



CITY BOARD OF ADJUSTMENT
AGENDA-Wednesday, August 7, 2019 @ 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: June 5, 2019 and July 3, 2019

1. June 5, 2019 Minutes
2. July 3, 2019 Minutes

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 1297 - 2239 Fairview Place.** 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 20, Block 7, Country Club Heights Sub, a 22,861 square foot parcel of land. The purpose of the variance is to allow a 10-foot front setback to accommodate stairs and possibly front porch. Presented by Karen Husman, Planner I.

- b. **Variance 1298 - 1121 N 32nd Street.** The applicant is requesting a variance from Section 27-308 requiring a maximum lot coverage of 30% to allow a maximum of 40% in order to remove an existing older garage and construct a new larger garage that will allow parking 2 vehicles in a Residential 7,000 zone, on Lot 38, Block 11, North Elevation Sub. 1st Filing, a 7,000 square foot parcel of land. The purpose of the variance is to allow a proposed 780 square foot garage. Presented by; Karen Husman, Planner I.

- c. **Variance 1299 - 2325 Central Avenue.** The applicant is requesting a variance from Section 27-602(b) requiring a minimum setback of 60 feet from the centerline of Central Avenue (a principal arterial street) to allow 54 feet, and from section 27-310(g)(2) requiring a maximum of 4 feet permitted projection into the front setback to allow 6 feet, in a Community Commercial (CC) Zone, on the east 130 feet of Lot 3, Block 12, Sweet Acres Sub. 6th Filing, a 22,495 square foot parcel of land. The purpose of the variance is to allow an outside covered patio 54 feet from the centerline of an arterial street. 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: 08/07/2019

Information

Subject

June 5, 2019 Minutes

Attachments

BBOA 6_5_2019

CITY BOARD OF ADJUSTMENT

MINUTES June 5, 2019

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	
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		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	
		9	9	9	9	9	9	9	9	9	9	9	9	
David Mitchell	Member	-	-	-	E	E	E							
Dave Hagstrom	Member	-	-	-	1	1	1							
Paul Hagen	Member	-	-	-	1	1	1							
Jeff Bollman	Member	-	-	-	1	E	1							
Oscar Heinrich	Member	-	-	-	1	1	1							
Martin Connell	Member	-	-	-	1	1	1							
Mark Noennig	Chair	-	-	-	1	1	1							

TOTAL NUMBER OF APPLICATIONS 2019	0	0	0	0	0	0	0	0	0	1	1	1	T
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	1	1	1	1	1	1	1	1	1	1	1	1	
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Variance	-	-	-	1	1	2							4

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.

Chair Noennig introduced the City Board of Adjustment members and Planning Department staff.

Attending Staff members are Karen Husman, Planner I and Robbin Bartley, Administrative Support.

Attending: Mary Lou Miller, Clifton Miller, Jacquelyn Kelly, Sharon Limberhand, Wade Kelly

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 May 1, 2019 minutes. Member Connell 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

Chair Noennig 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.

City Variance – #1293 – 4302 Ryan Ave – A variance from Section 27-308 requiring a maximum of 30 % lot coverage to allow 36% for the existing structure and a proposed addition in a Residential - 7000 (R-70) zone, on Block 4, Lot 11 of Orchard Lane Subdivision, a 6,600 square foot parcel of land. The purpose of the variance is to allow the existing structures currently at 33% and a new proposed additional living space of 221 square feet. Tax ID: A12373., City Ward 3

Recommendation:

Staff recommends conditional approval of the proposed variance.

Staff proposes the following conditions of approval:

1. The variance from 27-308 requiring a maximum lot coverage of 30% to allow a maximum lot coverage of 36% based on the lot area of 6,600 square feet. No other variance is intended or implied with this approval.
2. The variance is limited to Lot 11, Block 4, Orchard Lane Subdivision, 2nd filing, generally located at 4302 Ryan Ave.
3. The applicant will submit a building permit application within six months of Board approval.
4. Construction will be completed within eighteen months of variance approval.
5. There will be no construction activity before 7 am or after 8 pm.
6. Failure to start or complete actions required in this approval will void the variance.
7. Any future construction or re-construction of the existing structure will require compliance with all other zoning regulations and city ordinances that apply at the time of construction or re-construction.

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 Heinrich asked if any objections had been received. No correspondence was received from the surrounding property owners.

Chair Noennig **opened the public hearing at 6:08PM** and asked if there was anyone wishing to speak in favor or against **City Variance #1293**.

Jacquelyn Kelly, 4302 Ryan Ave, owner

Ms. Kelly needs additional living space, a bedroom, Her 90 year old mother is coming to stay. No access will be restricted. Stevens Lane is not maintained.

Close hearing 6:11pm

Member Bollman made a motion to approve and Member Connekk seconded the motion to **approve City Variance #1293 with staff recommendations.**

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	X		

The motion to approve **City Variance #1293**, passed 6-0 with staff recommendations.

City Variance – #1294 – 2229 Burlington Ave –A variance from Section 27-308 requiring a minimum lot size of 7,000 sf to allow minimum lot size of 6,979 sf in a Residential-7000 (R-70) zone, on Lot 8, of amended lots 3 & 4, Arnold Sub 2nd Filing, S06, T01 S, R26 E, an 7,976 sf parcel of land. The purpose of the variance is to allow a lot line relocation for a property to be reduced to 6,979 sf. Tax ID: A02415. City Ward 5.

Recommendation:

Staff recommends conditional approval of the proposed variance.

Staff proposes the following conditions of approval:

1. The variance is to allow a minimum lot area of 6,979 square feet. No other variance is intended or implied with this approval.
2. The variance is limited to Lot 8, of amended lots 3 & 4, Arnold Subdivision 2nd Filing, generally located at 2229 Burlington 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.

