



CITY BOARD OF ADJUSTMENT

AGENDA-Wednesday, October 3, 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 September 5, 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 1286- 78 Mountain View Blvd.** The applicant is requesting a variance from Section 27-310(i) requiring a minimum front setback of 20 feet for a detached structure to allow a minimum front setback of 14 feet in a Residential 9,600 (R-96) zone on Lot 21 and the North 57 feet of the East 2 feet of Lot 22, Panoramic Heights Subdivision, a 10,414 square foot parcel of land. Presented by Karen Husman, Planner I.

- b. **Variance 1287- 3230 Country Club Circle.** The applicant is requesting a variance from Section 27-308 requiring a minimum front setback of 20 feet to allow a minimum front setback of 10 feet for a proposed new single family residence in a Residential 9,600 (R-96) zone on Lot 1A and Lot 2, Block 7, Country Club Heights Subdivision, a 20,824 square foot parcel of land. Variance 1117 was conditionally approved for these lots in 2012, but expired in 2015. 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: 10/03/2018

Information

Subject

The minutes of the Board meeting of September 5, 2018.

Attachments

BBOA_2018_09_05_draft

CITY BOARD OF ADJUSTMENT

MINUTES September 5, 2018

Name	Title	0	0	0	0	0	0	0	0	0	0	1	1	1
		1	2	3	4	5	6	7	8	9	0	1	2	
		/	/	/	/	/	/	/	/	/	/	/	/	/
		0	0	0	0	0	0	1	0	0	0	0	0	0
		3	7	7	4	2	6	1	1	5	3	7	5	
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		2	2	2	2	2	2	2	2	2	2	2	2	2
		0	0	0	0	0	0	0	0	0	0	0	0	0
		1	1	1	1	1	1	1	1	1	1	1	1	1
		8	8	8	8	8	8	8	8	8	8	8	8	8
David Mitchell	Member	1	1	1	E	1	E	1	-	1				
Dave Hagstrom	Member	1	1	A	1	1	1	1	-	1				
Paul Hagen	Member	1	1	E	1	1	1	1	-	1				
Frank Chesarek	Member	1	E	1	E	E	E	1	-	E				
Oscar Heinrich	Member	1	1	1	1	1	1	E	-	1				
Martin Connell	Member	1	1	1	1	1	1	1	-	E				
Mark Noennig	Chair	1	1	1	1	1	1	E	-	1				

TOTAL NUMBER OF APPLICATIONS 2018	0	0	0	0	0	0	0	0	0	0	1	1	1	T
	1	2	3	4	5	6	7	8	9	0	1	2	0	O
	/	/	/	/	/	/	/	/	/	/	/	/	/	T
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	2	2	2	2	2	2	2	2	2	2	2	2	2	
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	1	1	1	1	1	1	1	1	1	1	1	1	1	
	8	8	8	8	8	8	8	8	8	8	8	8	8	
Variance	2	2	3	2	3	1	1	-	1					15

Chair 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: Brit Romain, Ken Peterson

Public Comment

Chair Noennig opened the public comment period and asked if there was anyone wishing to speak during the public comment portion of the meeting. Chair Noennig recognized Frank Chesarek and announced his passing.

Approval Meeting Minutes

Member Heinrich made a motion for the approval of July 11, 2018 minutes. Member Hagen 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 #1285**.

Karen Husman presenting:

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.

Recommendation:

Staff recommends conditional approval of the variance.

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.

Questions for Staff:

There are residential structures on this site. A 4 plex, 2 duplexes and a single family dwelling. Member Hagstrom asked why is the property described this way? Staff replied they are legally defined and taxed with 2 different tax id numbers. North 100 feet of lot 2, could be a result of ownership.

Member Heinrich confirms this is for a rebuild letter and asks when the zone change is effective.

Chair Noennig **opened the public hearing at 6:15 PM** and asked if there was anyone wishing to speak in favor or against **City Appeal Variance #1285**.

