



CITY BOARD OF ADJUSTMENT
AGENDA-Wednesday, September 5, 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 July 11, 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. **City Variance 1285 – Multiple addresses on 11th Ave N and N 24th St** – Lot area; front, rear, side and side adjacent to street setbacks -
A variance from Section 27-308 requiring a minimum lot area of 17,000 square feet for one (1) 4-plex and one (1) duplex to allow 7,000 square feet; requiring a minimum front setback of 15 feet to allow a minimum front setback of 4 feet (2316 11th Ave N); requiring a minimum side adjacent to street setback of 10 feet to allow 2 feet (2320 11th Ave N & 1045/1047 N 24th St) and 4 feet (2316 11th Ave N); requiring a minimum rear setback of 15 feet to allow 0 feet (2316 11th Ave N); and requiring a side setback of 5 feet to allow 2 feet (2320 11th Ave N & 1045/1047 N 24th St) on the north 50 feet of the north 100 feet of Lot 2, Block 8, Sunnyside Subdivision, 2nd filing in a Residential Multi-family-Restricted (RMF-R) zone - Tax ID A16402.

A variance from Section 27-308 requiring a minimum lot area of 13,000 square feet for one (1) duplex and one (1) single family dwelling to allow 7,000 square feet; requiring a minimum rear setback of 15 feet to allow 4 feet (1043 ½ N 24th St); and requiring a side setback of 5 feet to allow 4 feet (1043 ½ N 24th St) on the south 50 feet of the north 100 feet of Lot 2, Block 8, Sunnyside Subdivision, 2nd filing in a Residential Multi-family-Restricted (RMF-R) zone – Tax ID A16401. The purpose of these variances is to allow the issuance of a re-build letter for the purposes of financing or sale in the future. 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: 09/05/2018

Information

Subject

The minutes of the Board meeting of July 11, 2018.

Attachments

BBOA_2018_07_11_draft

CITY BOARD OF ADJUSTMENT

MINUTES July 11, 2018

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

TOTAL NUMBER OF APPLICATIONS 2018	01/03/2018	02/07/2018	03/07/2018	04/04/2018	05/02/2018	06/06/2018	07/11/2018	08/01/2018	09/05/2018	10/03/2018	11/07/2018	12/05/2018	TOTAL
Variance	2	2	3	2	3	1	1						14

Vice Chair Chesarek called the meeting to order at 6:00 p.m. The City Board of Adjustment met in the first floor conference room of the Miller Building located at 2825 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: Joel Parker

Public Comment

Vice Chair Chesarek opened the public comment period and asked if there was anyone wishing to speak during the public comment portion of the meeting.

Approval Meeting Minutes

Member Hagen made a motion for the approval of June 6, 2018 minutes. Member Connell seconded the motion to approve. Minutes were approved by unanimous voice vote 5-0.

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

A new form has been implemented for any disclosures. If any 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 #1284**.

Karen Husman presenting:

City Variance 1284 – 1324 O’Malley Dr –Rear Setback for an Attached Garage - A variance from Section 27-308 requiring a minimum rear setback of 20 feet to allow a 4-foot rear setback in a Residential 9,600 (R-96) zone, on Lots 11 & 12 of Block 1, Carlson Subdivision, a 9,980 square foot parcel of land. The purpose of the variance is to allow the construction of a new attached garage. Tax ID: A04101.

Recommendation:

Staff recommends conditional approval of the variance.

Questions for Staff:

Member Mitchell clarified the building permit time restrictions of 6 months and 1 year completion.

Member Connell asked which of the 7 criteria do they meet? Staff explained the lot shape fell into Condition number 1. Member Connell asked if accessing from the alley would make a difference.

Staff answered with an explanation of a 20 foot setback requirement.

Vice Chair Chesarek asked if the intent is to access from O’Malley. Yes.

Vice Chair Chesarek **opened the public hearing at 6:10 PM** and asked if there was anyone wishing to speak in favor or against **City Appeal Variance #1284**.

Joel Parker 1324 O’Malley

Mr. Parker would like to have a garage for storage of miscellaneous things. Member Connell asked about the email received stating this is being used as commercial property. Mr. Parker indicated that his father, who is now deceased, had used it as an insurance business in years past but it is no longer happening.

