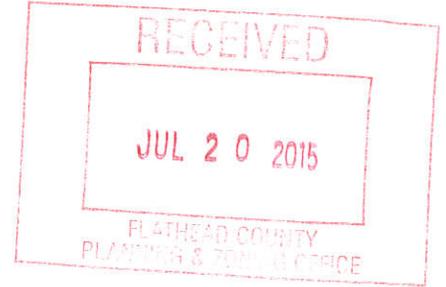


Flathead County
Planning & Zoning
1035 1st Ave W, Kalispell, MT 59901
Telephone 406.751.8200 Fax 406.751.8210



APPLICATION FOR A VARIANCE

Submit this application, all required information, and appropriate fee (see current fee schedule) to the Planning & Zoning office at the address listed above.

FEE ATTACHED \$ _____

Before completing this application please read instructions on page 4.

1. **OWNER:**

Name: Elizabeth Pickavance

Address: P.O. Box 234 Phone: (406) 261-1352

City/State/Zip: Bigfork, MT 59911

Email: epickavance@gmail.com

INTEREST IN PROPERTY: _____

2. **APPLICANT:** *(If different from above)*

Name: Ian & Rebekah Wargo

Address: 3095 Sweetgrass Lane Phone: (406) 253-9879

City/State/Zip: Kalispell, MT 59901 Email: ian@rpa-kal.com

3. **TECHNICAL/PROFESSIONAL ASSISTANCE:** *(If applicable)*

Name: _____

Address: _____ Phone: _____

City/State/Zip: _____

Email: _____

4. **LOCATION OF PROPERTY FOR WHICH VARIANCE IS SOUGHT:**

Physical Address: 3083 Sweetgrass Lane, Kalispell, MT 59901

5. **ZONING DISTRICT:** EVERGREEN **ZONING DESIGNATION:** R-1 PUD

6. **DATE PROPERTY ACQUIRED:** April 28, 2004

7. **LEGAL DESCRIPTION:**

Subdivision *(if applicable)* River Place Phase III Lot/Tract(s) 82

Assessor # 0007429 Section 4 Township 28 N Range 21 W

8. **REQUEST FOR A VARIANCE FROM THE PROVISIONS OF** *(State Section, Part, and Paragraph of the Zoning Regulations):* _____

Section 3.09 - R-1 Suburban Residential, 3.09.040: 1. Minimum Lot Area= 1 Acre
This section was modified by the PUD for River Place Subdivision Phase III to allow for 20,000 SF
minimum lot size. The request is to reduce this reduce the minimum lot size from 20,000 SF

9. **THIS IS A REQUEST FOR A VARIANCE IN RELATION TO THE PROVISIONS OF THE REGULATIONS** *(check one below):*

Area X Yard _____ Height _____
Coverage _____ Parking _____ Other _____

10. **STATE SPECIFICALLY THE CHANGE(S) PROPOSED AND THE REASON(S) SUCH CHANGE(S) ARE NECESSARY** *(use additional sheet if necessary):*

See Attached

11. **EXPLAIN HOW YOUR CASE CONFORMS TO EACH OF THE FOLLOWING REQUIREMENTS** *(be complete, use additional sheet if necessary):*

A. Strict compliance with the provisions of these regulations will limit the reasonable use of the property, and deprive the applicant of rights enjoyed by other properties similarly situated in the same district.

Typical property use in the subdivision consists of a primary residence and an accessory structure. Due to the location of the SW corner of the house on lot 81 being only 12.9 feet from the property line and a 10 foot pedestrian easement adjacent to the western property boundary, vehicular access and parking along the western edge of lot 81 is impeded.

B. The hardship is the result of lot size, shape, topography, or other circumstance over which the applicant has no control.

The hardship is created by the shape of lot 81. Lot 81 is a pie shaped lot with an extremely narrow frontage onto Sweetgrass Lane. The issue of the narrow frontage is then compounded by the placement of a 10 foot pedestrian easement on the property, all of which limit access and parking on lot 81.

C. The hardship is peculiar to the property.

The hardship is peculiar to lot 81, because not only does lot 81 only have 51.22 feet of road frontage but it is also the only lot with a pedestrian easement. If the pedestrian easement would have been placed on one of the rectangular lots, it would not have created such a hardship on the property. Lot 81 is the only lot in the subdivision with a pedestrian easement on the property.

D. The hardship was not created by the applicant.

The hardship was created originally by the developer due to the pie-shaped configuration of lot 81, and also by the placement of the pedestrian easement on a lot with narrow frontage.

E. The hardship is not economic (*where a reasonable or viable alternative exists*).

The hardship is not related to any economic factors. The variance would simply allow the same reasonable use of lot 81 as the rest of the properties within River Place Subdivision Phase 3.

F. Granting the variance will not adversely affect the neighboring properties or the public.

Previous property owners installed a fence on lot 81 prohibiting use of the pedestrian easement. Because the pedestrian easement is not currently accessible to neighboring properties or the public, pedestrians walk along the eastern property boundary of lot 82. If the variance is granted, the fence will be able to remain where it is, and the public will be able to continue to walk where they do currently. To the public and neighboring properties there will be no appearance that anything has changed.

