

MINUTES

Board of Adjustment

Community Center, 3rd Floor Conference Room



Thursday, July 20th, 2023, at 4 pm | Meeting called to order at 4:00 pm by Donna Kostelecky, Chairperson

Attendance

Members Present: Donna Kostelecky, Chairperson; Judy Barber, Vice Chair; Jerry Arneson; Steve Boyer; Bill Johnson

Members Absent: None

Staff Present: Carl Hamming, Planning Director; Gayla Hess, Planner II; 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.

Roll call was done by Carlye Hansen, Planning Department Secretary, and there is a quorum for today's meeting.

Approval of Minutes

January 26th, 2023

Motion was made by Jerry Arneson to approve minutes from January 26th, 2023; seconded by Steve Boyer. Motion passes 5-0 unanimously.

Public Hearings

Variance 23-004 John Atkerson - A&A Technical

PUBLIC HEARING on a request by John and Lorna Atkerson to allow relief from [Sec. 24-148](#) of the Code of Ordinances of ADLC. Owners propose the creation of a 2-lot subdivision which would create lots smaller than the minimum lot size. Property is within the Light Industrial Development District. Property is legally described as:

EAST FOURTH ST MINOR SUB, S02, T04 N, R11 W, Lot 1, 200A

Staff Report

Carl Hamming, Planning Director, reviewed and presented the staff report put together by him and his office. All content can be located on the ADLC website. Mr. Hamming reviewed the nature of the request as John and Lorna Atkerson wanting to subdivide property from which A&A Technical operates their business. The subsequent minor subdivision would create separate lots surrounding the car wash from the office and garage. A preliminary plat public hearing received recommendation of approval at the June 2023 Planning Board meeting and review by the ADLC Commission is pending at this time.

The Planning Department has recommended granting the variance with three (3) conditions and those are listed and reviewed.

Questions from the Board

Bill Johnson inquired about what they will do regarding the vacuums that are sitting out there on the cement pads for them. Mr. Atkerson stated that they would be moved in the direction of the car wash.

Applicant Report

John Atkerson, A&A Technical

Mr. Atkerson really had no statement or presentation today. He stated that he is here to answer any questions that the board may have for him.

Questions from the Board

Mr. Johnson asked about the landscaping. This was discussed in detail as this has been an issue in the past. Right now, Mr. Atkerson is trying to find something or do something that will inhibit the deer population from eating and damaging any landscaping that he would try to plant but be easy to maintain.

Donna Kostelesky asked about the status of this area regarding Superfund. Mr. Hamming said that this was assessed many years ago prior to the construction of the A&A Technical buildings, as well as the carwash, and that this should be no issue at this time.

PUBLIC HEARING

Proponents

None

Opponents

Rose Nyman - 121 East Third Street

Ms. Nyman is here this evening to state that she is not entirely opposed to the variance that is being brought before the Board of Adjustment this afternoon. Her main concern is about the appearance of the property as it currently stands right now. She states that this is a busy corner with a lot of new development going to be occurring within the East Yards, and with the revamping of the old guard shack and the new roads being put into this area, she states that the appearance of this property is not suitable. She advises that they put up a fence that is attractive and suitable to this area and that the weeds must be cleaned up more than they are. She noted that the weeds were recently mowed, however, they were not mowed around the vehicles or junk vehicles that are sitting around the property. She states that looks bad and she would like to see the entirety of the property taken care of and mowed for weeds.

Public Comment

None

Board Discussion

Mr. Johnson asked about why this is being used as a junkyard or looking like one. Mr. Atkerson stated that the increase in vehicles is due to folks not paying their bills, or the vehicles are abandoned. He states that with the laws enforced by the State of Montana, that if these vehicles are moved to other locations, in a lot of cases this could be considered theft. He has moved several of the vehicles to another property that he acquired in the East Yards, but with the laws of the State of Montana, it is hard to get rid of these vehicles without a lot of legal intervention.

