



CITY BOARD OF ADJUSTMENT
AGENDA-Wednesday, November 6, 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

Motion. Approval of Minutes: September 4, 2019. The October 1, 2019 meeting was canceled.

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 1302 - 205 & 205 1/2 Terry Avenue** - A variance from Section 27-308 requiring a minimum lot area of 6,000 square feet for a single family dwelling to allow a minimum lot area of 3,825 square feet; from 27-308 requiring a twenty (20) foot rear setback to allow a minimum of 2.5 feet; in a Residential-6000 (R-60) zone, on Block 6, Lots 3-5 of Suburban Subdivision, a 10,500 square foot parcel of land. The purpose of the variance is to allow a division of the property with two existing single-family dwellings into one 3,825 square foot parcel and one 6,675 square foot parcel, and to allow the northern parcel a rear setback of 2.5 feet. Presented by Karen Husman, Planner I.

- b. **City Variance 1303 – 2001 Lake Hills Drive** – A variance from Section 27-308 requiring a minimum front setback of 20 feet for garage access to allow a minimum front setback of 15 feet for a proposed new attached garage in a Residential Multi-Family Zone (RMF) zone on Lot 4, Block 13, Lake Hill Sub, 18th filing, a 14,400 square foot parcel of land. The purpose of the variance is to allow a 15-foot front setback to accommodate an attached garage. Presented by Karen Husman, Planner I.

Other Business/Announcements

Adjournment

Information on this matter may be obtained at the Planning & Community Services Department, 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 Tammy Deines, Planning Clerk, at (406) 247-8610 or email at deinest@billingsmt.gov.

Sincerely,
The Staff of the City/County Planning Division
ORD. NO. 97-5048, § 13, 12-22-97

- (d) City board of adjustment action. The city board of adjustment, before it grants a variance shall determine:
- (1) That special conditions and circumstances exist which are peculiar to the land, the lot or something inherent in the land which causes the hardship, and which are not applicable to other lands in the same district;
 - (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;
 - (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;
 - (4) That the granting of the variance will be in harmony with the general purpose and intent of this chapter and with the comprehensive plan;
 - (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;
 - (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
 - (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.

City Board of Adjustment

Meeting Date: 11/06/2019

Information

Subject

Motion. Approval of Minutes: September 4, 2019. The October 1, 2019 meeting was canceled.

Attachments

CityBOA_2019_09_04_draft

CITY BOARD OF ADJUSTMENT

MINUTES September 4, 2019

Name	Title	01/02/2019	02/06/2019	03/06/2019	04/03/2019	05/01/2019	06/05/2019	07/03/2019	08/07/2019	09/04/2019	10/02/2019	11/06/2019	12/04/2019	
David Mitchell	Member	-	-	-	E	E	E	1	1	1				
Dave Hagstrom	Member	-	-	-	1	1	1	1	1	1				
Paul Hagen	Member	-	-	-	1	1	1	E	E	E				
Jeff Bollman	Member	-	-	-	1	E	1	E	E	E				
Oscar Heinrich	Member	-	-	-	1	1	1	1	1	1				
Martin Connell	Member	-	-	-	1	1	1	1	E	E				
Mark Noennig	Chair	-	-	-	1	1	1	1	1	1				
TOTAL NUMBER OF APPLICATIONS 2019		01/02/2019	02/06/2019	03/06/2019	04/03/2019	05/01/2019	06/05/2019	07/03/2019	08/07/2019	09/04/2019	10/02/2019	11/06/2019	12/04/2019	TOTAL
Variance		-	-	-	1	1	2	2	3	2				11

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 & Janna Myers, Emarie Skelton

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 August 7, 2019. **Member Heinrich motioned to approve the August 7, 2019 minutes, Member Mitchell 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.

City Variance 1300 – 109 South 35th Street – Lot size - 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

City Ward 1

Recommendation:

Staff recommends denial of the proposed variance.

Questions for Staff:

Chair Noennig asked the reason for withdrawal. Staff replied the applicant felt in light of the upcoming recode changes, withdrawal at this time is requested.

Motion: Member Heinrich made a motion to accept the withdrawal and Member Hagstrom seconded the motion to withdraw City Variance #1300.

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 accept withdrawal of **City Variance #1300**, passed 4-0.

City Variance 1301 – 1302 Jean Avenue – Lot Coverage - 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. The purpose of the variance is to allow a larger home on the property. Tax ID: A36352, City Ward 2

Recommendation:

Staff recommends denial of the variance.

Questions for Staff:

Chair Noennig asked what the proposed new zoning is for this property. Staff replied, if adopted the new code would allow 35 percent lot coverage but reminded the board it is not approved yet.

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 #1301**.

