



CITY BOARD OF ADJUSTMENT
AGENDA-Wednesday, May 3, 2017, @ 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:

1. Minutes of April 5, 2017.

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. **City Variance 1259 – 922 Royal Avenue – Lot Coverage** – A variance from 27-308 requiring a maximum lot coverage of 30% to allow a maximum lot coverage of 36% (3,518 sf +) in a Residential 9,600 (R-96) zone on Lot 12, Block 6, Kingston Place Subdivision, a 9,917 square foot parcel of land, for the purpose of construction of a 112 square foot sun porch on an existing concrete slab. Presented by Nicole Cromwell, Zoning Coordinator

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: 05/03/2017

Information

Subject

Minutes of April 5, 2017.

Attachments

BBOA_2017_0405_draft

CITY BOARD OF ADJUSTMENT

MINUTES April 5, 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	1	E	1								
Dave Hagstrom	Board member	1	1	1	1								
Paul Hagen	Board member	1	1	1	1								
Frank Chesarek	Vice Chairman	1	1	E	1								
Oscar Heinrich	Board member	1	1	E	1								
Martin Connell	Board member	1	1	1	1								
Mark Noennig	Chairman	1	1	1	E								

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	7	2									11

Vice Chairman Chesarek 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.

Dave Green introduced the City Board of Adjustment members and Planning Department staff. Attending Staff members are Dave Green, Planner II, Karen Husman, Planner I and Robbin Bartley, Administrative Support.

Attending: Brad McCall, Mattie Walton, Jon Walton, Bob Goodale, Bruce Lackman

Public Comment

Vice Chairman Chesarek 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. Vice Chairman Chesarek closed the public comment period.

Approval Meeting Minutes

Board member Connell made a motion for the approval of March 1, 2017 minutes. Board member Hagen seconded the motion. Minutes were approved by unanimous voice vote 6-0.

Disclosure of any Conflict of Interest, Ex Parte Communications and Site Visits

A new form has been implemented for any disclosures. If any Board member circled yes to a Conflict of Interest or Ex Parte Communication, it will be explained here.

Public Hearings

Dave Green reviewed the procedures for public hearings and stated the Board will open a public hearing and allow public comment this evening. He reviewed the hearing and presentation processes for the meeting and acting on each variance.

Dave Green read the legal description for **Variance #1257**:

Karen Husman presenting:

City Variance 1257 – 215 14th St West – Lot Coverage – A variance from 27-308 requiring a maximum lot coverage of 30% to allow a maximum lot coverage of 33% (2,439 square feet) in a Residential 7,000 (R-70) zone on Lot 2, Block 11, Normandy Subdivision, 2nd Filing a 7,440 square foot parcel of land, for the purpose of construction 1 new detached garage. Tax ID: A11453.

RECOMMENDATION

Planning Staff is recommending conditional approval for Variance request #1257, based on the determinations for granting a variance.

Questions for Staff:

Board member Heinrich- asked if the setbacks will be met and if there were any surrounding property owner objections. Staff replied the setbacks will be met, there has been no communication from neighbors. Alley access is allowed.

Public Hearing

Vice Chairman Chesarek opened the public hearing and asked if there was anyone wishing to speak in favor or against **City Variance #1257**.

Jon Walton, owner, 215 14th Street West, Billings

All the homes in this area were built without garages. In order to build a garage and meet the lot coverage requirements all storage would be sacrificed. He wants off street parking.

Board member Hagen asked if the access to the new garage be from 14th Street West. The access is from the alley.

Board member Heinrich asked if the shed will be kept or removed. Mr. Walton intends to sell it.

OPPOSED

None

Discussion

Board Member Hagstrom – asked regarding the 31 or 33 percent lot coverage. Staff explained that the Planning department must use the Tax Assessor's information.

BOARD MEMBER Connell made a motion and BOARD MEMBER Heinrich seconded the motion to approve **City Variance #1257** 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 #1257 passed 6-0.

Dave Green read the legal description for **Variance #1258**:

Dave Green presenting:

City Variance 1258 – 5518 Sacagawea Dr – Lot Area and setbacks – A variance from 27-308 requiring a minimum lot area of 55,000 square feet for two 4-unit apartments and five duplexes to allow 43,310 square feet; from 27-309 requiring a minimum front setback of 20 feet from the front property line to allow 8 feet; from 27-309 requiring a minimum side adjacent to street setback of 10 feet to allow 5 feet; and from 27-308 requiring a minimum front setback of 15 feet to allow 8 feet in a Highway Commercial (HC) zone on 26A, Block 10, Riverfront Pointe Subdivision. Tax ID: A31299.

RECOMMENDATION

Planning Staff is recommending conditional approval based on the findings of the 7 criteria for **Variance #1258**.

Questions for Staff:

Board member Heinrich asked if the parking for commercial space will be behind the new complex. Staff indicated street parking. Please address the Peaks to Plains Design letter. Staff replied.

Board member Hagstrom asked what is the timing? Deferred to the developer.

Board member Hagen asked the point out the variances. Staff explained.

Board member Bollman asked if calculations were done, how many units are possible. Staff explained the density could have been achieved without the variance but the buildings would need to be attached.

