



**CITY BOARD OF ADJUSTMENT**  
**AGENDA-Wednesday, September 7, 2016, 6:00 p.m.**  
**Miller Building, 1<sup>st</sup> Floor Conference Room**  
**2825 3<sup>rd</sup> 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:**

The minutes of the Board meeting of August 3, 2016.

**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 #1240 – 3741 Grecian Way** – A variance from 27-310(g) requiring a maximum projection in a front yard setback of 4 feet for a proposed covered unenclosed porch to allow a maximum projection of 8.5 feet in a Planned Development – Residential 9,600 (PD-R96) zone on Lot 35, Block 7 of Olympic Park Subdivision, a 7,000 square foot parcel of land. Tax ID: C10021. Presented by Karen Husman, Planner I.
  
- b. **Variance 1241 – 2222 ½ Main Street – Accessory Building Area & Siding** - A variance from 27-310(i)(3) requiring a maximum floor area of 1,500 square feet per detached accessory structure and not more than 2,000 square feet total detached accessory structure floor area to allow a proposed 2,240 square foot detached garage and from Section 27-310(i)(6) requiring all detached accessory structures over 200 square feet to have horizontal siding or siding that matches the primary residence to allow vertical siding in a Residential Manufactured Home (RMH) zone on Lot 6 of Holling Ranch Subdivision (aka C/S 151 Lot 6), a 1.95 acre parcel of land. Presented by Nicole Cromwell, Zoning Coordinator.
  
- c. **City Variance 1242 – 2023 La Brea Street** – A variance from 27-308 requiring a maximum lot coverage of 30% to allow a maximum lot coverage of 39% for a proposed detached garage of 784 square feet in a Residential 9,600 (R-96) zone on Lot 9, Block 13 of Evergreen Subdivision, 2<sup>nd</sup> Filing a 7,500 square foot parcel of land. Tax ID: A06872. Presented by Karen Husman, Planner I

## **Other Business/Announcements**

## **Adjournment**

Information on the preceding item(s) may be obtained at the City-County Planning Division, 4<sup>th</sup> Floor of the Miller Building, 2825 3<sup>rd</sup> 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 Robbin Bartley, Administrative Assistant, at 247-8676 or e-mail to [bartleyr@ci.billings.mt.us](mailto:bartleyr@ci.billings.mt.us)

**City Board of Adjustment**

**Meeting Date:** 09/07/2016

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**Information**

**Subject**

The minutes of the Board meeting of August 3, 2016.

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**Attachments**

CityBOA\_2016\_08\_03

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**CITY BOARD OF ADJUSTMENT**

MINUTES August 3, 2016

| Name           | Title         | 01/06/2016 | 02/03/2016 | 03/02/2016 | 04/06/2016 | 05/04/2016 | 06/01/2016 | 07/06/2016 | 08/03/2016 | 09/07/2016 | 10/05/2016 | 11/02/2016 | 12/07/2016 |
|----------------|---------------|------------|------------|------------|------------|------------|------------|------------|------------|------------|------------|------------|------------|
| Jeff Bollman   | Board member  | -          | -          | 1          | E          | 1          | 1          | 1          | E          |            |            |            |            |
| James Olson    | Board member  | -          | -          | 1          | 1          | E          | 1          | E          | R          |            |            |            |            |
| Paul Hagen     | Board member  | -          | -          | 1          | 1          | 1          | 1          | 1          | 1          |            |            |            |            |
| Frank Chesarek | Vice Chairman | -          | -          | 1          | 1          | 1          | 1          | 1          | E          |            |            |            |            |
| Oscar Heinrich | Board member  | -          | -          | 1          | 1          | 1          | 1          | 1          | 1          |            |            |            |            |
| Martin Connell | Board member  | -          | -          | 1          | 1          | 1          | E          | 1          | 1          |            |            |            |            |
| Mark Noennig   | Chairman      | -          | -          | 1          | 1          | 1          | 1          | 1          | 1          |            |            |            |            |

| TOTAL NUMBER OF APPLICATIONS<br>2016 | 01/06/16 | 02/03/16 | 03/02/16 | 04/06/16 | 05/04/16 | 06/01/16 | 07/06/16 | 08/03/16 | 09/07/16 | 10/05/16 | 11/02/16 | 12/07/16 | TOTAL |
|--------------------------------------|----------|----------|----------|----------|----------|----------|----------|----------|----------|----------|----------|----------|-------|
| Variance                             | 0        | 0        | 2        | 1        | 3        | 3        | 6        | 3        |          |          |          |          | 18    |

Chairman Noennig called the meeting to order at 6:00 p.m. The City Board of Adjustment met in the first floor conference room of the Miller Building located at 2825 3<sup>rd</sup> Avenue North.

Nicole Cromwell introduced the City Board of Adjustment members and Planning Department staff. Attending Staff members are Nicole Cromwell, Zoning Coordinator; Karen Husman, Planner I; and Robbin Bartley, Administrative Support.

**Attending:** Susan Tippets, Clara Jane Ballard, Trent Sizemore, Konnie Sizemore, Theresa Ball, Mark Ball, Richard Clark, Caleb Bruski, Doug Wild, Robert Hamlin, John Hernandez, Caryle Streeter, Stanley Burns

**Public Comment**

Chairman Noennig opened the public comment period and asked if there was anyone wishing to speak during the public comment portion of the meeting. There were none. Chairman Noennig closed the public comment period.

**Approval Meeting Minutes**

Board member Heinrich made a motion for the approval of July 6, 2016 minutes with corrections. Board member Hagen seconded the motion. Minutes were approved by unanimous voice vote 4-0. Change Chairman Noennig’s site visit to NO.

**Disclosure of Conflict of Interest**

Chairman Noennig asked for disclosures of conflict of interest.

| Board member   | Yes | No | Not Present |
|----------------|-----|----|-------------|
| Jeff Bollman   |     |    | x           |
| ██████████     |     |    |             |
| Paul Hagen     |     | x  |             |
| Frank Chesarek |     |    | x           |
| Oscar Heinrich |     | x  |             |
| Martin Connell |     | x  |             |
| Mark Noennig   |     | x  |             |

**Disclosure of Outside Communication**

Nicole Cromwell explained there are times applicants communicate directly with Board members or visit the site and this should be communicated to the Board members in a public forum.

| Board member   | Yes | No | Site visit? | Not Present |
|----------------|-----|----|-------------|-------------|
| Jeff Bollman   |     |    |             | x           |
| ██████████     |     |    |             |             |
| Paul Hagen     |     | No | all         |             |
| Frank Chesarek |     |    |             | x           |
| Oscar Heinrich |     | No | all         |             |
| Martin Connell |     | No | all         |             |
| Mark Noennig   |     | No | no          |             |

**Public Hearings**

Zoning Coordinator Nicole Cromwell reviewed the procedures for public hearings and stated the Board will open a public hearing and allow public comment this evening. She reviewed the hearing and presentation processes for the meeting and acting on each variance. She stated four votes in favor of the Board of Adjustment are required to pass a variance. This evening there are 4 Board members attending. A unanimous vote is necessary to approve requested variances.

Nicole Cromwell read the legal description for **Variance #1237**:

Karen Husman presenting:

**Variance 1237 – 1119 25<sup>th</sup> St West – Lot Area** - A variance from 27-308 requiring a minimum lot area of 9,600 square feet for a 2-family dwelling, to allow a minimum lot area of 8,840 square feet for an existing 2-family dwelling in a Residential 7,000 (R-70) zone on Lot 10, Block 1 of Lillis Subdivision, 2<sup>nd</sup> Filing. The variance would allow the issuance of a re-build letter for the existing 2-family dwelling in order to secure re-financing. Tax ID: A10205.

### **RECOMMENDATION**

Staff recommends conditional approval of the **Variance #1237**.

### **Discussion**

Chairman Noennig asked the members of the Board for questions and discussion.

Board member Heinrich asked what needed to be done to make this into a conforming apartment. Staff explained under the zoning requirements as long as it has its own access, no joint access within and one egress window would be required. Separate utilities are not required, and it has been rented. Board member Heinrich asked if there are any other apartments in the area. Staff is not aware of any. He also inquired regarding any Surrounding Property Owner comments. One neighbor came to the office and is here to comment.

Chairman Noennig inquired why staff is recommending approval. Staff replied based on the conditions for review and it was constructed prior to zoning it appears to be a conforming duplex. For these reasons conditional approval is being recommended. Chairman Noennig stated based on the “grandfathering in” of this apartment it is conforming.

### **Public Hearing**

Chairman Noennig opened the public hearing and asked if there was anyone wishing to speak in favor or against **City Variance #1237**.

### **Caleb Bruski, owner**

Mr. Bruski has a child on the way and he and his wife are trying to refinance. Zoning it as a single family residence puts the loan to value ratio at par. They are wanting a variance and a zoning letter as a duplex to satisfy the banks requirements.

Chairman Noennig stated the bank would not be happy if the home was in violation of zoning. He asked how long the Bruski’s have lived there. Mr. Bruski replied they have lived there 8 years and the basement apartment has been rented continually. The kitchen in the basement was not great until this year. This year he completed the plumbing and electrical.

