



CITY BOARD OF ADJUSTMENT
AGENDA-Wednesday, September 4, 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:

The minutes of the Board meeting of August 7, 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. **City Variance 1300- 109 South 35th St.** The applicant is requesting a variance from Section 27-308 requiring a minimum lot size of 13,000 square feet to allow minimum lot size of 7,000 square feet in a Residential-6000 (R-60) zone, on Block 7, Lot 16-17 of Yegen Second Addition Sub., a 7,000 square foot parcel of land. The purpose of the variance is to allow 3 dwelling units on this parcel. Tax ID: A18805. Presented by: Karen Husman, Planner I.

- b. **City Variance 1301- 1302 Jean Avenue.** The applicant is requesting a variance from Section 27-308 requiring a maximum of 30% lot coverage to allow 34% for a new single family dwelling in a Residential -7000 (R-70) zone, on Block 9, Lot 1 of Emma Jean Heights Sub., 3rd Filing, a 9,917 square foot parcel of land, generally located at 1302 Jean Avenue. The purpose of the variance is to allow a larger home on the property. Tax ID: A36352. 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@billingsmt.gov

City Board of Adjustment

Meeting Date: 09/04/2019

Information

Subject

The minutes of the Board meeting of August 7, 2019.

Attachments

BBOA 8_7_2019

CITY BOARD OF ADJUSTMENT

MINUTES August 7, 2019

Name	Title	0	0	0	0	0	0	0	0	0	0	1	1	1
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David Mitchell	Member	-	-	-	E	E	E	1	1					
Dave Hagstrom	Member	-	-	-	1	1	1	1	1					
Paul Hagen	Member	-	-	-	1	1	1	E	E					
Jeff Bollman	Member	-	-	-	1	E	1	E	E					
Oscar Heinrich	Member	-	-	-	1	1	1	1	1					
Martin Connell	Member	-	-	-	1	1	1	1	E					
Mark Noennig	Chair	-	-	-	1	1	1	1	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	1	2	2	3					9	

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: Mike Kautzman, Regina Griemsmann, Brandy Coffin.

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 and July 3, 2019.

Member Heinrich motioned to approve the June 5, 2019 minutes, Member Mitchell seconded. All voted in favor.

Member Mitchell motioned to approve the July 3, 2019 minutes. Member Hagstrom seconded. All voted in favor.

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.

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 proposed variance.

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 one (1) year of Board approval. Construction shall be completed within three (3) years of Board approval.
5. There will be no construction activity before 7 am or after 8 pm.
6. Failure to begin or complete actions required by this approval within the time limits set forth shall void this variance.
7. All construction will require compliance with all other zoning regulations and City ordinances that apply at the time of 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.

Questions for Staff:

Member Heinrich asked if this were built today, would it have been allowed. A blanket variance may have a applied.

Chair Noennig asked if this is this a vacant lot, staff deferred more questions to the agent.

Chair Noennig asked how will the new zoning wil affect this lot. A minimal set back will apply but no lot coverage limitations.

Chair Noennig opened the public hearing at 6:11 PM and asked if there was anyone wishing to speak in favor or against **City Variance #1297**.

Mike Kautzman, 1225 Juniper Drive, Billings, MT

We purchased this lot to build a home. It is a half acre lot. The land has geographical restrictions due to rock.

Member Heinrich asked where the 8 foot variance referred to is. It is the neighboring property.

Chair Noennig asked if the properties line up, do they sit on the street the same. This home be farther back from the street then the neighboring homes.

Rebuttal

Close hearing 6:14 PM

Member Heinrich made a motion to approve and Member Hagstrom seconded the motion to approve **City Variance #1297 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 #1297**, passed 4-0 with staff recommendations.

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.

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.

Questions for Staff:

Member Heinrich confirmed this is a cleaning up of the books. Staff said in January the new zoning will allow 60%

Member Heinrich asked if staff had received any opposition. None

Chair Noennig **opened the public hearing at 6:19 PM** and asked if there was anyone wishing to speak in favor or against **City Variance #1298.**

Brandy Coffin, 1121 North 32nd Street, Billings, MT

They need a garage that will house their truck and the current structure is in need of replacement.

Member Heinrich asked what is the excavation you are doing. It is a retaining wall.

Addison Sessions, 1117 North 32nd Street, Billings, MT

He is in favor of the new garage.

Rebuttal

Close hearing 6:22 PM

Member Mitchell made a motion to approve and Member Heinrich seconded the motion to approve **City Variance #1298 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 #1298**, passed 4-0 with staff recommendations.

City Variance 1299 – 2325 Central Ave. - To allow an arterial setback of 54 feet from centerline

The applicant is requesting variance from Section 27-602(b) requiring a minimum setback of 60 feet from the centerline of Central Avenue (a principle 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, 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. Tax ID: A20203

Recommendation:

Planning staff has reviewed this application and is recommending **denial** of Variance #1299 based on the Determinations for granting a variance.

1. There are no special conditions or circumstances that exist which are peculiar to the land, the lot or something inherent in the land which causes a hardship.
2. There is adequate space on the lot to build a covered patio area without encroaching into the setback.
3. The variance would allow the applicant a special privilege not generally enjoyed in this neighborhood and area along Central Avenue.

