



CITY BOARD OF ADJUSTMENT
AGENDA-Wednesday, March 4, 2015, 6:00 p.m.
Miller Building, 1st Floor Conference Room
2825 3rd Avenue North, Billings, Montana

NOTICE TO THE PUBLIC

Public Comment:

There will be a Public Comment Section as noted on the agenda. This is the time members of the public may comment on any item not appearing on the agenda. Under State law, matters presented under this section cannot be discussed or acted upon by the Zoning Commission during this time. For items appearing on the agenda, the public will be invited to make comments at the appropriate time. It is very important to speak clearly, and state your name and address for the record. Please limit your comments to three (3) minutes or less.

Call the meeting to order.

Introduction of City Board of Adjustment Members and Planning Department Staff.

Public Comment

Approval of Minutes: February 4, 2015

The City Board of Adjustment met in the first floor conference room of the Miller Building located at 2825 3rd Avenue North on **Wednesday, February 4, 2015.**

Disclosure of any Conflict of Interest-Members of the Commission and Staff

Disclosure of an Outside (Ex Parte Communication)-Members of the Commission and Staff
a. The Exparté Communication Binder is available at the Sign-In and Agenda Station.

Regular Business:

- A. Opening of public hearings.
- B. Reading of rules for the procedure by which the public hearings will be conducted.
- C. Reading of notices of the public hearings on the following items:

Public Hearings:

- a. **Variance #1208 – 4120 and 4120 ½ Buchanan, Lot Area:** The applicant is requesting a variance from 27-308 requiring a minimum lot area of 7,000 square feet to allow a minimum lot area of 6,250 square feet in a R-60 zone for 2 existing dwellings on Lot 40, Block 2, Fairview Subdivision. Tax ID: A06958. The owner intends to demolish and reconstruct one of the existing dwellings, David Schreder, owner.

- b. **Variance #1209 – 519 Avenue D, Detached Garage Wall Height:** The applicant is requesting a variance from 27-310(i) requiring the wall height of a detached garage to be no taller than the wall height of the residence to allow a 12-foot wall height for a new 936 square foot detached garage in a R-60 zone, on Lots 7 & 8, Block 1, Pioneer Park Subdivision, a 13,200 square foot parcel of land. Tax ID: A12858, and Wayne and Judy Brownson, owners.

Other Business/Announcements

Adjournment

Information on the preceding item(s) may be obtained at the Planning & Community Services Department, 4th Floor of the Miller Building, 2825 3rd Ave North, Billings, MT 59101 or phone 247-8676. Anyone wishing to be heard on this matter may appear at this hearing or provide written testimony. Information on the preceding item(s) may be obtained at the Planning & Community Services Department, 4th Floor of the Miller Building, 2825 3rd Ave North, Billings, MT 59101 or phone 247-8676. Anyone wishing to be heard on this matter may appear at this hearing or provide written testimony to Planning Division at the address above.

Public hearings are accessible to individuals with physical disabilities. Special arrangements for participation in the public hearings by individuals with hearing, speech, or vision impairment may be made upon request at least three days prior to the hearing. Please notify Tammy Deines, Planning Clerk, at 247-8610 or e-mail at deinest@ci.billings.mt.us.

City Board of Adjustment

Meeting Date: 03/04/2015

Information

Subject

The City Board of Adjustment met in the first floor conference room of the Miller Building located at 2825 3rd Avenue North on **Wednesday, February 4, 2015.**

Attachments

BBOA Minutes 2015 02 04

City of Billings Zoning Commission Meeting Minutes- February 3, 2015

The City of Billings Zoning Commission met on Tuesday, February 3, 2015 in the Miller Building 1st Floor Conference Room, 2825 3rd Avenue North, Billings, Montana.

Chairman Leonard Dailey called the meeting to order at 4:30 p.m. The City Council has designated **Monday, February 23, 2015**, at 6:30 p.m. in the City Council Chambers as the time and place to hear testimony for or against the zoning applications.

Commission and Staff		01/06/2015	02/03/2015	03/03/2015	04/07/2015	05/05/2015	06/02/2015	07/07/2015	08/04/2015	09/08/2015	10/06/2015	11/10/2015	12/01/2015
Leonard Dailey, Jr.	Chairman	1	1										
Barbara Hawkins	Commissioner	1	1										
Dan Wagner	Vice Chairman	1	1										
Dennis Ulvestad	Commissioner	1	E										
Mike Boyett	Commissioner	1	1										
Candi Millar	Director, Planning & Community Services	-	-	-	1	-	-	-	-	-	-	-	-
Nicole Cromwell	Planner II, Zoning Coordinator	1	1	1	1	1	1	1	1	1	1	-	-
Tammy Deines	Planning Clerk	1	1	1	1	-	1	1	-	1	1	-	-
Wyeth Friday	Planning Division Manager	-	-	-	-	-	-	-	-	-	-	-	-
Juliet Spalding	Planner II	-	-	-	-	-	-	-	-	-	-	-	-
Lora Mattox	Planner II	-	-	-	-	-	-	-	-	-	-	-	-
Karen Husman	Planning Assistant	-	-	-	-	1	-	-	1	-	-	-	-

Total Number of 2015 Applications	01/06/2015	02/03/2015	03/03/2015	04/07/2015	05/05/2015	06/02/2015	07/07/2015	08/04/2015	09/08/2015	10/06/2015	11/10/2015	12/01/2015	TOTAL
Zone Change	2	2											4
Special Review	1	1											2

Chairman Dailey introduced the Planning Department Staff and Commission: Nicole Cromwell, Zoning Coordinator; and Tammy Deines, Planning Clerk

Others in Attendance: Yvonne Kelly; Riley Kelly; Tom Llewellyn; Marita Herold; Fred Pierce II; Jean Pierce; Bill Stene; John Robinson; David Mitchell; Max Griffin

Public Comment

Chairman Dailey called for public comments. There were no public comments. Chairman Dailey closed the public comment portion of the meeting.

