



CITY BOARD OF ADJUSTMENT
AGENDA-Wednesday, December 7, 2016, 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:

The minutes of the Board meeting of November 2, 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 1245 – 103 Alderson/1302 1st St West – Lot Area** - A variance from 27-308 requiring a minimum lot area of 9,600 square feet to allow a minimum lot area of 7,000 square feet in a Residential 7,000 (R-70) zone for an existing duplex dwelling on Lots 1 & 2, Block 8 of West Side Addition Subdivision, a 7,000 square foot parcel of land. The applicant is not planning any construction, but if approved would allow the re-building if needed in the future of a duplex (2-family) dwelling on these lots. Tax ID: A17773. Presented by Karen Husman, Planner I.

- b. **Variance 1246 – 2730 41st St West - Accessory Building Area** - 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 2,200 square feet for a single detached structure and a total of 3,000 square feet of detached accessory structure area in a Residential 9,600 (R-96) zone on Lots 5 through 10, of Westfield Subdivision, a 3.731 acre parcel of land. Tax IDs: C02266 & C02267. Presented by Karen Husman, Planner I.

- c. **Variance 1247 – 3416 6th Ave S – Lot Area** - A variance from 27-308 requiring a minimum lot area of 6,000 square feet to allow a minimum lot area of 5,250 square feet for the proposed boundary line adjustment and aggregation to create two (2) 5,250 square foot lots for development of single family dwellings in a Residential 6,000 (R-60) zone on Lots 13, 14 & 15, Block 219, Billings Second Addition, a 10,500 square foot parcel of land. Tax ID: A01624 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, 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 Robbin Bartley, Administrative Assistant, at 247-8676 or e-mail to bartleyr@ci.billings.mt.us

City Board of Adjustment

Meeting Date: 12/07/2016

Information

Subject

The minutes of the Board meeting of November 2, 2016.

Attachments

BBOA_20161102

CITY BOARD OF ADJUSTMENT

MINUTES November 2, 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	A	1	E	1	
James Olson	Board member	-	-	1	1	E	1	E	R	R	R	R	
Paul Hagen	Board member	-	-	1	1	1	1	1	1	E	1	1	
Frank Chesarek	Vice Chairman	-	-	1	1	1	1	1	A	A	1	E	
Oscar Heinrich	Board member	-	-	1	1	1	1	1	1	1	1	1	
Martin Connell	Board member	-	-	1	1	1	E	1	1	1	1	1	
Mark Noennig	Chairman	-	-	1	1	1	1	1	1	1	E	1	

TOTAL NUMBER OF APPLICATIONS 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	3	1	1		23

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 3rd 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: Sherri Hullinger, Margo Jensen, Greg Erpenbach, Robert Saffo, Donna Saffo, Chris Thome

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 October 5, 2016, minutes. Board member Connell seconded the motion. Minutes were approved by unanimous voice vote 5-0.

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	x	
██████████				
Paul Hagen		x	x	
Frank Chesarek				x
Oscar Heinrich		x	x	
Martin Connell		x	x	
Mark Noennig		x	x	

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.

Nicole Cromwell read the legal description for **Variance #1244**:

Karen Husman presenting:

Variance 1244 –3165 King Avenue East– Land Use Contrary to Zoning - A request to conduct a public forum for the proposed expansion of the Yellowstone County Detention Facility. The zoning regulations require a submittal for special review for any correctional institution (Section 27-306). The County will not be submitting a special review. The City Board of Adjustment has no power to approve, deny or attached conditions to the proposed use. State law (MCA **76-2-402**) requires a forum before the Board of Adjustment to receive public comment. The property is in a Public (P) zone described as Parcel 1A of C/S 1340, a 20.27 acre parcel of land. Tax ID: D01739

RECOMMENDATION

State statute allows public agencies to use land contrary to zoning after a Public Forum is held by the local Board of Adjustment. The Board shall have no power to approve or deny the proposed use but shall act only to allow a public forum for comment on the proposed use.

Board member Bollman asked if a Special Review was done originally. Staff replied it was not required.

Board member Hagen asked if the expansion is for females. Staff stated she believed so and deferred answering to the representative.

Public Hearing

Chairman Noennig opened the public hearing and asked if there was anyone wishing to speak in favor or against **City Variance #1244**.

Greg Erpenbach, YC Facility Superintendent

Mr. Erpenbach brought the site plans for review by all. 140 bed expansion is being proposed to be built on to existing land. Chairman Noennig asked for an explanation of who would be detained where. The new unit will be a women's unit. If the State Women's prison has overages, these can be accommodated at YCDF.

Chris Howe, Schutz Foss Architects

Mr. Howe explained that the expansion will provide more beds for everyone. Currently the women's housing unit is completely over populated and classification cannot be done. With the building of a new women's unit, the overflow from the men's area can use the old women's housing area.