Mike Myers, 720 Kenya Street, Billings, MT 59106

There is a mistake in percentages listed on the application, instead of 34 percent it should be 32 percent. Member Hagstrom confirmed he knew the lot size and you knew the zoning- Mr. Myers said he did not know. Did you try to reconfigure the house to make the 30 percent. Mr. Myers wants to cover the patio. Chair Noennig asked what would cutting down the rooms entail? Mr. Myers indicated 2 bedrooms instead of 3 bedrooms, and a smaller garage. Chair Noennig asked if staff had received any neighbor protests. None were received.

Rebuttal

Close hearing 6:16 PM

Member Mitchell asked what happens if this application is denied and when can they reapply. Not sooner than 1 year for reapplication. Member Heinrich asked what is the timeline of the new zoning. Nicole Cromwell stated an ambitious schedule would make it effective January 2020.

Motion. Member Hagstrom made a motion to **deny** and Member Heinrich seconded the motion to **deny City Variance #1301**.

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 #1301**, passed 4-0.

Other Business: 1 variance for next month.

The meeting adjourned at 6:21 PM.

ATTEST: DRAFT. To be approved by a motion at the next regularly scheduled meeting.

Robbin Bartley, Administrative Assistant



City Board of Adjustment

Meeting Date: 11/06/2019

SUBJECT: City Variance 1302 - 205 & 205 1/2 Terry Avenue

THROUGH: Monica Plecker

PRESENTED BY: Karen Husman

Information

REQUEST

Variance 1302 - 205 & 205 1/2 Terry Avenue - A variance from Section 27-308 requiring a minimum lot area of 6,000 square feet for a single family dwelling to allow a minimum lot area of 3,825 square feet; from 27-308 requiring a twenty (20) foot rear setback to allow a minimum of 2.5 feet; in a Residential-6000 (R-60) zone, on Block 6, Lots 3-5 of Suburban Subdivision, a 10,500 square foot parcel of land. The purpose of the variance is to allow a division of the property with two existing single-family dwellings into one 3,825 square foot parcel and one 6,675 square foot parcel, and to allow the northern parcel a rear setback of 2.5 feet. Presented by Karen Husman, Planner I.

RECOMMENDATION

Staff recommends conditional approval of the variance.

APPLICATION DATA

OWNERS: Eric J. Bennett Individual Trust

AGENT: Greg Judson

PURPOSE: Reduce rear setback, allow 2 units on 10,500sf lot to create one 3,825sf & one 6,675 sf lot– Rebuild letter needed

LEGAL DESCRIPTION: Block 6, Lots 3-5 of Suburban Subdivision

ADDRESS: 205 & 205 1/2 Terry Avenue

EXISTING LAND USE: Residential

PROPOSED LAND USE: Residential

EXISTING ZONING: R-60

CONCURRENT APPLICATIONS

None.

APPLICABLE ZONING HISTORY

SUBJECT PROPERTY	VARIANCE #	DATE	FOR	APPROVED (Y/N)	ADDITIONAL DATA
None					
SIMILAR PROPERTY					
602 Yellowstone	262	8/26/80	Lot size	N	
733 Clark	419	6/26/84	Lot size	Y	
708 Alderson	440	1/29/85	Lot size	Y	
503 Yellowstone	514	2/3/87	Set back	Y	
1222 7th Ave	517A	2/2/87	Lot size	N	
426 Alderson	647	7/22/91	Lot size	Y	
701 Broadwater	721	6/26/95	Lot Size	Y	
502 Burlington	842	7/3/01	Set back	Y	
811 5th St. W	909	3/15/04	Lot size	Y	

422 Yellowstone	945	8/4/04	Setback	Y	
745 Burlington	1004	5/2/07	Set back & lot cov	Y	
1111 5th St. West	1050	6/3/09	Lot size	Y	
420, 420 ½ Burlington	1052	7/1/09	Lot size Lot cov	Y	
635 & 637 Alderson	1174	2/5/14	Lot size	Y	
416 & 416 ½ Alderson	1202	11/6/14	Lot size	Y	
641 Burlington	1163	9/4/13	Lot size	Y	
510 3rd St W	677	8/4/92	Lot Cov	Y	
301 Terry Ave	678	8/10/92	Lot size	Y	
23 Custer	1137	2/6/13	Lot Size	Y	
146 Terry	1047	5/6/09	Setbacks	Y	
215 Miles	1145	4/3/13	Lot size	Y	

SURROUNDING LAND USE & ZONING

NORTH: Zoning: R-60

Land Use: Residential Single Family

SOUTH: Zoning: RMF-R

Land Use: Residential Single & Two Family

EAST: Zoning: Community Commercial

Land Use: Residential & Commercial

WEST: Zoning: R-60

Land Use: Residential Single Family

BACKGROUND

This is a variance request from Section 27-308 requiring a minimum lot area of 6,000 square feet for a single family dwelling to allow a minimum lot area of 3,825 square feet and from 27-308 requiring a twenty (20) foot rear setback to allow a minimum of 2.5 feet; in a R-60 zone. The applicant is requesting a reduction in lot size to allow division of the parcel and retain the existing single family dwellings on each parcel.