Board member Hagstrom-referring to the determinations page, no special privileges are being granted in this district-what is the district. Staff explained this is referring to the neighborhood.

Board member Hagstrom asked if allowing a higher density is a special privilege. Staff explained that it could be interpreted that way, but that there is high density all around this proposed area.

Public Hearing

Vice Chairman Chesarek opened the public hearing and asked if there was anyone wishing to speak in favor or against **City Variance #1258**.

Brad McCall, 1536 Muldowney Lane, Suite 100, Billings, MT

This will be called Josephine Corner. He expects this project to be completed by the end of the year. He addressed the Peaks to Plains letter, making an explanation of their part.

Opposed

Bob Goodale, 1534 Glacier Peak

Indicated he is less opposed after hearing the information presented. He asked for an explanation of intended parking and stated traffic is going to be a problem in the future.

Discussion

BOARD MEMBER Heinrich made a motion and BOARD MEMBER Bollman seconded the motion to approve **City Variance #1258** 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 #1258 passed 6-0.

The public hearing was closed at 6:50 PM.

Other business:

The next meeting will be on May 3, 2017.

Jeff not attending

Marty not attending

The meeting adjourned at 6:50PM.

ATTEST: DRAFT. To be approved by a motion on May 3, 2017.



City Board of Adjustment

Meeting Date: 05/03/2017

SUBJECT: Variance 1259 - 922 Royal Ave - Lot Coverage

THROUGH: Nicole Cromwell

PRESENTED BY: Nicole Cromwell

Information

REQUEST

City Variance 1259 – 922 Royal Avenue – Lot Coverage – A variance from 27-308 requiring a maximum lot coverage of 30% to allow a maximum lot coverage of 36% (3,518 sf +) in a Residential 9,600 (R-96) zone on Lot 12, Block 6, Kingston Place Subdivision, a 9,917 square foot parcel of land, for the purpose of construction of a 112 square foot sun porch on an existing concrete slab. Presented by Nicole Cromwell, Zoning Coordinator

RECOMMENDATION

Planning staff recommends conditional approval based on the findings of the 7 criteria.

APPLICATION DATA

OWNER: Frank and Gloria Perusich

AGENT: Sandy Nace, Northwest Building and Design, LLC

LEGAL DESCRIPTION: LOt 12, Block 6, Kingston Place Subdivision

ADDRESS: 922 Royal

CURRENT ZONING: R-70

EXISTING LAND USE: Single family home

PROPOSED USE: Same with attached sun porch on an existing concrete slab (8' X 14')

SIZE OF PARCEL: 9,917 square feet

CONCURRENT APPLICATIONS

Building Permit - BP-16-07351 - submitted on October 20, 2016.

APPLICABLE ZONING HISTORY

Subject Property - The property received a lot coverage variance (Variance #1188) in June 2014 for the original construction of the house, garage, and sunroom. The application was approved to allow 33% lot coverage. Staff had recommended denial of the application. Based on the testimony from the owner and other proponents at the public hearing, the BOA approved the lot coverage increase.

Surrounding Property - An application in Linda Subdivision for an oversized detached garage was denied in August 2005. In November 1994, property in Hoven Subdivision was granted a lot area variance to allow 2 additional dwelling units. A side setback variance was granted for 1204 Hawthorne Lane for a detached garage. A subsequent variance for the same parcel reduced the lot area requirement for a duplex dwelling. An arterial setback was reduced from 80 feet to 44 feet for a property in the Herbert Subdivision on the west side of Bench Boulevard by a 1998 variance. A 2011 variance to allow a 35% lot coverage for an addition at 964 Pegasus Place was denied unanimously by the BOA.

SURROUNDING LAND USE & ZONING

NORTH: Zoning: R-70
Land Use: Single family dwellings
SOUTH: Zoning: R-70
Land Use: Single family dwellings
EAST: Zoning: R-70
Land Use: Townhomes and 2-family dwellings
WEST: Zoning: R-70
Land Use: Single family dwellings

BACKGROUND

This is an application to increase the allowable lot coverage for 922 Royal Avenue from the allowed 33% (Variance 1188) to 36% lot coverage for a new sun porch on an existing concrete slab on the south side of the existing home. The previous variance was to accommodate the original home and attached garage. The owner has added a 120 square foot detached shed and is now requesting a 112 square foot sun porch on the existing concrete patio slab. The new proposed lot coverage including the shed and the patio cover will be close to 36% of the lot area. The zoning in the immediate neighborhood is all R-70 with few exceptions east of Bench Boulevard.

