

Board of Zoning Appeals Minutes

June 21, 2023, at 4:30 PM

Members Present: Gordon Kinder, Art Luetke, Joe Rademacher (A), John Robertson, Jeff Sorenson (A).

Members Absent: Ken Brost, Blake Draper

Staff Present: Andrew Bremer, Jim Trebian, Kong Thao

1. CALL TO ORDER

Kinder called the meeting to order at 4:30 p.m. Kinder noted that both alternate members, Joe Rademacher and Jeff Sorenson, would serve in placement of Regular Members Ken Brost and Blake Draper who are absent.

2. ANNOUNCEMENT OF PROCEEDINGS

Kinder and Bremer provided background on the purpose and authority of the Board of Zoning Appeals, the announcement of proceedings, and procedure for the meeting as included in packets.

3. PUBLIC APPEARANCES.

None.

4. APPROVAL OF MINUTES.

- a. Motion to approve the minutes of the January 12, 2022 Board of Zoning Appeals meeting.

Motioned by Robertson and seconded by Kinder to approve the minutes. Motion passes 4-0-1 with the abstention from Sorenson.

5. PUBLIC HEARING

- a. Public Hearing for a request by CHS for a variance to construct a 12' x 18' accessory structure within the front yard setback requirements of Sec. 62-72 of the M-IC Zoning District located at 4103 Triangle Street.

Kinder opened the public hearing at 4:38PM. Bremer recited the oath before providing the staff report to the Board. Bremer's summary included past roadway reconstruction on the property as well as safety concerns that initiated the applicant's variance request. Bremer commented that the applicant received approval of a Site/Design Review Permit from the Plan Commission at the June 20, 2023 regular scheduled meeting, conditioned on obtaining a variance from the Board of Zoning Appeals. This concluded Staff's opening statement.

Grady Reinking, Pinnacle Engineering, recited the oath before providing their opening statement. Reinking provided summary on the variance request, referencing onsite

constraints, intended use of the accessory structure for maintenance and emergency equipment, and accessibility.

Luetke asked for details on the accessory structure's location, setback requirements, and the location if it were to meet setback requirements. Sorenson inquired about the function of the building and the types of materials to be stored within the structure along with the advantage of the location chosen. Reinking and Bremer provided comments addressing the Board member's concerns referencing the site plan included in the packet. Reinking's comments included accessibility of the location and its advantage to aid surrounding buildings as rationale.

Bremer provided Staff's review of the variance request and the justification for recommending approval of the variance.

1. The layout of the petroleum tanks predates the Village zoning regulations and the characteristics of those tanks and related apparatus, including applicable federal safety design requirements, limit locations on the property to place the accessory structure in compliance with the front yard setback requirements.
2. Alternative locations for the construction of an accessory structure within the property would diminish the effective use and intent of the accessory shed to improve on-site safety in the event of an emergency.
3. The request for a variance is in keeping with previous variances approved for the property and the setback distances of existing buildings to the front lot line.
4. The desire for the accessory structure is not financially motivated.

No comments or questions from the Board members regarding staff's review.

Derek Pirkl, CHS – 4103 Triangle Street, recited the oath before providing his comments. Pirkl stated the storage building will include equipment for daily maintenance safety and operations equipment, while adding an improvement to the flow of trucks entering the site. Sorensen inquired on the critical function of the buildings and why there are two sheds of similar type purposes present on the site. Pirkl commented on the nature of temporary placement shown on the site map and function of emergency responder's access points. Pirkl noted that there is a preference to have safety equipment housed on each side of the loading rack so staff doesn't have to go through or around the building in the event of an emergency to access the safety equipment.

Jake Hover, Environmental Scientist with CHS - 803 US Hwy-212, Laurel, MT, attended the meeting via phone call and recited the oath before providing his comments. Hover stated that he was the emergency response coordinator for all CHS pipeline and terminal operations. Hover affirmed the shed's location selection as strategically advantageous, concurring with previous statements from CHS staff about its use. No rebuttal or comments from the applicant and their staff was made related to Village Staff's opening statement and written report.

Seeing no witnesses present in person or online wishing to speak to the item further, Kinder closed the public hearing at 5:03PM.

6. BUSINESS.

- a. Discussion and action on a request by CHS for a variance to construct a 12' x 18' accessory structure within the front yard setback requirements of Sec. 62-72 of the M-IC Zoning District located at 4103 Triangle Street.

Kinder surveyed the Board members for additional comments or concerns. Rademacher commented he was in favor of the location proposed, affirming emergency accessibility. No additional comments or concerns from the other Board members. Kinder motioned to approve the variance referencing Village staff's written justification for approval provided in the packet.

Staff recommends a motion to approve the variance request as presented by CHS. In Staff's opinion, the applicant's response to all the standards for granting a variance under Sec. 62-366(e) of the Municipal Code is reasonable. Staff's justification for recommending approval of the variance includes:

- 1. The layout of the petroleum tanks predates the Village zoning regulations and the characteristics of those tanks and related apparatus, including applicable federal safety design requirements, limit locations on the property to place the accessory structure in compliance with the front yard setback requirements.*
- 2. Alternative locations for the construction of an accessory structure within the property would diminish the effective use and intent of the accessory shed to improve on-site safety in the event of an emergency.*
- 3. The request for a variance is in keeping with previous variances approved for the property and the setback distances of existing buildings to the front lot*

Rademacher seconded the motion. The following rationale was provided by each Board member.

- Rademacher voted in favor of approving the variance, reiterating comments on the location and affirming emergency accessibility.
- Luetke voted in favor of approving the variance based on accommodations of multiple safety factors and alignment with previously approved setbacks for the property.
- Sorenson voted in favor of approving the variance, referencing the site constraints mentioned and enhancement of safety while benefiting the community.
- Robertson voted in favor of approving the variance, concurring with the previous Board member's statements.
- Kinder voted in favor of approving the variance, with reasoning which reflected Staff's written justification of approval.

Motion passes 5-0.

- b. Discussion and action to approve updates to the Board of Zoning Appeals application.

Bremer provided a summary on the format of the current application form and addressed the proposed changes within the new application's format as it better aligns with the current Village Ordinance. Sorensen inquired about additional guidance relating to background needed by an applicant trying to apply. Bremer stated that Staff provides guidance on the application process with the applicant while sharing with the Board members an available letter to applicants, found on the Village website.

Luetke motioned to accept the staff recommended modifications to the variance application, so it stays aligned with Village Ordinances. Seconded by Kinder. Motion passes 5-0.

7. SCHEDULE NEXT MEETING DATE.

- a. To be determined.

8. ADJOURNMENT.

Rademacher motioned to adjourn, seconded by Luetke. Motion passed 5-0. Meeting adjourned at 5:23 p.m.