

CITY BOARD OF ADJUSTMENT

MINUTES August 2, 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	1				
Dave Hagstrom	Board member	1	1	1	1	1		1	1	1				
Paul Hagen	Board member	1	1	1	1	1		1	1	1				
Frank Chesarek	Vice Chairman	1	1	E	1	1		1	1	1				
Oscar Heinrich	Board member	1	1	E	1	1		1	1	1				
Martin Connell	Board member	1	1	1	1	E		1	1	1				
Mark Noennig	Chairman	1	1	1	E	1		E	1	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
Variance	1	1	7	2	1	3	1	3					19

Chairman Noennig called the meeting to order at 6:00 p.m. The City Board of Adjustment met in the first floor conference room of the Miller Building located at 2825 3rd Avenue North.

Nicole Cromwell introduced the City Board of Adjustment members and Planning Department staff. Attending Staff members are Nicole Cromwell, Zoning Coordinator, Karen Husman, Planner I, Tammy Deines, Planning Clerk

Attending: Lonnie Chatwood; Carolyn Chatwood; Nathan Matelich; Jon Philips; Merry Lee Olson; Sherril Burke; Michael Burke; Craig Froehlich

Public Comment

Chairman Noennig opened the public comment period and asked if there was anyone wishing to speak during the public comment portion of the meeting. There were none. Chairman Noennig closed the public comment period.

Approval Meeting Minutes

Board member Connell made a motion for the approval of July 6, 2017 minutes. Board member Hagen seconded the motion. Minutes were approved by unanimous voice vote 7-0.

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

There were no Conflicts of Interest or Ex Parte Communions denoted by members of the Board.

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.

Zoning Coordinator Nicole Cromwell read the legal description for **Variance #1264**. Planner Karen Husman presenting.

City Variance – 1264 – 909 Wyoming Ave – Lot Area – 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 apartments in a Community Commercial (CC) zone Lots 1-10, YWCA Subdivision (proposed Lot 8A), and vacated 10th St West. Tax ID: A18723.

RECOMMENDATION

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

The conditions are as follows:

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.

Discussion

Board member Bollman asked if a variance was granted west of this parcel. Ms. Cromwell stated there was a development for Joe Bonini for a lot area variance for 12 units total. In response to question by Board member Heinrich, Ms. Husman explained the need for a rebuild/zoning compliance letter for financing purposes. She said the proposed Lot 8A will be created to obtain State funding. The applicant is approved for a building permit. In response to a question by Board member Hagen, staff stated the YWCA owns the lot north of Lot 8A and there are no plans for this parcel at this time.

Public Hearing

Chairman Noennig opened the public hearing and asked if there was anyone wishing to speak in favor or against **City Variance #1264**.

Mary Lee Olson, CEO, YWCA Association

Ms. Olson began with some the technical aspects of this projects. She said Billings suffers from a lack of affordable housing. They decided they would build affordable housing for women in their shelters. They have diligently worked with architects Sherril and Michael Burke and are using low income tax credits. The proposed lot does not comply with zoning. The State requires having a separate lot to utilize the tax increment financing funds. If the variance is not approved, the play area connected to the child center will be lost. They are working with the City to develop a community asset and address the need for affordable housing. The rent will be subsidized and will range from \$400-\$600 monthly. They have applied for grant funding for services and the rent subsidies.

Michael Burke, 2101 Locust, Billings, MT

Mr. Burke is the architect for this project and he asked for support for this variance request. He stated 24 units are needed to be financially feasible. Project construction costs are estimated at \$4.6 million. Board member Heinrich asked why the northern parcel was not considered for this project. Michael Burke said the lot is shallower; 10th avenue has been abandoned; and Lot 8A provides better access. The intent is to leave the park in tact as a piece of property. There is another play area will be constructed as a part of Lot 8A. Nicole Cromwell said creation of a lot crosses an alley does not meet the subdivision criterion. The playground serves the child center and is an asset to the children who are nurtured in the center. Board member Hagestrom commented the tax credit project will be part of the overall program.

