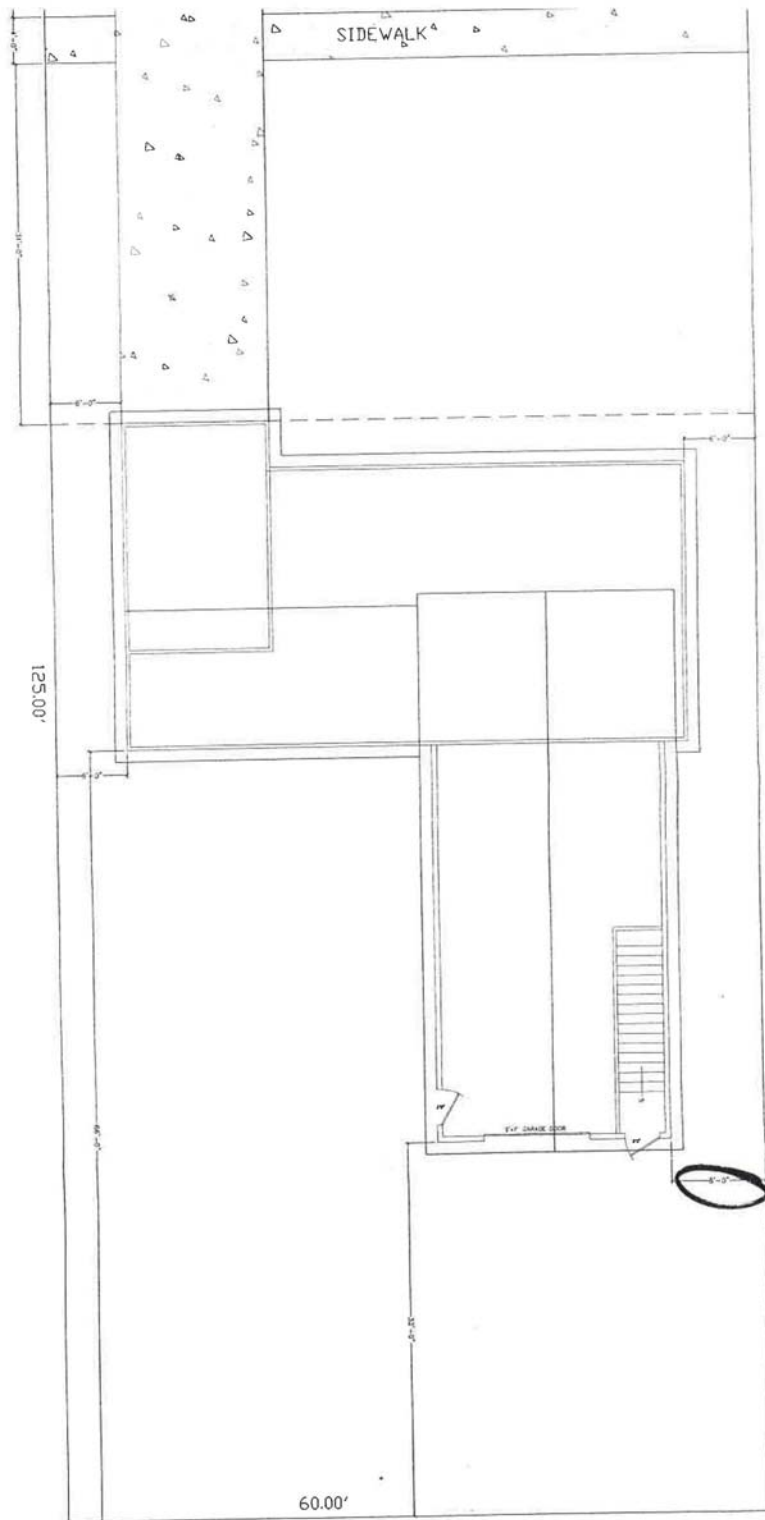


**Attachment
Site Plan**



Attachment
Application and Applicant Letter



APPLICATION FORM

ID: Billings Variance # 1243 - Project # PZ-16-00173

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 # A13616 CITY ELECTION WARD # 3

Legal Description of Property: Lot 10, Block 7, Rosedale Subdivision, 2nd Filing

Address or General Location (If unknown, contact City Engineering): 429 Nelson Drive
431 Nelson Drive

Zoning Classification: Residential-7000

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

Covenants or Deed Restrictions on Property: Yes No

If yes, please attach to application

Variance(s) Requested: Lot size variance to allow two dwelling units on a 7,500 square foot lot instead of on a lot of the minimum size of 9,600 square feet for two dwelling units in the R-7000 zoning district.

