

# MINUTES

Board of Adjustment

Community Center, 3<sup>rd</sup> Floor Conference Room



*Thursday, October 26th, 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.**

## Call to Order

The meeting was called to order at 4:04 pm by Donna Kostelecky, Chairperson.

Carlye Hansen, Planning Department Secretary did the roll call. All members were present, and a quorum was present for today's meeting.

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

## Approval of Minutes

July 20<sup>th</sup>, 2023

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

## Public Hearings

### Variance 23-007 Bill and Dawn Pickett

PUBLIC HEARING on a request by Bill Pickett to allow relief from [Sec. 24-64 \(1\)\(c\)](#) of the Code of Ordinances of ADLC. Owners propose to boundary adjust a property to further decrease the size of a lot which it does not meet the minimum lot size of 1-acre. The property is within the Anaconda Residential Estate Development District 1.0. Property is legally described as:

CABLE ROAD AREA, S33, T05 N, R11 W, ACRES 0.232, IN LT 3 IN NW4SW4

### 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 as the applicants (Bill and Dawn Pickett) requesting relief from [Sec. 24-64 \(1\)\(c\)](#) which requires a lot size of 1.0 acres (43560 square feet) for this area. Property owners wish to further decrease the size of a lot which does not meet the minimum lot size. and garage.

There were no comments received back from county personnel other than Chad Lanes, Tri-County Sanitarian, and this is noted in the staff report.

The Planning Department has recommended denying the variance. If, however, the Board finds that the criteria for granting relief from [Sec. 24-64 \(1\)\(c\)](#), the Planning Department staff recommends two conditions of approval as noted on the staff report.

Questions from the Board

Bill Johnson asked to clarify the size of the lots now vs what they would like these to be. Ms. Hess stated that the current lot is 10,106 square feet (0.232 acres) and that Mr. and Mrs. Pickett are wanting to reduce this lot to 8,623 square feet (0.204 acres).

Jerry Arneson reiterated the issue with the sceptic and well and felt that they should go along with the questions and comments from Mr. Lanes that were sent to the Planning Department.

Applicant Report

William Pickett, 140 Bridge Drive

Mr. Pickett and his wife are here today. He states that the house and property in question is what they have rented out, however being retired, they are having some problems keeping up with this and would like to sell this property. However, there is an RV pad that they put in and they use it for their family when they visit, therefore they want to keep that pad on their property, and this would then need to make the lot where the rental is located smaller. He states that by doing this, he has also adjusted the lawn size for the neighboring property in question.

Questions from the Board

Judy Barber asked about the well and septic situation. Ms. Hess state that the issue is not what is there at this time as far as well and septic, but if this property was sold, and with the well isolation zones and the distances for wells with today's requirements, this would become a significant issue when these things need replacement. However, Mr. Pickett states that they would fit into the properties fine. Carl Hamming, Planning Director, states that the isolation zone would cross the property line and not meet current standards.

Mr. Arneson asked about where access would be to this property if this section is removed. Mr. Pickett states that he would want to keep the current easement as he wants to be able to have RV parking.

Steve Boyer thinks that the well must be within 100' feet of the well, but Mr. Johnston states that this distance needs to be further, from what he is aware of. Again, Mr. Pickett feels that this could be done.

PUBLIC HEARING

Proponents

None

Opponents

None

Public Comment

None

No letters or phone comments were received by the Planning Board

Board Discussion

None

Motion

Motion is made by Bill Johnston to approve Variance 23-007 to allow applicants (Bill and Dawn Pickett) to receive relief from [Sec. 24-64 \(1\)\(c\)](#) which requires a lot size of 1.0 acres (43560 square feet) of this area. Property owners wish to further decrease the size of a lot which does not meet the minimum lot size; seconded by Judy Barber. Motion does not pass.

Poll of members: Bill Johnson - No; Judy Barber - No; Jerry Arneson - No; Steve Boyer - No; Donna Kostelecky: No.