John Phillips, 3227 Lynn Ave, Billings, MT

Mr. Phillips stated the low income house credits have specific requirements and there are tiers of individuals required to be a part of the project. The project calculates construction costs. A proforma is needed to determine how much rent needs to be paid and how much will go toward retirement of the debt. If they fall short of the 20th percentile, they will lose the tax credit and the project will not be viable.

OPPOSED: There was none.

Chairman Noennig closed the public hearing and called for a motion.

Motion

Board member Connell made a motion and Board member Hagen seconded the motion to conditionally approve City Variance #1264 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 #1264 passed 7-0.

Zoning Coordinator Nicole Cromwell read the legal description for **Variance #1265**. Planner Karen Husman presenting.

City Variance – 1265 – 518 Broadwater Ave – Lot Area – 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. Tax ID: A18872.

RECOMMENDATION

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

The conditions are as follows:

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.

Discussion: There were no questions or discussion from members of the Board for this variance.

Public Hearing

At 6:36 Chairman Noennig opened the public hearing and asked if there was anyone wishing to speak in favor or against **City Variance #1265**.

Nathan Matelich, 518 Broadwater Ave., Billings, MT

Mr. Matelich is the property owner and he is currently living at 41 Avenue B. He said he initially financed this property with a commercial loan and is refinancing to a traditional 15 or 30-year mortgage. No improvements or additions have been made to this property. Mr. Matelich is making this variance request as the structure on the property is identified as a 3-unit building but it does not meet the lot coverage requirements.

OPPOSED: There was none.

Motion

Board member Hagstrom made a motion and Board member Chesarek seconded the motion to conditionally approve City Variance #1265 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 #1265 passed 7-0.

Zoning Coordinator Nicole Cromwell read the legal description for **Variance #1266**. Planner Karen Husman presenting.

City Variance – 1266 – 2518 Sunnyview Lane – Front Setbacks – 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.

RECOMMENDATION

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

The conditions are as follows:

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.

Discussion:

Public Hearing

Chairman Noennig opened the public hearing and asked if there was anyone wishing to speak in favor or against **City Variance #1266**.

Per Board member Heinrich’s request, Ms. Husman and Ms. Cromwell clarified the site plan. Board member Bollman asked regarding the setbacks.

Lonne Chattwood, 2518 Sunnyview Lane, Billings, MT

Mr. Chattwood stated they wish to build an addition to the garage. Currently the garage is flush with the ground and there are stormwater issues due to melting snow in the winter. The new garage will be raised to alleviate draining from the snow lying against the building. Board member Bollman asked if the existing garage will remain. Mr. Chattwood said the addition will create a 6-car garage. Carolyn Chattwood said a wall could be built on the outside of the garage but it will not create the needed extra parking space. They have used submersible pumps but are unable to keep up with the incoming water from melting snow. The additional garage space is needed to store their vehicles. Ms. Chattwood said the design is aesthetically consistent with the neighborhood.

Board member Heinrich asked if there are any issues with the side setbacks. Ms. Husman said the variance is for the non-conforming 10 or 12-foot front setback. Staff received a letter of support from the neighbors who are located south of this property.

OPPOSED: There was none.

Chairman Noennig closed the public hearing at 6:53 p.m., and called for a motion.

Motion

Board member Chesarek made a motion and Board member Connell seconded the motion to conditionally approve City Variance #1266 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		

Discussion

Board member Bollman stated he understands the compliance issue but does not feel he can support the variance as there is a potential for a vehicle to "hang" out into the street. In response to question by Board member Heinrich, the Chatwoods pointed out the alley stops at their property and said they are unable to access the property from the rear due to the angle needed for a turn and neighbor's existing wall. Nicole Cromwell said there are many existing alleyways citizens have informal agreements for use.

The motion to approve City Variance #1266 passed 5-2.

Other business:

- City Board of Adjustment meals: Members of the Board voiced their appreciation for staff's effort and consideration to provide meals prior to City Board of Adjustment meetings but it is the consensus of the Board to discontinue this effort.
- The next meeting will be on September 6, 2017, 6:00 p.m. in the Miller Building 1st Floor conference room.

Adjournment: 7:15 p.m.

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