Approval of Minutes: January 6, 2015

Chairman Dailey called for approval of the January 6, 2015 meeting minutes.

Motion

Mike Boyett made a motion and Dan Wagner seconded the motion to approve the January 6, 2015 meeting minutes as submitted.

The motion carried with a unanimous voice vote.

Disclosure of Conflict of Interest

Chairman Dailey called for disclosures of conflict of interest. There was none.

Disclosure of Outside Communication

Chairman Dailey called for disclosure of ex parte communication. Nicole Cromwell disclosed staff received a letter concerning Zone Change #932 from Cole Law Firm on the behalf of the applicant. Copies were distributed to the Commissioners prior to this meeting.

Public Hearings:

Chairman Dailey reviewed the rules and the procedures by which the City Zoning Commission public hearings are conducted and asked Ms. Cromwell to open the next agenda item. Ms. Cromwell read aloud the legal notice and gave an overview of the application and staff's recommendation.

Item #1: Special Review #922: This is a special review request to allow a new 100 foot wireless communication tower and ground equipment within 1 mile of another communication tower over 50 feet and a special review to allow a new wireless communication tower over 50 feet in a Public (P) zoning district at the Billings Airport. The property is directly adjacent to an existing 100-foot wireless communication tower owned by Verizon Wireless. The tower is on a proposed lease parcel of 4,200 square feet within Tract 1 of C/S 2334 generally located at 284 Southview Drive just north of Highway 3. The intended lease holder is Network Information Systems and the agent for the City of Billings is Tom Binford, Aviation and Transit Director.

RECOMMENDATION

The Planning Division is recommending conditional approval and a waiver of the 1-mile separation requirement based of the findings of the 3 review criteria for Special Review #922.

The Planning Division recommends approval, subject to the following conditions:

1. The special review approval is for the construction of a 100-foot tall wireless communication facility and ground base equipment shelter.
2. The approval is limited to the proposed 4,200 square foot lease parcel as shown on the submitted site plan dated March 11, 2014, generally located at 284 Southview Drive in Tract 1, C/S 2334.
3. Minor modifications of the tower are allowed as follows: the addition of more antenna arrays, so long as the addition of the antenna arrays add no more than twenty (20) feet in height to the facility and the increase in height of the support structure is no greater than ten (10) percent. Placement of additional antennae, up to the number the antenna support structure was originally designed to accommodate, shall be considered a minor modification.
4. The site will be developed in substantial conformance with the submitted site plan dated March 11, 2014. Minor modification of the site plan are allowed within the proposed 4,200 square foot lease area.
5. The site is granted a waiver of the 1-mile separation distance to another wireless communication facility over 50-feet in height (BMCC 27-620(g) 11) since it is technically infeasible to place the required antennae on any existing tower within 1 mile or to re-locate the facility to another location 1 mile or more from the proposed location.
6. A building permit must be applied for within six (6) months of special review approval and the project shall be completed within one (1) year from the date the special review is granted by the City Council
7. These conditions of special review 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.
8. The proposed development shall comply with all other limitations of Section 27-613 of the Unified Zoning Regulations concerning special review uses, and all other City of Billings, regulations and ordinances that apply.

Discussion

Chairman Dailey called for questions and discussion from the members of the Commission. Mike Boyett asked for clarification on the purpose of this request. Nicole Cromwell stated this provider needs additional space to provide service and there is not enough room on the existing tower to accommodate additional antennae. Leonard Dailey asked about Staff's position on the waiver for the 1-mile separation distance. Nicole Cromwell referenced the City Code and explained if this request were not approved, the 100-foot facility would be required to move one mile away from the existing facility; this would be very difficult to do with the rim face and topography.

Public Hearing: Chairman Dailey opened the public hearing and called for proponents or opponents of City Special Review #922

Proponents

Jonathan Robison, Network Information Systems, 8428 King Avenue West, Billings, Montana

Mr. Robison said he made a considerable effort to find a suitable site, and he pointed out the limitations of the airport and the rim face. He said there is limited capacity of building rooftops that can hold an antenna. Mr. Robison stated this location is preferred by the airport due to the existing utilities and the fact the new tower will be virtually invisible due to the existing tower. Network Information Systems is the intended lease holder for the 100-foot wireless communication tower. They intend to supply reliable data services to Billings businesses as an independent provider not associate with a large carrier. Dan Wagner asked about the longevity for capacity for this site. Mr. Robison said it is conceivable this could last indefinitely with tower replacements. The time frame for construction will include a portable temporary enclosure after the lease is approved and follow with the permanent structure once the weather permits.