Al Rapacz, President of Schutz Foss Architects

Mr. Rapacz spoke to where women are now housed and explained that in the present set up classifying is not possible. Chairman Noennig asked for clarification of classifying. Classification is the process where individuals are evaluated and placed reflecting the severity of their offense. The new unit allows for separation based on classification.

Opposed

Sherri Hullinger, 3115 Stone

Ms. Hullinger stated she does not understand the map that was sent to her. Staff explained the 300 foot radius for notification. She is in fear of losing her property. Staff explained that the construction is only in the current footprint and that no additional land is being used or obtained.

The public hearing was closed at 6:20pm.

Other Business/Announcements:

The next meeting will be on December 7, 2016.

Adjournment: 6:20 p.m.

ATTEST: DRAFT. To be approved by a motion on December 7, 2016

Robbin Bartley, Administrative Support I



City Board of Adjustment

Meeting Date: 12/07/2016

SUBJECT: City Variance #1245- 103 Alderson Avenue

THROUGH: Wyeth Friday

PRESENTED BY: Karen Husman

Information

REQUEST

Variance 1245 – 103 Alderson/1302 1st St West – Lot Area - A variance from 27-308 requiring a minimum lot area of 9,600 square feet to allow a minimum lot area of 7,000 square feet in a Residential 7,000 (R-70) zone for an existing duplex dwelling on Lots 1 & 2, Block 8 of West Side Addition Subdivision, a 7,000 square foot parcel of land. The applicant is not planning any construction, but if approved would allow the re-building if needed in the future of a duplex (2-family) dwelling on these lots. Tax ID: A17773. Presented by Karen Husman, Planner I.

RECOMMENDATION

Planning Staff is recommending conditional approval.

APPLICATION DATA

OWNERS: Walter David & Sherry Lynn Herbert
AGENT: None
PURPOSE: To allow a minimum lot area of 7,000 square feet in a Residential 7,000 (R-70) zone for an existing duplex dwelling
LEGAL DESCRIPTION: Lots 1 & 2, Block 8 of West Side Addition Subdivision
ADDRESS: 103 Alderson Avenue & 1302 1st Street West
EXISTING LAND USE: Residential Multi-family
PROPOSED LAND USE: Residential Multi-family
EXISTING ZONING: Residential-7000 (R-70)

CONCURRENT APPLICATIONS

None.

APPLICABLE ZONING HISTORY

Surrounding Property – Records show there have been 21 variance requests in this subdivision. The variance requests have been for lot coverage, setbacks, and lot area. Eight of the 21 variances were for lot area, two were denied and six approved. In addition, staff has researched the surrounding neighborhoods and found 30 nonconforming lots (parcels that did not have a variance application on file) that were smaller than the required size allowed under the Zoning Code for the number of units existing on the property.

SURROUNDING LAND USE & ZONING

NORTH: Zoning: NC
Land Use: Residential single family & multi-family & commercial
SOUTH: Zoning: R-70
Land Use: Residential single family & multi-family
EAST: Zoning: RMF-R
Land Use: Residential single family & multi-family
WEST: Zoning: R-70
Land Use: Residential single family & multi-family

BACKGROUND

The applicant is requesting a variance from 27-308 requiring a minimum lot area of 9,600 square feet to allow a minimum lot area of 7,000 square feet in a Residential 7,000 (R-70) zone for an existing duplex dwelling on Lots 1 & 2, Block 8 of West Side Addition Subdivision, a 7,000 square foot parcel of land. The applicant is not planning any construction, but if the variance is approved, would allow the re-building in the future of a duplex (2-family) dwelling on these lots. The duplex was constructed in 1939.

This is an older neighborhood in Billings and there are several properties in the area that have more than one dwelling unit on them. There have been variances that have been granted in the area for single family, duplex, and three-plexes on smaller lots than what is allowed by current zoning. There are other properties in the neighborhood that have multiple dwelling units on smaller lots. Some properties have obtained variances in the subdivision while others have not. The existing 7,000 square foot lot would allow one single family dwelling. The County records we have available indicate the existing duplex was constructed with two units, it has two separate utilities, one for each unit (including gas, electric, water and sewer). The applicant would like a variance for the existing duplex to allow reconstruction as a duplex as well as for future financing or sale.

Planning staff has reviewed this application and is forwarding a recommendation of conditional approval for a variance to allow an existing duplex based on the determinations for granting a variance.

RECOMMENDATION

Staff recommends conditional approval of the variance #1245 based on the determinations for granting a variance.

