

City of Buhl Planning & Zoning Minutes

203 Broadway Ave N

December 20, 2023 Meeting

PRESENT:

Barbara Gietzen Commission Chair
Maggie Himmelberger Commission Member
Patricia Beltran Commission Member
Jeff Gabardi Commission Member
Bob VandeWater Commission Member
Reme Pullicar Commission Member

Anders Ullstrom Applicant
Concerned Citizens

STAFF:

Karen Drown City Clerk
Scott Bybee City Engineer
Rick Brook Code Services
Jazmine Mills P & Z Administrator
Teresa Robbins Public Works Clerk
Jason Scott Public Works Director

OPENING—The meeting was called to order at 10:30 a.m.

PUBLIC HEARINGS

CONFIRMATION OF QUORUM for Public Hearing #1: Jazmine Mills confirmed a quorum.

PUBLIC HEARING #1

Barbara Gietzen asked the applicant to make a statement. Anders Ullstrom of Buhl stated his request for a variance was to place a prefabricated metal carport on an existing concrete slab within 15' of the property line. He approached the Mondo board to show the location of the slab and the existing shed within his property.

STAFF REPORT—Jazmine stated this variance request was to reduce the setback requirement from the property line to allow for a carport. She stated the property is in an R-4 zone, and the "Schedule of Bulk and Coverage Controls" chart in Title 9 Chapter 9 Section 1 indicates that the rear setback for the construction of a structure should be 15' from the property line. Jazmine noted the application met all the requirements and the request did not provide any adverse effects.

Barbara asked if there was any testimony supporting or opposing this application. None was given.

Barbara invited the Board to ask questions. Reme asked the applicant what his actual setback would be. Anders stated the NW corner would have a 12" distance from the slab corner but would increase to more than 15', the edge of the concrete slab would be 36" from the southern property line, but with the structure, it would be a total of 42" away. He stated the existing shed is on the property line. Anders noted the pie shape of the property made it difficult to construct any structures. This led to a discussion of his property corner abutting the public school property.

There was a discussion about walkway access to the carport and the activities that would take place in it.

Barbara closed Public Hearing #1 at 10:36 a.m.

PUBLIC HEARING #2

Barbara Gietzen asked the applicant to make a statement. Karen, the Buhl City Clerk, stated there were two draft ordinances before the Commission: the Area of Impact agreement and its Map. She stated this agreement had been in the works for several years. She noted that Jon Laux from Twin Falls County brought to light that the current agreement gave the City jurisdiction to issue and enforce permits, which was against the State Code. Karen stated both the City and County were redoing the agreement to get it back in line with the State Code and to distinctly define the Area of Impact.

Barbara asked if the Area of Impact boundaries were changing. Karen stated they weren't, but noted that the City was looking at the Comprehensive Plan project and code reviews, and if that process reveals that the boundaries must change, another draft ordinance would come before the Commission.

STAFF REPORT—The applicant's testimony covered the staff report.

There was a discussion about the Community Development Services Director being appointed by the Twin Falls County Commissioners and his available staff duties, which included permit issuance for Area of Impact residents.

Barbara asked if Twin Falls County would handle the fees. Karen confirmed the County would handle the fees for PZ hearings, permits, and applications and would notify the City when hearings would occur.

There was a discussion about the 15-day notice timeframe and the City's request for an earlier notice.

There was a discussion about providing an accurate map to present to the City Council for final approval for the second ordinance.

Barbara highlighted that there wasn't a chance for testimony in opposition since this request was to comply with State law.

Karen noted the City only has jurisdiction over building permits for Area of Impact residents. She stated because it would be inconvenient to have Area of Impact residents deal with both the City and the County, they will be filing building and zoning permits with the County. Karen noted the time and effort saved by this approach outweigh any financial losses incurred, which in a last report, approximately \$8,000 in building permit fees were collected from the Area of Impact.

Reme asked why the ordinance didn't mention the County's recitals and why the City would sign it without the County's signatures. Karen stated the documents in question are City ordinances and must be adopted first before the County can provide a public hearing and record its own ordinances. She stated the agreement contract can only be signed after these ordinances are adopted.

Reme stated the structure without listing a County ordinance gave the impression that the City was taking authority from the County to incorporate this ordinance. Karen stated that would be a question for the attorneys involved in the drafting of this ordinance.

Barbara asked if the City would need the County's approval for any annexation requests. Karen stated no, it would be the same process as it is now. She noted that an annexation should be recorded before hearing a subdivision request, in the case of an applicant requesting both an annexation and subdivision, to show a cleaner process.

Barbara closed Public Hearing #2 at 10:47 a.m.

REGULAR MEETING

CONFIRMATION OF QUORUM: Jazmine Mills confirmed a quorum.

OLD BUSINESS:

Minutes of November 15, 2023: Maggie moved to approve the minutes. Reme seconded. There was no discussion. All voted in favor. The motion passed.

NEW BUSINESS:

Review and Consideration of Anders Ullstrom's Variance Request: Jeff asked the applicant about the concrete slab and why he was applying for a variance now. Anders stated he poured it to the manufacturer's standards and could use it now even if the carport was not approved since there isn't a permit required to pour concrete. He stated he wanted to gain Commission approval for the structure instead of doing it without permission.