Ken Peterson, agent

Properties are non conforming. A zone change is approved but not yet in effect. The owner has applied for a variance for set backs. This is for financing purposes.

Chair Noennig stated this is a unique property because there are so many buildings.

Britt Romain, owner

A safety issue ensued and now it is being brought into conformance so permits can be issued to correct the problem.

OPPOSED

None

Discussion

The public hearing was closed at 6:20 PM.

Member Heinrich made a motion and Member Hagen seconded the motion to approve **City Variance #1285 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 #1285**, passed 5-0.

Other business: next meeting October 3,2018/Paul Hagen, Mark Noennig -out

The meeting adjourned at 6:23 PM.

ATTEST: DRAFT. To be approved by a motion October 3, 2018.



City Board of Adjustment

Meeting Date: 10/03/2018

SUBJECT: Variance 1286- 78 Mountain View Blvd.

THROUGH: Monica Plecker

PRESENTED BY: Karen Husman

Information

REQUEST

Variance 1286- 78 Mountain View Blvd. The applicant is requesting a variance from Section 27-310(i) requiring a minimum front setback of 20 feet for a detached structure to allow a minimum front setback of 14 feet in a Residential 9,600 (R-96) zone on Lot 21 and the North 57 feet of the East 2 feet of Lot 22, Panoramic Heights Subdivision, a 10,414 square foot parcel of land. Presented by Karen Husman, Planner I.

RECOMMENDATION

Denial.

APPLICATION DATA

OWNERS: John B. Huff

PURPOSE: To allow a minimum front setback of 14 feet for a detached shed

LEGAL DESCRIPTION: Lot 21 and the North 57 feet of the East 2 feet of Lot 22, Panoramic Heights Subdivision

ADDRESS: 78 Mountain View Blvd.

EXISTING LAND USE: Residential

PROPOSED LAND USE: Residential

EXISTING ZONING: R-9600

CONCURRENT APPLICATIONS

None

APPLICABLE ZONING HISTORY

SUBJECT PROPERTY	VARIANCE #	DATE	FOR	APPROVED (Y/N)	ADDITIONAL DATA
None					
SURROUNDING PROPERTY	VARIANCE #	DATE	FOR	APPROVED (Y/N)	ADDITIONAL DATA
115 Mountain View Blvd	848	9/2001	10' front yard sb	Yes	New SFD
194 Mountain View Blvd	908	8/2003	5' front yard sb	Yes	Detached Garage
190 Mountain View Blvd	948	9/2004	10' front yard sb	Yes	New SFD

SURROUNDING LAND USE & ZONING

NORTH: Zoning: Public
Land Use: Parkland
SOUTH: Zoning: R-96
Land Use: Residential
EAST: Zoning: R-96
Land Use: Residential
WEST: Zoning: R-96
Land Use: Residential

BACKGROUND

This application is a request for a variance from Section 27-310(i) requiring a minimum front setback of 20 feet for a detached structure to allow a minimum front setback of 14 feet in a Residential 9,600 (R-96) zone on Lot 21 and the North 57 feet of the East 2 feet of Lot 22, Panoramic Heights Subdivision, a 10,414 square foot parcel of land. The City Code Enforcement Division received a complaint about the 10'x10' shed in the front yard of the subject property. The rear of the shed faces the street and the shed is within the 20-foot front setback.

There have been variances approved in this area of Billings for front setbacks. Variance #908 was approved in 2003 for a 5-foot front setback for a new detached garage in the area. There have not been any variances for small sheds. There are circumstances peculiar to the land that may cause some hardship in terms of limitations on the locations on the property that a shed may be located. However, there appears to be sufficient space to locate the shed in the front yard but at the required 20-foot setback. There is room in the rear yard for a shed, but the applicant chose a prebuilt shed that could not be moved to the rear yard.