Attachments

Zoning Map & Site Photos
Applicant Letter & Site Plan
Determinations



ATTACHMENT
Site Photographs

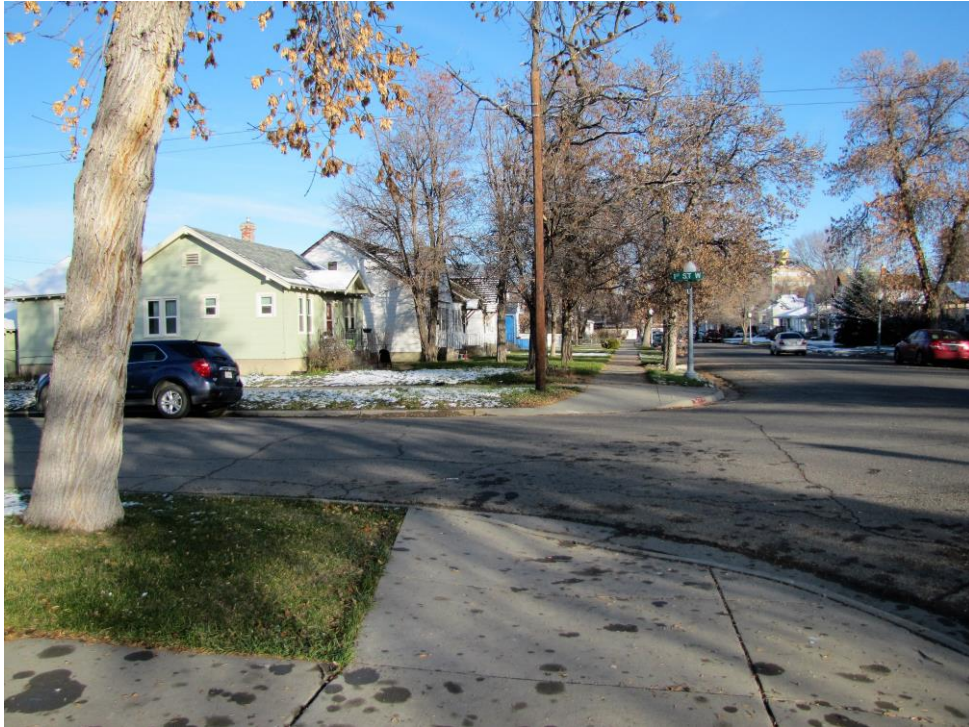


Subject Property view from Alderson Ave.



Subject Property view from 1st St. w.