Facts of Hardship: During a building permit review in 2008, a staff review error resulted in the property owner being issued a building permit for a second dwelling unit above a new detached garage although the property is not large enough under zoning to allow two dwelling units. See attached letter dated May 12, 2010.

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

Owner(s): Dean C. Barga
(Recorded Owner)
429 Nelson Drive Billings, MT 59102
(Address)
406-598-6599 dcbarga@gmail.com
(Phone Number) (email)

Agent(s): None
(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: Dean C. Barga Date: 9-7-16
(Recorded Owner)

* Fee is Waived As per Planning Division Manager City Variance Application 2016-2017

Attachment
Letter to Applicant

Planning & Community Services Department

"Serving Billings, Broadview and Yellowstone County"



510 North Broadway
Parmly Library, 4th Floor
Billings, Montana 59101
Phone: (406) 657-8246
Fax: (406) 657-8327

COPY



May 12, 2010

Dean & Connie Bargaen
429 Nelson Drive
Billings, MT 59102-4849

RE: Building Permit 08-2213 – to construct an attached garage with a 2nd dwelling unit

Dear Mr. & Mrs. Bargaen,


This letter is written to confirm and expand on my conversation with Dean on Friday May 7, 2010. In April, 2010, I received a zoning complaint regarding your property at 429 Nelson Drive. The complainant stated the property had received a building permit to add a 2nd dwelling unit above a new attached garage in violation of the zoning requirements for this district. This property is within the Residential 7,000 (R-70) district and single family homes are allowed on lots of at least 7,000 square feet and 2-family (duplex) dwellings are allowed on lots of at least 9,600 square feet. I have attached the relevant section of the Zoning Code for your information.

I reviewed the Building Permit #08-2213 issued to you in December 2008. The building permit application stated the purpose of the permit was to "build add on garage on rear of house & building living quarters above". The plan reviewer for the Planning Division examined the application and noted the correction to the side setback (increased to 8 ft). However, the plan reviewer inadvertently missed the lot area requirements for a 2-family dwelling in this zoning district. This property is only 7,500 square feet in area – less than the 9,600 square feet required by the zoning regulations. The permit was issued in error.

The addition has been completed and received all the required building inspections. The addition of the living unit above the garage is now considered a nonconforming use of the property due to the lot area. The non-conforming status may become an issue in the event a lender requests a letter of conformance or the Planning Division is asked to certify zoning compliance. The nonconforming status may also become an issue if you choose to sell the property and the buyer or the buyer's lender requests a zoning compliance letter (i.e. re-build letter).

In the case of a plan review error, the Planning Division offers the property owner the option of applying for a zoning variance at no charge. The division however, cannot guarantee the Board of Adjustment would approve your request. The board has approved variance requests from plan review errors in the past. I have enclosed the application packet for your information. You did state in our May 7, 2010 phone conversation that you would not submit a variance at this time. Please note this option is available to you at any time as long as you own this property. If you choose to apply now or in the future for a lot area variance, please contact me at the address above, by phone at 247-8662 or by email at cromwelln@ci.billings.mt.us.

As I stated in our phone conversation, I apologize for the review error during the building permit process. Please let me know if you need additional information regarding this matter.

Sincerely yours,

Nicole Cromwell, AICP
Zoning Coordinator, Planner II

Attachment

BUILDING PERMIT APPLICATION
CITY OF BILLINGS
657-8270

Applicant to complete numbered spaces only

PERMIT NO. 08-2213

1 Job Address		429 NELSON DR.	
2 Legal Desc	Lot #	Blk #	Tract/ Subdivision
	10	7	ROSEDALE
3 Owner		Mail Address	Phone
DEAN & CONNIE BARGEN		429 NELSON DR.	655-4871
4 Contractor		Mail Address	Phone
DEAN BARGEN		429 NELSON DR.	698-0599
5 Architect or Designer		Mail Address	Phone
BRIAN KINNY		3422 WINDMILL CIR.	698-3484
6 Engineer		Mail Address	Phone

7 Building Set Backs	Front	Side	Side	Rear	Building Dimension	Length	Width	Height
	31'	6'	6'	66'		34	20	22

8 Basement: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Number of Bedrooms	Mechanical (How Many?)		
	2	1/1 Furnace	1 Bath Vents	1 Air Cond

