



CITY BOARD OF ADJUSTMENT
AGENDA-Wednesday, November 4, 2020 @ 6:00 p.m.
Virtual Meeting

NOTICE TO THE PUBLIC

Public Comment:

Notice is hereby given that the Board of Adjustment of the City of Billings, Montana will hold a public meeting on **Wednesday, November 4, 2020, at 6:00 p.m.** Due to the COVID-19 health concerns, the format of the City Board of Adjustment meeting will be held in a virtual videoconferencing environment. The normal hearing room on the 1st Floor at 2825 3rd Ave North (Miller Building) will be closed during the meeting and no one will be attending this hearing in person. Public comment will be taken only during the Public Comment periods as indicated on the agenda, and during the Public Hearings under the Regular agenda. Comments may be sent to **Board via email before 1:00 PM on Wednesday, November 4, 2020.** All emails received prior to this time will be read into the record for the public hearing. The Public may call in during specific Public Comment periods at **(406) 237-6165.** All callers will be in a queued system and are asked to remain on hold and be patient. Calls will be taken in the order in which they are received. Callers will be restricted to 3 minutes of testimony as is customary. Live coverage can be viewed here

<https://www.facebook.com/Billings-Planning-Community-Services-Department-1738982159659260/?ref=bookmarks>

Call the meeting to order.

Introduction of City Board of Adjustment Members and Planning Department Staff.

Public Comment

Approval of Minutes:

The minutes of the Board meeting of October 7, 2020.

Disclosure of any Conflict of Interest-Members of the Commission and Staff

Disclosure of an Outside (Ex Parte Communication)-Members of the Commission and Staff
a. The Exparte Communication Binder is available at the Sign-In and Agenda Station.

Regular Business:

- A. Opening of public hearings.
- B. Reading of rules for the procedure by which the public hearings will be conducted.
- C. Reading of notices of the public hearings on the following items:

Public Hearings:

- a. **City Variance 1321- 1503 12th Street West** - A variance from 27-310(i) requiring the side wall height of a detached structure be no greater than the side wall height of the existing residential structure allowing 12-foot side walls, and from 27-310(i) requiring a maximum detached structure footprint of 1,000 square feet allowing a maximum footprint of 1,080 square feet in a Residential 6,000 (R-60) zone, on Block 2, Lot 8, Van Bramer Subdivision, an 8,620 square foot parcel of land. The purpose of the variance is to allow construction of a new detached garage. Tax ID: A17211.

Other Business/Announcements

Adjournment

Public hearings are accessible to individuals with physical disabilities. Special arrangements for participation in the public hearings by individuals with hearing, speech, or vision impairment may be made upon request at least three days prior to the hearing. Please notify Robbin Bartley, Administrative Assistant, at 247-8676 or e-mail to bartleyr@ci.billings.mt.us

City Board of Adjustment

Meeting Date: 11/04/2020

Information

Subject

The minutes of the Board meeting of October 7, 2020.

Attachments

BBOA_2020_1007

CITY BOARD OF ADJUSTMENT

MINUTES October 7, 2020

Name	Title	01/01/2020	02/05/2020	03/04/2020	04/01/2020	05/06/2020	06/03/2020	07/01/2020	08/05/2020	09/02/2020	10/07/2020	11/04/2020	12/02/2020	
David Mitchell	Member	-	-	A	-	1	-	1	E	1	1			
Dave Hagstrom	Member	-	-	1	-	1	-	1	1	E	E			
Paul Hagen	Member	-	-	1	-	1	-	1	1	1	1			
Jeff Bollman	Vice Chair	-	-	E	-	1	-	1	1	1	1			
Oscar Heinrich	Member	-	-	E	-	1	-	1	1	1	1			
Martin Connell	Member	-	-	1	-	1	-	1	1	1	1			
Mark Noennig	Chair	-	-	1	-	1	-	1	1	1	1			
TOTAL NUMBER OF APPLICATIONS 2020		01/01/2020	02/05/2020	03/04/2020	04/01/2020	05/06/2020	06/03/2020	07/01/2020	08/05/2020	09/02/2020	10/07/2020	11/05/2020	12/02/2020	TOTAL
Variance		-	-	2	-	5	-	5	2**	1	2			15

**1 Item continued and 1 postponed both from 7/1/2020 meeting.

Chair Noennig called the meeting to order at 6:00 p.m. The City Board of Adjustment met virtually thru Zoom <https://zoom.us/j/95905224215>.