Marita Herold, City of Billings Aviation and Transit Business Manager, 1901 Terminal Circle, Billings, Montana

Ms. Herold is attending on behalf of Tom Binford, Director of Aviation, and agent. Leonard Dailey asked about the overall Airport's position on this request. Ms. Herold stated they were contacted regarding a site in this vicinity over a year ago. They referred him to Verizon who has a collocation requirement but chose not do to so as they expanded for the 4G communications. Ms. Herold stated any changes require FAA approvals. She said the airport is supportive of locating this tower at this location as they prefer to cluster the towers. They plan to work with the applicant with the fencing and access. She said this is a 42,000 square foot parcel under a 10 year lease which is based on the square foot on the ground plus an antennae fee. Mike Boyett asked if this will be an "antenna park". Ms. Herold explained it has been quite some time since the last request but capacity is becoming an issue with the expansion of cellular use. In response to a question by Dan Wagner, Ms. Herold stated consideration of liability of environmental conditions is part of the lease. Mr. Robison stated FAA approval has been submitted and approved for this tower.

Opponents

There was none. Chairman Dailey closed the public hearing for City Special Review #922.

Motion

Commissioner Dan Wagner made a motion and Commissioner Hawkins seconded the motion to forward a recommendation to City Council of conditional approval of City Special Review #922 with the and Findings of Fact presented by Staff.

Discussion

Chairman Dailey called for discussion on the motion. Mike Boyett commented this is a “win” for all concerned. Dan Wagner pointed out the benefits to the community of more providing additional cell service and the revenue generated to the City.

The motion to approve City Special Review #922 carried with a unanimous voice vote, 4-0.

REQUEST

Zone Change #931: This is a zone change from Residential 7,000 (R-70) to residential 6,000 (R-60) on Parcel A of amended Tracts A-G of C/S 87 and an unplatted portion of Section 5, T1S, R26 E, for the proposed Midway Townhomes development. The property is located on Yellowstone Avenue between 10th St West and 11th St West. The parcel is about 3 acres in area. The applicant conducted a pre-application neighborhood meeting on December 17, 2014, at the Shrine Lodge Room, 1125 Broadwater Avenue.

RECOMMENDATION

The Planning Division is recommending approval of the zone change and adoption of the findings of the 10 criteria.

Discussion

Chairman Dailey called for questions and discussion from the members of the Commission. In response to a question by Mike Boyett, Nicole Cromwell stated the City Engineer and the applicant have started on a development plan through a Master Site Plan Review and discussed Yellowstone Avenue. She said the alleyway will remain; she thought parts of Yellowstone Avenue may be open to the public. She noted the points of connection for the city services for water and sewer. Leonard Dailey commented this is an interesting property due to the street configuration. Nicole Cromwell said there will be further discussion as to what will be closed off on 10th Street and 11th Street. Dan Wagner asked if there will be legal issues with this reclamation as the public has used this for a “cut through” access for several years. Nicole Cromwell gave further explanation and said this should not be preventive easement onto this property.

Public Hearing

At 5:00 p.m., Chairman Dailey opened the public hearing and called for proponents or opponents of City Zone Change #931.

Tom Llewellyn, 1925 Grand Avenue, Billings, Montana

Mr. Llewellyn is the agent for applicants Yvonne and Riley Kelly. He stated they have come to terms through the site plan review and pointed out the street configuration. The storm water management will be handled on site; the water will come into a water vault and distributed. The plan is to build fourteen duplexes and one single unit. There will be no alley loading garages. He said the neighborhood meeting had a good representation of attendees. He stated there will be one way in and one way out off of Lewis Avenue and 11th Street West and a gated emergency exit. He state the contractors will be ready to start this project within 30 days following City Council approval.

Chairman Dailey closed the public hearing at 5:18 p.m.

Motion

Commissioner Hawkins made a motion and Commissioner Boyett seconded the motion to forward a recommendation to City Council of approval of City Zone Change #931 with the Findings of Fact presented by Staff.

Discussion

Chairman Dailey called for discussion on the motion. It was the consensus of the Commission this project will be a positive addition to the City.

The motion to approve City Zone Change #931 carried with a unanimous voice vote, 4-0.

REQUEST

Zone Change #932: This is a zone change from Residential 7,000 (R-70) to Community Commercial (CC) on the north 36,000 square feet of Lots 2 & 3, Pierce Subdivision. The total area of the property includes lots 1 and 2 of Block 2, in Robbins Subdivision and is a total of 1.72 acres. Only the northern 36,000 square feet is proposed for this zone change. The property is located at 808 Grand Avenue. A pre-application neighborhood meeting was held at 805 Alderson Avenue on December 18, 2014.

RECOMMENDATION

The Planning Division recommends approval and adoption of the findings of the 10 criteria for this zone change.

Discussion

Chairman Dailey called for questions and discussion from the members of the Commission.

Public Hearing

At 5:30 p.m., Chairman Dailey opened the public hearing and called for proponents or opponents of City Zone Change #932. Mike Boyett asked there has been an agreement between the parties since the original application submitted last fall. Nicole Cromwell said this application was delayed and withdrawn; and another pre-application meeting was held to address the neighborhood issues that were brought up originally. Per request of Leonard Dailey, Nicole Cromwell explained potential uses with

approved zoning and the design for traffic mitigation. She stated there will not be an access onto Grand Avenue from this property.