9 Class of Work: <input type="checkbox"/> New <input checked="" type="checkbox"/> Addition	Range Hood	1 Dryer Vent	Fire place
<input type="checkbox"/> Alteration <input type="checkbox"/> Repair	(IF DUCTED)		

10 Use of Building: Existing Use	Proposed Use
DWELLING	GARAGE W/ LIVING ABOVE

11 Describe Work:
 BUILD ADD ON GARAGE ON REAR OF HOUSE & BUILD LIVING QUARTERS ABOVE.

12 Valuation of Work: \$	41,200-
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Remarks and Special Conditions:

Engineering Permit #

Assessments:

Application Accepted By	Plans Approved By	Plan Check Fee	Permit Fee
CE			
Fire Sprinkler Required	Off Street Parking	Type of Construction	Occupancy Group
<input type="checkbox"/> Yes <input type="checkbox"/> No	Required <input type="checkbox"/> Furnished		
Garage Sq Ft.	Attached <input type="checkbox"/> #	Size of Bldg Sq. Ft.	No. of Stories
	Detached <input type="checkbox"/>		No. of Dwelling Units

Agreement

I understand and agree to the following:
 Separate permits are required for electrical, plumbing, heating, ventilating or air conditioning.
 This permit becomes null and void if work or construction authorized is not commenced within 180 days, or if construction or work is suspended or abandoned for a period of 180 days at any time after work is commenced.
 The undersigned hereby agrees that the proposed work shall be done in accordance with the plans and specifications and statement herewith submitted and in conformity with the provisions of the City ordinance pertaining to the erection of buildings in the City of Billings. Curb, gutter and sidewalk will be installed. Demolition work to be completed in 30 days unless otherwise noted under remarks.

The issuance or granting of a permit shall not be construed to be a permit for, or an approval of, a violation of any of the provisions of this code or any other ordinance of responsibility for compliance with the applicable Codes and Ordinances. Permits presuming to give authority to violate or cancel provisions of this code or other ordinances of the jurisdiction shall not be valid.

Signature-Applicant Dean Bargaen Date 12-1-08

Plan Check:	CK	Cash	Credit Card	Permit No.:	CK	Cash	Credit Card
fo. _____				_____			

Attachment

CITY-COUNTY PLANNING DEPARTMENT

Address 429 Nelson Dr.

Building permit # 08-2213

A. **Use of the property:**
 OK **Problems**

R-70

Comments: _____ 7500 ft SFD

B. **All yard setback requirements: (front, rear, side, arterial)**
 OK **Problems**

Comments Setback changed plan Ex. 12/3/08

C. **Off street parking:**
 OK **Problems**

1837
1249
New 680

D. **Height of proposed structures:**
 OK **Problems**

Comments: _____

2517
1929
3670
2670

E. **Screening requirements:**
 OK **Problems**

Comments: _____

Reviewed by: [Signature]

Date: _____

Approved: 12/3/08

Denied: _____

Attachment



CITY-COUNTY PLANNING DEPARTMENT
510 North Broadway - 4th Floor
Billings, Montana 59101
PHONE (406)657-8246 – FAX (406)657-8327



PLANNING DEPARTMENT (406) 657-8246 PLAN REVIEW CORRECTION LIST

THE FOLLOWING CORRECTIONS AND/OR ADDITIONAL INFORMATION MUST BE
ADDRESSED BEFORE A BUILDING PERMIT CAN BE ISSUED:

ADDRESS: 429 Nelson Drive
CONTRACTOR: Dean Bargaen
OWNER: same
ENG/ARC: Brian Kinny

PLAN REVIEW NUMBER: 08-2213
DATE: December 2, 2008
REVIEWED BY: Karen Miller

CORRECTIONS AND COMMENTS ARE THAT OF THE PLANNING DEPARTMENT ONLY

The processing of plans may be delayed if all the required items are not properly resubmitted.

Corrections:

1. Site plan submitted indicates the addition will not meet the minimum setback from the side property line for a 2-story structure. The minimum distance for the 2nd story is 8 feet. Per BMCC section 27-308(h);

Required side yards shall be increased to eight (8) feet in distance from the nearest second story portion of the building, plus one (1) foot for each story in excess of two (2).

2. In order to build the proposed structure it must meet the size, setback and lot coverage restrictions of the Unified Zoning Code, or the property owner must apply for and receive approval of a setback variance from the City Board of Adjustment. PLEASE NOTE: if approval of the variance is not received you will need to resubmit your amended plans including an amended site plan.