ATTACHMENT
Site Photographs, Continued

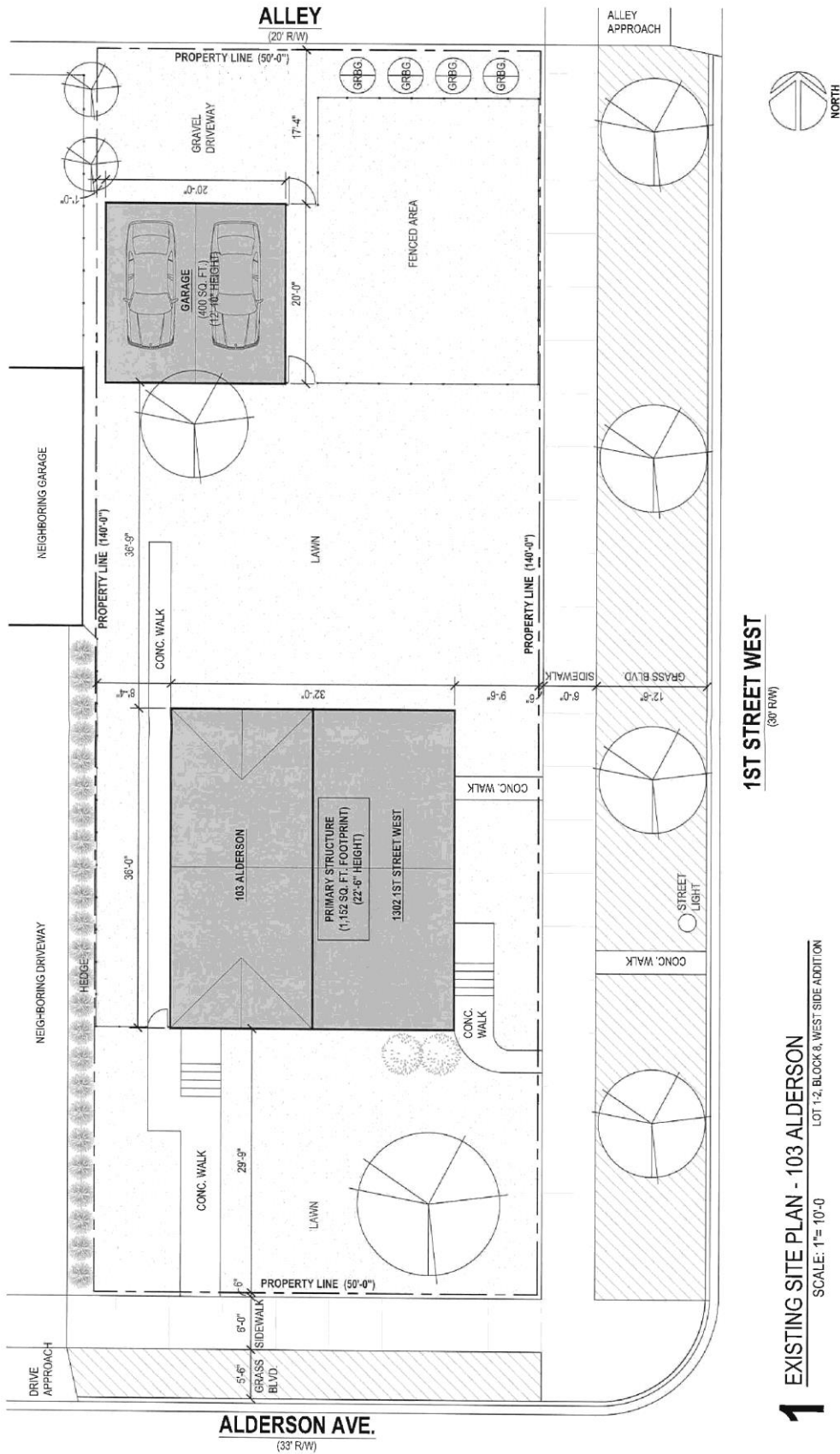


Looking West



Looking East

Attachment Site Plan



Attachment B
Application and Applicant Letter



APPLICATION FORM

ID: Billings Variance # 1245 - Project # PZ-16-00197

Owner(s) of the following described property hereby request a Variance from the terms of the City of Billings Zoning Regulations.

TAX ID # A 1777.3 CITY ELECTION WARD # #1

Legal Description of Property: West side ADD, 504, T07 S, R 26 E, Block 8, Lot 1-2

Address or General Location (If unknown, contact City Engineering): 103 Alderson Billings, MT

Zoning Classification: R7000

Size of Parcel (Area & Dimensions): 7000 Square feet (50' x 140')

Covenants or Deed Restrictions on Property: Yes No

If yes, please attach to application

Variance(s) Requested: Lot area variance from 9600 sq ft to 7000 sq ft for existing Duplex

Facts of Hardship: Built in 1939

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

Owner(s): Walter David and Sherry Lynn Herbert
(Recorded Owner) 1005 O'Malley Dr Billings, MT 59102
(Address) 831-236-2280 (Sherry cell) herbert.dpm.rn@gmail.com
(Phone Number) (email)
406-281-1736 (Dave cell)

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: Sherry L. Herbert (Signature) Date: Oct 27, 2016
(Recorded Owner)

Memorandum

October 21, 2016

To: Billings, MT Planning Commission

From: Walter David and Sherry Lynn Herbert
Owners of Duplex at 103 Alderson Ave, Billings, MT 59102

Subject: Request for a City Variance

Request: Lot area variance from 9600 square feet to 7000 square feet for existing duplex for the purpose of financing and resale.

Rationale: This request is NOT a change in use but rather a request to conform to the current zoning requirement for an existing duplex. The current property, a duplex (side-by-side), was built in 1939. In order to sell the property, the lending agents require that the zoning match the type of property so that in the event of a fire or other event, the duplex could be rebuilt.

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 structure was built prior to the zoning restrictions in place.

- 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 variances that have been granted in the area for existing duplexes on smaller lots than what is allowed by current zoning. There are other properties in the neighborhood that have multiple dwelling units on smaller lots. Some properties have obtained variances while others have not. Therefore, allowing the applicant a variance for an existing duplex on a 7,000 square foot lot does not deprive the applicant of rights commonly enjoyed by other properties 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;**

Granting this variance for a duplex on a 7,000 square foot lot would not confer a privilege to this applicant that others in the subdivision do not have. There are many small lots in this subdivision that have existing multi-family buildings 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 9,600 square feet to allow a minimum of 7,000 square feet for two existing dwelling units. No other variance is intended or implied with this approval.
2. The variance is limited to Lots 1 and 2, Block 8 of West Side Addition Subdivision.
3. 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.
4. 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 rebuild one duplex dwelling on a 7,000 square foot lot.

- 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 -7000 zoning allows duplexes and single family dwellings.



City Board of Adjustment

Meeting Date: 12/07/2016

SUBJECT: City Variance #1246-2730 41st Street West

THROUGH: Wyeth Friday

PRESENTED BY: Karen Husman

Information

REQUEST

Variance 1246 – 2730 41st St West - Accessory Building Area - 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 2,200 square feet for a single detached structure and a total of 3,000 square feet of detached accessory structure area in a Residential 9,600 (R-96) zone on Lots 5 through 10, of Westfield Subdivision, a 3.731 acre parcel of land. Tax IDs: C02266 & C02267. Presented by Karen Husman, Planner I.

RECOMMENDATION

Planning Staff is recommending denial.