Questions for Staff:

Member Heinrich asked if any complaints had been received. How does this affect things? The site plan would show the setbacks would comply.

Chair Noennig asked how far will the property line be moved. Staff indicated 10 feet.

Chair Noennig **opened the public hearing at 6:19PM** and asked if there was anyone wishing to speak in favor or against **City Variance #1294**.

Cliff Miller, 4615 Palisades Park Drive, owner

Mr. Miller’s father built both houses but did not move the property line. One house is built on the property line. The larger home will be sold and the smaller home will be kept as a rental.

Member Bollman asked if there is a chimney on the west side of the original house. YES

Rebuttal

Close hearing 6:21pm

Member Hagstrom made a motion to approve and Member Hagen seconded the motion to **approve** **City Variance #1294 with staff recommendations.**

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	X		

The motion to approve **City Variance #1294**, passed 6-0 with staff recommendations.

Other Business:

2 variances next month

Paul Hagen will not attend.

Jeff Bollman will not attend..

The meeting adjourned at 6:25 PM.

ATTEST: DRAFT. To be approved by a motion July 3, 2019.

City Board of Adjustment

Meeting Date: 08/07/2019

Information

Subject

July 3, 2019 Minutes

Attachments

BBOA_7_5

CITY BOARD OF ADJUSTMENT

MINUTES July 3, 2019

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	0	1	2
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		1	1	1	1	1	1	1	1	1	1	1	1	
		9	9	9	9	9	9	9	9	9	9	9	9	
David Mitchell	Member	-	-	-	E	E	E	1						
Dave Hagstrom	Member	-	-	-	1	1	1	1						
Paul Hagen	Member	-	-	-	1	1	1	E						
Jeff Bollman	Member	-	-	-	1	E	1	E						
Oscar Heinrich	Member	-	-	-	1	1	1	1						
Martin Connell	Member	-	-	-	1	1	1	1						
Mark Noennig	Chair	-	-	-	1	1	1	1						

TOTAL NUMBER OF APPLICATIONS 2019	0	0	0	0	0	0	0	0	0	0	1	1	1	TOTAL
	1	2	3	4	5	6	7	8	9	0	1	2		
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	2	6	6	3	1	5	3	7	4	2	6	4		
	/	/	/	/	/	/	/	/	/	/	/	/		
	2	2	2	2	2	2	2	2	2	2	2	2		
	0	0	0	0	0	0	0	0	0	0	0	0		
	1	1	1	1	1	1	1	1	1	1	1	1		
	9	9	9	9	9	9	9	9	9	9	9	9		
Variance	-	-	-	1	1	2	2						6	

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: Dave Hawkins, Leona Lee, Brian Lee, Steve Lauer, Barbara Hawkins

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

Meeting minutes for the June 5, 2019 meeting have been delayed. Clerk was out.

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.

Chair Noennig recused himself from City Variance 1295, Member Connell presided.

City Variance – 1295 – 3410 Flagstone Dr. – To allow an 8 foot fence - A variance from 27-604(c) requiring a maximum of 6 feet in height to allow an 8 foot fence/wall in an Residential 9,600 (R-96) zone, on Block 1, Lot 3, Castlewood Sub. 3rd Filing, S27, T1N, R25E, a 10,943 square foot parcel of land. The purpose of the variance is to allow construction of an 8 foot fence adjacent to Zimmerman Trail. Tax ID: A20383
City Ward 4.

Recommendation:

Staff recommends conditional approval of the proposed variance.

Staff proposes the following conditions of approval:

1. The variance is to allow an eight-foot fence in the rear yard adjacent to Zimmerman Trail only. No other variance is intended or implied with this approval.
2. The variance is limited to Block 1, Lot 3, Castlewood Sub. 3rd Filing, generally located at 3410 Flagstone Drive.
3. The applicant shall meet all other city code requirements with the exception of this variance.
4. The property owner must submit and receive approval of a fence permit within 6 months of approval of this variance, and complete construction within one year.
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.

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:
DM-grade level difference - approximately 3 feet

Member Connell opened the public hearing at 6:08PM and asked if there was anyone wishing to speak in favor or against City Variance #1295.

Rebuttal

Close hearing *6:09pm**

Member Heinrich made a motion to approve and Member Mitchell seconded the motion to approve City Variance #1295 with staff recommendations.

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 #1295, passed 4-0 with staff recommendations.

Chair Noennig presiding.

City Variance – 1296 –The South East corner of Rosebud and S 31st Street West – Lot coverage. A variance from Section 27-308 requiring a maximum of 30 % lot coverage to allow 40% to in a Residential -8000 (R-80) zone, on Block 15, Lots 7A, 8A, 9A, 10A & 11A, in S12, T1S, R25E of Lampman Subdivision, with five lots containing a total of 63,134 square feet. Tax ID: C07956, C07957, C07958, C07959 & C07960. City Ward 5.

Recommendation:

Planning staff has reviewed this application & is recommending denial of Variance #1296 based on the Determinations for granting a variance.

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 circumstances that exist which are peculiar to the land. The applicant has not stated a hardship with the property. The code allows 30% lot coverage could be built to meet the size allowed by the zoning regulations.

- 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;**

Allowing the variance would give the applicant rights not commonly enjoyed by other tracts in the same district. There have not been any similar variances granted in the area or surrounding neighborhoods. The variance would allow the applicant special privileges. Other lots in this subdivision have developed as defined by the zoning code.

- 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 special privilege to this applicant as similar structures have been built over the maximum lot coverage under the code. Granting the variance requested will not confer on the applicant a special privilege that is denied by this Chapter to other land in the same district.

- 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. Lot coverage restrictions prohibit excessive building in all zoning districts.