The lot is in an older part of Billings and most of the surrounding lots were developed before zoning regulations existed. According to the county information available, the existing dwellings were constructed in 1926, prior to current zoning regulations. There have been similar variances approved in this area of Billings. Staff has reviewed the application and is recommending conditional approval based on the findings in the determinations listed in the summary section of this report.

SUMMARY

Proposed DETERMINATIONS for Variance 1302 - 205 & 205 1/2 Terry Avenue

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

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

There are not any special circumstances that exist in this situation other than the lot is less than required under current zoning for two dwelling units on the property. The existing structures were built in 1926 & 1927, before the current zoning was in place.

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

The subject property is in a subdivision where much of the development occurred in the early to mid 1900's. There have been similar variances granted in the surrounding neighborhoods. Denying the variance would deprive the applicant of rights commonly enjoyed by other tracts in the same district.

3. That granting the variance requested will not confer on the applicant any special privilege that is

denied by this Chapter to other land in the same district;

The variance will not allow the applicant any special privileges. Similar variances have been granted in the area.

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

The variance is in harmony with the general purpose and intent of the zoning regulations and the growth policy.

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

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

Staff is recommending the following conditions for the variance request:

1. The variance is to allow a minimum lot area of 3,825 square feet: from 27-308 requiring a twenty (20) foot rear setback to allow a minimum of 2.5 feet. No other variance is intended or implied with this approval.
2. The variance is limited to Block 6, Lots 3-5 of Suburban Subdivision, generally located at 205 & 205 1/2 Terry Avenue.
3. Evidence will be provided to show the property along the alley will have legal and physical access from Terry Avenue.
4. An Exempt Plat for the proposed relocation of lot lines will be submitted within one year of approval of variance and it shall be filed with the Yellowstone County Clerk and Recorder within 18 months.
5. The applicant shall meet all other city code requirements with the exception of this 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.

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 proposing a time limit of one year for the exempt plat to be submitted and to relocate the boundary lines accordingly. It shall be filed with the Clerk and Recorder within 18 months of the granting of this variance.

7. Under no circumstances shall the Board grant a variance to allow a use not permissible under the terms of this Chapter in the district involved. A variance shall not be a grant of special privilege inconsistent with limitations placed upon other property in the district.

The granting of this variance would not allow a use that is not allowed in the zoning district – single family dwellings are allowed in the R-60 zone district.

RECOMMENDATION

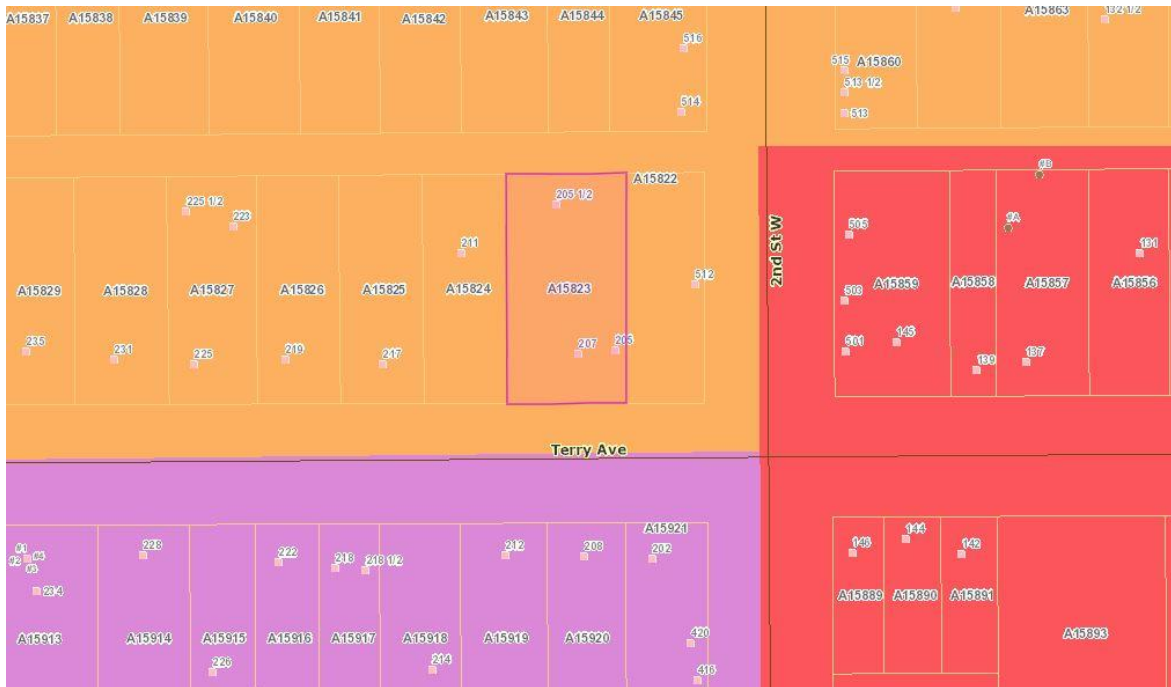
Planning staff has reviewed this application and is forwarding a recommendation of conditional approval for the variance based on the determinations for review provided within this report.