APPLICATION DATA

OWNERS: Adam & Kevin Kimmet
AGENT: Frank Nieneber, Studio 4 Architects
PURPOSE: To allow 2,200 square feet for a single detached structure and a total of 3,000 square feet of detached accessory structure area
LEGAL DESCRIPTION: Lots 5 through 10, of Westfield Subdivision
ADDRESS: 2746 41st Street West
EXISTING LAND USE: Residential
PROPOSED LAND USE: Residential
EXISTING ZONING: Residential-9600 (R-96)

CONCURRENT APPLICATIONS

None

APPLICABLE ZONING HISTORY

Subject Property – None

Surrounding Property – Records show there have been six variance requests in this subdivision. The variance requests have been for height allowance, four were for structure height (two approved, one denied, one withdrawn), one was for fence height (approved). In addition, Staff has researched the surrounding neighborhoods and found no similar properties. There are not any detached garages in the area that would exceed the required maximum size for a detached accessory structure, or total detached structure square footage allowance.

SURROUNDING LAND USE & ZONING

NORTH: Zoning: R-96
Land Use: Residential single family
SOUTH: Zoning: R-96
Land Use: Residential single family
EAST: Zoning: R-96
Land Use: Residential single family
WEST: Zoning: R-96
Land Use: Residential single family

BACKGROUND

The applicant is requesting 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 2,200 square feet for a single detached structure and a total of 3,000 square feet of detached accessory structure area in a Residential 9,600 (R-96) zone on Lots 5 through 10, of Westfield Subdivision, a 3.731-acre parcel of land.

This neighborhood in Billings is near the rims south of Rimrock Road. There were not any variance applications found for accessory structure size. Research of the surrounding neighborhoods did not find any other oversized accessory structures. The applicant has an approved building permit for the new single family dwelling with an attached four car garage and would like to build an additional detached four car garage. The parcel of land is 3.731 acres and if subdivided into the minimum size lots in the zoning district of 9,600 square feet would allow sixteen single family dwellings as well as their allowed accessory structures. In that scenario, the structures would still have to meet the maximum restrictions on size of accessory structure and lot coverage for each lot, however it may also create more density for the entire 3 plus acre area.

Planning staff has reviewed this application and is forwarding a recommendation of denial for a variance to allow 2,200 square feet for a single detached structure and a total of 3,000 square feet of detached accessory structure area based on the determinations for granting a variance.

RECOMMENDATION

Planning Staff is recommending denial of City Variance #1246 based on the criteria for variances.

Attachments

Zoning Map & Site Photos
Applicant Letter & Site Plan
Determinations

ATTACHMENT
Site Photographs



Subject Property



Looking South

ATTACHMENT
Site Photographs, Continued



Looking North



Looking East

Attachment
Application and Applicant Letter

APPLICATION FORM

CITY VARIANCE

ID: Billings Variance # 1246 - Project # P2-16-00203

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 # C02266 & C02267 CITY ELECTION WARD # 4

Legal Description of Property: Lots 5, 6, 7, 8, 9 & 10 Westfield Sub
S33, T01N, R25E

Address or General Location (If unknown, contact City Engineering): 2730

41st St West, Billings, MT 59106

Zoning Classification: R-96

Size of Parcel (Area & Dimensions): 4 acres (3.731)

Covenants or Deed Restrictions on Property: Yes _____ No

If yes, please attach to application



Variance(s) Requested: Increasing the max outbuilding size from 1,500sf to 2,200sf and the site total allowable outbuilding size to 3,000sf.

Facts of Hardship: Singular structure has problems with grade. Want privacy. If divided into 4 lots could have significantly more outbuilding footage than owners are requesting.

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

Owner(s): Adam & Kevin Kimmet
(Recorded Owner)
3630 Powderhorn Circle Billings, MT 59102
(Address)
406.698.1015 KJKimmet@gmail.com
(Phone Number) (email)

Agent(s): Frank Niebauer, Studio 4 Architects
(Name)
1430 Country Manor Blvd, Suite 42
(Address)
406 656 1714 fnn:u@studio4architects.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: Kevin Kimmet Date: 10-31-16
(Recorded Owner)



Chair Person of the Board of Adjustment

10/30/16

Re: Kimmert Residence
Variance Request
2730 41st St. West

The property owners are requesting a variance for the zoning requirement of 1,500 sf max for an out building and 2,000 sf total max for out structures.

The owners are asking to build a detached garage of 2,100 sf and a pool equip/storage building of 400sf totaling 2,500 sf. This is 600 sf over the allowed for a single structure and 500 sf over the allowed total. We request the max single structure to be 2,200 sf and the site total for detached to be 3,000 sf per the variance request form.

One reason the owners bought more property is to create an out garage for their other vehicles etc. The owners would like to make it a detached rather than attached garage in order to create privacy from the neighbors and more importantly because of site grade. The site drops from north to south and the garage needs to have a significantly lower finished floor and there needs to be space between home and out garage to allow drainage from back yard.

