



**CITY BOARD OF ADJUSTMENT**  
**AGENDA-Wednesday, August 2, 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:**

1. The minutes of the Board meeting of July 6, 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 – 1264 – 909 Wyoming Avenue** - The applicant is requesting a variance from 27-308 requiring a minimum lot area of 40,000 square feet for 24 attached dwelling units to allow a minimum lot area of 34,110 square feet to allow the construction of a new supported residential apartment complex in a Community Commercial (CC) zone, Lots 1-10, YWCA Subdivision (proposed Lot 8A), and vacated 10th St West. Tax ID: A18723. Presented by Karen Husman, Planner I
  
- b. **City Variance – 1265–518 Broadwater;** variance request from 27-308 requiring a minimum lot area of 8,500 square feet for an existing three-unit multi-family dwelling to allow a minimum lot area of 5,250 square feet in a Residential 6,000 (R-60) zone on Lot 37 and the West ½ Lot 38, Block 2, Yellowstone Addition Subdivision. Tax ID: A18872. Presented by Karen Husman, Planner I
  
- c. **City Variance – 1266, 2518 Sunnyview Lane – Front Setback** – A variance from 27-308 requiring a minimum front setback of 20 feet to allow a minimum front setback of 10 feet for an existing dwelling and 12 feet for a proposed addition to the dwelling in a Residential 9,600 (R-96) zone on Lot 3, Morse Subdivision and Lot 3, Kolstad Subdivision, a 15,004 square foot parcel of land. Tax ID: A11189. 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:** 08/02/2017

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**Information**

**Subject**

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**Attachments**

BBOA\_2017\_07\_06\_draft

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**CITY BOARD OF ADJUSTMENT**

MINUTES July 6, 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	1					
Dave Hagstrom	Board member	1	1	1	1	1	1	1					
Paul Hagen	Board member	1	1	1	1	1	1	1					
Frank Chesarek	Vice Chairman	1	1	E	1	1	1	1					
Oscar Heinrich	Board member	1	1	E	1	1	1	1					
Martin Connell	Board member	1	1	1	1	E	1	1					
Mark Noennig	Chairman	1	1	1	E	1	E	1					

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
<b>Variance</b>	<b>1</b>	<b>1</b>	<b>7</b>	<b>2</b>	<b>1</b>	<b>3</b>	<b>1</b>						<b>16</b>

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 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.

**Attending:** Kenny Roesch

**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 June 7, 2017 minutes. Board member Chesarek seconded the motion. Minutes were approved by unanimous voice vote 7-0.

**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 #1263**:

Karen Husman presenting:

**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.

**RECOMMENDATION**

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

**Questions for Staff:**

**Public Hearing**

Chairman Noennig opened the public hearing and asked if there was anyone wishing to speak in favor or against **City Variance #1263**.

**Kenny Roesch, owner**

Mr. Roesch purchased the property after an explosion. An 1860 square foot, 2 level structure with a tuck under garage is proposed. Aesthetically it is better for the garage to face east. It would take major excavation to meet the current setback requirements. There is a small retaining wall at the rear of the property. Most of the homes in the area are at a 10-foot setback.

Boardmember Hagstrom asked how long he had looked for a vacant lot.

Mr. Roesch purchased this property as an investment. He owns Billings Marble & Granite and 1411 Granite. The house could be built on the lot sideways but a variance would still be required.

**OPPOSED**

**None**

BOARD MEMBER Heinrich made a motion and BOARD MEMBER Connell seconded the motion to approve **City Variance #1263** with the Findings of Fact presented by Staff and **“the structure shall be built in substantial conformance to the site plan submitted with the application”**.

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 #1263 passed 7-0.

**The public hearing was closed at 6:30 PM.**

**Other business:**

The next meeting will be on August 2, 2017.

**The meeting adjourned at 6:30 PM.**

**ATTEST: DRAFT. To be approved by a motion August 2, 2017.**



## City Board of Adjustment

**Meeting Date:** 08/02/2017

**SUBJECT:** City Variance # 1264 - 909 Wyoming Avenue

**THROUGH:** Wyeth Friday

**PRESENTED BY:** Karen Husman

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### Information

#### REQUEST

**City Variance – 1264 – 909 Wyoming Avenue** - The applicant is requesting a variance from 27-308 requiring a minimum lot area of 40,000 square feet for 24 attached dwelling units to allow a minimum lot area of 34,110 square feet to allow the construction of a new supported residential apartment complex in a Community Commercial (CC) zone, Lots 1-10, YWCA Subdivision (proposed Lot 8A), and vacated 10th St West. Tax ID: A18723. Presented by Karen Husman, Planner I

#### RECOMMENDATION

Planning staff has reviewed this application and is forwarding a recommendation of conditional approval for Variance #1264, based on the determinations for granting a variance.

#### APPLICATION DATA

**OWNERS:** Young Woman's Christian Association  
**AGENT:** Mary Lee Olson, CEO YWCA Billings  
**PURPOSE:** To allow 24 units on a lot area of 34,110  
**LEGAL DESCRIPTION:** Lots 1-10, YWCA Subdivision (proposed Lot 8A), and vacated 10th St West  
**ADDRESS:** 909 Wyoming Avenue  
**EXISTING LAND USE:** Vacant  
**PROPOSED LAND USE:** Residential Multi Family  
**EXISTING ZONING:** CC

#### CONCURRENT APPLICATIONS

- Building Permit for residential multi-family apartment complex has been reviewed by the City for construction.
- Exempt plat to create the lot for the multi-family apartment complex so it may be separated from the existing YWCA property.

#### APPLICABLE ZONING HISTORY

**Subject Property – None**

**Surrounding Property –** There have been 14 variance requests in this area. Four of the 14 variances were requests for lot size reduction, and they were all granted. The other variances were for setbacks or changing from one non-conforming use to another.