### **Opposed**

#### **Mark Ball, 2502 Burlington Ave**

Mr. Ball and his wife have been in their home for 20 years. They have seen many changes in neighborhood infrastructure, residents and such. There have been many updates to his property made with sacrifices along the way. A 6 foot fence has been constructed the lawn is well irrigated and they have installed new windows and siding which gives his residence great curb appeal. Because of the

orientation, the alley is the only access. The applicant's house is small with limited parking. Renters bring extra vehicles parking along his and others property. Mr. Ball considers parking by others along his property, although on the public street, to be inconsiderate, unfair and unacceptable. The extra vehicles create hiding places and therefore a security issue. Access is now being limited by new construction in the neighborhood, namely the Good Lutheran Church. Most houses in the neighborhood were built in the 1950s and are small with limited parking. There are no other multi-family units here. This duplex zoning variance is completely unwanted.

**Teresa Ball, 2502 Burlington Ave**

Mrs. Ball is completely unaware that the applicant has lived there 8 years. The duplex approval would be setting a bad precedence. Residents are doing a u-turn and going over the curb to park along the Ball's fence. The current zoning is there for a reason. She is unaware of it being a duplex rental before this year. She is concerned about future owners and their renters because the variance follows the property.

**Richard Clark, 1207 25<sup>th</sup> Street W**

Mr. Clark is opposed to the Variance. He has lived in his home for 30 years and has not seen it rented out until this year. It was not a duplex before zoning in his opinion because the wiring and plumbing in the basement were not usable. He would like to see the variance denied.

**Stanley Burns, 1113 25<sup>th</sup> Street W**

Mr. Burns' opposition is regarding property values now and in the future. How will a duplex affect his and surrounding property values. He also has spent a lot of time and money improving his property. There is a nice cohesion of neighbors and some are not here to oppose the variance because they do not want to make a problem.

**Rebuttal**

Mr. Bruski admits he has not spoken to his tenants about where they park. He has made many improvements to the subject property and has a nice lawn. He does take pride in his home. If he moves he intends to keep it as a rental property, therefore having a say in the activities at this residence. The wiring was not there true, and the plumbing needed work. A duplex zoning will not affect the value of the neighbor's properties. He takes pride in his home and lawn and has made many improvements since moving in.

Chairman Noennig confirmed with Mr. Bruski it has been rented for most of the time, possibly just over a year vacant. There is a connecting door between the upstairs and downstairs apartment.

Chairman Noennig asked about the abandonment of the nonconforming status by not renting the basement continually. Staff replied occupancy is not the only issue, remodeling would have to take place deleting the basement apartment for the nonconforming status to be abandoned.

Board member Connell thinks it was not built as a duplex and thinks the variance should be denied.

Chairman Noennig understands that after 1 year of nonuse (renting), the duplex status is void. Staff replied it may not have a connecting door to qualify in the duplex definition.

Chairman Noennig stated he can rent it out without the duplex zoning. Staff confirmed this to be true.

Board member Heinrich expressed his frustration in that rebuild letters are usually for something incredibly specific. He does not think the variance should be granted.

Board member Hagen said there is no guarantee the house will not be sold. Once the variance is granted as a duplex it follows the property. For this reason he is opposed.

Chairman Noennig reiterated whether he gets financing or not, he can rent it. Board member Connell stated the variance allows it to be designated as a duplex and rebuilt as a duplex. This affects the whole neighborhood. There are no other duplexes in the area.

Chairman Noennig called for a motion.

Board member Heinrich made a motion and Board member Hagen seconded the motion to deny **City Variance #1237** with the Findings of Fact presented by Staff with the exception of #4. Staff indicated the motion is contrary to the Findings and therefore an explanation is necessary. Board member Heinrich stated the findings of fact could indicate approval or denial and therefore he agrees with the Findings of Fact to deny. The Variance is not in harmony with the general purpose of intent for the property.

| Board member   | Yes | No | Abstain | Not Present |
|----------------|-----|----|---------|-------------|
| Jeff Bollman   |     |    |         | x           |
| ██████████     |     |    |         |             |
| Paul Hagen     | x   |    |         |             |
| Frank Chesarek |     |    |         | x           |
| Oscar Heinrich | x   |    |         |             |
| Martin Connell | x   |    |         |             |
| Mark Noennig   | x   |    |         |             |

**The motion to deny Variance #1237 passed 4-2.**

**Nicole Cromwell read the legal description into the record for Variance #1238.**

**Karen Husman presented:**

**Variance 1238 – 4532 Vaughn Lane – Front Setback** - A variance from 27-308 requiring a minimum front setback of 20 feet to allow a minimum front setback of 15 feet for a new carport in a Residential 7,000 (R-70) zone on Lot 14, of Cowley Subdivision, a 7,500 square foot parcel of land, generally located at 4532 Vaughn Lane. Tax ID: A05715.

**RECOMMENDATION**

Planning Staff is recommending **conditional approval** of **Variance #1238.**

**Discussion**

Chairman Noennig asked the members of the Board for questions for Staff. Chairman Heinrich asked if there are comments from the Surrounding Property Owners. Staff indicated there were no responses to the letters sent out. He then asked if it previously had a carport. Are the carports across the street legal? Staff replied no building permits were found.

**Public Hearing**

Chairman Noennig opened the public hearing and asked if there was anyone wishing to speak in favor or against **City Variance #1238.**

**Clara Ballard, owner, 4532 Vaughn Lane**

Mrs. Ballard is 87 years old and has owned the home since 1959. She is a widow for 25 years and would like to stay in her own home with some construction changes. She would like to install a door off the car port to access the house with groceries and she would like to keep her car under cover. She stated the 2 car ports across the street are grandfathered in and she would like to build a car port like the one at 4525 Vaughn. She has been driving accident free all her life and would like to stay independent. The car port would help eliminate the ice and snow during the winter and make it easier for her.

**Opposed**

None

Chairman Noennig called for a motion.

**Motion**

Board member Heinrich made a motion and Board member Connell seconded the motion to conditionally approve **City Variance #1238** with the conditions and Findings of Fact presented by Staff.

| Board member   | Yes | No | Abstain | Not Present |
|----------------|-----|----|---------|-------------|
| Jeff Bollman   |     |    |         | x           |
|                |     |    |         |             |
| Paul Hagen     | x   |    |         |             |
| Frank Chesarek |     |    |         | x           |
| Oscar Heinrich | x   |    |         |             |
| Martin Connell | x   |    |         |             |
| Mark Noennig   | x   |    |         |             |

**The motion passed 4-0. City Variance #1238 is conditionally approved.**

**Nicole Cromwell read the legal description into the record for Variance #1239.**

Karen Husman presenting:

**Variance 1239 – 3840 Hickok Circle – Front Setback -** A variance from 27-308 requiring a minimum front setback of 20 feet to allow a minimum front setback of 15 feet for a new residence in a Residential 9,600 (R-96) zone on Lot 11, Block 2 of Sand Cliff Subdivision, a 1.045-acre parcel of land, generally located at 3840 Hickok Circle. Tax ID: A21165.

**RECOMMENDATION**

Planning Staff is recommending **conditional approval** of **Variance #1239**.

**Public Hearing**

Chairman Noennig opened the public hearing and asked if there was anyone wishing to speak in favor or against **City Variance #1239**.

**Doug Wild, Classic Design Homes, 1605 Shiloh Road, Billings, MT 59106**

Mr. Wild is the agent for the owner, Robert Hamlin. Frankly, to build further back on this lot is not practical or possible due to the rocks and topography. The home to the west is much closer than the 20 foot recommended setback. Between property line and the road is about 12 feet at the closest. There would still be 20 to 25 feet to the road. There is no encroachment of public Right of Way.

Chairman Noennig asked the total square footage of the house. Mr. Wild replied that on 3 levels the house is about 7000 square feet.

**Robert Hamlin, 1200 Calico Ave, Billings, MT owner**

He wished to reemphasize the position of the house being approximately 14.5 feet from the curb.

**Opposed**

**Trent Sizemore, 3830 Hickok Circle, Billings, MT**

Mr. Sizemore disputes his neighbor's setbacks without measuring. He acknowledges the right to build but believes the rules need to be followed. He does not want this house to hit him in the face when he turns south on Hickok Circle off of Highway 3. Public safety is an issue because when turning off Highway 3 on to Hickok Circle many times you must turn quickly due to traffic behind you. When there is ice in the winter, vehicles turning here often slide out of control. The lot is irregular, but no different than the neighbors. The owner has owned it for 25 years. 5 feet doesn't seem like much but is enough to be a problem. The garages will be 5 feet closer to the street, shortening the driveway by 5 feet. He disputes the hardship because 5 garages are in access and the change is more of a want for more space to accommodate than a need due to a hardship. He believes there are solutions without the variance. Redesign and move the house.

Chairman Noennig is not clear on the driveway access and reason for setbacks.

**Caryle Streeter, 3820 Hickok Circle, Billings, MT**

Ms. Streeter has witnessed accidents at this location in the winter and does not believe it is a buildable lot. Mr. Hamlin has created problems for the neighbors on many occasions. He will be blocking the view off Highway 3 with his garages and they are going to be hit. Where are his visitors going to park? Hickok Circle is very narrow. It is a very dangerous on the approach.

