



CITY BOARD OF ADJUSTMENT
AGENDA-(AMENDED) Wednesday, April 4, 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 March 7, 2018.

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. **Variance 1278-1134 Jordan Avenue** - The applicant is requesting a variance from Section 27-308 requiring a minimum rear setback of 20 feet to allow a minimum rear setback of 8 feet and from 27-308 requiring a maximum lot coverage of 30% (2,133 sf) to allow a maximum lot coverage of 31% (2,204 sf) in a Residential 7,000 (R-70) zone, on Lot 12, Block 2, Celestial Subdivision, a 7,109 sf parcel of land. The purpose of the variance is to allow the addition of 2 bedrooms to the north side of the home. Tax ID: A28748. Presented by, Karen Husman, Planner I.

- b. **Variance 1279 - N25th St and 7th Avenue N** - The applicant is requesting a variance from Section 27-309 requiring a minimum front setback of 20 feet to allow a 2-foot front setback and from Section 27-309 requiring a minimum side adjacent to street setback of 10 feet to allow an 8-foot side adjacent to street setback in a Residential Professional (RP) zone, on Lots 4-12 and 17-21 of Block 59 Foster's Addition and Lots 4-11 of Block 269 Billings First Addition, a 1.12 acre parcel of land. The purpose of the variance is to allow the construction of a new medical clinic. Tax IDs: A01966, A01967, A01968, A07375 & A07379. 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: 04/04/2018

Information

Subject

The minutes of the Board meeting of March 7, 2018.

Attachments

BBOA_2018_03_07_draft

CITY BOARD OF ADJUSTMENT

MINUTES March 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	1									
Dave Hagstrom	Board member	1	1	A									
Paul Hagen	Board member	1	1	E									
Frank Chesarek	Vice Chairman	1	E	1									
Oscar Heinrich	Board member	1	1	1									
Martin Connell	Board member	1	1	1									
Mark Noennig	Chairman	1	1	1									

TOTAL NUMBER OF APPLICATIONS 2018	01/03/201	02/07/201	03/07/201	04/04/201	05/02/201	06/06/201	07/05/201	08/01/201	09/05/201	10/03/201	11/07/201	12/05/201	Total
Variances	2	2	3										7

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 Tammy Deines, Planning Clerk.

Attending: Stephen Gountanis; Nancy & LaVern Peterson; Molly Harrington; Rex Dietz; Brian Harrington; Marshall Phil, Blueline Engineering.

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 February 7, 2018 minutes. Board member Mitchell 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

There were no disclosures of Conflict of Interest. Boardmember Noennig disclosed a conversation about the site visit for Variance #1275.

Site Visits: Board member Noennig, Board member Hagen, Board member Heinrich; and Board member Connell made site visits to the property for Variance #1275. Board member Noennig, Board member Chesarek; Board member Hagen; Board member Mitchell; Board member Heinrich; and Board member Connell made site visits to the property for Variance #1276. Board member Chesarek; Board member Hagen; Board member Heinrich; and Board member Connell made site visits to the property for Variance #1277.

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.

Item #1:

Nicole Cromwell read the legal description for **Variance #1275**: Karen Husman presented:

City Variance 1275 – 5205 Cabernet Lane – Lot Coverage to 31% and Garage Setback of 10 feet - 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 to allow the garage entrance on Vineyard Way. Tax ID: A32046

Ms. Husman pointed out 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.

1. Ms. Husman reviewed the Determinations for Variance #1275 staff recommendation. 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. 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. 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.

Discussion:

Chairman Noennig asked the Board for questions and discussion. Boardmember Connell-asked who is the architect for this project. He stated he made a site visit to this property. He voiced concern with the City's inspections with this building. Ms. Husman explained that the permit was issued with an approved 10-foot setback instead of the 20-foot setback. Boardmember Connell voiced concern

with the review process and said he would be upset if he owned this subdivision. Boardmember Heinrich asked if there is any way for the canopy to be acceptable. Ms. Husman explained the total lot coverage of the patio.

Public Hearing

At 6:13 p.m., Chairman Noennig opened the public hearing and asked if there was anyone wishing to speak in favor or against **City Variance #1275**.

Steve Goutanis, 2612 Southridge Drive, Billings, Montana

Mr. Goutanis stated he is the contractor, and the building plans were drawn by Impact Drafting. He said he checked the lot lines and setbacks with the City's Plan Reviewer prior to construction, and he was not aware of the 20-ft set back requirement. He said the owners asked to have the patio covered and he purchased the materials for the project during the framing process. The City's inspector realized the 1% overage on the lot coverage which amounts to a 11-ft X 12-ft section. Per Boardmember Hagen's request, he clarified the location of the steps. He said the inspector did not catch the incorrect side setback. Inspections were done throughout the process. Mr. Goutanis said this is his first experience in 12 years he has had this difficulty. Board member Noennig asked if with his experience, he should have had some inclination of this issue. Ms. Cromwell said in addition to the Planning Division, the Engineering Division provides review as well. In this case, the error was missed by Planning, Engineering, and the Building Inspector. Boardmember Noennig acknowledged the unique nature of the building and location on the lot. Boardmember Connell stated these errors affect the aesthetics of the subdivision. Boardmember Noennig asked how to make the patio compliant. Mr. Goutanis pointed out the difficulty of removing the supports due to the way it is constructed; and the need for redesign to accomplish this. In response to question by Boardmember Chesarek, Mr. Goutanis stated there are five builders in this subdivision, with Rick Dorn owning the remainder of the lots. The subdivision is projected to be completed by spring. Mr. Goutanis sent letters of explanation with contact information to the neighboring residents.

Rex Dietz, 1135 Vineyard Way, Billings, Montana

Mr. Dietz lives across the street from this property and has contracted to purchase this house. He is happy with the current construction. The neighbors he spoke with have no concerns with this project. As for the garage setback, he does not expect to have parking in front of the garage. The patio will provide protection from the elements. They were in the process of siding the structure when the inspector arrived. Boardmember Chesarek asked Mr. Dietz about the cost of reconstruction. Mr. Dietz estimated \$6,000-8,000, and if made to comply, it will leave a gap over the porch.

There was no one else wanting to speak in favor or in opposition to City Variance #1275. The public hearing was closed at 6:31 PM. Chairman Noennig called for a motion.

