



CITY BOARD OF ADJUSTMENT
AGENDA-Wednesday, March 7, 2018 @ 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:

The minutes of the Board meeting of February 7, 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 1275 - 5205 Cabernet** - The applicant is requesting a variance from Section 27-308 requiring a maximum lot coverage of 30% (4,049 sf) to allow a maximum lot coverage of 31% (4,184 sf) and from Section 27-308 requiring a minimum setback for a garage entrance from a street of 20 feet to allow a 10-foot setback in a Residential 9,600 (R-96) zone, on Lot 9, Block 5 of Vintage Estates Subdivision, a 13,497 sf parcel of land. The purpose of the variance is to allow the addition of a 336 square foot canopy over a concrete patio on the northwest of the home and address the location of an already constructed garage. Tax ID: A32046. Presented by Karen Husman, Planner I.

- b. **City Variance #1276 – 2220 Virginia Lane/501 Chancery Lane** -The applicant is requesting a variance from Section 27-308 requiring a minimum front setback of 20 feet to allow a front setback of 13 feet and from Section 27-602(a) requiring a minimum 70-foot setback to the centerline of a minor arterial street (Virginia Lane) to allow a 43-foot setback to the centerline in a Residential 9,600 (R-96) zone. The property is Lot 2, Black Acre Subdivision, and Lot 7 of Black Acre Subdivision 2nd Filing, a 31,425 square foot parcel of land. The purpose of the variance is to allow the construction of a new detached garage. Tax IDs: A03134 and A03137B. Presented by Karen Husman, Planner I.

- c. **City Variance #1277- 744 Yellowstone Ave.** - The applicant is requesting a variance from Section 27-308 requiring a minimum lot area of 9,600 square feet for two (2) dwelling units to allow a minimum lot area of 7,000 square feet in a Residential 7,000 (R-70) zone, on Lots 31 & 32, Block 55 of Suburban Homes Addition. The purpose of the variance is to allow a second address to be assigned to the property. 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, 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: 03/07/2018

Information

Subject

The minutes of the Board meeting of February 7, 2017.

Attachments

BBOA_2018_02_07_draft

CITY BOARD OF ADJUSTMENT

MINUTES February 7, 2018

Name	Title	01/03/2018	02/07/2018	03/07/2018	04/04/2018	05/02/2018	06/06/2018	07/05/2018	08/01/2018	09/05/2018	10/03/2018	11/07/2018	12/05/2018
David Mitchell	Board member	1	1										
Dave Hagstrom	Board member	1	1										
Paul Hagen	Board member	1	1										
Frank Chesarek	Vice Chairman	1	E										
Oscar Heinrich	Board member	1	1										
Martin Connell	Board member	1	1										
Mark Noennig	Chairman	1	1										

TOTAL NUMBER OF APPLICATIONS 2018	01/03/2018	02/07/2018	03/07/2018	04/04/2018	05/02/2018	06/06/2018	07/05/2018	08/01/2018	09/05/2018	10/03/2018	11/07/2018	12/05/2018	TOTAL
Variance	2	2											4

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 and Robbin Bartley, Administrative Support.

Attending: Mark Sevier, Megan Lind

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 January 3, 2018 minutes. Board member Hagen seconded the motion to approve. 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 #1273**:

City Variance 1273 – 2303 1st Avenue South – Lot Coverage - A variance from Section 27-309 requiring a maximum lot coverage of 75% to allow a maximum lot coverage of 77% (16,240 sf total) in a Controlled Industrial (CI) zone, on Lots 1 through 6, Block 135 of Billings Original Town, a 21,000 sf parcel of land. The purpose of the variance is to allow the addition of a 2,400 square foot canopy to the southwest corner of the building. Tax ID: A00887

Recommendation: Staff recommends denial of the variance based on the criteria for granting a variance.

Questions for Staff:

Board member Connell asked what is the disadvantage to allowing this area covered. Staff indicated there is no hardship and they are creating their own hardship.

Board member Heinrich asked for clarification on “creating their own hardship.” Staff explained that the first determination is an oddity or such with the property that creates a hardship. Adding 1910 sq. feet is acceptable, exceeding this is not. Staff was unable to find a basis for hardship.

Chairman Noennig also asked about the hardship criteria. Staff again replied that there is no evident hardship.

Commission Hagen asked for explanation for two commercial properties with granted variances. Staff explained them as being legal non-conforming situations.

Commissioner Mitchell inquired as to parking on the property. Staff did not know about the parking area, and parking requirements were being met.

Commissioner Heinrich asked if the new canopy can be enclosed. Staff indicated with a building permit, enclosure was possible.

Chairman Noennig **opened the public hearing at 6:10 PM** and asked if there was anyone wishing to speak in favor or against **City Variance #1273**.

