



BOARD of ADJUSTMENT AGENDA

October 12, 2022 – 12 PM | Council Chambers, City Hall

1. Call meeting to order | Pledge of Allegiance
2. Approval of Minutes
 - a. Regular Meeting – July 14, 2022
3. Public Comment – Members of the audience may comment on any non-agenda item. State Statute limits the Planning Board from discussing any introduced item. The Board limits each person to three minutes to ensure there is sufficient time for all comments. The Board respects all comments and will have staff follow up any questions.
4. Old Business
 - a. None.
5. Public Hearings
 - a. Pioneer Federal Savings Setback Variance - Jordan
6. New Business
 - a. Vote on Pioneer Federal Savings Setback Variance - Jordan
7. Committee Comments & Concerns
8. Announcement of the next meeting
 - a. TBD
9. Adjournment

**The Board of Adjustment for the City of Deer Lodge meets in the Council Chambers
300 Main Street, Deer Lodge, MT 59722**

For Further Information Contact

City Administrator & Planner | Jordan Green
jgreen@cityofdeerlodgemt.gov | 406.846.2238

CITY OF DEER LODGE

Board of Adjustments

MINUTES

The Board of Adjustment met on Thursday, July 14, 2022, at 12 PM in Council Chambers, City Hall.

Members Present:	Ken Kimerly, Julie Thompson, Lisa Cole, & Tom Goddard
Members Absent:	Dusty Tate
Mayor:	Absent
CAO:	Jordan Green
Council Member:	None
Staff:	None
Consultants:	None
Guests:	None

1. Call Meeting to Order – Pledge of Allegiance

Interim Chairperson Tom Goddard called the meeting to order at 12:00 PM.

2. Approval of Minutes

a. May 10, 2021

Member Cole motioned to approve minutes as presented. Member Schroder seconded the motion. 4 Ayes, 0 No's, 1 Absent, 1 Vacant. Motion passed.

3. Public Comment – Members of the Audience may comment on any non-agenda item. State Statute limits the

Board of Adjustment from discussing any introduced item. The Board limits each person to three minutes to ensure there is sufficient time for all comments. The Board respects all comments and will have staff follow up on any questions.

None.

4. Old Business

a. None.

5. Public Hearings

a. Conestoga Lane Lot 10 Setback Variance – Jordan

City staff were made aware of the potential violation of the setback requirement of 5 feet after the foundation construction had begun. The City had received all necessary building permits for the new construction, but there was a discrepancy in the concrete pour that led to the foundation being poured 4 foot 8 inches from the property line instead of the full 5 feet.

ACTION

Approved the variance. This action is consistent with Staff’s analysis contained in this Report. The Board of Adjustment may include new or revised conditions with their eventual motion.

RECOMMENDATION

Staff recommends the Board of Adjustment to grant a variance to exceed setback minimums on one side of the applicant’s property by 4 inches to accommodate the placement of a residential foundation. Staff suggests the Board of Adjustment attach the following conditions to their decision:

1. The petitioner abides by all representations, testimony, and materials submitted during the hearing process, to the extent, those items were not negated by the Board of Adjustment, and to the extent they are not inconsistent with the spirit or letter of explicit conditions to the granted variance.
2. The petitioners comply with all applicable provisions of the International Residential Building Code and the City of Deer Lodge Building Permit granted to the petitioners.

6. New Business:

Vote on Approval of Conestoga Lane Lot 10 Setback Variance – Jordan

Member Schroder motioned to approve the Conestoga Lane Lot 10 Setback Variance. Member Cole seconded the motion. . 4 Ayes, 0 No’s, 1 Absent, 1 Vacant. Motion passed.

7. Committee Comments or Concerns:

- a. None

8. Announcement of the Next Meeting

- a. TBD

9. Adjournment

Committee adjourned the meeting at 12:10 PM.

Prepared by: Cyndi Thompson, City Clerk

Tom Goddard, Interim Chairperson

Date

Board of Adjustment

Members

Ken Kimerly | Julie Thompson | Dusty Tate| Lisa Cole | Tom Goddard

Mayor
James Jess
Chief Administrative Officer
Jordan Green
City Attorney
Peter Elverum
Public Works Superintendent
Trent Freeman
Treasurer
Stanley Glovan
Utility Billing Clerk
Gena Micu

City of
Deer Lodge

300 Main Street
Deer Lodge MT 59722-1057

406.846.2238 | deerlodgcity.com | FAX 406.846.3925

Board of Adjustment
Dan Williamson (Chair)
Ken Kimerly
Julie Thompson
Dusty Tate
Lisa Cole
Tom Goddard

