



County of Yellowstone Board of Adjustment
AGENDA-Thursday, July 9, 2020, 4:00 p.m.
VIRTUAL VIDEO CONFERENCE FORMAT

NOTICE TO THE PUBLIC

Notice is hereby given that the **Yellowstone County Board of Adjustment** will hold a public hearing on **Thursday, July 9, 2020, at 4:00 p.m.** Due to the COVID-19 health concerns, the format of the County 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 the Board via email before 1:00 PM on Wednesday, July 8, 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>

For the purpose of reviewing the following item:

1. **Call the meeting to order**
2. **Introduction of the County Board of Adjustment Members and Planning Division Staff.**
3. **Public Comments on any items not on this agenda.**
4. **Motion. Approval of Minutes: September 12, 2020.**
5. **Disclosure of any Conflict of Interest-Members of the Board and Staff**
6. **Disclosure of an Outside (Ex Parte Communication)-Members of the Board and Staff. (Hard copies are provided in the Exparte Binder at the Sign-in and Agenda Station).**
7. **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:
 1. **(Postponed from June 11, 2020, due to a lack of a quorum of Board members). County Variance 294 - 4902 Verde Lane - A variance from section 27-310 requiring a maximum detached structure size of 1,500 square feet, to allow a maximum of 3,000 square feet in a Residential-15,000 (R-150) zone, on Block 1, Lot 12, Verde Meadows Sub., a 1.12-acre parcel of land. The purpose of the variance is to allow a detached accessory structure of 3,000 square feet. Presented by: Karen Husman, Planner I**
8. **Other Business and Announcemnts**
9. **Adjournment**

County Board of Adjustment

Meeting Date: 07/09/2020

Information

Subject

Motion. Approval of Minutes: September 12, 2020.

Attachments

YBOAminutes_2019_09_12_DRAFT

**Yellowstone County Board of Adjustment
Meeting Minutes, September 12, 2019
DRAFT-To be approved at the next scheduled meeting**



The County Board of Adjustment met on September 12, 2019 in the 1st Floor Conference Room of the Miller Building located at 2925 3rd Avenue North. Chairperson Boucher called the meeting to order at 4:00 p.m.

Name	Title	03/08/2018	05/10/2018	11/08/2018	01/10/2019	06/13/2019	09/12/2019				
Blaine Poppler	Vice Chair	1	1	1	1	1	1				
Carlotta Hecker	Board member	1	1	1	1	E	1				
Troy Boucher	Chairman	1	1	1	1	1	1				
Tyler Bush	Board member	-	-	-	E	1	1				
Vacant		-	-	-	-	-	-				

Chairman Boucher introduced the County Zoning Commission members and staff in attendance: Nicole Cromwell, Zoning Coordinator; Karen Husman, Planner I, Tammy Deines, Planning Clerk

Others in Attendance: Peter Heideman, applicant

Public Comments: There were no public comments.

Approval of Minutes June 13, 2019 (The July 8, 2019, and August 8, 2019 meetings were canceled due to a lack of agenda items).

Motion

Board member Bush made a motion and Board member Boucher seconded the motion to approve the June 13, 2019 meeting minutes as submitted. The motion passed with a unanimous voice vote.

Disclosure of Conflict of Interest: There were no disclosures of conflict of interest.

Disclosure of Exparte Communication

There were no disclosures of exparte communication from the Board.

PUBLIC HEARINGS:

Zoning Coordinator Nicole Cromwell reviewed the procedures for public hearing and stated the Board will open a public hearing and allow public comment this evening. She reviewed the

Yellowstone County Board of Adjustment

Meeting Minutes, September 12, 2019

DRAFT-To be approved at the next scheduled meeting



hearing and presentation processes for the meeting for reviewing and acting on each variance.

Item #1: County Variance #292-120 Sunlight Circle. Karen Husman, Planner I, presenting.
Nicole Cromwell read the rules and procedures for a public hearing and the legal ad for County Variance #292.

