



**CITY BOARD OF ADJUSTMENT**  
**AGENDA-Wednesday, May 1, 2019 @ 6:00 p.m.**  
**Miller Building, 1<sup>st</sup> Floor Conference Room**  
**2825 3<sup>rd</sup> 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 April 3, 2019.

**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 1292- 432 (434) Alderson Ave** - The applicant is requesting a variance from Section 27-308 requiring a minimum lot area of 9,600 square feet for two (2) dwelling units to allow a minimum lot area of 7,000 square feet: from 27-308 requiring a twenty (20) foot rear setback to allow a minimum of six foot six inches (6'6"); from 27-308 requiring a minimum side setback of 5 feet to allow a side setback of two feet six inches (2'6"); and from 27-308 requiring a maximum lot coverage of 30% to allow a maximum lot coverage of 48%; in a Residential 7,000 (R-70) zone, on Lots 30 & 31 Block 34, Suburban Homes Addition, a 7,000 square foot parcel of land. The purpose of the variance is to allow the existing duplex to remain on the lot and to obtain a rebuild letter for financing purposes. Presented by; Karen Husman, Planner I.

## 9. **Other Business/Announcements**

### **Election of 2019 Chairman and Vice Chair**

### **Adjournment**

Information on the preceding item(s) may be obtained at the City-County Planning Division, 4<sup>th</sup> Floor of the Miller Building, 2825 3<sup>rd</sup> 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](mailto:bartleyr@ci.billings.mt.us)

**City Board of Adjustment**

**Meeting Date:** 05/01/2019

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**Information**

**Subject**

The minutes of the Board meeting of April 3, 2019.

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**Attachments**

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**CITY BOARD OF ADJUSTMENT**

MINUTES April 3, 2019

Name	Title	0	0	0	0	0	0	0	0	0	0	1	1	1
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David Mitchell	Member	-	-	-	E									
Dave Hagstrom	Member	-	-	-	1									
Paul Hagen	Member	-	-	-	1									
Jeff Bollman	Member	-	-	-	1									
Oscar Heinrich	Member	-	-	-	1									
Martin Connell	Member	-	-	-	1									
Mark Noennig	Chair	-	-	-	1									

TOTAL NUMBER OF APPLICATIONS 2019	0	0	0	0	0	0	0	0	0	0	1	1	1	T
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Variance	-	-	-	1										

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 3<sup>rd</sup> 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:** David Smith, Bill Hanser

**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.

**Approval Meeting Minutes**

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

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

A 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 and presented **City Variance 1291**.

**City Variance – 1291 – 100 Brookshire Blvd. Bldg 2, Unit 1 – Sign Area Variance** - A variance from BMCC **Section 27-705(b)** requiring a maximum sign area of 32 square feet to allow a maximum sign area of 116 square feet in a Residential Professional (RP) zone, in the Brookshire Commons Condominiums, Unit 7 (6,011 square feet), on Lots 1-4 Brookshire Sub a 3.66 acre parcel of land. The purpose of the variance is to allow the installation of a sign of 116 sf in an RP Zone. Tax ID: A34229G

**Recommendation:**

Staff recommends conditional approval of the proposed variances.

**Staff proposes the following conditions of approval:**

- 1. The variance is from 27-705(b) requiring a maximum sign area of 32 square feet for wall sign to a maximum sign area of 58 square feet. No other variance is intended or implied with this approval.**
- 2. The variance is limited to Brookshire Commons Condo, Unit 1. The sign must be constructed in substantial compliance as shown on the submitted site plan and meet all other zoning and building code requirements where applicable.**
- 3. The proposed sign may be illuminated however, no electronic message display (EMD), traveling, blinking, flashing or variable illumination of the sign is allowed. The proposed sign will be located and oriented in substantial conformance with the submitted site plan.**

4. **The sign permit, and any additional permits required, shall be obtained within 2 months of Board of Adjustment (BOA) approval and the sign must be installed within 6 months of BOA approval.**
5. **Failure to meet the requirements of these conditions within the time limits prescribed herein shall void the variance.**
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.**

**Questions for Staff:**

Member Hagen asked if the neighboring sign is 57 square feet. Staff confirmed 57 almost 58 square feet.

Member Heinrich asked if staff had received any objections. Staff indicated no objections.

Member Hagstrom asked if there is other signage in this area. Staff was unable to see it.

Staff pointed out the “blue water drop” logo on the sign is included in the 116 square feet

Member Heinrich asked what they were allowed to have. Staff replied 32 square feet.

Staff explained the measuring process.