Board member Connell agrees the approach needs to be changed.

Chairman Noennig inquired whether she has considered the drawings that have been presented today. She replied no.

**John Hernandez, 3850 Hickok Circle, Billings, MT**

Mr. Hernandez is concerned with a road to the rear for RV's that Mr. Hamlin is proposing. He also agrees with the other concerns voiced. Mr. Hamlin used to own Mr. Hernandez's house and there are easements behind.

Board member Heinrich asks about zoning on the Sorenson's property.

**Rebuttal**

Mr. Hamlin explains he did not own the house, only the land where Mr. Hernandez lives. He does have an easement behind. Mr. Hernandez does not live at 3850 Hickok Circle, it is being rebuilt.

Mr. Wild agrees safety is a concern. The house is being positioned so that backing out will not be an

issue. It is a difficult lot to build on. The rule is if you need an exception you apply for a variance and that is what is being done. He does not believe that seeing that house directly should be considered in this process. In his experience, people generally do not want vacant lots built on in their neighborhood.

Board member Hagen confirmed 5 garages.


Chairman Noennig asked what would change if the variance were denied. Mr. Wild explained that the house would need to be redesigned and construction is limited. Also some of the views from the house would change. It would be more difficult to access the necessary areas to construct the home.

Board member Connell visited the property and blocking the views has nothing to do with the Board of Adjustments discretion. He also reiterated the building code. Stating that the codes dictate the heights of structures not this Board. The access safety issue is valid the way the road is engineered however Mr. Hamlin is at the most risk. The hardship of the lot is a reality.

Chairman Noennig called for a motion.

**Motion**

Board member Heinrich made a motion and Board member Hagen seconded the motion to **conditionally approve City Variance #1239** per the conditions and Findings of Fact presented by Staff.

| Board member   | Yes | No | Abstain | Not Present |
|--|-----|----|---------|-------------|
| Jeff Bollman   |     |    |         | x           |
|  |     |    |         |             |
| Paul Hagen   | x   |    |         |             |
| Frank Chesarek   |     |    |         | x           |
| Oscar Heinrich   | x   |    |         |             |
| Martin Connell   | x   |    |         |             |
| Mark Noennig   | x   |    |         |             |

**The motion to conditionally approve Variance request #1239 passed with a 4-0 vote.**

**Other Business/Announcements:**

There will be a meeting on September 7, 2016.

There is a vacancy on the Board. James Olson resigned.

Adjournment: 7:35 p.m.

**ATTEST: DRAFT. To be approved by a motion on August 3, 2016**

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**Robbin Bartley, Administrative Support I**

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**Mark Noennig, Chairman**



## City Board of Adjustment

**Meeting Date:** 09/07/2016

**SUBJECT:** City Variance #1240- 3741 Grecian Way

**THROUGH:** Wyeth Friday

**PRESENTED BY:** Karen Husman

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### Information

#### REQUEST

**Variance #1240 – 3741 Grecian Way** – A variance from 27-310(g) requiring a maximum projection in a front yard setback of 4 feet for a proposed covered unenclosed porch to allow a maximum projection of 8.5 feet in a Planned Development – Residential 9,600 (PD-R96) zone on Lot 35, Block 7 of Olympic Park Subdivision, a 7,000 square foot parcel of land. Tax ID: C10021. Presented by Karen Husman, Planner I.

#### RECOMMENDATION

Planning Staff is recommending conditional approval.

#### APPLICATION DATA

**OWNERS:** Frank Corkish  
**AGENT:** None  
**PURPOSE:** To a maximum projection of 8.5 feet in the front setback.  
**LEGAL DESCRIPTION:** Lot 35, Block 7 of Olympic Park Subdivision  
**ADDRESS:** 3741 Grecian  
**EXISTING LAND USE:** Residential  
**PROPOSED LAND USE:** Residential  
**EXISTING ZONING:** Residential-9600 (R-96)

#### CONCURRENT APPLICATIONS

None.

#### APPLICABLE ZONING HISTORY

Records show there have been five variance applications in this subdivision. Four for setbacks and one for fence height.

#### SURROUNDING LAND USE & ZONING

**NORTH:** Zoning: PD (R-96)  
Land Use: Single Family Dwellings  
**SOUTH:** Zoning: PD (R-96)  
Land Use: Single Family Dwellings  
**EAST:** Zoning: PD (R-96)  
Land Use: Single Family Dwellings  
**WEST:** Zoning: PD (R-96)  
Land Use: Single Family Dwellings

#### BACKGROUND

This is an application to construct a proposed covered unenclosed porch to allow a maximum projection of 8'5" into the front yard setback where 4 feet is the current maximum projection. The property is located at 3741 Grecian Way, in the Olympic Park Subdivision, a planned development. The legal advertisement referred to 8'5" into the front setback in Section 27-310(g) as the requested variance when according to the site plan submitted and Staff research the variance would actually be for 11' into the front yard setback.

The site plan submitted indicates the house is 24'6" from the front property line. Staff's research indicated the property line is approximately 2'6" behind the line indicated by the applicant. This would determine the proposed encroachment into the setback would actually be 11'. Staff is recommending the board consider conditional approval for a variance to allow the applicant an encroachment of 8 feet into the setback, this would allow a 10-foot porch roof, and sufficient protection from the elements. The property owner may construct a 6' front porch *without* a variance approval. Photos are also attached of the neighboring houses of similar size, elevation and lot, in an effort to show that there are no other porches in the area similar to what is being proposed.

There have been five variance applications in this subdivision. Four were for setbacks (three approved, one denied), one for fence height (approved). Staff visited the site and the surrounding neighborhoods and determined the front porch encroaching into the front yard 11' would grant this applicant a privilege others in the neighborhood do not currently have. There are a few properties that have open (no roof) unenclosed decks off the front of the property, they appear to be encroaching up to 7' into the front yard setback.

Planning staff has reviewed this application and is forwarding a recommendation of conditional approval to allow the front porch encroachment into the setback not to exceed 8 feet.

## **RECOMMENDATION**

Planning Staff is recommending conditional approval of City Variance #1240 based on the criteria for variances.

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### **Attachments**

Zoning Map & Site Photos  
Applicant letter & Site Plan  
Determinations  
Neighborhood Photos

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**ATTACHMENT**  
Site Photographs



Subject Property



South

ATTACHMENT  
Site Photographs, Continued



North



Westerly Across the street

Attachment  
Application and Applicant Letter

7-12-16

CHAIR PERSON

My name is Frank Corkish, I am married and a father of four, also a responsible home owner of the Billings West end for 20 years. I'm seeking to improve my property's safety and financial status, not to mention my neighbors' financial status as well. I intend on building a concrete porch with a roof overhead along with two concrete sidewalks. I am seeking the variance because the porch will impede on the regulation of no structures with 20' of the street. The porch and roof will serve the purpose of keeping snow and ice from accumulating at my front door. Will also keep my front door from being severely weathered in such short periods of time.

Sincerely  
Frank Corkish

7-12-16

Variance Application

- A. I wish to add a larger concrete porch with a roof overhead, but it will impede on the All Structures 20' away from the street.
- B. Safety is primary reason to keep snow and ice away from the front door. Second, to help keep front door from being weathered. I have had to replace front door three times and now going on the fourth in the past twenty years. I believe building an overhead roof would keep from having to replace the door and siding.

Frank Corkish

**Attachment**  
**Application and Applicant Letter**

**APPLICATION FORM**

**CITY VARIANCE**

**ID: Billings Variance #** 1240 **- Project #** PD-16-00138

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

TAX ID # C10021 CITY ELECTION WARD # 15

Legal Description of Property: Olympic Park Sub D Block 7 lot 35

Address or General Location (If unknown, contact City Engineering): 3741 GRECIAN WAY  
Billings, MT 59102

Zoning Classification: PD-R-96

Size of Parcel (Area & Dimensions): 7000 Sq. Ft

Covenants or Deed Restrictions on Property: Yes \_\_\_\_\_ No \_\_\_\_\_

If yes, please attach to application

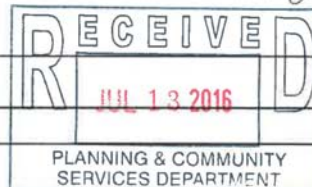
Variance(s) Requested: To be able to build porch with roof  
closer to the street than city allows 208 sf  
Sec. 27-310(g) permitted projection greater than 4 ft into front setback  
allow 8.5 ft. projection

Facts of Hardship: Porch Concrete Porch will impede on NO  
structures within 20' of the street. Roof will keep  
weather off the front door (Snow + ice also Sun) Door gets severely weathered

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

Owner(s): FRANK CORKISH  
(Recorded Owner) 3741 GRECIAN WAY  
(Address) Billings MT 59102 frankcorkish@gmail.com  
(Phone Number) (406) 697-2731 (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.