REQUEST

County Variance 293 – 2312 Kimble Avenue – Sign size in an Ag-Open zone - A variance from Section 27-704 (a) requiring a maximum of 48 square feet of sign area, to allow a maximum of 336 square feet (per side) of sign area, in an Agricultural-Open Space (A-1) zone, on Block 1, Lot 7A of amended lot 19 a 1.17 acre parcel of land. The purpose of the variance is to allow an on premise sign for a large animal veterinary hospital within the interstate corridor. Tax ID: A09614

RECOMMENDATION:

The Planning staff is recommending conditional approval and adoption of the findings of the criteria for Variance 293.

The variance is to allow a freestanding sign of 240 square feet per side, with a maximum height of 40 feet with external illumination for the existing veterinary hospital on the property. No other variance is intended or implied.

1. The variance is limited to Lot 7A, Block 1, Kimble Subdivision, 3rd Filing, generally located at 2312 Kimble Dr.
2. The new sign will be built in substantial conformance with the submitted site plans. Minor deviations that do not create a violation of another zoning requirement are acceptable.
3. There will be no construction prior to 7 am or after 8 pm daily.
4. The sign will not be converted to an off-premise or billboard sign at any time. The sign may only advertise businesses, occupations, or activities that occur on the subject property.
5. The applicant will obtain a sign permit in accordance with the approved variance within 6 months of Board approval. Construction on the approved sign will begin within 4 months of sign permit approval and completed within 1 year of Board approval.
6. 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.

Yellowstone County Board of Adjustment Meeting Minutes, September 12, 2019 DRAFT-To be approved at the next scheduled meeting



Discussion

Chairperson Boucher called for questions and discussion from the members of the Board. Board member Hecker asked for a comparable photo of the allowable sign as denoted in the staff report and Ms. Cromwell gave several examples. In response to question by Board member Bush, staff stated the allowable height is 40-feet maximum measured from the adjacent local street.

Public Hearing

Chairperson Boucher opened the public hearing and asked if there is anyone wishing to speak in favor or against County Variance #293.

Peter Heideman, 549 East Medidal Street, Bozeman, Montana

Mr. Heideman is the applicant. He explained to the Board that the proposed sign will have a simplistic design and referred to the posted photos of the property.

Public Hearing

Chairman Boucher opened the Public Hearing and asked if there is anyone else wishing to speak in favor or against County Variance #293. There was none. At 4:30 p.m., Chairman Boucher closed the public hearing and called for a motion.

Motion

Board member Hecker made a motion and Board member Bush seconded the motion to forward a recommendation to the Board of County Commissioners of conditional approval of County Variance #293 with the Findings and Criterion presented by Staff.

Discussion: There was no further discussion on the motion.

The motion carried with a unanimous voice vote. 3-0. Variance #293 is conditionally approved.

Other Business/Announcements

- **Announcement:** The **October 10, 2019** Yellowstone County Board of Adjustment meeting is cancelled due to a lack of applications. The next meeting will be held as legally announced and advertised.

Adjournment: Adjourned 4:45 p.m.

**DRAFT- TO be APPROVED BY A MOTION AT THE NEXT SCHEDULED MEETING
*Tamara L. Deines, Planning Clerk***



County Board of Adjustment

Meeting Date: 07/09/2020

SUBJECT: County Variance 294 - 4902 Verde Lane - Detached Garage Size

THROUGH: Karen Husman

PRESENTED BY: Karen Husman

Information

REQUEST

(Postponed from June 11, 2020, due to a lack of a quorum of Board members). County Variance 294 - 4902 Verde Lane - A variance from section 27-310 requiring a maximum detached structure size of 1,500 square feet, to allow a maximum of 3,000 square feet in a Residential-15,000 (R-150) zone, on Block 1, Lot 12, Verde Meadows Sub., a 1.12-acre parcel of land. The purpose of the variance is to allow a detached accessory structure of 3,000 square feet. Presented by: Karen Husman, Planner I

RECOMMENDATION

Staff is recommending denial of the application based on the determinations detailed within the Summary section of this staff report.

APPLICATION DATA

OWNERS: Timothy & Rebecca Anderson
PURPOSE: Construct a garage larger than what is allowed
LEGAL DESCRIPTION: Block 1, lot 12, Verde Meadows Sub
ADDRESS: 4902 Verde Lane
EXISTING LAND USE: Residential
PROPOSED LAND USE: Residential
EXISTING ZONING: R-15,000

CONCURRENT APPLICATIONS

None

APPLICABLE ZONING HISTORY

There is history of one similar variance granted in this area of Yellowstone County. Staff was able to find eight similar over-sized detached structures in the district, one in this subdivision and seven in the surrounding areas (see chart of zoning history), but only one of the eight has received a variance approval.

