



**CITY BOARD OF ADJUSTMENT**  
**AGENDA-Thursday, July 6, 2017 @, 6:00 p.m.**  
**Miller Building, 1<sup>st</sup> Floor Conference Room**  
**2825 3<sup>rd</sup> Avenue North, Billings, Montana**

NOTICE TO THE PUBLIC

Public Comment:

There will be a Public Comment Section as noted on the agenda. This is the time members of the public may comment on any item not appearing on the agenda. Under State law, matters presented under this section cannot be discussed or acted upon by the Zoning Commission during this time. For items appearing on the agenda, the public will be invited to make comments at the appropriate time. It is very important to speak clearly, and state your name and address for the record. Please limit your comments to three (3) minutes or less.

**Call the meeting to order.**

**Introduction of City Board of Adjustment Members and Planning Department Staff.**

**Public Comment**

**Approval of Minutes: June 7, 2017**

- a. Minutes

**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 – 1263 – 1415 Granite – Front Setback** – A variance from 27-308 requiring a minimum front setback of 20 feet to allow a 10-foot front setback to allow the construction of a new dwelling in a Residential 9,600 (R-96) zone on the south 110 feet of Lot 2, Block 6, Lee Heights Subdivision, 2<sup>nd</sup> filing, an 11,000 square foot parcel of land. Tax ID: A10161. Presented by Karen Husman, Planner I

## **Other Business/Announcements**

### **Adjournment**

Information on the preceding item(s) may be obtained at the City-County Planning Division, 4<sup>th</sup> Floor of the Miller Building, 2825 3<sup>rd</sup> Ave North, Billings, MT 59101 or phone 247-8676. Anyone wishing to be heard on this matter may appear at this hearing or provide written testimony to Planning Division at the address above.

Public hearings are accessible to individuals with physical disabilities. Special arrangements for participation in the public hearings by individuals with hearing, speech, or vision impairment may be made upon request at least three days prior to the hearing. Please notify Robbin Bartley, Administrative Assistant, at 247-8676 or e-mail to [bartleyr@ci.billings.mt.us](mailto:bartleyr@ci.billings.mt.us)

**City Board of Adjustment**

**Meeting Date:** 07/06/2017

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**Information**

**Subject**

Minutes

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**Attachments**

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## CITY BOARD OF ADJUSTMENT

MINUTES June 7, 2017

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

TOTAL NUMBER OF APPLICATIONS 2017	01/04/2017	02/01/2017	03/01/2017	04/05/2017	05/03/2017	06/07/2017	07/06/2017	08/02/2017	09/06/2017	10/04/2017	11/01/2017	12/06/2017	TOTAL
Variance	1	1	7	2	1	3							15

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 3<sup>rd</sup> Avenue North.

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

**Attending:** Charles Bisbee, Nathan Matelich

**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 May 3, 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

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 #1260**:

Karen Husman presenting:

**City Variance - 1260 201 S 29<sup>th</sup> St – Lot Area** – A variance from 27-308 requiring a minimum lot area of 7,000 square feet to allow a minimum lot area of 2,125 square feet for a 2-family dwelling; from 27-308 requiring a minimum front setback of 15 feet to allow a minimum setback of 13 feet; from 27-308 requiring a minimum side adjacent to street setback of 10 feet to allow 4 feet; and from 27-308 requiring a minimum side setback of 5 feet to allow 3 feet for an existing 2-family dwelling in a Residential Multi-family-Restricted (RMF-R) zone on the west 85 feet of Lot 13, Block 165, Billings Original Town, a 2,125 square foot parcel of land. If approved, the variance will allow the owner to complete the building renovations. Tax ID: A01079.

## RECOMMENDATION

Planning Staff is recommending conditional approval and adoption of the findings for granting a variance.

## Questions for Staff:

Board Member Bollman asked why this variance is necessary. Staff explained that upon application for and plumbing permit, it was determined that a Variance was needed to continue renovation. The footprint is not being expanded however, financing requires this Variance. Vice Chairman Chesarek asked for confirmation regarding no expansion of the building dimensions. Board member Hagstrom asked if this application is to obtain a lenders letter. Staff explained that the applicant needs a letter from the City stating the site is in compliance.

## Public Hearing

Vice Chairman Chesarek opened the public hearing and asked if there was anyone wishing to speak in favor or against **City Variance #1260**.

## Nathan Matelich, owner

When he purchased the property he thought it to be a much simpler, smaller project. It has become a huge project. New plumbing and electrical required and a permit could not be obtained without a Variance and financing required a compliance letter.