Mark Sevier, Owner, 2303 1st Ave South

He now has the funds to landscape and clean this property up. Since purchasing this site, he has made structural and lot improvements. These improvements have enabled better parking and forklift access. The lot can now be plowed. At the onset, 5 persons were employed, he now has 12 employees. He has prepared for landscaping. He explained that a 24-foot canopy could be constructed instead of the proposed 30-foot canopy but it does not blend with existing structures. The bi-product of wood drops are offered to the public and there is no issue, however the sawdust is. Building and partially enclosing this canopy would help with blowing sawdust residues.

Board member Connell asked if it would be an impediment to add a restriction to enclose only a 20 x 30-foot area. Mr. Sevier agreed to this restriction.

OPPOSED

None

Discussion

Board member Connell stated he thinks this should be granted with enclosure restrictions.

Chairman Noennig is struggling with the issue of hardship. Staff explained finding a hardship is regarding the land not the use. There have been variances granted with no hardship.

Board member Heinrich asked about other zoning that would allow 77 percent lot coverage. How could the zoning be changed from Controlled Industrial to Heavy Industrial? A zone change would be required.

Board member Connell stated what is being asked is very minimal and having to change the zoning is an undue burden. The benefits to granting this variance far out way the possible negative impacts on the surrounding neighbors.

Board member Hagen agreed the 490 square feet of extra coverage is minimal and he is in favor of the variance.

Board member Hagstrom explained no other recommendation from staff was possible based on the determinations given. He also stated this is why a board is available to consider the request.

Board member Heinrich is concerned with the future possibility of not following thru with stated intentions.

Board member Connell reiterated his intent to make a motion with the restrictions.

Staff reminded the board they will need a fitting determination to change the recommendation.

The public hearing was closed at 6:40 PM.

BOARD MEMBER Connell made a motion to APPROVE **City Variance #1273** in line with #4 determination for granting, with the restrictions that the new canopy may not be fully enclosed and a maximum 20 x 30 area will be enclosed for the purposes of wind. BOARD MEMBER Hagen seconded the motion to approve **City Variance #1273**.

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

The motion to deny staff recommendation and approve **City Variance #1273** with restrictions, passed 5-1.

Nicole Cromwell read the legal description for **Variance #1274**:

City Variance 1274 – 1727 Yellowstone Ave – Lot Area - A variance from Section 27-308 requiring a minimum lot area of 9,600 square feet for two (2) dwellings units and Section 27-308 requiring a minimum 20-foot rear setback to allow a 0-foot rear setback in a Residential 7,000 (R-70) zone, on Lot 7, Block 4 of Burg Subdivision 2nd Filing, an 8,400 square foot parcel of land. The purpose of the variance is to allow the sale and financing of the subject property and no construction or reconstruction is proposed at this time. Tax ID: A03841

Recommendation:

Planning staff has reviewed this application & is recommending conditional approval of Variance #1274. Based on the determinations for granting a variance.

1. The variance is to decrease the minimum lot size from 9,600 sf to 8,400 sf for two existing single family dwellings & to allow a zero setback to the rear of the second dwelling
2. The variance is limited to the legally described property
3. Any future re-construction of the existing structures will require compliance with all other regulations that apply
4. These conditions shall run with the land

Questions for Staff:

NONE

Chairman Noennig **opened the public hearing at 6:50 PM** and asked if there was anyone wishing to speak in favor or against **City Variance #1274**.

Megan Lind, owner

Ms. Lind and her husband need this variance to obtain a rebuild letter so perspective buyers may get financing for the two structures on this property.

OPPOSED

None

Discussion

The public hearing was closed at 6:55 PM.

BOARD MEMBER Heinrich made a motion and BOARD MEMBER Mitchell seconded the motion to approve **City Variance #1274**.

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

The motion to approve with conditions, **City Variance #1274**, passed 6-0.

Other business: Chair and Vice Chair election 2018.

Board member Connell made a motion to retain the Chair and Vice Chair. **Board member Heinrich** seconded the motion. The motion carried with a 5-1 vote. Chairman Mark Noennig agreed. Vice Chair Frank Chesarek was absent.

The next meeting will be on March 7, 2018.
Board member Hagstrom will be absent.

The meeting adjourned at 7:00 PM.

ATTEST: DRAFT. To be approved by a motion March 7, 2018.



City Board of Adjustment

Meeting Date: 03/07/2018

SUBJECT: City Variance 1275 - 5205 Cabernet

THROUGH: Monica Plecker

PRESENTED BY: Karen Husman

Information

REQUEST

City Variance 1275 - 5205 Cabernet - The applicant is requesting a variance from Section 27-308 requiring a maximum lot coverage of 30% (4,049 sf) to allow a maximum lot coverage of 31% (4,184 sf) and from Section 27-308 requiring a minimum setback for a garage entrance from a street of 20 feet to allow a 10-foot setback in a Residential 9,600 (R-96) zone, on Lot 9, Block 5 of Vintage Estates Subdivision, a 13,497 sf parcel of land. The purpose of the variance is to allow the addition of a 336 square foot canopy over a concrete patio on the northwest of the home and address the location of an already constructed garage. Tax ID: A32046. Presented by Karen Husman, Planner I.