RECOMMENDATION

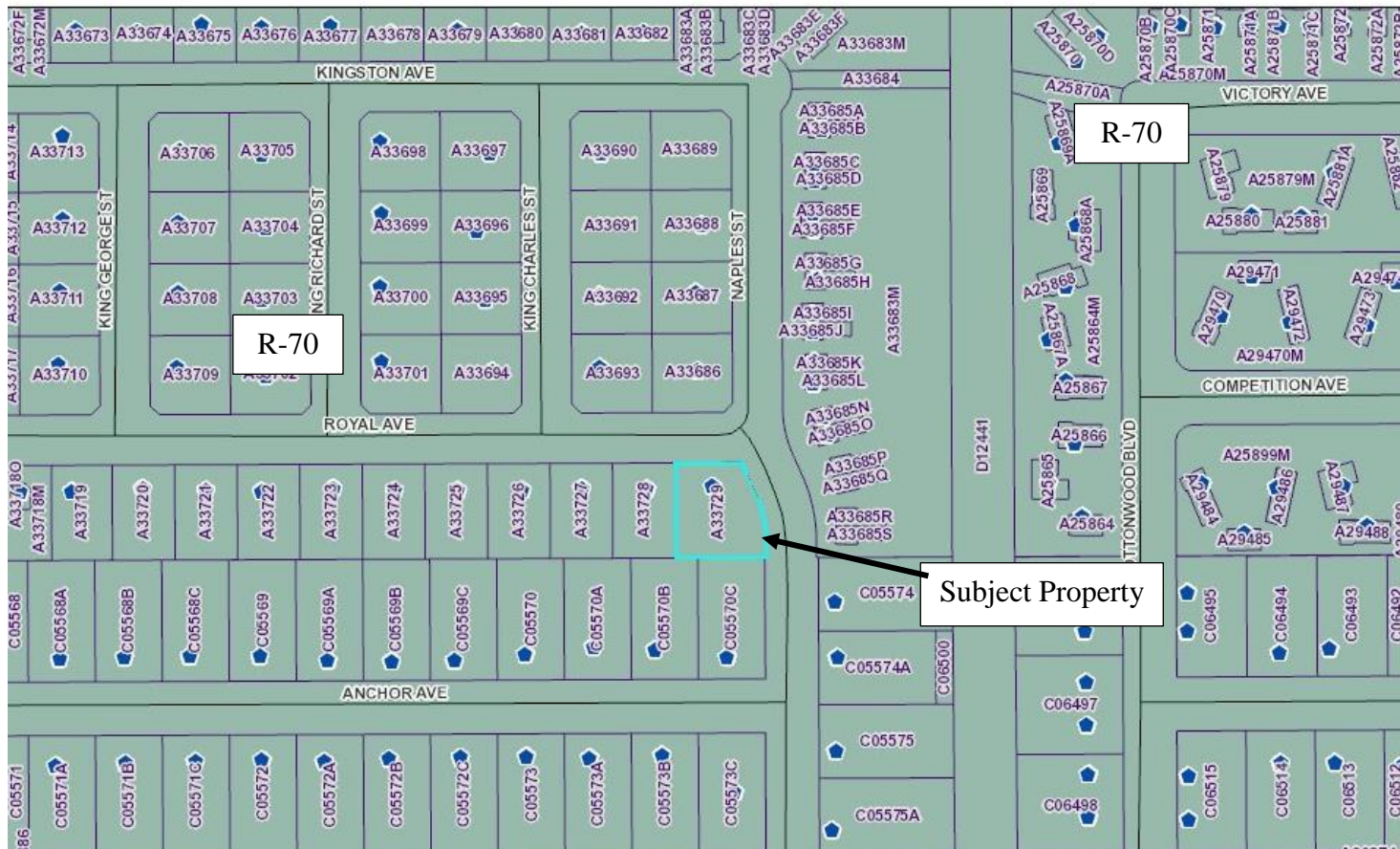
Staff recommends conditional approval and adoption of the findings of the 7 criteria.