This Lot is capable of being subdivided into multiple R-96 lots. Each of those lots would have a primary residence and each could have a 1,500 sf out building on it. The proposed single family residence and out buildings would still have far less total out building footprint put on the property than current zoning would allow if it were subdivided.

Further in keeping with the intent of zoning, this variance will not adversely affect the property value or the property value of neighboring lots. We appreciate your consideration in this matter.

If there further explanation is needed, please do not hesitate to contact me.

Kind Regards,

Frank Nienaber IV, AIA

A handwritten signature in black ink, appearing to read "Frank Nienaber IV", written over a horizontal line.

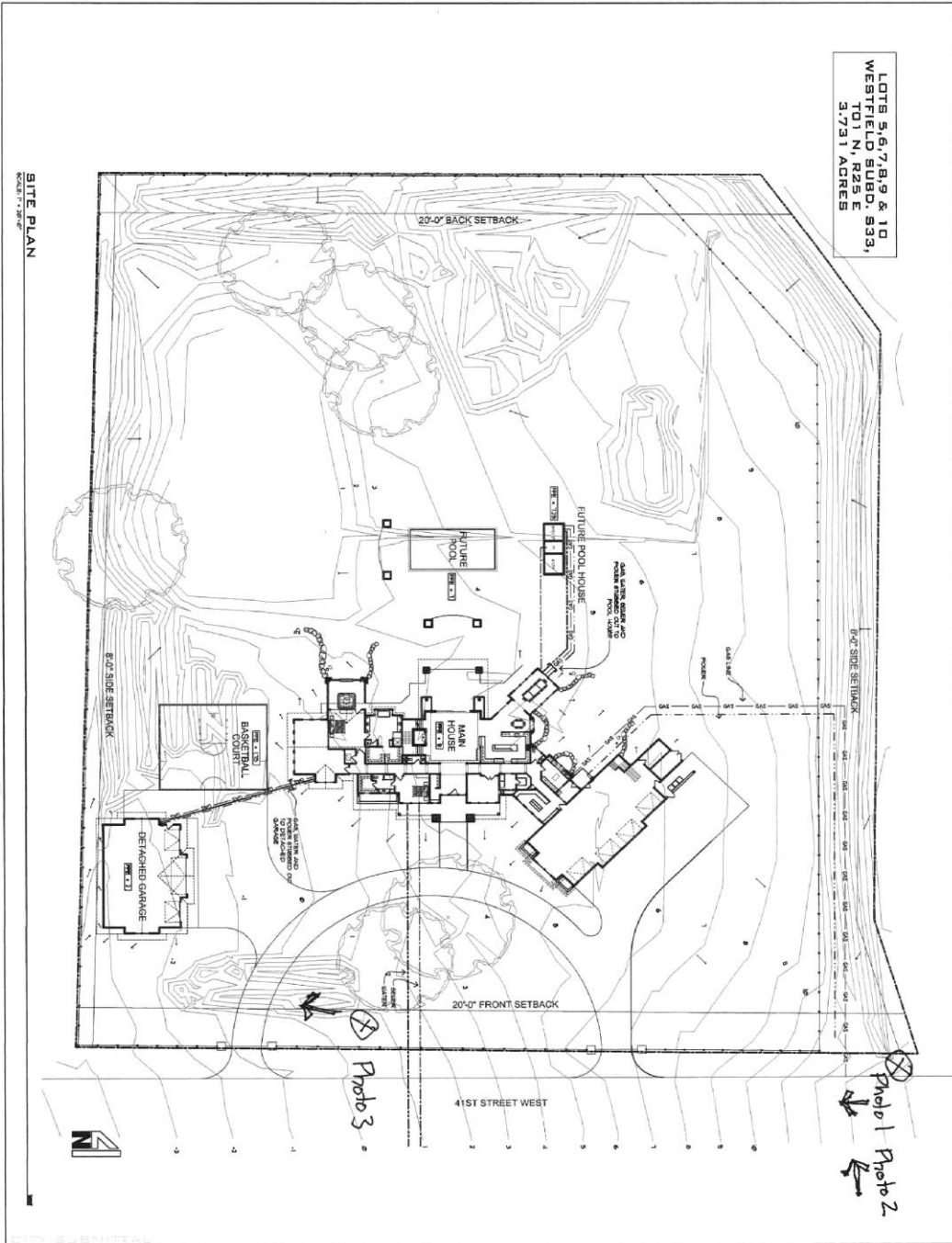
Studio 4 Architects
59102 PH: 406.656.1714
www.studio4architects.com

1430 Country Manor Blvd. Suite 4A, Billings, MT
WEB:

1

Attachment Site Plan

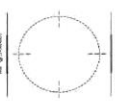
LOTS 5, 6, 7, 8, 9 & 10
WESTFIELD SUBD. S33,
T01 N, R25 E
3.731 ACRES



SITE PLAN
SCALE: 1" = 30'

STUDIO 41
ARCHITECTS

1430 Country Manor
Billings, MT 59102
PH: 406.658.1714
FX: 406.658.1718
WWW.STUDIO41ARCHITECTS.COM



PROJECT:

KIMMET RESIDENCE
41ST STREET WEST
BILLINGS, MONTANA

KIMMET RESIDENCE
41ST ST. WEST
BILLINGS, MONTANA

SET:

PROJECT NO. 2011
DATE: 08/11/11
DRAWN BY: JMM
CHECKED BY: JMM

DATE:

REV. DATE
REV. DATE
REV. DATE
REV. DATE

SHEET:

1.0
SITE

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, there are no structures currently on the property.

