



YELLOWSTONE COUNTY BOARD OF ADJUSTMENT
YELLOWSTONE COUNTY, MONTANA
THURSDAY, JANUARY 10, 2013

SUBJECT: Variance #265 – 2944 Alexander Road – Detached Accessory Building
THROUGH: Candi Beaudry, AICP, Planning Director
PRESENTED BY: Nicole Cromwell, AICP, Zoning Coordinator, Planner II

REQUEST

This is a variance from 27-310(j) requiring a maximum accessory building size of 1,500 square feet to allow a maximum accessory building size of 3,584 square feet in a Residential 15,000 (R-150) zone. The property is 10 acres in area and is legally described as Tract 1 of C/S 2687 and is generally located at 2944 Alexander Road. The Board of Adjustment determinations for variances are included at the end of the staff report. The Planning Division is forwarding a recommendation of conditional approval.

APPLICATION DATA

OWNER: Frank and Mary Jo Michels
AGENT: None
PURPOSE: To allow the construction of a new accessory building of 3,584 square feet
LEGAL DESCRIPTION: C/S 2687, Tract 1
ADDRESS: 2944 Alexander Road
SIZE OF PARCEL: 10 acres
EXISTING LAND USE: Single family home, agricultural uses
PROPOSED LAND USE: same with additional accessory building for agricultural equipment and hay storage
EXISTING ZONING: R-150

APPLICABLE ZONING HISTORY

Subject Property

County Variance #217 – Conditionally approved April 11, 2001 – A variance to construct an accessory building of 2,040 square feet.

Surrounding Property

Variance #165 – 2920 Alexander Road – Conditionally approved May 8, 1996 – A variance from the 27-310 to allow an 1,800 square foot accessory building.

CONCURRENT APPLICATIONS

None

SURROUNDING ZONING & LAND USE

NORTH: Zoning: A-1
Land Use: Agricultural Land
SOUTH: Zoning: R-150
Land Use: Agricultural Land
EAST: Zoning: R-150
Land Use: Single family homes and agricultural land
WEST: Zoning: A-1
Land Use: Single family homes and agricultural land

REASONS

This is a request for a variance from Section 27-310(j) limiting the maximum size of accessory buildings to 1,500 square feet. The land owner is in need of additional covered storage for agricultural equipment and cut hay. The property is 10 acres and the owners have additional acreage to the south. The property is zoned R-150 where the limitation on accessory buildings applies. In the Agriculture Open-Space (A-1) zoning district to the north and west there are no limitations on accessory buildings. The Agriculture Suburban (A-S) zoning district limits the maximum size of accessory buildings at 3,000 square feet. In the R-150 zone, the maximum size of an accessory building is 1,500 square feet with a maximum of 3,000 square feet of accessory building area per parcel. The zoning regulations were developed assuming the zoning district will dictate the smallest lot area for each zone. In cases where the property is much larger than the minimum lot area, the accessory building size limitation can be overly restrictive.

The Board of Adjustment has granted 2 similar variances. One variance was approved for this same property in 2001 for a 2,040 square foot shop building. Another variance was approved in 1996 for the immediately adjacent property at 2920 Alexander Road. This variance allowed a 1,800 square foot accessory building. The proposed use of the building is for active agricultural operations on the property. There are no proposed commercial uses for the building. There are similar sized agricultural buildings in the area, including buildings at 633 Sindelar Road, 202 Sindelar Road and 3036 Alexander Road. The primary difference between these properties and the subject property is the underlying zoning. The 3 properties with large agricultural barns are in the A-1 and the subject property is in the R-150 zone. The Planning Division is recommending conditions of approval to ensure the proposed accessory building is compatible with the surrounding property.

RECOMMENDATION

The Planning Division is recommending conditional approval.

DETERMINATIONS

The 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;**

There are no special conditions or circumstances that are peculiar to the land and create a hardship that is applicable to the subject property. The only potential hardship is the

underlying zoning of R-150. If the zoning were changed to A-1, the owners could construct as many accessory buildings as needed and at the appropriate size to accommodate the uses. Both parcels owned by the applicant are 10 acres and meet the minimum lot area for the A-1 zoning 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;

Staff is aware of at least 2 similar variances approved in the immediate neighborhood. One was previously approved for the subject property and one for an adjacent property. There are similar sized agricultural barns in the area that are in the A-1 zone so no variances were required for these larger buildings. Denial of the requested variance would deprive this owner of rights commonly enjoyed by others in the same district and area.