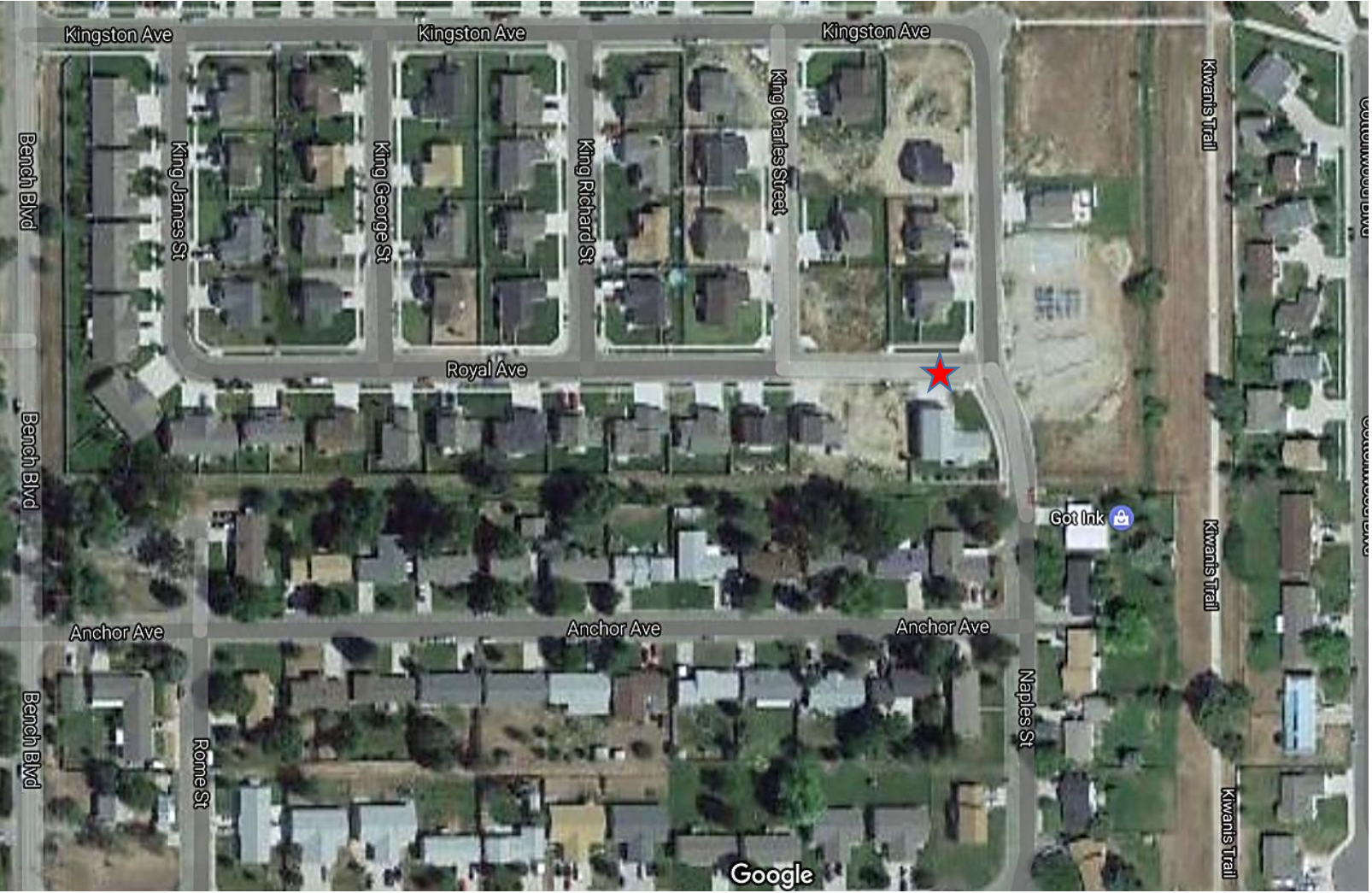
Attachments

Zoning Map and Site Photos
Prop Findings of the Review Criteria
Kingston Place Covenants
Applicant Letter and Site Plan
Letter of Objection

Variance 1259 – 922 Royal Avenue – Lot Coverage
Zoning Map and Site Photos

922 Royal Ave - Variance 1259







Subject Property



East side of subject property view south on Naples Street



View west from Naples Street



View north and west from Naples Street



View north and west to back yard of subejct property



Proposed patio cover

**Findings of the Review Criteria
Variance 1259 – 922 Royal Avenue**

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 cover a concrete patio area with a sun porch to enjoy the outdoors in the afternoon. The property received a lot coverage variance to 33% in 2014 for the original construction. Subsequent to the construction, the owner added a detached shed of 120 square feet and is now requesting 112 square feet for the patio cover. This would add another 3% lot coverage for a total lot coverage of 36%.

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 newer subdivision and was granted a first variance for lot coverage in 2014. An application to exceed lot coverage for a garage addition at 964 Pegasus Place was denied in 2011. There are no other lot coverage variances of record in the area. Two newly developed properties to the west (902 and 906 Royal Avenue) also exceed the maximum lot coverage (31%) but did not apply for variances. This was either due to plan review error, or a field change in the approved building dimensions without further review by the Planning Division. Some properties have obtained variances while others have not. The literal interpretation of the provisions of this Chapter would deprive the applicant of rights enjoyed by other tracts in the same district; therefore, allowing the applicant a variance to increase the lot coverage to 36% would not deprive the applicant of these rights.

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 36% lot coverage on this property would not be granting a special privilege to this owner. Other lot coverage variances have been granted and other property in the neighborhood are over the 30% maximum without the benefit of a variance.

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 approval (as recommended by Staff) 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 maximum lot coverage of 30% to allow a maximum lot coverage of 36% based on the lot area of 9,917 square feet. No other variance is intended or implied with this approval.
2. The variance is limited to Lot 12, Block 6, Kingston Place Subdivision, generally located at 922 Royal Avenue.

3. The applicant will submit a building permit application within 6 months of Board approval.
4. The applicant will complete the construction of the approved patio cover within 18 months of building permit approval.
5. There will be no construction activity before 7 am or after 8 pm.
6. Failure to start or complete actions required in this approval will void the variance.
7. 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.
8. 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 property owner shall apply for a building permit to construct the sun porch within 6 months of Board approval and complete the construction within 18 months of building permit approval.

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

The granting of this variance would not allow a use that is not already allowed in the zoning district – R-70 zoning allows sun porches.