#### SURROUNDING LAND USE & ZONING

NORTH: Zoning: CC/R-70/RMF-R  
Land Use: Residential/commercial  
SOUTH: Zoning: CC  
Land Use: Residential/commercial  
EAST: Zoning: R-70  
Land Use: Residential  
WEST: Zoning: R-60  
Land Use: Residential

## **BACKGROUND**

The applicant is requesting a variance from 27-308 requiring a minimum lot area of 40,000 square feet for 24 attached dwelling units to allow a minimum lot area of 34,110 square feet to allow the construction of a new, 24-unit supported residential apartment complex in a Community Commercial (CC) zone Lots 1-10, YWCA Subdivision (proposed Lot 8A), and vacated 10th St West.

The 24-unit apartment complex is to be funded in part by the low income housing tax credit program processed through the State. Through this program, the property is required to have 24 units, and to be separated from the YWCA property holdings. The new “Gateway Vista Apartments” would still be part of the overall YWCA campus that occupies a full city block, but would sit on its own parcel.

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 #1264, based on the determinations for granting a variance.

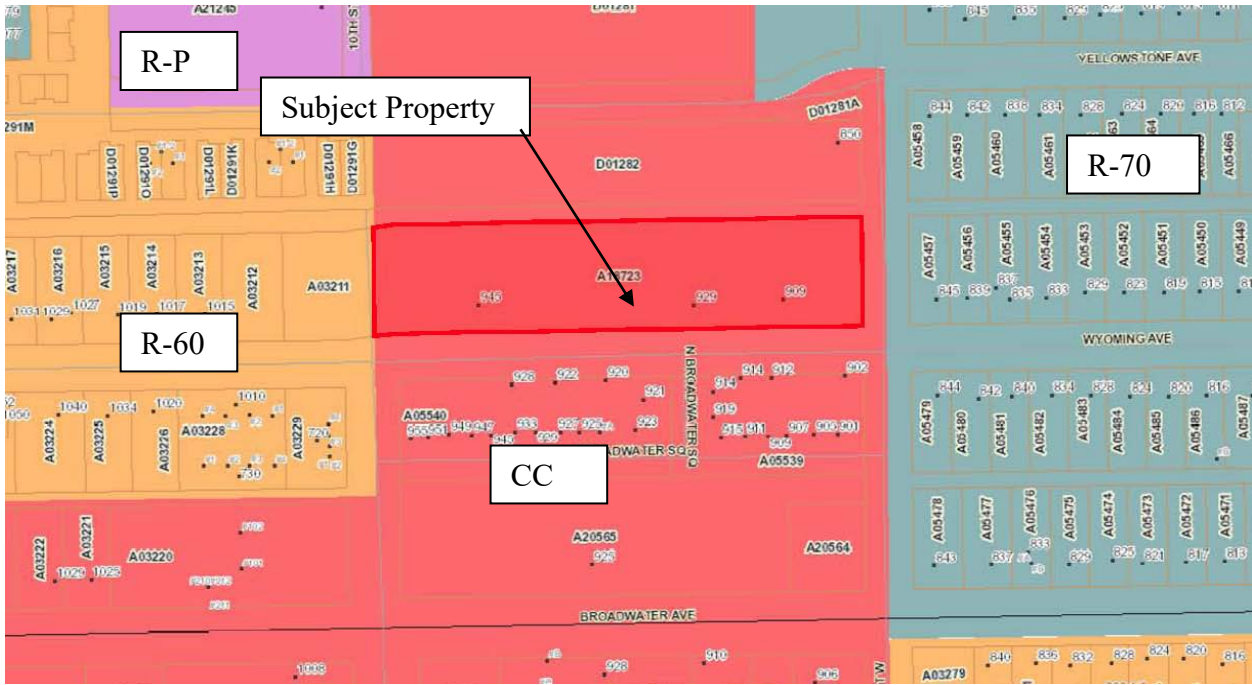
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### **Attachments**

zoning Map & site Photos  
Applicant Letter & Site Plan  
Determinations

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**ATTACHMENT**  
Surrounding Zoning & Site Location



**ATTACHMENT**  
Site Photographs



Subject property ★



**ATTACHMENT**



south



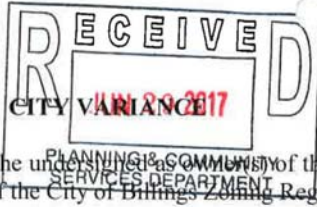
east

**ATTACHMENT**  
Site Photographs, Continued



**West**

**ATTACHMENT**  
Application



**APPLICATION FORM**

ID: Billings Variance # 1264 - Project # PZ-17-00116

The undersigned PLANNING & COMMUNITY SERVICES DEPARTMENT of the following described property hereby request a Variance from the terms of the City of Billings Zoning Regulations.

TAX ID # A18723 CITY ELECTION WARD # 3 (BILLINGS)

Legal Description of Property: YWCA SUBD, S05, T01 S, R26 E, Lot 1-10, & VAC 10 ST W (17)

Address or General Location (If unknown, contact City Engineering): 909 Wyoming Avenue  
(902 Wyoming listed in the Yellowstone County Tax Information)

Zoning Classification: CC – Community Commercial

Size of Parcel (Area & Dimensions): 87,584 sq. ft. existing 34,110 s.f. proposed (See attached drawings)

Covenants or Deed Restrictions on Property: Yes \_\_\_\_\_ No X \_\_\_\_\_

If yes, please attach to application

Variance(s) Requested: Lot Area for Number (#) of Units – The required square footage under current zoning for 24 units would require 16,000 s.f. for the first 8 units and 24,000 s.f. for the remaining 16 units at 1,500 s.f. for every additional unit for a total lot square footage of 40,000. We are requesting a variance to allow us to provide the 24 units in a lot area of 34,110 s.f. or 1,421.25 s.f. per unit- See attached drawings, proposed Plat and aerial views.

Facts of Hardship: The project has only 34,110 s.f. available for 24 units – See attached responses to 1.A., 1.B., and 2 of the submittal packet.