Board of Adjustment Staff Report

<u>Report Date:</u>	10.11.22	<u>Meeting Date:</u>	10.12.22
<u>Petitioner(s):</u>	Phillip Willet	<u>Address:</u>	202 N Main St
<u>Property Owner(s):</u>	Phillip Willet	<u>Zoning:</u>	B-2, Highway Business District
<u>Agent:</u>	Quinton Gangle	<u>Geocode(s):</u>	28-1678-33-3-45-02-0000
<u>Submitted Items:</u>	Application, Sitemaps	<u>Staff:</u>	Jordan Green

REQUEST

The petitioner, Phillip Willet, representing Pioneer Federal Savings & Loan, and his agent Quinton Gangle of A&E Design, seek a variance from the City of Deer Lodge Zoning Code to allow a zero-lot line setback on the western (rear) edge of the property and to encroach upon the eastern (front) setback of the property by approximately 12 feet. The property is located in the B-2, Highway Business District and is addressed as 202 N Main Street. Under of the City of Deer Lodge Zoning Ordinance, rear setbacks in the B-2 District must be at least 10 feet and front setbacks must be 25 feet.

SUMMARY OF NOTEWORTHY TOPICS

The September 21st and September 28th editions of the *Silver State Post* contained the legal notice of the request. The notice was also posted on the City's website and the bulletin board at City Hall. Staff mailed nine notices of the hearing to adjacent property owners and received no comments.

ACTION

Approved the variance. This action is consistent with Staff's analysis contained in this Report. The Board of Adjustment may include new or revised conditions with their eventual motion.

SITE CHARACTERISTICS

The property is located in the Fairview Addition, Block 6, Lots 8-12 and is approximately ½ acre in size. It is accessed by Main Street to the east and Rainbow Ave to the south. The property owners also own the parking lot to the west of the subject property, on the other side of a City alley right-of-way. The petitioners had previously sought an alley abandonment from City staff to accommodate the rear setback requirements for the structure but were told not to pursue it due to the active utility use of the right-of-way. The proposed building sits in approximately the same footprint as the previous building, an old Pizza Hut, which was demolished by the applicants upon their purchase of the property in 2021.