G. The variance requested is the minimum variance, which will alleviate the hardship.

The variance requested is the minimum amount (10' the width of the pedestrian easement) to move the pedestrian easement west and allow vehicular access and parking along the western edge of lot 81 similar to other lots within the subdivision.

H. Granting the variance will not confer a special privilege that is denied other similar properties in the same district.

Granting the variance does not give lot 81 any special privileges nor does it take away any privileges from lot 82. Granting the variance provides lot 81 similar privileges as the rest of the lots within River Place Subdivision Phase 3.

12. **ATTACH A PLOT PLAN OR DRAWING.**

See Attached Plot Plan & Photo

I hereby certify under penalty of perjury and the laws of the State of Montana that the information submitted herein, on all other submitted forms, documents, plans or any other information submitted as part of this application, to be true, complete, and accurate to the best of my knowledge. Should any information or representation submitted in connection with this application be incorrect or untrue, I understand that any approval based thereon may be rescinded or other appropriate action taken. The signing of this application signifies approval for FCPZ staff to be present on the property for routine monitoring and inspection during the approval and development process.

Girabeth Pickavance
Owner/Applicant Signature

7/17/15
Date

INSTRUCTIONS FOR VARIANCE APPLICATION

1. ANSWER ALL QUESTIONS. Answers should be clear and contain all the necessary information.
2. In answering Question 7, refer to the classification system in the Zoning Regulations and explain in detail the specific standards from which the applicant is seeking relief.
3. In answering Question 9, be specific and complete. In this and all other questions, if additional space is needed you may use additional paper, and list which section number you are continuing.
4. Answer Question 10, A-H completely and fully.
5. A copy of the plot plan or site plan must be submitted with each application (*Please include 6 copies if you submit a size larger than 11x17*).
6. A **Certified** Adjoining Property Owners List must be submitted with the application (*see forms below*). The list will be sent directly to the Planning & Zoning office, unless you request otherwise. This list is valid for a period of 6 months from date generated. You may also get a certified adjoining landowners list from a title company if you choose.
7. A fee per the FCPZ schedule of fees for a variance application must be submitted with this application to cover the cost of necessary investigation, publication, mailing and processing procedures.

10. The proposed change to the Flathead County Zoning Regulations would be for the reduction of the minimum lot size of Lot 82 of River Place Subdivision Phase III. The River Place Subdivision Phase III is currently zoned as R-1 PUD. Per Flathead County Planning & Zoning Staff Report FPP-02-19 the PUD allows for lot sizes of 20,000 square feet when on municipal services. All other R-1 Zoning Regulations apply to the property.

A Condition of the Plat approval for the River Place Subdivision Phase III was to maintain a pedestrian easement between Lots 81 & 82 to provide a future access route to Evergreen School Property. The subdivision was platted with a 10' pedestrian easement along the westerly edge of Lot 81 (Lot 81 - Ian & Rebekah Wargo, Lot 82 Elizabeth Pickavance). The western corner of the residence on lot 81 is located 12.9' off of the western property line (see attached Plot Plan). Therefore the 10' pedestrian easement is only 2.9' off of the residence.

When Lot 81 was purchased by the Wargo's there was an existing fence around a portion of the exterior of the property. The existing fence disrupts the ability for the public to use the pedestrian easement as platted.

Currently the easement across Lot 81 does not connect to any other easements or public property. The easement adjoins Tract 1 of Government Lot 3, Section 4, Township 28 North, Range 21 West, P.M., M. Should Tract 1 subdivide in the future and should perpetuation of the pedestrian easement be a condition of Plat approval the existing fence around Lot 81 would prohibit pedestrian access across 81. Therefore, if the fence across Lot 81 was relocated to provide access to the 10' pedestrian easement it would result in the fence being 2.9' off of the residence. The implications of utilization of the pedestrian easement across Lot 81 create an unreasonable encumbrance to the property. Future use of the easement would prohibit vehicular access to the rear of Lot 81 and parking along the side of Lot 81. Limited vehicular access to the rear of the property would also prevent the ability for construction and utilization of an accessory structure on the property as allowed by Zoning. In addition, as shown on attached Plot Plan a portion of the existing 10' wide pedestrian easement falls within the driveway of Lot 81 therefore would technically limit the ability to park on portions of the driveway.

The request of this variance would be to conduct a boundary line adjustment between Lots 81 & 82 to move the boundary of lot 81 10' west and along with it the 10' pedestrian easement. Currently both Lot 81 and 82 are at or near minimum lot sizes. By adjusting the boundary line between Lots 81 & 82 10' west it would reduce the size of Lot 82 from 20,059 SF to not less than 18,500 SF. This boundary line adjustment would only change the location of the boundary line and easement between Lots 81 and 82, not the fence lines or current use of the properties.

It should be noted that currently any pedestrian activity between lots 81 and 82 take place across Lot 82 because it is currently unfenced. Should the request for the lot size variance be granted to allow for a boundary line adjustment it would only transfer the easement to its current location of use.

It is also appropriate to point out that the subdivisions that bound River Place Subdivision Phase III to the south (River Place Subdivision Phase I & II) and to the east (Aspen Hollow) are both zoned for a minimum lot size of 10,000. The 10,000 SF minimum allowed in neighboring subdivisions is considerably less than the lot size that Lot 82 would be reduced to if the variance (and future amended plat) is approved.