Attachments

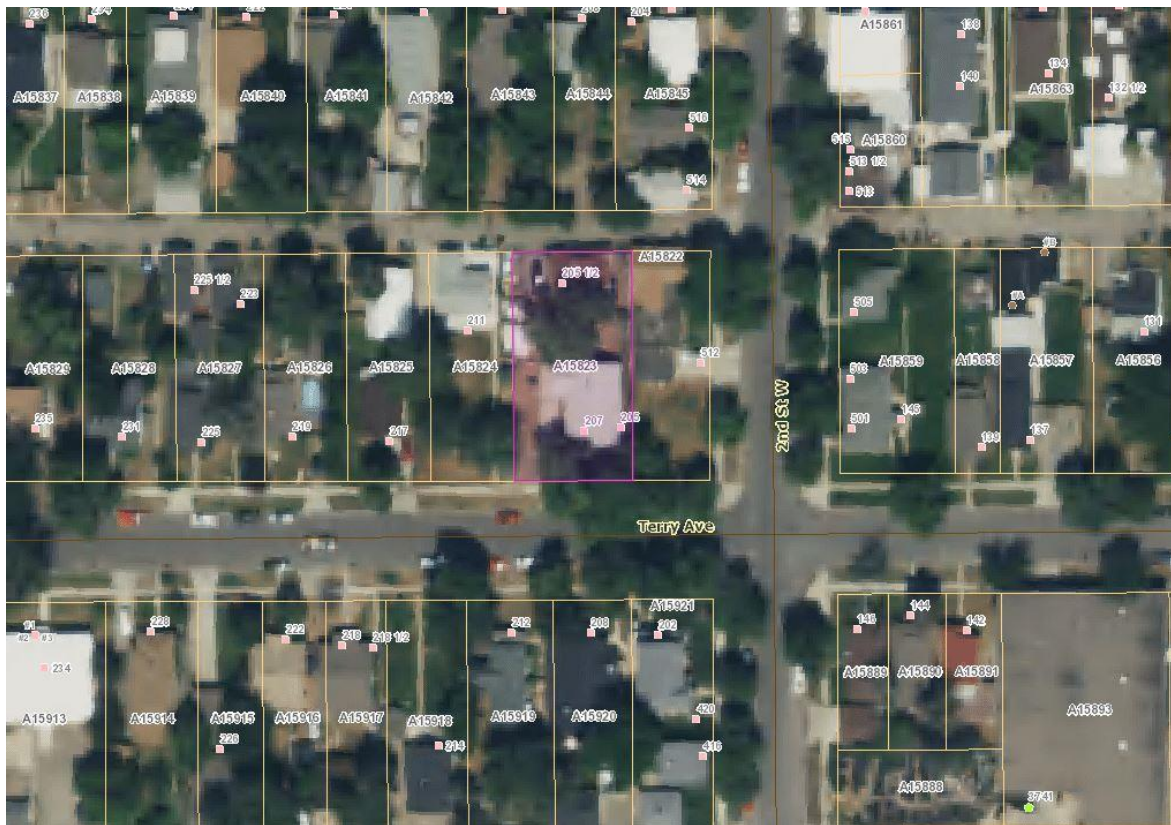
Zoning Map & Site Photos

Application, Applicant Letter, Site Plan

Attachments



Zoning Map





South west



South



East



North Side at the alley



From the alley looking south

Application, Applicant letter & site Plan

APPLICATION FORM

CITY VARIANCE

ID: Billings Variance # 1302 - Project # P2-19-0477

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 # ~~03-0927-04-4-19-11-0000~~ A15823 CITY ELECTION WARD # 1

Legal Description of Property: Suburban Subdivision, S04, T01S, R26E, Block 6, Lot 3-5

Address or General Location (If unknown, contact City Engineering): 205 & 205.5 Terry Ave., Billings, MT 59101

Zoning Classification: Residential 6,000 (c.)

Size of Parcel (Area & Dimensions): 0.241 acres 10,500 square feet

Covenants or Deed Restrictions on Property: Yes No

If yes, please attach to application

Variance(s) Requested: Requesting a variance to split the lot into individual parcels as indicated on the survey map, including a variance for the rear setback for each.