Questions for Staff:

Chair Noennig stated the canopy is an add on.

Member Heinrich asked if a building permit had been issued, NO.

Will the new zoning allow this? Staff explains no arterial setbacks have been proposed yet in the new code.

Chair Noennig asked if this would then be acceptable, this might meet the requirements? Staff explains, it would not likely be in violation, but the new code has not yet been adopted.

Member Hagstrom confirmed there are no other encroachments by neighboring businesses. Arterial setbacks are created for expansions. He is concerned that approval will set future precedence.

Member Mitchell asked if there were no roof is it still an encroachment. A retractable awning is not an encroachment.

Chair Noennig **opened the public hearing at 6:37 PM** and asked if there was anyone wishing to speak in favor or against **City Variance #1299**.

Regina Griemsman, 3949 Teal Street, Billings, MT

Ms. Griemsman is the owners daughter. They thought the addition would enhance the ADA compliance. Also giving sidewalk cover in bad weather.

Chair Noennig discloses his previous relationship with the owners.

Member Hagstrom asked why a building permit was not obtained. The outside was not included on the inside renovation building permit.

Chair Noennig asked will you object to conditions, not to be enclosed.
Does the applicant want to extend the decision for 30 days.

Member Mitchell asked staff if we can condition to approve with no payment for demolition, etc. We cannot condition eminent domain.

Gena Gale Demis, 3014 Shady Lane, Billings, MT

Ms. Demis is the owner. It was a mistake between the builder and myself. She accepts responsibility.

Member Heinrich asked if they wish to postpone the decision for 30 days when a more board members may be present. NO

Rebuttal

Close hearing 6:51 PM

Member Mitchell made a motion to **deny** and Member Heinrich seconded the motion to **deny City Variance #1299 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 deny **City Variance #1299**, passed 4-0 with staff recommendations.

Other Business:

The meeting adjourned at 6:54 PM.

ATTEST: DRAFT. To be approved by a motion September 4, 2019.



City Board of Adjustment

Meeting Date: 09/04/2019

SUBJECT: City Variance 1300- 109 South 35th St.

THROUGH: Nicole Cromwell

PRESENTED BY: Karen Husman

Information

REQUEST

City Variance 1300- 109 South 35th St. The applicant is requesting a variance from Section 27-308 requiring a minimum lot size of 13,000 square feet to allow minimum lot size of 7,000 square feet in a Residential-6000 (R-60) zone, on Block 7, Lot 16-17 of Yegen Second Addition Sub., a 7,000 square foot parcel of land. The purpose of the variance is to allow 3 dwelling units on this parcel. Tax ID: A18805. Presented by: Karen Husman, Planner I.

RECOMMENDATION

Staff recommends denial based on the determinations for variance review within the summary portion of this report.

APPLICATION DATA

OWNERS: Connie R. & David G. Healow

AGENT: Emarie Skelton, High Plains Architects

PURPOSE: To allow 3 units on a 7,000 square foot lot

LEGAL DESCRIPTION: Block 7, Lot 16-17 of Yegen Second Addition Sub

ADDRESS: 109 S 35th St

EXISTING LAND USE: Residential Multi Family

PROPOSED LAND USE: Residential Multi Family

EXISTING ZONING: R-60

CONCURRENT APPLICATIONS

None

APPLICABLE ZONING HISTORY

SUBJECT PROPERTY	VARIANCE #	DATE	FOR	APPROVED (Y/N)	ADDITIONAL DATA
109 S 35th St.	Zone change 965	4/23/18	From C1 to R-60	y	To allow 2 existing units conforming to zoning
SIMILAR PROPERTY					
1048 N 23 rd St.	1225	4/6/16	Lot area for a new 4plex	N	
301 S 32 nd St.	1114	3/7/12	Lot area for existing duplex	Y	
411 S 31 st St.	916	12/2/03	Lot area for 2 exiting duplex	Y	
407 S 31 st St.	1051	6/3/09	Lot area for existing duplex	y	

SURROUNDING LAND USE & ZONING

NORTH: Zoning: Controlled Industrial (CI)

Land Use: Residential & Commercial

SOUTH: Zoning: CI & R-60

Land Use: Residential

EAST: Zoning: CI & R-60

Land Use: Residential & Commercial

WEST: Zoning: CI

Land Use: Residential & Commercial

BACKGROUND

The applicant is requesting a variance from Section 27-308 requiring a minimum lot size of 13,000 square feet (8,500 square feet is required for three attached units in R-6000) to allow minimum lot size of 7,000 square feet in a Residential-6000 (R-60) zone, on Block 7, Lot 16-17 of Yegen Second Addition Sub., a 7,000 square foot parcel of land. The purpose of the variance is to allow 3 dwelling units on this parcel. Tax ID: A18805.

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 approval. There is no hardship other than a desire to create an additional unit on the existing property. The applicant is proposing to demolish the existing second house and the existing shed and to renovate the primary residence into a tri-plex with a 3 car garage.

In 2018, a zone change was granted changing the property from Controlled Industrial (CI) to R-60 bringing the existing property into conformance with the 2 dwelling units. It was at that time there was a proposal to remove the second dwelling unit, and to renovate and add onto the primary structure to make it into a duplex. There are no topographical issues that would prevent the construction in accordance to the required zoning restrictions. Construction of a three unit building would also trigger a required Special Review approval under the zoning regulations Section 27-308. Granting the variance as requested would confer on this applicant a special privilege denied to other owners in the area.