Motion

Boardmember Chesarek made a motion to conditionally approve **City Variance #1275**. Boardmember Connell seconded the motion.

The conditions are as follows:

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 and from the 30% maximum lot coverage to allow 31% 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. The applicant must submit the amended trusses for the covered patio structure for review and approval from the building division within 30 days of approval of this variance.
4. 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.
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.

Discussion

Chairman Noennig called for discussion on the motion. Boardmember Connell commented the City should put the burden on the architect. Inspectors are supposed to catch the errors prior to construction. The garage is distasteful with the variance for the 10-foot setback. Boardmember Chesarek asked how many parking places are in the front of the property. Ms. Husman stated it is a five-car garage with four available parking spots in the driveway which is 20 feet from the street. Chairman Noennig said there is 10 feet available on the side yard garage. Boardmember Chesarek said he will vote to conditionally approve the variance on the basis the engineering has been done, and there is no concern from the neighborhood. The Board suggested an additional condition that the trusses are acceptable. Boardmember Heinrich voiced concern as there have been previous instances where the Board made others comply. Boardmember Noennig said each circumstance is different, and in this case, he cannot find an option that is sensible. He commented there is a difference between making a mistake and a deliberate violation of rules. Boardmember Connell stated there has to be some degree of understanding with these instances and he cannot see that this would hurt the neighbors or anyone else. Boardmember Mitchell asked if the original building permit had a patio. Ms. Husman said the stamped plans onsite showed the structure did not have a covered patio. She explained the 30% allowable lot coverage is the code in most of the residential construction zones, and doesn't include concrete and sidewalks.

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 conditionally approve **City Variance #1275** passed, 4-2

Item #2:

Nicole Cromwell read the legal description for **Variance #1276**: Karen Husman presenting.

City Variance 1276 – 501 Chancery Lane and 2220 Virginia Lane – Arterial and Front Setback

- 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, 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. Tax IDs: A03134 and A03137B

Recommendation:

Staff recommends denial based on the determinations for variance review.

Ms. Husman reviewed the determinations for City Variance #1276:

1. 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. 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. 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. 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.

Discussion:

Chairman Noennig asked the Board for questions and discussion. Board member Connell asked if the structure could be set back further on the lot to comply with the setback requirements. Staff commented the request might have been made so the building does not restrict the view shed. Per request of Board member Heinrich, Ms. Husman gave clarification on the variances granted for the adjacent parcel. Board member Mitchell asked if the northern parcel be sold if the building is built on the property line.

Chairman Noennig **opened the public hearing at 6:55 PM** and asked if there was anyone wishing to speak in favor or against **City Variance #1276**.

Brian Harrington, 501 Chancery Lane, Billings, Montana

Mr. Harrington is the property owner. He pointed out the side of the house on the site map, and stated the existing shed provides buffering against Virginia Lane. He said they plan to install fencing if the variance is denied. He pointed out existing the landscaping, berming, and a well. The current shed is located 13 feet from the sidewalk.

Molly Harrington, 501 Chancery Lane, Billings, Montana

Ms. Harrington is the co-owner for this property. She explained that their initial plan was to replace the shed. It became apparent the eaves of the building would almost touch their home when considering the setback requirements. Another reason for this proposal is it will affect the existing landscaping. In response to query by Board member Hagen, Ms. Harrington stated they would consider a 15-foot setback.

OPPOSED: No one spoke in opposition of City Variance #1276. Chairman Noennig closed the public hearing and called for a motion.

Motion

Board member Chesarek made a motion to deny **City Variance #1275**. Board member Noennig seconded the motion.

Discussion

Chairman Noennig asked the Board for questions and discussion. Board member Connell voiced concern with encroaching on an arterial setback which are created for long term expansion of the City of Billings. He stated he feels a garage could be constructed to meet the arterial setback and he did not hear justification of the criterion for a hardship. Zoning Coordinator Nicole Cromwell pointed out the first three of the seven criterion for approval of a variance. Board member Mitchell asked for additional information on the property to the north. Ms. Cromwell commented on the previous variance history in this area. She pointed out this is a request for a detached garage which has specific requirements. The setback requirement is 20-feet from the street regardless whether the garage door faces the street or not.

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 **City Variance #1276** passed, 5-1.

Item #3:

Nicole Cromwell read the legal description for **Variance #1277**:

City Variance 1277 – 744 Yellowstone Avenue – Lot Area – 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. Tax ID: A15672

Recommendation

Staff is forwarding a recommendation of conditional approval based on the determinations for approval of variances as provided within this report.

1. 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. 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. 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. Granting this variance will be in harmony with the general purposes and intent of the zoning regulations and Growth Policy.

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. This variance does not include wall height.
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.

Discussion:

Chairman Noennig asked the Board for questions and discussion. In response to question by Board member Heinrich, Ms. Husman stated there is an approved building permit for a garage with an art studio on the second level. Board member Mitchell asked where the utilities are connected and Staff stated currently the utilities are to the home. The plan is to restructure the wiring with a new meter. Board member Chesarek said the issue is to install a second meter on the garage. Board member Noennig commented pottery making sounds like a business. To answer further queries by the Board, Staff explained the applicant is looking to move into the property and have a separate utility to track the cost of their art working. The art studio is an allowed use and a business license will be needed required. A new address would be assigned on Yellowstone Avenue. The separate address for hookup is required by Northwestern Energy, and an approved variance request is needed to accommodate the power company.

Chairman Noennig opened the public hearing at 7:25 PM and asked if there was anyone wishing to speak in favor or against City Variance #1277.

Laverne Peterson, 811 Judicial Ave. Billings, Montana

Mr. Peterson is the property owner. He purchased this home while attending college; and kept it as rental when he and his wife relocated to the Heights. Mrs. Peterson would like to build a studio to accommodate ceramic crafting. A separate meter is needed as currently there are renters in the home. He stated they were unaware of the need for a variance to install an electrical meter on the garage until they were informed by Northwestern Energy of the need to have two addresses. Board member Connell asked if they have quote for hookup expense, and it was noted an onsite quote will be done if the variance is approved. Mr. Peterson said the current meter is located at the back of the house. Board member Connell suggested considering having the electrician install a separate box.