RECOMMENDATION

Planning staff has reviewed this application and is forwarding a recommendation of denial for the variance based on the determinations for review provided within this report.

Attachments

Zoning Map & Site Photos
Application, Applicant letter & Site plan
Determinations
Code Enforcement Complaint

Zoning Map



Aerial



Attachments



Subject property





West





South



West

APPLICATION FORM

CITY VARIANCE

ID: Billings Variance # 1286 - Project # 22-18 6036

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 # A12566 CITY ELECTION WARD # I

Legal Description of Property: Panoramic Heights, 532, TO 1 N, R26E, LOT 21 & N 57 FT E 2' LT 22

Address or General Location (If unknown, contact City Engineering): 78 Mountain View Blvd Billings, MT 59101

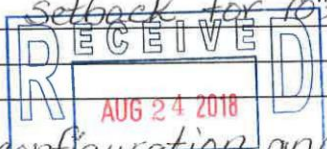
Zoning Classification: Residential 9600

Size of Parcel (Area & Dimensions): 10414 square feet

Covenants or Deed Restrictions on Property: Yes No [checked]

If yes, please attach to application

Variance(s) Requested: less than 20 ft setback for 10' x 10 ft front yard shed @ 14 ft



Facts of Hardship: The unusual size, configuration and slope are the reasons for this request for a variance. The backyard wasn't an option because of its small size and location underneath the rim.

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

Owner(s): JOHN B. Hoff (Recorded Owner) 78 Mountain View Blvd Billings, MT 59101-0235 (Address) (406) 855-0374 (Phone Number) jhoff27@hotmail.com (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: John B. Hoff (Recorded Owner) Date: 8-22-18

Dear Chairperson of the Board of Adjustment,

We intend to use this outdoor 10x10 shed for personal storage. We are seeking this setback variance of less than 20 feet due to the hardship of a hilly terrain. This location is the most level spot on the yard. The back yard wasn't an option due to its size, configuration and slope of the hill.


1.

A. The unusual layout of our lot prevents us from being able to build this shed meeting the zoning requirements. The lot is located on a hill terrain and there is an approximate 25 foot differential from the front to the back of the lot. The front provides the only level spot for this structure because the lot is suffering tremendously for level ground.

B. There is a need for outside secure storage on this property because there is no secure garage. An open car port with an 8x12 shed in the back provides the only secure storage space, therefore additional space was in high demand. Taking the layout of the lot, hilly terrain and nonexistent garage we chose the most level spot which in this case was in the front yard. The backyard wasn't an option because of its size and configuration.

The only neighbors that could be affected by an obstructed view are our neighbors immediately to the east and west of us. All of our other neighbors have no impact on it just visually.

~~We~~, Brian and Amber Hoerner, are John Hoff's next door neighbor to the east. We want to declare the shed has no impact on our visual line of site to back out of our property. The street is in clear view.

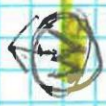
x  8/22/18
x Amber Hoerner 22 Aug 18

I, Robert Arstein, am John Hoff's next door neighbor to the west. I want to declare the shed has no impact on ~~my~~ visual line of site to back out of my property. The street is in clear view.