SUMMARY

Proposed DETERMINATIONS for Variance 1300;

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

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

There are not any special circumstances that exist in this situation other than the applicant would like to upgrade and renovate the existing structures and add a third dwelling unit. The property is currently conforming to the current zoning regulations with two dwelling units on a 7,000 square foot lot.

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 district where there have been several lot size variances. There have been variances granted in the surrounding neighborhoods for existing dwelling units and multiple dwelling units. This property is conforming with the existing two units, denying the variance would not deprive the applicants 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 allow the applicant special privileges. There have not been similar variances granted to allow new additional units.

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 not 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 has not prepared conditions of approval for a 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; and

There will be no time limit restrictions as the structures are existing.

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 permitted in the zoning district – triplex dwellings are allowed in the R-60 zone on an 8,500 square foot lot with a Special Review Approval.

RECOMMENDATION

Staff recommends denial based on the determinations for variance review.

Attachments

Zoning Map & Site Photos

Application, Applicant Letter & Site Plan

Site photos



Subject Property



East



Northeast



Northwest



West



Southeast

Application, Applicant Letter, Site Plan

APPLICATION FORM

CITY VARIANCE

ID: Billings Variance # 1300 - Project # P2-19-00109

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 # A18805 CITY ELECTION WARD # 1 (one)

Legal Description of Property: Yegen Second Add, 503, Tol 5, R26E, Block 7, Lot 16-17

Address or General Location (If unknown, contact City Engineering): 109 S 35th Street

Zoning Classification: R-60 Residential 6,000

Size of Parcel (Area & Dimensions): 7,000 SF, 50'-0" x 140'-0"

Covenants or Deed Restrictions on Property: Yes _____ No X

If yes, please attach to application

Variance(s) Requested: for three (3) residential units, rather than two, through renovation of and addition to existing house.

Facts of Hardship: Existing second residential unit is on property line and could not be reconstructed if demolded; investment in property proposed via addition instead.

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

Owner(s): Connie R. Oser + David G. Healow
(Recorded Owner)
2508 Irving Pl Billings, MT 59102
(Address)
(406) 855-1799 dhealow@bresnan.net
(Phone Number) (email)

Agent(s): Emarie Skelton, High Plains Architects
(Name)
2720 Minnesota Ave. Billings MT 59101
(Address)
(406) 384-0144 eskelton@highplainsarchitects.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: David G. Healow Date: 071519
(Recorded Owner)



Dear Chairperson of the Board of Adjustment,

This letter concerns the proposed renovation of the property at 109 S 35th St and the associated City Zoning variance application. The property features an existing single-family residence constructed in the 1920s with an additional dwelling unit bordering the alley in the back yard. Both dwelling units are currently rented.

Proposed renovation of the property includes demolition of the existing additional dwelling unit and complete renovation and subdivision of the existing house, resulting in two rentable units, one on the main floor, and one on the second floor with a private entrance. A new addition to the back of the house is proposed, including a third rentable unit over an added garage. The owner has already begun work with an architect to ensure the proposed renovation and addition are energy-efficient and suitable to the visual character of the South Side.

Zoning Regulation Requirements cite that only two residential units are permitted for R-600 properties of 7,000 SF or less. This 7,000 SF lot features two units, but the back unit is old and badly deteriorated. A variance is sought to allow the creation of a third unit through the proposed renovation described above. Providing three rentable units would increase both the site's tax value and the neighborhood's stock of healthy, safe, affordable housing. Furthermore, provision of three rentable units on the property is compatible with the character of the South Side Neighborhood, where individual dwelling sizes are small and additional dwelling units are common.

The requested variance is sought for a period of three years to permit time for completion of architectural design, project permitting, and construction. Property boundaries, required setbacks, and a schematic draft of the proposed addition are noted on the site plans submitted with this variance application. Please note that the proposed addition does not exceed the maximum lot coverage as currently zoned.

This variance application is sought to facilitate a significant owner investment in infill development which aligns with many of the City of Billings' growth, development, and housing objectives. As the 2010 Housing Needs Assessment states, "Preservation of existing homes does not necessarily provide for long term stability unless the neighborhood the home is located in is also preserved. The City should move forward with an infill policy to attract new development and redevelopment to the existing neighborhoods in the City." This variance application and the subsequent proposed renovation to 109 S 35th Street would directly benefit the City of Billings and result in much-needed investment in one of Billings' oldest neighborhoods.

Sincerely,

Emarie Skelton
High Plains Architects, AIT, AAIA





VARIANCE APPLICATION FOR 109 S. 35TH ST

Legal Description of the tract seeking Variance:

Yegen Second Add, S03, T01 S, R26 E, Block 7, Lot 16-17

1.

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

Zoning Regulation Requirements cite that only two residential units are permitted for R-600 properties of 7,000 SF or less. This 7,000 SF property features two units, but the back unit is old and badly deteriorated. The property owner seeks to improve this rental property by demolishing the existing back unit and shed, fully renovating the remaining house, and making a sizeable addition. Nothing prevents the owner from conducting property improvement in conformance with current Zoning Requirements, however, providing three rentable units would increase income diversity and potential, making the investment more viable for the owner, and would serve many of the City of Billings's growth, development, and housing objectives.