Return To:
Pedersen & Hardy
1001 S. 24th Street West, Suite 110
Billings MT 59102
File No. 35065

DECLARATION OF COVENANTS AND RESTRICTIONS
FOR KINGSTON PLACE SUBDIVISION

KING HEIGHTS, LLC, a Montana limited liability company, owner and developer of the following described real property and all portions thereof, located in Yellowstone County, Montana, hereby establish and declare the following building and use restrictions which shall be applicable to the said real property:

- Lots 2, 3, 4, 5, 6 and 7, Block 1
- Lots 5, 6, 7 and 8, Block 3
- Lots 1, 2, 3, 4, 5, 6, 7 and 8, Block 4
- Lots 1, 2, 3, 4, 5, 6, 7 and 8, Block 5
- Lots 2, 3, 4, 5, 6, 7 and 8, Block 6

all in Kingston Place Subdivision, Yellowstone County, Montana, according to the official plat thereof on file and of record in the office of the Clerk and Recorder of said County, under Document NO. 3378734.

These restrictions do not apply to Lot 1, Block 1, Lot 1, Block 6, Lot 12, Block 1, or Lot 12, Block 6, of Kingston Place Subdivision, which Developer expects to use for multi-family housing, such as duplexes, condominiums, townhomes, or patio homes. Neither do these restrictions apply to Lots 8, 9, 10 and 11, Block 1, Lots 1, 2, 3, 4, 5, 6, 7 and 8, Block 2, Lots 1, 2, 3, 4, and 5, Block 3, and Lots 9, 10 and 11, Block 6 of Kingston Place Subdivision, all of which Developer expects to use for single-family housing (the "single-family housing Lots"). Developer hereby reserves the right to subject Lot 1, Block 1, Lot 1, Block 6, Lot 12, Block 1, or Lot 12, Block 6, of Kingston Place Subdivision, and any portion or all the single-family housing Lots, as currently platted or re-platted, to some or all of the provisions of this Declaration by executing and recording an amendment to this Declaration, and thereby subjecting the Lots to some or all of the provisions of this Declaration.



The amendment shall be made in Developer's sole discretion and without consent of any other person, entity, or party. The consent of any other Lot owner, mortgagee, or trustee or beneficiary of any trust indenture, shall not be required for such amendment. From and after the recording date of such amendment, if any, the owners of any Lots thereby made subject to any one or all the provisions of this Declaration, shall be bound by the provisions of this Declaration to the extent set forth in the Amendment.

All Lots now subject or later subjected to this Declaration are hereafter referred to as the "Lots" or "Lot".

KING HEIGHTS, LLC, (Owner - Developer) places these covenants and restrictions upon said property for the benefit of the owners of all property in Kingston Place Subdivision for the purpose of protecting the value and desirability of the above described Lots.

The covenants, restrictions and conditions herein contained shall run with the land and shall be binding on all parties and persons and all persons claiming under them.

The Grantees of any lot, by acceptance of a conveyance, covenant and agree faithfully to observe and abide by all of said conditions, covenants and restrictions.

CONSTRUCTION

1. All buildings and other structures must comply with City of Billings zoning regulations, as amended from time to time.

2. Any single story, split level or tri-level residence erected on any lot shall have a ground floor area of not less than nine hundred square feet in the main structure within the perimeter of the exterior walls, exclusive of open porches and garages; two-story residences shall have not less than five hundred square feet on the ground floor. Each residence shall have a total of no less than nine hundred square feet. Each residence shall have a two or three car enclosed, attached garage with garage doors no more than eight feet high. Garages which house more than three cars shall not be permitted.

3. All residences and other buildings and structures erected on said property shall be of new construction and built with new materials. No old buildings shall be moved upon any lot. No off-site manufactured residences, including, but not limited to modular homes, manufactured homes and mobile homes, are permitted on any of the Lots.



4. One outbuilding or storage shed may be constructed on each Lot. Outbuildings must be of new construction and built with new materials. A new prefabricated storage shed is permitted. The outbuilding shall be kept in a good state of repair and shall not be allowed to become rundown or an eyesore to the neighbors. No carports shall be permitted in Kingston Place Subdivision. No shed or outbuilding shall be constructed before building a house.

5. Any structure erected on any lot shall be fully enclosed, sided and shingled, within one hundred eighty days after equipment and/or materials to be used in construction have been moved onto the location, and all construction shall be pursued with reasonable diligence. No excavations, shall be permitted on any lot until such time as the actual construction of the building is to begin, except that the owners test for subsoil conditions, provided that such test sites are replaced to their original condition. The provisions of this section does not apply to Jeff Junkert Construction.

6. All utility lines and pipes shall be placed underground; no overhead lines shall be permitted.

7. All structures shall be sided with conventional siding, and no asbestos siding or siding of an asphalt composition may be used. Natural rock or brick, cultured stone or cultured brick may be used on exterior wall surfaces. Masonry block construction is not allowed.

8. All solar collectors shall be designed as part of and incorporated into a structure and shall not be later added to such dwelling. Solar collectors shall be designed so as preclude and prevent heat build-up in surrounding structures from their reflective rays.

9. All fences shall be erected of PVC, new cedar or redwood, or ornamental iron. No chain link or wire material will be allowed.

10. Fences, hedges, or other structures, when placed between the principal residence and the front or side Lot line shall not exceed six feet in height from the finished grade.

11. Owners shall plant, maintain, and, in case of death or destruction, replace one tree in the front boulevard and at least one other tree in the front yard of any lot within one year after each residence is occupied. Each tree shall be at least 6-feet in height, except evergreens, which shall be at least 3-feet in height to receive credit toward this fulfilling requirement. In addition, a lawn or other form of permanent landscape must be installed and maintained within one year after a residence is first occupied. All weeds or other noxious growths shall be



abated or eradicated on all Lots.

