

DETERMINATIONS

The Board of Adjustment, before it grants a variance shall determine:

- 1. That special conditions and circumstances exist which are peculiar to the land, the lot or something inherent in the land which causes the hardship, and which are not applicable to other lands in the same district;**

There are no special conditions or circumstances that are peculiar to the land that create a hardship that is applicable to the subject property. The applicants would like to change the lots to reflect what is built on the lots and avoid future problems with land sale.

- 2. That a literal interpretation of the provisions of this Chapter would deprive the applicant of rights commonly enjoyed by other tracts in the same district;**

Staff is aware of at least 3 similar variance in the surrounding area, one of those variances being what allowed the lots to be the size they are currently. There are 2 other original parcels that have been subdivided to smaller than 10 acres creating 4 parcels that are less than 10 acres. Denial of the requested variance would deprive these owners of rights commonly enjoyed by other tracts in the same district.

- 3. That granting the variance requested will not confer on the applicant any special privilege that is denied by this Chapter to other land in the same district;**

Granting the variance would not confer on the applicants a special privilege that is denied other land in the district. There are other parcels of land that are one acre in size in the same Certificate of Survey where zoning requires 10 acres.

- 4. That the granting of the variance will be in harmony with the general purpose and intent of this Chapter and with the Growth Policy;**

The granting of this variance would not conflict with the Yellowstone County and City of Billings 2008 Growth Policy and would be harmony with the general purpose of this chapter.

- 5. In granting any variance, the Board may prescribe appropriate conditions and safeguards in conformity with this Chapter. Violation of such conditions and safeguards, when made a part of the terms upon which the variance is granted, shall be deemed a violation of this Chapter;**

Staff is recommending conditions of approval as follows:

1. A variance from 27-308 requiring a minimum lot area of 10 acres to allow a lot area of 8.365 acres and 3.29 acres in an Agriculture-Open Space (A-1) zone on Tract 3A and Tract 3B of C/S 2085, a 5.829 acre and 5.828 acre parcels of land respectively.
2. The variance is limited to Tract 3A and Tract 3B of C/S 2085, generally located at 1810 and 1824 Lenhardt Lane.
3. The applicant will go through the process of re-locating the common lot line within one year of the board of adjustment approval.
4. Failure to begin or complete actions by the time specified will void the variance granted.

5. These conditions of variance approval shall run with the land described in this authorization and shall apply to all current and subsequent owners, operators, managers, lease holders, heirs and assigns.
- 6. The Board shall prescribe a time limit within which the action for which the variance is required shall be begun or completed, or both. Failure to begin or complete such action within the time limit set shall void the variance; and**
Staff recommends the applicant be required to complete the process of lot line re-location within one year of Board of Adjustment approval.
- 7. Under no circumstances shall the Board grant a variance to allow a use not permissible under the terms of this Chapter in the district involved. A variance shall not be a grant of special privilege inconsistent with limitations placed upon other property in the district.**
Smaller lots than what is required by zoning are a fairly common occurrence in the county zoned areas.

ATTACHMENTS:

- A: Subject Property and Surrounding Zoning
- B: Photos of the Subject Property and Surrounding Area
- C: Site Plan
- D: Applicant Letter and Application