David Mitchell, 1010 Central Avenue, Billings, Montana

Mr. Mitchell is the agent for property owner, 808 Grand, LLC, and (Max Griffin). The applicant is proposing to retain the residential zoning on the south to prevent encroachment of intense commercial uses on the neighborhood on Alderson Avenue. He explained the circumstance around the delay of the application submittal. He said this request falls in line with the City's infield policy. At this time they do not have a proposal for the use but are looking toward retail or office space. They feel the Community Commercial zoning will make the best use of the property. He pointed out potential locations for a relocated access. He said they have been in communication with Bill Cole, who represents the Pierce family.

Chairman Dailey asked if there was anyone else wishing to speak in favor or against City Zone Change #932.

Fred Pierce III, 824 Grand Avenue, Billings, Montana

Mr. Pierce stated the letter submitted by his representative Mr. Bill Cole states his objections. Mr. Pierce said he would like to protect the spring and its outlet and their access which has been in place since 1939. He does not want a driveway through their yard. He voiced concern with the proposal for commercial zoning. He is in protest of this application.

Jean Pierce, 824 Grand Avenue, Billings, Montana

Mrs. Pierce said they have spent a lot of work, time, and money developing their back yard off of Alderson, and they would be disheartened if it were ruined by the driveway access. She stated they want the environment protected along with the spring. They understand the need for development but are concerned with several issues.

Rebuttal

David Mitchell, 1010 Central Avenue, Billings, Montana

Mr. Mitchell said they are working to locate the piping for the spring. He stated they will do all of the research necessary and the Building permit review will address the issues with the spring. Nicole Cromwell said the City Engineers said Van Bramer Drain originated north of Grand Avenue and was piped when Grand Avenue was rebuilt from 8th Street West to 13th Street West. Mr. Mitchell said they do not intend to remove water from the spring. He said if they proposed to redirect the driveway, they have expressed willingness to mitigate some of the cost of the landscaping.

Chairman Dailey asked if there was anyone else wishing to speak in favor of City Zone Change #932. There was none. Chairman Dailey closed the public hearing at 5:51 p.m.

Motion

Commissioner Boyett made a motion and Commissioner Hawkins seconded the motion to forward a recommendation to City Council of approval of City Zone Change #932.

Discussion

Chairman Dailey called for discussion on the motion. Dan Wagner expressed unease with this proposition with the potential driveway going through the other property. He suggested an access onto Alderson would be a better solution. Mike Boyett expressed a desire for the two parties to come up with an agreement for an attractive access onto Alderson and suggested a 30-day delay to negotiate an access easement. Leonard Dailey voiced consternation with the inability of the applicant's attorney to attend and asked the applicant for his input on a potential delay.

Max Griffin, Action Electric, (maxg@ctionelect.com)

Mr. Griffin stated the problem is the Pierces are under no obligation to do anything with their easement, and they have been reluctant to consider an alternate access. Mr. Griffin is not in favor of a delay, and said he would be more than happy to meet with the Pierces.

Jean Pierce, 824 Grand Avenue, Billings, Montana

Mrs. Pierce stated she feels that approval of the Community Commercial zoning leaves them with no options.

The motion to approve City Zone Change #932 is forwarded with not recommendation to CC with a 2-2 vote, with Commissioner Wagner and Commissioner Dailey opposing.

Other Business:

--The next meeting will be held on March 3, 2015

Adjournment: The meeting adjourned at 6:10 p.m.

ATTEST: DRAFT TO BE APPROVED ON MARCH 3, 2015

Leonard Dailey, Chairman

Tamara L. Deines, Planning Clerk



City Board of Adjustment

Meeting Date: 03/04/2015

SUBJECT: Variance #1208 - 4118 and 4120 Buchanan Avenue

THROUGH: Candi Millar, Planning & Community Services Department Director

PRESENTED BY: David Green

Information

REQUEST

Variance #1208 – 4120 and 4120 ½ Buchanan, Lot Area: The applicant is requesting a variance from 27-308 requiring a minimum lot area of 7,000 square feet to allow a minimum lot area of 6,250 square feet in a R-60 zone for 2 existing dwellings on Lot 40, Block 2, Fairview Subdivision. Tax ID: A06958. The owner intends to demolish and reconstruct one of the existing dwellings, David Schreder, owner.

RECOMMENDATION

Staff is recommending Conditional Approval.

APPLICATION DATA

OWNER: David Schreder

AGENT: None

LEGAL DESCRIPTION: Lots 39 and 40, Block 2, Fairview Subdivision

ADDRESS: 4118 and 4120 Buchanan Avenue

CURRENT ZONING: Residential 6000

EXISTING LAND USE: Residential

PROPOSED USE: Residential

SIZE OF PARCEL: 6,250

CONCURRENT APPLICATIONS

None

APPLICABLE ZONING HISTORY

Surrounding Property – Records show there have been 7 variance requests in the surrounding neighborhood. The variance requests have been for fence heights, setbacks, and multiple dwelling units on a small lot. Four of the seven variances were for 2 dwelling units on a lot too small to meet current zoning requirements.