There was a discussion about the type of structure, access to it, and noise.

Bob moved to approve the variance request. Jeff seconded. There was no discussion. There was a roll call vote; Jeff—yes, Bob—yes, Reme—yes, Maggie—yes, and Patty—yes. The motion passed.

Review and Consideration of the Area of Impact Agreement: Jeff moved to approve both Area of Impact ordinances as presented and recommended to the City Council. Reme seconded.

Scott Bybee expressed his concern regarding the transition that Area of Impact residents would face when submitting permits to the County. He stated the County's timeframes for building permit issuances were longer, and he wanted the Commission to understand that citizens may become frustrated with these changes. Jeff stated that it would be the County's responsibility and asked if the agreement will be held up until this issue is sorted out. Scott stated the agreement will still move forward. Karen stated she's contacted two of the County Commissioners, Reinke and Hall, and they're aware of the staffing needs to enforce codes in the Area of Impact. She stated with the old agreement, the County couldn't legally enforce it.

There was a discussion about other cities having their Area of Impact agreements updated with Twin Falls County that addressed their needs.

Scott stated he brought this up not to cause alarm but to help the Commission be aware of what's to come, that the staff was ready to assist, and that it's been a long process. Karen stated this agreement process's first meeting began in January 2020.

Bob asked if a building permit issuance timeframe could be added to the agreement. Scott stated it couldn't be added due to the review processes involved in building permit review.

Karen added she has emailed the County about staffing availability when enforcement is needed since several citizens will call the County with pending concerns once the agreement is in place.

Barbara expressed her concern over the County's power to approve developments in the Area of Impact that are not compatible with City growth. Karen assured that the city staff—whether herself, Jazmine, both, or Scott—will attend the hearings to voice the City's concerns. Karen stated her concern was the 15-day notice that would require both Boards to have special meetings to be able to provide comments and the time/effort it will require to make that happen.

Bob asked about the future role of the P & Z Commission. Scott stated the Commission will still be informed about the hearings for applications in the Area of Impact, but it will lose the ability to approve or deny them. Karen stated the Board will have several projects coming up, including updates to the Comprehensive Plan, City Code, and local zoning applications. She also noted that the City was awarded a \$30,000 grant by Blue Cross to support the Comprehensive Plan project. Karen stated that this new agreement dissolves the Area of Impact member seats in the P & Z Commission, but residents within the Area of Impact will still be notified of upcoming hearings held by Twin Falls County if they are within proximity of such requests.

Barbara asked for those in favor to vote aye. Jeff, Bob, Reme, and Maggie voted aye. Barbara then asked for any nays, but none were given. Patty abstained from voting. The motion passed with the majority of aye votes.

Consideration of Bruce Corson's fence request: Jazmine shared on the Mondo board images of the fence located at 930 Applewood Dr. She noted this request is after the fact of construction. Jazmine stated the owner, Bruce Corson, constructed an 8' vinyl fence, 27' long, consisting of 6x6 treated posts, set in concrete, with 12" plastic lattice at the top, making the finished height 9' and leaving 12" space from the eaves. Jazmine stated this is before P & Z because the fence and wall ordinance dictates height limits. She stated, that typically, a resident consults the Building Department before construction and learns of the height restrictions—6' maximum height for a backyard fence, 4' front yard fence if see-through, or 3' front yard fence if solid. She noted the Code requires the applicant to have P&Z approval of fences that go beyond 6'.

Jeff stated he drove by this location, and the 27' serves as a visual barrier for the RV trailer and is not an enclosure. Barbara asked if it goes toward the front gravel. Rick Brook stated it ends at the property line.

There was a discussion about notification of the adjacent neighbors.

There was a discussion about Mr. Corson learning about fence permits after construction. Jazmine stated that she has seen applicants who go through the proper steps and undergo the design review, and the Board approves.

Bob cited the City Code 9-15-4 and noted this occurs before a fence is built and not after the fact.

Teresa Robbins stated she was the Building Clerk when Mr. Corson built his home. She noted that she didn't think he had intentionally built this fence without a permit.

Reme asked if this fence was built in conjunction with the home. Teresa said no, the home was built 3 years ago. Rick stated the fence was built a month ago.

There was a discussion about other previously approved fences over 6'.

Reme asked about the benefits of allowing the taller fence, expressing concerns about whether it would be an eyesore or a public nuisance. Jeff stated that it was either looking at the fence or looking at the trailer. This led to a discussion about the overall appearance of the neighborhood.

Bob asked what action they should take. Barbara stated the options are to approve it as-is or deny it making Mr. Corson take it down and start over.

Bob moved to approve the fence request as-is. Patty seconded. All voted in favor. The motion passed.

COMMISSION CONCERNS—There was a discussion about setting up a special meeting for the week of the 22nd of January 2024. Jazmine was asked to schedule it.

CITIZEN CONCERNS—There was none.

MEETING ADJOURNED—Jeff moved to adjourn. Patty seconded. The meeting was adjourned at 11:17 a.m. All voted in favor. The motion carried.