OPPOSED

None

Discussion

The public hearing was closed at 6:12 PM.

Member Hagstrom made a motion and Member Hagen seconded the motion to approve **City Variance #1284 with conditions listed by Staff**.

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 #1284**, passed 5-0.

Other business: No variances for July. No meeting in August.

The meeting adjourned at 6:14 PM.

ATTEST: DRAFT. To be approved by a motion September 5, 2018.



City Board of Adjustment

Meeting Date: 09/05/2018

SUBJECT: Variance 1285 - Sunnyside Subdivision, 2nd Filing

THROUGH: Monica Plecker

PRESENTED BY: Karen Husman

Information

REQUEST

City Variance 1285 – Multiple addresses on 11th Ave N and N 24th St – Lot area; front, rear, side and side adjacent to street setbacks -

A variance from Section 27-308 requiring a minimum lot area of 17,000 square feet for one (1) 4-plex and one (1) duplex to allow 7,000 square feet; requiring a minimum front setback of 15 feet to allow a minimum front setback of 4 feet (2316 11th Ave N); requiring a minimum side adjacent to street setback of 10 feet to allow 2 feet (2320 11th Ave N & 1045/1047 N 24th St) and 4 feet (2316 11th Ave N); requiring a minimum rear setback of 15 feet to allow 0 feet (2316 11th Ave N); and requiring a side setback of 5 feet to allow 2 feet (2320 11th Ave N & 1045/1047 N 24th St) on the north 50 feet of the north 100 feet of Lot 2, Block 8, Sunnyside Subdivision, 2nd filing in a Residential Multi-family-Restricted (RMF-R) zone - Tax ID A16402.

A variance from Section 27-308 requiring a minimum lot area of 13,000 square feet for one (1) duplex and one (1) single family dwelling to allow 7,000 square feet; requiring a minimum rear setback of 15 feet to allow 4 feet (1043 ½ N 24th St); and requiring a side setback of 5 feet to allow 4 feet (1043 ½ N 24th St) on the south 50 feet of the north 100 feet of Lot 2, Block 8, Sunnyside Subdivision, 2nd filing in a Residential Multi-family-Restricted (RMF-R) zone – Tax ID A16401. The purpose of these variances is to allow the issuance of a re-build letter for the purposes of financing or sale in the future. Presented by; Karen Husman, Planner I

RECOMMENDATION

Staff recommends conditional approval of the variance.

APPLICATION DATA

OWNERS: Red Gate 2, Britt Romain

PURPOSE: A request to allow 7,000 square feet for (1) 4-plex and one (1) duplex; to allow a minimum front setback of 4 feet (2316 11th Ave N); a minimum side adjacent to street setback of 2 feet (2320 11th Ave N & 1045/1047 N 24th St) and 4 feet (2316 11th Ave N); allow a minimum rear setback of 0 feet (2316 11th Ave N); and requiring a side setback of 2 feet (2320 11th Ave N & 1045/1047 N 24th St) - Tax ID A16402. To allow a minimum lot area of 7,000 square feet for one (1) duplex and one (1) single family dwelling; allow a minimum rear setback of 4 feet (1043 ½ N 24th St); and a side setback of 4 feet (1043 ½ N 24th St)

LEGAL DESCRIPTION: North 50 feet of the north 100 feet of Lot 2, Block 8, Sunnyside Subdivision, 2nd filing AND South 50 feet of the north 100 feet of Lot 2, Block 8, Sunnyside Subdivision, 2nd filing

ADDRESS: Multiple Addresses 24th St North and 11th Ave N

EXISTING LAND USE: Residential

PROPOSED LAND USE: Residential

EXISTING ZONING: R-70 (Zone Change 968 to RMF-R approved on second reading 8/27/18)

CONCURRENT APPLICATIONS

Zone Change 968, from R-7000 to RMF-R was approved on second reading by the City Council on August 27, 2018. The zoning will go into effect 30 days from the second reading.