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

Owner(s): Young Women’s Christian Association (902 Wyoming listed in Yellowstone County Tax)  
(Recorded Owner)  
909 Wyoming Avenue, Billings, Montana 59101

(Address)  
406-252-6303 ceo@ywcabillings.org; cfo@ywcabillings.org  
(Phone Number) (email)

Agent(s): Merry Lee Olson, CEO – YWCA-Billings  
(Name)  
909 Wyoming Avenue, Billings, Montana 59101

(Address)  
406-252-6303 ceo@ywcabillings.org  
(Phone Number) (email)

\_\_\_\_\_  
Jon Phillips, CFO – YWCA-Billings

(Name)

909 Wyoming Avenue, Billings, Montana 59101

\_\_\_\_\_  
(Address)

406-252-6303

cfo@ywcabillings.org

\_\_\_\_\_  
(Phone Number)

\_\_\_\_\_  
(email)

\_\_\_\_\_  
Michael J. Burke, AIA – HGFA-Architects, PLLC

(Name)

222 North 32<sup>nd</sup> Street, Ste. 800, Billings, Montana 59101

\_\_\_\_\_  
(Address)

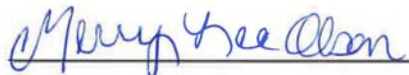
406-248-7811

[hgfa@hgfa.net](mailto:hgfa@hgfa.net); [mburke@hgfa.net](mailto:mburke@hgfa.net)

\_\_\_\_\_  
(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:  Date: 6/29/17 (Recorded Owner)

City Variance Application 2016-2017

1. Answer the following questions:

- A. What reasons prevent you from using this property in conformance with the Zoning Regulation requirements?

**Response:** YWCA Billings (YWCA) is seeking the City's assistance in preventing the permanent encumbrance of our property immediately adjacent to the east of the proposed Lot 8A which includes the playground and park that nurtures and provides healthy outdoor activity for children between the ages of 1 and 5 years through the YWCA Child Center, a program that is not related to Gateway Vista Apartments.

Based on the entire property that YWCA owns on Wyoming Avenue, the 24-unit apartment complex fits within the zoning requirements. As part of the low income housing tax credit program through which the project is being constructed, it is required that the specific property that houses the 24 units be separated from the YWCA property holdings (see the attached proposed Plat).

The required square footage under current zoning would require a 40,000 square foot lot. YWCA is requesting a variance to allow the 24 units to be built in a lot area of 34,110 s.f. The adjacent YWCA playground/park to the east would remain unchanged and the newly plated property will remain part of the overall campus which occupies a full City block between 9<sup>th</sup> and 10<sup>th</sup> Streets West and Wyoming and Yellowstone Avenues. There is no more property adjacent to this project as it abuts an adjacent property owner to the west, an alley to the north, Wyoming Avenue to the south and the previously described YWCA playground/park and main campus facilities to the east.

- B. Why is there a need for the intended use of the property at this location?

**Response:** For 20 years YWCA has offered safety and hope for victims of domestic and sexual violence at the Gateway Shelter. As the only secure, 24-hour, 365 days-per-year shelter in an 18,512 square mile area, Gateway provides nearly 8,000 nights of protection annually to hundreds of women and children. Nearly 98 percent of those served are disadvantaged or under-served. When women complete their stay at the shelter, one of their greatest challenges is finding an affordable place to live as they try to find employment and care for their children.

When completed in 2018, Gateway Vista Apartments will not only provide a safe, affordable place to live, it will also offer women the opportunity to work with a case manager to attain the skills, training or education for a good job that will allow them to provide for themselves and their families. Tenants will be offered an umbrella of wrap-around services including legal, financial, mental health and employment and training counseling at no additional charge.

YWCA's Gateway Vista Apartment will provide a safe haven at rents scaled to low-

income individuals and allows the YWCA to provide the needed additional services in that building and the immediately adjacent campus. This issue led to the YWCA working in conjunction with Mountain Plains Equity to acquire Federal tax credits administered by the Montana Board of Housing for low income housing tax credits. The 24 apartment units in this complex are what is necessary to meet the pro forma requirements submitted to receive the Montana Board of Housing for low income housing tax credits. The unit count cannot be reduced.

2. Prepare a written statement addressed to the Chairperson of the Board of Adjustment. State what is intended to be done with the property, including new construction or change in the use of the property, and why the variance is being sought.

**Response:**

Billings suffers from a huge shortage of low income housing. The Gateway Vista Apartments addresses this severe need and also focuses on one of the populations most vulnerable to the lack of available affordable housing—women who are victims of domestic abuse and their children.

While YWCA partners with the Housing Authority to find affordable housing for women who come to our shelter and/or enroll in our programs, the Authority manages only 274 total public housing units, with a vacancy rate of only 2 percent. Victims of domestic violence are not given priority on the public housing lists in this region and this means a wait time of six months to two years. Individuals who need one-bedroom units face a wait time of nearly seven years. This wait-time leaves victims of domestic violence vulnerable and at risk to becoming homeless, or returning to their abusive partners, and risking even worse abuse or even death, as they have nowhere else to go.