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

The City of Billings Housing Needs Assessment, 2010, and the Downtown Billings Housing Strategy, 2017 cite the need for more housing options to ensure continued growth in Billings. Although development of rental properties in Billings has increased in the last decade compared to the previous decade, the majority of housing development is still through single-family, detached homes. For Billings to meet growth objectives, infill development in existing neighborhoods needs to be encouraged. Not only is such development explicitly encouraged by City Policies, it is integral to maintaining a healthy, vibrant city that capitalizes on existing municipal and cultural infrastructure.

The Downtown Billings Housing Strategy notes that, "The preferences of Baby Boomers and Millennials, as the two largest demographic groups in the country, are shifting the housing market. There is greater demand for centrally located neighborhoods, as well as for rental housing," and, "The Urban land Institute's national survey of views on housing, transportation, and community, "America in 2013," found that demand will continue to rise for infill residential development that is less car-dependent."

The City of Billings Infill Development Policy defines infill development as, "The development of under-utilized or vacant parcels that are connected to or able to take advantage of existing

infrastructure. Furthermore, it is development that is urban in nature, often multi-story, within the City limits, and designed and constructed to be compatible with existing neighborhoods while providing amenities that enhance the community's quality of life."

The proposed redevelopment of rental property at 109 S 35th is infill development that will provide a much-needed housing option in a desirable area, a historic neighborhood close to downtown. The importance of healthy neighborhoods is highlighted by both the Housing Needs Assessment and the City of Billings Growth Policy.

The Housing Needs Assessment states that, "Preservation of existing homes does not necessarily provide for long term stability unless the neighborhood the home is located in is also preserved. The City should move forward with an infill policy to attract new development and redevelopment to the existing neighborhoods in the City."

The City of Billings Growth Policy Statement reads as follows:

"In the next 20 years, Billings will manage its growth by encouraging development within and adjacent to the existing City limits, but preference will be given to areas where City infrastructure exists or can be extended within a fiscally constrained budget and with consideration given to increased tax revenue from development. *The City will prosper with strong neighborhoods with their own unique character that are clean, safe, and provide a choice of housing and transportation options*" (emphasis added).

The Growth Policy further notes that, "implementation of the Infill Policy is important to encourage development of underutilized properties," "neighborhoods that are safe and attractive and provide essential services are much desired," and, "common to all types of housing choices is the desire to live in surroundings that are affordable, healthy and safe." The proposed redevelopment of 109 South 35th St. will support these Policy Guidelines and others as detailed below.

109 South 35th St. is in the South Side Neighborhood, one of Billings' oldest residential communities, which features a central location, two city parks, and unique, historic character. The South Side has tremendous potential, but also faces significant obstacles. The success of the South Side affects not only its residents, but, by proximity, downtown Billings as well. Investment from property owners in maintenance and infill development is essential to realizing the South Side's potential and making it an asset, rather than a liability, to the City of Billings.

Proposed renovation of the property at 109 South 35th St. includes demolition of an existing accessory dwelling unit, complete renovation and subdivision of the existing house, resulting in two rentable units therein, and a sizeable addition to the back of the house, including a garage and third rentable unit. This constitutes a significant investment that will increase both the site's tax value and the neighborhood's stock of healthy, safe, affordable housing.

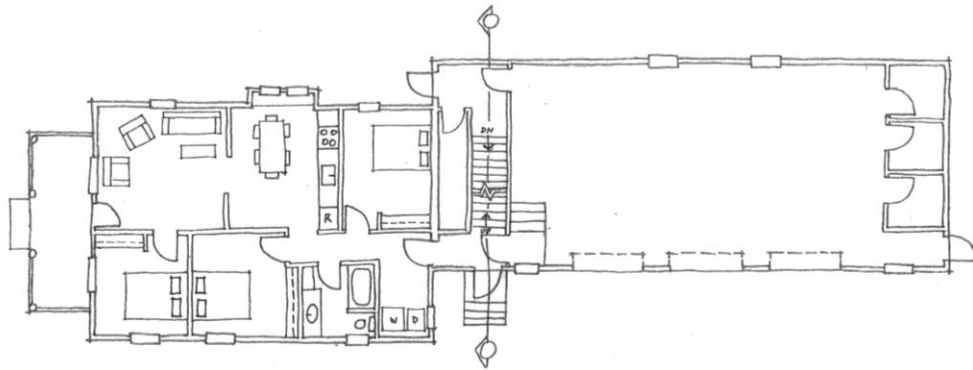


The owner has already begun work with an architect to ensure the proposed renovation and addition are energy-efficient and suitable to the visual character of the South Side, in keeping with Growth Policy guidelines that state, "the history and heritage of Billings are cornerstones of our community," and "energy efficient housing can reduce energy consumption." Furthermore, the completion of three rentable units on the property is compatible with the character of the South Side Neighborhood, as individual dwelling sizes are small by modern standards and additional dwelling units are common.