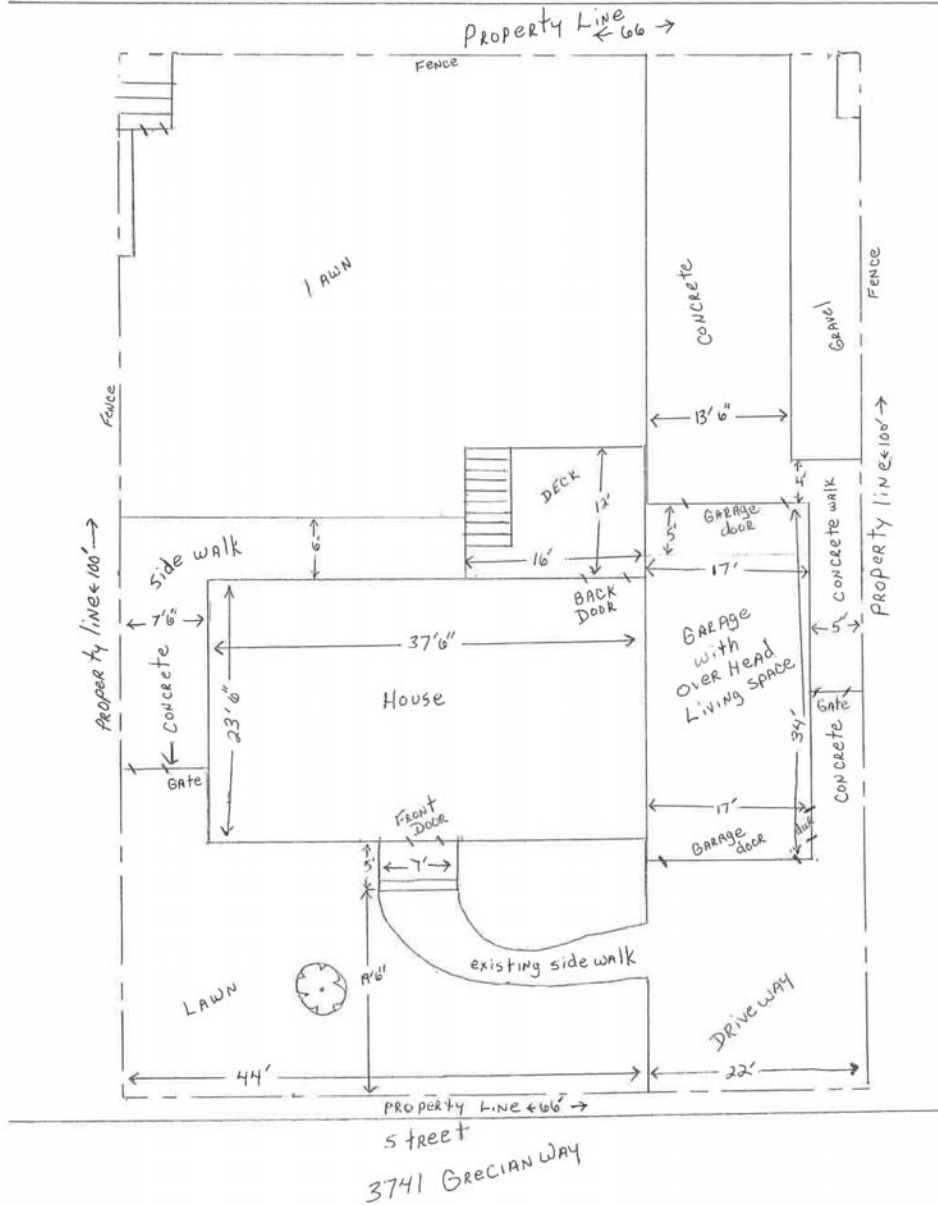
Signature: Frank Corkish Date: 7-13-16  
(Recorded Owner)





**Attachment  
Site Plan**

WALK PATH



Site Plan for  
FRANK Corkish  
Proposed entry way concrete porch with roof, side walks  
3741 GRECIAN WAY

**PRESENT LAYOUT**

SCALE: 1" = 8' (1/8")

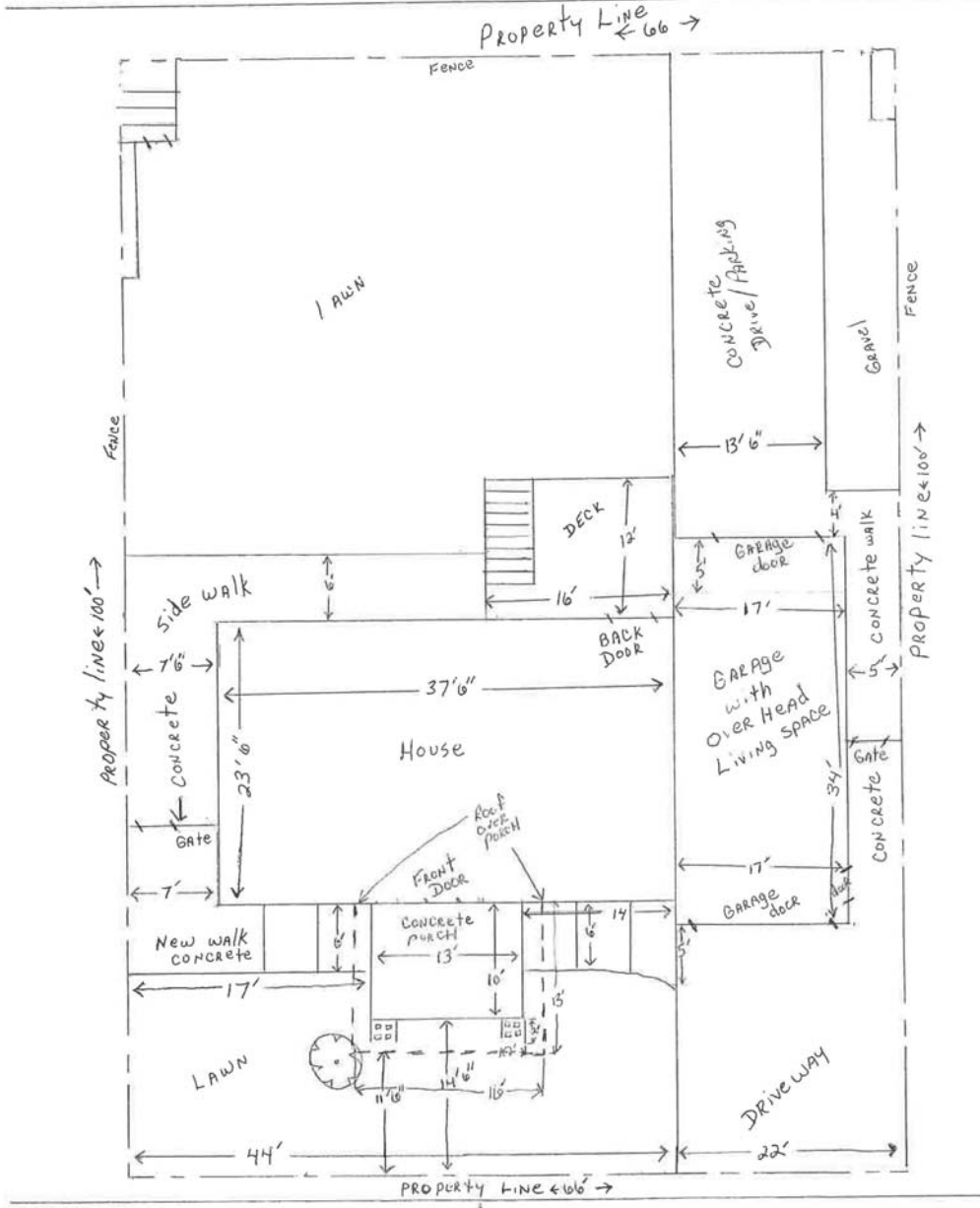
0 1 2 3 4 5 6 7 8'

NORTH  
↑  
Drawn by: FEAN  
ANK

Applicant Site Plan –(existing)

**Attachment  
Site Plan**

walk path



street  
3741 GRECIAN WAY

Site Plan for  
FRANK CORKISH  
Proposed entryway concrete porch with roof, side walks  
3741 GRECIAN WAY Olympic Park Subdivision

