

VARIANCE

APPLICATION INFORMATION PACKET
2020-2021

Yellowstone
County



VARIANCE APPLICATION

YELLOWSTONE COUNTY

Planning & Community Services Department
2825 3rd Ave North, 4th Floor
Billings, MT 59101
Phone: 247-8676 Fax (406) 657-8327
Website: www.co.yellowstone.mt.gov

NOTICE TO PETITIONER

In an effort to ensure all new **zoning applications** are complete and can be successfully processed by the Planning staff, advisory boards and decision making bodies, we now require an **application review appointment** at the time of submittal.

This appointment will ensure:

- All required forms, documents, cover letters, mailing labels, fees, site plans and other information is included
- All information on the land record and subject property is accurate and the site plan submitted is properly scaled
- Any deficient, missing or incorrect information can be noted for a follow-up submission
- All requests for uses, zoning districts or specific variances are correctly described and noticed

The Planning Staff will work with you to ensure your requested appointment time can be scheduled or alternative dates and times can be arranged. For applicants outside of Yellowstone County, a conference call appointment may be scheduled to review the application submitted. Agents may act on a property owner's behalf to review the application at the required meeting.

Applications with deficient, missing or inaccurate information will not be processed. Please read the application packet closely to ensure all required information is included in your submittal prior to scheduling an application review appointment.

In general, an application review appointment **will take approximately ½ hour**. Appointments **can be scheduled on the deadline day** for applications (the 1st Monday of each month), or **any day prior** to the application deadline **depending on staff availability**.

Please call 657-8247 to schedule an **application review appointment** or send an email to Jeannette Vieg at vielj@billingsmt.gov

INSTRUCTIONS

All applications shall be submitted to the Planning & Community Services Department, 2825 3rd Ave North, 4th Floor. The filing fee must accompany the application in order for it to be accepted.

All questions must be answered fully. Please type or print. You may attach further pages if additional space is needed. All plans and other exhibits submitted with this application will be retained as a part of the permanent record.

1. Answer the following questions:

- A. What reasons prevent you from using this property in conformance with the Zoning Regulation requirements?
 - B. Why is there a need for the intended use of the property at this location?
2. Prepare a written statement addressed to the Chairperson of the Board of Adjustment. State what is intended to be done with the property, including new construction or change in the use of the property, and why the variance is being sought.
 3. Prepare a dimensioned site plan as follows:
 - A. One full sized site plan and one reduced copy of the site plan at 8½"x11" or 11"x17".
 - B. Scale of the full sized site plan shall not be less than 1" = 40'.
 4. If applicable, the site plan must include but not be limited to the following:
 - A. North arrow.
 - B. The locations and dimensions of all vehicular points of ingress and egress, drives, alleys, and off-street parking spaces.
 - C. Illustrate lot size showing lot line dimensions.
 - D. The locations and dimensions of all existing and proposed buildings, structures, and improvements including those which will be removed. Please label all information.
 - E. Show setbacks from all property lines for existing and proposed buildings.
 - F. Show the centerline of major and minor arterial streets.
 - G. Illustrate the square footage of existing and proposed buildings and structures.
 - H. Names and locations of adjacent streets, alleys, properties, etc.
 - I. Illustrate the height of any proposed structures.
 - J. Other pertinent features.

** An example of a dimensioned site plan is attached as part of this application packet.
 5. Photographs may be submitted and are often helpful. They should be of a size adequate to show the nature of the property.
 6. Obtain from the Planning & Community Services Department a radius map showing all property which lies within 300 feet (or more) of the exterior boundaries of the subject property.
 7. Obtain a certified list of names and addresses of the owners of all property shown within the radius on the map as provided by the Planning & Community Services Department. The first step is to take the radius map to the Montana Department of Revenue. The Department of Revenue is located on the 14th Floor of the Wells Fargo building at the southeast corner of North 27th Street and 2nd Avenue North. The Department of Revenue will generate a list of property owners and forward this list to the County Clerk & Recorder who will certify the list and notify you when it is complete. There is a certification charge, payable to the County Clerk & Recorder, of .50 cents per certified name. This list of names and mailing addresses must then be placed on gummed mailing labels and must be typed or neatly printed.
 8. A filing fee must accompany all applications for variances. No application will be accepted until the filing fee is paid in full. Checks shall be made payable to the *City of Billings*. **THIS APPLICATION FEE IS NON-REFUNDABLE AND IS NO GUARANTEE THAT THE VARIANCE WILL BE GRANTED.**

RESIDENTIAL: \$438.00
 COMMERCIAL: \$540.00

A \$50.00 deposit for posting of zoning request signs is required at the time the application is

received. The deposit will be returned when the sign is returned by the applicant or agent at the first public hearing. If the sign is not returned at the first public hearing, the deposit will be retained.