SUBJECT PROPERTY	Variance	DATE	FOR	APPROVED (Y/N)	ADDITIONAL DATA
4902 Verde Lane	None				
SIMILAR PROPERTY	Variance	DATE	WHAT	APPROVED (Y/N)	ADDITIONAL DATA
5201 Onyx Blvd	No		1700 sf	Na	Detached garage
4716 Burlington	No		3200 sf	NA	Shop, no house on property
4729 Lewis Ave	No		3200 sf	NA	Detached garage
4635 Cliff View	No		3000 sf	NA	Detached garage

4640 Cliff View	No		1900 sf	NA	Detached garage
4630 Cliff View	No		2800 sf	NA	Detached garage
4820 Verde Lane	No		3500 sf	NA	Detached garae
4131 Wells Place	175	3/13/97	1300 sf	Y	Allow a garage over the max of 1,000 sf.

SURROUNDING LAND USE & ZONING

NORTH: Zoning: R-150

Land Use: Residential

SOUTH: Zoning: R-150

Land Use: Residential

EAST: Zoning: R-150

Land Use: Residential

WEST: Zoning: R-150

Land Use: Residential

BACKGROUND

The applicant is requesting a variance from Section 27-310.i requiring a maximum detached accessory building footprint no greater than 1,500 square feet to allow a maximum footprint of 3,000 square feet for a proposed new detached accessory structure. The owners would like to park all of their autos and recreational vehicles in one structure. The lot size would allow two structures of 1,500 square feet each.

The subject property is in an area of single-family dwellings. There is history of one similar variance granted in this area of Yellowstone County. Staff was able to find eight similar over-sized detached structures in the district, one in this subdivision and seven in the surrounding areas (see chart of zoning history), but only one of the eight has received a variance approval. These structures were likely built without obtaining a Zoning Compliance Permit. The Yellowstone County Public Works Department informed staff the subject property lot width of 160 feet does not meet the minimum width for two access points from Verde Lane. This is a newer subdivision and there are several new structures and some under construction. There are no records of zoning compliance permits for this subdivision, which is required for construction in the zoning jurisdiction in the County, therefore the existing newly constructed detached garage located at 4820 Verde Lane's square foot noted in the chart above is an estimate and by information from neighboring property owners.

SUMMARY

Variance 294

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. The code allows two 1,500 square foot detached accessory buildings on the lot. The detached garages could be built to meet the size allowed by the zoning regulations. An attached garage also could be built to accommodate vehicles. The proposed single-family dwelling has not been constructed on the lot as a primary structure.

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;

Approval of this variance would not deprive the applicant rights that are commonly enjoyed by other tracts in the same district. There has been one similar variance granted in the surrounding neighborhoods. This variance would allow the applicant special privileges that are not allowed under the provisions of this Chapter. Other lots in this subdivision have developed as defined by the zoning code with the exception of one lot in the subdivision. Several

in surrounding subdivisions have constructed garages greater than allowed under the current regulations without the required variance approval or Zoning Compliance Permit.

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 would not confer a special privilege to this applicant as similar sized detached garages are apparent in this subdivision and in similar neighborhoods. However, many of the other garages did not receive variances or go through the Zoning Compliance Process.

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 the variance is not in harmony with the general purpose and intent of the zoning regulations and the growth policy. Oversized detached garages that do not meet the maximum size restrictions in place are not in harmony with the purpose and intent of this Chapter and with the Growth Policy. The size and bulk of oversized accessory buildings changes the character of a residential neighborhood.

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 has no conditions for a recommendation of denial.

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;

Not applicable with a recommendation of denial.

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-150 zoning district. Detached garages and accessory buildings are allowed in the county residential zoning districts, however the size requested is inconsistent with limitations placed on property in this residential district.

