

RESOLUTION NO. 4252

A RESOLUTION APPROVING A 5-YEAR BLANKET VARIANCE FOR WESTWOOD ESTATES TRAILER PARK ALLOWING FOR REPLACEMENT OF MOBILE HOMES AT AN ELEVATION OF 36" ABOVE GRADE.

WHEREAS, Paul Ellis, member of Ellis Rentals, LLC, the owner of the Westwood Estates Trailer Park, has made application for a blanket floodplain permit and blanket variance for said trailer park for a period of 10 years, to allow for the substantial repair or replacement of mobile homes within the park at existing elevations and without a permit;

AND WHEREAS, the initial permit application was denied by the City Floodplain Administrator, resulting in an appeal to the City Council of said denial, as well as an application for a variance which would allow the applicant to replace existing mobile homes at the same elevation as they are currently set;

AND WHEREAS, a public hearing on the appeal and variance request was held, and testimony presented by Mr. Ellis and his attorney, Chris Gray, as well as by City Floodplain Administrator Sam Malenovsky, and the same have been duly considered by the City Council;

NOW THEREFORE, IT IS RESOLVED BY THE CITY COUNCIL OF THE CITY OF MILES CITY, MONTANA AS FOLLOWS:

1. The City Council makes the following Findings of Fact:
 - a. The Westwood Estates Trailer Park is located within the City of Miles City Floodplain.
 - b. The park is situated upon two legally platted parcels, sized 5.74 acres and 11.495 acres; however, for purposes of this review, lot size is reviewed in accordance with the definition set forth in 44 CFR Section 59.1, defining a manufactured home park as land divided into two or more manufactured home lots for rent or sale. The City finds that for purposes of this review, the Westwood Estates Trailer Park has 70 lots for rent, and that each lot is less than ½ acre in size.
 - c. The floodplain permit was properly denied by the Floodplain Administrator, as the City's flood code requires that the replacement of manufactured homes be permitted and compliant with the elevation requirements within the flood code, being two feet above base flood elevation, unless a variance is granted. Section 12-52(1)
 - d. The applicant meets all 10 of the floodplain variance criteria set forth in Section 12-59(a), noting that whether the variance may result in extraordinary public expense pursuant to 12-59(a) (5) should be re-evaluated in five years, given the five year Community Rating System review interval; and also meets the exception variance criteria set forth in Section 12-59(b) (1). As such, a variance may be granted to the applicant.
 - e. Although the State of Montana provides no relief from the "base flood plus two feet" elevation requirements for trailer and mobile home parks, the Floodplain Administrator has advised that the Code of Federal Regulations (CFR) allows for mobile homes within the designated floodplain to be

elevated to 36 inches above grade. Strict compliance with the State of Montana requirements would result in elevation to 8.1 feet above grade in this instance, which is not feasible or safe for the residents of the park.

- f. The City of Miles City participates in the “Community Rating System” (CRS) program, within the National Flood Insurance Program. In order to maintain good standing and receive discounts for City residents who purchase flood insurance, certain additional regulatory standards are required to be met, in addition to the minimum standards set forth in the CFR. One area where credits can be earned and a community discount received is for requiring additional elevation, above base flood elevation, for development within the community – called “freeboard credits.” As the State of Montana requires development be two feet above base flood elevation, two feet of “freeboard” is typically required without a variance.
- g. The applicant has agreed that a floodplain permit is appropriately required prior to the replacement of any mobile home within the park.
- h. The City Council determined that the applicant property is uniquely situated, in that the mobile homes are densely situated on small lots, and that strict compliance with the 8.1 foot elevation required by state regulations would create a risk to the health, welfare and safety of the occupants of the trailer park.

2. Based on the foregoing findings of fact, the City Council grants the applicant a variance as follows: A 5 year blanket variance is hereby granted to the Westwood Estates Trailer Park, allowing for substantial repair or replacement of existing mobile homes with new homes of the same or smaller dimensions. The replacement trailer and all utilities must be placed at an elevation of 36” above grade. Before any trailer is replaced the applicant must contact the City for measurements to ensure that the new trailer is the same size or smaller than the one being replaced. A floodplain permit shall be required prior to the substantial repair or replacement of any mobile home within the park. All homes shall be anchored, and shall otherwise comply with the requirements of the City’s flood code. In the event State or Federal law is amended and would render this variance unlawful, then the blanket variance may be terminated by the City upon written notice to the applicant, or the applicant’s successor in ownership of the park, within ninety (90) days of the community’s adoption of the amendment.

SAID RESOLUTION FINALLY PASSED AND ADOPTED BY A DULY CONSTITUTED QUORUM OF THE CITY COUNCIL OF THE CITY OF MILES CITY, MONTANA, AT A REGULAR MEETING THIS 23RD DAY OF JULY, 2019.



John Hollowell, Mayor

ATTEST:



Lorrie Pearce, City Clerk

**NOTICE FOR PUBLIC COMMENT
REQUEST FOR FLOODPLAIN APPEAL AND VARIANCE**

The City of Miles City Council has received the following Floodplain Appeal and Variance request:

An appeal and variance request has been made by Ellis Rentals for two lots in the 100-year floodplain. The site is located at 900 Albert Ave, lot # 37 & 47 and is legal described as section 27, Township 08N, Range 47E, Tract A & B, in the NESW & NWSE between Milwaukee and Burlington Northern RR in Miles City, Montana. The applicant is seeking an appeal to the floodplain administrator's decision and an exception to the variance criteria.

The site is currently mapped as an AE flood hazard zone with Base Flood Elevation given. A more precise map and

description of the pro appeal, and is available for re in at City Hall, 17 South Eighth Street, Miles City, Montana. Written or oral comments concerning the above request should be directed to the Floodplain Administrator at the City of Miles City, PO Box 910, Miles City, MT 59301; or via phone: (406) 234-3493 or email: smalenovsky@milescity-mt.org

Comments will be received through Tuesday, February 26, 2019 until 5:00 p.m. The hearing will be held the same day at 6:00 p.m. in the City Hall Conference Room, 17 South Eighth Street, Miles City, MT 59301.

Samantha Malenovsky,
CFM
Floodplain Administrator
City of Miles City
(Published February 11, 2019)
MNXLP

Affidavit of Publication

STATE OF MONTANA }
County of Custer } ss.

Mary Rose Bovee, being duly sworn on her oath, says that she has been the principal clerk of the printer of the MILES CITY STAR, a daily newspaper of general circulation, printed and published at Miles City, in said County and State. **City of Miles City, Notice for Public Comment. Request for Floodplain Appeal and Variance, 900 Albert Avenue, Lots 37 & 47 / Ellis Rentals.** A printed and true copy which, cut from the columns of said newspaper, is hereto attached, and made a part hereof, was printed and published in said newspaper, in the regular and entire issue of every number of the paper during the period and time of publication, on the following dates February 11, 2019.

Signed Mary Rose Bovee

Subscribed and sworn to before me this 11th

day of February, 2019

Tabatha Hallman

Tabatha Hallman, Notary Public for the State of Montana, residing at Rosebud. My Commission Expires June 1, 2019.