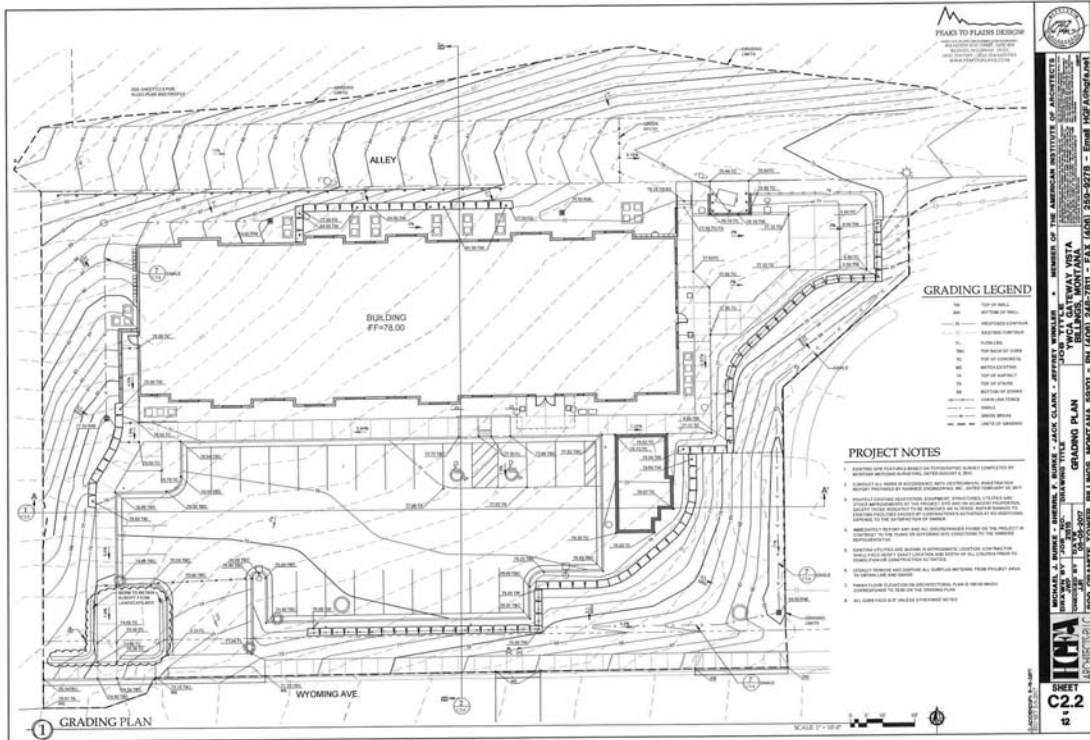
YWCA has worked diligently to shape and fund a project to build 24 affordable one and two bedroom housing apartments on the YWCA campus.

- The typical stay will be six months to two years and include YWCA's services for case management, counseling, legal service, skills training and job finding assistance
- Each family will pay rent, based on a sliding scale that is tied to their income
- The building will provide 582 sq ft in the 11 one bedroom units and 872 sq ft in the 13 two bedroom units as well as laundry facilities, a tenant computer lab, outdoor recreation spaces, storage, and parking with heaters. Gateway Vista will meet and exceed standards for energy efficiencies and "green" building requirements:

When completed in 2018, Gateway Vista will not only provide a safe, affordable place to live, it will also offer an umbrella of wrap-around services that help people transition from a life of violence and poverty to having jobs and living independently. It will provide Billings' low income and high vulnerable populations a hand up, rather than a hand out and help to close the gap in affordable housing in our community.

# ATTACHMENT

## Site Plan



## **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 special circumstances existing on this property creating a hardship that is peculiar to this land. The existing large property with developed YWCA housing and services does not make it possible to separate off a large enough portion of the property to meet the area for the 24-unit development project without affecting the existing developed area. Since the property also is bordered by an alley on the south and an undeveloped road right-of-way on the north, there is no way to expand the foot print of the project to meet the lot area requirement.

- 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 have been 14 variance requests in this area. Four of the 14 variances were requests for lot size reduction, and they were all granted. The other variances were for setbacks or changing from one non-conforming use to another.

- 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;**

The variance will not allow the applicant any special privileges. Other similar variances have been granted for existing and new construction in the neighborhood.

- 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 including the 2016 Growth Policy and the City's Infill 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 lot size variance request:

1. The variance is from Section 27-308 requiring a minimum lot area of 40,000 square feet for 24 attached dwelling units to allow a minimum lot area of 34,110 square feet to allow the construction of a new supported residential apartment complex in a Community Commercial (CC) zone.
2. The variance is limited to Lots 1-10, YWCA Subdivision (proposed Lot 8A), and vacated 10th St West. Tax ID: A18723. 909 Wyoming Ave.
3. The applicant will submit and obtain a building permit within 6 months, and construction shall be completed within 2 years of Board of Adjustment approval.
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 apartment complex with the exception of this variance.
6. The structure shall be built in substantial conformance to the site plan submitted with this application.
7. Failure to begin or complete actions required by this approval within the time limits set forth shall void this variance.
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 applicant will submit and obtain a building permit within 6 months of Board of Adjustment 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 allowed in the zoning district. Single family and Multi-family structures are allowed uses in the Community Commercial zone under the RMF-R zoning requirements for residential construction.



## City Board of Adjustment

**Meeting Date:** 08/02/2017

**SUBJECT:** City Variance # 1265-518 Broadwater Ave.

**THROUGH:** Wyeth Friday

**PRESENTED BY:** Karen Husman

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### Information

#### REQUEST

**City Variance – 1265–518 Broadwater;** variance request from 27-308 requiring a minimum lot area of 8,500 square feet for an existing three-unit multi-family dwelling to allow a minimum lot area of 5,250 square feet in a Residential 6,000 (R-60) zone on Lot 37 and the West ½ Lot 38, Block 2, Yellowstone Addition Subdivision. Tax ID: A18872. Presented by Karen Husman, Planner I

#### RECOMMENDATION

Planning staff has reviewed this application and is forwarding a recommendation of conditional approval for Variance #1265, based on the determinations for granting a variance.

#### APPLICATION DATA

**OWNERS:** Nathan M. & Heidi S Matelich  
**AGENT:** Same  
**PURPOSE:** To allow a minimum lot area of 5,250 square feet for an existing triplex.  
**LEGAL DESCRIPTION:** Lot 37 and the West ½ Lot 38, Block 2, Yellowstone Addition Subdivision.  
**ADDRESS:** 518 Broadwater Ave.  
**EXISTING LAND USE:** Residential Multi Family  
**PROPOSED LAND USE:** Residential Multi Family  
**EXISTING ZONING:** R-6000

#### CONCURRENT APPLICATIONS

None.

#### APPLICABLE ZONING HISTORY

**Subject Property – None**

**Surrounding Property –** There have been 22 variance requests in this subdivision. Four were for a change in non-conforming use, two were for lot coverage, nine were for setbacks (one denied), Six were for lot size (one denied), and one was for setbacks and lot size.