- 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 maximum of 34 % lot coverage. No other variance is intended or implied with this approval.**
- 2. The variance is limited to Block 15, Lots 7A, 8A, 9A, 10A & 11A, in of Lampman Subdivision, Tax ID's: C07956, C07957, C07958, C07959 & C07960.**
- 3. The applicant shall meet all other city code requirements with the exception of this variance.**
- 4. The property owner must submit and receive approval of building permits within 1 year of approval of this variance, and complete construction on the lots within 4 years.**
- 5. Failure to complete the requirements of these conditions 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.**

7. 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 property owner must submit and receive approval of building permits within 1 year of approval of this variance, and complete construction on the lots within 4 years.

8. 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.

Granting this variance will not approve a use that is not otherwise allowed in the R-80 zoning district. Residential single family dwellings and duplexes are allowed in the R-80 district.

Questions for Staff:

OH-

Chair Noennig **opened the public hearing at 6:14***PM** and asked if there was anyone wishing to speak in favor or against **City Variance #1296**.

Barbara Hawkins, 2617 Westfield Drive, Billings, MT

We have residences *****, calculations are now based on the roof square footage and not foundation square footage. Letters from the bank and neighbor.

DH-Overhang over 1.5 feet the roof is calculated.

MN-

Dm- are lots the same size?

DH-the design is 33 percent lot coverage, asking for 40

Brian Lee, 4115 Kaitlin Court, Billings, MT

Is in favor of the duplex and variance. Ground level entry. Larger master bedroom and bath

MN- what will you do if 30 percent is required.

Dave Hawkins, 2617 Westfield Drve, Billings, MT

We have developed single family residences all over Billings since 1985. Has never been before the Board of Adjustment.

Discrepancy clarified. 33.8 percent. Okay with conditions if implied.

MN-projections definition- 27-310 - allowed projections

Establish a basis or a hardship- do you have an opinion what the hardship would be

Steve Lauer, 8 Monroe Street, Billings, MT

Stated he is in favor of the Variance.

Leona Lee, 4115 Kaitlin Court, Billings, MT

Stated she is in favor of the Variance.

Member Heinrich asked staff when Project RE:Code be finished and how the new code will effect these lots. Staff replied it is likely if the applicant waited until January 2020, it would be conforming.

MC*****

MN- projected time frame-immediately

Rebuttal

Close hearing 6:44pm

Member Heinrich made a motion to approve with the change criteria #3, finding several other properties in the area over lot coverage without variances. on recommendations and no more than 34 (#1) percent and Member Connell seconded the motion to approve **City Variance #1296 as staff recommended.**

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	X		

The motion to approve **City Variance #1296**, passed 5-0 .with staff recommendations.

Other Business:

3 Varances next month

The meeting adjourned at 6:55 PM.

ATTEST: DRAFT. To be approved by a motion August 7, 2019.



City Board of Adjustment

Meeting Date: 08/07/2019

SUBJECT: Variance 1297- 2239 Fairview Place

THROUGH: Nicole Cromwell

PRESENTED BY: Karen Husman

Information

REQUEST

Variance 1297 - 2239 Fairview Place. 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 20, Block 7, Country Club Heights Sub, a 22,861 square foot parcel of land. The purpose of the variance is to allow a 10-foot front setback to accommodate stairs and possibly front porch. Presented by Karen Husman, Planner I.

RECOMMENDATION

Staff recommends conditional approval of the variance.

APPLICATION DATA

OWNERS: Catherine J. Grott

AGENT: Mike Kautzman

PURPOSE: Reduce the front setback to 10 feet

LEGAL DESCRIPTION: Lot 20, Block 7, Country Club Heights Sub

ADDRESS: 2239 Fairview Place

EXISTING LAND USE: Vacant

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
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
3230 Country Club Cir.	1117	10/2018	Front SB to 10'	Yes	New SFD
3230 Country Club Cir.	1287	10/2018	Front SB to 10'	Yes	New SFD

SURROUNDING LAND USE & ZONING

NORTH: Zoning: R-9600

Land Use: Residential Single Family

SOUTH: Zoning: R-9600

Land Use: Residential Single Family

EAST: Zoning: R-9600

Land Use: Residential Single Family

WEST: Zoning: R-9600

Land Use: Residential Single Family

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 home. The lot is undeveloped and is one of 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. 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.

SUMMARY

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 is located 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 lot 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 private 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 many 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 a single family dwelling. No other variance is intended or implied with this approval.
2. The variance is limited to on Lot 20, Block 7, Country Club Heights Subdivision, generally located at 2239 Fairview Place.
3. The site shall be developed in substantial conformance to the site plan presented to the BOA, that reflects the 10 foot front setback. No other nonconformity shown on the site plan is/are considered with this variance approval.
4. The applicant shall receive approval for a building permit within six months of Board approval. Construction shall be completed within eighteen months of Board approval.
5. Failure to begin or complete actions required by this approval within the time limits set forth shall void this variance.
6. All construction will require compliance with all other zoning regulations and City ordinances that apply at the time of construction.
7. 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;

The recommended conditions of approval require the approval of a building permit within 1 year and completion within 3 years 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.

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.