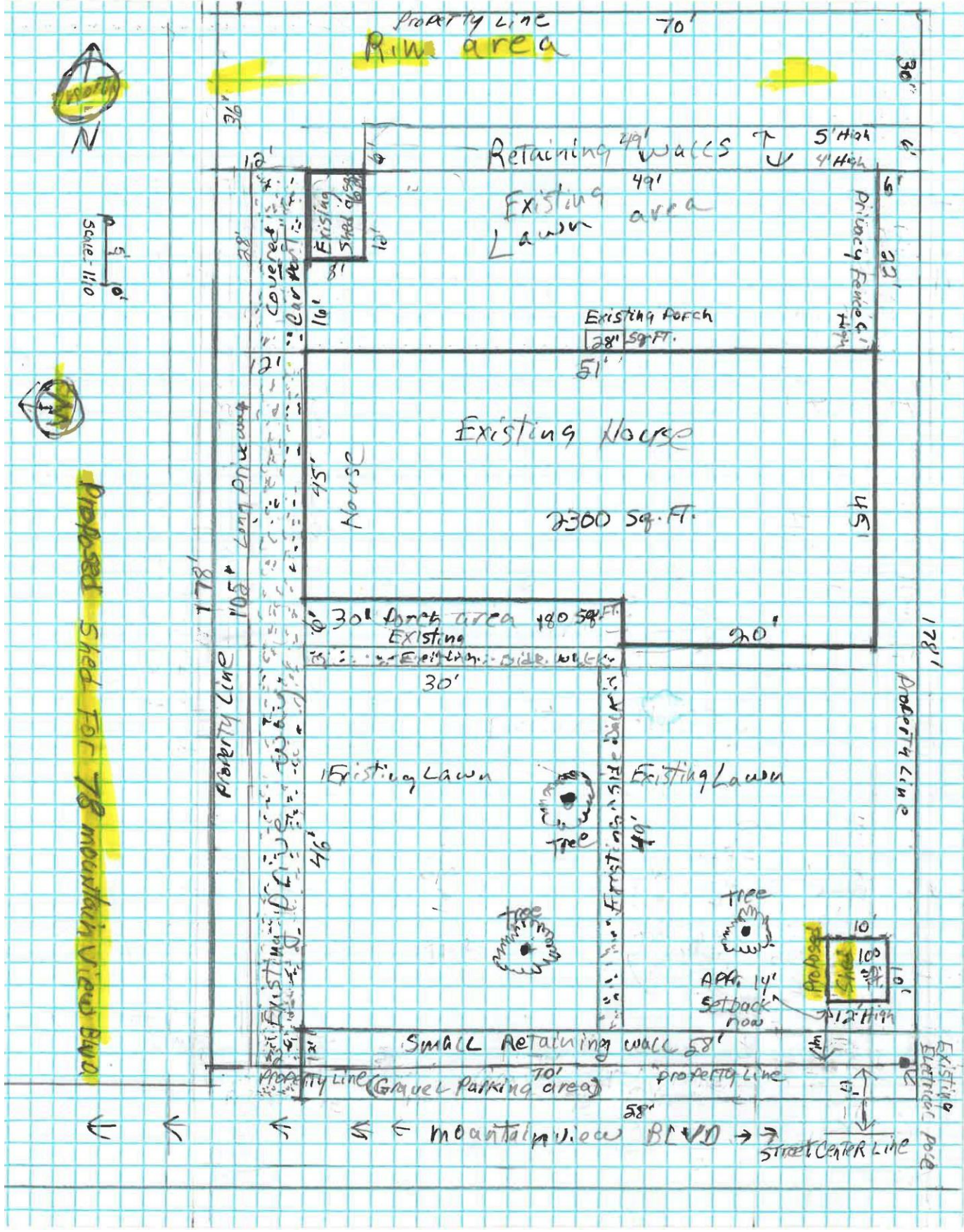
x 
Robert Arstein 8-22-18



Scale 1/10
1" = 10'



Proposed Shed For 78 Mountain View Blvd



DETERMINATIONS
Variance #1286

The Board of Adjustment, before it grants a variance shall determine:

- 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;**

Although there appears to be circumstances peculiar to the land that may cause a hardship on lots in this area of Billings, there appears to be sufficient space to build the 10'x10' shed in the rear yard and sufficient space to move the shed to meet the 20' front yard setback. The applicant chose a prebuilt shed that could not be moved to the rear yard, however it is not on a permanent foundation and could be relocated to meet the requirements of the Zoning Code for the front yard 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;**

A literal interpretation of this zoning code provision may or may not deprive the applicant of the rights commonly enjoyed by others in this zoning district. The applicant has brought in a prebuilt shed and placed it on the property front yard, there appears to be sufficient space to build in the rear yard a 10'x10' shed. There are no sheds placed in the front yards of other properties in the area.