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;

Granting the variance will not confer on the applicant a special privilege that is denied other land in the district.

4. That the granting of the variance will be in harmony with the general purpose and intent of this Chapter and with the Growth Policy;

The granting of this variance will not conflict with the Yellowstone County and City of Billings 2008 Growth Policy. The preservation of agricultural land north of Billings is a goal of the policy.

5. In granting any variance, the Board may prescribe appropriate conditions and safeguards in conformity with this Chapter. 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 Chapter;

Staff is recommending conditions of approval as follows:

1. The variance to increase the allowed square footage for a detached accessory building from 1,500 square feet to 3,584 square feet. No other variance is intended or implied by this approval.
2. The variance is limited to Tract 1 of C/S 2687, generally located at 2944 Alexander Road.
3. The applicant will develop the new accessory building in substantial compliance with the submit site plan and drawings.
4. The applicant will submit a Zoning Compliance Permit for construction of the new accessory building within 6 months of Board of Adjustment approval.
5. The construction of the new accessory building will be completed within 18 months of Zoning Compliance Permit approval.
6. The use of the new accessory building will be limited to the personal use of the residents of the property.
7. These conditions of variance approval shall run with the land described in this authorization and shall apply to all current and subsequent owners, operators, managers, lease holders, heirs and assigns.

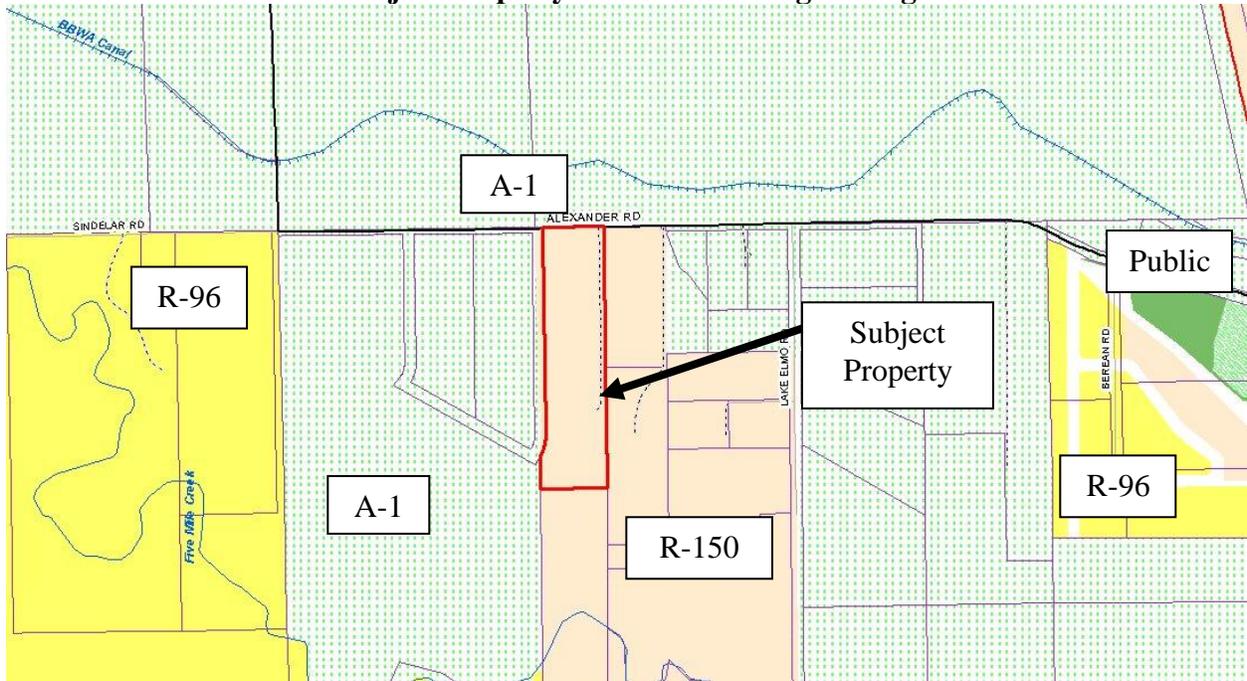
6. **The Board shall prescribe a time limit within which the action for which the variance is required shall be begun or completed, or both. Failure to begin or complete such action within the time limit set shall void the variance; and**

Staff is recommending a condition to require a Zoning Compliance Permit be submitted within 6 months of Board approval and to complete the construction within 18 months after permit approval.