#### SURROUNDING LAND USE & ZONING

**NORTH:** Zoning: RP/R-70  
Land Use: Commercial/Residential  
**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

**BACKGROUND**

The applicant is requesting a variance from 27-308 requiring a minimum lot area of 8,500 square feet for an existing three-unit multi-family dwelling to allow a minimum lot area of 5,250 square feet in a Residential 6,000 (R-60) zone on Lot 37 and the West ½ Lot 38, Block 2, Yellowstone Addition Subdivision.

The lot is in an older part of Billings and many of the surrounding lots were developed before zoning regulations existed. Many of the surrounding properties may or may not conform to current zoning requirements. Granting this variance would not be granting a special privilege to this property owner. Surrounding property owners have been given lot area variances in the past. Five variances for lot area have been applied for in this neighborhood since 1984. All five of the lot area variances have been conditionally approved. This applicant is not requesting to construct any new dwelling units but is requesting the ability to re-construct the existing building if necessary in the future. This variance approval would provide the applicant the ability to acquire a rebuild letter in order to refinance the property.

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 #1265, based on the determinations for granting a variance.

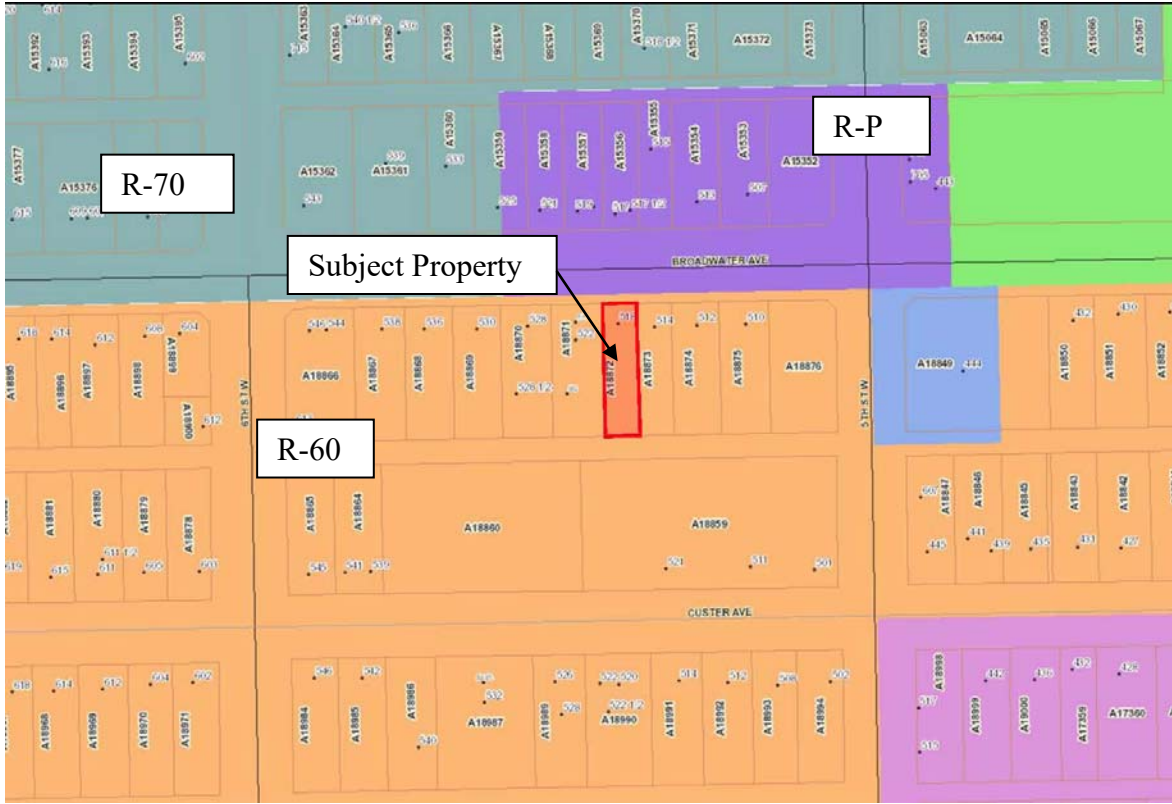
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**Attachments**

Zoning Map & Site Photos  
Applicant Letter & Site Plan  
Determinations

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**ATTACHMENT**  
Surrounding Zoning & Site Location



**ATTACHMENT**  
Site Photographs



Subject property



Looking South

**ATTACHMENT**



Looking west



View from the alley side

**ATTACHMENT**  
Application/Applicant letter



**APPLICATION FORM**

ID: Billings Variance # 1265 - Project # PZ-17-00117

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

TAX ID # A18872 CITY ELECTION WARD # 3

Legal Description of Property: YELLOWSTONE ADD, S04, T01 S, R26 E, BLOCK 2, Lot 37, & W2 LT 38

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

518 Broadwater Ave, Billings, MT 59101

Zoning Classification: Residential 6000

Size of Parcel (Area & Dimensions): 5,250 SF Lot

Covenants or Deed Restrictions on Property: Yes \_\_\_\_\_ No X

If yes, please attach to application

Variance(s) Requested: Variance to all for a legal tri-plex at 518 Broadwater Ave

Facts of Hardship: Tri-Plex was built in 1930 prior to zoning regulations and does not comply with current lot size required for tri-plex zoning. Stockman Bank is requiring a variance on file & rebuild letter for refinance.