Nicole Cromwell introduced the City Board of Adjustment members and Planning Department staff. Attending Staff members are Nicole Cromwell, Zoning Coordinator; Karen Husman, Planner I; and Robbin Bartley, Administrative Assistant.

Attending:

Public Comment

Chair Noennig opened the public comment period and asked if there was anyone wishing to speak during the public comment portion of the meeting. There was none.

Approval of Meeting Minutes

Meeting minutes for September 2, 2020.

Motion

Board Member Heinrich moved and Board Member Connell seconded the motion to approve the September 2, 2020 minutes. The motion carried with a unanimous voice vote.

Disclosure of any Conflict of Interest, Ex Parte Communications and Site Visits

A form has been implemented for disclosures. If any Member circled yes to a Conflict of Interest or Ex Parte Communication, it will be explained here.

Public Hearings

Nicole Cromwell reviewed the procedures for public hearings and stated the Board will open a public hearing and allow public comment this evening. She reviewed the hearing and presentation processes for the meeting and acting on each variance.

City Variance – 1319 – 4749 Gold Creek Trail – Lot coverage - A variance from Section 27-308 requiring a maximum 30% lot coverage in a Residential – 9600 (R-96) zone to allow 38% on Lot 14, Silver Creek Estates Sub., a 9,600 square foot parcel of land. The purpose of the variance is to allow minimum ADA requirements to build a single level home. Tax ID: A35940

RECOMMENDATION

Planning staff has reviewed this application & is recommending denial of Variance #1319. Based on the Determinations for granting a variance.

Questions for staff:

Board member Heinrich asked about the „ADA requirements“ Staff deferred to the Applicant.

Board member Mitchell inquired as to how Project Re:Code will effect this lot. Staff indicated if the applicant should wait until approved and adopted, the zoning would allow 40% lot coverage.

Chair Noennig asked if any public comments had been received. Staff replied an email was received in support from Laura Boyer.

Public Hearing

Chairman Noennig opened the public hearing at 6:12PM and asked if there was anyone wishing to speak in favor or against **City Variance 1319**..

Applicant: Jackie Clement

When the lot was purchased they were not made aware of the 30% lot coverage restriction. They have purchased the building plans for the home of their dreams. It is a one level home with zero entry and accomodating living space. They are being proactive regarding their senior years and retirement. They would like to start building right away.

Board member Heinrich asked what was meant by the ADA requirement. 1 level, no basement He then asked why the variance is necessary. They wish to use the building plans they purchased.

Board member Hagstrom asked why the real estate agent had not disclosed this restriction and if said realtor is in on this conversation.

Board member Mitchell asked about the current homes built around this lot.

Board member Hagstrom asked why the house plan could not be reduced. To achieve the necessary square footage a basement would be added, applicant does not want a basement.

Board member Bollman asked if they were willing to reduce the footage to comply with the 30 percent restriction.

Board member Hagstrom stated there are larger lots in the same subdivision, have they inquired with the seller to make a change.

Chair Noennig stated the real estate agent knows now.

Favor

Jake Nienaber, Contractor, 4643 Elk Ridge

The Clements do not want a large lot requiring care in their senior years. The home planned is wheelchair accessible, the bathrooms are enlarged, it is one level. The square footage includes all covered areas, garage and patio.

Board member Heinrich asked about the entryway from the garage. It is zero entry.

Opposed

NONE

Discussion

Chair Noennig called for questions and discussion from the members of the Board.

Board member Heinrich struggles with the future ADA designation. If they would wait for Re:Code adoption, the variance would be unnecessary.

Chair Noennig stated this is not literally ADA but merely a desire to have a large single level home.

Board member Mitchell suggested they buy additional land or wait for Re:Code adoption.

Board member Connell stated on one hand the variance should be granted because it will be compliant after Re:Code however there is no criteria for allowing this variance.

Chairman Noennig and other staff and board members then explained the withdrawal option to the applicants.

At 6:29PM, Chairman Noennig closed the Public Hearing and called for a motion.

Motion

Board Member Heinrich made a motion and Board Member Bollman seconded the motion to deny **City Variance 1319** with staffs findings of fact.

Member	Yes	No	Not Present
David Mitchell	x		
Dave Hagstrom	x		
Paul Hagen		x	
Jeff Bollman	x		
Oscar Heinrich	x		
Martin Connell	x		
Mark Noennig		x	

The motion to deny City Variance 1319 passed with a 5-2 vote.