Vice Chairman Chesarek asked what year the home was built. The owner replied possibly 1910.

Vice Chairman Chesarek asked if there is access from the storage shed into the house. No there is not.

A discussion ensued regarding whether or not to leave the attached tool shed. The applicant was informed of the requirements either way.

**OPPOSED**

**None**

BOARD MEMBER Heinrich made a motion and BOARD MEMBER Connell seconded the motion to approve **City Variance #1260** 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 #1260 passed 6-0.

Nicole Cromwell explained the circumstances for the withdrawal request of **Variance #1261**, because it has been publicized, a public hearing is still required.

**A written request for withdrawal was submitted by the owner.**

**Public Hearing**

Vice Chairman Chesarek opened the public hearing and asked if there was anyone wishing to speak in favor or against **City Variance #1261**.

**NONE**

BOARD MEMBER Connell made a motion and BOARD MEMBER Hagen seconded the motion to allow the **withdrawal of City Variance #1261 at the owner's request**.

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

Board member Hagstrom was not present for the vote. Upon return Vice Chairman Chesarek asked if he would like to vote on the motion.

The motion to approve withdrawal of City Variance #1261 passed 6-0.

Nicole Cromwell read the legal description for **Variance #1262**.

Karen Husman presented:

**City Variance 1262 – 1025 Cook Avenue – Side Setback** – A variance from 27-308 requiring a minimum side setback of 5 feet to allow a 2-foot side setback to allow an addition to an existing dwelling in a Residential 6,000 (R-60) zone on Lots 13 and 14, Block 19 of Broadwater Subdivision, a 7,000 square foot parcel of land. Tax ID: A03652.

**RECOMMENDATION**

Planning Staff is recommending conditional approval and adoption of the findings for granting a variance.

**Questions for Staff:**

**Public Hearing**

Vice Chairman Chesarek opened the public hearing and asked if there was anyone wishing to speak in favor or against **City Variance #1262**.

Charles Bisbee, owner

He is requesting a 20 inch setback in place of the 2 foot setback. He explained he wanted to enclose the patio area to add to the living space. It is currently a covered patio.

Board member Heinrich asked how long the patio has been there, 26 years. The house was built in 1947.

Board member Hagstrom asked why the expansion was not in the back yard. Access would be and issue and the tree is in the way. Financially, this is the most cost efficient. Board member Hagstrom also asked if a contractor has specified what kind of foundation will be required. Mr. Bisbee replied monolithic or structural piers would be used.

Discussion-

Staff stated that less than ½ a foot is negligible. 20” is the same as 2 feet. No changes to the Variance would be required.

**OPPOSED**

**None**

BOARD MEMBER Heinrich made a motion and BOARD MEMBER Connell seconded the motion to approve **City Variance #1262** 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			

The motion to approve City Variance #1262 passed 6-0.

**The public hearing was closed at 6:41 PM.**

**Other business:**

The next meeting will be on July 6, 2017.

**The meeting adjourned at 6:42 PM.**

**ATTEST: DRAFT. To be approved by a motion July 6, 2017.**



## City Board of Adjustment

**Meeting Date:** 07/06/2017

**SUBJECT:** City Variance # 1263- 1415 Granite Avenue

**THROUGH:** Wyeth Friday

**PRESENTED BY:** Karen Husman

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### Information

#### REQUEST

**City Variance – 1263 – 1415 Granite – Front Setback** – A variance from 27-308 requiring a minimum front setback of 20 feet to allow a 10-foot front setback to allow the construction of a new dwelling in a Residential 9,600 (R-96) zone on the south 110 feet of Lot 2, Block 6, Lee Heights Subdivision, 2nd filing, an 11,000 square foot parcel of land. Tax ID: A10161. Presented by Karen Husman, Planner I

#### RECOMMENDATION

Planning staff has reviewed this application and is forwarding a recommendation of conditional approval for Variance #1263, based on the determinations for granting a variance.

#### APPLICATION DATA

**OWNERS:** Kenny Roesch  
**AGENT:** Adam Maumgartner  
**PURPOSE:** To decrease the minimum structure front setback from 20 feet from property line to 10 feet from property line.  
**LEGAL DESCRIPTION:** Lots 2, Block 6, Lee Heights Subdivision  
**ADDRESS:** 1415 Granite Avenue  
**EXISTING LAND USE:** Residential  
**PROPOSED LAND USE:** Residential  
**EXISTING ZONING:** R-96

#### CONCURRENT APPLICATIONS

None.