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

Owner(s): Nathan M & Heidi S Matelich

(Recorded Owner) 41 Ave B, Billings, MT 59101

(Address) 406-781-6889 nathanmatelich@gmail.com

(Phone Number) (email)

Agent(s): Same as owners

(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: *Nathan Matelich* Date: 6-30-17  
(Recorded Owner)

# Variance Application

For

Nathan M & Heidi S Matelich

Owner: Nathan & Heidi Matelich

Property: 518 Broadwater Ave, Billings, MT 59101

Phone: 406-781-6889 | Email: [nathanmatelich@gmail.com](mailto:nathanmatelich@gmail.com)

## **What reasons prevent you from using this property in conformance with the Zoning Regulation requirements?**

518 Broadwater Ave is a 3,052 SF tri-plex located near 5<sup>th</sup> St W and Broadwater in Billings. Immediate neighbors include a school, church, Domino's Pizza, Guardian Mortgage, Broadwater School, numerous multi-family properties, single family homes that are predominantly rentals and large apartment complexes that are 6+ units. This tri-plex was built in 1930 and sits on a 5,250 SF lot. The current zoning of this property is Residential 6000. Currently there is an upstairs 2-bedroom unit, main floor 3-bedroom unit and basement 1-bedroom unit. To the best of our knowledge, this property was been used a tri-plex for a very long time as the Yellowstone County Department of Revenue Orion Data Detail lists this property as "Structure Type: 103 – Residential, 3 Family". "Interior/Exterior Commercial Building Data" on Orion Detail also shows each floor as "Use 011 – apartment".

When we purchased 518 Broadwater Ave in June 2015, we purchased this home on a commercial loan due to financing & appraisal reasons. Since then we have operated it as a tri-plex and have not made any changes to the building and do not plan to make any changes to it moving forward other than basic maintenance and upkeep.

Per the attached email exchange between Stockman Bank & Nicole Cromwell, we are now ready to refinance into a traditional 15 or 30 year fixed mortgage that will be re-sold on the secondary market and those investors require a rebuild letter. This request for variance is for the sole purpose to acquire a rebuild letter for financing & insurance purposes.

## **Why is there a need for intended us of the property at this location?**

As a real estate agent, investor and landlord, I pride myself on providing high quality, affordable housing in Billings. While this variance is required by Stockman Bank in order to get a rebuild letter and there will not be any changes to the property, I also think that it would be important to the community to be allowed to rebuild a tri-plex so close to Broadwater School if a natural disaster destroyed it, as I have provided affordable housing to young families with kids attending this school in the past.

There was a recent study done by BillingsWorks that came up with the conclusion that the #1 reason why Billings employers cannot grow and attract outside talent is because there is a lack of affordable housing in Billings. It's through my pride of ownership, real estate investment and compliance with city laws that I hope to continue to provide affordable housing.

**Written Statement:**

Dear Chairperson of the Board of Adjustment,

I'm bringing this variance application before you today because my tri-plex was built in 1930 prior to current zoning regulations took effect. Because of this, my tri-plex sits on a piece of land smaller than what is required by current zoning regulations.

I do not intent to change the use of this existing tri-plex. I am not planning on adding an addition to this property. Most simply, I am continuing to operate the property in the same way as when I bought it and am requesting a variance and "rebuild letter" in order to refinance my property. This is required by Stockman Bank and is also needed for insurance purposes.

I believe that by continuing to run this building as a well taken care of tri-plex at 518 Broadwater, it complements the following areas of the 2016 Billings Growth Guidelines:

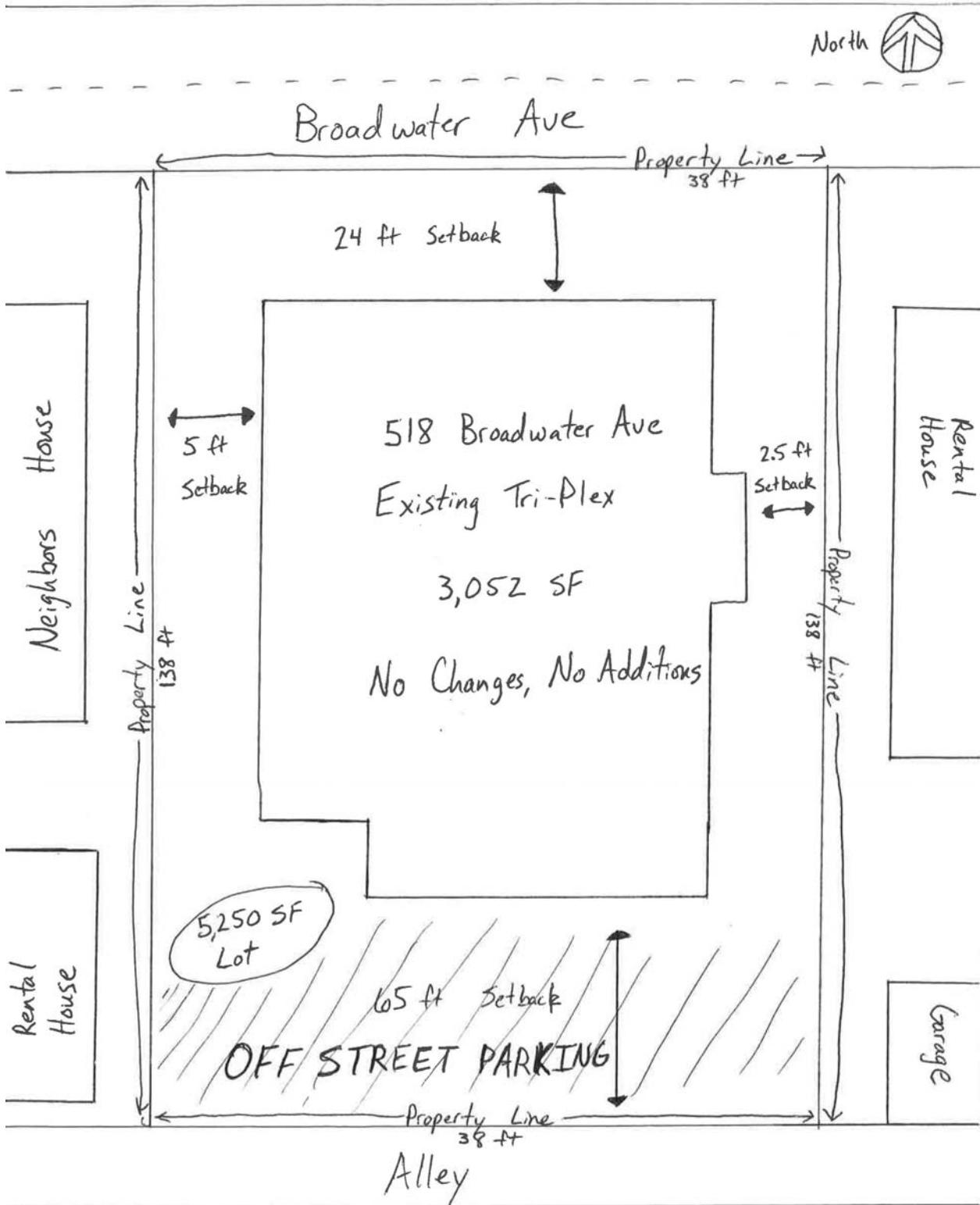
- **Essential Investments:** Neighborhoods that are safe and attractive and provide essential services are much desired.
- **Strong Neighborhoods:** Zoning regulations that allow a mixture of housing types providing housing options for all age groups and income levels.
- **Strong Neighborhoods:** Neighborhoods that are safe and attractive and provide essential services are much desired.
- **Home Base:** A mix of housing types that meet the needs of a diverse population is important.
- **Home Base:** Common to all types of housing choices is the desire to live in surroundings that are affordable, healthy and safe.
- **Home Base:** Homes that are safe and sound support a healthy community.
- **Home Base:** Energy efficiency housing can reduce energy consumption.
- **Prosperity:** Community investments that attract and retain a strong, skilled and diverse workforce also attracts businesses.

