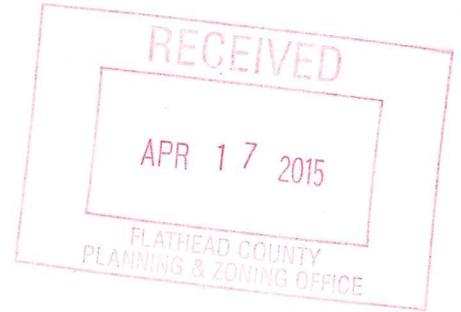




Flathead County Planning & Zoning

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: Steve and Judy Parker
Address: 28872 Hegegrow Phone: 949-795-2193
City/State/Zip: Mission Vija, CA. 92692
Email: _____

INTEREST IN PROPERTY: Owners

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

Name: _____
Address: _____ Phone: _____
City/State/Zip: _____

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

Name: Michael Fraser, PE
Address: 690 North Meridian, Suite 103 Phone: 253-4326
City/State/Zip: Kalispell, MT. 59901
Email: mfraser@montanasky.net

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

Physical Address: 365 Caroline Point Road, Lakeside, MT

5. **ZONING DISTRICT:** Caroline Point **ZONING DESIGNATION:** R-2

6. **DATE PROPERTY ACQUIRED:** 2014

7. **LEGAL DESCRIPTION:**

Subdivision *(if applicable)* Whipp Point Villa Sites Lot/Tract(s) Lot 7A
Assessor # 0368555 Section 06 Township 26 Range 20

8. **REQUEST FOR A VARIANCE FROM THE PROVISIONS OF** *(State Section, Part, and Paragraph of the Zoning Regulations):* _____
Section 3.10.040 Bulk and Dimensional requirements, Principal Structure, Side yard setback 10 feet

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

Area _____ 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 Response

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.

See Attached Response

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

See Attached Response

C. The hardship is peculiar to the property.

See Attached Response

D. The hardship was not created by the applicant.

See Attached Response

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

See Attached Response

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

See Attached Response

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

See Attached Response

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

See Attached Response

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

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.

Marked Wilson for Steve Kudycki

Owner/Applicant Signature

17-4-15

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.

RESPONSES FOR VARIANCE APPLICATION

STEVE AND JUDY PARKER

365 CAROLINE POINT ROAD

10. STATE SPECIFICALLY THE CHANGE PROPOSED AND THE REASONS SUCH CHANGE IS NECESSARY:

Section 3.10.040 Bulk and Dimensional Requirements (R-2), a minimum lot area of 20,000 square feet, establishes the side yard setback as 10 feet. The east side of the lot has a required 15 feet access for Lakeside County Water and Sewer to service a sewage pump station. The additional 5 feet of easement area over the setback reduces building envelop available for the residence. The requested variance is 4.5 feet with an area of 22.5 square feet and 2.8 feet with an area of 9.62 square feet, as shown on the attached site plan, Exhibit 4. If the sewer access was not necessary the residence would be within the building envelop. This change will allow the construction of a new residence on an existing non conforming lot, 11,892 square feet, in the Caroline Point Zoning District.

11. EXPLAIN HOW YOUR CASE CONFORMS TO EACH OF THE FOLLOWING REQUIREMENTS:

- 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.

This lot is part of a subdivision, Caroline Villa Sites, filed in 1925, Exhibit 1. The lots had 50 feet of lake frontage. The lots as platted are long and narrow, 3:1 ratios or greater. Today most owner ships include two or more lots, Exhibit 2, with the resulting minimum of 100 feet of frontage, or 80 feet of width for a residence. Lots vary from 116 feet to 260 feet deep with a back property line width of 60 to 80 feet per two lots. The combined lot area provides a relatively uniform buildable area much larger than the allowed lot coverage, thus owners have choice on sighting a residence.

Prior to the being modified in 1989 the ownership was two lots. The survey in 1989, Exhibit 3, reduced the useable lot depth from an average of 129 feet to 78 feet. The west boundary was adjusted to reduce the rear yard width to 46 feet. The rotation of the west property line added property to the adjoining lot while reducing the area and rear yard width of Lot 7A. The available building envelope was reduced to approximately 3,700 square feet, compared to an allowable coverage of 3,568 square feet. The Parkers have little choice on selecting a building location, Exhibit 4.

Exhibit 4 shows the proposed site plan. The house and attached garage cover 2,906 square feet. There is no other location for a garage and therefore it is attached to the

house. The proposed residence is not overly large and is smaller than many of the residences in the District. Strict compliance would limit the owners use and enjoyment.

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

The lot shape was created in 1989. Lakeside County Water and Sewer constructed the sewer in the mid 80's and placed the pump station. Parker's purchased the lot in 2014. They had no control over the current shape, size or topography. Because of the narrow access and slope there are very limited options for accessing the garage, residence and pump station, Exhibit 6.

- C. The hardship is peculiar to the property.

Attached is a copy of the current lot configuration and boundaries of the ownerships of the lots in the Villa sites, Exhibits 2 and 3. No other lot has the unusual shape of Lot 7A. Nearly every owner has two or more lots. As a result of owning more than one lot the minimum lake frontage is approximately 100 feet. This lot has 90 feet of frontage and narrows rapidly as a result of the lot line adjustment of 1989.

- D. The hardship was not created by the applicant.

The applicant, Steve and Judy Parker, purchased the lot in 2014. The Amended Plat creating the current lot boundaries was completed in 1989. Buildable land was added to 6A and subtracted from 7A, by the 1989 survey, creating the specific hardship.

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

Complying with the 10 foot side yard setback limits the owner's use of the property, limiting use and enjoyment available to other owners in the District. This limitation or hardship is not economic.

- F. Granting the variance will not adversely affect the neighboring properties.

An old residence occupied the property when purchased, Exhibit 5. The old residence encroached into the entire side yard setback, 10 feet and onto the property to the west by 3 feet. Total encroachment was 13 feet or 201.5 square feet. The old residence has been removed and thus all encroachments corrected.

This request is for an encroachment of 4.5 feet and 2.8 feet into the side yard setback, 31.5 square feet, significantly less than the encroachment which had been present since the survey of 1989 was recorded. This encroachment is less and would have less impact. Any impact would be minimal to the neighboring property.

The Bulk and Dimensional requirements of the zone allow detached accessory structures within five feet of the property line, a distance which minimizes impact to an acceptable level. The requested encroachment is less invasive than the allowed accessory structure setback. Further supporting the minimal impact on the adjoining property.

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

The requested variance is minimal 4.5 feet and 2.8 feet and only involves two corners of the residence. If a 15 foot area was not needed by the Sewer District, if access wasn't needed to the pump station, if the driveway to the garage was not so narrow and if access wasn't needed by the owners to the Lake, the house could be moved 5 feet and eliminate the encroachment.

The 15 feet wide access is important to the Sewer District, but also to the owner. Mrs. Parker has arthritis. She must use an ATV to access the lake, a gravel path is shown on the site plan for this purpose.

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

Other properties in the District, due to site constraints, could have a similar need. Any owner with similar constraints could make application for a variance as needed to alleviate the hardship.

The property to the west made application for and received a variance in 2013. Thus, other properties, in the district, have received similar considerations.

Granting this variance would be consistent with the prior variance in the District.