9. A public hearing shall be held for all applications for a variance. As part of the notification procedure, the Zoning Coordinator will notify the property owners on the list prepared by the petitioner for the proposed variance. All persons identified as owners of property within 300 feet (or more) of the exterior boundaries of the property proposed for a variance shall be notified by mail not less than fifteen (15) days prior to the date of the public hearing before the County Board of Adjustment. In addition, notification of the proposed variance shall be posted in a conspicuous place on the property, and legal notice shall be published not less than fifteen (15) days prior to the public hearing in a newspaper of general circulation.
10. **IMPORTANT NOTICE TO PETITIONER:** You will be notified by mail approximately 1-week in advance as to the time, date and place of the public hearing on your petition. Attendance at the public hearing is not required, but is strongly recommended, so that you may present your case to the Board.

Procedures and Review Criteria for County Variance requests
Unified Zoning Regulations Section 27-1511 et seq.

SEC. 27-1511. COUNTY VARIANCES.

(a) *Authority.* The county board of adjustment shall have the authority to grant a variance from the terms of the chapter in specific cases where it is found that the granting of the variance will not be contrary to the public interest and where, because of special conditions with respect to the lot shape or topography, a literal enforcement of the provisions of the chapter would result in unnecessary hardship.

(b) *Application procedure.* An application for a variance shall be filed with zoning coordinator under the following conditions:

- (1) The application shall include, but not be limited to, the following:
 - a. A legal and general description of the tract(s) upon which the variance is sought;
 - b. The names and addresses of the owner(s) of the land subject to the variance, and his/her agent, if any, along with the recorded property owner's signature;
 - c. A certified list of the names, addresses and legal descriptions of the owners of property within a radius of three hundred (300) or more feet, as determined by the zoning coordinator, of the exterior boundaries of the tract(s); and
 - d. Gummed mailing labels with the names and mailing addresses typed or printed neatly of all of the property owners indicated on the certified list.
- (2) The applicant shall present a map showing the location of the property for which the application is submitted, and its relationship to adjoining property;
- (3) The applicant shall present a dimensioned site plan of the property for which the application is submitted which shall include, but not be limited to, the following:
 - a. The location and dimension of all vehicular points of ingress and egress, drives, off-street parking spaces, channelizations and traffic circulation;
 - b. The location and size of all existing and proposed buildings, structures and improvements; and
 - c. The existing buildings, structures and improvements shall be labeled as such and indicated by a solid line. The proposed buildings, structures and improvements shall be labeled as such and indicated by a dashed or dotted line.

- (4) The application shall state reasons why the variance is being sought and shall specify the facts of hardship upon which the request for a variance is based;
 - (5) The application must be submitted at least twenty (20) days prior to the date of public hearing;
 - (6) The application must be accompanied by the payment of all applicable fees; and
 - (7) An application for a variance may not be withdrawn or amended by the applicant after the legal advertising as required by this Section shall have first appeared. However, the county board of adjustment may, by a two-thirds vote of all members, allow the application to be withdrawn without prejudice with respect to the twelve (12) month limitation of this chapter.
- (c) *Planning department action.* The zoning coordinator, upon receiving an application for a variance, shall do the following:
- (1) Consult with other departments of the city and/or county to fully evaluate the impact of the variance contemplated under the application upon public facilities and services;
 - (2) Study each application with reference to its appropriateness and effect on existing and proposed land uses, and its correspondence with the comprehensive plan;
 - (3) Place notice of the time, date and place for the public hearing in a newspaper of general circulation fifteen (15) days in advance of the date set for the public hearing;
 - (4) Notify, by mail, the owner(s) of the property and/or his/her agent, of the time, date and place of the public hearing five (5) days in advance of that date;
 - (5) Notify the property owners, by mail, within three hundred (300) feet of the exterior boundaries of the property subject to the variance of the time, date, and place of the public hearing and the proposed variance request at least fifteen (15) days prior to the public hearing. The zoning coordinator may notify property owners within a radius of more than three hundred (300) feet, if he/she determines that the proposed variance would likely have a substantial impact on the surrounding land uses;
 - (6) Place a notice of the time, date and place of the public hearing on the property fifteen (15) days prior to the hearing date; and
 - (7) Report his/her findings, in writing, to the county board of adjustment, which report shall be a matter of public record.
- (d) *County board of adjustment action.* The county 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;
 - (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;
 - (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;
 - (4) That the granting of the variance will be in harmony with the general purpose and intent of this chapter and with the comprehensive plan;
 - (5) In granting any variance, the board may prescribe appropriate conditions and safeguards in conformity with this Resolution/Ordinance. 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 Resolution/Ordinance;

- (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
- (7) Under no circumstances shall the board grant a variance to allow a use not permissible under the terms of this Resolution/Ordinance in the district involved. A variance shall not be a grant of special privilege inconsistent with limitations placed upon other property in the same district.

