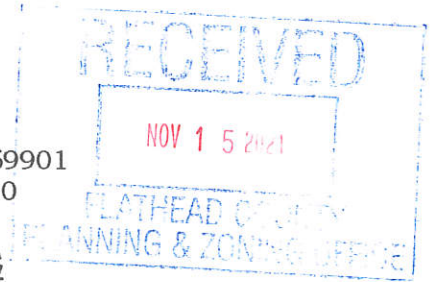




# Flathead County Planning & Zoning

40 11<sup>th</sup> Street West, Suite 220 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 \$ 380 - FCPZ  
75 - GIS

Before completing this application please read instructions on page 4.

**1. OWNER:**

Name: Cesar + Alexandra Avila  
Address: 320 Heikens Road Phone: 406.794.4914 +  
City/State/Zip: Nashua, Montana 59248 281.223.7029  
Email: glaciergriz@hotmail.com

INTEREST IN PROPERTY: 881 Trail Creek Road, owners

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

Name: \_\_\_\_\_  
Address: \_\_\_\_\_ Phone: \_\_\_\_\_  
City/State/Zip: \_\_\_\_\_

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

Name: Shawnee Barge, Realtor at Century 21  
Address: 750 2<sup>ND</sup> Street West Phone: 406.212.1970  
City/State/Zip: Whitefish, Montana 59937  
Email: shawnee@deatonandcompany.com

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

Physical Address: 881 Trail Creek Road, Polebridge, Montana 59928

**5. ZONING DISTRICT:** North Fork **ZONING DESIGNATION:** North Fork

**6. DATE PROPERTY ACQUIRED:** 02/22/2013

**7. LEGAL DESCRIPTION:**

Subdivision (if applicable) \_\_\_\_\_ Lot/Tract(s) Parcel B of COS #11809  
Assessor # 0174150 Section 28 Township 37 N Range 22 W  
NW 1/4 SW 1/4

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

Flathead County Zoning Regulations, 3.40.040  
(page 128 + 129) Development Standards #1-3 + 6

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):

The changes we propose are in reference to Section 3.40.040 2.A. 150' variance from stream which serves as northern boundary to the property. The property is 2.36 acres in a rectangular shape. The distance between the north border of the property (creek) + southern border of the property (R/W Trail Creek Rd.) is approximately 151 feet.  
\*See additional sheet

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:

i. Limit the reasonable use of the property,

Based on the rectangular shape of the property, strict compliance with the regulation would render most of the property unusable for living space.

ii. Deprive the applicant of rights enjoyed by other properties similarly situated in the same district.

The applicants are unaware of similar situated properties in the North Fork valley. Parcels are mostly in 20 acre blocks, many larger, with only a minimal amount of properties broken down into smaller parcels. As such, the applicants' property is uniquely situated with two boundaries which limit the ability to build a new structure.

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

The hardship is, as previously stated, is due to the property being in a rectangular shape which limits the amount of area which is usable for a new build that isn't restricted by boundaries.



C. The hardship is peculiar to the property.

The hardship is unusual because the shape of the property + the amount of acreage, which is not common in the North Fork valley.

D. The hardship was not created by the applicant.

The hardship is based on the topography, size and shape of the property, not one created by the applicant.

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

~~Not~~ The hardship is not for economic reasons. The variance is requested because there is currently not enough room to build as it ~~will~~ encroach the existing NF zoning variances written in 3.40.0402.A and 3.40.0402.B.

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

Granting the variance will not impede the use of the neighbors property in any way. A structure will be minimally visible and will not obstruct any existing buildings views. Previously there was a barn on the property, prior to the current owners buying the property.

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

The variance requested is a reasonable accommodation for a new build with a minimal footprint on the property.

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

The variance will allow for maximum use of the property based on its existing limitations. No special privilege is being sought or granted. Current zoning states a variance will be granted. Similar properties, if any, should not be denied if a variance is requested. 3.40.040.3 + 3.40.040.6

**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.*

  
\_\_\_\_\_  
Owner/Applicant Signature

11/10/2021  
\_\_\_\_\_  
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 separate fee made out to 'GIS' for the 'Adjoining Property Owners List'. The list will be sent directly to the Planning & Zoning office and 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. *\$7500 fee for GIS*
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. *#380 Fee to FCPZ*

Avila  
881 Trail Creek Road  
Polebridge, Montana 59928

Application for a Variance

\*10 Cont'd:

The change will allow for a new cabin which will be on the east end of the property. The proposed building will be approximately 18 x 24 feet with a 5 foot deck, and will be approximately 30 feet from the existing stream. Another variance will be necessary for Section 3.40.040 2.B. Other Public Road 100' from R/W line which serves as the southern border of the property. The proposed new building will be approximately 98 feet from the public road.