Attachments

Zoning Map & Site Photos

Application, Applicant Letter & Site Plan

Site Photos



Subject Property



Southeast



East



West

APPLICATION FORM

CITY VARIANCE

ID: Billings Variance # 1297 - Project # P2-19-00099

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 # ~~03-1032-26-4-07-18-0000~~ A05683 CITY ELECTION WARD # IV

Legal Description of Property: Country Club Heights Subd
S26, T01 N, R25 E Block 7 Lot 20

Address or General Location (If unknown, contact City Engineering): 2239 Fair View Pl

Zoning Classification: R-96 recorded easements for 2233 Fairview

Size of Parcel (Area & Dimensions): 1/2 Acre

Covenants or Deed Restrictions on Property: Yes No Unknown

If yes, please attach to application

Variance(s) Requested: Move set back to 10' instead of 20'
Projection of Stairs in setback

Facts of Hardship: By Looking at the Photos There are a Lot of Large Rocks and Steep Elev gains toward Back of Property

*** Additional information may be required as determined by the Zoning Coordinator in order to fully evaluate the application. This variance would save 10's of Thousands in dirt work. This variance would also look and be the same as many others, and match variances recently granted in the same subdivision.

Owner(s): (Recorded Owner) Catherine J. Grotti

(Address) 1225 Juniper Dr Grotti @ Bregman.net

(Phone Number) 406-690-2060 (email)

Agent(s): (Name) Mike Kautzman

(Address) 1225 Juniper Dr Bigs MT 59102

(Phone Number) 406-690-2051 (email) Mike Kautzman @ Hot mail . 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: Catherine J. Grotti Date: 6/20/19
(Recorded Owner)



JW Pappas
5420 Molo Road
Billings MT 59106
James@pds-eng.net

July 1, 2019

City of Billings Board of Adjustment
Mr. Mark Noennig, Chairman
2825 3rd Ave. North
Billings MT, 59101

RE: Variance Application for Lot 20 Country Club Heights Subdivision

Dear Mr. Noennig,

A variance is requested from Section 27-308 of the City of Billings Code of Ordinance for a reduction in the required front setback from 20-feet to 10-feet for the property located on Lot 20 of the County Club Heights Subdivision, Billings, Montana.

The subject property is located at 2239 Fairview Place in Billings, Montana. The property is zoned R-96 (Residential 9,600) and encompasses a lot area of approximately 0.52-acres, most of which is unbuildable due to the terrain. The property is undeveloped with the exception of an existing driveway and foundation, (of which the history is unknown), and various wooden retaining walls. The property is bound by Fairview Place to the south, existing residences to the east and west and the rims to the north. The property is very steep and slopes from the north to the south and contains a multitude of boulders of various sizes.


The proposed project would entail removal of the existing foundation and conflicting retaining walls for construction a single-family residence. The residence is proposed to be setback a distance of 10-feet from the front property line to minimize the earthwork, rock removal and retaining wall extent necessary to develop the property. The code required 20-feet front setback would require the residence to be constructed further into the north slope of the lot which gets steeper the further north you go on the lot.

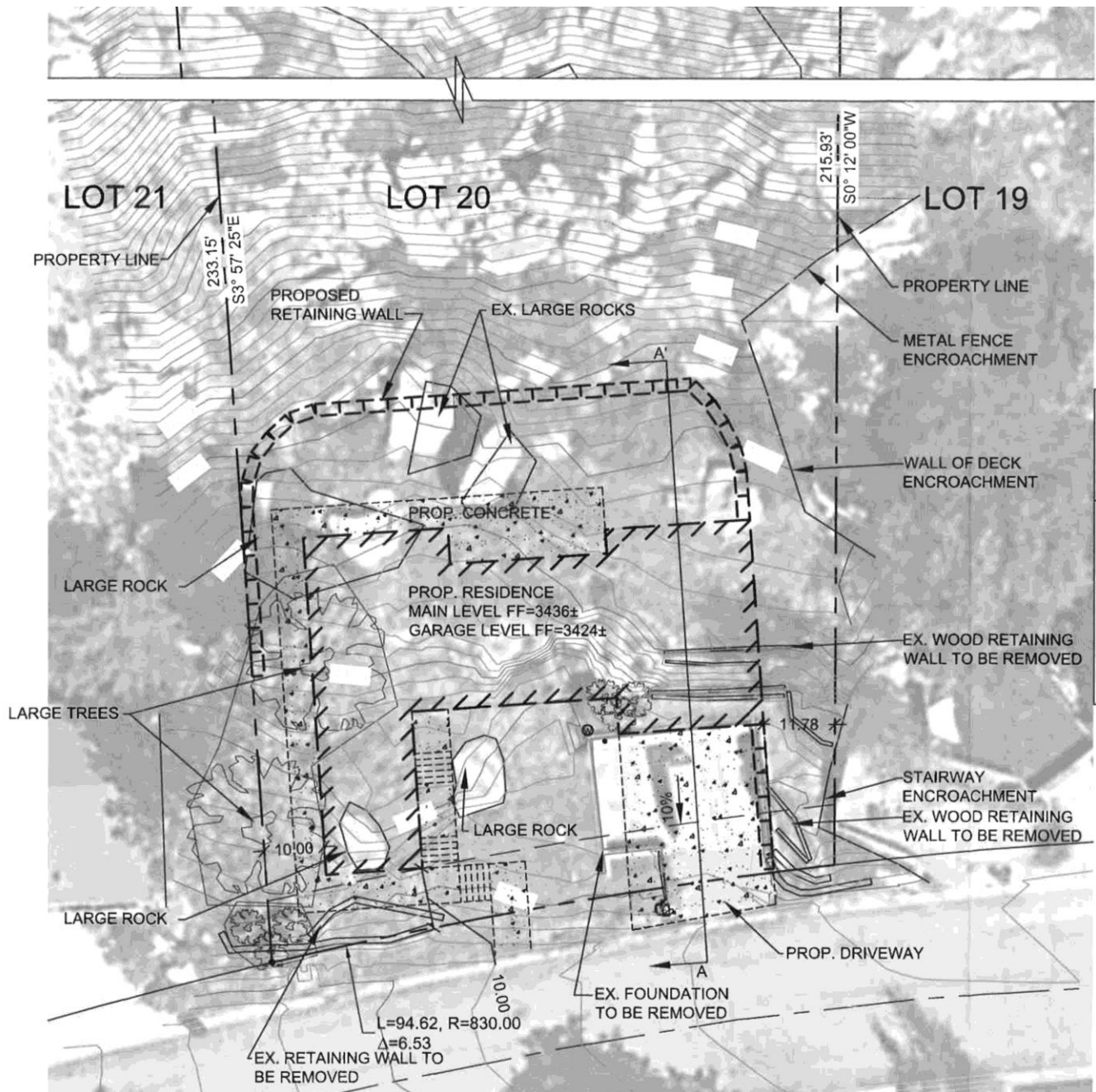
The requested reduction in the required front yard setback is not anticipated to negatively impact adjacent properties within the subdivision in visual obstruction or placement. The adjacent properties located to the east and west of the subject property do not meet the 20-feet setback and are constructed approximately between 10 and 15-feet from the front property boundary. Based on the location of the property and a review of the City of Billings Functional Class Map, there does not appear a future need