**Chair Noennig appointed Dave Hagstrom, Pro Tem Chair. He has represented Bill Hansen in other situations.**

Pro Tem Chair Hagstrom opened the public hearing at 6:11 PM and asked if there was anyone wishing to speak in favor or against **City Variance #1291**.

**Bill Hanser, Hanser Capital Holdings, LLC**

He is the owner and developer. He explained the need for signage.

Member Bollman stated the visibility from the street is not there. He also noted this is a destination and advertising is not necessary.

**Daniel Smith, Pure Infusion Suites of Billings, Agent**

Persons with chronic services are serviced in our facilities with an excellent quality experience.

The request is to make an aesthetic sign. People need to know there is an infusion center in Billings.

The hospital is not the only option. Thus the need for this sign.

**Close hearing at 6:25pm**

Pro Tem Chair Hagstrom made a motion to approve and Member Bollman seconded the motion to **approve City Variance #1291**.

Member	Yes	No	Not Present
David Mitchell			X
Dave Hagstrom		X	
Paul Hagen	X		

Jeff Bollman	X		
Oscar Heinrich	X		
Martin Connell	X		
Mark Noennig			Recused

The motion to approve **City Variance #1291**, passed 4-1

**Other Business:**

Election of 2019 Chair and Vice Chair

Board Member Connell motioned to hold elections next month and Board Member Connell seconded, all were in favor.

**The meeting adjourned at 6:34 PM.**

**ATTEST: DRAFT. To be approved by a motion May 1, 2019.**



**City Board of Adjustment**

**Meeting Date:** 05/01/2019

**SUBJECT:** Variance 1292- 432 (434) Alderson Ave

**THROUGH:** Nicole Cromwell

**PRESENTED BY:** Karen Husman

**Information**

**REQUEST**

**Variance 1292- 432 (434) Alderson Ave** - The applicant is requesting a variance from Section 27-308 requiring a minimum lot area of 9,600 square feet for two (2) dwelling units to allow a minimum lot area of 7,000 square feet: from 27-308 requiring a twenty (20) foot rear setback to allow a minimum of six foot six inches (6’6”); from 27-308 requiring a minimum side setback of 5 feet to allow a side setback of two feet six inches (2’6”); and from 27-308 requiring a maximum lot coverage of 30% to allow a maximum lot coverage of 48%; in a Residential 7,000 (R-70) zone, on Lots 30 & 31 Block 34, Suburban Homes Addition, a 7,000 square foot parcel of land. The purpose of the variance is to allow the existing duplex to remain on the lot and to obtain a rebuild letter for financing purposes. Presented by; Karen Husman, Planner I.

**RECOMMENDATION**

Staff recommends conditional approval of the variance.

**APPLICATION DATA**

**APPLICATION DATA**

OWNERS: Christian Helland

PURPOSE: Reduce setbacks, increase lot coverage, allow 2 units on 7,000sf lot – Rebuild letter needed

LEGAL DESCRIPTION: Lots 30 & 31 Block 34, Suburban Homes Addition

ADDRESS: 432 (434) Alderson Avenue (Addressing issue being resolved)

EXISTING LAND USE: Residential

PROPOSED LAND USE: Residential

EXISTING ZONING: R-70

**CONCURRENT APPLICATIONS**

None.

**APPLICABLE ZONING HISTORY**

SUBJECT PROPERTY	VARIANCE #	DATE	FOR	APPROVED (Y/N)	ADDITIONAL DATA
None					
<b>SIMILAR PROPERTY</b>					
<u>Suburban Homes Addition Subdivision</u>					
538 Lewis	225	8/28/79	Lot Cov.	Y	
602 Yellowstone	262	8/26/80	Lot size	N	7200sf to 3500 & 3400 to split Lot
733 Clark	419	6/26/84	Lot size	Y	9600sf to 7000sf
708 Alderson	440	1/29/85	Lot size	Y	2 units on 7000sf
503 Yellowstone	514	2/3/87	Set back	Y	
1222 7th Ave	517A	2/2/87	Lot size	N	
731 Burlington	583	3/7/89	Set back	Y	Side SB for 2 story
Blk 34 Lts 33-36	647	7/22/91	Lot size	Y	

