



BOARD of ADJUSTMENT AGENDA

July 10, 2023 – 12 PM | Council Chambers, City Hall

1. Call meeting to order | Pledge of Allegiance
2. Approval of Minutes
 - a. Regular Meeting – October 12, 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. Side Setback Variance for 706 Kentucky Street – Jordan
Action item: Vote on Approval of Side Setback Variance for 706 Kentucky Street
6. New Business
 - a. Vote on Approval of Side Setback Variance for 706 Kentucky Street - 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

Board of Adjustments

MINUTES

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

Members Present:	Julie Thompson, Lisa Cole, & Tom Goddard
Members Absent:	Ken Kimerly
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. July 14, 2022

Member Thompson motioned to approve as presented. Member Cole seconded the motion. 3 Ayes, 0 Nos, 1 Absent. 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.*

a. None

4. Old Business

a. None.

5. Public Hearings

a. Pioneer Federal Savings Setback Variance – Jordan

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 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.

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.

Public Hearing Opened: 12:12pm – No public Comment.

Public Hearing Closed: 12:12pm

6. New Business:

a. Vote on Pioneer Federal Savings Setback Variance – Jordan Chairmen Goddard motioned to approve as presented. Member Thompson seconded the motion. 3 Ayes, 0 Nos, 1 Absent. Motion passed.

7. Committee Comments or Concerns:

a. None

8. Announcement of the Next Meeting

a. TBD

9. Adjournment

Committee adjourned the meeting at 12:13 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
City Services Coordinator
Gena Micu
Code Enforcement Officer
Kody Ryan

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>	06-28-2023	<u>Meeting Date:</u>	07-10-2023
<u>Petitioner(s):</u>	Steve & Jerilyn Cunningham	<u>Address:</u>	706 Kentucky Street
<u>Property Owner(s):</u>	Steve & Jerilyn Cunningham	<u>Zoning:</u>	R-1, Residential, Single-Family
<u>Agent:</u>		<u>Geocode(s):</u>	28-1578-05-1-24-04-0000
<u>Submitted Items:</u>	Application, Sitemaps	<u>Staff:</u>	Jordan Green

REQUEST

The petitioners, Steve and Jerilyn Cunningham, seek a variance from the City of Deer Lodge Zoning Code to allow a 2.5-foot side setback on the south property boundary of their property located at 706 Kentucky Street. The property is located in the R-1, Residential, Single-Family District. Under the City of Deer Lodge Zoning Ordinance, side setbacks for any primary or accessory structure in the R-1 District must be at least 5 feet. The intent of the variance request is to accommodate the placement of a 30-foot-wide garage in the backyard at 2.5 feet from the southern property boundary. This would allow for a 13.5-foot-wide driveway between the garage and the north property boundary.

SUMMARY OF NOTEWORTHY TOPICS

The June 28th and July 5th 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 fifteen notices of the hearing to adjacent property owners and received no comments at the time of this staff report. Should comments be received they will be read at the public hearing and incorporated as testimony.

