

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 and circumstances that are peculiar to the land that create a hardship. The property is relatively flat, was almost completely cleared for the construction of the Bretz RV facility, and is similar to other properties in the same district. The property directly to the west of the subject property is in the same Entryway General Commercial (EGC) zone and a Holiday Inn Express is located on the site. The Holiday Inn Express was subject to the same regulations. The Pierce RV Supercenter located at 3800 Pierce Parkway at the far west edge of Billings is in the Entryway Light Industrial (ELI) zone and also was subject to the same site development requirements.

Bretz RV in its variance application references the cost of the land it purchased for the new facility and the cost of the landscape berm it has already installed. It appears to indicate these costs should be considered a hardship. However, monetary costs are not identified as criteria in variance determinations.

- 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;**

Approving this variance would give the applicant a privilege that is denied others in the same zoning district. There have been no variance requests from the landscaping requirements of the Entryway Zoning Districts since the regulations were first adopted by the City and County. Businesses of varying sizes and uses have developed in compliance with the regulations. Some businesses have begun construction and were found to be out of compliance with the regulations and were brought into compliance. There are likely a few businesses in the Entryway Zoning District in the County that may not be in compliance since building permits are not required in the County. County Code Enforcement requires a complaint to be filed before investigating a potential violation. No variances for landscaping have been submitted for this district and many existing businesses in the district have complied with the regulations. A literal interpretation of the regulations does not deprive these owners of rights commonly enjoyed by others in the same zoning district.

Planning staff also worked extensively with the applicant to develop a landscape plan that met the Entryway Zoning requirements while also enabling the applicant to have multiple open areas for motorists on I-90 and Old Hardin Road to see the property and displayed merchandise. The applicant could have even done more with clustering of landscaped areas along the I-90 frontage to consolidate trees to further improve views of the property. Only two landscape bump outs from the I-90 frontage were placed on the site plan where trees could have been clustered, while additional bump outs could have further concentrated the trees in specific areas to further open the spaces between them for views of the property.

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 confer on the applicants a special privilege that is denied other land in the district. The applicants are asking for more than a 55% reduction in the number of trees required (131 to 60), a 78% reduction in the number of shrubs required (267 to 60), to be allowed to have 50% of the ground cover to be non-living (rock) instead of 10%, complete elimination of the required bump outs in the parking lots for landscape areas, and complete elimination of the six (three per building frontage on Old Hardin Road and I-90) small landscape areas with one tree per location to be installed along the building façade between the garage bays to break up the long façade.

While the landscape requirements are significant in this district, the subject property is almost 1.5 million square feet in area, with nearly 2,000 feet of combined street frontage on Old Hardin Road and the I-90 corridor. To meet the intent and requirements of the Entryway Zoning District, a property of this size and scale will have a significant amount of landscaping.

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;

Granting this variance will not be in harmony with the general purposes and intent of the zoning regulations. Section 27-1001 of the zoning code indicates that the purposes of the Entryway Zoning Regulations is *“to promote attractive, high quality development, to provide an appealing image of the City of Billings (and Yellowstone County), to the traveling public and also the community. Further, it is the intent of this district to maintain sensitivity toward existing development while preserving scenic vistas and protecting environmentally sensitive areas, including the Yellowstone River Corridor.”*

This property and many of the surrounding properties were part of the Johnson Lane Master Plan zone change approved in September 1995. The Board of County Commissioners approved the master plan by resolution in July 1994. The Johnson Lane Master Plan and the adopted zoning was intended to attract businesses that serve tourists and travelers, and make this entry to Lockwood more appealing through enhanced building design with attractive and abundant landscaping. Similar interchange entryway plans and zoning were implemented for the same purpose at the South Billings Boulevard/I-90 Interchange and the Zoo Drive/I-90 Interchange. Reducing the landscape requirements does not promote attractive, high-quality development in this area, and will not be sensitive to the surrounding existing residential and some commercial development.

Granting this variance will not be in harmony with the 2008 City of Billings and Yellowstone County Growth Policy. The variance conflicts with the following Growth Policy goals:

- Goal: Predictable land use decisions that are consistent with neighborhood character and land use patterns. (p. 6)

This project is in the Entryway Zoning District near the Johnson Lane Interchange in Lockwood. The development in this area is intended to promote attractive, high-quality

development and be sensitive to the surrounding existing development. Significantly varying from the landscaping requirements will make this development inconsistent with the character of the area.

- Goal: New developments that are sensitive and compatible with the character of adjacent County townsites. (p. 6)

The Entryway Zoning District requirements are intended to make development in the area appealing to the traveling public and also sensitive and compatible with the character of the Lockwood area. A lack of landscaping and site improvements will diminish the compatibility of this property with others in the same area and zoning district.

- Goal: An inviting and attractive urban interstate corridor through the County. (p. 9)

The Entryway Zoning District requirements are intended to make development in the area appealing to the traveling public. Limited landscaping will not make the interstate corridor more inviting or attractive in this area of the County.

- 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 denial of this variance and so conditions of approval are not applicable.

- 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 is not recommending approval of this variance and so a time limit is not applicable.

- 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.**

Granting of this variance will not allow a use that is prohibited in the Entryway Zoning District, but would grant a special privilege to the property owner inconsistent with the limitations placed upon other property in the District.