Nancy Peterson, 811 Judicial Ave. Billings, Montana

Mrs. Peterson said she is a teacher and she works with clay and needs a studio. The house is not wired to take on the power needed for a kiln. The gas company also made a similar request. The garage is plumbed for water but will run on the main line and is permitted.

OPPOSED No one spoke in opposition to City Variance #1277. Chairman Noennig closed the public hearing at 7:35 p.m. and called for a motion.

Motion

Board member Heinrich made a motion to conditionally approve **City Variance #1275** as presented by staff. Board member Mitchell seconded the motion.

Discussion

Chairman Noennig asked the Board for questions and discussion. There was none.

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 #1277**, passed -0.

Other Business:

The next City Board of Adjustment meeting is scheduled for Wednesday, April 4, 2018 in the Miller Building 1st Floor Conference Room, 2825 3rd Avenue North.

The meeting adjourned at 7:50 PM.

**ATTEST: DRAFT. To be approved by a motion April 4, 2018.
Tamara L. Deines, Planning Clerk**



City Board of Adjustment

Meeting Date: 04/04/2018

SUBJECT: Variance #1278-1134 Jordan Avenue

THROUGH: Monica Plecker

PRESENTED BY: Karen Husman

Information

REQUEST

Variance 1278-1134 Jordan Avenue - The applicant is requesting a variance from Section 27-308 requiring a minimum rear setback of 20 feet to allow a minimum rear setback of 8 feet and from 27-308 requiring a maximum lot coverage of 30% (2,133 sf) to allow a maximum lot coverage of 31% (2,204 sf) in a Residential 7,000 (R-70) zone, on Lot 12, Block 2, Celestial Subdivision, a 7,109 sf parcel of land. The purpose of the variance is to allow the addition of 2 bedrooms to the north side of the home. Tax ID: A28748. Presented by, Karen Husman, Planner I.

RECOMMENDATION

Staff recommends conditional approval of the variance.

APPLICATION DATA

OWNERS: Cara Auch
AGENT: Lonnie Ray Smith
PURPOSE: To allow a minimum rear setback of 8 feet and to allow a maximum lot coverage of 31% (2,204 sf)
LEGAL DESCRIPTION: Celestial Sub., Blk. 2, Lot 12
ADDRESS: 1134 Jordan Circle
EXISTING LAND USE: Residential
PROPOSED LAND USE: Residential
EXISTING ZONING: R-70

CONCURRENT APPLICATIONS

None.

APPLICABLE ZONING HISTORY

Subject Property – None

Surrounding Property – There have been four variance requests in this area. One for setbacks, one for lot area reduction for two dwelling units, one for lot coverage allowance of 33% and one for lot coverage allowance for 36%. All were approved.

SURROUNDING LAND USE & ZONING

NORTH: Zoning: R-70
Land Use: Residential Single Family
SOUTH: Zoning: R-70
Land Use: Residential Single Family
EAST: Zoning: R-70
Land Use: Residential Single Family

WEST: Zoning: R-70
Land Use: Residential Single Family

BACKGROUND

The applicant is requesting a variance from Section 27-308 requiring a minimum rear setback of 20 feet to allow a minimum rear setback of 8 feet and from 27-308 requiring a maximum lot coverage of 30% (2,133 sf) to allow a maximum lot coverage of 31% (2,204 sf) in a Residential 7,000 (R-70) zone, on Lot 12, Block 2, Celestial Subdivision, a 7,109 sf parcel of land. The purpose of the variance is to allow the addition of 2 bedrooms to the north side of the home.

There have been similar variances approved in this area of Billings. The applicant is requesting the variance in order to add additional rooms to her growing family. The lot coverage variance would allow the applicant an additional 125 square feet of living area over the 30% allowed (30%= 347 more square feet allowed, the proposed new addition is 472 square feet) if approved they would also be encroaching into the rear setback 12 feet. The applicant and owner of the home purchased the house new through the Habitat for Humanity program allowing them a zero interest financing package. They are hoping to retain the home and financing with the remodel.

There were no comments received from City departments, and there was only one concern from a neighboring property owner. The property owner to the west (at 1145 Bench Blvd.) wanted clarification about how it would affect the easement and their property. After Staff explained the intent of the application they were not opposed to it. There were no other comments or concerns received.

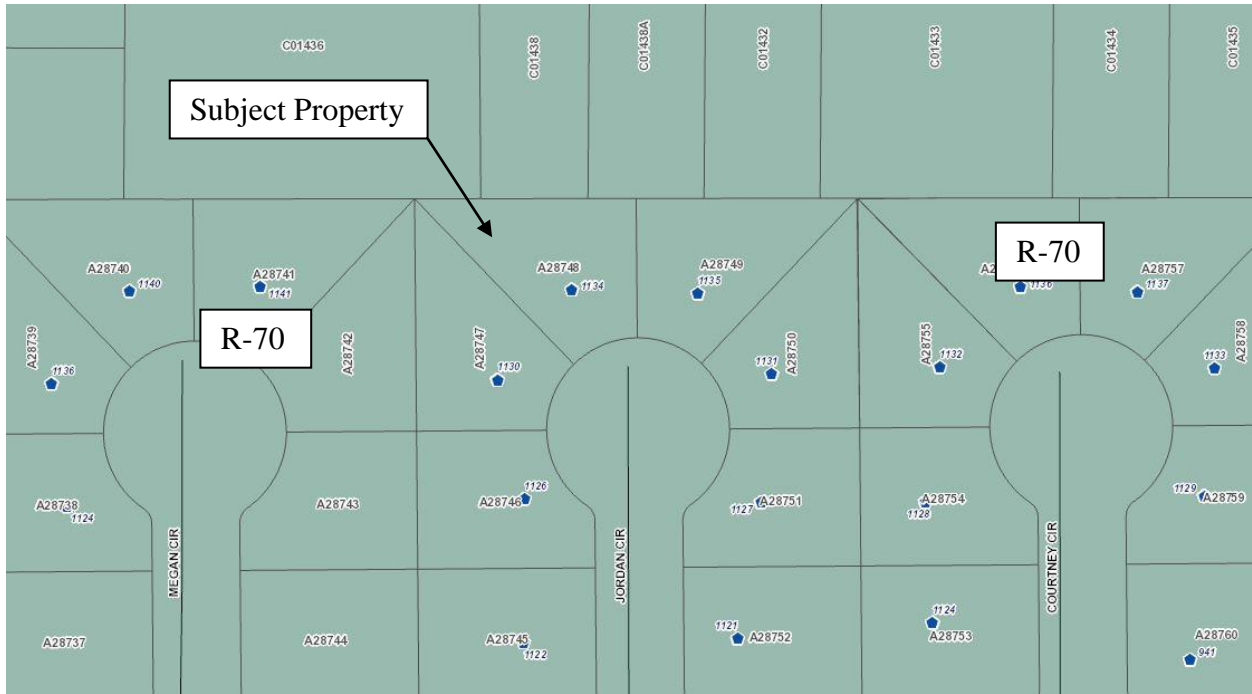
RECOMMENDATION

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.