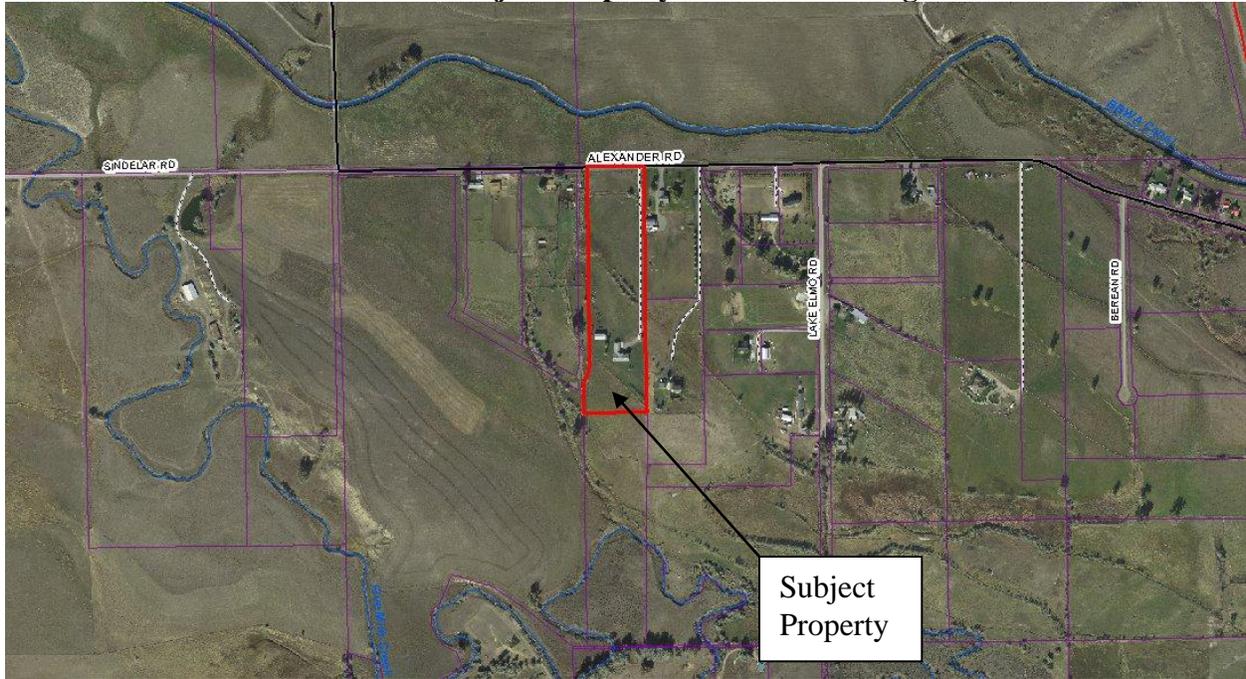
7. **Under no circumstances shall the Board grant a variance to allow a use not permissible under the terms of this Chapter in the district involved. A variance shall not be a grant of special privilege inconsistent with limitations placed upon other property in the district.**

Agricultural uses and accessory uses of residential property are allowed uses within this district. Granting of variance will not allow a use that is prohibited.