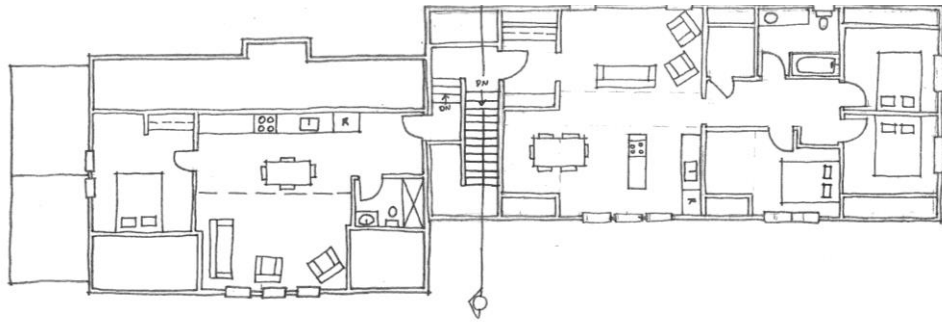
Moreover, the proposed renovation may contribute to neighborhood safety as outlined by the Crime Prevention Through Environmental Design (CPTED) strategies referenced in the Billings Growth Policy Guidelines. CPTED strategies include maintenance, territoriality, natural surveillance, and target hardening.

Maintenance involves property upkeep and perception; simply stated, the better a property is maintained, the greater the perception that the owner will not tolerate criminal activity. However, maintenance is only one facet of environmental crime prevention. Territoriality and target hardening involve further physical alterations to the environment which project a clear sense of ownership, make it physically difficult to intrude, and reduce access points and escape routes. Finally, and most importantly in a neighborhood setting, natural surveillance uses lighting, views, and occupation to increase the perceived risk to potential offenders. In the work proposed at 109 South 35th Street, the introduction of a third rental unit over the garage addition with views directly to the alley, the increased number of windows on the property overall, and alley access for tenants will mean increased natural surveillance that will contribute to a safer neighborhood.

The redevelopment of this property and introduction of a third rental unit is supportive of numerous City of Billings Policy goals, compatible with the character and history of the neighborhood, and contributes to the neighborhood's value and safety.



FIRST FLOOR PLAN - CONCEPT 3
1/8" = 1'-0"



SECOND FLOOR PLAN - CONCEPT 3
1/8" = 1'-0"



WEST ELEVATION - CONCEPT 3
1/8" = 1'-0"



SOUTH ELEVATION - CONCEPT 3
1/8" = 1'-0"



City Board of Adjustment

Meeting Date: 09/04/2019

SUBJECT: City Variance 1301- 1302 Jean Avenue

THROUGH: Nicole Cromwell

PRESENTED BY: Karen Husman

Information

REQUEST

City Variance 1301- 1302 Jean Avenue. The applicant is requesting a variance from Section 27-308 requiring a maximum of 30% lot coverage to allow 34% for a new single family dwelling in a Residential -7000 (R-70) zone, on Block 9, Lot 1 of Emma Jean Heights Sub., 3rd Filing, a 9,917 square foot parcel of land, generally located at 1302 Jean Avenue. The purpose of the variance is to allow a larger home on the property. Tax ID: A36352. Presented by: Karen Husman, Planner I.

RECOMMENDATION

Staff recommends denial based on the determinations for variance review.

APPLICATION DATA

OWNERS: Michael & Janna Myers

PURPOSE: To allow 34% lot coverage

LEGAL DESCRIPTION: Block 9, Lot 1, Emma Jean Heights Sub., 3rd Filing.

ADDRESS: 1302 Jean Avenue

EXISTING LAND USE: Residential single family

PROPOSED LAND USE: Residential single family

EXISTING ZONING: R-70

CONCURRENT APPLICATIONS

None.

APPLICABLE ZONING HISTORY

SUBJECT PROPERTY	VARIANCE	DATE	FOR	APPROVED (Y/N)	ADDITIONAL DATA
1302 Jean Avenue	None				
SIMILAR VARIANCE					
Lot 1A-7A,Block1, Hoven Sub/Chickadee Townhomes	708	11/14/94	Lot size reduction	Y	

SURROUNDING LAND USE & ZONING

NORTH: Zoning: R-70

Land Use: Residential Single Family

SOUTH: Zoning: R-70

Land Use: Residential Single Family

EAST: Zoning: R-70

Land Use: Residential Single Family

WEST: Zoning: Zoning: R-70

Land Use: Residential Single Family

BACKGROUND

The applicant is requesting a variance to allow 34% maximum lot coverage for a new single family dwelling in a Residential -7000 (R-70) zone, on Block 9, Lot 1 of Emma Jean Heights Sub., 3rd Filing, a 9,917 square foot parcel of land. The purpose of the variance is to allow a larger home on the property.

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 approval. There is no hardship other than a desire to construct a single family dwelling larger than allowed in the district. With the lot size of 9,917 square feet, the maximum 30% lot coverage would allow them a 2,975 square foot (footprint) home.

There are no topographical issues that would prevent the construction in accordance to the required zoning restrictions. Granting the variance as requested would confer on this applicant a special privilege denied to other owners in the area. Staff has reviewed 12 of the surrounding subdivisions and found one variance to allow a smaller lot than allowed, for a multi-unit development within a townhome complex.