SURROUNDING LAND USE & ZONING

NORTH: Zoning: R-60
Land Use: Residential

SOUTH: Zoning: R-60
 Land Use: Residential

EAST: Zoning: R-60
 Land Use: Residential

WEST: Zoning: R-60
 Land Use: Residential

BACKGROUND

The applicant is requesting a variance from 27-308 requiring a minimum lot area of 7,000 square feet to allow a minimum lot area of 6,250 square feet in a R-60 zone for 2 existing dwellings on Lot 40, Block 2, Fairview Subdivision. The applicant is proposing to remove the building on the front of the lot and rebuild a new home. According to the county information available, the two existing homes were built in 1935 and 1940. County records also show the addresses as being 4118 and 4120 Buchanan Avenue, the front house being 4120.

This is an older neighborhood in Billings and there are several properties in the area that have more than one dwelling unit on them as well as multiple other structures in various states of repair. Some properties have obtained a variance in this neighborhood while others have not. The applicant states that he wishes to remove the front house and rebuild it at sometime in the future. The applicant makes mention of either a shop or a rental property. Because these lots are zoned residential the applicant can rebuild a residence, or should he decide to not rebuild a residence, he could build a detached garage. The detached garage would be for the use of the residence and not something that could be rented out to someone, or used to run a business out of. It would be for personal use only. If a garage was constructed, it would have to meet all the zoning regulations as well as building, fire and engineering regulations.

Planning staff has reviewed this application and is forwarding a recommendation of conditional approval for the variance based on the determinations for review provided within this report. As with many neighborhoods of this age, multiple buildings were often built on the lot for additional housing for extended family members or as rental property. While out posting this property, staff observed several properties with multiple dwelling structures on them. Some of the lots may have more units on them than what current zoning allows for the lot size. This neighborhood is in need of some revitalization and a new dwelling unit would be a welcomed new addition to the area.

RECOMMENDATION

Staff recommends Conditional Approval.

APPROVED BY CITY ADMINISTRATOR

Attachments

Determinations

Attachments

DETERMINATIONS

The Board of Adjustment shall make the following determinations prior to granting a variance:

- 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 with the land that create a hardship. In this situation, the structures were built prior to the current zoning requirements.

- 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;**

The subject property is in a subdivision that began developing many years ago and over the years many changes and additions have happened that may or may not meet current code. There have been a number of variances granted to date in this neighborhood.

- 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 this variance would not confer a privilege to this applicant that others in the subdivision do not have. There are several small lots in this subdivision and surrounding neighborhood that have multiple dwelling structures on them.

- 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 variance is in harmony with the general purpose and intent of the zoning regulations and the growth 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 the following conditions for the variance request:

1. The variance from 27-308 requiring a minimum lot area of 7,000 square feet to allow a minimum lot area of 6,250 square feet in a R-60 zone for 2 existing dwellings. No other variance is intended or implied with this approval.
2. The variance is limited to Lots 39 and 40, Block 2, Fairview Subdivision generally located at 4120 and 4118 Buchanan Avenue.
3. Any future construction to replace either currently existing building will require compliance with all other zoning regulations and city ordinances that apply at the time of construction or re-construction.
4. No construction or demolition activity will take place before 7 am or after 8pm.
5. Should the applicant wish to build a detached garage instead of a 2nd dwelling unit they must meet all current zoning, building and fire department requirements in place at the time of construction.
6. 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**

The requested variance is to ensure the future opportunity to build or rebuild two dwelling units. There is no proposal to rebuild at this time; therefore it is not appropriate to place a time limit on this variance 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.**

The granting of this variance would not allow a use that is not already allowed in the zoning district – R-60 zoning allows 2 dwelling units on a single lot.

ATTACHMENTS

- A: Surrounding Zoning & Site Location
- B: Site Photographs
- C: Application Form
- D: Applicant Letter
- E: Proposed Site Plan

ATTACHMENT A
Surrounding Zoning & Site Location



Subject
Property ★

ATTACHMENT B
Site Photographs



Subject Property from the front



Subject property from the back

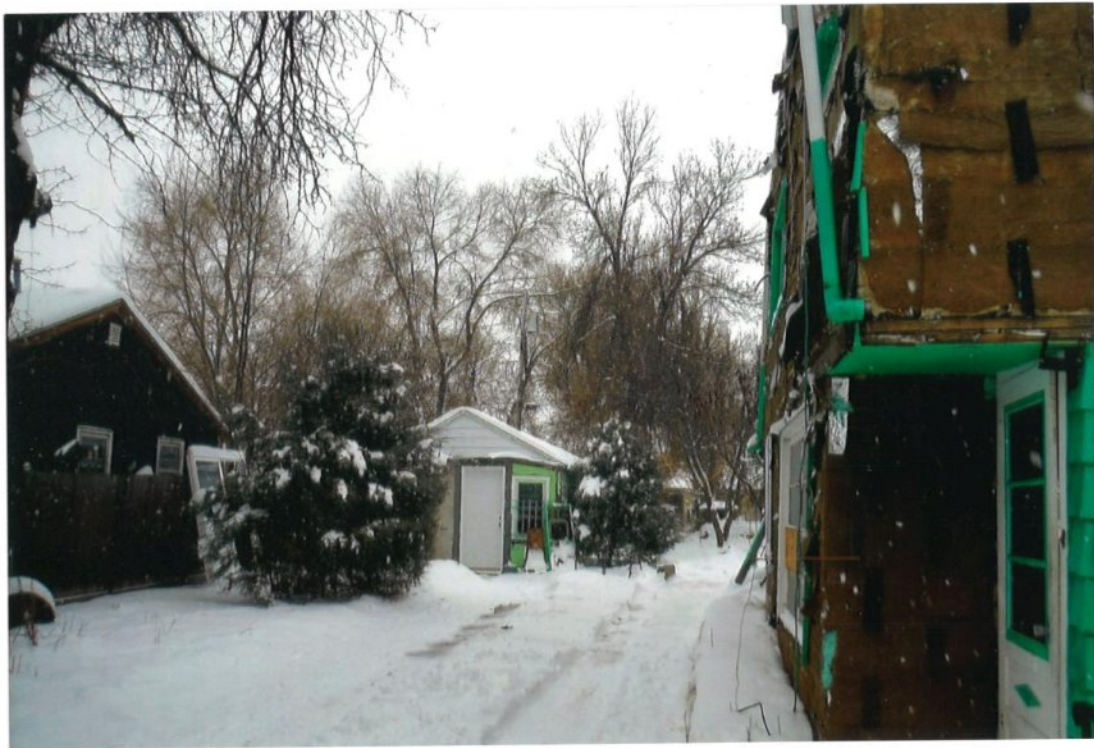
ATTACHMENT B
Site Photographs, Continued