RECOMMENDATION

Planning staff has reviewed this application and is forwarding a recommendation of conditional approval for the 10-foot setback on the side garage and denial for the variance to allow 31% lot coverage, based on the findings and determinations of the variance review criteria provided within this report.

APPLICATION DATA

OWNERS: Steve Goutanis, owner and Curtis Ball, agent

PURPOSE: The purpose of the variance is to allow the addition of a 336 sf canopy over the concrete patio and to allow an existing garage setback to Vintage Lane to remain

LEGAL DESCRIPTION Lot 9, Block 5 of Vintage Estates Subdivision

ADDRESS: 5205 Cabernet Lane

EXISTING LAND USE: Residential

PROPOSED LAND USE: Residential

EXISTING ZONING: R-96

CONCURRENT APPLICATIONS

None.

APPLICABLE ZONING HISTORY

Subject Property – None

Surrounding Property – Four variances have been approved in the Cottonwood Grove Subdivision for setbacks (north across Grand Avenue) and 1 variance has been approved in the Foxtail Village Subdivision for setbacks (west and north across Grand Avenue). No lot coverage variances have been approved in the surrounding neighborhoods or districts.

SURROUNDING LAND USE & ZONING

NORTH: Zoning: R-96
Land Use: Residential
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 Section 27-308 requiring a maximum lot coverage of 30% (4,049 sf) to allow a maximum lot coverage of 31% (4,184 sf) and from Section 27-308 requiring a minimum setback for a garage entrance from a street of 20 feet to allow a 10-foot setback in a Residential 9,600 (R-96) zone, on Lot 9, Block 5 of Vintage Estates Subdivision, a 13,497 sf parcel of land. The purpose of the variance is to allow the addition of a 336 square foot canopy over a concrete patio on the northwest of home, and to allow the 10-foot garage setback on Vineyard Way to remain. The garage setback was an error in the plan review. The garage was approved with an incorrect setback.

The applicant has constructed a single family dwelling with a 336 square foot covered patio on the back porch. The approved building permit did not include the covered patio, and during a routine building inspection the inspector stopped the work on the patio. In order for construction to finish on the covered patio, the builder would need the variance approval. There have not been any variances for increases in allowable lot coverage in this subdivision or the surrounding subdivisions, however there have been variances granted for setbacks in the surrounding subdivisions.

The variance request for the 10 foot setback is recommended by staff, as the garage approach for the second garage on the side street was overlooked during zoning compliance review of the building permit.

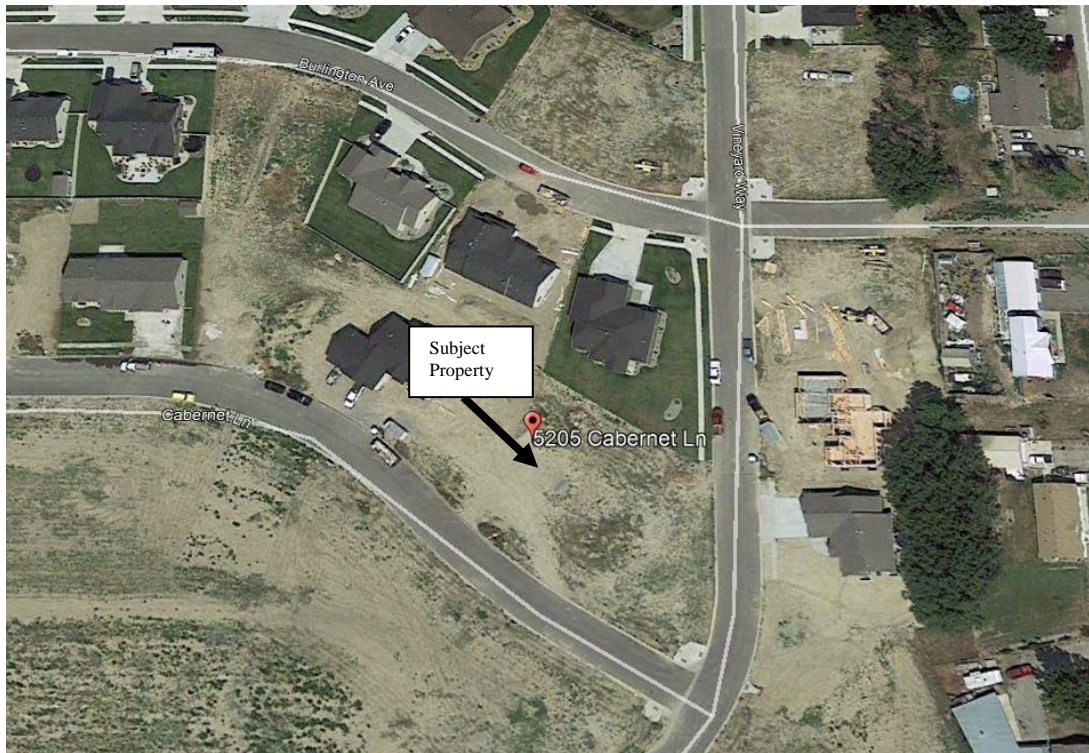
RECOMMENDATION

Staff recommends conditional approval for the 10-foot setback for the garage approach and denial of the variance to allow 31% maximum lot coverage.