Proposed Changes

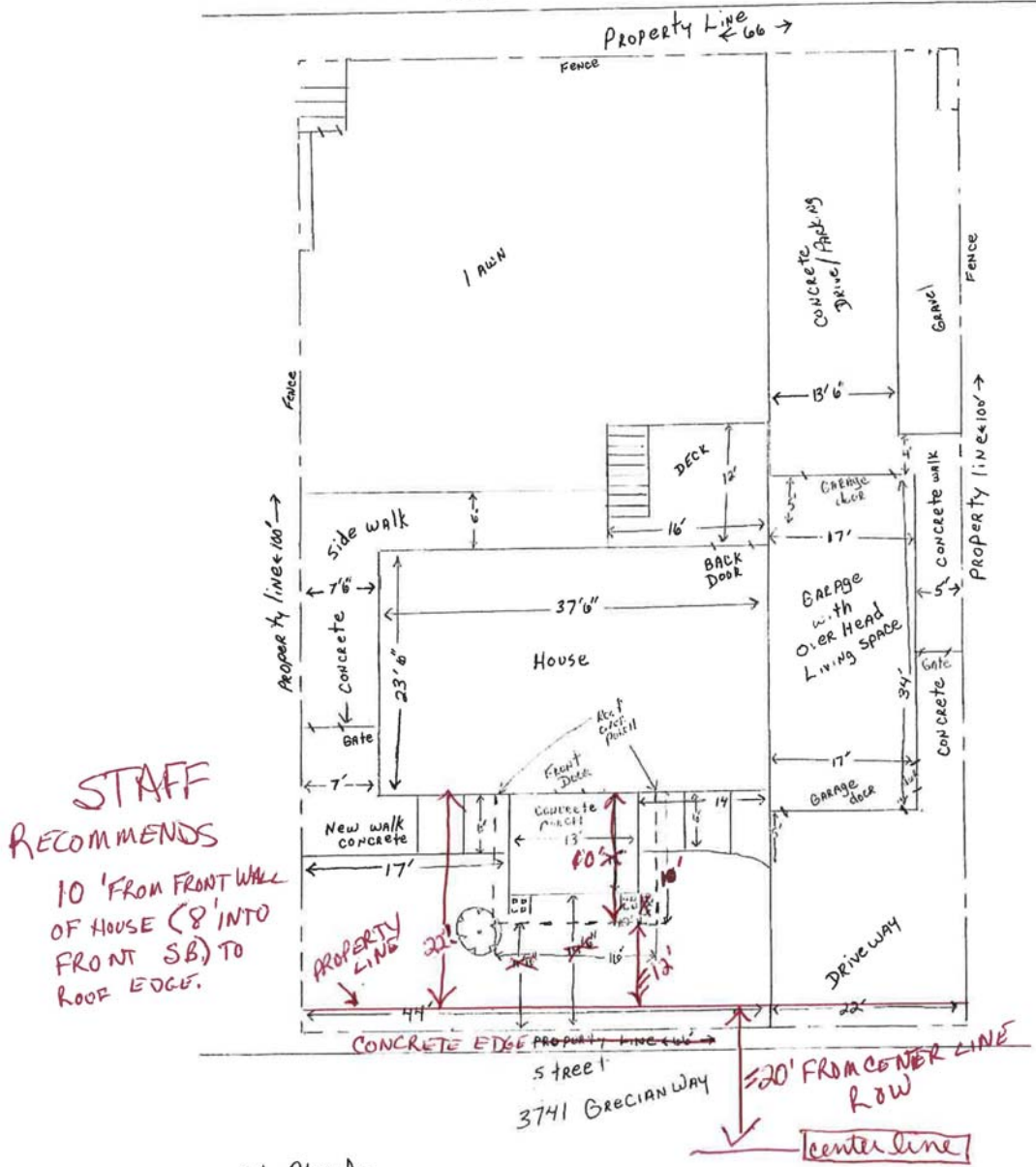
SCALE: 1" = 8' (1/8")  
DRAWN BY: FRANK CORKISH



**Applicant Site Plan-(Proposed)**

# Attachment Site Plan

WALK PATH



Site Plan for  
FRANK CORKISH  
Proposed entry way concrete porch with roof, side walks  
3741 GRECIAN WAY OLYMPIC PARK SUBDIVISION

SCALE: 1" = 8' (1/8")  
0 1 2 3 4 5 6 7 8'  
DRAWN BY: Frank Corkish  
NORTH

Site Plan (Staff Amended)

## **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.

- 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;**

There have not been other variances for projection into the setback in this neighborhood. However, there are a few properties in the neighborhood that have open (no roof) unenclosed front decking that encroaches up to 7 feet into the front setback.

- 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 may confer a special privilege since there have not been similar variances granted in the area. Other properties have projections into the setback of less than 8 feet.

- 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 27-310(g) requiring a maximum projection in a front yard setback of 4 feet for a proposed covered unenclosed porch to allow a maximum projection of 8 feet in a Planned Development – Residential 9,600 (PD-R96) zone. No other variance is intended or implied with this approval.
2. The variance is limited to Lot 35, Block 7 of Olympic Park Subdivision.
3. The proposed porch will be located and oriented in substantial conformance with the submitted site plan as amended. Minor adjustments to the site plan are allowed.
4. Any future construction or re-construction of the existing structure will require compliance with all other zoning regulations and city ordinances that apply at the time of construction or re-construction.
5. The applicant must acquire an approved building permit within 1 year of this variance approval. Construction must be completed within 2 years.
6. No construction activity will be done before 7 a.m. or after 8 p.m.
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**

A building permit must be applied for and issued within one year of variance approval.  
Construction must be completed within 2 years.

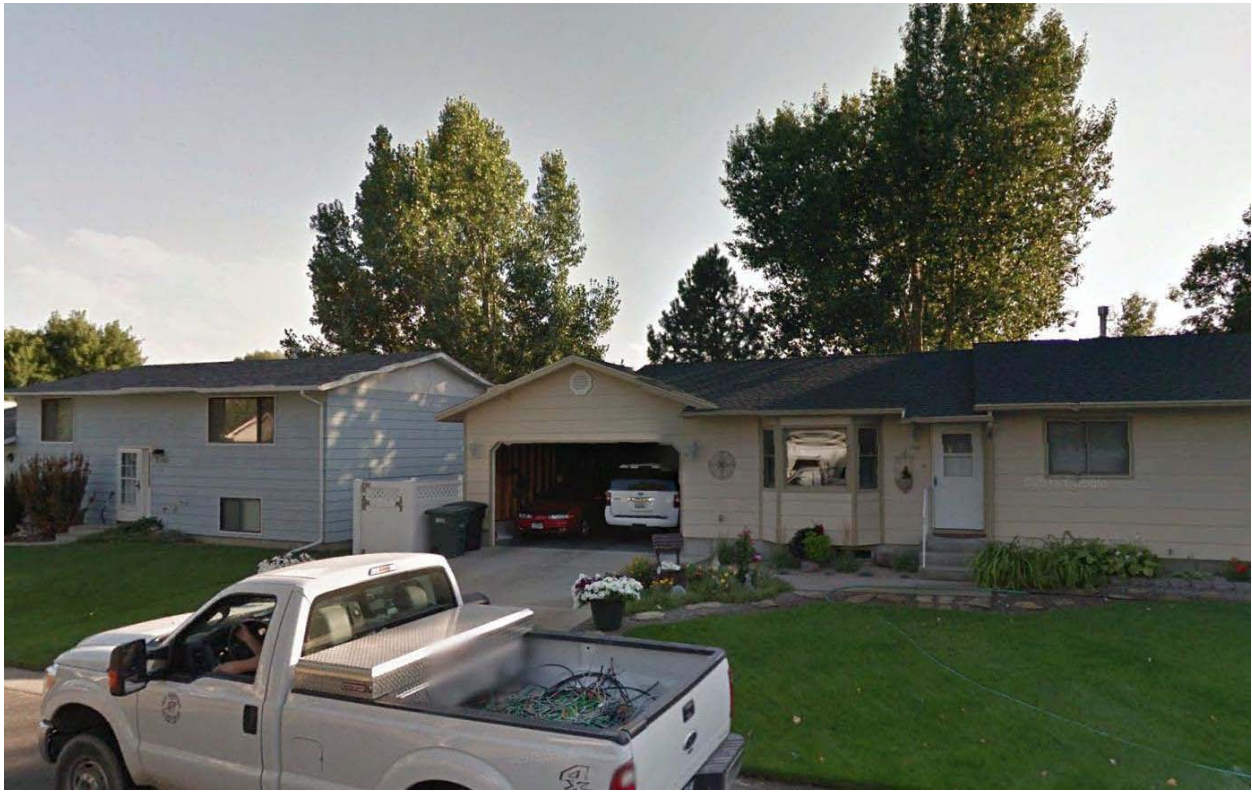
- 7. Under no circumstances shall the Board grant a variance to allow a use not permissible under the terms of this Chapter in the district involved. A variance shall not be a grant of special privilege inconsistent with limitations placed upon other property in the district.**

The granting of this variance would not allow a use that is not already allowed in the zoning district – Residential -9600 zoning within this Planned Development allows porches in the front yard and additions to single family dwellings.













## City Board of Adjustment

**Meeting Date:** 09/07/2016

**SUBJECT:** Variance 1241 - 2222 1/2 Main - Detached Garage

**THROUGH:** Nicole Cromwell

**PRESENTED BY:** Nicole Cromwell

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### Information

#### REQUEST

**Variance 1241 – 2222 ½ Main Street – Accessory Building Area & Siding** - A variance from 27-310(i)(3) requiring a maximum floor area of 1,500 square feet per detached accessory structure and not more than 2,000 square feet total detached accessory structure floor area to allow a proposed 2,240 square foot detached garage and from Section 27-310(i)(6) requiring all detached accessory structures over 200 square feet to have horizontal siding or siding that matches the primary residence to allow vertical siding in a Residential Manufactured Home (RMH) zone on Lot 6 of Holling Ranch Subdivision (aka C/S 151 Lot 6), a 1.95 acre parcel of land. Presented by Nicole Cromwell, Zoning Coordinator.

#### RECOMMENDATION

The Planning Division recommends conditional approval and adoption of the findings of the 7 criteria.

