

Anaconda-Deer Lodge County

Board of Adjustments Minutes

September 17, 2015

Second Floor

Hearst Library - 3:00 p.m.

Board Member in Attendance: Lorraine Biggs-Gallik, Joyce Gutcheck, Glenn Gutcheck, and Chairman Bill Johnson, Donna Kostelecky

Absent: None

Staff Present: Doug Clark – Planning Director, Paula Arneson – Planning Secretary

Lorraine Biggs-Gallik made the motion to approve the April 9, 2014 minutes. Joyce Gutcheck seconded the motion. Motion carries unanimously.

Bill Johnson reviewed the BOA process for the applicant.

- A. V15-01. A request by Joe Thomas, for a variance to allow relief from setback standards within the Georgetown Lake Development District. Applicant is requesting a 5-foot setback where a 15-foot side and 30-foot rear setback standard currently exists.

Staff Report: Doug Clark, Planning Director:

The County is now operating under the new DPS standards and GLDD standards. They are identical to what was adopted in Granite County.

The Applicant plans to build two new structures on this property, including a new cabin and a detached garage. The Applicant is requesting the variance from setback standards to complete his plans.

Because many of the parcels are oddly shaped is it difficult to determine the actual front and back of the property. The majority of parcels are rectangular shaped whereas the subject parcel is shaped more like a triangle.

Criteria A: The second structure must be oriented to the rear or 50 ft. from property line. Front and rear should be obvious but it is not with this parcel. Because of this, the front and rear setbacks were eliminated. So as not to set precedence, staff suggests relief from the setback. Although the southwestern and southeastern boundaries meet at a 90-degree angle, the northern boundary is both side and rear setback. These factors make the variance necessary due to exceptional or extraordinary circumstances and are not characteristic of other surrounding parcels. Because of the current location of the existing home; building an additional structure on the property will most likely cause encroachment into the required setback. Criteria A has been met.

Criteria B: Approval of the variance will not permit a special privilege for the applicant that is not enjoyed by owners of similar properties.

DPS standards, DEQ and County Health standards are met. The GLDD standards allow both guest homes and detached garages in addition to the primary residence on a single lot. Approval of the variance will allow the applicant to develop within the current standards. Criteria B is met.

Criteria C: The hardship is created largely by the awkward shape of the parcel. This parcel shape preceded Mr. Thomas' ownership. Criteria C is met.

Criteria D. The original ADP application requested a 10 foot setback but after review a 5 foot set-back was all that was needed. The 5 foot side/rear setback will minimize encroachment into the required front setback along Southern Cross Road. The Applicant is requesting a 5-foot side/rear setback for the new cabin and the new garage. This request is considered the minimum necessary to achieve the Applicant's plans. Comparing the County Plats and the application request, the applicant may need additional front setback relief in order to provide adequate room for the proposed septic and drain field and setback from the County road right of way along Southern Cross Road. This may cause the garage to be closer to the side/rear boundary than originally thought.

The current GLDD standards for Accessory Structures reads:

"Front Lot Line: All Accessory Structures shall be sited to the rear or the Principal Structure, or 50 feet from the front property line, whichever is less." (ADLC Ordinance 241, XXVIII.F.1.a)

Typically, "rear" would be interpreted as behind the front face of the Principal Structure in relation to front setback of the property. If this was applied to the current situation the garage would not be able to meet the front setback standard for the GLDD. The board could choose to allow a variance from the standard due to the shape of the lot.

Review of the County plats of the surrounding area, the right of way along SC Road is 60 feet. The GLDD front setback standards would be 35 feet from the edge of the right of way. The proposed garage would be 35 feet from the edge of the right of way. Based on staff review, the garage would be approximately 24 feet from the right of way. Because of this, Mr. Thomas will need an additional variance from the front setback standards to allow for the new garage.

Allowing a variance for a 5 foot setback at the side/rear property line will minimize the amount of setback relief that would be required along the front of the property. Staff deems this as more important. Criteria D is met.

Criteria E. Adverse impacts associated with granting relief from the code are avoided or effectively mitigated:

Adverse impacts in this case are mitigated by maintaining at least a 5-foot side-rear setback which would allow for passage all the way around both proposed structures. This would allow the Applicant or future property owners the ability to maintain the structures from completely within the boundaries of their own property.

A 5-feet set back should also allow for enough space to capture most if not all rooftop runoff from rain and snow completely within the boundaries of the Applicant's property.

Criteria D is met.

Public Comment: As of the issuance of this Staff Report, there have been no public comments regarding this variance.

Findings and Recommendation: Staff finds that the criteria for granting relief from the code set forth in ADLC Code §24-134 are substantially met and recommends that the variance be approved.

Questions/Clarifications from board members:

- Structures have to be 50ft away from the drain field.
- Staff allowed an additional 5 feet from the right of way.
- The well is in the rear of the property behind the cabin.
- The DEQ requires a separation from the tank and drain field.
- The location of drain field is the only place available due to well location and grade.

Discussion from the Developer and Board:

- The old cabin will be razed.
- The parcel is too narrow for a fire free area.
- All neighboring residents received letters regarding the variance request.

Public meeting opened:

Public Comment was requested three times. Hearing no further comments the public hearing was closed.

Public Meeting Closed.

Motion: Recommended Motion:

Glenn Gutcheck made the motion: I move that we approve Variance 15-01 to allow the Property Owner a 5-foot side/rear setback where a 15-foot side or 20-foot rear setback is currently required and also a 25-foot front setback where a 50-foot setback is currently required by the Georgetown Lake Development District Standards in the ADLC DPS. Joyce Gutcheck seconded the motion. Motion carries unanimously.

II. Old Business: None

III. Matters from the Board: None

IV. Matter from Staff: The new DPS can be accessed at www.municode.com or access a copy from the ADLC website.

There will be another variance in the future weeks for the Pintler Vista HOA for lengthening the boat docks.

V Miscellaneous: None

VI. Adjourn

Respectfully Submitted,

Paula R. Arneson

Paula R. Arneson,
Planning Department Secretary