City Variance – 1320 – 1119 Pepper Lane – Wall height and size of a detached garage- A variance from 27-310(i) requiring the side wall height of a detached structure be no greater than the side wall height of the existing residential structure to allow 12-foot side walls, and from 27-310(i) requiring a maximum detached structure footprint of 1,000 square feet to allow maximum footprint of 1,008 square feet in a Residential 7,000 (R-70) zone, on Block 1, Lot 10 & 11 Marilyn Sub., a 8,875 square foot parcel of land. The purpose of the variance is to allow construction of a new detached garage. Tax ID: A10870.

RECOMMENDATION

Planning staff has reviewed this application & is recommending conditional approval of Variance #1320. Based on the Determinations for granting a variance.

1. Variance from 27-310(i) to allow 12-foot side walls, & 27-310(i) to allow maximum footprint of 1,008 square feet in a Residential 7,000 (R-70) zone. To construct a new detached garage. No other variance
2. Limited to Block 1, Lot 10 & 11 Marilyn Sub., a 8,875 square foot parcel of land.
3. will submit & obtain a building permit within 1 year of variance approval & completed within 2 years.
4. Will construct the garage in substantial conformance to the drawings submitted with this variance request.
5. Construction or demolition activity will not occur prior to 7 am or after 8 pm daily.
6. Shall meet all other city code requirements for the proposed garage with the exception of this variance.
7. Failure to begin or complete actions within the time limits set forth shall void this variance.
8. These conditions of variance approval shall run with the land

Questions for staff:

Board member Heinrich asked how many other garages in the area have 12 foot walls, he saw 3 others.

Public Hearing

Chairman Noennig opened the public hearing at 6:51PM and asked if there was anyone wishing to speak in favor or against **City Variance 1320**.

Applicant: Brian Zweegman, 1119 Pepper Lane

He needs the additional height for his truck and camper, it is located in the alley and not blocking.

Favor

NONE

Opposed

NONE

Discussion

Chair Noennig called for questions and discussion from the members of the Board.

At 6:53PM, Chairman Noennig closed the Public Hearing and called for a motion.

Motion

Board Member Hagstrom made a motion to and Board Member Mitchell seconded the motion to conditionally approve **City Variance 1320** with Staff recommendations.

Member	Yes	No	Not Present
David Mitchell	x		
Dave Hagstrom	x		
Paul Hagen	x		
Jeff Bollman	x		
Oscar Heinrich	x		
Martin Connell	x		
Mark Noennig	x		

The motion to approve City Variance 1320 passed with a 7-0 vote.

Other Business: November meeting will be Wednesday November 4, 2020, there is one item on the agenda.

ADJOURNMENT: The meeting adjourned at 6:56PM.

ATTEST: DRAFT. To be approved by a motion at the next regularly scheduled meeting. Robbin Bartley, Administrative Assistant.



City Board of Adjustment

Meeting Date: 11/04/2020

SUBJECT: City Variance 1321- 1503 12th Street West

THROUGH: Karen Husman

PRESENTED BY: Karen Husman

Information

REQUEST

City Variance 1321- 1503 12th Street West - A variance from 27-310(i) requiring the side wall height of a detached structure be no greater than the side wall height of the existing residential structure allowing 12-foot side walls, and from 27-310(i) requiring a maximum detached structure footprint of 1,000 square feet allowing a maximum footprint of 1,080 square feet in a Residential 6,000 (R-60) zone, on Block 2, Lot 8, Van Bramer Subdivision, an 8,620 square foot parcel of land. The purpose of the variance is to allow construction of a new detached garage. Tax ID: A17211.

RECOMMENDATION

Staff recommends conditional approval of the variance based on the criteria for variances provided in the summary section of this report.

APPLICATION DATA

OWNERS: Randy & Susan Maul

PURPOSE: The purpose of the variance is to allow construction of a new detached garage

LEGAL DESCRIPTION: Block 2, Lot 8, Van Bramer Subdivision

ADDRESS: 1503 12th St. W

EXISTING LAND USE: Residential

PROPOSED LAND USE: Residential

EXISTING ZONING: R-60

CONCURRENT APPLICATIONS

None.