#### APPLICATION DATA

OWNER: Thomas and Sharon Price

AGENT: Hofer Builders

LEGAL DESCRIPTION: C/S 151 in Lot 6 Holling Ranch Subdivision

ADDRESS: 2222 & 2222 1/2 Main Street

CURRENT ZONING: Residential Manufactured Home (RMH)

EXISTING LAND USE: Single family residence with multiple accessory buildings

PROPOSED USE: Same with 2,240 square foot detach garage

SIZE OF PARCEL: 1.95 acres

#### CONCURRENT APPLICATIONS

Pending Building Permit BP-16-02817.

#### APPLICABLE ZONING HISTORY

**Subject Property:** None. The property is in the original zoning designated in the county in 1973 and then annexed to the city in 1984.

**Surrounding property:** There have multiple variances in the immediate area for reduction of setbacks required for side, front or arterial streets. One variance issued in March 2010 for 719 Mattson Lane was to allow an accessory building without a primary residence on property zoned R-60. The accessory building and carport were existing structures and the owner wanted to subdivide the lot and the accessory buildings would be on one of the lots. The variance was conditionally approved. Variances for accessory buildings larger than normally allowed and with vertical siding have also been approved by the BOA. A 21,000 square foot accessory building (a horse barn) was approved at 2005 Bitterroot Drive in 2001, a 1,200 square foot detached garage was approved at 854 Lynch Drive (a 1/2-acre lot) in 1996, and the BOA approved 2 variances for a detached garage at 1407 Lake Elmo Drive in 2007 & 2008.

## **SURROUNDING LAND USE & ZONING**

|        |   |
|--------|---|
| NORTH: | Zoning: HC<br>Land Use: Rocky Mountain Air and Lube                             |
| SOUTH: | Zoning: HC<br>Land Use: Interstate Wrecking Services                            |
| EAST:  | Zoning: HC<br>Land Use: Storage units, barber shop, vacant commercial buildings |
| WEST:  | Zoning: RMH<br>Land Use: Single family residence                                |

## **BACKGROUND**

This is an application to construct a larger accessory garage than currently allowed and to place vertical siding on the structure. The property owners purchased a pole barn to provide storage for a camper trailer, a car, and a truck. The property is 1 of 2 parcels with frontage on Main Street that are zoned for residential uses. All other property on Main Street is now zoned for commercial uses. Thomas Price has lived at this location since 1941. There are several accessory buildings on the property but these are mainly used for other purposes. There is an older residential home on the east end of the property that is not occupied. The Price's live in a 1,738 square foot modular home on the west end of the property. There have been several variances in the immediate area for setbacks and lot coverage and at least 2 for oversized garages or garages with vertical siding. In addition, there are 12 properties in the area with accessory building larger than is currently allowed including a property at 435 Kathy Lane with 5 accessory buildings with a total of 3,536 square feet on a 36,000 square foot parcel with 2,720 square feet of residential floor area. This property on Kathy Lane is also zoned RMH. There is an 1,842 square foot garage at 404 Sharron Lane and a 2,356 square foot pole barn at 2227 Bench Boulevard. Many of these structures were likely built prior to annexation to the City in 1984. Many of the lots in this area of Billings Heights were platted in the County and range from 3/4 to 2 acres in area.

The subject property has access on Main Street and is adjoined by 2 businesses that generate significant traffic including Interstate Wrecking Service and Rocky Mountain Air Controls. Both adjacent properties have commercial sized pole barns for their businesses. Both properties are zoned Highway Commercial (HC). Properties to the west are zoned RMH and have developed in smaller lots with manufactured and modular homes. The property to the east is zoned HC and has developed with personal storage warehousing, a barber, as well as vacant commercial buildings. The average (3-year) daily traffic on this section of Main Street is about 15,000 vehicle trips per day. Further south, Main Street picks up an additional 32,000 vehicles south of Airport Road for a total average daily traffic of 47,000 vehicles per day.

The Planning staff has reviewed the request and the 7 review criteria for variances. The lot does not present a physical hardship with the land itself although it is much larger than similarly zoned and developed property in the immediate neighborhood. It is only 1 of 2 parcels with frontage on Main Street zoned for residential uses. Adjacent property to the north and south are zoned HC and are developed for intensive commercial uses. These are special conditions and circumstances that apply to the property but not others used for residential purposes. The BOA has issued a handful of variances in the past for over-sized accessory buildings and at least one to allow vertical siding. There are at least 12 surrounding properties with over-sized accessory buildings, some built as pole barns with vertical siding and others with traditional horizontal siding. The adjacent commercial properties both have large buildings with vertical siding. Denial of this variance request would deprive this owner of rights commonly enjoyed by others in the same district and area. Granting this variance will not confer a special privilege on this owner that has been denied to others in this area. Granting the requested variance will be in harmony with the purposes and intent of the zoning regulations and the adopted Growth Policy. The Planning staff is recommending several conditions of approval to mitigate any potential impacts on adjacent property.

## **RECOMMENDATION**

The Planning Division recommends conditional approval and adoption of the findings of the 7 criteria for Variance 1241.

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## **Attachments**

Zoning Map & Site Photos

Proposed Findings

Applicant Letter & Site Plan

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Subject Property



View of property to the south



View of property to the north



View east across Main Street

## **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 special circumstances existing on this property creating a hardship that is peculiar to this land. The lot sandwich between 2 lots zoned HC with intense commercial development and commercial type buildings. The property is larger – 1.95 acres – as compared to similarly zoned property in the area. The property owner could build a smaller accessory building of 1,500 square feet if 2 of the 3 other accessory buildings were removed although this would result in a building not large enough for the intended purpose and additional items would be stored outside in the elements.

- 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;**

There are several properties in the area that have received variances from the accessory building size limitation, the requirement that a primary structure occupy the same lot, and for horizontal siding to allow vertical siding. At least 12 other properties in the area without variances of record have accessory buildings larger than currently allowed and with vertical siding. Denial of the variance would deprive this owner of benefits enjoyed by other property in the same district.

- 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. Other similar variances have been granted for existing and new construction and for building additions.

- 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 including the 2016 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 clear vision variance request:

1. The variance is from Section 27-310 (i) requiring a maximum size of 1,500 square feet to allow a maximum size of 2,240 square feet and from 27-310(i) requiring horizontal siding or siding to match the residence to allow the placement of vertical siding on the accessory building.
2. The variance is limited to C/S 151 in Lot 6 of Holling Ranch Subdivision, a 1.95 acre parcel of land generally located at 2222 ½ Main Street.
3. The 2,240 square foot accessory building will not be used for any commercial purposes, including a home occupation and is for the storage of personal property only. All other zoning requirements except the size limitation and siding requirement must be met.

4. The owner will apply for and receive a building permit within 6 months of Board approval.
5. The owner will complete the construction within 18 months of Building Permit issuance.
6. The owner will meet all required building codes, engineering codes and other city codes applicable at the time of Building Permit application for the accessory structure.
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**

The Planning staff recommends a building permit be obtained within 6 months and the construction completed within 18 months of building 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. Detached garages are an allowed use in the RMH zone.

Variance 1241 – 2222 ½ Main Street  
Applicant Letter and Site Plans

TO THE CHAIRPERSON OF THE BOARD OF ADJUSTMENT.,

WE ARE ASKING FOR A VARIANCE BECAUSE :