North east of subject property



Looking west from subject property



Pictures provided by applicant

ATTACHMENT B
Site Photographs, Continued



Subject Property



Aerial Photograph

ATTACHMENT C
Application form

APPLICATION FORM

CITY VARIANCE

ID: Billings Variance # 1208 - Project # P2-15-000011

The undersigned as owner(s) of the following described property hereby request a Variance from the terms of the City of Billings-Yellowstone County Unified Zoning Regulations.

TAX ID # A06958 CITY ELECTION WARD # 3 / 1

Legal Description of Property: lots 34 & 40 Fairview Sub
Block 2 Lot 40

Address or General Location (If unknown, contact City Engineering): 4120 + 4120 1/2 Buchanan

Zoning Classification: R 6000

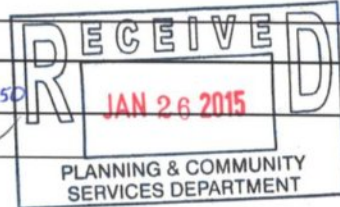
Size of Parcel (Area & Dimensions): each lot 55x125 6,250

Covenants or Deed Restrictions on Property: Yes _____ No

If yes, please attach to application

Variance(s) Requested: FOR Lot 40 To Leave & rebuild existing House
App. 650 sq ft TO Reduce Lot Area for 2 units

Facts of Hardship: lots apply to zoning code



*** Additional information may be required as determined by the Zoning Coordinator in order to fully evaluate the application.

Owner(s): DAVID SCHREDER

(Recorded Owner) same

(Address) 745 THicket Ln

(Phone Number) _____ (email) Sarah.Schredler@mv.com

Agent(s): 406 690 8703

(Name) same

(Address) same

(Phone Number) same (email) _____

I understand that the filing fee accompanying this application is not refundable, that it pays for the cost of processing, and that the fee does not constitute a payment for a Variance. Also, I attest that all the information presented herein is factual and correct.

Signature: David Schredler Date: _____
(Recorded Owner)