- 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 granting of this variance may confer a special privilege to this applicant. There are no variances for 10'x10' sheds in the front yard setback in this 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 granting of this variance would conflict with the Growth Policy and the Zoning Regulations. The zoning regulations, including the front setback are designed to provide adequate light, air and space around one and two-family homes and to promote neighborhoods that are aesthetically pleasing.

- 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 has not made proposed conditions with the recommendation of denial.

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;**

The structure is already in place. The structure shall be removed or relocated to meet the 20 foot front yard setback within 90 days of the Board of Adjustment hearing if denied.

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.**

Detached accessory structures of up to 1,000 sq. ft. are allowed in the zoning district if they meet the setback restrictions.



CODE ENFORCEMENT DIVISION

"PROTECTING QUALITY OF LIFE IN BILLINGS"

PLANNING & COMMUNITY SERVICES DEPARTMENT

2825 3RD AVENUE NORTH, 4TH FLOOR

BILLINGS, MONTANA 59101

PHONE: (406) 237-6146

FAX: (406) 657-8327

EMAIL: AdamsT@ci.billings.mt.us



HOFF, JOHN B
78 MOUNTAIN VIEW BLVD
BILLINGS, MT 59101

Case Number: CE-18-03779

COURTESY NOTICE

Aug 01, 2018

In Billings, we value neighborhood and community efforts to maintain a beautiful City. We also rely on property owners to do their part in keeping our City safe and attractive. City Ordinances regulate some property owner responsibilities that are necessary to ensure Billings remains an appealing community in which to live and prosper. The property identified below, located within the City of Billings, Yellowstone County, has been inspected and may be in violation of Billings Municipal City Code:

City Code Description

Violation Detail

27-310(i) Accessory Building Setbacks

Date Est: 07/31/2018

Violation Description

SECTION 27-310(i)- Yards and Setbacks for Accessory Buildings in Residential Zones. The following setbacks shall be provided for accessory buildings in Residential zones: Front = 20 feet; Side = 3 feet; Rear w/o alley = 3 feet; Rear with alley = 0 feet with no entrance from alley OR 6 feet with right angle entrance from alley; Side Adjacent to Street (corner lots) = 10 feet with no approach from street OR 20 feet with approach from street; Distance from residence = 6 feet

78 MOUNTAIN VIEW BLVD

PNO-000-021

TAX ID #A12566

Inspection Details: shed does not meet the setback

Date Inspected: 08/01/2018

Please take the following action(s) to remedy the potential violation: **I enclosed a picture, this shed does not meet the required setbacks. It must be 20' back from the from the front.**

We always attempt to work with property owners in correcting City Code violations and we courteously advise you that this violation must be corrected within ten (10) days of the date of this notice. If for some reason, you are unable to correct the above violation within the time set forth, or if you have any questions, please call the Code Enforcement Officer at the number listed below.

Violation of this City Ordinance or failure to remedy the violation may constitute a misdemeanor. A person convicted in municipal court of a misdemeanor may incur a fine of up to \$500 or may be imprisoned for up to six months or both.

FOR THE SAKE OF A SAFE AND ATTRACTIVE COMMUNITY, your prompt attention and cooperation in resolving this matter is greatly appreciated.

By _____
Tanya Punt, 657-8288
Residential Code Enforcement Officer



City Board of Adjustment

Meeting Date: 10/03/2018

SUBJECT: Variance 1287- 3230 Country Club Circle

THROUGH: Monica Plecker

PRESENTED BY: Karen Husman

Information

REQUEST

Variance 1287- 3230 Country Club Circle. The applicant is requesting a variance from Section 27-308 requiring a minimum front setback of 20 feet to allow a minimum front setback of 10 feet for a proposed new single family residence in a Residential 9,600 (R-96) zone on Lot 1A and Lot 2, Block 7, Country Club Heights Subdivision, a 20,824 square foot parcel of land. Variance 1117 was conditionally approved for these lots in 2012, but expired in 2015. Presented by Karen Husman, Planner I.