Attachments

Zoning Map & Site Photos
Applicant Letter & Site Plan
Determinations

Attachments- Surrounding Zoning



Ariel Photo

Photos



Subject Property



Looking West on Cabernet

Photos Continued



North



Looking West from Vineyard.

Photos continued



Covered patio, construction started



Looking South

Applicant Letter

2-2-18

Variance Request

Steve Gountanis Homes Inc.
5205 Cabernet

2-2-18

City of Billings

We are currently under construction at
5205 Cabernet Lane Billings, MT. 59106.

During construction, we were able to find a
buyer for the home. The buyer lives right across
the street on Vintage Lane.

For safety reasons the buyer has asked that
we cover the back patio door, steps and walkway
to the garage door. This patio cover would keep the
snow and ice off these areas on the north side of
the house. This area does not get any sun during the
winter.

The current building permit does not include this
covered patio area. With the current permit, we are at
29% lot coverage. With the covered patio, we are at 31%
lot coverage. We are over by about 92 square feet.

The patio cover is currently framed and the roofing
is complete. We have stopped any further work on this patio
cover till we can be in compliance with the City of Billings.

We ask that we be given a variance to proceed with
the patio cover.

Thank You,

Curtis L. Ball
(406) 876-3330

Agent for Steve Gountanis homes Inc.

VARIANCE #1275 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 not any special circumstances that exist in this situation other than the patio cover was constructed without building permit approval, and the side street garage setback of 10 feet was missed during plan review.

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 with vacant parcels and homes newly constructed and under construction. There have been similar variances granted for setbacks in and no variances granted to exceed the lot coverage within the same district. Denying the variance for setback would deprive the applicant of rights commonly enjoyed by other tracts in the same district, however denying the lot coverage variance to allow 31% would not deprive the applicant of rights commonly enjoyed by other tracts 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;

The variance for setback of 10 feet will not allow the applicant any special privileges. Similar variances have been granted in the area. The variance to allow 31% lot coverage would allow the applicant a special privilege that is denied by this Chapter for other land within the same area.

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 reduction in the garage setback from the street:

1. The variance from Section 27-308 requiring a minimum setback for a garage entrance from a street of 20 feet to allow a 10-foot setback in a (R-96) zone. No other variance is intended or implied with this approval.
2. The variance is limited to Lot 9, Block 5 of Vintage Estates Subdivision, 5205 Cabernet Lane.
3. Any future re-construction of the existing structure will require compliance with all other zoning regulations and City ordinances that apply at the time of re-construction.

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

No time limit is required since construction is already under way.

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 dwellings with attached garages are allowed in the R-96 zone.



City Board of Adjustment

Meeting Date: 03/07/2018

SUBJECT: Variance #1276 – 2220 Virginia Lane/501 Chancery Lane

THROUGH: Monica Plecker

PRESENTED BY: Karen Husman

Information

REQUEST

City Variance #1276 – 2220 Virginia Lane/501 Chancery Lane -The applicant is requesting a variance from Section 27-308 requiring a minimum front setback of 20 feet to allow a front setback of 13 feet and from Section 27-602(a) requiring a minimum 70-foot setback to the centerline of a minor arterial street (Virginia Lane) to allow a 43-foot setback to the centerline in a Residential 9,600 (R-96) zone. The property is Lot 2, Black Acre Subdivision, and Lot 7 of Black Acre Subdivision 2nd Filing, a 31,425 square foot parcel of land. The purpose of the variance is to allow the construction of a new detached garage. Tax IDs: A03134 and A03137B. Presented by Karen Husman, Planner I.

RECOMMENDATION

Staff recommends denial based on the determinations for variance review.

APPLICATION DATA

OWNERS: Molly & Brian Harrington

PURPOSE: The purpose of the variance is to allow the addition of a detached garage 13' from the property line, and completely within the arterial setback.

LEGAL DESCRIPTION: Lot 2, Black Acre Sub. & Lot 7 of Black Acre Sub.2nd Filing

ADDRESS: 501 Chancery Lane & 2220 Virginia Lane

EXISTING LAND USE: Residential

PROPOSED LAND USE: Residential

EXISTING ZONING: R-96

CONCURRENT APPLICATIONS

None.

APPLICABLE ZONING HISTORY

Subject Property – None

Surrounding Property

City Variance 30 and 37 – 1055 and 1065 O'Malley Drive - Approved on February 25, 1975 and April 29, 1975 – A variance to allow a decrease in lot area to 7,200 sf and a 0-foot side setback to construct a duplex dwelling in an R-96 zone

City Variance 1065 – 903 Princeton – Conditionally approved on November 4, 2009 – A variance to reduce the minimum lot area from 19,200 sf to 7,000 sf for 2 existing single family dwellings in an R-96 zone.