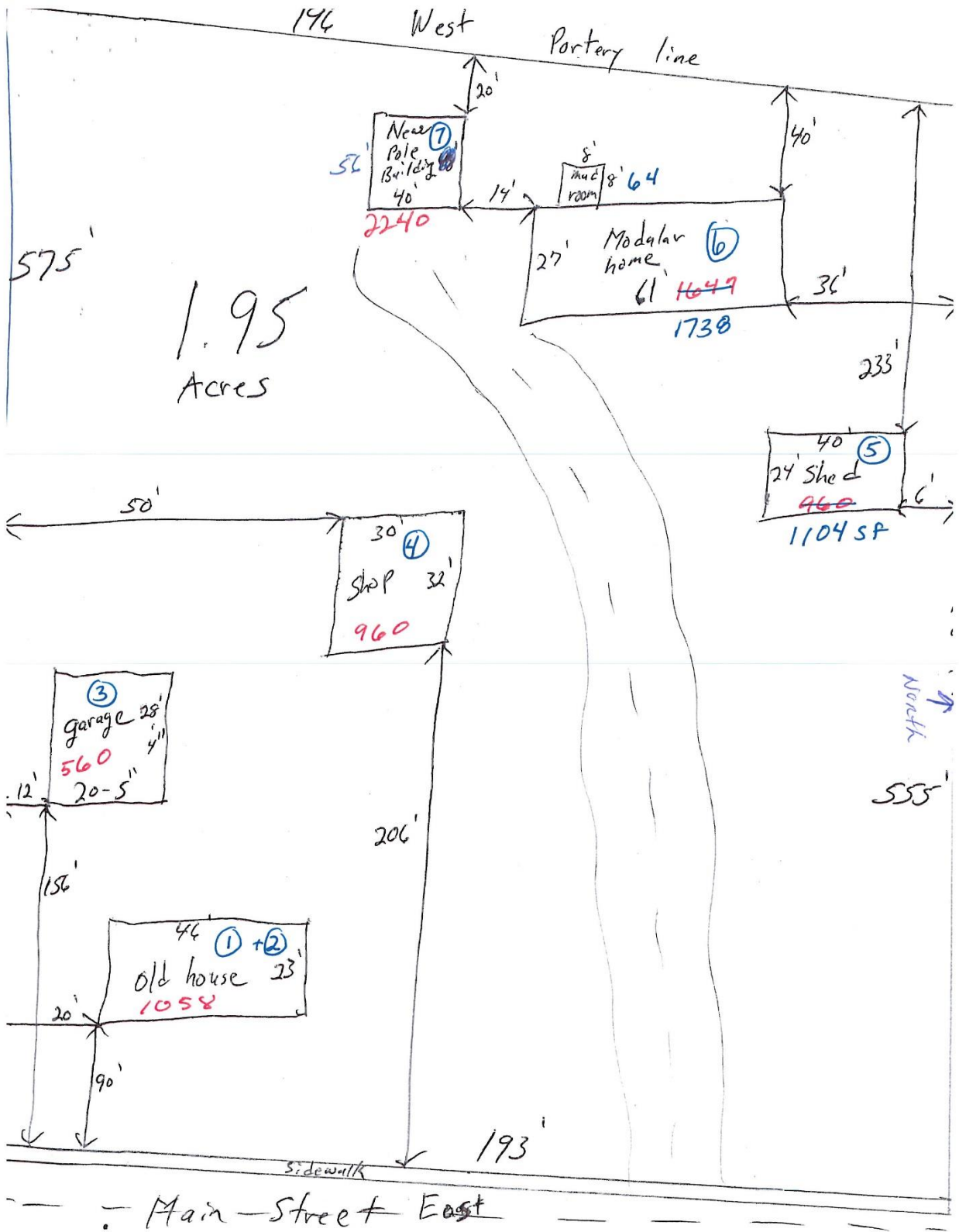
WE ARE PLANNING ON BUILDING A NEW GARAGE , TO HOUSE OUR FIFTH WHEEL CAMPER AND TRUCK AND CAR, TO PROTECT THEM FROM THE ELEMENTS.. WE ALSO WOULD LIKE OUR GARAGE CLOSER TO THE HOUSE SO WE DON'T HAVE TO WALK SO FAR IN THE WINTER MONTHS TO GET TO OUR VEHICLES. MY HUSBAND IS IN HIS EARLY EIGHTIES AND I AM IN MY VERY LATE SIXTIES AND HAVE HEART PROBLEMS. WE ARE NOT PLANNING TO CHANGE WHAT THE LAND IS USED FOR . THIS IS OUR HOME AND IT WILL REMAIN OUR HOME.. ON EACH SIDE OF US IS A BUSINESS ,BILLINGS TOWING TO THE SOUTH AND ROCKY MOUNTAIN AIR CONTROLS TO THE NORTH. THEY BOTH HAVE LARGE BUILDINGS WE DON'T THINK ADDING OUR GARAGE TO THE NEIGHBORHOOD WOULD HURT EITHER OF THEM AS OUR GARAGE WOULD BE BACK FROM THE ROAD AND WOULD NOT INTERFERE WITH THEM IN ANY WAY.. THIS WOULD BE A POLE BUILDING.

THANK YOU FOR YOUR CONSIDERATION IN THIS MATTER.

THOMAS E. PRICE  
SHARON M. PRICE  
2222 ½ MAIN STREET  
BILLINGS MONTANA 59105 4026

WE PURCHASED A FIFTH WHEEL CAMPER AND WOULD LIKE TO HAVE A GARAGE TO KEEP IT IN., ALONG WITH OUR PICKUP AND CAR. THE ZONING THAT WE HAVE NOW WILL NOT ALLOW US TO BUILD IT ,SO WE ARE HOPING TO HAVE A VARIANCE SO THAT WE CAN BUILD IT. AND PROTECT OUR CAMPER AND VEHICLES FROM HAIL.. ALSO WE ARE GETTING ELDERLY AND WE PARK OUR VEHICLES DOWN BELOW AND IT'S A LONG WALK TO OUR VEHICLES IN THE WINTER MONTHS..MY HUSBAND IS IN HIS EIGHTIES AND I AM IN MY VERY LATE SIXTIES AND HAVE HEART PROBLEMS. IT WOULD MAKE IT A LOT EASIER FOR US IF THE GARAGE WAS CLOSER.. THIS WOULD BE A POLE BUILDING,

*Thomas & Sharon Price*  
*2222 ½ main st*  
*Billings mt 59105*



South



South



North





## City Board of Adjustment

**Meeting Date:** 09/07/2016

**SUBJECT:** City Variance #1242- 2023 La Brea Street

**THROUGH:** Wyeth Friday

**PRESENTED BY:** Karen Husman

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### Information

#### REQUEST

**City Variance 1242 – 2023 La Brea Street** – A variance from 27-308 requiring a maximum lot coverage of 30% to allow a maximum lot coverage of 39% for a proposed detached garage of 784 square feet in a Residential 9,600 (R-96) zone on Lot 9, Block 13 of Evergreen Subdivision, 2<sup>nd</sup> Filing a 7,500 square foot parcel of land. Tax ID: A06872. Presented by Karen Husman, Planner I

#### RECOMMENDATION

Planning Staff is recommending conditional approval.

#### APPLICATION DATA

**OWNERS:** Robert & Susan Schieno  
**AGENT:** Levi Newman  
**PURPOSE:** To allow 39% lot coverage where 30% is the maximum allowed.  
**LEGAL DESCRIPTION:** Lot 9, Block 13 of Evergreen Subdivision, 2<sup>nd</sup> Filing  
**ADDRESS:** 2023 La Brea Street  
**EXISTING LAND USE:** Residential  
**PROPOSED LAND USE:** Residential  
**EXISTING ZONING:** Residential-9600 (R-96)

#### CONCURRENT APPLICATIONS

None.

#### APPLICABLE ZONING HISTORY

**Surrounding Property** – Records show there have been 8 variance applications in this subdivision; 3 were for lot size, 5 were for setbacks. There have been 11 variances in the surrounding subdivisions; 8 for setbacks, 1 for lot size, 1 for lot coverage, and one for the number of units for multi-unit development.

#### SURROUNDING LAND USE & ZONING

**NORTH:** Zoning: R-96  
Land Use: Single Family Dwellings  
**SOUTH:** Zoning: R-96  
Land Use: Single Family Dwellings  
**EAST:** Zoning: R-96  
Land Use: Single Family Dwellings  
**WEST:** Zoning: R-96  
Land Use: Single Family Dwellings

**BACKGROUND**

The applicant is requesting a variance from 27-308 requiring a maximum lot coverage of 30% to allow a maximum lot coverage of 39% for a proposed detached garage of 784 square feet in a Residential 9,600 (R-96) zone on Lot 9, Block 13 of Evergreen Subdivision, 2nd Filing, a 7,500 square foot parcel of land.

This is an older neighborhood in Billings and was developed prior to zoning of R-96. Many of the lots are smaller than the required 9,600 square foot minimum size. Most of the neighborhood homes and accessory structures were built within the 30% maximum restriction for the lots. The owner of the lot is proposing to construct a detached garage on the east side of the subject property. The detached garage is proposed to be 20'x28' (784 square feet) and this would make the property exceed lot coverage by 690 square feet. The owner is requesting the variance since the existing garage is too small to park larger vehicles.

Staff's research of the surrounding neighborhoods revealed several similar lots, however none were close to the 39% lot coverage requested by the applicant. Records show there have been 8 variances in this subdivision; 3 were for lot size, 5 were for setbacks and all were approved. There have been 11 variances in the surrounding subdivisions; 8 for setbacks, 1 for lot size, one for the number of units for multi-unit development and 1 for lot coverage from 30% to allow 32% (this one was approved). In addition, staff researched 25 properties in the surrounding neighborhood and 2 were at the maximum of 30%, 3 at 32%, 3 at 33%, and 1 at 34% (no variances on record for these properties). The remaining 16 properties reviewed were less than 30%.

Planning staff has reviewed this application and is forwarding a recommendation of conditional approval for a variance from the required 30% maximum lot coverage to allow 34% for this property based on the criteria for granting a variance.