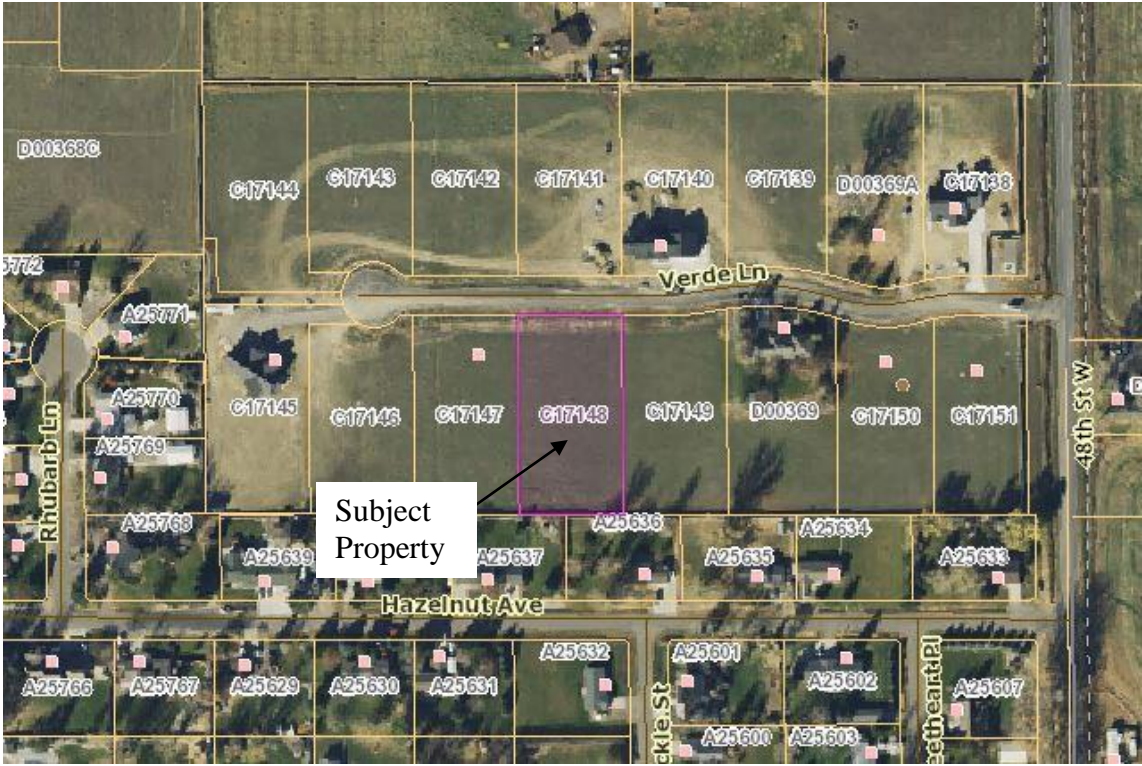
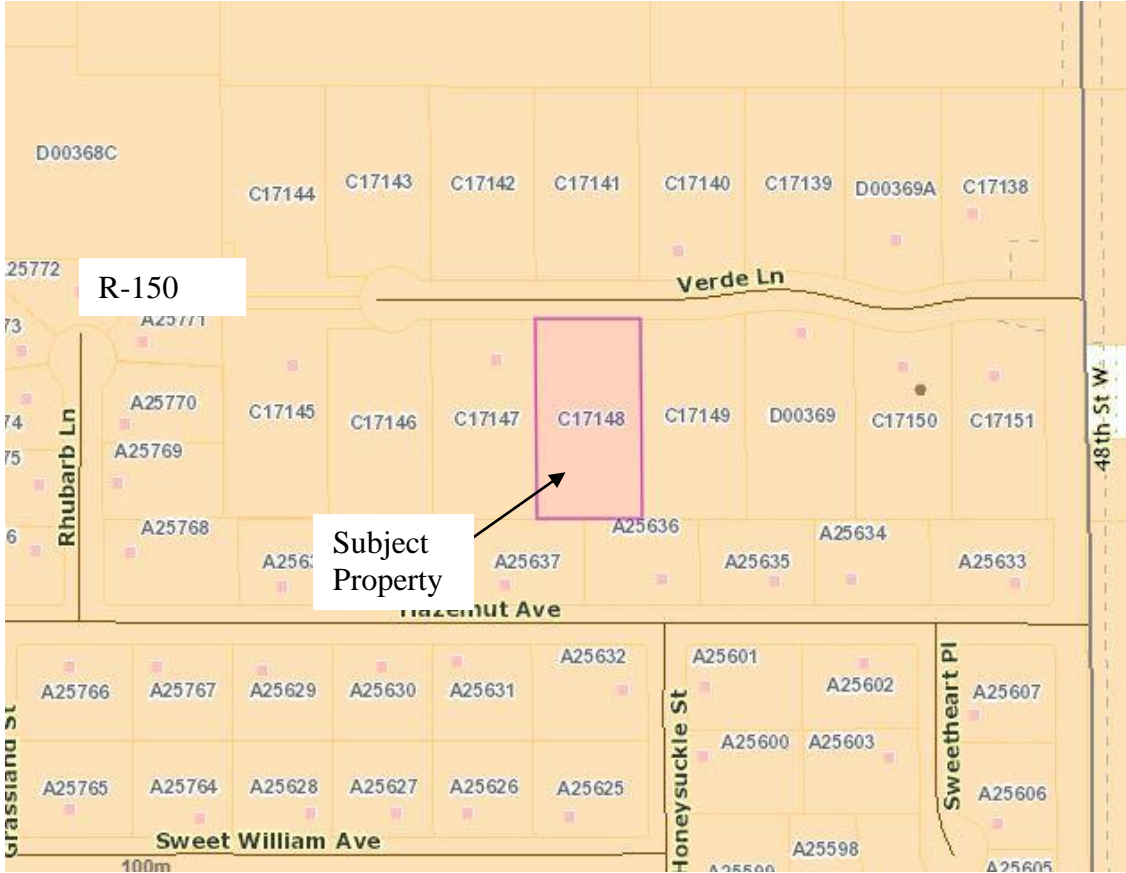
RECOMMENDATION