Motion is denied unanimously.

## Variance 23-009 - Tony and Patti Monaco - Shooting Star Properties, LLC

PUBLIC HEARING on a request by Tony and Patti Monaco of Shooting Star Properties LLC to allow relief from [Sec. 24-215 \(5\)](#) of the Code of Ordinances of ADLC. Owners wish to adjust boundaries to further decrease the size of a lot which does not meet the minimum lot size of 80,000 square feet. Property is within the Georgetown Development District. Property is legally described as:

SUNSET HOMESITES PLAT NO 1, S17, T05 N, R13 W, Lot 26, ACRES 0.499

### 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 the applicants requesting relief from [Sec. 24-215 \(5\)](#) which requires a minimum lot size of 80,000 square feet. The property owners wish to further decrease the size of a lot which does not meet the minimum lot size.

The Planning Department did not receive any comments from county personnel.

The Planning Department has recommended approving the variance request to allow the applicant relief from [Sec. 24-215 \(5\)](#) and allow relief and to further decrease the size of a lot which does not meet the minimum lot size of 80,000 square feet and recommends to conditions of approval as noted in staff report.

### Questions from the Board

Donna Kostelecky wanted to clarify the variance criteria again and this was gone over.

Ms. Barber just wanted to clarify that the proposed new boundary is what was highlighted in pink on the map.

Mr. Johnson wanted to know when these lots were set up. Mrs. Monaco, the applicant, replied from the audience that she believed the first homes were built in 1981.

Mr. Boyer asked if there is room for the road on the map and wondered if the lines are not accurate. Mr. Hamming explained that these are accurate and that there will be an easement.

### Applicant Report

Patty and Tony Monaco - 355 Fire Lane

Ms. Monaco spoke today. She stated that this process began when they were going to build a deck onto their home and were contacted by the county that there were going to be problems with setbacks. One thing led to another, and they eventually met with Chad Lanes, the Tri-County Sanitarian as well as Tom Moodry, Surveyor, and at this time they are looking to make the area come into compliance with county standards. Mr. Monaco reiterated this also.

### Questions from the Board

Mr. Arneson asked what they were planning to do with the two lots, and they stated that they were wanting to clean this plat up and will hopefully be selling one to their son.

## PUBLIC HEARING

### Proponents

None

### Opponents

Mrs. Geri Casey (907 East Third) and her son, Mr. Dennis Casey (1253 West Gold, Butte)

Mr. Casey spoke for his mother today. Right now, they oppose the variance. When this subdivision came into play many years ago, there were to be thirty-two 1/2 -acre lots. If Mr. and Mrs. Monaco subdivide this property, that would make the lots very small and a higher number of lots. Mr. Casey states that if the county lets them divide this lot, it will set a precedent for others to want to do the same, and then things would become even tighter than they already are on that hill. With the lots being this small, there is also going to be much more concern regarding wells and septic systems that will be put in. They feel that the alternatives would include either living with the road as it is or making a small boundary line adjustment with a different easement. Again, they feel that with the topography of the area, this will just make these lots too tight.

### Public Comment

None

No letters or phone comments were received by the Planning Board

### Board Discussion

A brief discussion was had between the board members, the Planning Board staff, and the applicants. Mr. Hamming will look for a drain field easement for them and see what is involved with that if not already done. There was also discussion regarding the new Presby systems, which are newer condensed systems. Right now, there is a certified installer who does this work, and his name is Josh Olssen. Mr. Hamming explained what he knows about the Presby System Type II. Mrs. Kostelecky asked Mr. Casey if he knew anything about the systems and all he knows is that they can reduce the size of your overall system by 25% or more.

Mr. Monaco also stated that the deck roof does extend out beyond the house, that it is a deck, and the roof will be over the house, itself. Ms. Monaco also wanted to remind everyone that they are not trying to make an additional lot and that there will still be only two lots.