Subject Property and Surrounding Zoning



Photos of the Subject Property and Surrounding Area



North end of property at Alexander Road



View west along Alexander Road



View north across Alexander Road

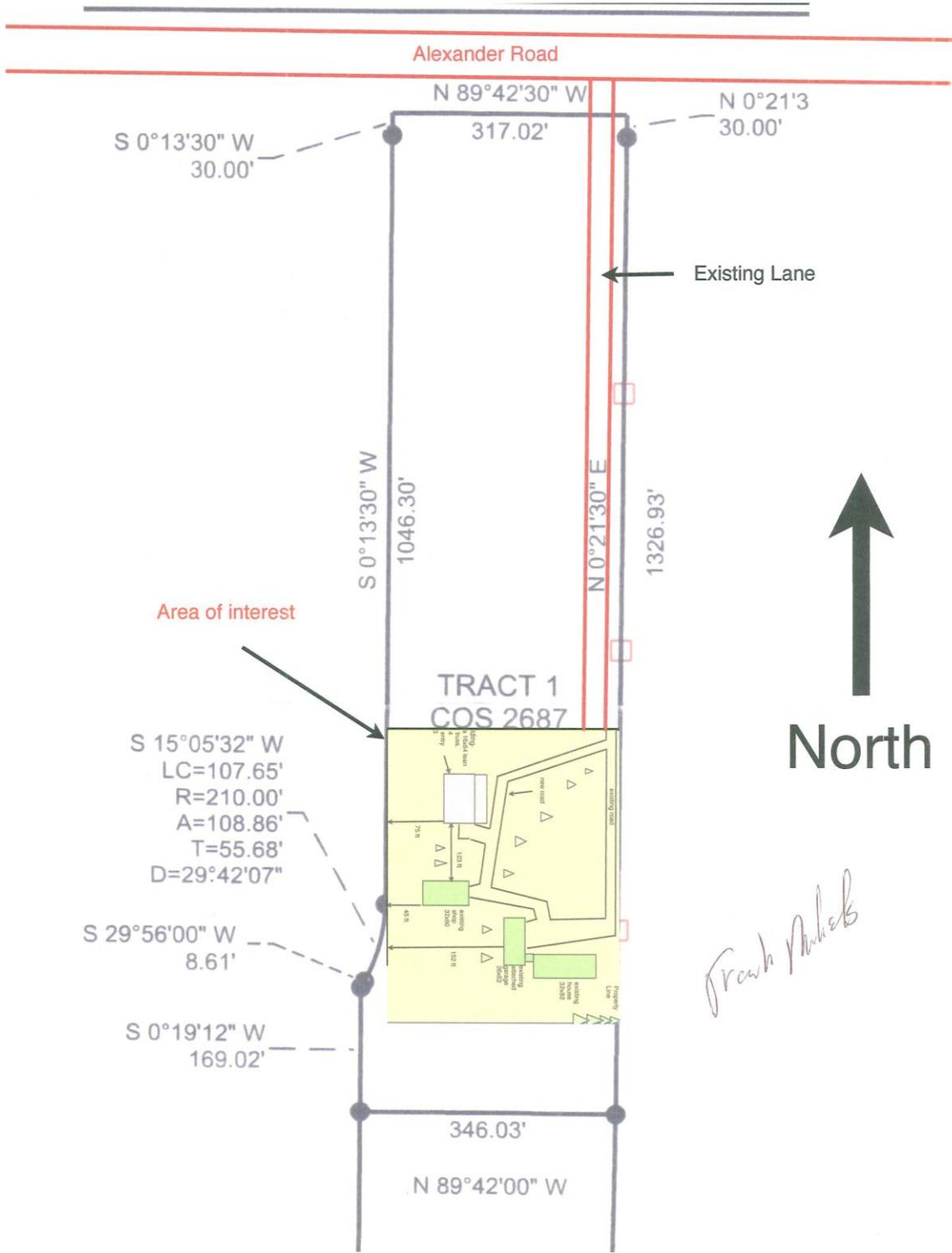


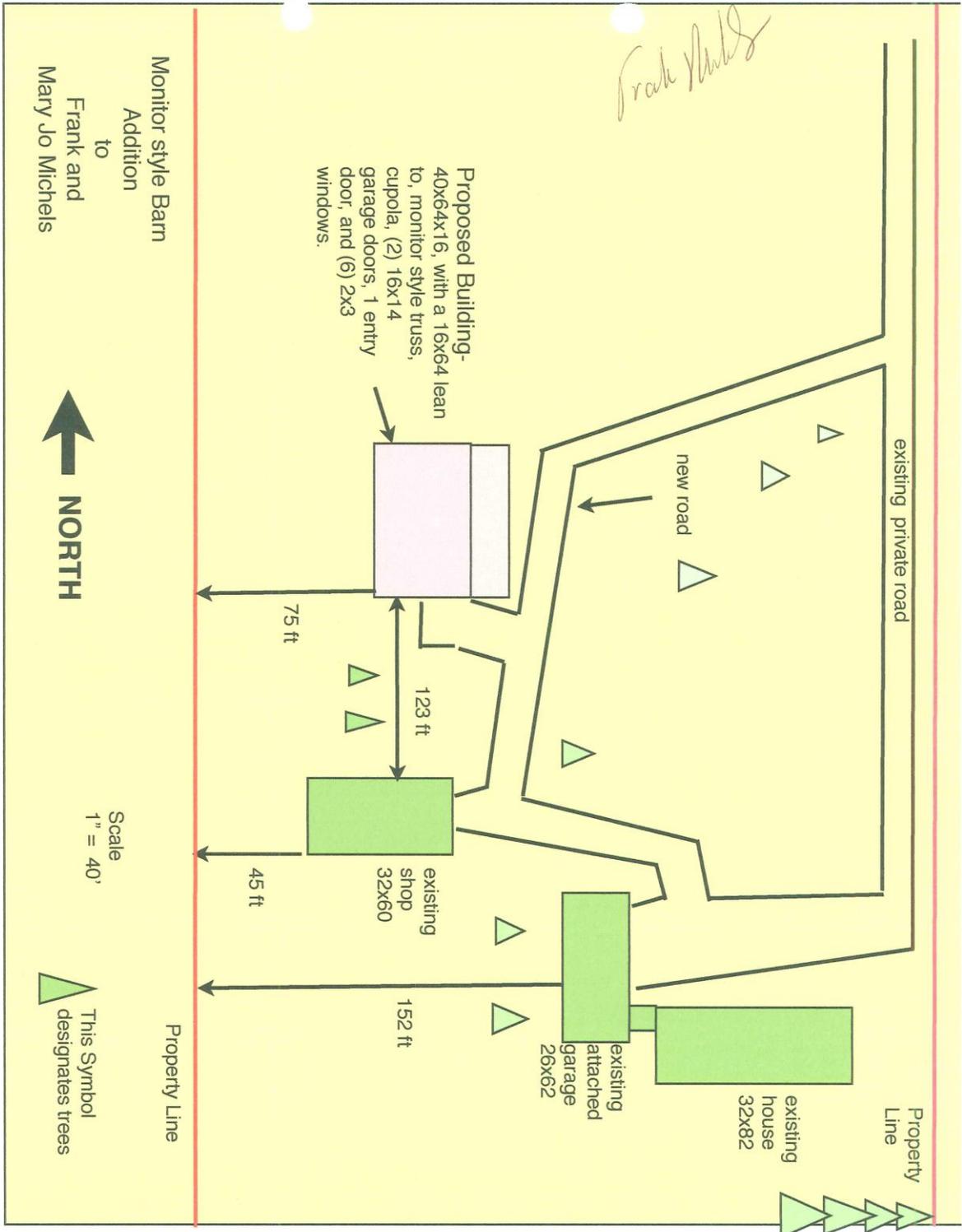
View east along Alexander Road

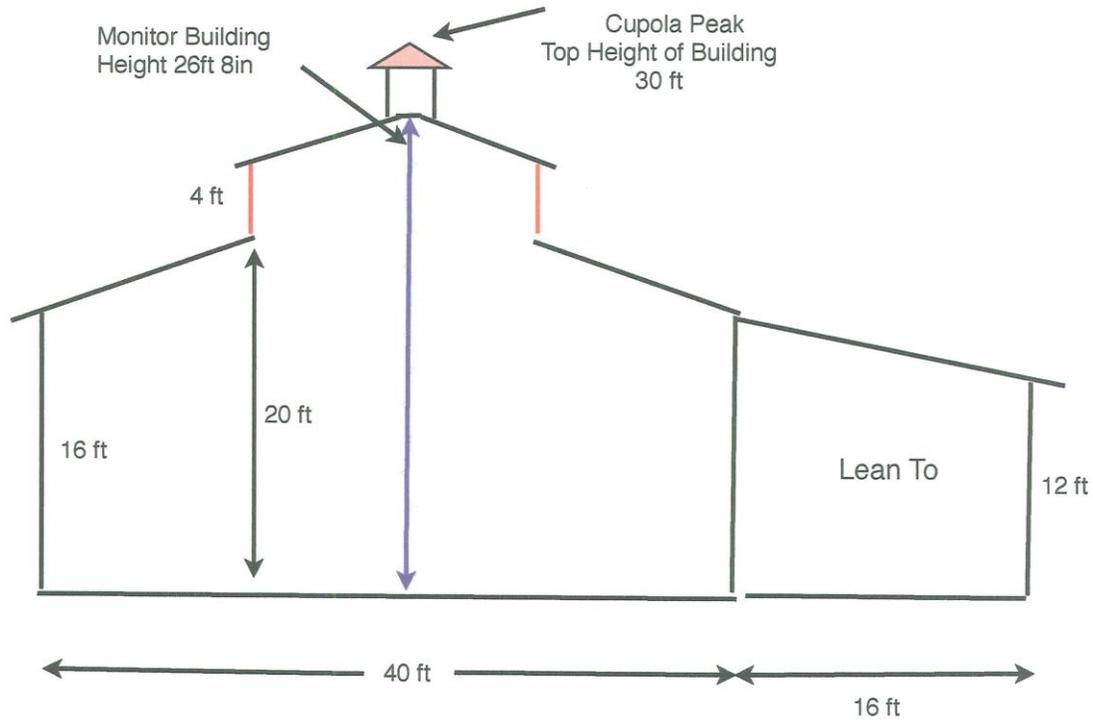


View of adjacent property at 2920 Alexander Road

Site Plan







**Height Detail for Board of Adjustment
By Frank and Mary Jo Michels
2944 Alexander Rd.
Billings, MT 59105**

40'x64'x16' Monitor Style Clear Span Pole Barn
with
16'x64' Lean To
6'x6'x4' Cupola Centered on top of Roof
[2]-16'x14' garage doors with no electric opener, one on each end
3'entry door
[6]- 2'x3' non active windows on upper vertical side wall
(3 on each side)
On the main building posts will be 8' on center
and trusses will be 4'on center.
Side girths will be 2x6 on edge attached to outside of posts 2' on center
Lean To posts will be 12' on center with one bay being 16' on center
All roof purlins will be 2x4 flat at 2' on center.
No electrical or plumbing to be done

Frank Michels

Contractor, Mark Crago, Columbus, MT
Permits pending Variance Approval
Engineer Detail Attached by Krivonen Associates, P.C.
Trusses by Thomae Truss, Details Attached

Applicant's Letter

To: Chairperson of the Board of Adjustment

From: Frank and Mary Jo Michels

Date: 12-1-12

Re: Variance application
To Property located at NW 4 Sec. 10, TIN., 26E, PMM