or plan to change the classification of Fairview Place from a local roadway which would impact the requested setback reduction request.

Please consider the requested variance to reduce the required front setback from 20-feet to 10-feet to allow for the construction of a single-family residence on the subject property.

Sincerely,


Mike Kautzman



Site Plan



City Board of Adjustment

Meeting Date: 08/07/2019

SUBJECT: Variance 1298 - 1121 North 32nd St.

THROUGH: Nicole Cromwell

PRESENTED BY: Karen Husman

Information

REQUEST

Variance 1298 - 1121 N 32nd Street. The applicant is requesting a variance from Section 27-308 requiring a maximum lot coverage of 30% to allow a maximum of 40% in order to remove an existing older garage and construct a new larger garage that will allow parking 2 vehicles in a Residential 7,000 zone, on Lot 38, Block 11, North Elevation Sub. 1st Filing, a 7,000 square foot parcel of land. The purpose of the variance is to allow a proposed 780 square foot garage. Presented by; Karen Husman, Planner I.

RECOMMENDATION

Staff recommends conditional approval of the variance.

APPLICATION DATA

OWNERS: Stacy & Brandy Coffin

PURPOSE: To allow existing structures and to replace older garage with a larger one

LEGAL DESCRIPTION: Block 11, Lot 38, North Elevation Sub. 1st filing

ADDRESS: 1121 North 32nd St.

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					
SIMILAR PROPERTY					
1232 N 30th St	277	3/31/81	Lot cov	Y	
1233 N 30th St	302	12/29/81	Lot cov	Y	
3114 12th Ave N	1082	12/1/10	Lot cov	Y	
1014 N. 32nd St.	1170	12/4/13	Lot cov	Y	

SURROUNDING LAND USE & ZONING

NORTH: Zoning: R-70

Land Use: Residential

SOUTH: Zoning: R-70

Land Use: Residential

EAST: Zoning: R-70

Land Use: Residential

WEST: Zoning: R-96
Land Use: Residential

BACKGROUND

This is a variance request from Section 27-308 requiring a maximum lot coverage of 30% to allow a maximum of 40% in order to remove an existing older garage and construct a new larger garage in its place. According to the county information available, the existing home was built in 1940. It is not known when the existing garage was constructed. 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. There are similar properties in the subdivision and in adjacent neighborhoods.

The first filing of the North Elevation Subdivision was platted around 1900. Several of the surrounding properties have more than one dwelling unit on them. Many properties in the surrounding neighborhoods have detached garages, some of them are larger and some properties have obtained a variance while some of them have not. The property owner is requesting the variance to be able to replace an existing garage that does not meet their needs with a new garage to accommodate their vehicles.

SUMMARY

Findings of the Review Criteria Variance 1298

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. The applicant is requesting this variance in order to remove an existing garage and replace it with a larger 2-car garage. The existing structures are currently at 34% and the proposed new garage would increase the lot coverage to 40%. Approval of the variance would bring the property into compliance with the current zoning regulations.

2. That a literal interpretation of the provisions of this Chapter would deprive the applicant of rights commonly enjoyed by other tracts in the same district;

There are other lot coverage variances of record in the area. There are several other properties over the maximum allowed lot coverage in the district and the other properties have not obtained variances. The literal interpretation of the provisions of this Chapter would deprive the applicant of rights enjoyed by other tracts in the same district; therefore, allowing the applicant a variance to increase the lot coverage to 40% would not deprive the applicant of these rights.

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 for 40% lot coverage on this property would not be granting a special privilege to this owner. Other lot coverage variances have been granted and other property in the neighborhood are over the 30% maximum without the benefit of a 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 approval 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 from 27-308 requiring a maximum lot coverage of 30% to allow a maximum lot coverage of

- 40% based on the lot area of 7,000 square feet. No other variance is intended or implied with this approval.
2. The variance is limited to Lot 38, Block 11, North Elevation Subdivision, generally located at 1121 North 32nd Street.
 3. The site shall be developed in substantial conformance to the site plan presented to the BOA.
 4. The applicant will submit a building permit application within six months of Board approval and construction will be completed within eighteen months of variance approval.
 5. There will be no construction activity before 7 am or after 8 pm.
 6. Failure to start or complete actions required in this approval will void the variance.
 7. Any future construction or re-construction of the existing structure will require compliance with all other zoning regulations and city ordinances that apply at the time of construction or re-construction.
 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;

The property owner shall apply for a building permit to construct within 6 months of Board approval and complete the construction within 18 months of building permit 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 already allowed in the zoning district – R-70 zoning allows residential accessory structures.