APPLICABLE ZONING HISTORY

SUBJECT PROPERTY	VARIANCE #	DATE	FOR	APPROVED (Y/N)	ADDITIONAL DATA
None					
SIMILAR PROPERTY					
1119 Pepper Lane	1320	10/4/20	Side wall 12'-1008 sf	y	Detached garage
1407 Lake Elmo	1005	5/2/2007	Sidewall 11'6"	Y	Detached Garage
521 Judith Lane	1313	8/1/20	Side wall 12'	y	Detached garage
1109 Fredrick Lane	None		Garage over 1000sf		Detached garage
1112 Avenue E	None		Garage over 1000 sf		Detached Garage 1280sf
1102 19th St. w 1113 19th St. w	None		Larger garage		Garage constructed larger than 1000sf.
1111 Avenue D	None		Larger garage		Detached Garage 1200sf

SURROUNDING LAND USE & ZONING

NORTH: Zoning: R-60

Land Use: Residential & Residential Multi Family

SOUTH: Zoning: R-60

Land Use: Residential & Residential Multi Family

EAST: Zoning: R-60

Land Use: Residential & Residential Multi Family

WEST: Zoning: R-60

Land Use: Residential & Residential Multi Family

BACKGROUND

The applicant is requesting a variance from requiring the side wall height of a detached structure be no greater than the side wall height of the existing residential structure which would allow 12-foot side walls, and from requiring a maximum detached structure footprint of 1,000 square feet allowing a maximum footprint of 1,080 square feet. The purpose of the variance is to allow construction of a new detached garage.

The applicant would like to remove an existing garage and build a new garage with a higher side wall and more square feet of footprint. Although there have not been similar variances granted in the district, there are existing detached garages in the surrounding neighborhoods that exceed the allowed square foot maximum that have not received a variance.

SUMMARY

STAFF DETERMINATIONS

The Board of Adjustment shall make the following determinations prior to granting a variance:

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 circumstances that exist which are peculiar to the land. The applicant has not stated a hardship with the property, other than they would like a larger garage than allowed, with taller sidewalls. The code allows a 1,000 square foot detached accessory building on the lot. The detached garage could be built to meet the size and wall height allowed by the zoning regulations. There are not any topographical or other reasons restricting the applicant from meeting the restrictions of the zoning regulations.

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;

Allowing the variance would give the applicant rights commonly enjoyed by other tracts in the same district. There have been few variances granted in the area or surrounding neighborhoods, similar to this request. The literal interpretation of the provisions of this Chapter would deprive the applicant of rights commonly enjoyed by other tracts in the same district; therefore, denying the applicant a variance for a garage larger and with higher side walls than the residential structure would deprive the applicant rights commonly enjoyed by other properties in the 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 this variance for a detached garage foot print of 1,080 square feet and a variance from the wall height restriction of no higher than the wall height of the existing single family dwelling at 10 feet, to a height of 12 feet for the proposed garage in a R-60 zone would not confer a special privilege to this applicant as similar sized detached garages are apparent in this subdivision and in similar neighborhoods. Granting the variance requested will not confer on the applicant a special privilege that is denied by this Chapter to other land in the same district.

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;

This variance is in harmony with the general purpose and intent of the zoning regulations and the growth policy.

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 the following conditions for the variance request;

1. Approval for a variance from 27-310(i) to allow 12-foot side walls, and to allow maximum footprint of 1,080 square feet in a R-70 zone. The purpose of the variance is to allow construction of a new detached garage. No other variance is intended or implied.
2. The variance is limited to Block 2, Lot 8, Van Bramer Subdivision, 1503 12th Street W.
3. The applicant will submit and obtain a building permit for the garage within 1 year of variance approval and have it completed within 2 years.
4. The applicant will construct the garage in substantial conformance to the drawings submitted with this variance request.
5. Construction or demolition activity will not occur prior to 7 am or after 8 pm daily.
6. The applicant shall meet all other city code requirements for the proposed garage with the exception of this variance.
7. Failure to begin or complete actions required by this approval within the time limits set forth shall void this variance.
8. 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

The property owner shall apply for a and receive approval of a building permit to construct the garage within 1 year and complete construction within 2 years from BOA 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.

Granting this variance will not approve a use that is not otherwise allowed in the R-60 zoning district. Detached garages and accessory buildings are allowed in the residential zoning districts.