➤ Surrounding Zoning & Land Use

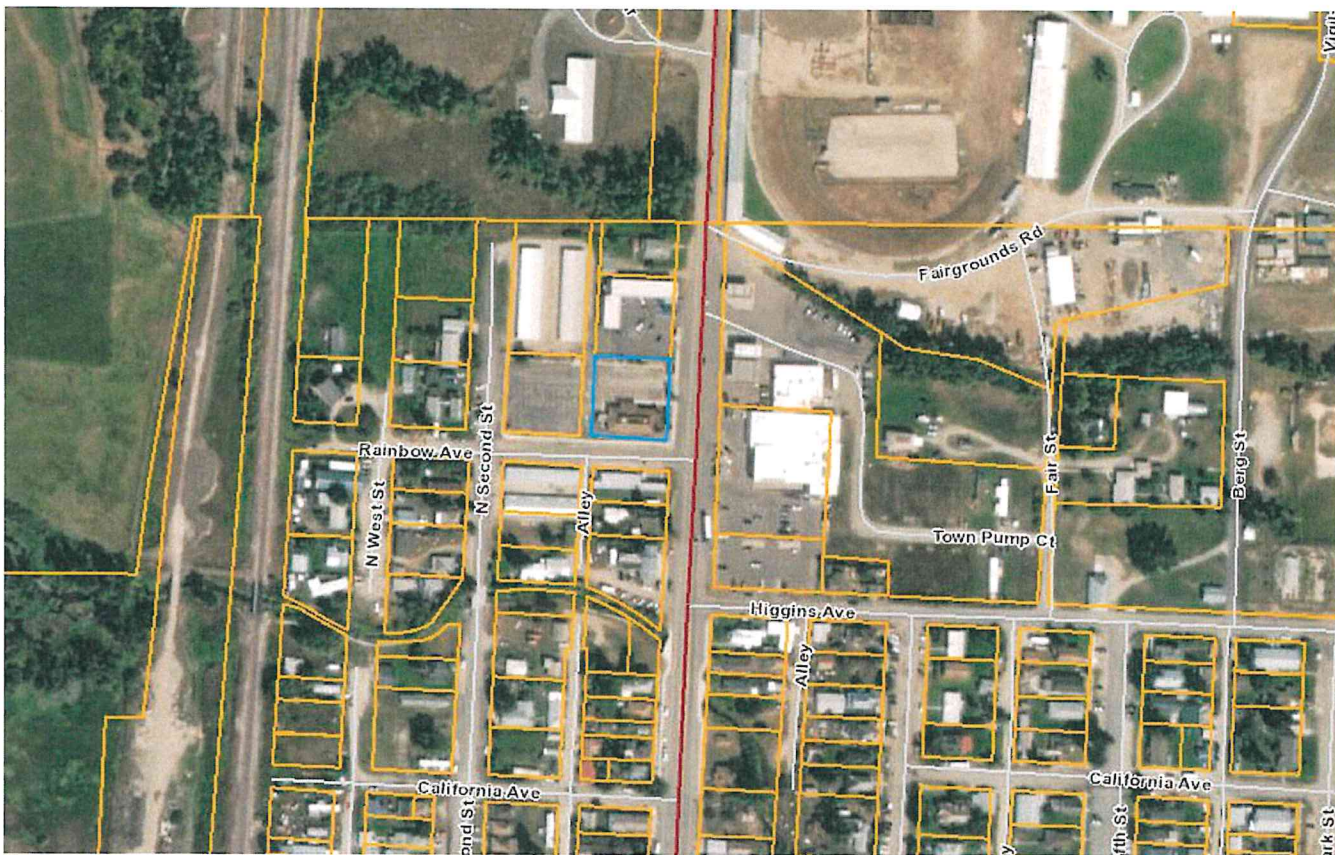
North: B-2: Highway Commercial District

East: B-2: Highway Commercial District – Safeway and Town Pump

South: B-2: Highway Commercial District

West: B-2: Highway Commercial District – Parking lot owned by applicant

VISUAL EXHIBITS



Location of the Subject Property

APPROVAL CRITERIA

Section #7 of Chapter #27 of the City's Zoning Ordinance contains the following approval criteria. The Board of Adjustment shall make findings of fact based upon evidence produced at a public hearing setting forth and showing that the following circumstances exist:

- (a) In considering all proposed variances to the ordinance, the board shall, before making any findings in a specified case, first determine that the proposed variance will not amount to a change in the use of the property to a use which is not permitted within the district.

Applicant Response:

The proposed variance will not change the use of the property according to the ordinance. The property is slated to be a bank and is in conformation with the B-2 Highway Business District being classified as professional and businesses offices. A conditional use permit application will be submitted for the teller drive through.

Staff Analysis:

Staff finds the variance would not amount to a change in use of the property as the property is zoned to allow professional and business offices. There is no need for a conditional use permit to allow for the drive through as the B-2 Zoning District allows for such uses.

- (b) That special conditions and circumstances exist which are peculiar to the land such as size, shape, topography or location, not applicable to other lands in the same district and that literal interpretation of the provision of this ordinance would deprive the property owner of rights commonly enjoyed by other properties similarly situated in the same district under the terms of this ordinance.

Applicant Response:

The site has an existing retaining wall and railing to remain on the southern edge. This constrains the entrance and exit for the bank drive through to exist on North Main Street. This layout requires the structure to be linear in configuration to provide adequate parking and site circulation between the drive through and entrance to the north.

Staff Analysis:

Staff finds that the proposed layout of the structure is required in order to provide adequate use of the property for the intended use based on the existing conditions. Furthermore, the property would not be the only property along Main Street, or even in the Zoning District, that would allow for such setbacks. Lastly, the prior and preexisting use of the property at the time of purchase by the applicants had a similar layout to the proposed use.

- (c) That the special conditions and circumstances do not result from the actions of the applicant.

Applicant Response:

No special conditions or circumstances will be a result of the granted variance. Many buildings in the vicinity within similar zoning appear to have less than a 25 foot setback.

Staff Analysis:

Staff finds that the actions of the applicant have not created the special conditions the require the application for a variance. The existing conditions and built features of the site require the proposed layout to exceed setback minimums on the front and rear setbacks.

- (d) That granting the variance requested will not confer a special privilege to the subject property that is denied other lands in the same district.

Applicant Response:

Special privilege would not be insinuated as result of a granted variance as it still conforms with the intent of the ordinance. The orientation to the major thoroughfare will remain intact and improved.

Staff Analysis:

Staff finds that the variance requested will not confer special privileges. There are properties zoned as B-2 both north, south, and east of the subject property that have similar setback exceedances. Furthermore, there exist several drive throughs in the immediate proximity of the subject property.

- (e) That granting the variance will not be materially detrimental to the public welfare or injurious to the property or improvements in the vicinity and zone in which subject property is situated.

Applicant Response:

Granting this variance would improve the vicinity and enhance public welfare by providing an experience with the refined building orientation and landscaping.