APPLICABLE ZONING HISTORY

SUBJECT PROPERTY	Variance	DATE	FOR	APPROVED (Y/N)	ADDITIONAL DATA
1041 N 24th St 2320 11th Ave N	None				
SURROUNDING PROPERTY	Variance	DATE	FOR	APPROVED (Y/N)	ADDITIONAL DATA
2413 9th Ave N	525	4/28/87	Side SB and rear	Yes	
1131 N 25th St.	680	9/27/93	Side SD	Yes	
144 N 22nd St.	691	9/27/93	Lot area for 3plex	Yes	
917 N 24th St	704	10/11/94	Side and Garage sb	Yes	
1147 N 25th st	1197	8/6/14	Lot area	No	
2307 11th Ave N	1227	5/416	Lot area	Yes	
1045 N 25th St	1138	2/6/13	Lot area and setbacks	Yes	
1315 N 27th St	293	9/29/81	Arterial setback	Yes	
Lot 3, Blk 14 Sunnyside sub 4th	365	7/26/83	Lot area	Yes	
Lot 2, Blk 21 Sunnyside Sub	336	9/28/82	Front and arterial SB	Yes	
937,939,939 ½ N 24th St	1061	10/7/09	Lot area	Yes	

SURROUNDING LAND USE & ZONING

NORTH: Zoning: Residential 7,000 (R-70)
Land Use: Residential two-family

SOUTH: Zoning: R-70
Land Use: Residential single family

EAST: Zoning: RMF-R
Land Use: vacant and multi-family (4-plex)

WEST: Zoning: R-70
Land Use: Residential single family

BACKGROUND

The applicant is requesting a variance from Section 27-308 requiring a minimum lot area of 17,000 square feet for one (1) 4-plex and one (1) duplex to allow 7,000 square feet; requiring a minimum front setback of 15 feet to allow a minimum front setback of 4 feet (2316 11th Ave N); requiring a minimum side adjacent to street setback of 10 feet to allow 2 feet (2320 11th Ave N & 1045/1047 N 24th St) and 4 feet (2316 11th Ave N); requiring a minimum rear setback of 15 feet to allow 0 feet (2316 11th Ave N); and requiring a side setback of 5 feet to allow 2 feet (2320 11th Ave N & 1045/1047 N 24th St) on the north 50 feet of the north 100 feet of Lot 2, Block 8, Sunnyside Subdivision, 2nd filing in a Residential Multi-family-Restricted (RMF-R) zone (Tax ID A16402).

A second set of variances is requested from Section 27-308 requiring a minimum lot area of 13,000 square feet for one (1) duplex and one (1) single family dwelling to allow 7,000 square feet; requiring a minimum rear setback of 15 feet to allow 4 feet (1043 ½ N 24th St); and requiring a side setback of 5 feet to allow 4 feet (1043 ½ N 24th St) on the south 50 feet of the north 100 feet of Lot 2, Block 8, Sunnyside Subdivision, 2nd filing. (Tax ID A16401)

These lots are in an older part of Billings and most of the surrounding lots were developed before zoning regulations existed. The requested pending zone change to RMF-R will allow the existing multi-family dwellings to remain on the property. This variance approval would allow the existing number of dwelling units on these two 7,000 square foot lots, as well as the existing location of the dwellings (setback distances) to be in conformance. Currently, there are two duplex dwellings, one single family dwelling and one fourplex on the property, for a total of nine dwelling units.

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. Staff finds that the proposed variance would provide the applicant similar rights that are enjoyed by other property in the neighborhood.

Attachments

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

Site Photos



Subject property



Looking west

Site Photos



Subject property looking East



Looking North



Looking South



looking west

Application

\$533 pd. cc R-L-178325



APPLICATION FORM

CITY VARIANCE

ID: Billings Variance # 1285 - Project # P2-18-0019

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 # A 16402, A16401 CITY ELECTION WARD # 1

Legal Description of Property: Sunny Side Sub D 2nd Filing 532 T01 N
R26E Block 8 Lot 2 NORTH LT2

Address or General Location (If unknown, contact City Engineering): 2320 11th Ave N

1041, 1043, 1043 1/2, 1045, 1045 1/2, 1047 North 14th St + 2316 + 2316 1/2 N 11th
Zoning Classification: R70

Size of Parcel (Area & Dimensions): 7000 sq ft each x 2 or 14,000 sq ft total

Covenants or Deed Restrictions on Property: Yes _____ No X

If yes, please attach to application

Variance(s) Requested: Lot area A 16402 17,000 sf required 7,000 existing
Lot area A 16401 13,000 sf required 7,000 existing

Facts of Hardship: My Income src paying The Bank loans
and providing me with a substation for living.