426 Alderson	648	8/6/91	Set backs & Lot cov	Y	LC 30% to 37%
701 Broadwater	721	6/26/95	Lot Size	Y	10,000 to 9,750sf
710 6th St. W	760	2/4/98	Lot Cov	Y	30% to 34%
536 Broadwater	785	11/4/98	Lot Cov	Y	30% to 34%
Blk 38 Lts 45, 46	842	7/3/01	Set back	Y	
811 5th St. W	909	3/15/04	Lot size	Y	
422 Yellowstone	945	8/4/04	Setback	Y	
745 Burlington	1004	5/2/07	Set back & lot cov	Y	9,600 to 9,506sf
1111 5th St. West	1050	6/3/09	Lot size	Y	
420, 420 ½ Burlington	1052	7/1/09	Lot size Lot cov	Y	14,000 to 5,320 for 2 units & 30 to 33%
635 & 637 Alderson	1174	2/5/14	Lot size	Y	9,600 to 7,000 sf for 2 units
416 & 416 ½ Alderson	1202	11/6/14	Lot size	Y	9,600 to 7,000 sf for 2 units
641 Burlington	1163	9/4/13	Lot size	Y	9,600 to 7,000 sf for 2 units

## SURROUNDING LAND USE & ZONING

NORTH: Zoning: R-70

Land Use: Residential & Residential-Multi Family

SOUTH: Zoning: R-70

Land Use: Residential & Residential-Multi Family

EAST: Zoning: R-70

Land Use: Residential & Residential-Multi Family

WEST: Zoning: R-70

Land Use: Residential & Residential-Multi Family

## BACKGROUND

This is a variance request 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: from 27-308 requiring a twenty (20) foot rear setback to allow a minimum of six foot six inches (6'6"); from 27-308 requiring a minimum side setback of 5 feet to allow a side setback of two feet six inches (2'6"); and from 27-308 requiring a maximum lot coverage of 30% to allow a maximum lot coverage of 48%; in a Residential 7,000 (R-70) zone, on Lots 30 & 31 Block 34, Suburban Homes Addition, a 7,000 square foot parcel of land. The purpose of the variance is to allow the existing duplex to remain on the lot and to obtain a rebuild letter for financing purposes

There have been similar variances approved in this area of Billings. The lot is in an older part of Billings and most of the surrounding lots were developed before zoning regulations existed. The request is to allow an existing duplex to remain on the lot and, if destroyed, the ability to rebuild the same footprint in its current location. As of completion of this report, there have been no concerns received from neighboring property owners, and one letter received in support of the variance request (attached).

## SUMMARY

Proposed DETERMINATIONS for Variance 1292;

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 two dwelling units on the property. The existing structure was built in 1937, 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 much of the development occurred in the mid 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.

Approval of this variance would allow the applicant to bring the property into conformance with the current zoning code and acquire a rebuild letter for financing purposes.

**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 allow a minimum lot area of 7,000 square feet: a 6'6" foot rear setback and a side setback of 2'6"; and a maximum lot coverage of 48%. No other variance is intended or implied with this approval.
2. The variance is limited to Lots 30 & 31 Block 34, Suburban Homes Addition, generally located at 432 (434) Alderson Avenue.
3. The applicant shall meet all other city code requirements with the exception of this variance.
4. These conditions of variance approval shall run with the land described in this authorization and shall apply to all current and subsequent owners, operators, managers, lease holders, heirs and assigns.

**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;**

There will be no time limit restrictions as the duplex is already constructed.