USE

12. The primary use of each Lot shall be only residential purposes.
13. No structure shall be erected, altered, placed or permitted upon any lot exceeding two stories in height. For the purposes of these restrictions, "two stories" shall mean two stories above grade, except split-level structures will be permitted. Garages shall be attached and may not be for less than two cars, nor more than three cars. Carports are not permitted. Garage doors shall not be higher than 8 feet.
14. No living quarters shall be occupied prior to final inspection by the City of Billings.
15. No unlawful activity shall be permitted on any lot, nor shall anything be done thereon which may become a nuisance to the neighborhood.
16. No trailer, tent, garage, or outbuilding shall at any time be used as a residence, temporarily or permanently, nor shall any structure, of whatsoever nature, of a temporary character, be used as a residence.
17. Motor homes may be temporarily parked on streets or driveways, for periods not exceeding seven consecutive days or thirty total days in any calendar year.
18. No abandoned, junked, inoperable or wrecked vehicles shall be stored on any lot unless the vehicle is fenced or enclosed so that it is concealed from view.
19. No inoperable or unlicensed vehicle shall be parked on any lot or on any public street in Kingston Place Subdivision for a period of more than twenty-four hours unless located inside a closed garage. No overhauling or major repair of vehicles is allowed in Kingston Place Subdivision.
20. No swine, goats, sheep, cows, horses, livestock and/or poultry of any nature shall be kept or permitted on any of said premises. All dogs and cats shall be kept on the lot owned or leased by the occupant unless under the control of the occupant outside the said premises. Occupants are permitted to have only one cat and one dog, two cats, or two dogs, not to exceed two animals per lot. No animals, including dogs and cats shall be raised or cared for on a commercial basis. Dog houses painted to match the house with a kennel area no larger than twelve feet long, six feet wide, and six feet high are allowed provided they are located inconspicuously in the rear yards with consideration paid to the effect of noise and



odor upon neighboring properties. No resident shall keep a pet which is a nuisance to other residents in Kingston Place Subdivision.

21. No junk, trash, debris, organic or inorganic waste shall be permitted to accumulate on any lot or in any street in Kingston Place Subdivision; all junk shall be promptly and effectively disposed of, and no lot shall be used as a dumping ground or burial pit. Garbage containers shall be concealed from view by fences, hedges or other means, except on collection day.

22. No signs, billboards, posters, or advertising or political devices of any kind or character shall be erected or displayed upon any of the lots, excepting subdivision promotion signs, signs displayed to identify the occupants of a dwelling, Realtors' signs, for sale signs, and contractors' construction signs.

23. No clothes lines, wires or devices for hanging clothes shall be erected in the front, side or rear yard of any home, except retractable clothes lines, which shall be permitted in rear yards only and must be retracted when not in use.

24. No television or satellite dishes shall be permitted on any lot unless the dish is no larger than one meter in diameter and placed in an inconspicuous location on the lot.

25. All owners shall be obligated to maintain their homes, garages, outbuildings and yards so that they are clean, tidy and in good repair. Owners shall not permit peeling paint, broken sidewalks or driveways, broken shingles, or any other unsightly condition on their property. Lawns must be kept mowed and dead or dying trees and shrubs must be removed so that all properties in Kingston Place Subdivision reflect a high pride of ownership.

26. The rental of a portion of a residence or garage shall not be permitted. Rental of the entire residential structure is permitted.

DISCLOSURES

27. Lot owners should be aware that this Subdivision is being built in close proximity to prime deer and antelope habitat and it is likely that homeowners will experience problems with damage to landscape shrubs, flowers, and gardens. The Montana Fish, Wildlife, and Parks Department does not provide damage assistance unless there is damage to commercial crops or a threat to public health and safety.

28. Lot owners should be aware that soil characteristics within the area of this Subdivision, as described in the 1972 Yellowstone County Soil Survey, indicate that there could be potential limitations for proposed construction on the lots,



which might require a geotechnical survey prior to construction.

29. No water rights have been transferred to the lot owners. Irrigation ditches that exist on the perimeter of this development are for the benefit of other properties. Perimeter ditches and drains shall remain in place and shall not be altered by the Lot owners.

MISCELLANEOUS

30. To the extent any provision of the zoning regulations of the City of Billings, Montana, as amended from time to time (the "Regulations"), are more restrictive than the terms of this Declaration, the zoning regulations shall control. To the extent the terms of this Declaration are more restrictive, this Declaration shall control.

RIGHT TO ENFORCE

The restrictions herein set forth shall run with the land and bind the present owners, their heirs, devisees, trustees, and assigns; and any and all parties claiming by, through or under them, shall be taken to hold, agree and covenant with the owners of said lots, their heirs, devisees, trustees, and assigns, and with each of the owners of said lots, to conform to and observe said restrictions as to the use of said lots and the construction of improvements thereon; but no restrictions herein set forth shall be personally binding upon any corporation or person except in respect to breaches committed during its or his ownership of or interest in said land.