Staff Analysis:

Staff finds that there is no material detriment to the public welfare or injurious to properties in the vicinity of the property and agree with the applicants that granting the variance would improve the vicinity and enhance public welfare.

- (f) The Board of Adjustment shall further make a finding that the reasons set forth in the Application of Appeal justify the granting of the variance and that the variance is the minimum variance that will make possible the reasonable use of the land.

Applicant Response:

The applicant has optimized the site circulation and building orientation to minimize the possible variance to 12'-0" to conform with the intent of the ordinance and have the land use remain reasonable.

Staff Analysis:

Based on site-specific conditions, the proposed setback exceedances are the minimum variance that will make possible the reasonable use of the land.

- (g) The Board of Adjustment shall further make a finding that the granting of the variance will be in harmony with the general purpose and intent of this ordinance and will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

Applicant Response:

The granted variance would be harmonious with the general purpose and intent of the ordinance and enhance the neighborhood and public welfare. This will be achieved by the site's improvements and use.

Staff Analysis:

Chapter 20 of the City of Deer Lodge Zoning Ordinance provides the intent of the B-2, Highway Business District to "provide for a broad range of retail and service functions, especially those needing orientation to major thoroughfares." The proposed use of the property is harmonious with the intent of the Zoning Ordinance as the use is a service function with a drive through that needs orientation to a major thoroughfare. Also, the proposed variance will not be injurious to the neighborhood as it will improve the site condition with a new building with both street and parking-facing activity. Furthermore, the rear setback variance will not more injurious to the neighborhood as the lot directly adjacent to the alley right-of-way is a parking lot that is intended to be used parking for the proposed use.

- (h) The fact that property may be utilized more profitably will not be the sole element of consideration before the Board of Adjustment.

Applicant Response:

Enhancement of the lot is the primary element of consideration for this variance request. Profitability of the lot is not the sole consideration for this application.

Staff Analysis:

Granting the variance does not enable the petitioner to generate financial income without first receiving other City approvals.

CONCLUSION

By evaluating the requests against all eight approval criteria, staff considers the request is consistent with the intent of the B-2 Zoning District. A review of the subject property confirms the conditions described by the petitioner with the submitted materials.

RECOMMENDATION

Staff recommends the Board of Adjustment to grant a variance to have a zero-lot line rear setback on the western side of the building and to encroach on the front setback by approximately 12 feet. Staff suggests the Board of Adjustment attach the following conditions to their decision:

1. The petitioner abides by all representations, testimony, and materials submitted during the hearing process, to the extent, those items were not negated by the Board of Adjustment, and to the extent they are not inconsistent with the spirit or letter of explicit conditions to the granted variance.
2. The petitioners comply with all applicable provisions of the International Building Code and any Building Permits required by the State Department of Labor and Industry.
3. The applicants alert City Staff in writing of any changes to the setback requirements of the building, or any other variations to the Zoning Ordinance, before beginning work to gain the necessary approvals should they be required.

City of Deer Lodge

300 Main Street | Deer Lodge, MT | 59722 | 406.846.2238 | 406.846.3925 (f) | cityofdeerlodge.org

VARIANCE APPLICATION

The submission of this application acknowledges that all information is true and correct including all supporting documents and plans.

Please submit the completed Permit and all supporting documents & scaled plans, and the appropriate fee to the Deer Lodge City Hall - 300 Main Street, Deer Lodge, MT 59722.

Applicant(s): Phillip Willet (Pioneer Federal Savings & Loan)

Address: 401 Milwaukee Ave. Deer Lodge, MT 59722

Email: pwillett@pioneerfed.com Telephone #: 406.846.2202

Property Address: 202 North Main Street Deer Lodge, MT 59722

Assessor Code(s): 0000046700 Geocode(s): 28-1678-33-3-45-02-0000

Authorized Agent Information: Quinton Gangle (A&E Design)

Address: 222 North Higgins Avenue Missoula MT 59802

Email: qgangle@ae.design Telephone #: 406.414.0756

Property Owner / Authorized Agent Signature: _____ Date: 09.09.2022

Legal Description of Property (Subdivision / Addition and Blocks & Lots): _____


Fairview Add (Deer Lodge), S33, T08 N, R09 W, Block 6, Lot 8-12

Zoning District: B-2, Highway Business District

Use of Structure or Property? Financial Institution (Bank Branch)

Describe the Requested Variance(s) & Cite Ordinance Provision(s): _____

The variances that are being requested are to allow for a zero-lot setback along the rear and protrude approximately 12'-0" into the front setback of the property. Per Section 5 Property Line Setbacks require a front set back of 25' and a rear setback of 10'. The project would be following the provision of the applicant owning both lots in the B-2 Highway Business District. Please see the attached narrative and drawings for further information.