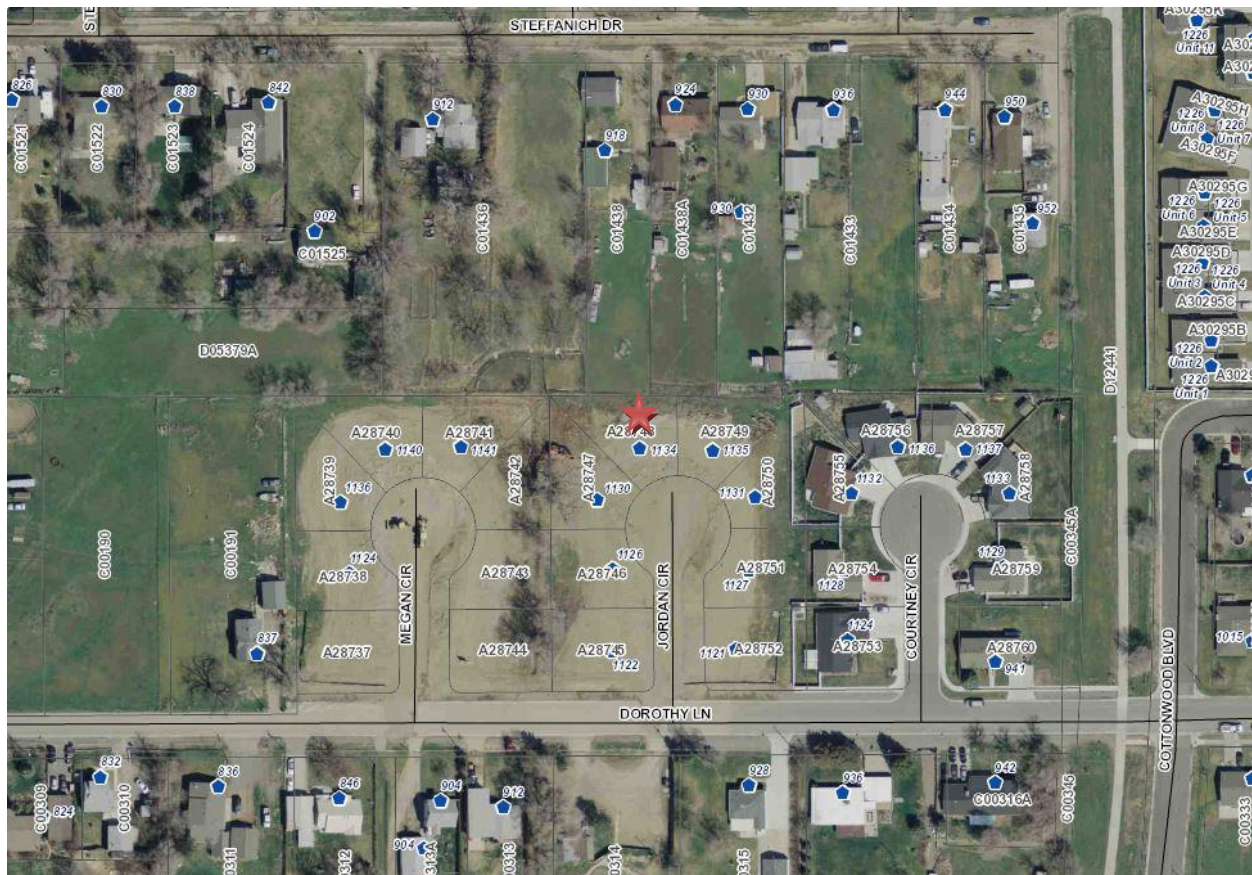
Attachments

Zoning Map & Site Photos
Applicant Letter & Site Plan
Determinations

ATTACHMENT
Surrounding Zoning & Site Location



Aerial Photograph before home was removed



Subject property ★

ATTACHMENT
Site Photographs



Subject Property



Looking west



Looking East



Looking South

ATTACHMENT
Application form

APPLICATION FORM

CITY VARIANCE

ID: Billings Variance # 1278 - Project # P2-18-00047

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 # A28748 CITY ELECTION WARD # 2

Legal Description of Property: Celestial Subd, S23, T01 N,
R2wE, Block 2, Lot 12, AMND (98) 1134 Jordan Circle

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

Billings, MT 59105

Zoning Classification: Residential 7000

Size of Parcel (Area & Dimensions): 7,109 sP

Covenants or Deed Restrictions on Property: Yes X No



If yes, please attach to application

Variance(s) Requested: To build onto setback for add-on,
so family can live under one roof.

Facts of Hardship: 20 foot setback preventing add-on.
8 ft rear setback and 31% lot coverage

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

Owner(s): Cara Auch

(Recorded Owner)

1134 Jordan Circle

(Address)

406-647-6692

(Phone Number)

(email)

caraauch@yahoo.com

Agent(s): Lonnie Ray Smith

(Name)

918 Steffanich Dr Billings MT 59105

(Address)

406 694 4100

(Phone Number)

(email)

Smith - Lonnie @ Yahoo.com

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: Cara Auch
(Recorded Owner)

Date: 2/28/2018

ATTACHMENT
Applicant Letter

February 28, 2018

To Whom It May Concern:

I am writing to request a Variance on my property so that I can add-on 2 bedrooms and a basement under them. I currently have a 20-foot set back in my back yard in addition to an 8- foot utility easement, and my hope is to be able to build right up to the easement.