- 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 no other properties in the neighborhood that have larger detached structures than are allowed under the zoning code. Therefore, denying the applicant a variance for a new 2,200 square foot single detached structure and a total of 3,000 square feet of detached accessory structure area, would not deprive the applicant of rights commonly enjoyed by other properties 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;**

Granting this variance for a new 2,200 square foot single detached structure and a total of 3,000 square feet of detached accessory structure area would confer a privilege to this applicant that others in the subdivision do not have.

- 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 growth policy, however granting the variance would not be in harmony with the purpose and intent of the zoning code.

- 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;**

IF The Board of Adjustment votes to approve the variance request;

Staff is recommending the following conditions;

1. The 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 2,200 square feet for a single detached structure and a total of 3,000 square feet of detached accessory structure area in a Residential 9,600 (R-96) zone. No other variance is intended or implied with this approval.
2. The variance is limited to Lots 5 through 10, of Westfield Subdivision, a 3.731 acre parcel of land. This variance is for the parcel in its entirety as a 3.731-acre parcel and will no longer be valid if the parcel is reduced or divided at any time to less than 3.731 acres. Any reduction in size or division of this parcel will void the variance.
3. Any future construction or re-construction of the structure(s) will require compliance with all other zoning regulations and city ordinances that apply at the time of construction or re-construction.
4. The property owner has 6 months to apply for and receive an approved building permit, and 1 year to complete construction of the accessory structures.
5. 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, if approved requires the property owner a maximum of 6 months to apply for and receive an approved building permit, and 1 year to complete construction of the accessory structures.

- 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, but has a limit to the maximum size of a detached structure. Granting the variance would be giving a special privilege to the applicant in that they would be allowed a greater size and more than maximum allowed square foot of accessory buildings placed on other property in the district.



City Board of Adjustment

Meeting Date: 12/07/2016

SUBJECT: City Variance #1247- 3416 6th Avenue West

THROUGH: Wyeth Friday

PRESENTED BY: Karen Husman

Information

REQUEST

Variance 1247 – 3416 6th Ave S – Lot Area - A variance from 27-308 requiring a minimum lot area of 6,000 square feet to allow a minimum lot area of 5,250 square feet for the proposed boundary line adjustment and aggregation to create two (2) 5,250 square foot lots for development of single family dwellings in a Residential 6,000 (R-60) zone on Lots 13, 14 & 15, Block 219, Billings Second Addition, a 10,500 square foot parcel of land. Tax ID: A01624 Presented by Karen Husman, Planner I.

RECOMMENDATION

Planning Staff is recommending conditional approval.

APPLICATION DATA

OWNERS: Weber Investment Group
AGENT: Eggart Engineering
PURPOSE: to create two (2) 5,250 square foot lots for development of single family dwellings
LEGAL DESCRIPTION: Lots 13, 14 & 15, Block 219, Billings Second Addition
ADDRESS: 3416 6th Avenue West
EXISTING LAND USE: Residential (Vacant)
PROPOSED LAND USE: Residential
EXISTING ZONING: Residential-6,000 (R-60)

CONCURRENT APPLICATIONS

None

APPLICABLE ZONING HISTORY

Subject Property – None

Surrounding Property – Records show there have been 13 variance applications for lot area in the subdivision and the surrounding subdivisions that are in this older neighborhood of Billings. Twelve were approved and one was denied.

SURROUNDING LAND USE & ZONING

NORTH: Zoning: R-60
Land Use: Residential single family & multi family
SOUTH: Zoning: R-60
Land Use: Residential single family & multi family
EAST: Zoning: R-60
Land Use: Residential single family & multi family
WEST: Zoning: R-60
Land Use: Residential single family & multi family

BACKGROUND

The applicant is requesting a variance from 27-308 requiring a minimum lot area of 6,000 square feet to allow a minimum lot area of 5,250 square feet for the proposed boundary line adjustment and aggregation to create two (2) 5,250 square foot lots for development of single family dwellings in a Residential 6,000 (R-60) zone.