Owner / Agent Initial: 

Date: 09.09.22

City of Deer Lodge

300 Main Street | Deer Lodge, MT | 59722 | 406.846.2238 | 406.846.3925 (f) | cityofdeerlodge.org

VARIANCE APPLICATION

Before any variance can be granted, the board shall make findings of fact based upon evidence produced at a public hearing setting forth and showing that the following circumstances exist:

- (a) In considering all proposed variances to the ordinance, the board shall, before making any findings in a specified case, first determine that the proposed variance will not amount to a change in the use of the property to a use which is not permitted within the district;
 - (b) That special conditions and circumstances exist which are peculiar to the land such as size, shape, topography or location, not applicable to other lands in the same district and that literal interpretation of the provision of this ordinance would deprive the property owner of rights commonly enjoyed by other properties similarly situated in the same district under the terms of this ordinance;
 - (c) That the special conditions and circumstances do not result from the actions of the applicant;
 - (d) That granting the variance requested will not confer a special privilege to the subject property that is denied other lands in the same district;
 - (e) That granting the variance will not be materially detrimental to the public welfare or injurious to the property or improvements in the vicinity and zone in which subject property is situated;
 - (f) The Board of Adjustment shall further make a finding that the reasons set forth in the Application of Appeal justify the granting of the variance and that the variance is the minimum variance that will make possible the reasonable use of the land;
 - (g) The Board of Adjustment shall further make a finding that the granting of the variance will be in harmony with the general purpose and intent of this ordinance and will not be injurious to the neighborhood or otherwise detrimental to the public welfare; and
 - (h) The fact that property may be utilized more profitably will not be the sole element of consideration before the Board of Adjustment.
-

The applicant must submit replies to these criteria as a means to establish special conditions and circumstances are unique to the subject property. The Board of Adjustment can only grant a variance(s) after acknowledging the existence of special conditions and circumstances.



What can we
help you create?

09.08.2022

City of Deer Lodge

300 Main Street
Deer Lodge, MT 59722
406.846.2238

To whom it may concern,

This is a variance application for the new Pioneer Federal Savings & Loan location at 202 North Main Street just north of downtown Deer Lodge. Sitting in a similar configuration to the previous structure, this project will bring an improved sense of material and scale to the Main Street frontage. The applicant is requesting a variance to enhance the neighborhood and optimize the use of the lot.

The Pioneer Federal Savings & Loan Association owns this lot and the adjacent lot to the West which will be utilized for parking. It is in the B-2 Highway Business District and has a front setback of 25 feet, a rear setback of 10 feet, and side setbacks of 8 feet. The property fronts along North Main Street and the rear sits along an unused alley that separates the two properties and holds utilities.

The variances that we are requesting are to allow for a zero-lot setback along the rear and protrude approximately 12'-0" into the front setback. The following corresponds to the requirements of the variance application:

- a. The proposed variance will not change the use of the property according to the ordinance. The property is slated to be a bank and is in conformation with the B-2 Highway Business District being classified as professional and business offices. A conditional use permit application will be submitted for the teller drive through.
- b. The site has an existing retaining wall and railing to remain on the southern edge. This constrains the entrance and exit for the bank drive through to exist on North Main Street. This layout requires the structure to be linear in configuration to provide adequate parking and site circulation between the drive through and entrance to the north.
- c. No special conditions or circumstances will be a result of a granted variance. Many buildings in the vicinity within similar zoning appear to have less than a 25 foot setback.
- d. Special privilege would not be insinuated as result of a granted variance as it still conforms with the intent of the ordinance. The orientation to the major thoroughfare will remain intact and improved.
- e. Granting this variance would improve the vicinity and enhance public welfare by providing an experience with the refined building orientation and landscaping.



What can we
help you create?

- f. The applicant has optimized the site circulation and building orientation to minimize the possible variance to 12'-0" to conform with the intent of the ordinance and have the land use remain reasonable.
- g. The granted variance would be harmonious with the general purpose and intent of the ordinance and enhance the neighborhood and public welfare. This will be achieved by the site's improvements and use.
- h. Enhancement of the lot is the primary element of consideration for this variance request. Profitability of the lot is not the sole consideration for this application.

Thank you for your time and consideration.

Sincerely,

QUINTON GANGLE

AIA

Project Architect

A&E Design

222 North Higgins Avenue

Missoula, MT 59802

406.721.5643