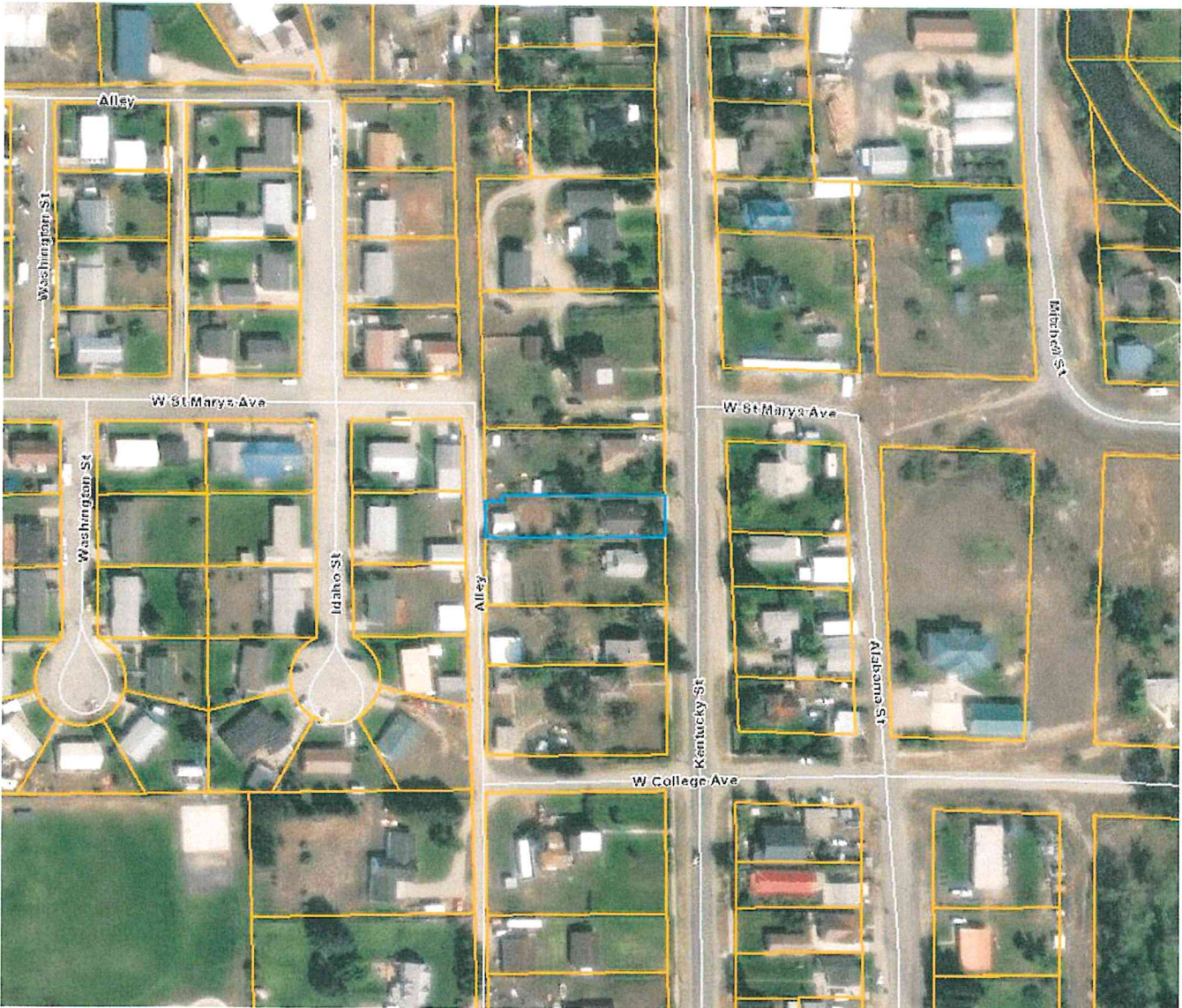
ACTION

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 identified as lying in Section 05, Township 07 North, Range 09 West, and is Tract A, Lot 1 of C.O.S. 483. It is approximately 0.209 acre in size. It is primarily accessed by Kentucky Street, but also has rear access from the alley between Kentucky Street and Idaho Street. The property is approximately 200 feet long and 46 feet wide; much narrower than other lots in close proximity (see visual exhibit). There is currently a single-family residence on the property. A rear shed was recently removed. All adjacent parcels are also in the R-1 District.

VISUAL EXHIBIT



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:

Requested variance is to add a detached garage to the property where no garage exists.

Staff Analysis:

The requested variance is to add a garage as an accessory structure to a residential property. Garages are allowed as accessory uses in the R-1 Zoning District and as such will not result in a change of use to the property.

- (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 lot at 706 Kentucky St is significantly more narrow compared to other properties similarly situated in the same district.

Staff Analysis:

Staff agree with the applicants’ response. The lot is narrower than any other properties in the area, and throughout a good portion of town as well. Staff believes that C.O.S. 483 established this lot as much narrower than most lots, and as such would not accommodate a standard garage as would most of the properties in the Zoning District.

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

Applicant Response:

None.

Staff Analysis:

The current platting of the lot is not a result of the actions of the applicants. As such, granting a variance would not be decided based on conditions created by the applicant. While the garage chosen is larger than many garages, and a smaller garage could be constructed on the property, other lots in the Zoning District would be able to accommodate the garage requested.

- (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:

Other lots in district are larger and could accommodate a similar structure and driveway with no variance required.

Staff Analysis:

Staff agree with the applicants' response. See staff analysis of item "c."

- (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:

Not detrimental.

Staff Analysis:

Staff agree with the applicants' response. There would be no impact on other properties that are in the vicinity of the requested variance.

- (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:

See attached drawing. We believe variance is reasonable to have a garage large enough to accommodate 4 vehicles and storage.

Staff Analysis:

The reduction to a 2.5-foot side setback is the minimum variance that allows the construction of a garage that fits the applicants' needs and allow for the creation of access on the north side of the property to the garage.