City Variance 1118 - 2220/2222 Virginia Lane - Conditionally approved a second dwelling on a lot area of 15,500 square feet where 19,200 square feet is required.

City Variance 200 - 439 Grandview Blvd - Conditionally approved a reduction of the arterial centerline setback from 70 feet to 35 feet.

City Variance 291 - 3020 Grandview Blvd - Conditionally approved a reduction of the arterial centerline setback from 70 feet to 48 feet.
City Variance 617 - All lots in the Suburban Homes Addition Subdivision adjacent to 5th St West (Virginia Lane) were granted a reduced arterial centerline setback from 70 feet to the standard side adjacent street setback from property line (10 feet).
There have also been 9 other variances in the surrounding neighborhood that were granted for reduced setbacks; 1 for a front setback and 8 for rear setbacks.

SURROUNDING LAND USE & ZONING

NORTH: Zoning: R-96
Land Use: Residential
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 the requirement of a minimum garage setback of 20 feet to allow a setback of 13 feet and from Section 27-602(a) requiring a minimum 70-foot setback to the centerline of a minor arterial street (Virginia Lane) to allow a 43-foot setback to the centerline in a Residential 9,600 (R-96) zone, on Lot 2, Black Acre Subdivision, and Lot 7 of Black Acre Subdivision 2nd Filing, a 31,425 square foot parcel of land. The purpose of the variance is to allow the construction of a new detached garage.

Planning staff has reviewed this variance and is forwarding a recommendation of denial of the request to reduce the front setback and arterial setback based on the criteria for variances as presented within this report. Staff finds that the proposed variance request does not meet the criteria for a variance. There is no hardship other than one created by the owner and building designer. The lot is large enough to accommodate the proposed garage in a location that meets the required setbacks. There are no topographical issues that would prevent the construction in accordance to the required setback restrictions.

The applicant states that if placed 20 feet back from the property line, the structure would be too close to the existing residence. The applicant also states there was a similar project completed on 2222 Virginia Lane. The variance approval for that property was for the rear setback - not the front setback or arterial setback. Staff did not find other property in the area with similar or comparable setbacks of 13 feet from the front property line. Granting the variance as requested would confer on this applicant a special privilege denied to other owners in the area.

RECOMMENDATION

Staff recommends Denial.

Attachments

Zoning Map & Site Photos
Applicant Letter & Site Plan
Determinations
Letter in Support

ATTACHMENT A
Surrounding Zoning & Site Location



Aerial

Subject Property



Looking North from Chancery



Looking East

ATTACHMENT
Site Photographs



Looking west



Looking South on Chancery



Subject Property Looking from Virginia Lane

ATTACHMENT
Applicant Letter and Site Plan



2110 Overland Avenue, Suite 119B
Billings, MT 59102
Work: 406-294-2294
Fax: 406-294-2295

January 17, 2018

Planning & community Services Department
2825 3rd Ave North, 4th Floor
Billings, MT, 59101

To the Chairperson of the Board of Adjustment:

We are submitting this Variance Application for Lot 2 Blackacre Sub, and Lot 7 Blackacre Sub 2nd filing, Yellowstone County, Montana (Tax ID # A03134 & A03037B). We desire to stay in this home and we are in need of additional space. Since we own the property to the North we are able to build this new structure near our existing home. We need the garage close to the home, however the 20-foot setback requirement would place the structures too close together. We understand there are no long-term plans for the widening of Virginia Lane. We also understand the importance of providing clear space for vehicles in front of garages relative to sidewalks. We have designed the access of the garage door placement, so pedestrians enjoy an unobstructed sidewalk. This area has several structures that are close to the right-of-way and we feel that this plan is similar in nature to the area.

Additional information and materials specified within the Application forms are included in those forms and/or attached to this letter. We thank you very much for your continued support on this request, and for your consideration of our variance application. Please feel free to contact me at (406) 690-0206 if you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Molly Harrington".

Molly Harrington

January 17, 2018

Planning & community Services Department
2825 3rd Ave North, 4th Floor
Billings, MT, 59101

To Whom It May Concern:

We are submitting this Variance Application for Lot 2 Blackacre Sub, and Lot 7 Blackacre Sub 2nd filing, Yellowstone County, Montana (Tax ID # A03134 & A03037B). The following paragraphs are in response to the questions found within the County Variance Application.

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

Submitting a variance application to place a garage and greenhouse where an existing shed already exists. The existing shed is currently 13 feet from the property line and we would like to place the new structure 13 feet from the property line. If placed at the 20-foot set back the new structure would be too close to the existing. A similar project was completed just to the north on Lot 8, Blackacre Sub 2nd filing. We are requesting the same allowance for this addition. The garage has been designed so the entrance would face north and the driveway would not block the sidewalk that is used by pedestrians. This design will provide more than 20 feet of parking space on the driveway.