The owner or owners of any of the lots subject to this Declaration shall have the right to sue for and obtain an injunction, prohibitive or mandatory, to prevent the breach of, or to enforce the observance of, the restrictions set forth above, in addition to the ordinary legal action for damages. The failure of the present owners, or the owner or owners of any lot in this subdivision to enforce the restrictions herein set forth at the time of any violation thereof shall not be construed as a waiver of the right to do so.

In the event of a suit to enforce these Restrictions, the losing party shall be obligated to pay all costs and attorney fees incurred by the prevailing party.



AMENDMENT

These restrictions may be amended or rescinded, in whole or in part, only with written consent of the owners of at least eighty percent of the lots subject to these restrictions. Until such time as King Heights, LLC or its assigns, have completed construction of residences on all lots subject to these restrictions, any amendment or rescission must also be approved, in writing, by King Heights, LLC. The right to refuse to consent to amendment or rescission of these restrictions may be assigned by King Heights, LLC to another owner of multiple vacant lots in Kingston Place Subdivision; such assignment shall not be presumed but must be specifically set forth in writing, signed by King Heights, LLC and recorded in the office of the Yellowstone County Clerk and Recorder. Upon recordation of such assignment, consent of King Heights, LLC shall no longer be required. No amendment or revocation of these restrictions shall be effective unless it is signed by the requisite owners and filed of record in the office of the Clerk and Recorder of Yellowstone County, Montana.

DATED this 15 day of August, 2006.

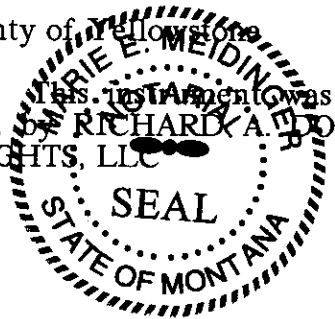
KING HEIGHTS, LLC

By: Richard A. Dorn
Richard A. Dorn for
Dorn Property LLC, Member

By: J. J.
Jeff Junkert for
East Bench Properties, LLC, Member

STATE OF MONTANA)
County of Yellowstone)
: ss.

This instrument was acknowledged before me on August 15, 2006, by RICHARD A. DORN for DORN PROPERTY LLC, Member of KING HEIGHTS, LLC



Marie E. Meidinger
Marie E. Meidinger
(print or type name of notary)
Notary Public for the State of Montana
Residing at Billings, Montana
My Commission Expires 12-28-2007

(SEAL)



Yellowstone County

RES

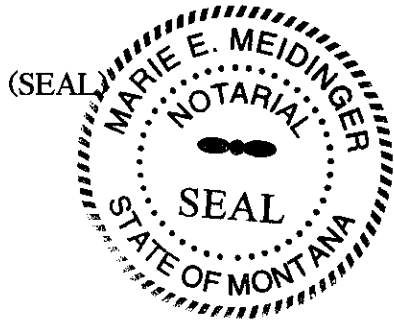
56.00

STATE OF MONTANA)
County of Yellowstone)
: ss.

This instrument was acknowledged before me on August 15, 2006, by JEFF JUNKERT for EAST BENCH PROPERTIES, LLC, Member of KING HEIGHTS, LLC

Marie E. Meidinger
MARIE E. MEIDINGER
(print or type name of notary)

Notary Public for the State of Montana
Residing at Billings, Montana
My Commission Expires 12-28-2007



APPLICATION FORM

CITY VARIANCE

ID: Billings Variance # 1259 - Project # P2-17-00050

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 # ~~474399854~~ A33729 CITY ELECTION WARD # 2

Legal Description of Property: Kingston Place, 523, 701 N, R26 E, Block 6, Lot 12,
(07) 9917 sq. ft

Address or General Location (If unknown, contact City Engineering): 922 Royal Avenue
Billings, MT 59105

Zoning Classification: Residential 7000

Size of Parcel (Area & Dimensions): 9917 sq ft. 102x105.97 ft.

Covenants or Deed Restrictions on Property: Yes No

If yes, please attach to application

Variance(s) Requested: Increase lot coverage to 35% - Enclose current slab
into screened sunroom. 3518 sq ft = 36%

Facts of Hardship: Older couple, would like a shaded covered area to
enjoy while gardening etc.