#### APPLICABLE ZONING HISTORY

**Subject Property – None**

**Surrounding Property** – There have been 12 variance requests in this area. Seven of the requested variances that were granted were for required front yard setbacks. There were others for side yard setbacks and lot coverage.

#### SURROUNDING LAND USE & ZONING

**NORTH:** Zoning: R-96/Public  
Land Use: Residential/Open space  
**SOUTH:** Zoning: R-96  
Land Use: Residential  
**EAST:** Zoning: R-96  
Land Use: Residential

WEST: Zoning: R-96  
Land Use: Residential

**BACKGROUND**

The applicant is requesting a variance from 27-308 requiring a minimum front setback of 20 feet to allow a front setback of 10 feet to allow the re-construction of a dwelling in a Residential 9,600 (R-96) zone on lot 2, Block 6, Lee Heights Subdivision, 2nd Filing. The property is a 11,000 square foot parcel of land. The applicants' home was seriously damaged by a gas leak explosion next door and had to be removed. The applicant would like to rebuild the home on the property.

This particular area of billings is up against the base of the rims. The front of the lot is not as steep as the back of the lot. Many of the surrounding homes were constructed in the late fifties and early sixties before existing zoning was in place. Many of the homes that are on Granite Avenue do not appear to be 20 feet back from the front property line. This applicant wishes to have a variance to set the new home less than 20 feet back from the front property line. In order to build on the lot and not do a great deal of earth moving and construction of retaining walls, a solution is to build closer to the front property line. Also, behind this property owner there is one more house up the hillside. To do extensive earthwork could possibly undermine the home and swimming pool that is farther up the hill from this property. The applicant wishes to rebuild a home on the lot in almost the same location as the home that was damaged beyond repair by the gas line explosion.

Planning staff has reviewed this application and is forwarding a recommendation of conditional approval for the variance based on the determinations for review provided within this report.

**RECOMMENDATION**

Planning staff has reviewed this application and is forwarding a recommendation of conditional approval for Variance #1263, based on the determinations for granting a variance.

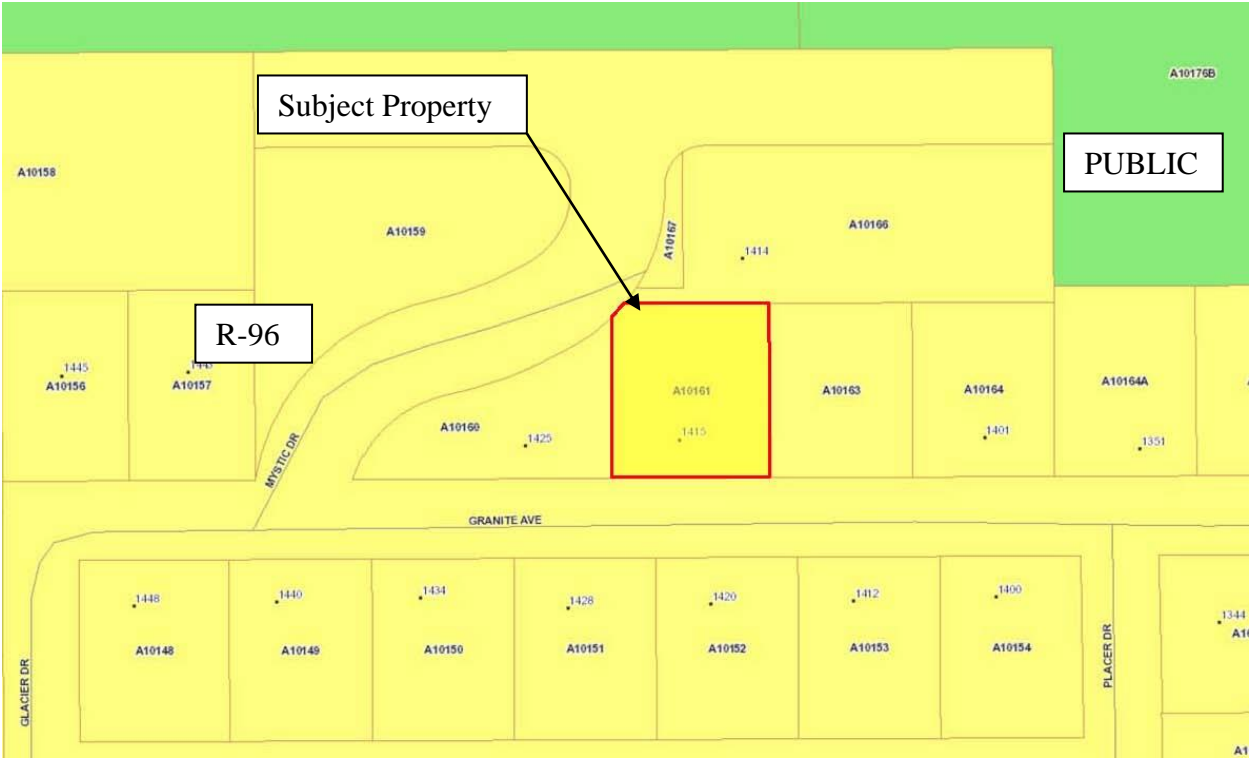
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**Attachments**