**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 – two family dwellings are allowed in the R-70 zone.

**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.

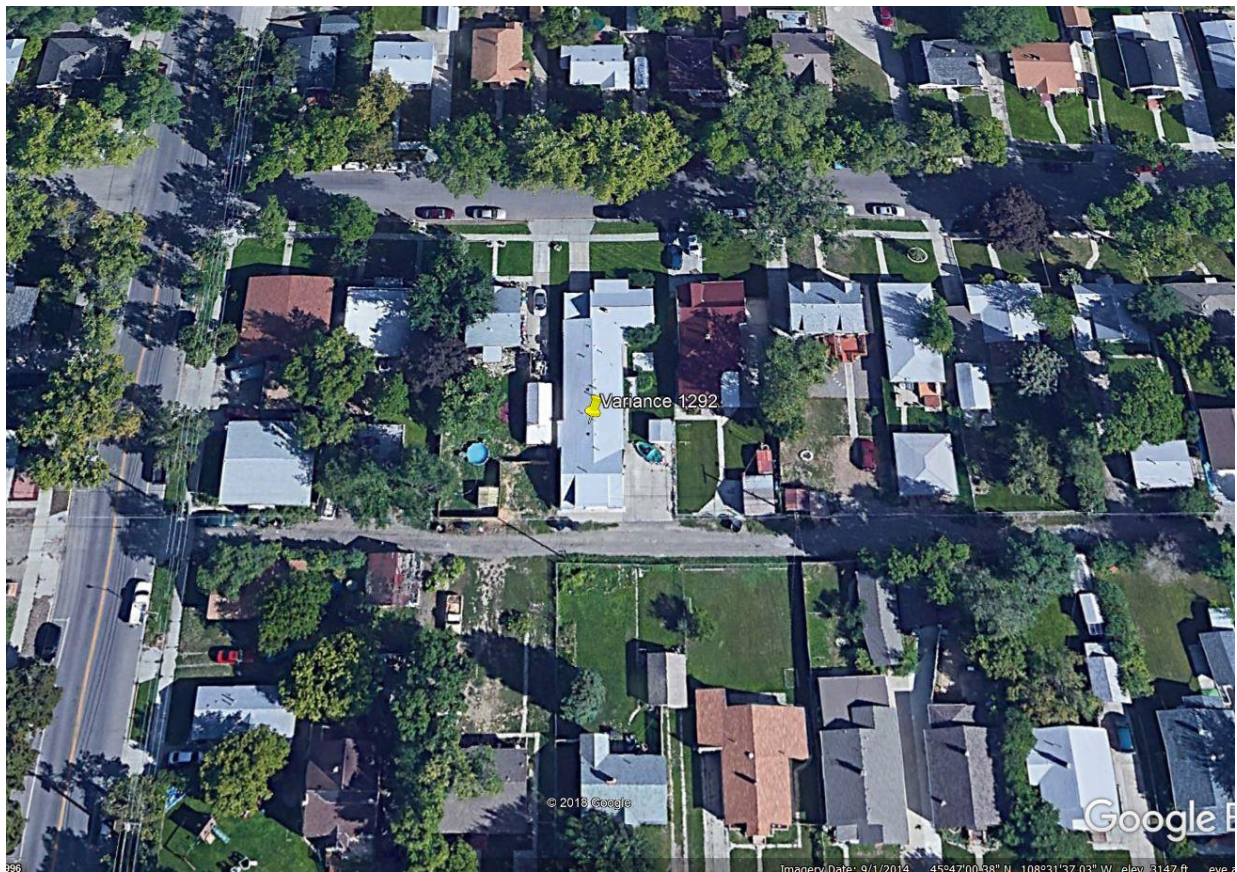
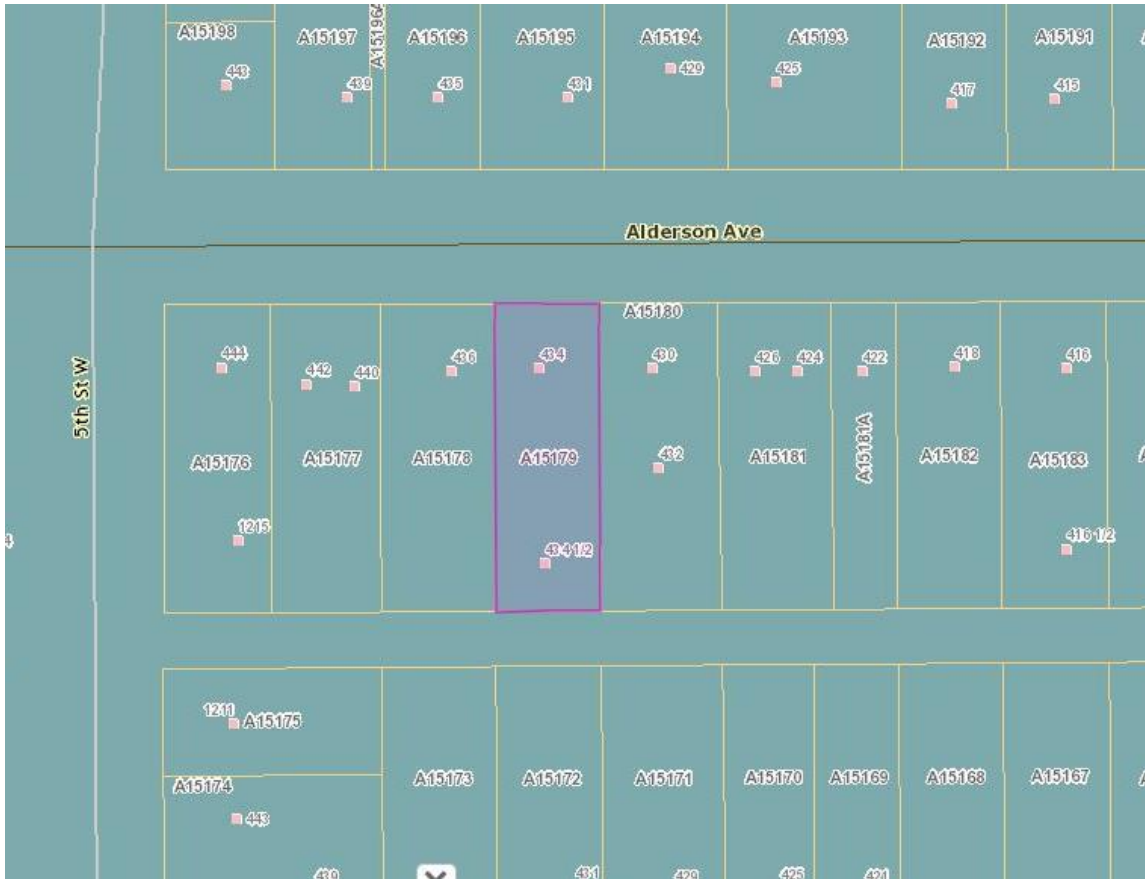
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**Attachments**