Certificate of Survey No. 2687

*Frank Michels
Mary Jo Michels*

Dear Chairperson,

My wife and I are applying for a variance on the above property so that we can construct a new outbuilding. We have hired a contractor who has retained an architect awaiting approval of the variance. The proposed building would be a Monitor Style Pole Barn with a lean to on one side. The size would be 64 X 40 ft and the lean to would be 64 X 16.

The property currently has our home and attached garage. In addition, in 2001, an outbuilding was approved and constructed. It was a shop building, 2040 sq. ft., and was approved. (Certificate of Variance #217). Currently the building is used as a shop (as intended) and I do hobby welding as well as repair to machinery. Because our property is used as a farm we have acquired farm machinery to store out of the weather. We also produce hay from this parcel and a 10 acre attached parcel (survey 2746). We need to store hay production out of the weather.

Recently a neighbor on Lake Elmo Road built a Monitor Style outbuilding. (See photo) The addition of this new building would "fit" into area improvements. It should be noted that properties to the north and west of our property are zoned as Agricultural-Open Space zoning, which has no detached structure size limitation.

We feel that the additional storage area would allow for equipment to be stored inside instead of parking it in the field and would improve the appearance of the area. There is a nearby property where a home has been moved in but never seated on a foundation and is still on moving rails. (see photo)

The new building would be used for storage and not have electricity or other utilities.

We feel the building would provide for our storage needs and improve the land value to both us and our neighbors. The building fits on our property nicely and no neighborhood views are obstructed. We are good stewards of our property and hay production has kept it clean, fire resistant and weed free.

Sincerely, Frank and Mary Jo Michels



Frank Miller

Current shop building

has multiple uses including storage and repair.

Agricultural uses require more equipment that the current building can store.



Welding in this shop building may create a fire danger. Moving stored equipment to another location is the safest and best alternative

Frank Miller



Mary Jo is standing on the proposed site of the new storage facility



House that was moved to a nearby property 6 years ago.



Monitor style building that is used for both storage and additional living space on a property near us on Lake Elmo drive.
There is a large garage door on the side not in the photo

Handwritten signature



Pull type swather that needs to be stored inside



Irrigation on the Property



*Tractor
in field*

Haying and Baling

Best use for the property to
prevent weeds and decrease
the fire danger





*Kent
Ralls*

2nd cutting Hay

Storage of Hay where the new building is proposed