I have included pictures and documentation of what this property was like when I bought it, which is the same as how it looks & operates today.

I thank you for your time and consideration.

Nathan Matelich

**ATTACHMENT**  
Site Plan



## **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 circumstances existing on this property creating a hardship that is peculiar to this land, other than these lots were developed prior to the current zoning requirements.

- 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 have been 22 variance requests in this subdivision. Six of the variances were requests for lot size reduction, one was denied, and five were granted. The other variances were for setbacks or changing from one non-conforming use to another.

- 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;**

The subject property is in an older neighborhood where there is a mix of single family, two-family and multi-family dwellings as well as commercial property. The variance will not allow the applicant any special privileges. Other similar variances have been granted for existing and new construction in the neighborhood.

- 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 including the 2016 Growth Policy and the City's Infill 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 lot size variance request:

1. The variance is from Section 27-308 27-308 requiring a minimum lot area of 8,500 square feet for an existing three-unit multi-family dwelling to allow a minimum lot area of 5,250 square feet in a Residential 6,000 (R-60) zone. No other variance is intended or implied with this approval.
2. The variance is limited to on Lot 37 and the West ½ Lot 38, Block 2, Yellowstone Addition Subdivision. Tax ID: A18872. 518 Broadwater Avenue.
- 3.. If the dwelling units are re-constructed in the future, they must meet all other city code requirements with the exception of this variance.
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 ability to reconstruct the existing buildings in the future. No timeline is necessary for this variance.

- 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 allowed in the zoning district. Single family and Multi-family structures are allowed uses in the R-6000.



## City Board of Adjustment

**Meeting Date:** 08/02/2017

**SUBJECT:** City Variance # 1266-2518 Sunnyview Lane

**THROUGH:** Wyeth Friday

**PRESENTED BY:** Karen Husman

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### Information

#### REQUEST

**City Variance – 1266, 2518 Sunnyview Lane – Front Setback** – A variance from 27-308 requiring a minimum front setback of 20 feet to allow a minimum front setback of 10 feet for an existing dwelling and 12 feet for a proposed addition to the dwelling in a Residential 9,600 (R-96) zone on Lot 3, Morse Subdivision and Lot 3, Kolstad Subdivision, a 15,004 square foot parcel of land. Tax ID: A11189. Presented by Karen Husman, Planner I.

#### RECOMMENDATION

Planning staff has reviewed this application and is forwarding a recommendation of conditional approval for Variance #1266, based on the determinations for granting a variance.

#### APPLICATION DATA

**OWNERS:** Lonne G. & Carolyn L. Chatwood  
**AGENT:** None  
**PURPOSE:** Allow a minimum front setback of 10 feet for an existing dwelling and 12 feet for a proposed addition  
**LEGAL DESCRIPTION:** Lot 3, Morse Subdivision and Lot 3, Kolstad Subdivision  
**ADDRESS:** 2518 Sunnyview Lane  
**EXISTING LAND USE:** Residential  
**PROPOSED LAND USE:** Residential  
**EXISTING ZONING:** Residential-9,600 (R-96)

#### CONCURRENT APPLICATIONS

None.

#### APPLICABLE ZONING HISTORY

**Subject Property – None**

**Surrounding Property** –Records show there have been six variance applications in the surrounding neighborhoods (two for lot size, two were for side setbacks, two were for arterial setback).

#### 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

## **BACKGROUND**

The applicant is requesting a variance from 27-308 requiring a minimum front setback of 20 feet to allow a minimum front setback of 10 feet for an existing dwelling and 12 feet for a proposed addition to the dwelling in a Residential 9,600 (R-96) zone on Lot 3, Morse Subdivision and Lot 3, Kolstad Subdivision, a 15,004 square foot parcel of land. Tax ID: A11189. The owner is requesting a lot area variance in order to bring the existing structure into compliance. The applicant is planning to add on to the existing garage. Although there are no similar variances granted for new structures in the area, the applicant believes that building in the proposed location will alleviate the issues they have had in the past with basement flooding during the winter thaw.

There have been six variance applications in the surrounding subdivisions, two for lot size, two for side setbacks and two for arterial setback. There are few lots in this neighborhood and the surrounding subdivisions that have structures set closer than the required setbacks. This particular lot is odd shaped and the original home was built in 1956 with the garage closer than what current zoning requires. It would be possible for the new addition to be conforming to the zoning by changing the proposed location eight feet further into the lot. The applicant has requested the variance for the new addition, believing the new structure in the requested location would also eliminate the recurring flooding of the basement during the winter thaw.

Planning staff has reviewed this application and is forwarding a recommendation conditional approval for Variance request #1266, based on the determinations for granting a variance.

## **RECOMMENDATION**

Planning staff has reviewed this application and is forwarding a recommendation of conditional approval for Variance #1266, based on the determinations for granting a variance.