RECOMMENDATION

Staff recommends conditional approval of the variance.

APPLICATION DATA

OWNERS: Brian and Jolane Jones

AGENT: None

PURPOSE: To allow for the construction of a new single family dwelling

LEGAL DESCRIPTION: Lots 1A and 2, Block 7, Country Club Heights Subdivision

ADDRESS: 3230 Country Club Circle

EXISTING LAND USE: Vacant

PROPOSED LAND USE: New single family home

LOT AREA: 20,824 square feet

EXISTING ZONING: R-96

CONCURRENT APPLICATIONS

None.

APPLICABLE ZONING HISTORY

SUBJECT PROPERTY	VARIANCE #	DATE	FOR	APPROVED (Y/N)	ADDITIONAL DATA
3230 Country Club Circle	1117	4/2012	Front SB	Yes	Variance expired
SURROUNDING PROPERTY	VARIANCE #	DATE	FOR	APPROVED (Y/N)	ADDITIONAL DATA
3221 Arvin Road	515	2/1987	Front SB to 2'	yes	New detached garage
2241 Fairview Place	800	7/1999	Front SB to 8'	Yes	New SFD
3025 Leann Blvd	859	1/2002	Front SB to 15'	Yes	Addition to existing SFD
3205 Green Terrace Dr.	1164	8/2013	Front SB to 10'	No	Proposed garage addition

SURROUNDING LAND USE & ZONING

NORTH: Zoning: Public
Land Use: Rims and Park land
SOUTH: Zoning: R-96
Land Use: Single family residences
EAST: Zoning: R-96
Land Use: Single family residences
WEST: Zoning: R-96
Land Use: Single family residence

BACKGROUND

The applicant is requesting a variance from Section 27-308 requiring a minimum front setback of 20 feet to allow a 10-foot front setback to construct a new residential home. The lots are undeveloped and are the last vacant lots in this part of Country Club Heights Subdivision. The north half of these lots are vertical portions of the rimrocks. A 20-foot front setback is physically impossible due to the slope of the property north of the street. The property is bordered on the north by a public park encompassing the tops of the rims. The property encompasses two lots in the subdivision. There are similarly situated lots within this subdivision, some have encroachment into the setback area without a variance approval, some have variances on file. The original subdivision was platted in 1957 prior to current zoning.

The covenants and restrictions for the subdivision contemplated all the lots within Block 7 would need a decreased front setback due to topography. The covenants allow a 10-foot minimum front setback for all lots in Block 7. Many surrounding homes were built in the late 1950s and early 1960s prior to zoning. It appears many of the homes on this portion of Country Club Circle have been built to the 10-foot front setback line.

The BOA has granted similar variances in this area and there is a hardship with this lot related to the shape and topography. The Board approved Variance 1117 for the subject property in 2012 and set a time limit of 3 years to act on the variance. The previously approved variance conditions were not met and the approval expired in 2015.