**RECOMMENDATION**

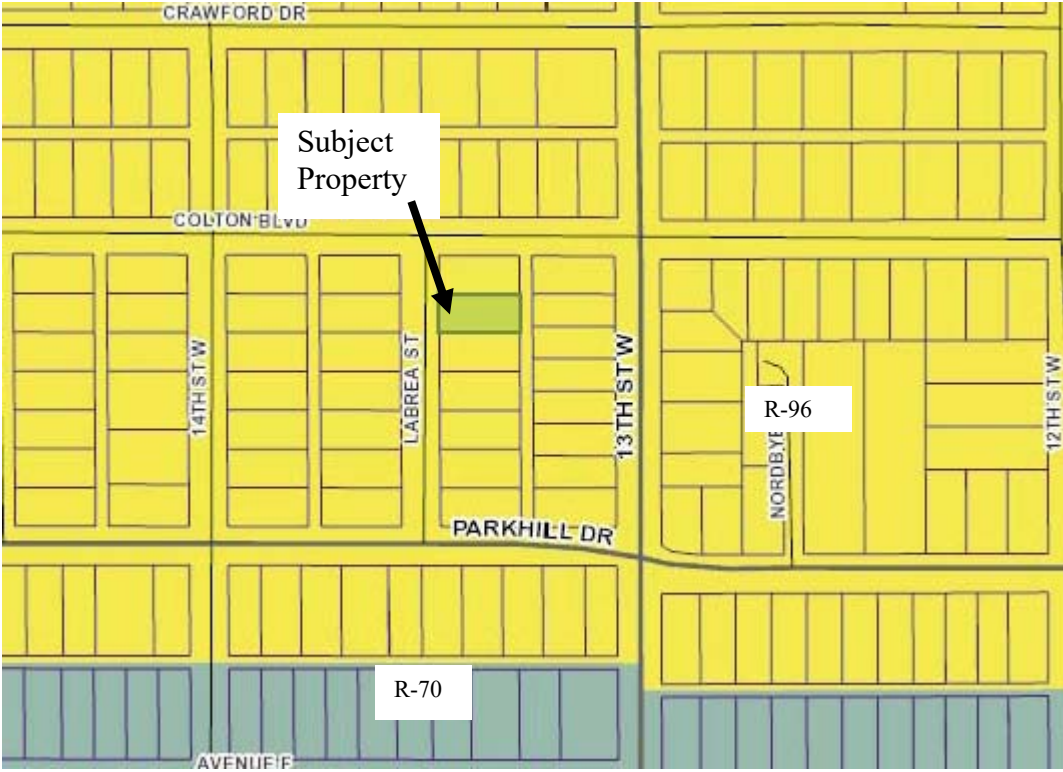
Planning Staff is recommending conditional approval of City Variance #1242 based on the criteria for variances.

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**Attachments**

- Zoning Map & Site Photos
  - Applicant letter & Site Plan
  - Determinations
-

**ATTACHMENT A**  
Surrounding Zoning & Site Location





**ATTACHMENT A**  
Site Photographs



Subject Property



ATTACHMENT A  
Site Photographs, Continued

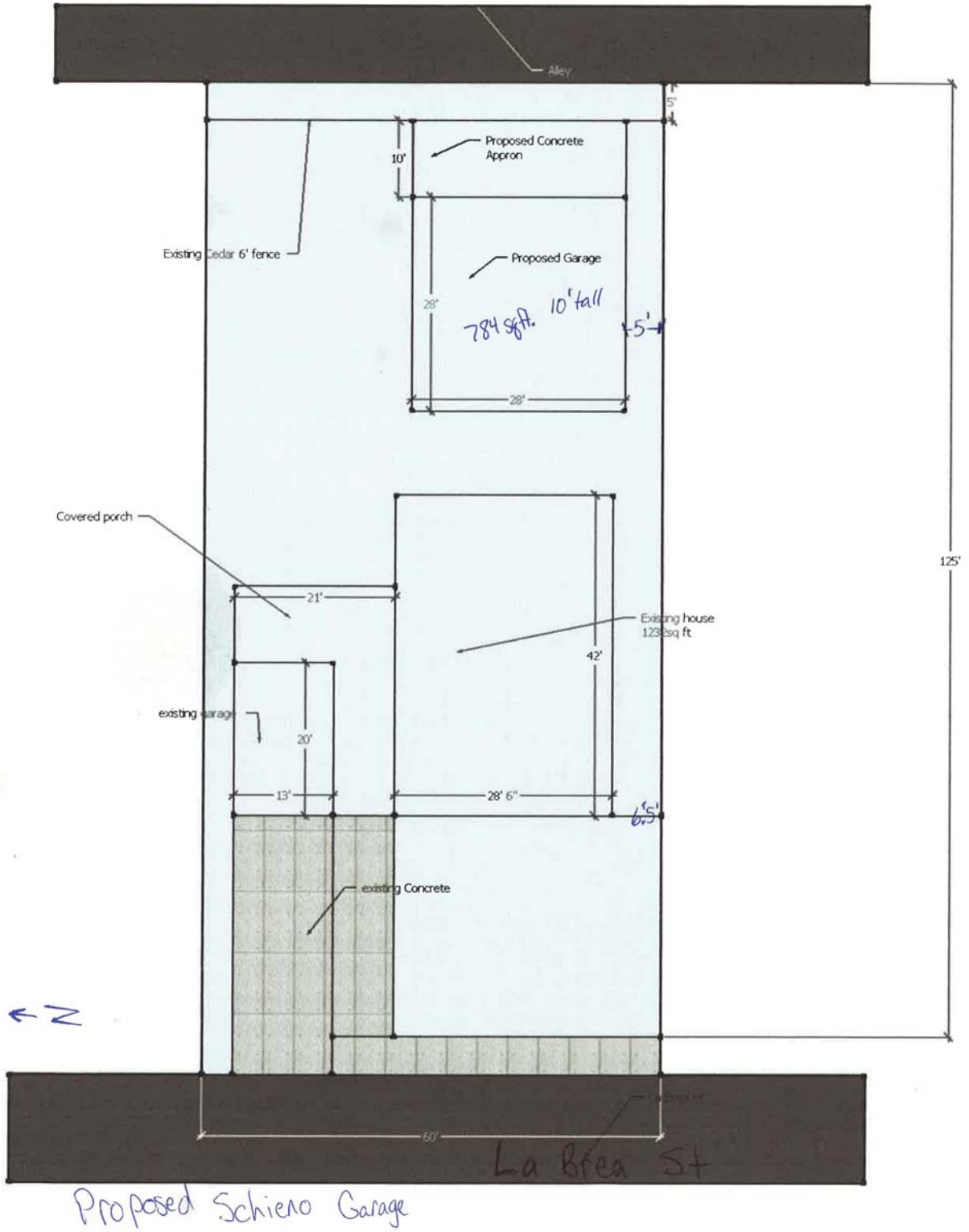


North



South

**Attachment  
Site Plan**

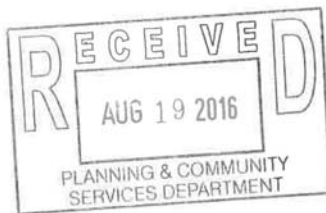


**Attachment**  
**Application and Applicant Letter**

I would like to build garage here are a few reasons

We have been hit with hail to three vehicles twice in the past years  
Also have had vandalism to vehicle would like to be able to park them out of site  
Soon to add third driver to house hold this will allow not to have to move vehicles around when  
leaving for school or work ect.  
A garage the size requested will allow us storage space badly needed

Thanks Rob Schieno



**Attachment**  
**Application and Applicant Letter**

**APPLICATION FORM**

**CITY VARIANCE**

**ID: Billings Variance #** 1242 **- Project #** P2-16-00150

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

TAX ID # A06872 CITY ELECTION WARD # 3

Legal Description of Property: Evergreen Subd. 2<sup>nd</sup> filing Block: 13 Lot 9  
S36, T01 N, R25E, Block 13, lot 9

Address or General Location (If unknown, contact City Engineering): 2023 La Brea St.

Zoning Classification: R96

Size of Parcel (Area & Dimensions): 7,500 SF

Covenants or Deed Restrictions on Property: Yes  No



If yes, please attach to application

Variance(s) Requested: For an increase in lot coverage 39%  
to build a garage 28' x 28' 784 SF  
2156 SF existing coverage 29%

Facts of Hardship: Hardships are that this lot is only 7500sqft instead of  
the 9600sqft normal lot, not leaving room for a garage to fit larger vehicles of today.  
Also hail has hit there and this would add protection. There are neighbors who have garages grand fathered.

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

Owner(s): Robert and Susan Schieno

(Recorded Owner) 2023 La Brea St. Billings MT 59105  
(Address) (406) 697-7122 rschiend@yahoo.com  
(Phone Number) (email)

Agent(s): Levi Newman

(Name) 814 Nutter Blvd  
(Address) (406) 314-1719 levi.newman@ymail.com  
(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: *Robert Schieno* Date: 7/28/16  
(Recorded Owner)

City Variance Application 2016-2017

*In so this is not something that would be new to the area. We will be asking to add a 28x28 Garage to the back of the property into the alley. This will accommodate for a truck and suburban that they now own.*

## **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.

- 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;**

There has only been one variance approved for lot coverage in the neighborhood for 32% (not 39% as requested in this application), however there are some properties in the area that are close to or over the lot coverage, none of them appear to be more than 35%.

- 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 for 39% lot coverage may confer a special privilege since there have not been similar variances granted in the area.

- 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 is from 27-308 requiring a maximum lot coverage of 30% to allow a maximum lot coverage of 34% for a proposed detached garage of 400 square feet in a Residential 9,600 (R-96) zone. No other variance is intended or implied with this approval.
2. The variance is limited to Lot 9, Block 13 of Evergreen Subdivision, 2nd Filing.
3. The proposed building will be located and oriented in substantial conformance with the submitted site plan. Minor adjustments to the site plan are allowed.
4. Any future construction or re-construction of the existing structure will require compliance with all other zoning regulations and city ordinances that apply at the time of construction or re-construction.
5. The applicant must submit for a building permit within 6 months of this variance approval.
6. No construction activity will be done before 7 a.m. or after 8 p.m.
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**

A building permit must be applied for and approved within one year of the date of 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 – Residential -9600 zoning allows accessory structures to single family dwellings.