My homeownership experience started in July of 2014 when I was accepted into the Habitat for Humanity program. As a single mom with 3 beautiful little girls this seemed like a great option, and after 2 years of challenging work between going to school full time, working full time, and working on sweat equity hours on my home, it paid off. I now have a gorgeous 3-bedroom home that has 0% interest, and I could not be more pleased. Its affordable and realistic.

Amid working on my home, I met an amazing man who has two young boys of his own. He, ironically enough, was involved in the Habitat Program for quite some time, getting all the way up to 700 hours of sweat equity. He had requested a break from Habitat as his wife at the time was into drugs and he was unsure of their future together. Several months later, his then wife committed suicide leaving the boys without a mom, and Ray no longer qualifying for the Habitat for Humanity program as he went from a 5-family household to a 3-family household. Her son was living with them at the time, and now lives with his biological father. As you can imagine Ray was extremely discouraged at this turn of events, as he was hoping for some type of stability for his family. His wife had ruined his credit and buying a home outright was not going to be an option at that time, so he had to continue to rent.

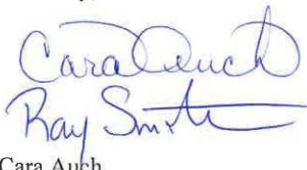
Ray and I are now engaged, and have a baby on the way, and he is currently living on the property just north of mine under a contract for deed. Our backyards are attached. He has been pre-approved to purchase the home for a very reasonable price, and by mid-April this should be his. Ideally, we would rent his one-bedroom small home out and add on to my house, but due to the setback we are struggling to get the permits approved to complete this process.

Between my house and Rays there is a ½ acre field so plenty of utility access.

We have completed all steps necessary to get the permits, from dirt samples to site plans and are just waiting on the hopeful approval to move forward. Ray is a contractor which will save us immensely and allow us to do complete most of the work without hiring out. The baby is due in September, so our time is limited.

Thank you very much for considering this request.

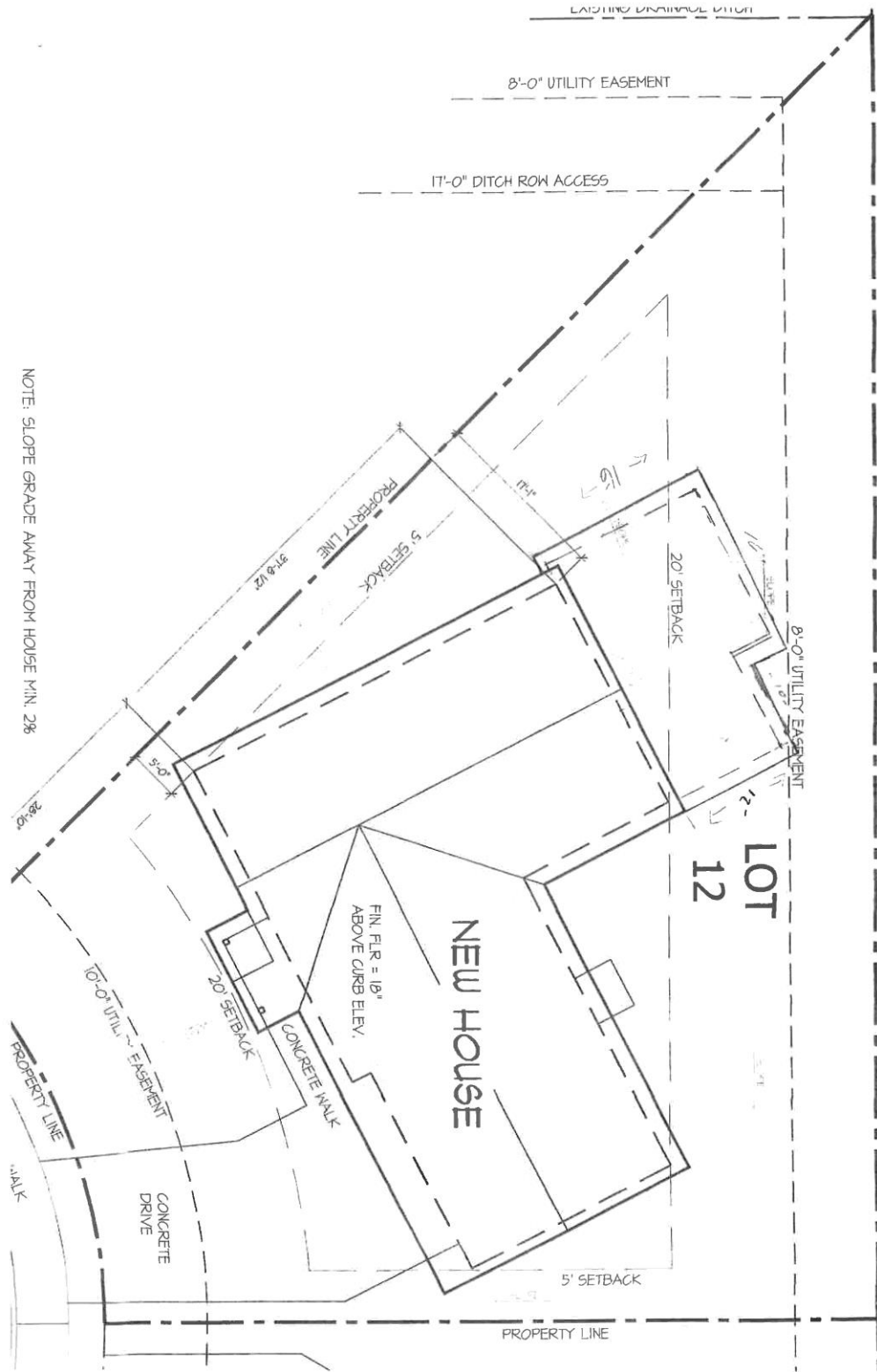
Sincerely,



Cara Auch

Ray Smith

ATTACHMENT
Site Plan



NOTE: SLOPE GRADE AWAY FROM HOUSE MIN. 2%

VARIANCE #1278 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 applicant wishes to add on the house for a growing family.