Surrounding Zoning & Site Photos  
Applicant Letter & Site Plan  
Determinations

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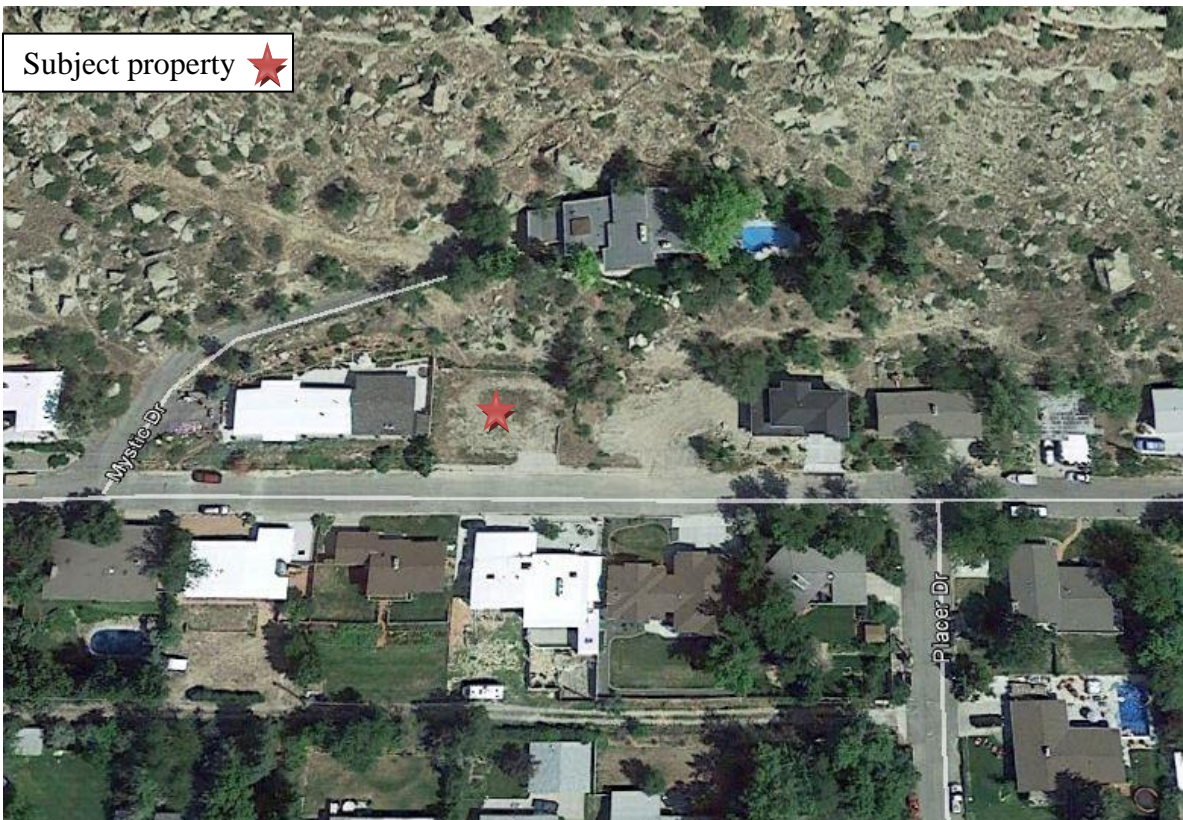
**ATTACHMENT**  
Surrounding Zoning & Site Location



**ATTACHMENT**  
**Site Photographs**



Aerial Photograph before home was removed



Aerial Photograph current site

**ATTACHMENT**  
Site Photographs



Subject Property



Looking North subject property

**ATTACHMENT**  
Site Photographs, Continued



Looking west from subject property



Looking east from subject property

**ATTACHMENT**  
Site Photographs, Continued



Looking south east



Looking south



**ATTACHMENT**  
**Applicant Letter**

Chairperson of the Board of Adjustments  
Planning and Community Services Department  
2825 3<sup>rd</sup> Avenue North, 4<sup>th</sup> Floor  
Billings, Montana 59101

5.8.2017

Dear Chairperson,

Re: 1415 Granite Avenue Variance for front yard setback.