ATTACHMENT D

Applicant Letter

DAVID Schrader
745 Thicket Ln
Bldg MT 59101
406-690-8703

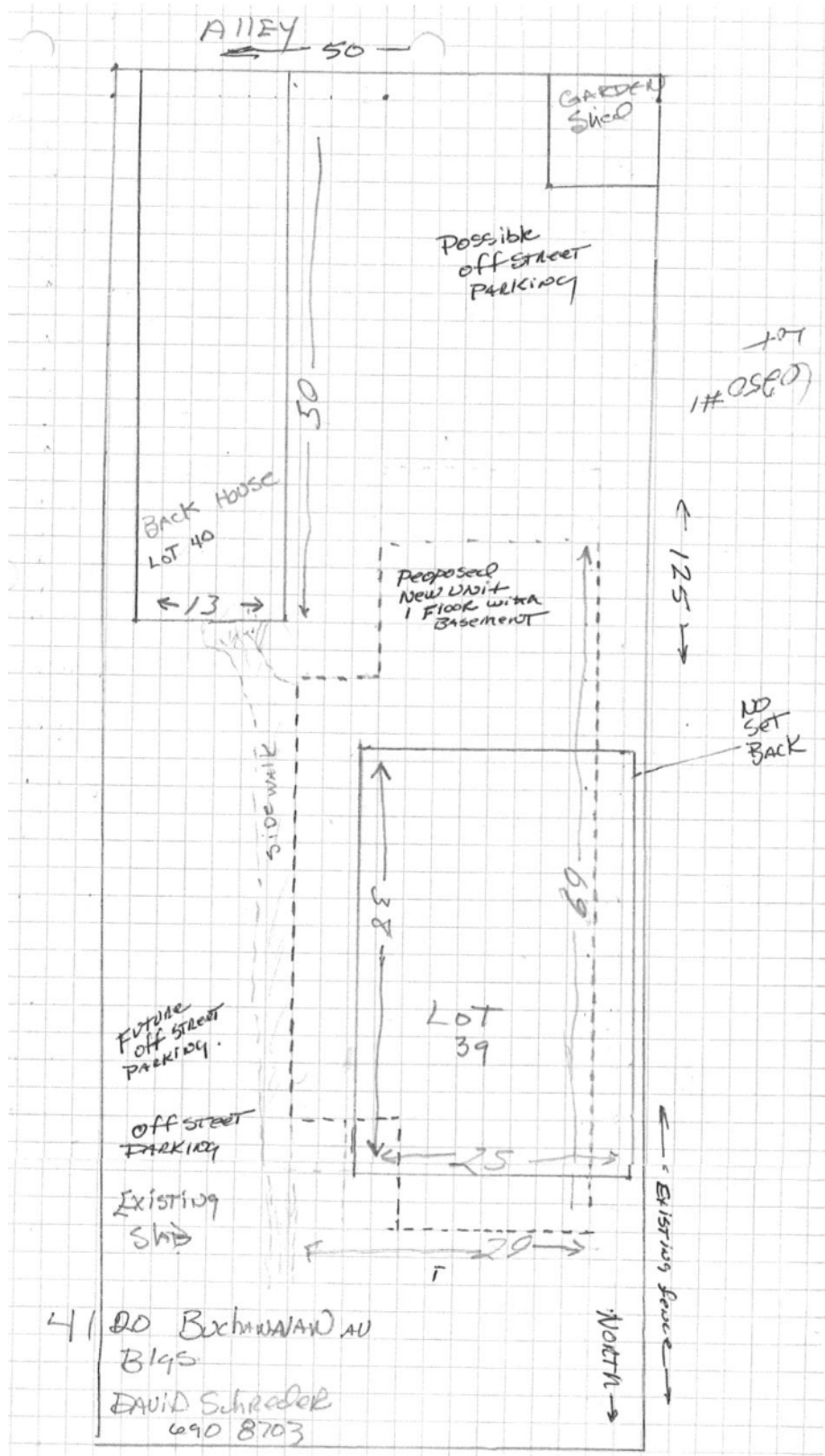
Dear Chair Person

I seek a VARRANCE for 4018
Buchanan. to be able to ReBuild
it and keep it as a Rental or Shop.
The Home in FRONT I intend to
TEAR DOWN & Rebuild some time,
will a VARRANCE ~~that~~ MAKE it
A legal property, AND Allow me
to Build on The front of The 2 Lots,
COMBINED.
AND A VARRANCE I UNDERSTAND will DO
THIS.

THANKS FOR YOUR CONSIDERATION,

DAVID Schrader
Pawnee School

ATTACHMENT E
Site Plan





City Board of Adjustment

Meeting Date: 03/04/2015

SUBJECT: Variance #1209 - 519 Avenue D

THROUGH: Candi Millar, Planning & Community Services Department Director

PRESENTED BY: David Green

Information

REQUEST

Variance #1209 – 519 Avenue D, Detached Garage Wall Height: The applicant is requesting a variance from 27-310(i) requiring the wall height of a detached garage to be no taller than the wall height of the residence to allow a 12-foot wall height for a new 936 square foot detached garage in a R-60 zone, on Lots 7 & 8, Block 1, Pioneer Park Subdivision, a 13,200 square foot parcel of land. Tax ID: A12858, and Wayne and Judy Brownson, owners.

RECOMMENDATION

Staff is recommending Conditional Approval.

APPLICATION DATA

OWNER: Wayne and Judy Brownson

AGENT: None

LEGAL DESCRIPTION: Lot 7 and 8, Block 1, Pioneer Park Subdivision

ADDRESS: 519 Avenue D

CURRENT ZONING: Residential 6000 (R-60)

EXISTING LAND USE: Residential

PROPOSED USE: Residential

SIZE OF PARCEL: 13,200 Square Feet

CONCURRENT APPLICATIONS

None

APPLICABLE ZONING HISTORY

There have been 5 variance requests in this subdivision, 4 of the 5 variances have been granted. The requests ranged from required setbacks, lot coverage, and lot size too small for multiple dwelling units. The one that was denied was for a 4 plex on a very small lot.

SURROUNDING LAND USE & ZONING

NORTH: Zoning: R-60

Land Use: Residential

SOUTH: Zoning: R-60
Land Use: Residential
EAST: Zoning: R-60 / Residential Multi-Family Restricted (RMF-R)
Land Use: Residential
WEST: Zoning: R-60
Land Use: Residential

BACKGROUND

REASONS

The applicant is requesting a variance from Section 27-310(i) requiring the wall height of a detached garage to be no taller than the wall height of the residence to allow a 12-foot wall height for a new 936 square foot detached garage in a R-60 zone, on Lots 7 & 8, Block 1, Pioneer Park Subdivision, a 13,200 square foot parcel of land, generally located at 519 Avenue D. The applicant wishes to build an additional detached garage on the property. In the letter submitted by the applicant, he wishes to build an additional detached structure on his property so he is able to pursue his hobby of working on his personal vehicles after he retires. According to ORION data from the state surrounding homes were constructed from 1920 through 1971, with most of them in the 1950's.

This neighborhood is a very mixed neighborhood, especially this block. There is a church on one end of the block, one lot with 2 homes on it, seven multi-family buildings and some single family houses. The surrounding neighborhood is also a very eclectic mix of housing and lot sizes. Many lots along Avenue D and Avenue E have two addresses on them. Zoning requires that a detached structures side wall cannot be taller than the side wall of the main structure. The applicant is asking for a side wall height of 12 feet on the detached garage. The building will be behind the existing house and not visible from the street and only accessible from the alley.