Steve Boyer asked about the ability to put fencing around the entire property and Mr. Atkerson stated that this would be difficult. Mr. Hamming stated that the issue of fencing and/or screening would be dealt with on the Commission level.

Motion

Motion is made by Steve Boyer to approve Variance 23-004 to allow A&A Technical to create a 2-lot subdivision which would create lots smaller than the minimum lot size and with the proposed conditions as recommended by the ADLC Planning Department; seconded by Jerry Arneson. Motion passes 5-0 unanimously

Variance 23-005 - Michelle Paull

PUBLIC HEARING on a request by Michelle Paull to allow relief from [Sec. 24-84](#) of the Code of Ordinances of ADLC. The owner wishes to construct a garage within the rear setback. Property is within the Medium Density Residential Development District. Property is legally described as:

ANACONDA ORIGINAL TOWNSITE, S03, T04 N, R11 W, BLOCK 111, Lot 10-12 E 50 FT W 100 FT LTS 11-12, ½ INT N 10 FT E 90 FT LT 10

Staff Report

Gayla Hess, Planner II, reviewed and presented the staff report put together by her and her office. All content can be located on the ADLC website. Ms. Hess reviewed the nature of the request by Michelle Paull. Ms. Paull requests relief from [Sec. 24-84](#) which specifies five feet between the rear lot line and residential structures. Property owners wish to build a garage three feet from the rear property line.

Ms. Hess did receive one comment from a neighbor, Roland Smathers, who did not have any issues with the construction of a garage and that he felt that they could do whatever they want on their property. The Planning Department has recommended approving the variance request to allow the applicant to encroach two feet into the rear setback of the MDRD (garage 3 ft from the property line), with three (3) proposed recommendations and conditions and these are reviewed.

Questions from the Board

Mr. John asked if the encroachment would affect fire services if necessary and Ms. Hess stated that this is not a shared driveway and there would be no issue in that regard.

Applicant Report

Michelle Paull - Significant other spoke on her behalf

He stated that they need a garage. To get a garage in, they would need to be closer to the wall, hence the reason for the variance. Ms. Paull is not able to get around too well and with parking in front of their house, they have twenty-seven steps to get up to the front entrance and she cannot climb these stairs with her current use of crutches. This would also benefit her in the wintertime, as she would not need to get out of the vehicles with snow and ice and would be able to get out of the garage in a safer manner.

Questions from the Board

None

PUBLIC HEARING

Proponents

None

Opponents

None

Public Comment

None

Motion

Motion is made by Bill Johnson to grant the variance requested by Michelle Paull to construct a garage within the rear setback of her current property; seconded by Judy Barber. Motion passes 5-0 unanimously.

Variance 23-006 Todd Lenegar

PUBLIC HEARING on a request by Todd Lenegar to allow relief from [Sec.24-285](#) of the Code of Ordinances of ADLC. The owner wishes to subdivide a 10-acre parcel to create a lot smaller than the minimum lot size. Property is within the East Valley Development District. Property is legally described as:

S36, T04 N, R10 W, ACRES 10.201, TR IN NE4

Staff Report

At this time, Ms. Hess revealed that Mr. Lenegar has withdrawn his variance request.

Old Business

Ms. Kostelecky just wanted to inquire as to whether the father of Mr. Warner, who was denied his variance at the last meeting, took this on to a higher rank as he had stated that he was going to. Mr. Hamming stated that there were a number of conversations with Mr. Warner after the last meeting and that he and Ms. Hess even visited him on site. They talked through a few things and made some recommendations if they wanted to revamp their application and come back with a revised application. Due to the nature of the split vote and with how close it was at the last meeting, they stated that they would try and get a meeting scheduled as soon as he got his application materials in, but he has not submitted anything yet.

New Business

None

Miscellaneous

Matters from the Staff

None

Matters from the Board

None

Public Comment

None

Next Meeting Date

TBD

Adjournment

Meeting was adjourned at 5:39 by Ms. Kostelecky

Respectfully submitted,

Carlye Hansen

Planning Department Secretary

DRAFT