We are requesting a variance for the front yard setback at 1415 Granite Avenue to be adjusted from 20' to 10'. The lot is zone R9600 100' deep and 95' wide with access from Granite Avenue. The property owner intends to build a house on the currently vacant lot. The back 30' of the lot has a steep incline which is not suitable for the planned house. Please see site Photo 'A' below of subject property.

The planning department has verified that the houses to the west and east of 1415 Granite Avenue have variances for similar front yard setback circumstances. See photo 'B' & 'C' below.



PHOTO 'B', 1425 Granite Ave. (adjacent property to west of subject property)



PHOTO 'C', 1401 Granite Ave. (two lots to the east of subject property)

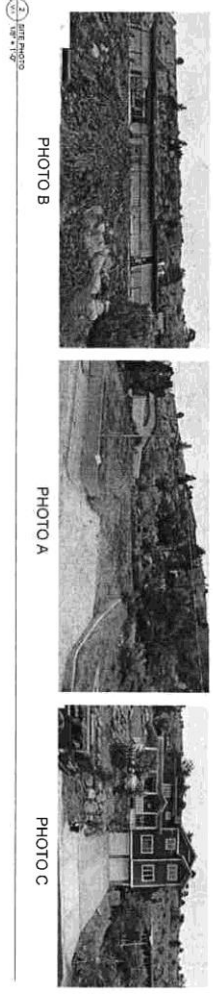
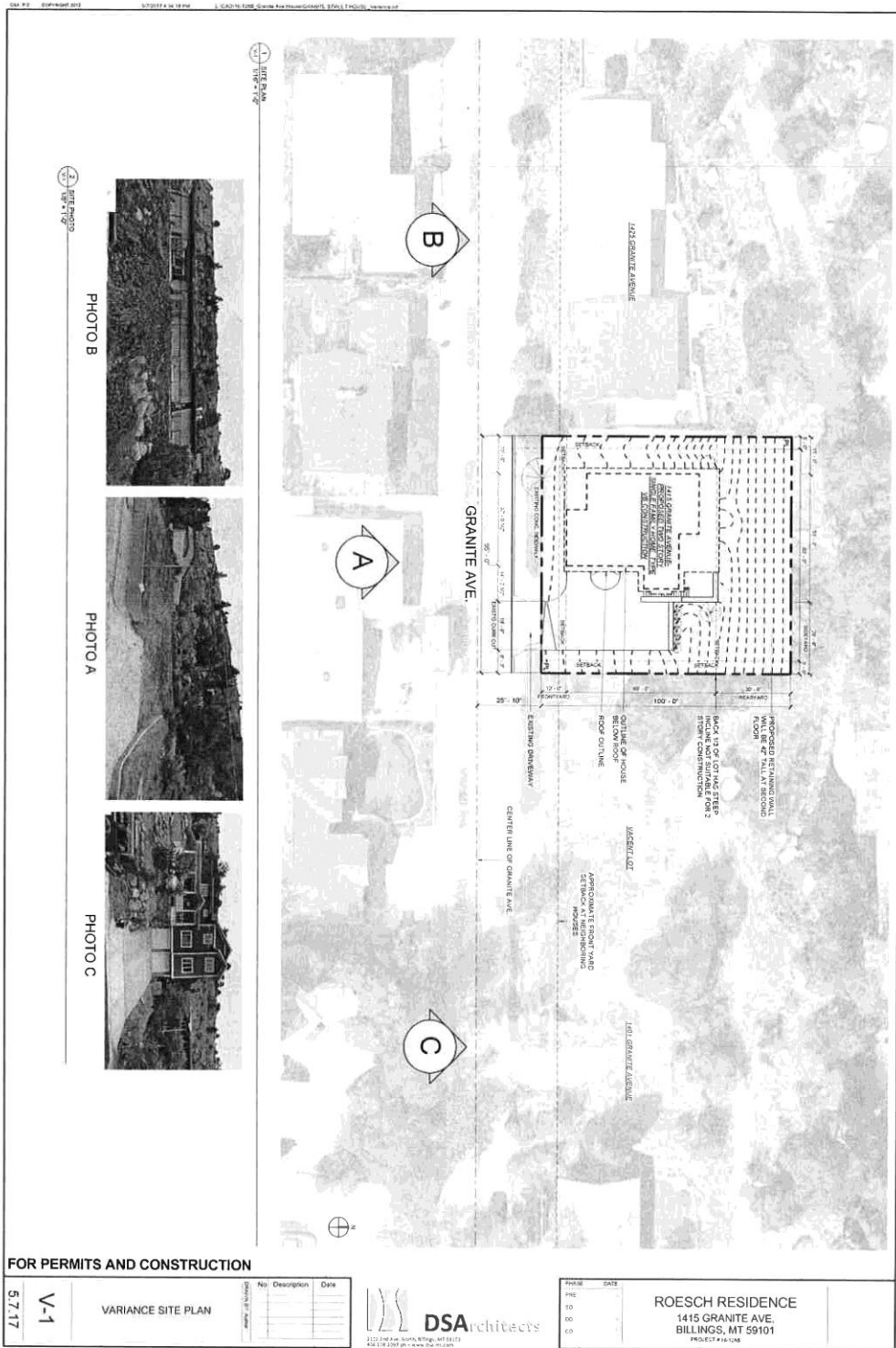
Thank you for considering our Variance.