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

There is not adequate space on other areas of the lot. The new garage and greenhouse is being placed across the property line of the two parcels.

Additional information and materials specified within the Application forms are included in those forms and/or attached to this letter. We thank you very much for your continued support on this request, and for your consideration of our variance application. Please feel free to contact me at (406) 690-0206 if you have any questions.

Sincerely,



Molly Harrington

Application

APPLICATION FORM

CITY VARIANCE

ID: Billings Variance # 1276 - Project # 18-00025

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 # A03134 / A03137B CITY ELECTION WARD # 3 (Billings)
Legal Description of Property: (A03134) Blackacre Subd 531, Tol N, R26E, Lot 002-2
(A03137B) Blackacre Subd 2nd Filing, 531, Tol N, R26E, Lot 7

Address or General Location (If unknown, contact City Engineering):
501 Chancery Ln + 2220 Virginia Ln

Zoning Classification: Residential 9600

Size of Parcel (Area & Dimensions): (A03134) 13574.90 SF, 175 x 91.50 (A03137B) 17849.86 SF, 175 x 102

Covenants or Deed Restrictions on Property: Yes No

If yes, please attach to application

Variance(s) Requested: See attached Section 27-602(a) 70ft setback to centerline of a minor arterial street to allow 43ft setback: Sec. 27-308 requiring 20 ft front setback to allow 13-foot front setback.

Facts of Hardship: See attached

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

Owner(s): MOLLY + BRIAN HARRINGTON
(Recorded Owner) 501 Chancery Ln Blgs Mt 59102
(Address) (406) 690-0206
(Phone Number) (email)

Agent(s): BlueLine Engineering
(Name) 2110 Overland Ave Suite 119 B Blgs, MT 59102
(Address) (406) 291-2294 mphil@blue-line-eng.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: [Signature] Date: 1/19/18
(Recorded Owner)

Pd CC

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 conditions or circumstances that exist which are peculiar to the land, the lot or something inherent in the land which causes a hardship. The hardship is caused by wanting to build a detached garage into the setback.

- 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 where most homes were built in the early to mid 1900's. Denying the variance would only deprive the applicant the ability to build a detached garage in the location they want to build it.

- 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 would allow the applicant to build into the setback and arterial setback according to the zoning regulations of the City of Billings a special privilege not generally enjoyed in this neighborhood. There have been a few setback variances granted in the surrounding neighborhood, none of them were for arterial setback.

- 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;**

Staff is recommending denial of the variance, however granting the variance does not conflict 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 denial for this variance; however, should the Board of Adjustment grant the variance, staff is recommending the following conditions for the reduction in setback:

1. The variance is to allow a variance from the requirement of a minimum front setback of 20 feet to allow a front setback of 13 feet and from Section 27-602(a) requiring a minimum 70-foot setback to the centerline of a minor arterial street (Virginia Lane) to allow a 43-foot setback to the centerline. No other variance is intended or implied with this approval.
2. The variance is limited to lot 2 Blackacre Sub. & Lot 7, Blackacre Subdivision, 2nd Filing generally located at 2220 Virginia Lane.
3. The owner will submit a building permit application within 1.5 years of Board of Adjustment approval and complete the construction within 3 years of Board of Adjustment approval.
4. Failure to begin or complete the approved actions on the variance will void the approved variance.

5. 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.

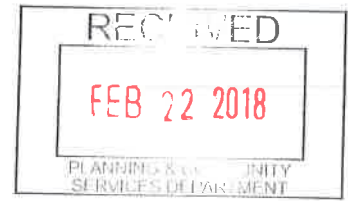
6. The Board shall prescribe a time limit within which the action for which the variance is required shall be begun or completed, or both. Failure to begin or complete such action within the time limit set shall void the variance; and

Staff is recommending denial of the variance so a time limit to complete the construction is not necessary, however should the Board of Adjustment grant the variance staff recommends the applicant be required to submit a building permit application within 1.5 years and complete the project within 3 years of the variance 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 dwellings and accessory structures are allowed in the R-96 zone.

**505 O'Malley Drive
Billings MT 59102**



Sunday, February 18, 2018

Billings Planning Division
4th Floor
2825 3rd Avenue North
Billings MT 59102

We received notice of the request by the Harringtons in connection with city variance No.1276 for project number 18-00025. We have no objection to the request for the variance as we understand safe and adequate pedestrian traffic on the Virginia Lane has been accommodated in the plans.

Laurence & Ruth Martin
505 O'Malley Drive



City Board of Adjustment

Meeting Date: 03/07/2018

SUBJECT: Variance #1277- 744 Yellowstone Ave.

THROUGH: Monica Plecker

PRESENTED BY: Karen Husman

Information

REQUEST

City Variance #1277- 744 Yellowstone Ave. - The applicant is requesting a variance from Section 27-308 requiring a minimum lot area of 9,600 square feet for two (2) dwelling units to allow a minimum lot area of 7,000 square feet in a Residential 7,000 (R-70) zone, on Lots 31 & 32, Block 55 of Suburban Homes Addition. The purpose of the variance is to allow a second address to be assigned to the property. Presented by Karen Husman, Planner I.