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

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Attachments  
Zoning Map & Site Photos





Subject Property



Looking South down the west side of the parcel



Looking North across Alderson



North East



Property to the east



East Side



Property from the alley



East Side looking north from alley

Application & Applicant Letter

APPLICATION FORM

CITY VARIANCE

ID: Billings Variance # 1292 - Project # P2-19-00045

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 # A15179 CITY ELECTION WARD # 1

Legal Description of Property: SUBURBAN Homes ADD, 504, TO 1 S, R26 E, Block 34, Lot 30-31

Address or General Location (If unknown, contact City Engineering): 432 Alderson aka 434 Alderson

Zoning Classification: R-70

Size of Parcel (Area & Dimensions): 7000 Sq FT

Covenants or Deed Restrictions on Property: Yes No X

If yes, please attach to application

Variance(s) Requested: Lot Size, Setbacks Rear 6.5 ft ; side 2.5 ft

Facts of Hardship: Re financing need rebuild a two unit building at current setbacks

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

Owner(s): Christian Helland (Recorded Owner) 3300 2nd Ave N #7, Billings, MT. 59101 (Address) 952-826-9436 (Phone Number) Christian.z.helland@gmail.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: [Signature] Date: 4/1/19 (Recorded Owner)



4/1/2019

Christian Helland  
3300 2<sup>nd</sup> Ave N. #7  
Billings, MT. 59101

Attn: Chairperson Of The Board of Adjustment  
Planning & Community Services Department  
2825 3<sup>rd</sup> Ave North, 4<sup>th</sup> floor  
Billings, MT. 59101

To whom this may concern;

Thank you for taking the time to review my request for variances on the property at 432 Alderson Ave. I purchased this property in first week of January as the first home I have purchased. The residence is currently set up as a very nice duplex with very nice tenants currently renting out the home. My intentions for the property is to move into the house when one of the tenants moves out at the next lease term to become an owner occupant in the structure. I am looking for the variance in order to get traditional bank financing on the property and refinance the property out of the short term loan. All the banks I have been working with have required that a rebuild letter/ variance be obtained from the city in order to rebuild in the event of a loss. There appears to be many similar variances the city has issued in the surrounding area. I am seeking this variance because the property already exists and I wish to continue using the property as a soon to be owner occupied duplex. Other than some interior upgrading, I do not intend to make any modifications to the property.

Thank you for your consideration,

Christian Helland

Helland – Alderson Ave.

1) **A) What reasons prevent you from using this property in conformance with the Zoning Regulations requirements?**

The property currently exists as legal non-conforming and I wish to continue using the property in its current configuration. The catalyst for seeking the variance is to receive a rebuild letter to obtain traditional bank financing.

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

The property exists and I wish to continue using the in its current state. The property is located in an older subdivision in the city with many of the adjacent properties carrying the same variance.

Site Plan

432 Alderson Ave



Legend  
432 Alderson Ave

Blue - house to lot line  
Red - House Area



April 15, 2019

Planning Division  
Planning & Community Services Department  
Billings, Montana



Re: City Variance #1292, Project Number: 19:00045

Greetings,

We are writing this in support of the request for the lot area, setback and lot coverage variance at 432 - 434 Alderson Avenue. (City Variance 1292).

We own a similar duplex located a few doors away at 440 - 442 Alderson and feel that the requested variance will cause no adverse impacts in this neighborhood. Duplex units such as ours and the applicants were built long before there was any zoning in this area and have proven to be very compatible and cause no adverse impacts to the residential character or living environment along this street.

Sincerely,

John and Terry Eisen