SUMMARY

Proposed DETERMINATIONS for Variance 1301;

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

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

There are not any special circumstances that exist in this situation other than the applicant would like to construct a home larger than allowed.

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 district where there have not been similar variances granted. Denying the variance would not deprive the applicants 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 allow the applicant special privileges. There have not been similar variances granted to build a new single family dwelling larger than allowed in the 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 not 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 has not prepared conditions of approval for a 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; and

There will be no time limit restrictions for a recommendation of denial.

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 permitted in the zoning district. Single-family dwellings are allowed in the R-70 zone on a 9,917 square foot parcel.

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 in the summary portion of this report.

Attachments

Zoning Map & Site Photos

Application, Applicant Letter & Site Plan

Site photos



Subject Property





South



West

Application, Applicant Letter, Site

APPLICATION FORM

CITY VARIANCE

ID: Billings Variance # 1301 - Project # PZ-19-00157

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 36352 CITY ELECTION WARD # 2

Legal Description of Property: EMMA JEAN HEIGHTS SUB 3RD (18) S23 TOIN, R26E, BLOCK 9, LOT 1

Address or General Location (If unknown, contact City Engineering): 1302 JEAN AVENUE, BILLINGS, MT 59105

Zoning Classification: Residential 7000

Size of Parcel (Area & Dimensions): 9917 sq ft - see attached

Covenants or Deed Restrictions on Property: Yes No

If yes, please attach to application - Attachment "B"

Variance(s) Requested: Increase in structure size from 30% of lot (9917 sq ft x 30% = 2975.1 sq ft) to 3237 sq ft - 32.64% of lot - see Attach "C"

Facts of Hardship: Please see attachment "C"

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

Owner(s): Michael D + Janna L Myers
(Recorded Owner)
720 Kenya St Billings MT 59106
(Address)
406 855 4642 Buckshot1250@gmail.com
(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 payment for a Variance. Also, I attest that all the information presented herein is factual and correct.

Signature: Michael D Myers / Janna L Myers Date: 08/05/2019
(Recorded Owner)



Plan

August 5, 2019

ATTACHMENT "C"

City of Billings
Chairman of the Board of Adjustments
Planning and Community Services Department
2825 3rd Avenue North, 4th Floor

Subject: Variance Application
Block 9, Lot 1
Emma Jean Heights Subdivision

Submitted by: Michael D and Janna L Myers
720 Kenya Street
Billings, MT 59106
(406) 855.4642

Question 1-A: *What prevents you from using this property in conformance with the Zoning Regulation requirements?*

Answer:

This phase of the development known as the Emma Jean Heights Subdivision is zoned R 7000. The majority of currently available lots within this subdivision are at or very near 7,500 sqft. In fact and at this time, all remaining home sites on Jean Street are about 7500 sqft. There were four (4) residential lots on Jean Street larger than about 7500 sqft. Only one remains available, Block 9 Lot 9, at 8224 sqft, 1693 sqft smaller than the lot on which we are requesting a variance (Block 9, Lot 1, 9917 sqft).

R7000 Zoning allows only 30% of the lot to be used for structure. A 7500 sqft lot allows a maximum residential home structure of 2250 sqft, including garages and any covered porch and/or patio. New construction homes are commonly built with 3-car garages. A standard 3-car garage is about 20-feet deep by 32 feet wide, totaling 640 square feet, reducing the home/patio/porch to 1610 sqft. A common covered front porch is about 5' or 6' deep by 10' to 15' wide. With a minimum of 50 sqft for a covered porch it leaves 1590 square feet for the home and patio. A small covered patio of 10' x 10' or 100 sqft leaves a maximum home size of 1490 square feet; small in today's new construction residential housing market.

Emma Jean Heights Subdivision Block 9, Lot 1, is 9917 square feet. 30% of that lot is 2975.1 sqft. Our planned home, minus our planned covered porch, covered patio, and attached garages is 1943 square feet, well inside the allowed 2975.1 sqft allowed.

It is not possible to fit a standard short-box quad cab pickup in a 20' deep garage, close the roll-up garage door, and walk around the pickup. In fact, the bumper-to-bumper length of a standard 2017 short-box (5.5') quad cab Ford pickup is exactly 231.9", or 19.325 feet, leaving 8" of space between the front and rear pickup bumpers and the garage door and back wall of the garage. 8" is insufficient to allow maneuverability of any sort and leaves no room to get around either the front or back of the pickup to gain entry into the home from the garage. At least six (6) additional feet of garage depth is necessary to lower the tailgate and/or navigate around the vehicle.

Three-car garage homes are more desirable than 2-car garage homes and have better resale value. They are perceived as more desirable and more “up-market”. Our home plan includes 1,168 sqft of garage and storage space including three (3) stalls for vehicles and yard and other equipment/tools plus a small amount of additional storage to make up for not having a basement or second floor for storage.

Overall and not including a roof over our porch and patio, our home and garage/storage area is 3111 sqft, 135.9 sqft more than allowed by code. Our health requires we live on one floor and have a covered patio and front porch.

Our variance request, if granted, allows us to cover our porch and a small portion of our patio, plus add a small amount of garage storage. These small enhancements improve our ability to more fully enjoy our home. These common improvements add to the overall value of our home and have a positive influence on the EMMA JEAN HEIGHTS development, our local community, and neighborhood.