Facts of Hardship: Proposing that the highest & best use of the two homes is housing that is more affordable separately than together. In addition to a split increasing the tax base, owners have more motivation than renters to maintain the property and neighborhood.

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

Owner(s): Eric J. Bennett Individual Trust

(Recorded Owner) 33791 Donegal Lane, San Juan Capistrano, CA 92675

(Address) (310) 403-8047 ebsilverlake@gmail.com

(Phone Number) (email)

Agent(s): Greg Judson

(Name) 3164 Parkhill Dr., Billings, MT 59102

(Address) (406) 690-0373 gregjudson71@gmail.com

(Phone Number) (email)

I understand that the filing fee accompanying this application is not refundable, that it pays for the cost of processing, and that the fee does not constitute a payment for a Variance. Also, I attest that all the information presented herein is factual and correct.

Signature: [Signature] Date: September 3, 2019
(Recorded Owner)

9/3/19
Date Stamp

RL- 220 509 paid \$533.00

205 Terry Ave. Variance

September 3, 2019

Attn: Chairperson of the Board of Adjustment, Billings MT

This variance is not being requested because the Zoning Regulation prevents an intended use. The property has two freestanding, unattached homes that are currently being remodeled to improve the overall appeal and value of the property. When complete, the homes will be suitable as rental units. However, since they are separate structures, an alternative path for the property is to separate the lot. The houses could then be sold separately. Each home individually is likely to be more affordable for typical buyers in the area and together, they are likely to have a higher tax base than would be so for both houses remaining on the single lot. The increased overall tax revenue would seem to be more appropriate to the civic impact of two households, which this property will probably have as rentals. In addition, homeowners are more invested in their property and community, so tend to be more motivated towards maintaining their homes and neighborhood in comparison to renters, generally.

The survey map included with the variance application notes where a new property line would go. There is an existing garage that would need to be removed if the variance is approved. As part of this request to divide the lot, a variance for rear setbacks on both houses would also be requested.

Thank you for your consideration.

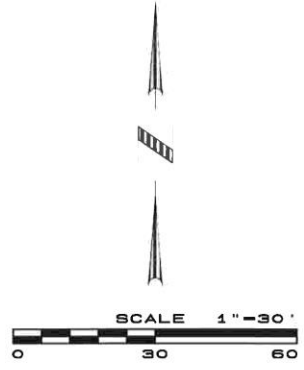
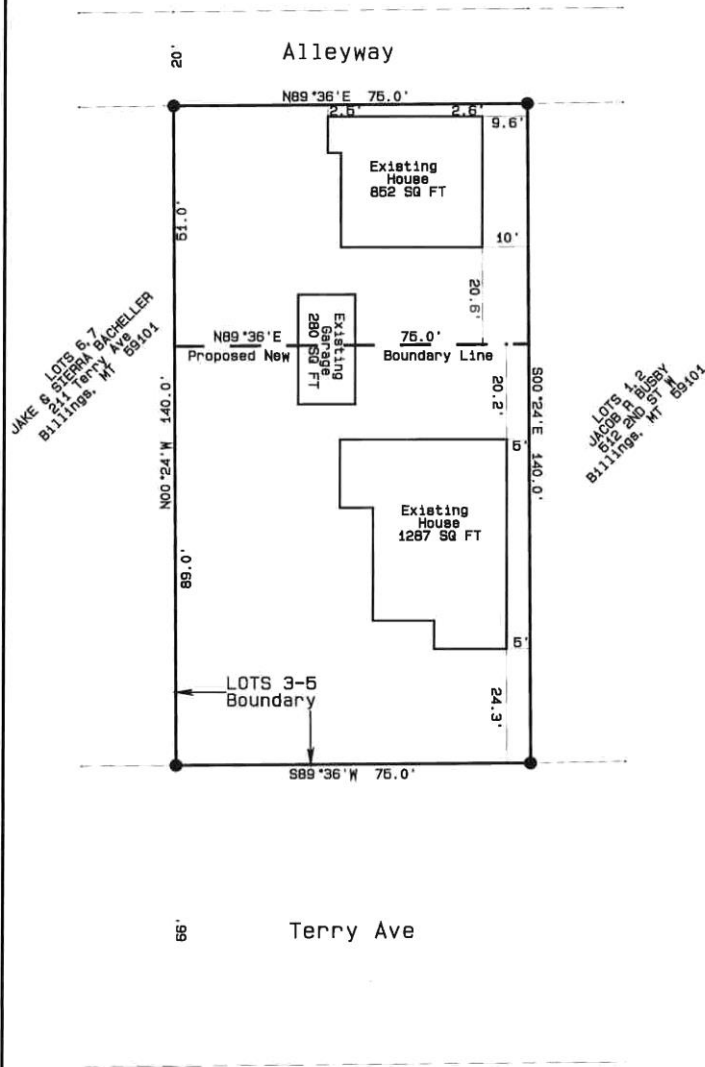
Eric J. Bennett
Owner, 205 Terry Ave., Billing MT 59101