APPLICATION DEADLINES
2020- 2021

COUNTY BOARD OF ADJUSTMENT

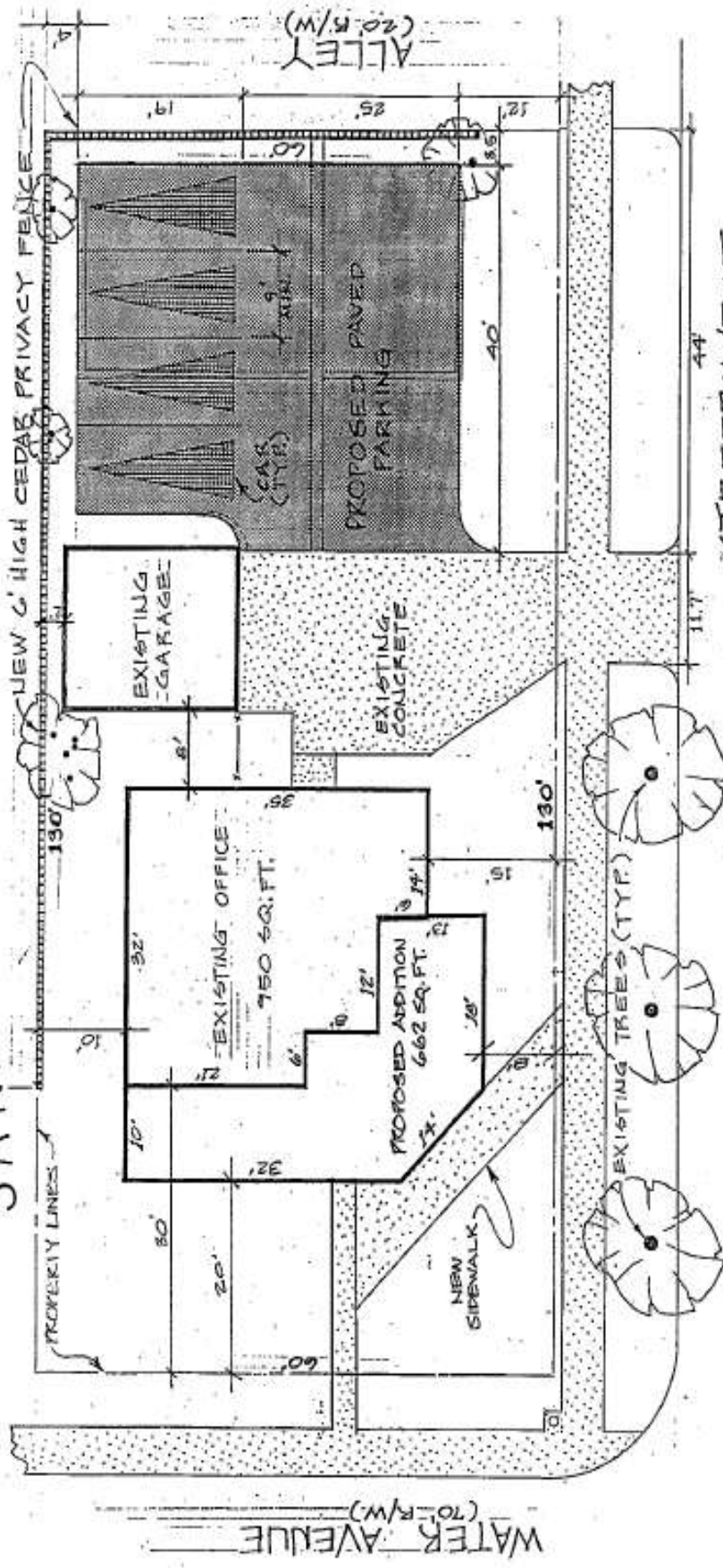
Applications for **variances** must be presented to the Planning & Community Services Department by 5:00 p.m. on the dates as set forth below. These deadlines cannot be altered due to state laws concerning public notice. All parties involved will be sent a notice of the time, date, and place of the public hearing.

DEADLINE
(1st MONDAY)

BOARD OF ADJUSTMENT HEARING
(2nd THURSDAY – 4:00 PM)
1st Floor, 2825 3rd Ave North

| | |
|---------------------|-------------------|
| December 2, 2019 | January 9, 2020 |
| January 6, 2020 | February 13, 2020 |
| February 3, 2020 | March 12, 2020 |
| March 2, 2020 | April 9, 2020 |
| April 6, 2020 | May 14, 2020 |
| May 4, 2020 | June 11, 2020 |
| June 1, 2020 | July 9, 2020 |
| July 6, 2020 | August 13, 2020 |
| August 3, 2020 | Sept 10, 2020 |
| Sept 8, 2020 (TUES) | October 8, 2020 |
| October 5, 2020 | Nov 12, 2020 |
| Nov 2, 2020 | December 10, 2020 |
| December 7, 2020 | January 14, 2021 |
| January 4, 2021 | February 11, 2021 |

SAMPLE SITE PLAN



PROPOSED SMITH OFFICE BLDG. ADDITION
 2732 WATER AVE. Lot 12, Block 7, WATER SUB.

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 # _____ **COUNTY COMMISSIONER DISTRICT #** _____

Legal Description of Property: _____

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

Zoning Classification: _____

Size of Parcel (Area & Dimensions): _____

Covenants or Deed Restrictions on Property: Yes _____ No _____

If yes, please attach to application

Variance Requested: _____

Facts of Hardship: _____

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

Owner(s): _____
(Recorded Owner)

(Address)

(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: _____ Date: _____
(Recorded Owner)



Date Stamp