Planning staff has reviewed this application and is forwarding a recommendation of conditional approval for the variance based on the determinations for review provided within this report. Staff finds that the proposed variance would provide the applicant with a garage on his property that will meet his needs and because it is on the back of the lot it is not visible from the street. The lot is on the 'uphill' side of the street so that is another reason staff believes the detached garage will not be visible from the street frontage.

Planning staff has received one phone call from a surrounding property owner that felt it is not appropriate because she feels a detached garage will lower property values and so will all the noise from cars and revving engines. There were no other comments from the surrounding neighbors at the time this staff report was completed.

RECOMMENDATION

Staff recommends Conditional Approval

APPROVED BY CITY ADMINISTRATOR

Attachments

Determinations

Attachments

DETERMINATIONS

The Board of Adjustment shall make the following determinations prior to granting a variance:

- 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 not any special circumstances that exist in this situation other than the proposed detached structure side wall is taller than the existing house side wall.

- 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;**

The subject property is in a subdivision where most development occurred in the 1950's. There are several properties within this subdivision with multiple buildings on a single lot and several with multi-family buildings on a single lot. This neighborhood is a mix of housing choices and lots of buildings. Staff feels this property owner should have the right to use his property as he would like and he is not asking for an excessively tall building on his property.

- 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;**

The variance will not allow the applicant any special privileges. A detached structure is allowed in this zoning area. There are much taller buildings on this block.

- 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 variance is in harmony with the general purpose and intent of the zoning regulations and the growth 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 the following conditions for the reduction in minimum lot size variance request:

1. The variance is allow the wall height of a detached garage to be taller than the wall height of the residence. No other variance is intended or implied with this approval.
2. The variance is limited to Lot 7&8, Block 1, Pioneer Park Subdivision generally located at 519 Avenue D.
3. The applicant will meet all other City of Billings codes, including building, fire, engineering and zoning, other than side wall height, with the proposed new detached structure.
4. The applicant will obtain an approved building permit within 18 months of Board approval and complete the construction within 2 years of permit issuance.
5. There shall be no construction or demolition work on the site before 7 am or after 8 pm daily.
6. Failure to begin or complete conditions or actions required by this approval within the time limits provided will void the variance approval.

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 an 18 month time limit to obtain an approved building permit and 2 years to complete the project from the time of permit issuance.

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.

The granting of this variance would not allow a use that is not allowed in the zoning district duplexes are allowed in the R-60 zone.

ATTACHMENTS

- A: Surrounding Zoning & Site Location
- B: Site Photographs
- C: Applicant Letter
- D: Site Plan

ATTACHMENT B
Site Photographs



Subject Property



Subject Property from the alley



View West from subject property



Looking south east across Avenue D



Looking west along Avenue D



Subject Property 

Aerial View

ATTACHMENT C
Applicant and Applicant Letter
APPLICATION FORM

CITY VARIANCE

ID: Billings Variance # 1209 - Project # P2-15-00019

The undersigned as owner(s) of the following described property hereby request a Variance from the terms of the City of Billings-Yellowstone County Unified Zoning Regulations.

TAX ID# A12858 CITY ELECTION WARD # 3

Legal Description of Property: Block 1, Lot 748
Pioneer Park Sub Division

Address or General Location (If unknown, contact City Engineering):
519 Avenue D

Zoning Classification: R 6000

Size of Parcel (Area & Dimensions): 60' X 220' 13,200 SF

Covenants or Deed Restrictions on Property: Yes _____ No X

If yes, please attach to application

Variance(s) Requested: To build an additional garage
936 sq ft with 12 ft wall height
Existing garage 624 sq ft home footprint = 1702 sq ft

Facts of Hardship: It would be 153 square feet larger
and have 12' side walls

*** Additional information may be required as determined by the Zoning Coordinator in order to fully evaluate the application.

Owner(s): Wayne & Judy Brownson

(Recorded Owner)

519 Avenue D

(Address) (406) 698-5783 jwbrownson@q.com

(Phone Number)

(email)

Agent(s): _____

(Name)

(Address)

(Phone Number)

(email)

I understand that the filing fee accompanying this application is not refundable, that it pays for the cost of processing, and that the fee does not constitute a payment for a Variance. Also, I attest that all the information presented herein is factual and correct.

Signature: Wayne Brownson
(Recorded Owner)

Date: 1-30-15

Wayne and Judy Brownson
519 Avenue D
Billings, Montana 59102
(406) 698-5783



Questions

1. A

I would like to build 12 foot high walls on the garage which are higher than my home walls of 8 feet 2 inches. I do have an upstairs on my home.

1. B

I plan to retire soon and am a life-long "car-buff/motor-head". I have an extra car which will not fit in my existing small two-car garage. I have long wanted a shop to tinker on my cars and have some extra storage for mowers, an ATV, yard tools and so on. I would like to have a 12 foot high ceiling so I can have a car lift in it.

2. The variance is being sought to build a two-car garage with a lift for personal fun and enjoyment as described above. To have a car lift I must have a 12 foot ceiling which is greater than the residential standard because of my house wall height not counting the upstairs.

ATTACHMENT D
Site Plan