This is an older neighborhood in Billings and there are several properties in the area that are smaller than the required minimum size for the number of dwelling units constructed on them. There have been variances that have been granted in the area for single family, and multiple dwelling units, on smaller lots than what is allowed by current zoning. Some properties have obtained variances in the neighborhood while others have not. This R-60 zoned and existing 10,500 square foot parcel of land would allow two single family dwellings, or one multifamily building with up to four dwelling units by right. The owners would like to build two separate homes on two lots instead of having two separate homes on one lot and having to establish a unit ownership townhome arrangement to have the units owned separately.

Planning staff has reviewed this application and is forwarding a recommendation of conditional approval for Variance request #1247 based on the determinations for granting a variance.

RECOMMENDATION

Planning Staff is recommending conditional approval of City Variance #1247 based on the criteria for variances.

Attachments

Zoning Map & Site Photos
Applicant Letter & Site Plan
Determinations

ATTACHMENT
Surrounding Zoning & Site Location



ATTACHMENT
Site Photographs



Subject Property.



Subject Property Looking East

ATTACHMENT
Site Photographs, Continued

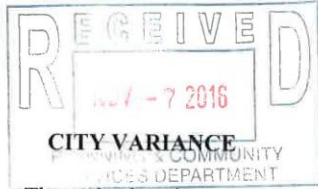


Looking West



Looking North

Attachment
Application and Applicant Letter



APPLICATION FORM

ID: Billings Variance # 1247 - Project # P2-16-00206

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 # A 01624 CITY ELECTION WARD # _____

Legal Description of Property: Lots 13-15, Block 219, Billings Second Addition

Address or General Location (If unknown, contact City Engineering): 3416 6th Ave S.

Zoning Classification: Residential 6000

Size of Parcel (Area & Dimensions): 140' x 75' (10,500 SF)

Covenants or Deed Restrictions on Property: Yes _____ No X

If yes, please attach to application

Variance(s) Requested: Variance from zoning for allowable lot size, to subdivide 10,500 sf lot into 2 5,250 sf parcels

Facts of Hardship: Economic feasibility vs. neighborhood harmony

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

Owner(s): Weber Investment Group
(Recorded Owner) _____
(Address) 2604 Emerson Pl, Billings, MT 59102
(Phone Number) _____ (email) _____

Agent(s): Eggart Engineering Company
(Name) _____
(Address) 720 Lakwest Ln., Billings, MT 59106
(Phone Number) (406) 833-9151 (email) scotts@eecmt.com

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: [Signature] Date: 11.7.16
(Recorded Owner)

11/03/2016

Dear Chairperson of the Board of Adjustment,

This property is located in a prime residential housing area within Billings where all necessary infrastructure for utilities is easily accessible. The site consists of three lots within an existing subdivision; however the existing zoning requires an area equal to about 1.7 times that of a single lot. We are asking for a variance from zoning so that we can divide the existing 3 lots into 2 lots with areas slightly less than the zoning requirement so that two new single family homes can be built on the site with individual owners. Without the passing of this variance, one single family home is allowed on the site, or up to four units by going through a "townhome" process. We think that creating sites for two new single owner, single family homes is a better alternative and fits better in the neighborhood than "townhoming" the lot into multiple units.

There are currently two addresses assigned to this property from Yellowstone County GIS. This is because the property owner was going to construct a duplex on this lot and had two addresses assigned. Since that time, the owner has decided that the cost of building a duplex on the site is not economically viable. He believes that dividing the site so that two individual single family dwellings is a better solution.

Within a one block distance from this site, there are at least 8 other properties which are smaller than the existing zoning requirements, so the granting of this variance will not create a unique situation to the vicinity. Also building on this site fits well with the City's infill ideals.

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. The applicant is requesting this variance in order to utilize a property that has not been developed.

- 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. There have been variances that have been granted in the area for existing single family and multiple dwelling units on smaller lots than what is allowed by current zoning. There are other properties in the neighborhood that have single family and multiple dwelling units on smaller lots. Some properties have obtained variances while others have not. Therefore, allowing the applicant a variance for 2 single family dwellings each on a 5,250 square foot lot would give the applicant similar rights commonly enjoyed by other properties 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;**

Granting this variance for 2 single family dwellings each on a 5,520 square foot lot would not confer a privilege to this applicant that others in the subdivision do not have. There are many small lots in this subdivision that have existing single family buildings 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 6,000 square feet to allow a minimum lot area of 5,250 square feet for the proposed boundary line adjustment and aggregation to create two (2) 5,250 square foot lots for development of single family dwellings in a Residential-6,000 Zone. No other variance is intended or implied with this approval.
2. The variance is limited to lots 13, 14 & 15, Block 219, Billings Second Addition, a 10,500 square foot parcel of land.
3. 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.
4. The applicant must submit an application for the lot line relocation and aggregation within 6 months of variance approval.
5. 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**

Per condition #4 the applicant must submit an application for the lot line relocation and aggregation within 6 months of 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 – Residential -6000 zoning allows single family dwellings.