

PUBLIC VARIANCE HEARING – Monday, September 9, 2019, 7:00 pm.

Plevna Community Center

Councilman Gary Thielen called the meeting to order in place of Mayor Benner at 7:00 p.m.

Councilman Thielen will serve as the Board of Adjustments Chair.

As Acting Mayor, Councilman Thielen excused himself from any voting to take place.

Councilmen present were Jordan Hoffman, Alba Higgins, Kyle Vennes, and Gary Thielen.

Also present: Jodi Varner, Clerk/Treasurer Krista Nemitz, Clerk Intern
Corrine Sander, Wastewater Operator Rick Schell, Water Operator

Members of the public present: Kalyn Bohle, Shawn Sander

The Chairman called for any public comment not on the agenda. There was none.

Jodi was requested to read into the record the Public Notice for TPV8132019A Variance Request. (see attached)

Chairman Thielen asked the Councilmen the ex parte questions, having no objections, the hearing proceeded.

Having no comment from the public in attendance, Chairman Thielen closed the public hearing portion of the meeting.

Having no comments from the Councilmen, Chairman Thielen asked for a motion to adopt staff's report #TPV8312019A. Councilman Higgins made a motion for adoption, seconded by Councilman Vennes.

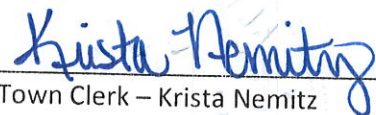
Aye: 3 Nay: 0 Absent: 0 Abstain: 1 Carried: 3:1

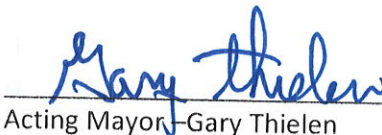
Councilman Hoffman made a motion, seconded by Councilman Vennes, to approve an appeal of variance from the Town of Plevna Zoning Ordinance #54 with the following conditions:

- Applicant must contact Richard Menger, Fallon County Sanitarian, prior to construction of building, and placement of the septic system.
- Applicant follow up with Richard Menger, Fallon County Sanitarian, as required.
- Applicant apply for a Zoning Compliance Permit prior to beginning construction.

Aye: 3 Nay: 0 Absent: 0 Abstain: 1 Carried: 3:1

Having no further business, Acting Mayor Thielen adjourned the meeting at 7:15 p.m.


Town Clerk – Krista Nemitz


Acting Mayor – Gary Thielen

TPV8132019A VARIANCE REQUEST

Staff Report: September 6, 2019

Applicant's Name: Mylen & Diane Bohle
655 NE Ochoco Av.
Prineville, OR 97754

Legal Description: TOWNSHIP 8N RANGE 58E MPM, SECTION 30: TRACT 1 BEING A TRACT OF LAND IN THE SE1/4SW1/4 AND THE SW1/4SE1/4, AS REFERENCED IN COS #0104708, RECORDED IN BOOK 1P AT PAGE 353, CONTAINING 24.41 ACRES MORE OR LESS, IN THE TOWN OF PLEVNA, COUNTY OF FALLON, STATE OF MONTANA

Zoned: AG: Agriculture

PROJECT DESCRIPTION AND PROPOSAL:

Applicant anticipates placing a house on property. The Town of Plevna through their zoning regulations requires property within the Town of Plevna be hooked to sewer and water. Applicant is proposing placing a septic system on property.

Descriptive Data:

- a) **11.13.81 Variance.** Applications for Variances shall be reviewed and decided pursuant to the standards and procedures of this section. **A. Procedure.** The Board of Adjustment is assigned authority for Final Action on Variance Applications. These applications are reviewed and decided pursuant to procedures in Section **11.13.47 Procedures for Decisions by Zoning Commission or Board of Adjustment.**
- b) **Standards.** Approval of a Variance shall require the Board of Adjustment making each of the following Findings of Fact:

Findings of Fact:

- 1. **Special Conditions.** There are special circumstances or conditions that are peculiar to the land or building for which the Variance is sought that do not apply generally to land or buildings in the neighborhood.

Finding: The building site is 1800 feet from the closest city sewer hook-up. Therefore, special conditions that are peculiar to the buildings site that do not apply generally to land or buildings in the neighborhood.

2. **Not a Result of the Applicant.** The special circumstances or conditions have not resulted from an act of the applicant or been established to circumvent this Ordinance.

Finding: These special circumstances are not a result from the applicant nor is the applicant trying to circumvent this Ordinance. A hardship exists regarding the building site in connection with the sewer hook-up.

3. **Strict Application Unreasonable.** Due to the special circumstances or conditions, the strict application of this Ordinance would deprive the applicant of reasonable use of the land or building or create an undue hardship.

Finding: Staff finds that a hardship does exist with the extensive location of the sewer line connection in conjunction with the building site. The property line is 1400 to 1500 feet from the connection, the building site is another 300 to 500 feet from the property line, and manholes would need to be placed every 300 feet and lift stations would need to be considered.

4. **Necessary to Provide Reasonable Use.** Granting the Variance is necessary to provide a reasonable use of the land or building.

Finding: Because of the agricultural location of the land, the length of excavating that would need to take place to tie into the Town's sewer, and this creates a land hardship, and staff finds that the granting of the variance would be necessary for the reasonable use of the land or building.

5. **Minimum Variance.** The Variance is the minimum variance necessary to allow a reasonable use of the land or building.

Finding: Staff finds that the variance is in fact the minimum variance necessary to allow for a reasonable use of the land or building, as the land is approximately 1500 feet from the nearest tie-in, which already creates a hardship.

6. **Not injurious.** Granting the Variance will not be injurious to the neighborhood or detrimental to the public welfare.

Finding: Staff finds that the granting of this variance would not be injurious to the neighborhood or detrimental to the public welfare, as in granting the variance the local sanitarian must be contacted for the placement of the septic system.

It is the Plevna Town Council's sole responsibility to use any testimony made by the public as proponent or opponent to the variance, this staff report, any fact-finding information in the proceedings, and the public's health and welfare as part of their decisions in granting the variance with conditions, without conditions, or denial. Staff's recommendation to the Plevna Town Council is approval upon condition applicant contacts Richard Menger, Fallon County Sanitarian, prior to placement of the septic system and any follow-up site visits required by Mr. Menger.

Suggested Form of Motion:

1. Move to adopt staff's report # TPV8132019A as findings of fact.
2. Move to approve an appeal of a variance from the Town of Plevna Zoning Ordinance #54 with the following conditions:
 - Applicant contact Richard Menger, Fallon County Sanitarian, prior to construction of building, and placement of the septic system.
 - Applicant follow up with Richard Menger, Fallon County Sanitarian, as required.
 - Applicant apply for a Zoning Compliance Permit prior to beginning construction.

Respectfully Submitted;

Mary Grube
Zoning Staff/Fallon County Planning Department