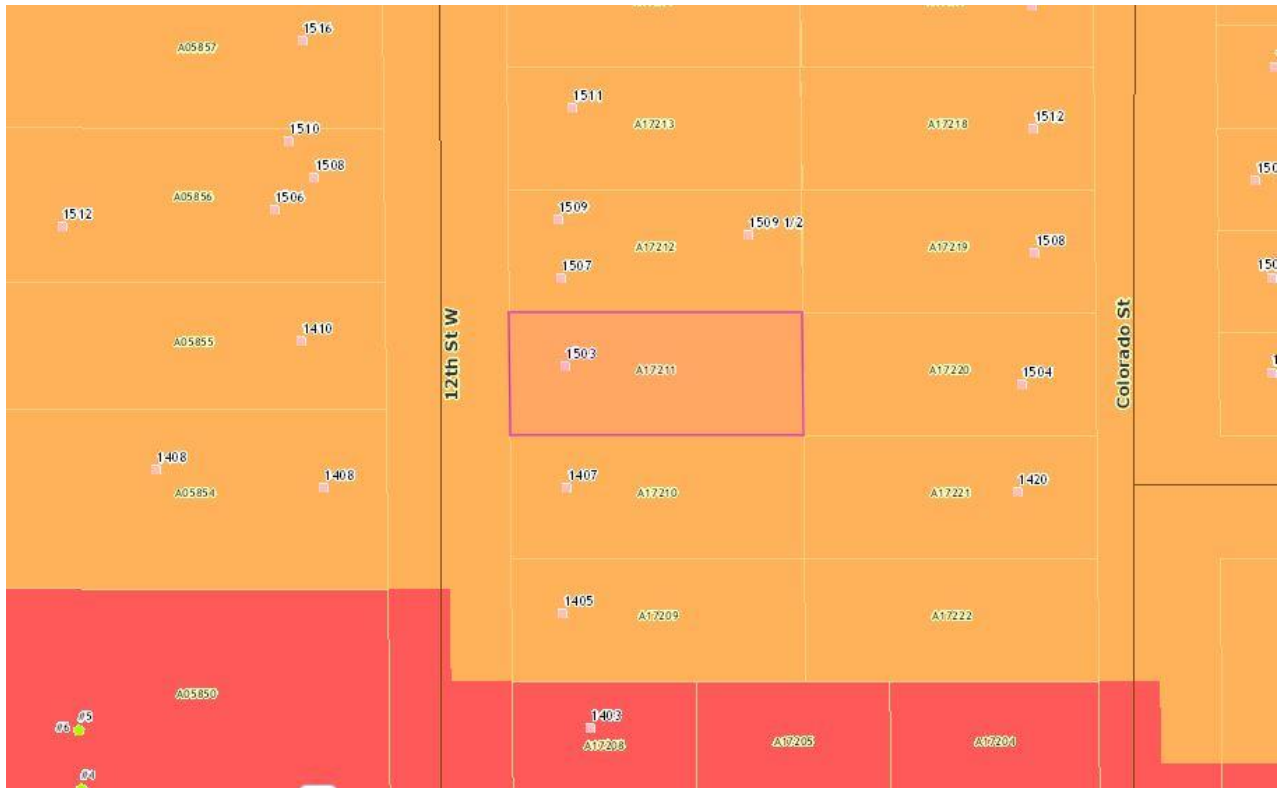
RECOMMENDATION

Staff recommends conditional approval of the variance based on the criteria for variances provided in the summary section of this report.

Attachments

Zoning Map & Site Photos
Application & Applicant Letter
Site Plan

Zoning Map and Site Photos





South



North





Application & Applicant

APPLICATION FORM

CITY VARIANCE

ID: Billings Variance # 1321 - Project # P2-20-00219

The undersigned as owner(s) of the following described property hereby request a Variance from the terms of the City of Billings Zoning Regulations.

TAX ID # A17211 CITY ELECTION WARD # 3

Legal Description of Property: VAN BRAMMER SUB, 531, T01-N, R26E, BLOCK 2, LOT 8

Address or General Location (If unknown, contact City Engineering): 1503 12TH WEST
BILLINGS, MT. 59102

Zoning Classification: R6000

Size of Parcel (Area & Dimensions): 8620 SQ FT

Covenants or Deed Restrictions on Property: Yes No

If yes, please attach to application

Variance(s) Requested: 1090 SQ FT GARAGE, 12 FT WALLS

Facts of Hardship: See attached

*** Additional information may be required as determined by the Zoning Coordinator in order to fully evaluate the application.