Mr. Arneson stated that he does understand the Casey's concern about setting a precedent amongst the neighbors up in that area, Mr. Lorello states that ultimately, he is also trying to make a parking area and a spot for a small shed, as well. Mr. Boyer just confirmed that what they are doing is trying to make two buildable lots out of two lots, and that this is difficult due to the topography of the area. Mr. Johnson stated that they could sell either lot as is.

### Motion

Motion is made by Steve Boyer to approve the variance requested by Patty and Tony Monaco - Shooting Star Properties, LLC to decrease the size of a lot which does not meet the minimum lot size; seconded by Jerry Arneson. Motion passes 5-0 unanimously.

### **Variance 23-010 Casey Coward**

PUBLIC HEARING on a request by Casey Coward to allow relief from [Sec. 24-84\(b\)](#) of the Code of Ordinances of ADLC. The owner wishes to build a patio and second floor deck approximately 3.5 feet from the side property line which is within the 5-foot side lot setback. Property is within the Medium Density Residential Development District. Property is legally described as:

NORTHERN ADD (ANACONDA), S03, T04 N, R11 W, BLOCK 6, Lot 8 - 10, E 52 1/2 FT LTS 8-10

### 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 as being the applicant requesting relief from [Sec. 24-84 \(b\)](#) which requires a 5-foot side lot setback between the property line and structures. The owners wish to build a patio and a second-floor deck which would be 3.5 feet from the side property line.

There were no comments received back from county personnel.

The Planning Department has recommended granting the variance with two conditions as noted in the staff report.

### Question from the Board

Mrs. Kostelecky had several questions regarding the alleyway being discussed.

A. Was the fire department contacted and did the county hear back from them?

Ms. Hess stated that she did reach out to them, with no response. She says she has a group that she reaches out to with each variance application, and it is assumed that if there is no call back or reach out back to the Planning Department, there is no issue, and the fire department would respond if they had any concerns.

B. Is this alley a standard-sized alley?

It was stated by the Planning Department staff that this is a standard sized alley, and this alley has been redone over the last two summers.

C. Will this be a 6-foot fence?

It was determined that this is the plan.

D. She wanted to know if the garage door on the east side of the house/garage was going to be eliminated?

At this time, it sounds like it will be, and it will be accessed from the north side of the house.

- E. She is concerned about two pictures in the packet in which it appears that the cones are in different spots. When looking at the photos, it was determined that it was just the angle of the picture and different spots where the pictures were taken from.

Applicant Report

Khaled Demachki - 1600 East Commercial

Mr. Demachki is here today to represent Mr. Casey Coward who was unable to make it to the meeting this afternoon. He went over the plan for this fence and project and states that this would all be done within 3 ½ feet inside of the fence line and that the fence will protect this area.

PUBLIC HEARING

Proponents

None

Opponents

None

Public Comment

None

Board Discussion

None

Motion

Motion is made by Bill Johnson to approve the variance to allow relief from a 5-foot side lot setback between the property line and structures to build a patio and a second floor deck which will be 3 ½ feet from the standard setback; seconded by Jerry Arneson. Motion passes 5-0.

---

Old Business

None

---

New Business

Ms. Kostelecky wanted to know how we can get the fire department and other county offices to respond to the Planning Board in writing with their comments. Ms. Hess stated that this is something that cannot be required. Ms. Kostelecky would like this to be something that will be brought before the commission in the future.

Mr. Hamming noted that it is time for the biannual report to be given to the Commission. Ms. Kostelecky will not be available due to a health issue, so Ms. Hess will meet with Ms. Barber and try to get this done in December.

---

Miscellaneous

Matters from the Staff

None

Matters from the Board

None

---

Public Comment

---

None

---

Next Meeting Date

---

TBD

---

Adjournment

---

Meeting was adjourned at 5:23 by Ms. Kostelecky

Respectfully submitted,  
Carlye Hansen  
Planning Department Secretary

DRAFT