PROPERTY MAP

OF
SUBURBAN SUBDIVISION

Block 6, Lots 3-5
Section 4, Township 1 South, Range 26 East
City of Billings, Yellowstone County, Montana

For: Greg Judson
By: Joe Kehi & Associates, Inc.
Date of Field Survey: 9-2-2019



BASIS OF BEARING:
West line of Lot 7 this survey

LEGEND:
● - A found 1/2 inch iron pipe

NOTES:
Square footage of existing buildings are derived from the first floor exterior dimensions - this survey
LOTS 3, 4 & 5 = ±0.241 acres / 10,500 SQ FT



City Board of Adjustment

Meeting Date: 11/06/2019

SUBJECT: Variance 1303 - 2001 Lake Hills Drive

THROUGH: Nicole Cromwell

PRESENTED BY: Karen Husman

Information

REQUEST

City Variance 1303 – 2001 Lake Hills Drive – A variance from Section 27-308 requiring a minimum front setback of 20 feet for garage access to allow a minimum front setback of 15 feet for a proposed new attached garage in a Residential Multi-Family Zone (RMF) zone on Lot 4, Block 13, Lake Hill Sub, 18th filing, a 14,400 square foot parcel of land. The purpose of the variance is to allow a 15-foot front setback to accommodate an attached garage. Presented by Karen Husman, Planner I.

RECOMMENDATION

Staff recommends conditional approval of the variance.

APPLICATION DATA

OWNERS: Hans & Alice Henselman Family Trust

AGENT: WWC Engineering

PURPOSE: Reduce the front setback to 15 feet

LEGAL DESCRIPTION: Lot 4, Block 13, Lake Hills Subdivision, 18th Filing

ADDRESS: 2001 Lake Hills Drive

EXISTING LAND USE: Vacant Residential

PROPOSED LAND USE: Residential Multi-Family - a 4-unit building

EXISTING ZONING: RMF

CONCURRENT APPLICATIONS

BP-19-02042 - Approved by Planning, Building & Engineering in August 2019.

Master Site Plan PZ-19-00094 - Approved by Planning on August 20, 2019.

APPLICABLE ZONING HISTORY

SUBJECT PROPERTY	VARIANCE #	DATE	FOR	APPROVED (Y/N)	ADDITIONAL DATA
None					
SURROUNDING PROPERTY	VARIANCE #	DATE	FOR	APPROVED (Y/N)	ADDITIONAL DATA
11 Wicks Lane	695	9/1993	Front and Arterial Setback	Y	Canopy

SURROUNDING LAND USE & ZONING

NORTH: Zoning: RMF
Land Use: Residential Multi-Family
SOUTH: Zoning: RMF
Land Use: Residential Multi-Family
EAST: Zoning: RMF
Land Use: Residential Multi-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 for a garage to allow a minimum front setback of 15 feet for a new 4-unit townhome with attached garages in a Residential Multi-Family Zone (RMF) zone on Lot 4, Block 13, Lake Hill Sub, 18th filing, a 14,400 square foot parcel of land. The purpose of the variance is to allow a 15-foot front setback for the attached garages.

A building permit for this project and Master Site Plan approval has been granted by staff. Construction is underway for the 4-unit townhomes with attached garages. During the Master Site Plan review process the front setback was reviewed and approved based on the distance from the edge of the sidewalk to the face of the garage. It was discovered after the approval process was complete and construction had started the zoning code requires a 20 foot setback from the property line, not the sidewalk. The 20-foot setback is to ensure vehicles do not encroach or block the sidewalk if they are parked in front of a garage. Staff immediately advised the developer to apply for a variance.

SUMMARY

Proposed DETERMINATIONS for Variance 1303 - 2001 Lake Hills Drive

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 Lake Hills Subdivision. Stormwater management requirements from the City of Billings require on-site storage and retention of a 50-year storm event on site and to infiltrate it within 72 hours. The Engineering Division approved the proposed stormwater pond measuring 40'x116'. This method of stormwater contributes to the need for a reduced front setback since the stormwater storage area for this property is behind the units

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 a prior front yard and arterial setback variance was previously granted.

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. A similar variance has been granted in the Lake Hills Subdivision.

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. The intent of the zoning regulation is to ensure the face of the garage and the location of sidewalk does not create hazards or conflict for pedestrians due to vehicles parking in front of garages. It has been determined that 20 feet from the garage to the sidewalk is an appropriate area for cars to park without encroaching on the sidewalk. For this property the location of the sidewalk is within the right of way and does not abut the property line like many other places in the City. The 15 foot setback accommodates a 23.4' distance from the face of the garage to the edge of the sidewalk, which is actually 3.4' greater than is usual

and is required.