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

Owner(s): Red Gate 2
(Recorded Owner)
4640 Parkside Pl. Billings MT 59106
(Address)
406-382-0660 (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: Buttarian for Red Gate 42 Date: 7-19-18
(Recorded Owner)

Applicant Letter

ZONING and VARIANCE COVER LETTER

July 19, 2018

This letter is to address my need for a variance on 1041, 1043 and 1043 ½, 1045, 1045 1/2 and 1047 North 24th Street, and 2320, 2316 and 2316 ½ 11th Avenue North (legal) in Billings, Montana. These two lots already have two existing duplexes and a home (9 units). I wish to get a conforming acknowledgment so I can rebuild, maintain and improve the existing structures.

History of sewer and water construction to the city was accrued in 1940 as a commercial service.

These lots are 7,000 square foot lots and on which the side setbacks currently are 0 feet side setbacks, back setbacks are 0 feet, and front setback is 10 feet. I would like to maintain setbacks as they currently are.

Neighborhood shows that I am surrounded by multiplexes on all sides.

My neighbor's lot to the north (Mark Wright's) is a restricted multifamily zoned lot. He recently applied for and was approved to keep his four-plex on his 7,000 square foot lot. Therefore, my request should be acceptable to the neighborhood with no more than 45% of lot footprint for improvements and parking. The existence of my 9 units on these lots proves they are providing affordable housing close to hospitals, baseball field, grocery store, and other businesses.

Currently I am providing 2 parking spaces and will in the future have the existing garage upgraded for a car.

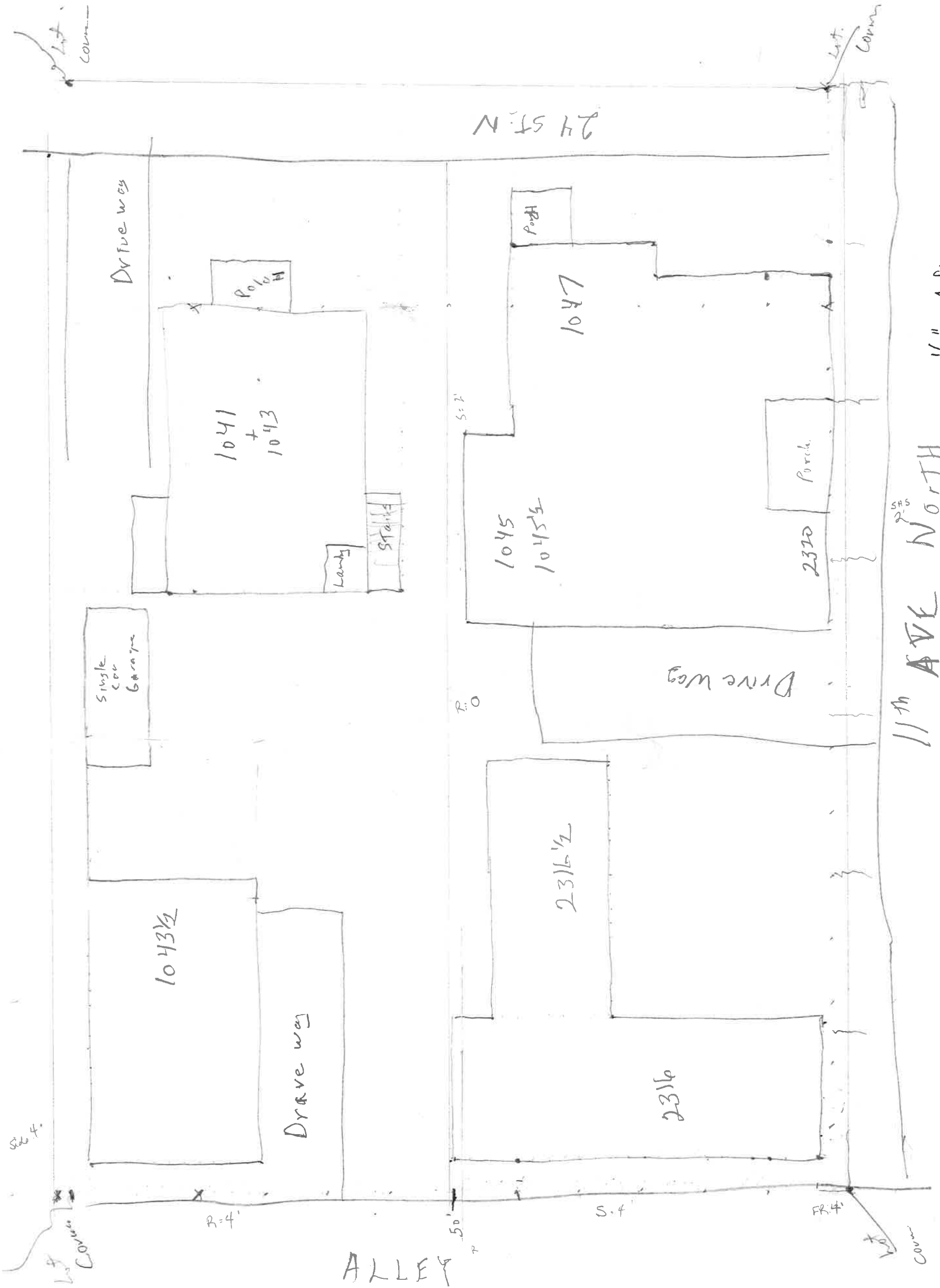
Option of building 1 nine-plex if both connecting lots are combined; 14,000 square feet with no more than 45% coverage for carports and structure, providing 6 off street parking spaces, should any structure become damaged beyond 50%.