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 and lot coverage within the same district. Denying the variance for setback and lot coverage would 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 8 feet and 31% lot coverage will not allow the applicant any special privileges. Similar variances have been granted in the 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:

1. The variance from 27-308 requiring a minimum rear setback of 20 feet to allow a setback of 8 feet and from the maximum lot coverage of 30% (2,133 sf) to allow a maximum lot coverage of 31% (2,204 sf) to allow an addition into the rear yard. No other variance is intended or implied with this approval.
2. The variance is limited to Lot 12, Block 2, Celestial Subdivision generally located at 1134 Jordan Avenue.
3. The applicant will submit and obtain a building permit for the new addition within 1 year and have it completed within 2 years.
4. Construction or demolition activity will not occur prior to 7 am or after 8 pm daily.
5. The applicant shall meet all other city code requirements for the proposed addition, as well as meet the requirements of the CCRs and subdivision requirements, with the exception of this variance.
6. A variance and/or approval must be obtained from the Habitat for Humanity in order to allow a basement (restricted under covenants and restrictions) and a copy of

the approval shall be provided to the City Planning and Building Divisions when submitting the building permit 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 for the new addition within 1 year and have it completed within 2 years.

- 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-70 zone.



City Board of Adjustment

Meeting Date: 04/04/2018

SUBJECT: Variance 1279 - N25th St and 7th Avenue N

THROUGH: Monica Plecker

PRESENTED BY: Karen Husman

Information

REQUEST

Variance 1279 - N25th St and 7th Avenue N - The applicant is requesting a variance from Section 27-309 requiring a minimum front setback of 20 feet to allow a 2-foot front setback and from Section 27-309 requiring a minimum side adjacent to street setback of 10 feet to allow an 8-foot side adjacent to street setback in a Residential Professional (RP) zone, on Lots 4-12 and 17-21 of Block 59 Foster's Addition and Lots 4-11 of Block 269 Billings First Addition, a 1.12 acre parcel of land. The purpose of the variance is to allow the construction of a new medical clinic. Tax IDs: A01966, A01967, A01968, A07375 & A07379. Presented by Karen Husman, Planner I.

RECOMMENDATION

Staff recommends conditional approval of the variance.

APPLICATION DATA

OWNERS: Dialysis Clinic Inc.
AGENT: Sanderson Stewart – Pat Davies
PURPOSE: To allow a minimum side adjacent to street setback of 8-feet and a front setback of 2-feet.
LEGAL DESCRIPTION: Lots 4-12 & 17-21 Block 59 Foster's Addition
ADDRESS: SW corner of 7th Ave. W & N 25 St.
EXISTING LAND USE: Residential & Commercial
PROPOSED LAND USE: Medical
EXISTING ZONING: RP

CONCURRENT APPLICATIONS

None

APPLICABLE ZONING HISTORY

Subject Property – None

Surrounding Property – There have been 39 variance applications in this subdivision. Four for building height, two for fence height, five for arterial setbacks, nine for setbacks, two for signs, one for clear vision, one for lot area, one for home occupation (denied), and four for lot size (three denied).

SURROUNDING LAND USE & ZONING

NORTH: Zoning: RMF & RP
Land Use: Residential Multi-Family & Single Family & some Commercial
SOUTH: Zoning: CBD
Land Use: Commercial
EAST: Zoning: RMF
Land Use: Residential Multi-Family & Single Family
WEST: Zoning: CC
Land Use: Commercial

BACKGROUND

The applicant is requesting a variance from Section 27-309 requiring a minimum front setback of 20 feet to allow a 2-foot front setback and from Section 27-309 requiring a minimum side adjacent to street setback of 10 feet to allow an 8-foot side adjacent to street setback in a Residential Professional (RP) zone, on Lots 4-12 and 17-21 of Block 59, Foster's Addition and Lots 4-11 of Block 269, Billings First Addition, a 1.12-acre parcel of land.

There have been similar variances approved in this area of Billings. Variance #329 was conditionally granted in 1982 to allow reduction in a 20-foot setback to zero, and allow an increase from 50% to 83% lot coverage for the Billings Clinic redesign and expansion. The purpose of this variance request is to allow the construction of a new medical clinic. The variance application is for a proposed dialysis clinic. The applicants have stated they have lead an extensive design effort, and looked at many alternatives to accommodate the requirements for a modern dialysis clinic. As a result, the building layout has been maximized for the program which has limited flexibility to down-size the proposed footprint or split the footprint across multiple stories. There is an expanded drop-off need to serve patients, and utilizing curb-side drop off is not preferred. The proposed plan is to provide a covered off-street drop-off area to accommodate all weather conditions and adjacent to the main entrance from off North 25th Street. There will be patient parking within the North 25th Street parcel and staff parking across the alley.

The City Engineering Division had concerns with the clear vision area restrictions as outlined in our City Code. The developer would be required to provide evidence this would not encroach into the clear vision zone, and a condition of approval has been recommended to reflect this concern. No other City departments had any concerns.