Staff is recommending denial of the application based on the determinations detailed within the Summary section of this staff report.

Attachments

Zoning Map & Site photos
Application & Applicant Letter
Site Plan

ATTACHMENT A
Surrounding Zoning & Site Location



ATTACHMENT
Site Photographs



Subject property





East



North



ATTACHMENT
Application & Applicant letter

APPLICATION FORM

COUNTY VARIANCE County Variance # _____ - Project # _____

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

TAX ID # C17148 COUNTY COMMISSIONER DISTRICT # 3

Legal Description of Property: Verde meadow Estates sub D (17) Block K1 Lot 12

Address or General Location (If unknown, contact County Public Works): _____

492 Verde Ln Billings MT 59106

Zoning Classification: 15000

Size of Parcel (Area & Dimensions): 1.12 acres 160.01 X 305.09 48,815sqft

Covenants or Deed Restrictions on Property: Yes _____ No X

If yes, please attach to application

Variance Requested: want to be a bigger shop than zoning allows. zoning says I can build 2'1500sq ft + I want one building

Facts of Hardship: need place to park my camper, boat, trailers cars, motor cycles, lawn mowers want a place my kids can play basket ball in winter

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

Owner(s): Anderson, Timothy C + Rebecca S
(Recorded Owner)
5827 Kit Ln S Bil MT 59106
(Address)
406 855-4180 tca-anderson@hotmail.com
(Phone Number) (email)

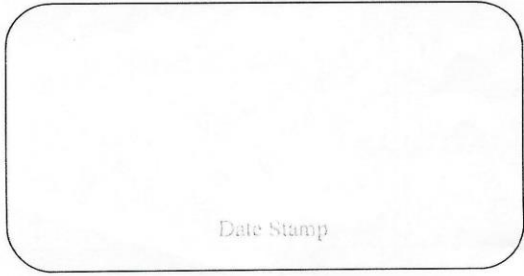
Agent(s): _____
(Name)

(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: Tim Anderson Date: _____
(Recorded Owner)