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 15 feet for the purpose of constructing attached four-unit townhomes with attached garages. No other variance is intended or implied with this approval.
2. The variance is limited to on Lot 4, Block 13, Lake Hills Subdivision, 18th filing, generally located at 2001, 2003, 2005, 2007 Lake Hills Drive.
3. The site shall be developed in substantial conformance to the site plan presented to the BOA, that reflects the 15 foot front setback. No other nonconformity shown on the site plan is/are considered with this variance approval.
4. Construction shall be completed within 18 months of Board approval.
5. Failure to 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 completion within 18 months of Board approval.

7. Under no circumstances shall the Board grant a variance to allow a use not permissible under the terms of this Chapter in the district involved. A variance shall not be a grant of special privilege inconsistent with limitations placed upon other property in the district.

The granting of this variance would not allow a use that is not allowed in the zoning district – a four-unit townhome with attached garages is an allowable use in the Residential Multi Family zone district.

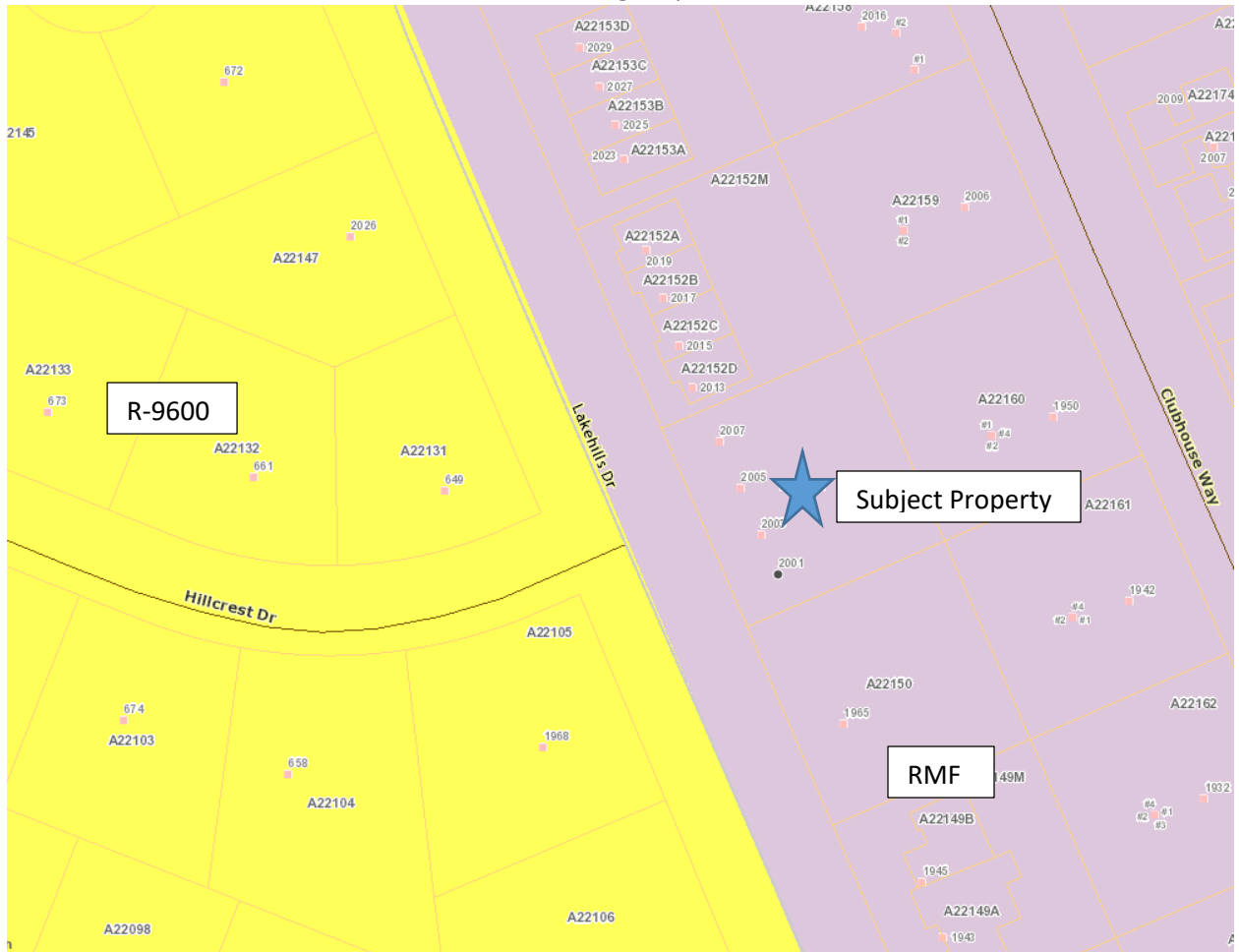
RECOMMENDATION

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 and Site Photos
Application and Letter

