

CITY BOARD OF ADJUSTMENT

MINUTES January 4, 2017

Name	Title	01/04/2017	02/01/2017	03/01/2017	04/05/2017	05/03/2017	06/07/2017	08/02/2017	08/03/2016	09/06/2017	10/04/2017	11/01/2017	12/06/2017
Jeff Bollman	Board member	1											
Dave Hagstrom	Board member	1											
Paul Hagen	Board member	1											
Frank Chesarek	Vice Chairman	1											
Oscar Heinrich	Board member	1											
Martin Connell	Board member	1											
Mark Noennig	Chairman	1											

TOTAL NUMBER OF APPLICATIONS 2016	01/04/2017	02/01/2017	03/01/2017	04/05/2017	05/03/2017	06/07/2017	08/02/2017	08/03/2016	09/06/2017	10/04/2017	11/01/2017	12/06/2017	TOTAL
Variance	1												1

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 Wyeth Friday, Director Planning and Community Services, Nicole Cromwell, Zoning Coordinator, and Robbin Bartley, Administrative Support.

Attending: Barbara Cox

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 Connell made a motion for the approval of December 7, 2016 minutes. Board member Hagen seconded the motion. Minutes were approved by unanimous voice vote 7-0.

Disclosure of Conflict of Interest

Chairman Noennig asked for disclosures of conflict of interest.

Board member	Yes	No	Not Present
Jeff Bollman		x	
Dave Hagstrom		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?	Comments
Jeff Bollman	x		n	Email to staff from APO
Dave Hagstrom		x	n	
Paul Hagen		x	y	
Frank Chesarek		x	n	
Oscar Heinrich	x		n	Email to staff from APO
Martin Connell	x		y	Email to staff from APO
Mark Noennig	x		y	Email to staff from APO

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 #1248**:

Nicole Cromwell presenting:

Variance 1248 – 1413 18th St West - Lot Area and Setbacks - A variance from 27-308 requiring a minimum lot area of 9,600 square feet to allow a minimum lot area of 5,166 square feet for the re-construction of two dwelling units; from 27-308 requiring a minimum 20 foot front yard setback to allow a minimum 15 foot front yard setback in a Residential 7,000 (R-70) zone on south 65 feet of Lot 12 and Lot 13 and the south 65 feet of the west 20 feet of Lot 14, Block 6, Kober Subdivision, 3rd Filing, a 5,166 square foot parcel of land. Tax ID: A09751

RECOMMENDATION

Planning Staff is recommending conditional approval.

Questions for Staff:

BOARD MEMBER **Connell** stated there are 2 garage doors and asked if they will be abandoned or demolished in the reconstruction? Staff replied the existing structure will be demolished. The applicants will be building from the ground up.

BOARD MEMBER **Hagstrom** asked if a common wall would be necessary on the attached carport. Staff advised a covered structure could attach and meet the condition. The carport cannot be independent of the two structures.

BOARD MEMBER **Bollman** asked for clarification regarding the front yard setback requirements. Staff explained that if a carport were constructed there, the roofline would need to be 20 feet back.

CHAIRMAN **Noennig** stated that no special language is required regarding a garage since none has been proposed. However a garage structure would require the same 20 foot setbacks.

BOARD MEMBER **Heinrich** stated that as long as the applicant conforms to everything regarding a duplex on that property, they could build anything. Staff said this is correct.

CHAIRMAN **Noennig** asked the difference between the 2 residences and the duplex. Staff replied that the lot coverage requirements is still the same, 30 percent. Which limits this structure to about 1500 square feet. The proposed roof coverage is 1200 square feet, no more than 300 square feet of patio coverage is acceptable.

CHAIRMAN **Noennig** asked for clarification regarding Staff's recommendation of a duplex rather than 2 separate buildings being that the lot coverage requirements for zoning are the same. Staff explained it was an aesthetics issue and building bulk.

BOARD MEMBER **Hagstrom** asked if a duplex must be attached. Staff explained a zone change that allowed the property owner to choose attached or 2 single family residences.

BOARD MEMBER **Bollman** stated there is no condition that the applicant must comply with a site plan and therefore a garage could be placed anywhere. Staff did ask the applicant about off street parking. There must be at least 2 spaces for each unit. The applicant expects to put a parking area in the back and used the proposed driveway area.

BOARD MEMBER **Hagen** asked about the concrete driveway which would disappear if the buildings are brought together.

BOARD MEMBER **Heinrich** asked how high a duplex can be. Staff replied 34 feet. He then inquired as to surrounding property objections, to which Staff indicated the one email received. One addition question if they build two structures, in the future can the property be split? Staff indicated that it may not be split.

Are there any other like sites in the neighborhood? Staff replied there are 5 variances in this area. None were for duplexes. There are 4 other non-conforming properties.

Public Hearing

Chairman Noennig opened the public hearing and asked if there was anyone wishing to speak in favor or against **City Variance #1248**.

Barbara Cox, applicant,(no address given)

Mrs. Cox and her husband have owned this property for 40 years. The City has denied her remodeling plans piece by piece. There is a large Code Enforcement file on this property. Her husband had a stroke and is now disabled. This variance is necessary as they need a home and without it, they cannot rebuild 2 units. The 2 units are necessary to house Mrs. Cox and her husband and the second dwelling will house their daughter and special needs grandson. As a family living close enables them to help each other in so many ways.

BOARD MEMBER **Chesarek** asked Mrs. Cox if she would have any issues conforming to the

conditions set forth and how soon she intended to start the demolition and rebuild. Mrs. Cox indicated there would be no problems conforming and the process would begin as soon as the contractor is given the go ahead.

BOARD MEMBER **Connell** asked if the building plans were ready. A Line is working on them now and is waiting for the variance approval and conditions. He then asked Mrs. Cox if she is comfortable with the staff recommendations. She replied affirmatively.

Opposed

NONE

Discussion

BOARD MEMBER **Connell** likes to see reclamation. Mrs. Cox is happy with the conditions and therefore he supports the variance.

BOARD MEMBER **CHESAREK** made a motion and BOARD MEMBER **HEINRICH** seconded the motion to approve City Variance #1248 with the Findings of Fact presented by Staff.

Board member	Yes	No	Not Present
Jeff Bollman	x		
Dave Hagstrom	x		
Paul Hagen	x		
Frank Chesarek	x		
Oscar Heinrich	x		
Martin Connell	x		
Mark Noennig	x		

The motion to approve City Variance #1248 passed 7-0.

The public hearing was closed at 6:35 PM.

Other Business/Announcements:

Ex Parte Communications Memorandum/Wyeth Friday presenting.

This is from an agreement between Billings Industrial Revitalization District and The City of Billings Board of Adjustment. Mr. Jerry Ray requested a Variance in the East District Urban Renewal district several years ago. The Board's decision was split, part of the variance was approved and the other not. The BURD sued as did Mr. Ray.

As a result, more training is necessary regarding Ex Parte Communications.

BOARD MEMBER **HEINRICH** mentioned he receives invitations to the events in the BURD and questioned whether he should go. Mr. Friday thought it should not be a problem. He pointed out the City Attorneys definition of Ex Parte. We will be having a training session on Ex Parte communication in the near future for all the Boards and Commissions.

The next meeting will be on February 1, 2017.

Adjournment: 6:46 p.m.

ATTEST: DRAFT. To be approved by a motion on February 1, 2017.