One way to decrease the footprint of a home is to have a second floor or a basement. Michael and Janna gave these two options very serious consideration. They discussed this with their primary health care providers. They were both advised to eliminate stairs wherever they were able to do so.

Both Janna and Michael Myers have physical limitations requiring that they eliminate stairs whenever possible. Janna Myers has a “bad/trick” knee that is weak and occasionally collapses without warning, making it dangerous for her to safely negotiate stairs. At times it is necessary for Janna to wear a knee brace and/or use crutches. During these times it is extremely difficult for her to negotiate stairs. Janna’s low back is also unstable, causing it to spasm on occasion. When Janna is suffering low back spasms it is, again, very difficult for her to negotiate stairs.

Applicant Michael Myers suffered a low back injury 35 years ago. Now 71, Michael’s lumbar spine at L3-L4-L5 is bone-on-bone and very unstable. Having to negotiate stairs on a regular basis is unwise and ill-advised. Moving or bending “wrong” can result in Michael being completely immobile for several hours.

We could reduce the structure size of our planned home by not covering the front porch and back patio. This action would result in our home structure being 3111 square feet, still 135.9 sqft more than the overall 2975.1 sqft allowed. Over the past 20 years, Michael Myers has had four (4) significant and 22 total skin cancer surgeries. He has gone through sixty (60) days of chemotherapy for the treatment of his multiple skin cancers. Michael is now far more sensitive to the cumulative effects and negative consequences of prolonged direct sun exposure (backyard barbeques, gathering outdoors with friends on the patio, having family over to enjoy a meal outdoors, etc.) and enjoy the porch and patio with their five sons and seven grandchildren. The “easy fix” is to cover the porch and a portion of the patio. These two common home features count as additional structure, resulting in our request for this variance and your approval of it.

Removing the roofs from the porch and patio would only allow the home owners to enjoy the porch or patio in the winter months or during the summer before 8am or after 8pm, when the sun’s UVA and UVB rays are least damaging. This “fix” is well outside what would be described as the “normal and customary enjoyment” of their home.

Question 1-B: Why is there a need for the intended use of the property at this location?

Answers:

1. Residential building lots are less expensive in Billings Heights compared to the West End of Billings.
2. The Emma Jean Heights Subdivision is within the city limits, has all city services, is a well-planned community subdivision, has quality constructed homes, a responsible and involved developer, and has a mix of family groups and ages
3. The lot we purchased, Block 9, Lot 1 is the largest lot of the 20 currently platted on Jean Avenue.
4. After viewing many available residential lots and Billings subdivisions under construction, Janna and Michael Myers determined Emma Jean Heights Subdivision was the best fit for their budget.
5. Lot owners Michael and Janna Myers were not informed and were not aware of the 30% structure rule until they had purchased the lot and were well into planning their home.

**Further considerations supporting the granting of this variance request –
Being a “good” neighbor and responsible member of the community:**

1. Our Emma Jean home plan includes spray foam insulation to greatly improve the thermal efficiency of our home. Our current home has spray foam insulation as well as fiberglass bats and is incredibly energy efficient. While current neighbors having similar homes without foam insulation are paying natural gas bills of up to \$300 a month during a hard winter, our highest heating bill in 12 years has been \$82, including the use of gas for hot water and cooking.

Our current home has an 80% efficiency gas furnace. Our Emma Jean home will have a 96% efficient gas furnace, making us responsible users of the natural resources available to us.

2. Our Emma Jean home also includes installing an “On-Demand” hot water system by A.O. Smith further reducing the natural gas we use. It is far more energy efficient to heat water “on demand” than it is to keep a 40 or 50 gallon hot water tank hot every hour of every day.
3. Michael and Janna Myers are responsible neighbors. Please contact Tim and Kachmir Watt, 700 Kenya Street, Billings, MT 59106, (406) 794.4788. Tim, Kachmir and their two young children live one home North of Michael and Janna and have been our neighbors for approximately nine (9) years.
4. David and Karen Pals have been friends of Michael and Janna most recently since 1989. Michael has known David since about 1963. David and Karen can attest to Michael and Janna’s character and general behavior. 632 Luther Circle, Billings, MT 59102. (406) 850.4929

The folks above can attest to the history of Michael and Janna keeping their property neat, tidy, and well maintained, as well as being responsible, cordial, and “neighborly”.

5. Michael and Janna intend continuing their commitment to “do their part” to foster a safe neighborhood, without being “nosy busybodies”. Over the years in our current neighborhood we have “pitched in” and helped neighbors in need; from Michael or Janna babysitting toddlers while the other drove the ailing parent to the Billings Clinic Urgent Care facility and staying with the kids and ailing parent until the situation was resolved, to providing financial support to a neighbor whose house burned to the ground.
6. Michael and Janna have producing apple and plum trees on their current property. They have happily shared their fruits with multiple neighbors over the years. Michael and Janna have also shared the bounty of their garden with neighbors who want and appreciate “home-grown” produce. When their garden was larger in earlier years, they shared their produce with Montana Rescue Mission.
7. Michael is a former member of the Billings Police Foundation and former president of the King Avenue Estates Property Owners Association