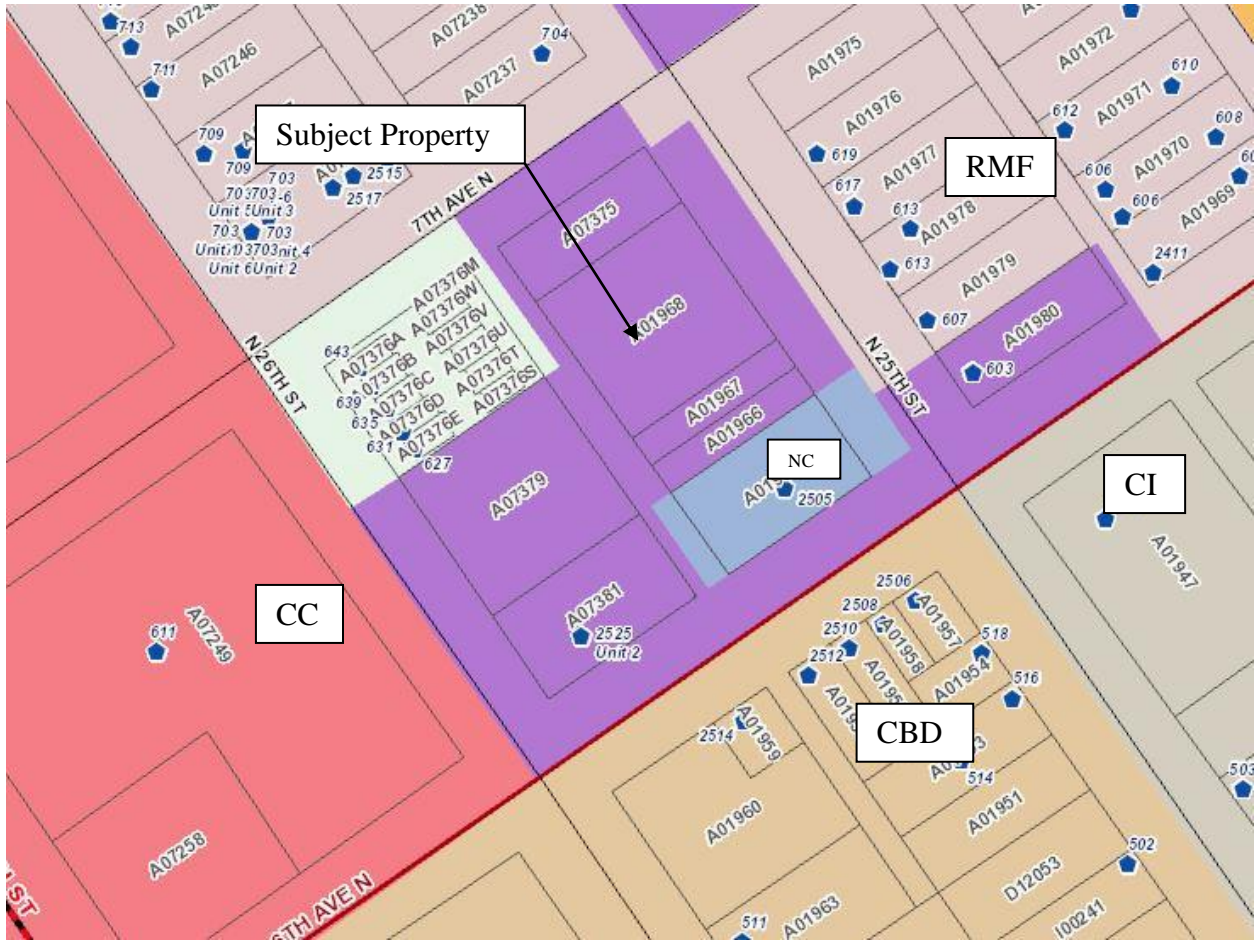
RECOMMENDATION

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.

Attachments

Zoning Map & Site Photos
Applicant Letter & Site Plan
Determinations

ATTACHMENT
Surrounding Zoning & Site Location



ATTACHMENT
Site Photographs



Subject Property



Looking southwest

ATTACHMENT
Site Photographs, Continued



Looking south



Looking east

ATTACHMENT
Site Photographs, Continued



Looking east

ATTACHMENT
Application

APPLICATION FORM

CITY VARIANCE

ID: Billings Variance # 1279 **- Project #** P2-18-00048

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 # A01968, A07375, A01967, A01966, A07379 CITY ELECTION WARD # 1

Legal Description of Property: Lots 4-12 and 17-21, Block 59 of Fosters Addition Subdivision
Billings First Addition Block 269, Lots 4-11

Address or General Location (If unknown, contact City Engineering): _____
SW corner of 7th Ave. W & N. 25th St.

Zoning Classification: Residential Professional

Size of Parcel (Area & Dimensions): Approximately 1.12 acres (see attached Exhibit)

Covenants or Deed Restrictions on Property: Yes _____ No X

If yes, please attach to application

Variance(s) Requested: Building encroachment into the North building setback, approx. 8ft.

Please cover letter for expanded justification request for variance.

Facts of Hardship: This community-oriented medical facility has building and site requirements that traditional urban commercial properties do not normally face, such as drop-off needs to serve a special needs community. This need makes efficient site design challenging.

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

Owner(s): Dialysis Clinic Inc.

(Recorded Owner)

1633 Church Street Suite 500; Nashville, TN 37203-2948

(Address)

(Phone Number)

(email)

Agent(s): Sanderson Stewart (c/o Pat Davies, PE)

(Name)

1300 North Transtech Way, Billings, MT 59102

(Address)

406-656-5255

pdavies@sandersonstewart.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.

Paul Passman

Digitally signed by Paul Passman
DN: cn=Paul Passman, o=Dialysis Clinic, Inc.,
ou=DCI, email=ppassman@dcinc.org,
c=US
Date: 2018.01.01 14:59:38 -0600

Signature: _____ Date: _____

(Recorded Owner)

ATTACHMENT
Applicant Letter



March 5, 2018

Ms. Nicole Cromwell
City of Billings Planning Department
2825 3rd Avenue North, 4th Floor
Billings, MT 59101

Reference: City Request for Variance Application – Lots 4-12 and 7-21, Block 59 of Fosters Addition Subdivision (SW corner of 7th Avenue West and North 25th Street)

Dear Ms. Cromwell:

Attached is the Request for Variance application for the Campos/Dorn property. The owner, Dialysis Clinic Inc., is seeking a variance request for encroachment into the side setback for the property in anticipation of new construction.

Nature of the Request

The site is approximately 1.12 acres. The site is currently a mix of vacant and single-family residential.

This request is for a building encroachment into the north building setback by approximately eight (8) feet, or two (2) feet from the property line. This encroachment would accommodate exterior wall and roof overhang.

Reasons for Request and Statement of Hardship

There is a strong community need for this medical facility in this general location. The clinic will serve a special needs community that requires ease of building access and transportation drop-off. The applicant has lead an extensive design effort, and looked at many alternatives to accommodate the requirements for a modern dialysis clinic. As a result, the building layout has been maximized for the program which has limited flexibility to down-size the proposed footprint or split the footprint across multiple stories.

Because of the expanded drop-off needs to serve patients, utilizing only a curb-side drop-off is not preferred. The preferred plan is to provide a covered off-street drop-off area (porte-cochere) that is all weather and adjacent to the main entrance from off North 25th Street. There will be patient parking within the North 25th Street parcel with expanded staff parking across the alley.



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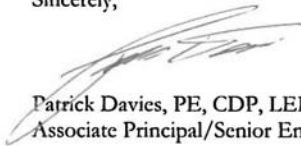
Ms. Nicole Cromwell
March 5, 2018
Page 2

To maintain and respect the urban street character, it is desirable to have one curb cut off North 25th Street and have the patient drop-off towards the center of the parcel. To accommodate the use and internal site circulation, the building will need to push into the north setback by eight (8) feet.

