public Comment

Janice Hagen-Delaney, 1708 Copper

Ms. Delaney asked if Goosetown was considered high density and it was explained that it is its own developmental district.

Ms. Delaney also asked how many folks should be at a public meeting and Ms. Kostecky discussed that it should be as many as you can get, as there is better conversation amongst the residences and gives a stronger take on whether a variance is granted or not. There are also guidelines that are included in the staff report which are all the specific criteria as listed by the DPS for the Board of Adjustment to evaluate each variance request.

Next Meeting

TBD

Adjournment

Ms. Kostecky called the meeting adjourned at 4:50 pm

Final Minutes Approved

Respectfully Submitted,
Carlye Hansen
ADLC Planning Department Secretary

Attachment: Guest Sign-In List

DRAFT