- (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:

We believe this variance will be in harmony and will contribute to the aesthetics of the neighborhood.

Staff Analysis:

There is not anticipated impact on the harmony of the R-1 Zoning District as many other lots within the District, and located near this property, currently have garages as accessory uses.

- (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:

Request is solely for functional use of the property.

Staff Analysis:

The applicants' request will not allow the property to be utilized more profitably as it allows for the creation of a private-use garage.

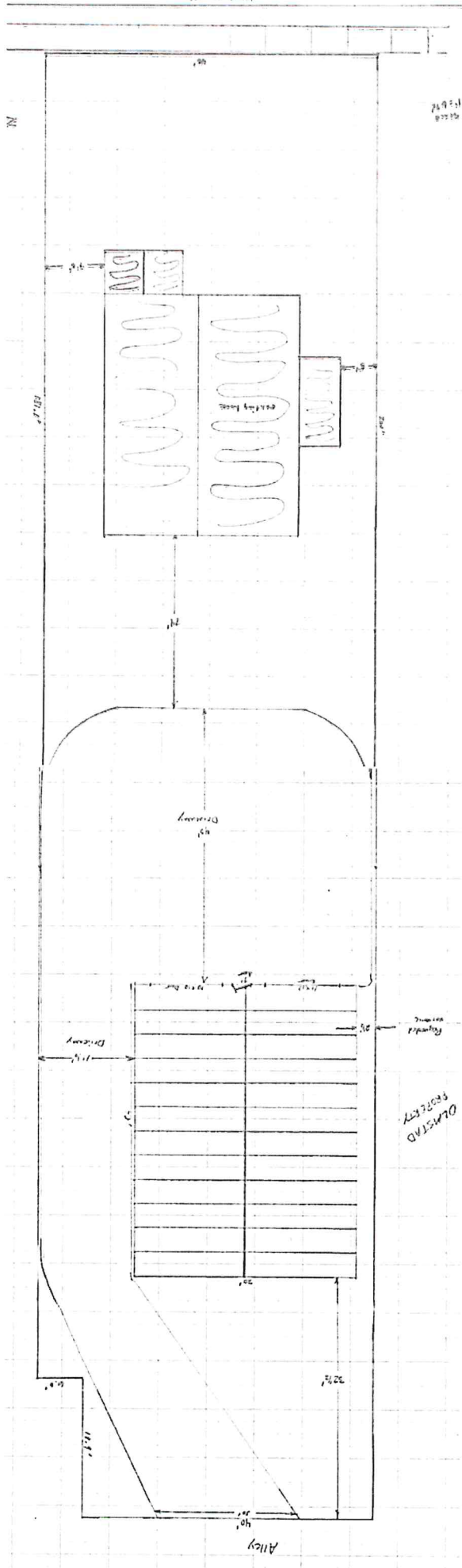
CONCLUSION

By evaluating the requests against all eight approval criteria, staff considers the request is consistent with the intent of the R-1 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 2.5-foot side setback on the southern boundary of the property. 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 Code, 2021 as adopted by the City of Deer Lodge.
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): Steve and Jorlin Cunningham

Address: 706 Kentucky St Deer Lodge, MT 59722

Email: steve.dewolf@montana.com Telephone #: 608.206.1675

Property Address: 706 Kentucky St Deer Lodge MT 59722

Assessor Code(s): _____ Geocode(s): _____

Authorized Agent Information: _____

Address: _____

Email: _____ Telephone #: _____

Property Owner / Authorized Agent Signature: _____ Date: _____

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

Zoning District: _____

Use of Structure or Property? Personal residence

Describe the Requested Variance(s) & Cite Ordinance Provision(s): We are requesting a variance of the 5' set back from the south property line to 2 1/2' to accommodate a 30' wide garage and allow for a 13 1/2' driveway between proposed new garage and north property line.

Owner / Agent Initial: SC

Date: 5-31-2023

Cunningham 706 Kentucky Variance Request

(a) Requested variance is add a detached garage to the property where no garage exists.

(b) The lot at 706 Kentucky st is significantly more narrow compared to other properties similarly situated in the same district.

(c) ?

(d) Other lots in district are larger and could accommodate a similar driveway and driveway with no variance required.

(e) not detrimental

(f) see attached drawing. We believe variance is reasonable to have a garage large enough to accommodate 4 vehicles and storage.

(g) We believe this variance will in harmony and will contribute to the aesthetics of the neighborhood.

(h) Request is solely for functional use of the property