RECOMMENDATION

Conditional approval.

APPLICATION DATA

OWNER: Lavern & Nancy Petersen
PURPOSE: To allow a reduction in the minimum lot area allowing a second address to be assigned
LEGAL DESCRIPTION: Lots 31 & 32, Block 55 of Suburban Homes Addition
ADDRESS: 744 Yellowstone
SIZE OF PARCEL: 7,000 sf
EXISTING LAND USE: Single Family Residential
PROPOSED LAND USE: Same
EXISTING ZONING: Residential 7,000 (R-70)

CONCURRENT APPLICATIONS

Building permit #BP-17-00170, for a garage with an artist studio on the second level.

APPLICABLE ZONING HISTORY

There have been 23 variance requests in this subdivision. The variance requests have ranged from lot coverage, to setbacks, to multiple dwelling units on a small lot, and signs in a school area. Three of the 23 variances were denied. One was asking for smaller lot sizes than required by zoning so the property could be subdivided. The second was a lot size variance and the third one was for a garage that would be larger than allowed by zoning. One variance included 33 properties, all requesting the setback from an arterial street be reduced.

SURROUNDING LAND USE & ZONING

NORTH: Zoning: Residential 7,000
Land Use: Residential single family
SOUTH: Zoning: Residential 7,000
Land Use: Residential single family
EAST: Zoning: Residential 7,000
Land Use: Residential single family
WEST: Zoning: Residential 7000

Land Use: Residential single family

BACKGROUND

The applicant is requesting a variance in order to add a second address to the property required by the power company to add a second electric meter. The intent is to add the meter to the recently built garage with an art studio in order to keep the art studio electric separate from the residential structure, so the tenant would not be paying for the additional electrical use.

The owner states they are currently not living in the property, but intend to move back in to the house in the future. The house was built in 1938 and the electrical wiring is in need of updating. They would like to add a second meter to the new garage in order to keep track of the cost of producing their art. They have also stated they would not be converting the garage/ art studio into living space. However, allowing the second address with a lot size variance would allow a second dwelling unit.

There have been multiple variances granted to reduce the minimum lot size in the area. While doing research on the property, it was noted there are several properties that have two addresses on a single lot. This part of Billings is mostly single family residences and in several cases two homes on a single lot. In many parts of older neighborhoods in Billings there are two homes on a single lot. This practice was very common in the earlier parts of Billings history and provides higher densities and still maintains the look of single family homes along the street frontage.

RECOMMENDATION

Planning staff has reviewed this application, the zoning history in the neighborhood, and reviewed the situation on the subject property. Staff is forwarding a recommendation of conditional approval based on the determinations for approval of variances as provided within this report.

Attachments

Zoning Map & Site Photos
Application, Applicant letter & Site plan
Determinations

Attachments



Subject Property



West

Attachments



North



Northwest

Attachments



South



Looking from alley to new garage/art studio structure

APPLICATION FORM

CITY VARIANCE

ID: Billings Variance # 1277 - Project # P2-18-00026

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 # A15672 CITY ELECTION WARD # 3

Legal Description of Property: 03-0927-04-2-05-24-0000, SBH Suburban Homes ADD, S04, T01 S, R26 E, Block 55 Lot 31-32

Address or General Location (If unknown, contact City Engineering): 744 Yellowstone Ave Billings, MT

Zoning Classification: R-7000

Size of Parcel (Area & Dimensions): 50' x 140' 7,000sqft

Covenants or Deed Restrictions on Property: Yes No X

If yes, please attach to application

Variance(s) Requested: This request is to have a separate meter for utilities on a recently built studio.

Facts of Hardship: I am an artist, working in clay, I need to separate production cost - that includes utilities from the energy cost of the living space.

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

Owner(s): Lavern & Nancy Peterson (Recorded Owner) 811 Judicial Ave, Billings MT (Address) 406-248-1312 (Phone Number) (email)

Agent(s): (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: Nancy Peterson (Recorded Owner) Date: 2-4-2018

January 25, 2018

To the Chairperson of the Board of Adjustment:

Please consider granting us a variance for utility meters based on the following reasons. I am a painter and potter, who has taught high school art for 28 years and I am getting ready to retire from that profession within the next 2 years, and become a full time artist. My needs include a kiln, source of water, and painting/production space. In order to complete that goal, my husband and I built a studio on a property that we have owned for forty years. That framed, closed in building was completed in December. We are now working on the finish.

To make the project efficient both to pay taxes and determine cost of producing clay art (energy cost a factor) it is important to have utility meters separate from the domestic housing. The new building is not intended for housing. I am requesting a variance for the utility meters or separation of services from the original house.