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

Application, Applicant Letter & Site Plan

Site Photos



Subject Property



North



North



South



South



Existing Garage

CITY VARIANCE

APPLICATION FORM

ID: Billings Variance # 1298 - Project # PZ-19-00160

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 11717 CITY ELECTION WARD # 1

Legal Description of Property: North Elevation Sub, 1st filing, S32, T01 N, R26 E, Block 11, Lot 38-39

Address or General Location (If unknown, contact City Engineering): 1121 N 32nd St.

Zoning Classification: R 7000

Size of Parcel (Area & Dimensions): 50 x 140

Covenants or Deed Restrictions on Property: Yes No

If yes, please attach to application

Variance(s) Requested: Exceed 30% lot coverage

Facts of Hardship: Built in 1940, the garage is in poor condition structurally and insufficient to house both our vehicles.

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

Owner(s): Stacy and Brandy Coffin
(Recorded Owner)
1121 N. 32nd St. Billings, MT 59101
(Address)
(406) 671-4296 bcoffin@bresnan.net
(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: Brandy Coffin Date: 6/28/19
(Recorded Owner)



June 21, 2019

To the Chairperson of the Board of Adjustment,

We respectfully request a variance to build a new garage per the submitted specifications. Our property is located at N. 32nd and Parkhill. We have lived in this residence since November 2002 and due to the size of the garage we have had to park a pickup on the street. There have been two incidents where our vehicle has been hit while parked on N. 32nd street. Most recently was May 6, 2018 at 1:30am when our new truck was involved in a hit and run. This has been unnecessarily costly and inconvenient and since the last incident we have been focused on putting both of our vehicles in a garage to avoid having to park on N. 32nd.

The existing garage was built in 1940 and is 18' wide x 22' long. It has two doors which are 8' wide x 6 1/2' tall. Our Honda Pilot that does fit in the garage is 7'6" from side mirror to side mirror. That does not leave much room to fit in the opening. I have to squeeze to get out of the driver's side door as it only opens between six to eight inches before hitting the wall. When we purchased the house in 2002, the garage already had two wooden supports in the center of the floor to support the sagging roof. Since then we have had to add an additional support. These supports make a very small space even harder to park in when I have to maneuver around them to allow for the passenger door to open. Additionally the low clearance of the existing garage causes damage to the car parked in the garage when the automatic hatch is used. We are unable to unload groceries or transport our dog without moving the car into the alley. This is especially inconvenient in the winter.

The purposed new garage would be 26' wide x 30' long and would have one 18' x 9' wide door which would allow for two vehicles to fit comfortably including room for a turn radius into the garage. It would also allow for adequate space for both the driver and passenger doors to open along with some storage space. The tailgate would also have enough clearance to stay open for loading and unloading.

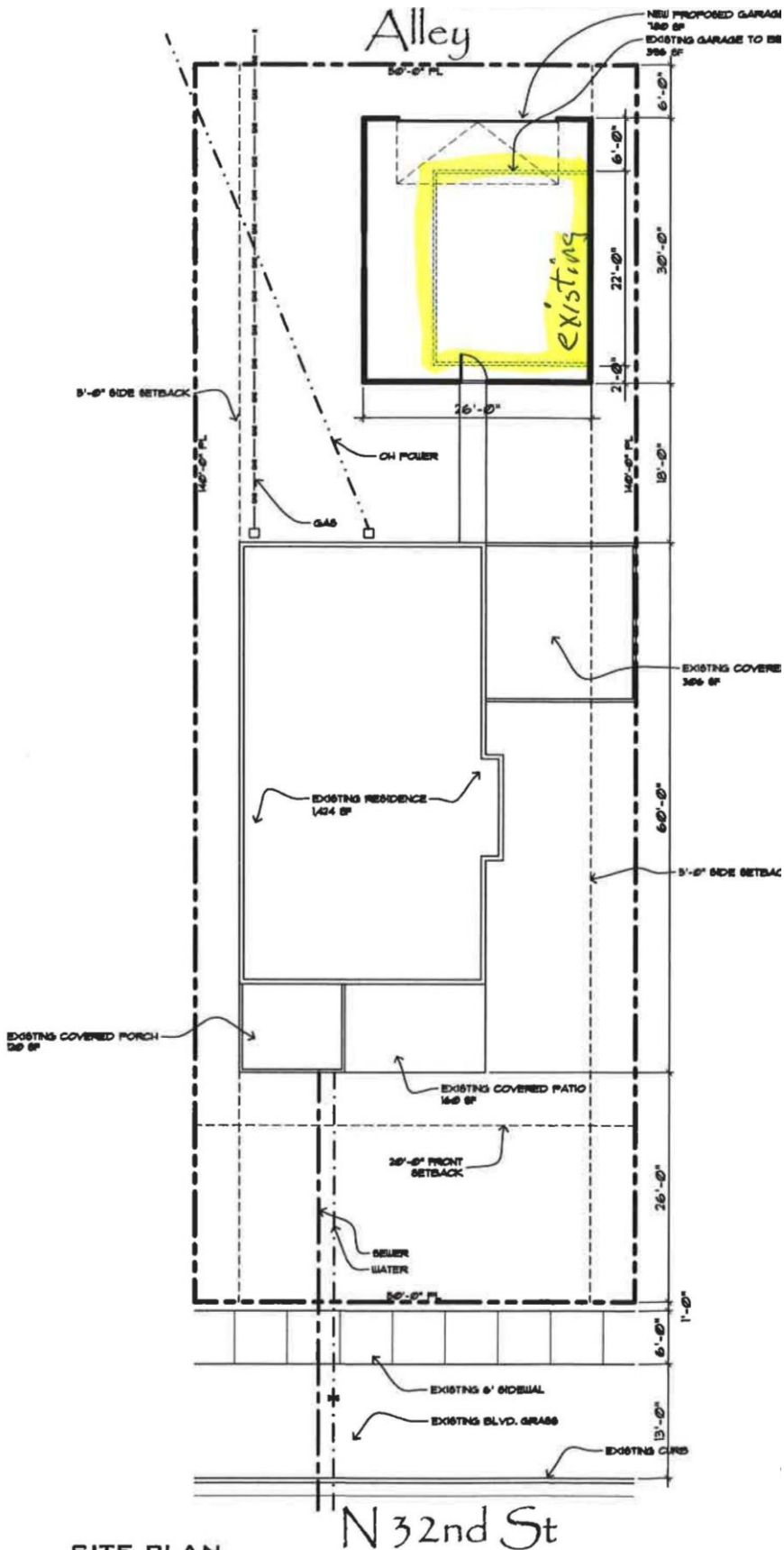
Our home was recently painted in the spring of 2016 and the new garage would have the same paint color and siding (to the extent possible). We feel this would be an improvement to the property and the neighborhood.