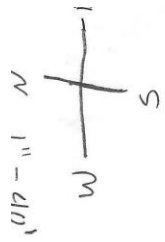
Date Stamp

County Variance 2020-2021 updated Nov 8, 2019

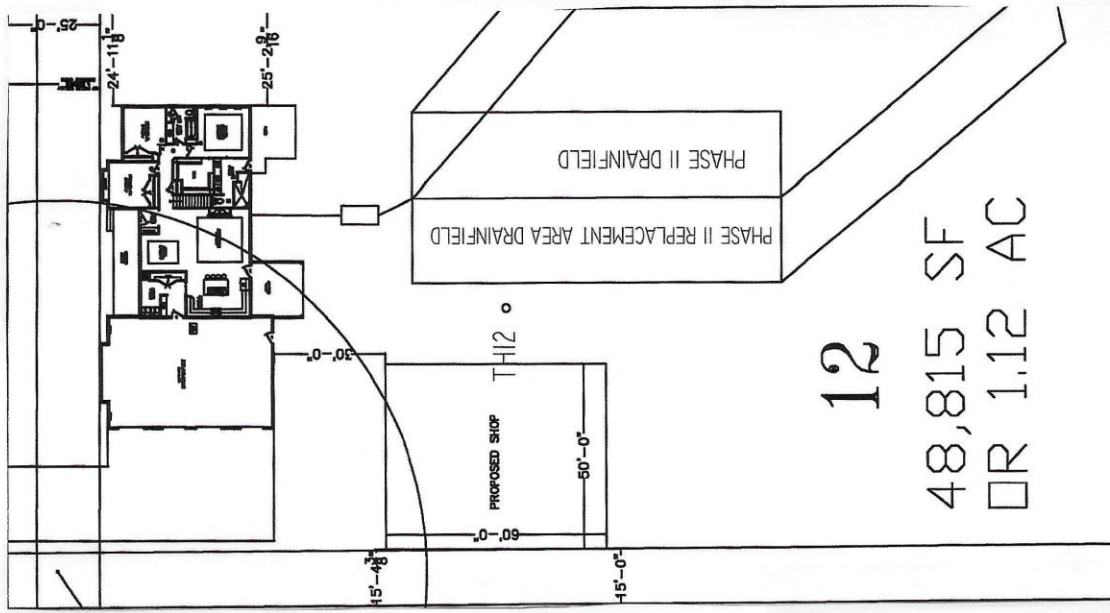
To the Chairperson of the board of Adjustment

This statement is provided pursuant to Section 27-1511(b)(4) and provides the reasons for the application for a variance and the hardships which will result if the variance is not allowed.

1. The Verde Meadows Estates Subdivision Declaration of Covenants, Conditions and Restrictions, at Article 4, Section 6, restrict on-street parking of various types of recreational vehicles. We own a number of recreation vehicles and use many of the them year-round with our two children, Kember and Bronson, who enjoy outdoor recreation immensely. Therefore, we need an adequate off-street parking area. In addition, both of our children play basketball in competitive leagues and a large shop/garage would allow use to have adequate space for them to practice year-round during inclement weather.
2. Our lot is zoned R-15000, which allows detached structures, but limits the square footage of a single structure to 1,500 square feet, but allows multiple structures, up to a maximum of 3,000, provided the total does not exceed the lot coverage percentage. Section 27-310 of the Yellowstone County Zoning Regulations ("Regulations"). Our 48,815 square foot lot is of sufficient size that we could construct two detached shop/garages totaling 3,000 square feet. See Section 27-307 of the Regulations. The percentage for R15000 is 30% and our house, plus the proposed 3,000 square foot shop/garage equals 6,315 square feet, or approximately 13% coverage which is less than the maximum allowed.
3. Constructing one, versus two structures would save considerable expense, at least \$5,000.00 in construction costs alone, according to our contractor. Access to a second unit would be complicated due to the location of the drain field.
4. The configuration and location of the garage would minimize the visual impact of the 3,000 square foot shop/garage. From the street, about half of the structure is shielded by the main residence attached garage. From the sides, the unit would appear to be the same size if it were a 30' by 25' structure. And we will construct fencing which will likewise minimize any visual impact from the side and back yards.
5. Finally, it is submitted that two 1,500 square foot shop/garage units will render the lot cluttered looking and visually less attractive than a single 3,000 square foot unit located at the proposed location.



10.091
160.61



305.09'

12
48,815 SF
OR 1.12 AC