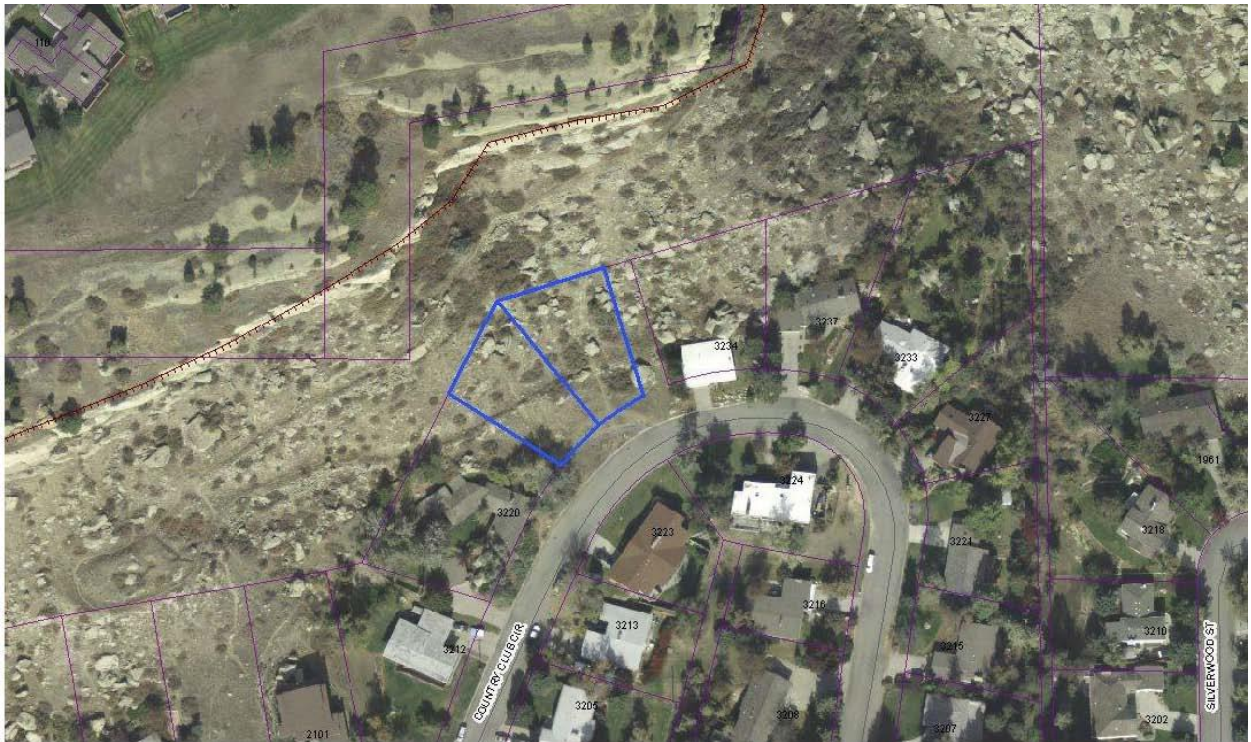
RECOMMENDATION

Planning staff has reviewed this variance and is forwarding a recommendation of conditional approval based on the criteria for variances as presented within this report. Staff finds that the proposed variance would provide the applicant similar rights that are enjoyed by other property in the neighborhood. Six similar variances have been granted in this area. The 10-foot front setback will not crowd the street and adequate off-street parking will be available in the driveway and the garage. There are similarly situated properties in the neighborhood.

Attachments

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

Attachments





Subject Property North



West



East



South



APPLICATION FORM

ID: Billings Variance # 1297 - Project # P2-18-00141

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 # A05609 & A056070 CITY ELECTION WARD # IV

Legal Description of Property: Lot 1A & Lot 2, Block 7 Country Club Heights sub

Address or General Location (If unknown, contact City Engineering): 2230 Country Club Circle

Zoning Classification: R-9600

Size of Parcel (Area & Dimensions): 20,1824 SF Approx 150' x 140'

Covenants or Deed Restrictions on Property: Yes No X

If yes, please attach to application

Variance(s) Requested: Front setback from 20' to 10'

Facts of Hardship: steep terrain/grade

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

Owner(s): Brian & Blake Bues

(Recorded Owner) 2204 W. McDonald Drive

(Address) 800-0301 brian@mtcadd.com

(Phone Number) (email)

Agent(s): Jeff Fanning

(Name) 2230 Country Club Road

(Address) 249-2443 jette@collaborativeca.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] (Recorded Owner) Date: 9/4/18