Thank you for your consideration,


Stacy and Brandy Coffin

780 ^{sq} garage
Remove 18x22 ga
394.

Site Plan



SITE PLAN
SCALE: 1/8" = 1'-0"

N 32nd St



City Board of Adjustment

Meeting Date: 08/07/2019

SUBJECT: Variance 1299 - 2325 Central Avenue

THROUGH: Monica Plecker

PRESENTED BY: Karen Husman

Information

REQUEST

Variance 1299 - 2325 Central Avenue. The applicant is requesting a variance from Section 27-602(b) requiring a minimum setback of 60 feet from the centerline of Central Avenue (a principal arterial street) to allow 54 feet, and from section 27-310(g)(2) requiring a maximum of 4 feet permitted projection into the front setback to allow 6 feet, in a Community Commercial (CC) Zone, on the east 130 feet of Lot 3, Block 12, Sweet Acres Sub. 6th Filing, a 22,495 square foot parcel of land. The purpose of the variance is to allow an outside covered patio 54 feet from the centerline of an arterial street. Presented by; Karen Husman, Planner I.

RECOMMENDATION

Staff recommends denial.

APPLICATION DATA

OWNERS: Genia Gale Demis

AGENT: Regina Griemsman

PURPOSE: Encroach into arterial setback & allow a 6' permitted projection in the front setback

LEGAL DESCRIPTION: the east 130 feet of Lot 3, Block 12, Sweet Acres Sub. 6th Filing

ADDRESS: 2325 Central Avenue

EXISTING LAND USE: Commercial

PROPOSED LAND USE: Commercial

EXISTING ZONING: CC

CONCURRENT APPLICATIONS

None

APPLICABLE ZONING HISTORY

SUBJECT PROPERTY	VARIANCE #	DATE	FOR	APPROVED (Y/N)	ADDITIONAL DATA
None					
SIMILAR PROPERTY					
2002 Howard Ave	257	7/7/80	Side SB 3'	Y	
1912 Howard Ave	138	6/6/77	Side SB 3'	Y	

SURROUNDING LAND USE & ZONING

NORTH: Zoning: Residential- 6000

Land Use: Church

SOUTH: Zoning: CC

Land Use: Commercial

EAST: Zoning: CC

Land Use: Commercial

WEST: Zoning: CC
Land Use: Commercial

BACKGROUND

The applicant is requesting a variance from Section 27-602(b) requiring a minimum setback of 60 feet from the centerline of Central Avenue (a principal arterial street) to allow a 54-foot setback, and from section 27-310(g)(2) requiring a maximum of 4 feet permitted projection into the front setback to allow six feet. The purpose of the variance is to allow an outside covered patio 54 feet from the centerline of an arterial street. Tax ID: A20203.

There is no hardship other than one created by the owner and building designer. The covered patio area was constructed without a permit. There are no topographical issues that would prevent the construction in accordance to the required setback restrictions. Staff did not find other property in the area with similar or comparable setbacks that encroach into the arterial setback area. Granting the variance as requested would confer on this applicant a special privilege denied to other owners in the area.

SUMMARY

DETERMINATIONS FOR VARIANCE 1299

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

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

There are no special conditions or circumstances that exist which are peculiar to the land, the lot or something inherent in the land which causes a hardship. The hardship is caused by building into the arterial setback without adequate research or permits.

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;

Denying the variance would deprive the applicant the ability to build a covered patio in the location they have chosen. There is adequate space to build a covered patio area without encroaching into the setback.

3. That granting the variance requested will not confer on the applicant any special privilege that is denied by this Chapter to other land in the same district;

The variance would allow the applicant to build into the setback and arterial setback, a special privilege not generally enjoyed in this neighborhood and area along Central Avenue.

4. That the granting of the variance will be in harmony with the general purpose and intent of this Chapter and with the Growth Policy;

Staff is recommending denial of the variance, however granting the variance does not conflict with the general purpose and intent of the zoning regulations and the growth policy.

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

Staff is recommending denial for this variance, no conditions are recommended.

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;

Staff is recommending denial of the variance so a time limit to complete the construction is not necessary.

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 – patios and

projections are allowed in the CC zone.

RECOMMENDATION

Planning staff has reviewed this variance and is forwarding a recommendation of denial of the request based on the criteria for variances as presented within this report. Staff finds that the proposed variance request does not meet the criteria for a variance.