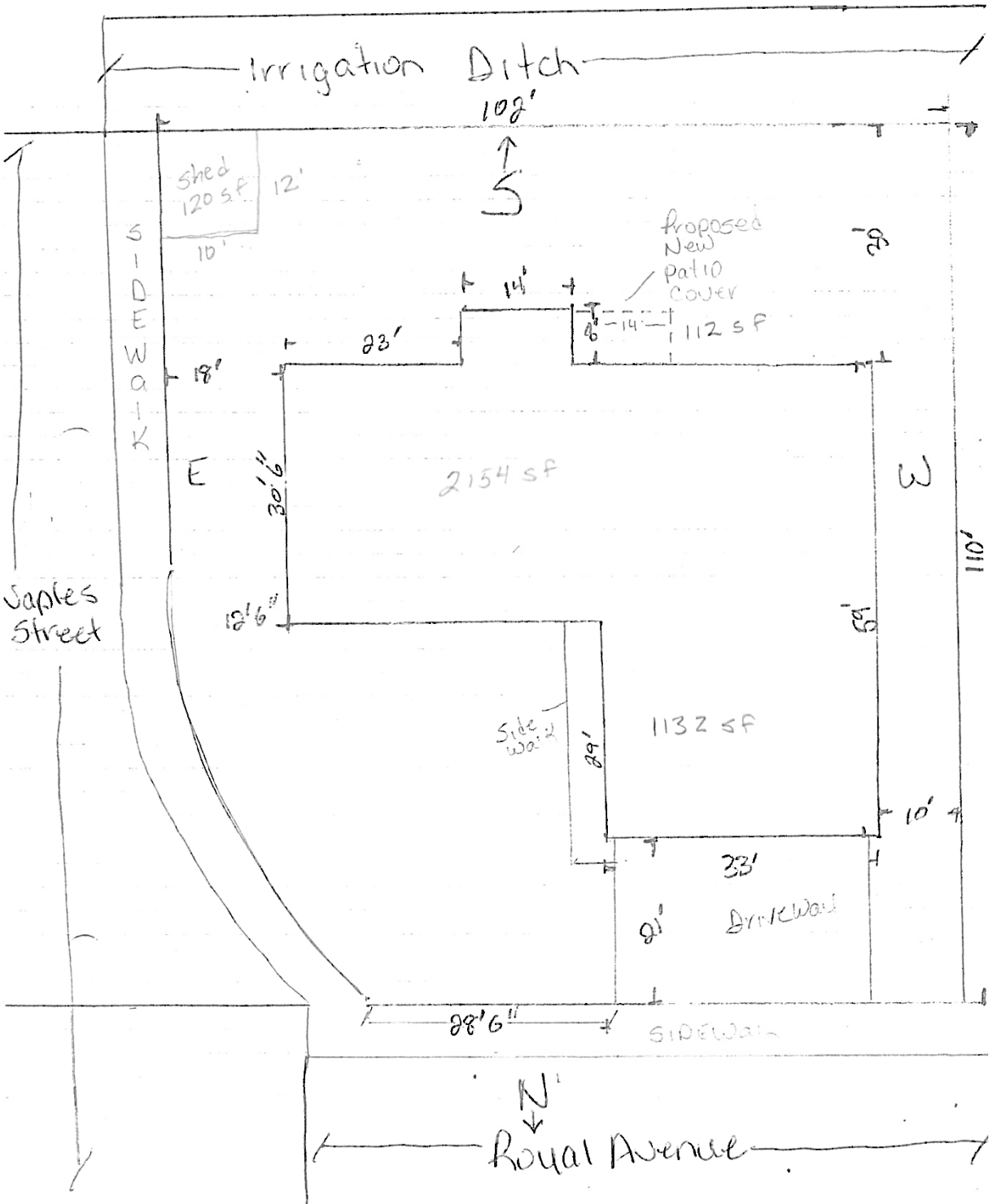
*** Additional information may be required as determined by the Zoning Coordinator in order to fully evaluate the application.

Owner(s): Frank and Gloria Perusich
(Recorded Owner) 922 Royal Avenue Billings, MT 59105
(Address) 406-690-2308 frankp59101@outlook.com
(Phone Number) (email)

Agent(s): Northwest Building and Design LLC
(Name) 6210 Gray Hawk Ct. Billings, MT 59102
(Address) 406-245-1560 NWbuilds4me@gmail.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: Frank Perusich Date: 3/28/2017
(Recorded Owner)



Attention: City of Billings - Zoning and Planning

Request for Variance

March 8, 2017

Owners:

Frank and Gloria Perusich
922 Royal Avenue
Billings, MT 59105
406-690-2308

Contractor:

Northwest Building and Design, LLC
6210 Gray Hawk Ct
Billings, MT 59106
406-245-1560

Legal Description:

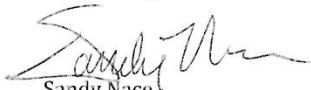
KINGSTON PLACE, S23, T01 N, R26 E, BLOCK 6, Lot 12, (07) 9917 SQ FT

Request:

We are requesting a variance at 922 Royal Avenue Billings, MT 59105, for Mr. and Mrs. Frank & Gloria Perusich. The purpose for this is to simply place a cover over the cement patio currently in place and add walls with a single door. It is less than 125 square foot. The exterior will have matching siding and the roof will be a TPO Membrane.

Thank you for your prompt attention.

Respectfully,



Sandy Nace

Northwest Building and Design, LLC

Planning and Community Services Department
2825 3rd Ave North, 4th floor
Billings, Montana

Re: City Variance #1259
Project Number: 17-050

To Whom it may Concern;

I am opposed to the erection of a covered shaded area at the 922 Royal Ave address. In the form owner states there are no covenants or restrictions on the property. However everyone else who lives in that subdivision has covenants they have to abide by, why doesn't this address. This property took ditch right-away and nobody else could, all had to put in privacy fences and this on didn't., all have to plant two trees, one in front yard and one in back, and this property didn't. I am not in favor of any more special allowances for this property.

Thanks for your attention.



Gladys Price
921 Anchor Ave
Billings, Mt. 59105

20 April 2017