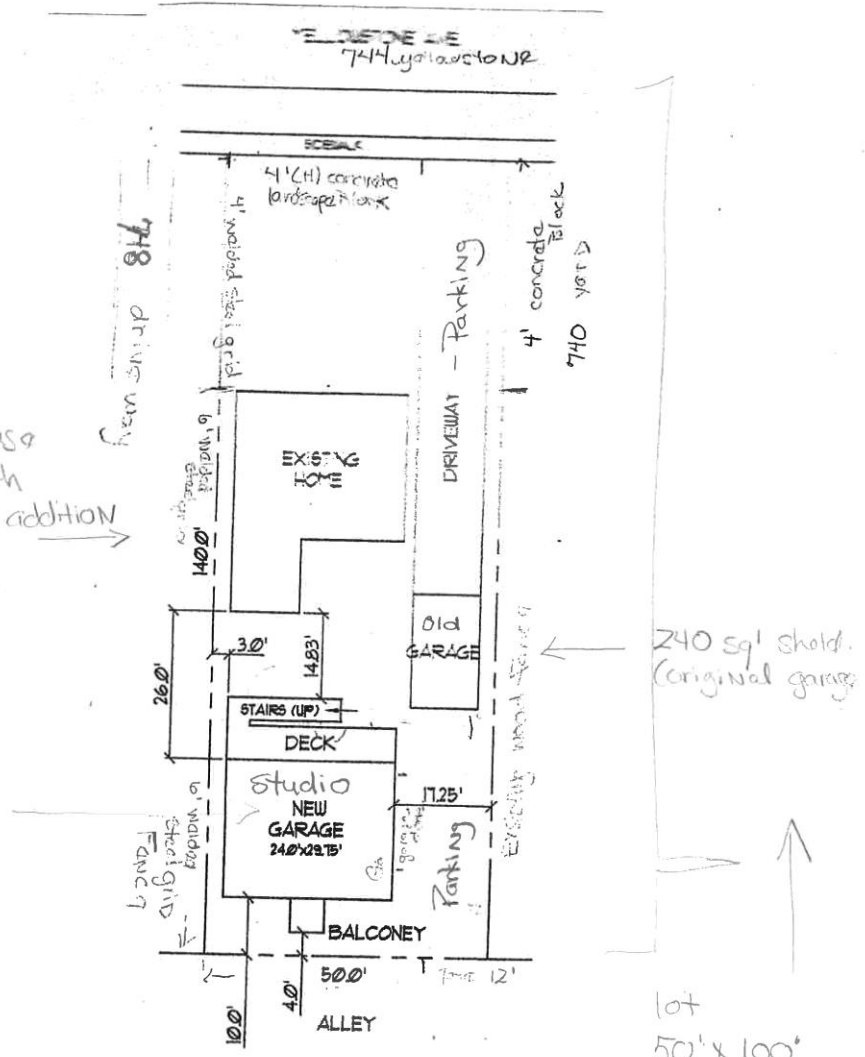
At the time of my retirement, we will be returning to live at the house on 744 Yellowstone and will need to update the wiring of the 1938 house. The wiring of the original garage structure (now used for storage) will be joined to the new build. It will be beneficial to the rewiring process to have the utilities on the non-housing structures separate from the house.

As part of our retirement goals, we are looking forward to a down sizing of living space, returning to our old, convenient neighborhood and fulfilling a long professional dream of making art all the time. Thank you for your caring consideration of this request.

Regards,
Nancy and Lavern Petersen

Original house
1146 sq' with
a 954 sq' addition

Height
16'
Same
as existing
house



SITE PLAN

SCALE: 1" = 25'-0"

DETERMINATIONS FOR VARIANCE # 1277;

Prior to approval, the Board of Adjustment shall ensure that the determinations for variances, as outlined below, have been satisfied:

- 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. However, there are other properties in this area that contain separate addresses on a lot.

- 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 are several properties within this subdivision with less than the required lot area for multiple dwelling units. There have been six variances granted in this subdivision for two dwelling units on lots that are smaller than what is required by current zoning. Denying the variance would deprive the applicant of rights commonly enjoyed by other property owners in the same neighborhood.

- 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. Similar variances have been granted in the area and other properties are similarly developed without the benefit of a zoning 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;**

Granting this variance will be in harmony with the general purposes and intent of the zoning regulations and 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 this variance request:

1. The variance is to decrease the minimum lot size from 9,600 square feet to 7,000 square feet for two existing single family homes. No other variance is intended or implied with this approval.
2. The variance is limited to Lots 31 & 32, Block 55 of Suburban Homes Addition generally located at 744 Yellowstone Ave.
3. Any future re-construction or remodeling of the existing structures will require compliance with all Building Codes, Fire Codes, Engineering Codes, Zoning Regulations, and city ordinances that apply at the time of re-construction with the exception of the variance request.

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**

Staff is recommending no time limit on this variance request. The structure already exists and the conditions of approval should safeguard the community.

- 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 properties in the district.**

The granting of this variance would not allow a use that is not allowed in the zoning district. Multiple dwellings on a single lot are an allowed use in the Residential-7,000 zoning district.