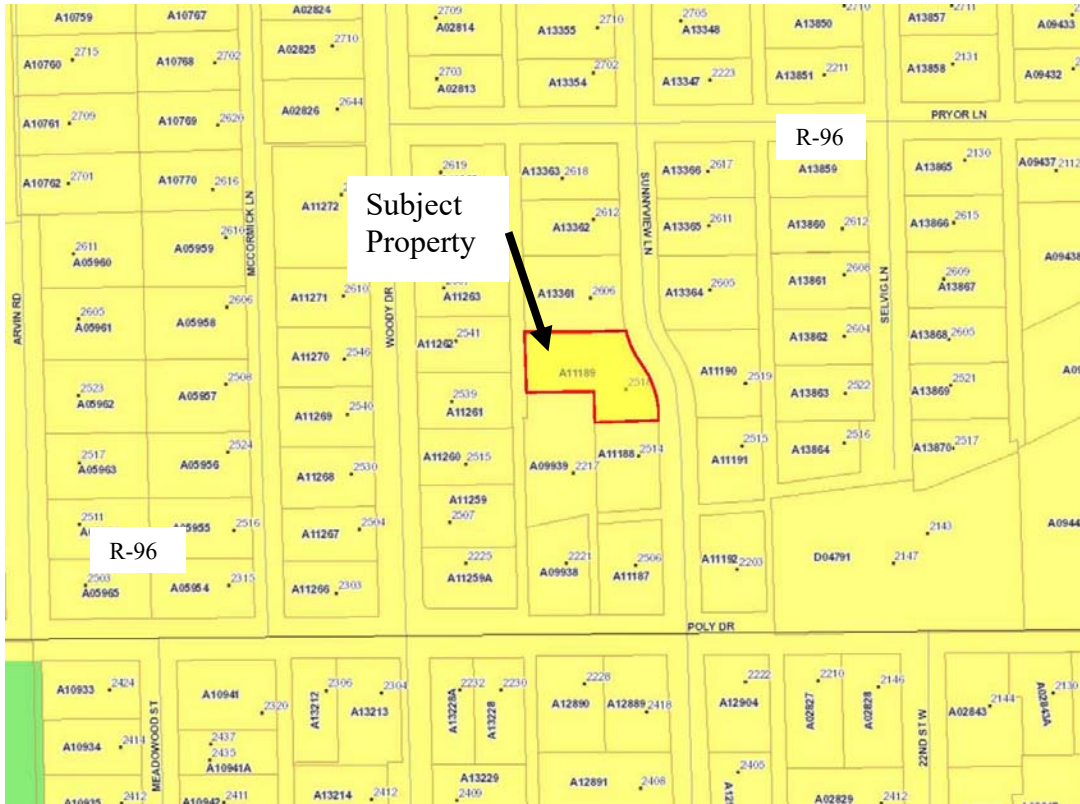
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### **Attachments**

Zoning Map & Site Photos  
Applicant Letter & Site Plan  
Determinations

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**ATTACHMENT**  
Surrounding Zoning & Site Location



**ATTACHMENT**  
Site Photographs



Subject Property.



Garage Side View



Facing North



South View



East



Looking South

ATTACHMENT  
Applicant Letter & Site Plan

July 3, 2017

To The Chairperson of the Board of Adjustment:

When the house was constructed in 1956, part of the garage was built in the set back. We are requesting a variance to the set back so we are able to add an addition to the garage.

If we move the new structure back to the required distance we would lose 8 feet from the new garage. The new addition poses no obstruction to traffic as it is not on a street corner or blocking any neighbor's driveway. It will be recessed several feet from the front of the original garage. there would be the same amount of distance from the addition to the curb as there has been with the existing structure to the curb for the past 60 plus years.

Additionally, the new garage will help alleviate the current flooding problem caused by winter snow melting. The original garage was built with low footings and allows water to drain across the garage floor and down the basement walls causing flooding. The new addition will have higher footings resulting in a retaining wall effect to eliminate the run off problem.

Respectfully,

Lonne G Chatwood and Carolyn L Chatwood

2518 Sunnyview Lane

Billings, MT 59102

PH: 406-652-2426

1.

A. What reasons prevent you from using this property in conformance with the Zoning Regulation requirements?

We would lose 8ft from the new garage addition. We would also lose the benefit of the higher foundation to help with our flooding problem.

B. Why is there a need for the intended use of the property at this location?

We would like additional vehicle storage and we want to alleviate an existing basement flooding problem.



## 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 special circumstances that exist which are peculiar to the land. The structure was built in 1956 and will require a setback variance to be compliant with zoning. The lot is an odd shape and may have required the house to be built closer to the front property line. The applicant wishes to add on to the existing structure with a garage closer than 20 feet.

- 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 side setbacks, and arterial setbacks. The literal interpretation of the provisions of this Chapter 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 in part for the existing structure built in 1956, would not confer a privilege to this applicant that others in the subdivision do not have for the existing structure. Approval of this variance for the 12' setback for the new addition to the existing structure would confer a privilege that other land in the same district 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 approval 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 front setback of 20 feet to allow a minimum front setback of 10 feet for an existing dwelling, and a minimum front setback of 12 feet for a new addition in a Residential 9,600 (R-96) zone. No other variance is intended or implied with this approval.
2. The variance is limited to Lot 3, Morse Subdivision and Lot 3, Kolstad Subdivision, 2518 Sunnyview Lane.
3. The applicant will submit and obtain a building permit within 6 months and have the addition completed within 1 year.
4. The addition shall be built in substantial conformance to the site plan submitted with this application.
5. Construction or demolition activity will not occur prior to 7 am or after 8 pm daily.
6. The applicant shall meet all other city code requirements for the proposed addition with the exception of this variance.
7. Failure to begin or complete actions required by this approval within the time limits set forth shall void this variance.
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**

Staff is recommending the applicant have 6 months to obtain the building permit for the addition and 1 year to complete the construction.

- 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 districts allow residential structures and additions.