COLLABORATIVE DESIGN

A R C H I T E C T S

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4 September 18

Planning & Community Services Department
2825 3rd Ave North, 4th Floor
Billings, MT 59101
Phone: 247-8676 Fax (406) 657-8327

Re: 3230 Country Club Circle

1. Answer the following questions:

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

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

The property consists of two lots in the Country Club Heights Subdivision. Although the lot is much larger than required by zoning in R-96 zone, the buildable area is quite restricted due to the extreme topography on the north end of the lots. The topography of the lots creates a hardship that is not applicable to other lots in the same district since most surrounding homes were built prior to the current zoning (1972). These surrounding homes were specifically allowed a 10 foot front setback by the subdivision covenants in place prior to zoning.

The subject property is in a subdivision where most homes were built between 1960 and 1970. The lots are undeveloped and are the last vacant lots in this part of County Club Heights Subdivision. Many were set back 10 feet from the front property line as allowed by the covenants in place at the time prior to zoning. Three variances have been previously granted in this subdivision and 3 variances have been granted in an adjacent subdivision for front or rear setbacks.

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

We are requesting a variance from Section 27-308 requiring a minimum front setback of 20 feet to 10-foot front setback to construct a new residential home. The lots are undeveloped and are the last vacant lots in this part of County Club Heights Subdivision. The north half of these lots are vertical portions of the rimrocks. A 20-foot front setback is physically impossible due to the slope of the property north of the street. The property is bordered on the north by a public park encompassing the tops of the rims. The property encompasses two lots in the subdivision. There are similarly situated lots within this subdivision. The original subdivision was platted in 1957 prior to current zoning. The covenants and restrictions for the subdivision contemplated all the lots within Block 7 would need a decreased front setback due to topography. The covenants allow a 10 foot minimum front setback for all lots in Block 7. The proposed dwelling will have a split-level living area with a garage and family room in the ground floor.

The proposed living area of the dwelling is 2,412 square feet. Three previous zoning variances have been granted in this subdivision and three in adjacent subdivisions. Many surrounding homes were built in the late 1950s and early 1960s prior to zoning. It appears many of the homes on this portion of Country Club Circle have been built to the 10 foot front setback line.

COLLABORATIVE DESIGN ARCHITECTS, INC.

A handwritten signature in blue ink, appearing to read "Kanning", with a long horizontal stroke extending to the right and a loop at the end.

Jeff Kanning, AIA
Principal

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;**

The property consists of two lots in the Country Club Heights Subdivision. Although the lot is much larger than required by zoning in R-96 zone, the buildable area is quite restricted due to the extreme topography on the north end of the lots. The topography of the lots creates a hardship that is not applicable to other lots in the same district since most surrounding homes were built prior to the current zoning (1972). These surrounding homes were specifically allowed a 10-foot front setback by the subdivision covenants in place prior to zoning.

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 between 1960 and 1970. Many were set back 10 feet from the front property line as allowed by the covenants in place at the time prior to zoning.

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 adjacent homes encroach on the required zoning setbacks 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;**

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 variance request:

1. The variance is to decrease the required front setback from 20 feet to 10 feet for the purpose of constructing one single family dwelling. No other variance is intended or implied with this approval.
2. The variance is limited to Lots 1A and Lot 2 of Block 7, Country Club Heights Subdivision generally located at 3230 Country Club Circle.
3. The applicant shall receive approval for a building permit within one (1) year of Board approval. Construction of the addition shall be completed within three (3) years of Board approval.
4. Failure to begin or complete actions required by this approval within the time limits set forth shall void this variance.

5. All construction will require compliance with all other zoning regulations and City ordinances that apply at the time of construction.
6. 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 recommended conditions of approval require the approval of a building permit within 12 months and completion of the improvements within 36 months of Board 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 – residential dwellings are an allowed use in the R-96 zone.