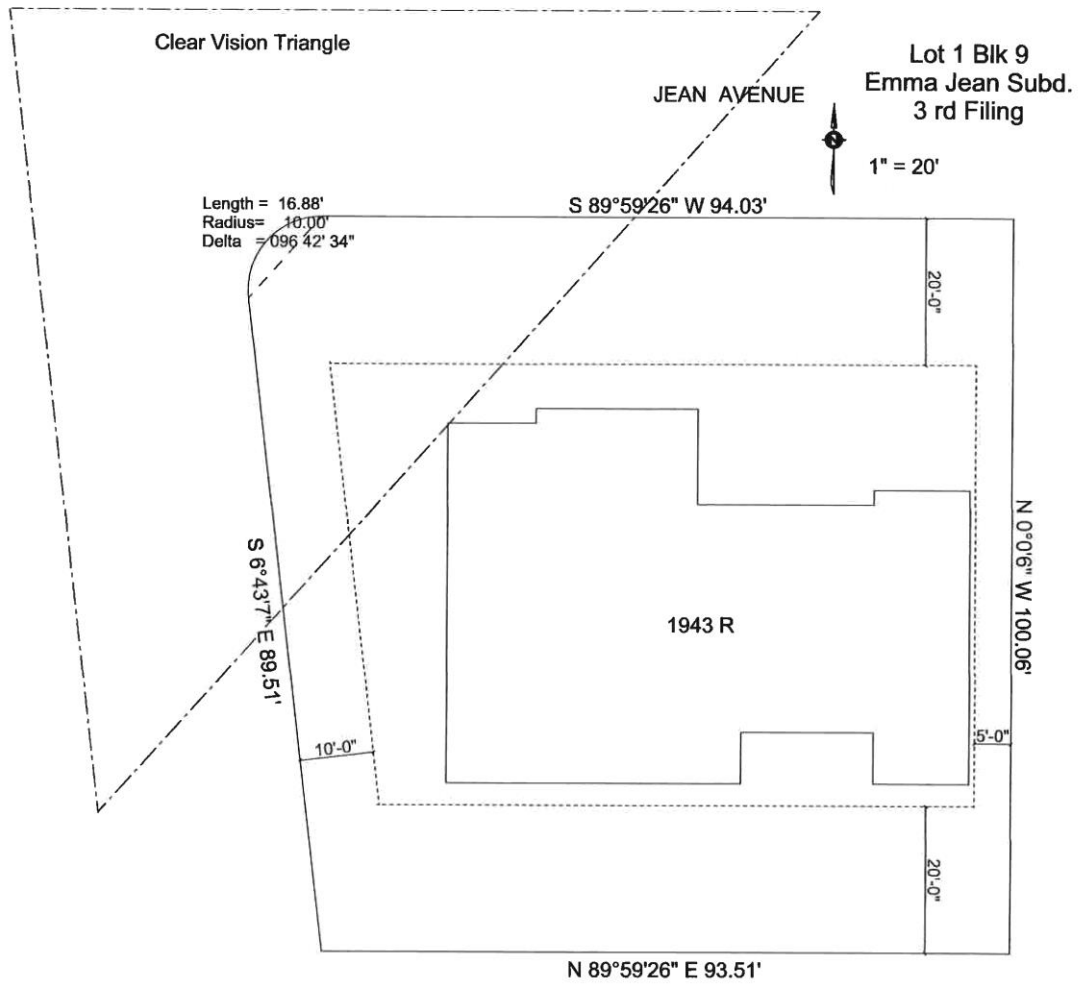
Respectfully,

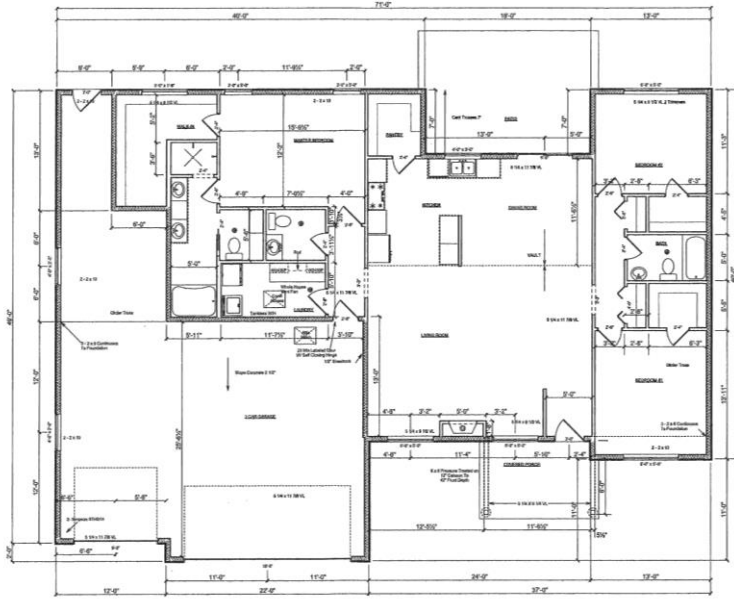


Michael D. Myers
August 5th, 2019



Janna L. Myers
August 5, 2019





MAIN FLOOR 1943 SQ.FT.
 GARAGE 1168 SQ.FT.
 COVERED PORCH 126 SQ.FT.