Sincerely,

Adam Baumgartner, AIA  
Owner's Agent

# ATTACHMENT

## Site Plan



FOR PERMITS AND CONSTRUCTION

5.7.17	V-1	VARIANCE SITE PLAN										
		<table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 10%;">No.</th> <th style="width: 70%;">Description</th> <th style="width: 20%;">Date</th> </tr> </thead> <tbody> <tr> <td> </td> <td> </td> <td> </td> </tr> <tr> <td> </td> <td> </td> <td> </td> </tr> <tr> <td> </td> <td> </td> <td> </td> </tr> </tbody> </table>	No.	Description	Date							
No.	Description	Date										



DRAWN PREP TO BY CO	DATE	<b>ROESCH RESIDENCE</b> 1415 GRANITE AVE. BILLINGS, MT 59101 <small>PROJECT #18-104</small>
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## 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;**

The lot is at the base of the Billings Rims and there are very steep slopes making the north portion of the lot difficult and very expensive to build on. The applicant wishes to rebuild her home after losing the previous one in a gas leak explosion.

- 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 homes surrounding the subject property in this area are built close to the front property because of the steep slopes on the back of the lots. There have been 12 variance requests in the surrounding neighborhood six of those that were granted were for front yard setback reductions.

- 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 would not confer a privilege to this applicant that others in the subdivision do not have. Many of the homes currently do not meet current front setback requirements.

- 4. That the granting of the variance will be in harmony with the general purpose and intent of this Chapter and with the Growth Policy;**

The variance is in harmony with the general purpose and intent of the zoning regulations and the growth policy.

- 5. In granting any variance, the Board may prescribe appropriate conditions and safeguards in conformity with this Chapter. Violation of such conditions and safeguards, when made a part of the terms upon which the variance is granted, shall be deemed a violation of this Chapter;**

Staff is recommending the following conditions for the variance request:

1. The variance is from 27-308 requiring a minimum front setback of 20 feet to allow a front setback of 10 feet to allow the re-construction of a dwelling. No other variance is intended or implied with this approval.
2. The variance is limited to the south 110 feet of Lot 2, Block 6, Lee Heights Subdivision, 2<sup>nd</sup> Filing generally located at 1415 Granite Avenue.
3. The applicant will submit and obtain a building permit for the new house within 1 year and have the house built within 2 ½ years.
4. Construction or demolition activity will not occur prior to 7 am or after 8 pm daily.
5. The applicant shall meet all other city code requirements for the proposed house with the exception of this variance.
6. Failure to begin or complete actions required by this approval within the time limits set forth shall void this variance.
7. These conditions of variance approval shall run with the land described in this authorization and shall apply to all current and subsequent owners, operators, managers, lease holders, heirs and assigns.

- 6. The Board shall prescribe a time limit within which the action for which the variance is required shall be begun or completed, or both. Failure to begin or complete such action within the time limit set shall void the variance; and**

Staff is recommending the applicant have 1 year to obtain the building permit for the house and 2½ years to complete the construction of the house.

- 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.