My location is providing low income housing for the workers of the neighborhood. Businesses with bus transportation and close location makes it possible for them to walk to work. My current tenants use the bus service or walk with 3 exceptions who have their own car.

This variance also is connected to project # PZ-18-00085 for records and presentations.

I appreciate your understanding that this variance is needed so I can maintain my cash flow.

Britt Romain
4640 Rimrock Road
Billings, MT 59106
406.380.0060



1/8" = 1 ft

11th AVE NORTH

24 ST. N

ALLEY

Driveway

Driveway

Driveway

Single Car Garage

1041 + 1043

1047

1045
1045 1/2

1043 1/2

2316 1/2

2316

Porch

2320

Porch

Porch

Landy

Stairs

5.2'

R:0

R=4'

5.0'

5.4'

R:4'

SAS

Let.

Corner

Let.

Corner

Side 4.

Corner

Corner

Let.

DETERMINATIONS FOR VARIANCE #1285

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 lot is less than required for current zoning requirements and all of the dwelling units on the property were built before the current zoning was in place.

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 development began in the early 1900's. There have been similar variances granted in the surrounding neighborhoods. Denying the variance 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 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 for the reduction in minimum lot size variance request:

1. The variance from Section 27-308 requiring a minimum lot area of 17,000 square feet for one (1) 4-plex and one (1) duplex to allow 7,000 square feet; requiring a minimum front setback of 15 feet to allow a minimum front setback of 4 feet (2316 11th Ave N); requiring a minimum side adjacent to street setback of 10 feet to allow 2 feet (2320 11th Ave N & 1045/1047 N 24th St) and 4 feet (2316 11th Ave N); requiring a minimum rear setback of 15 feet to allow 0 feet (2316 11th Ave N); and requiring a side setback of 5 feet to allow 2 feet (2320 11th Ave N & 1045/1047 N 24th St) and A variance from Section 27-308 requiring a minimum lot area of 13,000 square feet for one (1) duplex and one (1) single family dwelling to allow 7,000 square feet; requiring a minimum rear setback of 15 feet to allow 4 feet (1043 ½ N 24th St); and requiring a side setback of 5 feet to allow 4 feet (1043 ½ N 24th St). No other variance is intended or implied with this approval.
2. The variance is limited to the north 50 feet of the north 100 feet of Lot 2, Block 8, Sunnyside Subdivision, 2nd filing and the south 50 feet of the north 100 feet of Lot 2, Block 8, Sunnyside Subdivision, 2nd filing.

3. Any future re-construction of the existing structures 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 no construction is planned at this time.

- 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 and multi family dwellings are allowed in the RMF-R zoning district.