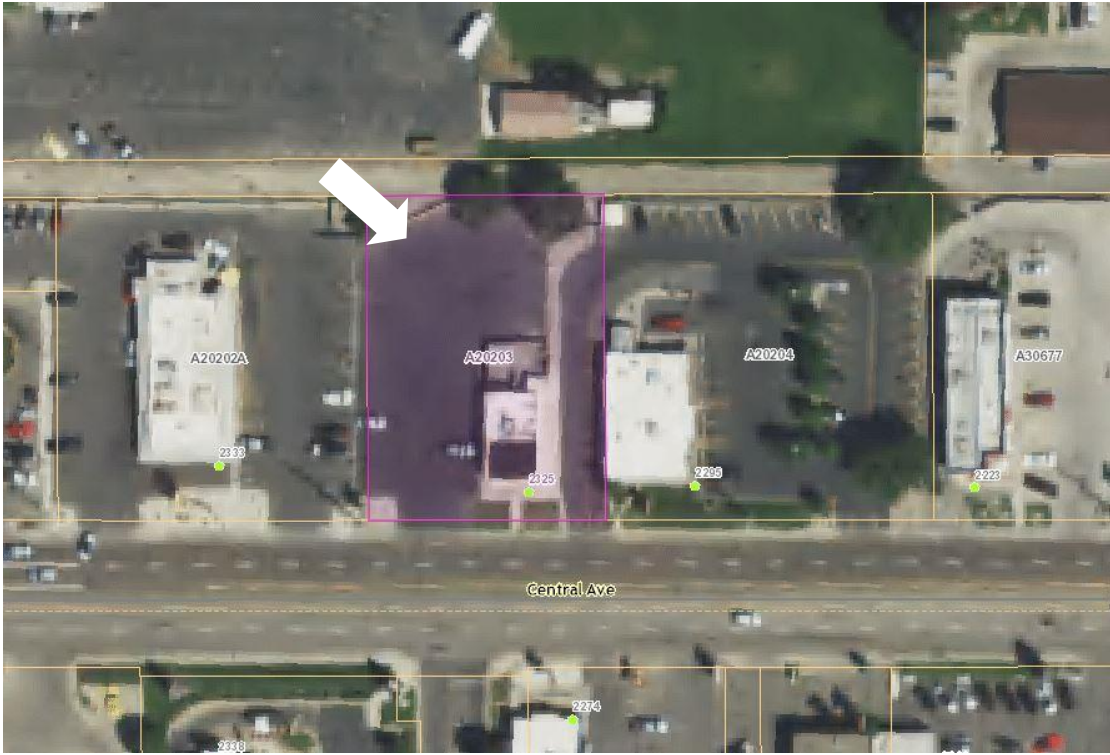
Attachments

Zoning Map & Site Photos
Application, Applicant Letter & Site Plan

Attachments
Zoning Map & site Photos



Subject property





Subject Property



East



Southeast



West

APPLICATION FORM

CITY VARIANCE

ID: Billings Variance # 1299 - Project # P2-19-0902

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 # 81-0489478 CITY ELECTION WARD # 5

Legal Description of Property: Section 06, Town 01, Range 26 E Lot 3 BLK 12

Sweet Acres Subd 6th Filing Sweet Acres Subd 6th, S06, T01S, R26E
R26E, Block 12 Lot 3, E130 Ft Lt 3 Acres. 52
Address or General Location (If unknown, contact City Engineering):

2325 Central Ave, Billings, Mt 59102

Zoning Classification: Commercial CC

Size of Parcel (Area & Dimensions): 22,495 sq. ft.

Covenants or Deed Restrictions on Property: Yes No

If yes, please attach to application

Variance(s) Requested: one Reduce Arterial Setback. (6' into
curb SB.

Facts of Hardship: The overhang (canopy) is in the sight-
of-way about 6 (six) feet.

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

Owner(s): Genai Gale Demus

(Recorded Owner)

(Address) 3014 Shady Lane

(Phone Number) 406-647-2815 (email) shilohvillageestates@hotmail.com

Agent(s): Regina Givensman

(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: Genai Gale Demus
(Recorded Owner)

Date: June 12-19



Variance Application

City of Billings

1. Answers to the following questions:

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

The property located at 2325 Central Ave. Billings, MT 59102 currently has a sidewalk on the South side of the building which serves as the front of the building and entrances to the business. It faces Central Ave. and was in existence prior to the remodel. This concrete sidewalk appears to already be in the existing right-away and thus was accepted in the approved remodel plans and is allowed by the current Zoning Ordinance. We understand that the Zoning Ordinance was set twenty-five years ago as people were building to close to the street and that an 8' infringement is allowed for concrete, plantings and awnings. Our variance would request that we have an overhang to be added to create more shelter for customers from the elements. The total overhang length that we would like to have approved is 9'6"; therefore, 6'1" would be in the existing right-away. Should Central Ave. ever be widened then we would accept the cost of removing this or the cost of cutting it back to 3'5" as per Zoning Ordinance.

- b. Why is there a need for the intended use of the property at this location? The current property serves as a fast food restaurant, as it is zoned as commercial property.

2. Prepared statement for the Chairperson of the Board of Adjustment: The intended property located at 2325 Central Ave. Billings, MT 59102 is for a fast food restaurant and has been since its inception. Currently the building is being remodeled as it was in desperate need of updates so that it can continue to be a fast food restaurant. Regarding new construction the building has been approved to have a new roof and have the interior remodeled. A variance is being sought after as the overhang of the building is in the right-of-way. It is within six feet one inch of the right-away and we would like the Board of Adjustments to accept it at a length of 9'6" to provide shelter from the elements for those waiting to pick up their food; thus creating a safer environment, preventing accidents. It also allows for better access for those coming in and out of the restaurant as well as helping to decrease glare from the sun as this is located on the South side of the building. The total overhang length that we would like to have approved is 9'6"; therefore, 6'1" would be in the existing right-away. Should Central Ave. ever be widened then we would accept the cost of removing this or the cost of cutting it back to 3'5" as per Zoning Ordinance.