Owner(s): RANDY & SUSAN MAUL
(Recorded Owner) 1503 12TH WEST 59102
(Address) 406-259-5809 SMAUL@BRESNAU.NET
(Phone Number) (email)

Agent(s): _____
(Name)

(Address)

(Phone Number) (email)

I understand that the filing fee accompanying this application is not refundable, that it pays for the cost of processing, and that the fee does not constitute a payment for a Variance. Also, I attest that all the information presented herein is factual and correct.

Signature: Randy Maul Date: 9-30-2020
(Recorded Owner)

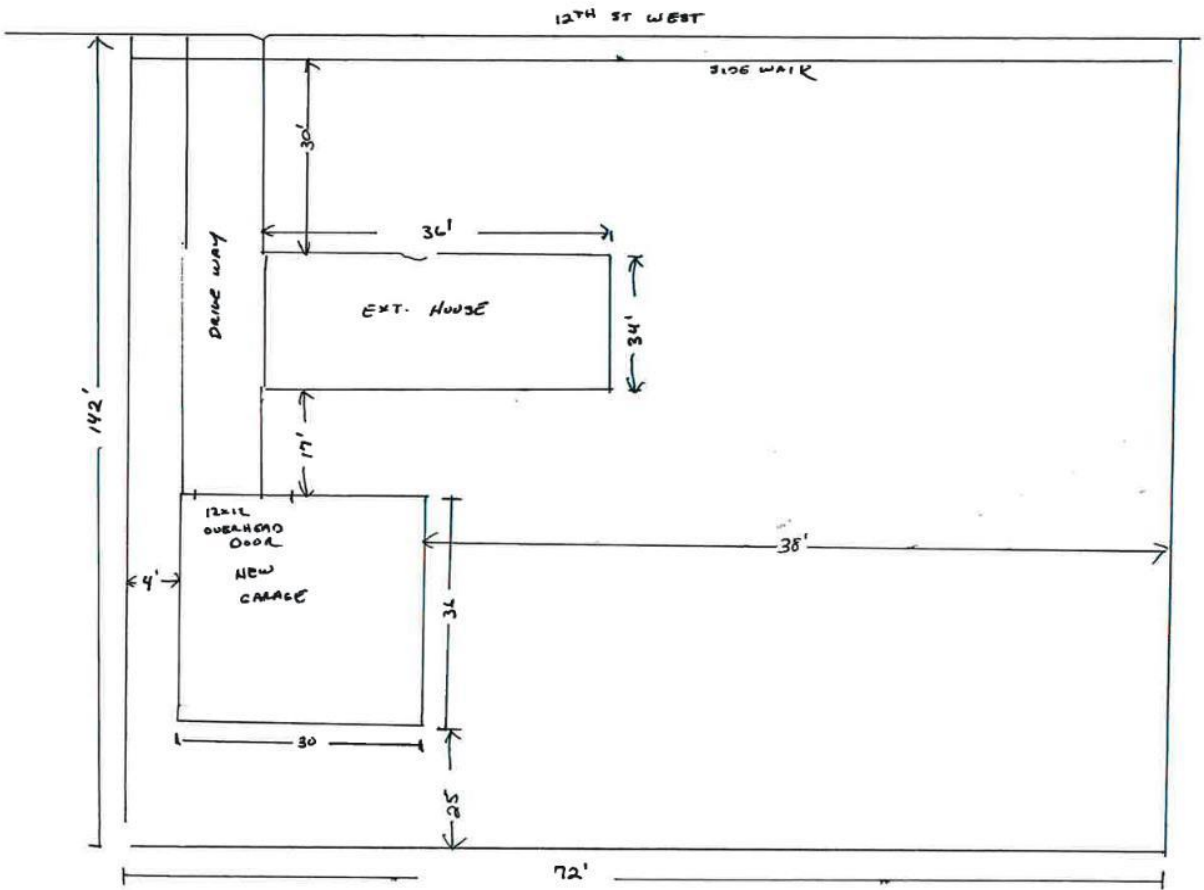


Letter

10/1/2020

Chairperson of the Board of Adjustment:

We are seeking a variance so that we can build a 1080 sq. ft. garage with 12 ft. walls. We need it this size so that we are able to store our RV, boat and vehicles inside. The hail storm last year did extensive damage to our RV and vehicles. We want to make sure this does not happen again.



Site Plan