Zoning Map





North



North



South



West



South west



South



East



550 S. 24th STREET W., SUITE 201, BILLINGS, MT 59102 | 406.894.2210

October 24, 2019

Monica Plecker
Planning Division Manager
2825 3rd Ave N
Billings, MT 59101

Re: City Variance 1303 for Lake Hills Sub. 18th Filing, Block 13, Lot 4

Dear Ms. Plecker:

On behalf of Ken Boeschen (Owner), WWC Engineering is submitting a request for variance of City of Billings Zoning Code (the Code) Section 27-308(G) - Area, yard and height requirements—Residential. As per this section, it is required that garages and carports that have their approach from a street shall be setback a minimum of twenty (20) feet. On the lot for City Variance 1303 which is for Lake Hills Sub. 18th Filing, Block 13, Lot 4 (the Property) we have proposed set back of fifteen (15) feet. It is requested that the setback requirement for the Property be given a variance, for the reasons outlined herein.

As per Section 27-1506(b)(4) of the Code, the following outlines the reason why a variance is being sought:

Stormwater Storage

As required by the City's Stormwater Management Manual (the Manual), the Property is required to store the 50-yr, 24-hr storm event on site and to infiltrate it within 72 hours. Additionally, stormwater drains to the east or back of the Property, requiring a pond to be placed in the back yard. As such, the Property was designed with a stormwater pond to detain the required 2,022 ft³ of stormwater with a pond measuring 40'x116' having side slopes less than the required 4:1 (H:V). The depth varies to a maximum of 1.2 feet, which is constricted by the infiltration rate. The horizontal dimensions of the pond are constricted due to a non-permeable layer of sandstone bedrock being two feet below the existing grade. The Manual requires that three feet of separation be maintained from an impermeable layer to the bottom of a stormwater pond. With this required separation, fill from the site is required to create the three feet separation, which maintaining of the required maximum slopes of 4:1 required the pond to be the size as designed. Based on these requirements, the building was then set back from the property line as far as possible without encroaching on the stormwater pond on the back of the lot.

It is further noted that although a variance is requested from the property line to the front of the garage, significant distance exists between the roadway and the proposed building. The proposed setback is 15' from property line, which the property line is an additional 15.4'

Ms. Plecker
Page 2 of 2
October 24, 2019

away from the back of curb. Based on this information, the building location is 30.4' away from the back of curb, which is 23.4' away from back of sidewalk (based on a 7' wide sidewalk).

Lastly, previous developments on adjacent properties were designed with less separation from a non-pervious layer requirement. The 2015 Manual required two feet of separation, comparatively to the three feet required now. With previous requirements, the pond size could have been increased on the property edges while still being able to maintain maximum slopes with tie in locations.

Please note, this variance will provide a greater safety protection for the area as the 50-year stormwater volume will be maintained on site and infiltrated with sufficient subsurface soils to infiltrate into, in lieu of a confining bedrock or impervious layer.

Please do not hesitate to contact us should you have any questions or require additional clarification.

Sincerely,



Shawn Thorson, P.E.
Project Manager

ST



APPLICATION FORM

CITY VARIANCE

ID: Billings Variance # 1303 - Project # P2-19-00201

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 # A22151 CITY ELECTION WARD # 2

Legal Description of Property: LAKE HILLS SUBD 18TH FILLIN, S16, T10N R26E, BLOCK 13, LOT 4

Address or General Location (If unknown, contact City Engineering): 2001, 2003, 2005 + 2007 LAKE HILLS DRIVE, BILLINGS, MONTANA 59105

Zoning Classification: RESIDENTIAL MULTI-FAMILY

Size of Parcel (Area & Dimensions): 14,400

Covenants or Deed Restrictions on Property: Yes _____ No _____

If yes, please attach to application

Variance(s) Requested: 15' SETBACK VS 20' SETBACK.

Facts of Hardship: 23+ FEET FROM EDGE OF SIDEWALK TO FRONT OF GARAGE.

*MOVING STRUCTURE BACK WILL HAVE MAJOR DRAINAGE IMPLICATIONS PER WWC ENGINEERING.

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

Owner(s): HANS + ALICE HENSELMAN FAMILY TRUST

(Recorded Owner)
20262 COLONIAL CTR, HUNTINGTON BEACH, CA 92646
(Address)
714-960-7280 hanshenselman@ymail.com
(Phone Number) (email)

Agent(s): NEW OWNERS AS OF 10/25/19 KEN + NATALIA BOESCHEN

(Name)
3741 COLIN DR, BILLINGS, MT 59102
(Address)
406-861-9988 KBoesch@stockmanbank.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: Hans Henselman Alice Henselman Date: 10/16/19
(Recorded Owner)

Krist Oct 17, 2019
Natalia Boesch Oct 17, 2019