This is an urban area of downtown Billings and the request of the encroachment should not have an adverse effect on the surrounding properties or neighborhood. This project will bring much needed improvements and community benefit to an area in need of investment.

If you have any questions, or need anything else from the applicant or myself, please contact me at 406/656-5255.

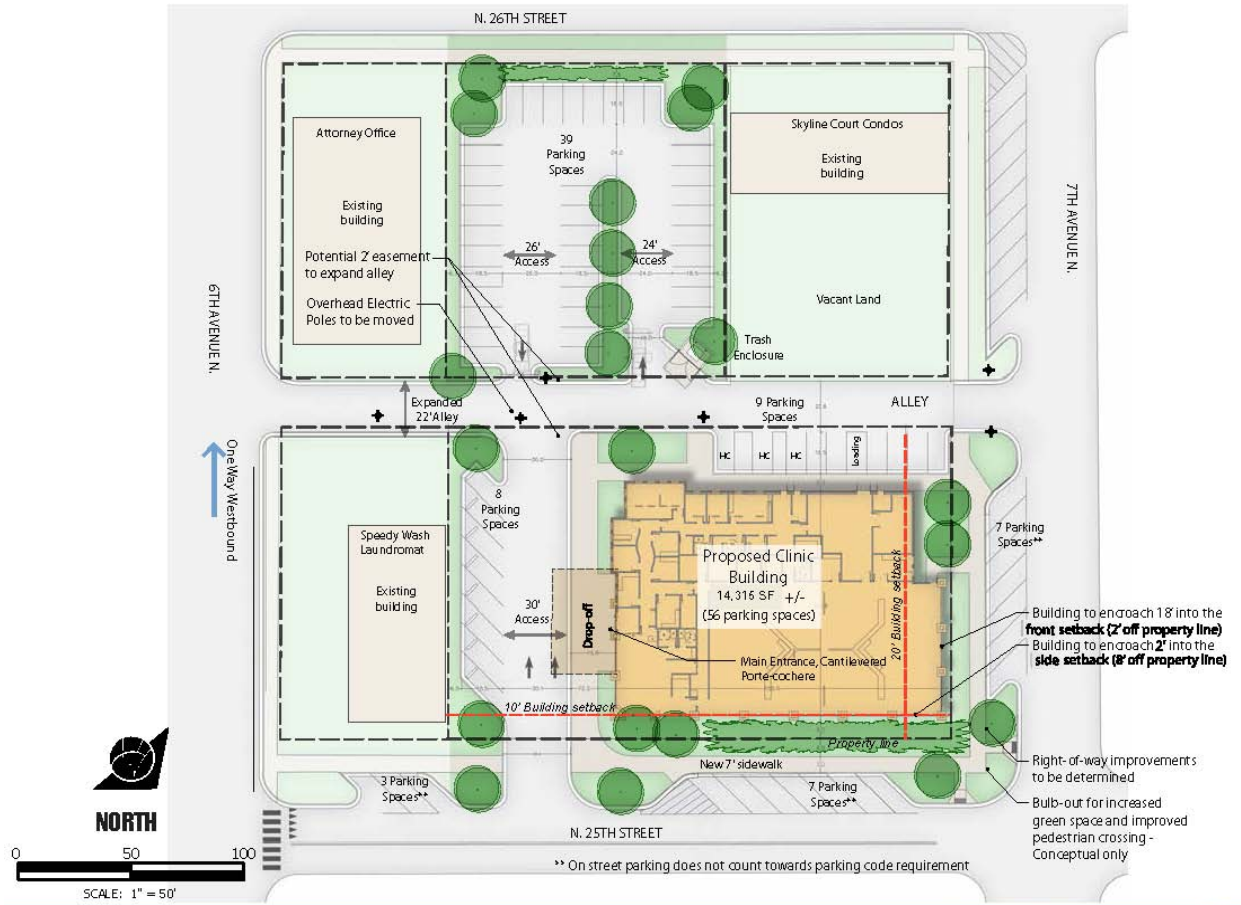
Sincerely,



Patrick Davies, PE, CDP, LEED AP
Associate Principal/Senior Engineer

CSS/hav
P:17047.01_Variance_Request_Application

ATTACHMENT Site Plan



PROPOSED DETERMINATIONS FOR VARIANCE #1279

The Board of Adjustment shall make the following determinations prior to granting a variance:

- 1. That special conditions and circumstances exist which are peculiar to the land, the lot or something inherent in the land which causes the hardship, and which are not applicable to other lands in the same district;**

There are no special conditions or circumstances with the land that create a hardship. In this situation, an effort was made to utilize the property. Designing a facility with several stories in order to meet the required setbacks is less desirable for the type of facility they would like to build at this location.

- 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 similar variances granted in the area for setbacks as well as others. Therefore, allowing the applicant a variance from the required 10-foot side adjacent to street setback to allow 8 feet and from front setback of 20 feet to allow a 2-foot, does 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 would not confer a privilege to this applicant that others in the district do not have. There have been similar variances granted in this and the surrounding subdivisions.

- 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. The development of this parcel is encouraged infill development the Growth Policy supports, as well as an asset to the neighborhood.

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

Staff is recommending the following conditions for the variance request:

1. The variance is from 27-309 requiring a minimum side adjacent to street setback of 10-feet to allow a setback of 8 feet and the front setback of 20 feet to allow a 2-foot. No other variance is intended or implied with this approval.
2. The variance is limited to the south Lots 4-12 and 17-21 of Block 59 Foster's Addition and Lots 4-11 of Block 269 Billings First Addition, generally located at the SW corner of 7th Ave. W & N 25 St.
3. The applicant will submit and obtain a building permit for the structure within 1 year and have the construction completed within 3 years.
4. The structure shall be built in substantial conformance to the site plan submitted with this application. The applicant must show compliance with the clear vision area requirements, and if needed the site plan modified to meet the code.
5. Construction or demolition activity will not occur prior to 7 am or after 8 pm daily.

PROPOSED DETERMINATIONS FOR VARIANCE #1279

6. Failure to begin or complete actions required by this approval within the time limits set forth shall void this variance.
7. The applicant shall meet all other city code requirements for the proposed clinic with the exception of 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 1 year to obtain the building permit for the structure and 3 years 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.