

CITY BOARD OF ADJUSTMENT

MINUTES February 3, 2021

Name	Title	Applications												
		01/06/2021	02/03/2021	03/03/2021	04/07/2021	05/05/2021	06/02/2021	07/07/2021	08/04/2021	09/01/2021	10/06/2021	11/03/2021	12/01/2021	
David Mitchell	Member	1	E											
Dave Hagstrom	Member	1	1											
Paul Hagen	Member	1	1											
Jeff Bollman	Vice Chair	1	1											
Oscar Heinrich	Member	1	1											
Martin Connell	Member	1	1											
Mark Noennig	Chair	1	1											
TOTAL NUMBER OF APPLICATIONS 2021		01/06/2021	02/03/2021	03/03/2021	04/07/2021	05/05/2021	06/02/2021	07/07/2021	08/04/2021	09/01/2021	10/06/2021	11/03/2021	12/01/2021	TOTAL
Variance		4	5*											9

One return Variance from January 6, 2021 meeting.

Chair Noennig called the meeting to order at 6:05p.m. The City Board of Adjustment met virtually thru Zoom <https://zoom.us/j/95905224215>.

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 Assistant.

Attending:

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. There was none.

Approval of Meeting Minutes

Meeting minutes for January 6, 2021.

Board member Connell requested a direct transcript of his statement regarding future meetings via Zoom be added to the January 6, 2021 meeting minutes. So noted and will be added.

The approval will be delayed. Chair Noennig sited a correction stating he called for public comment, this will be corrected. Vice Chair Bollman asked if he had indeed voted yes on Variance 1324. This was reviewed from the recorded ZOOM meeting; **his yes vote was confirmed thru ZOOM video review.**

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

Board member Hagstrom had no exparte communications, has no conflicts of interest and visited 1322.

Board member Hagen had no exparte communications, has no conflicts of interest and visited all sites.

Vice Chair Bollman had no exparte communications, has no conflicts of interest and visited no sites.

Board member Heinrich had no exparte communications, has no conflicts of interest and visited all sites.

Board member Connell had no exparte communications, has no conflicts of interest and visited no sites.

Chairman Noennig had no exparte, has no conflicts of interest and visited no sites.

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.

RETURN ITEM: City Variance 1322– 2621 Downer Lane - Garage side setback – A variance from 27-310(i) requiring an 8-foot side setback on a detached accessory structure over 18 feet in height to allow 3-foot side setback in a Residential-9600 (R-96) zone, on Lot 4 of Downer Acres, an 11,292 square foot parcel of land. The purpose of the variance is to allow renovation and addition to an existing garage, or remove and replace the detached garage in the same location. Tax ID: A06379

RECOMMENDATION

Planning staff has reviewed this application and is recommending conditional approval of Variance #1322. Based on the Determinations for granting a variance.

1. This approval is to allow a 3 foot side setback. No other variance is intended or implied.
2. Limited to Lot 4 of Downer Acres, 2624 Downer Lane.
3. The applicant will apply for and receive approval of a building permit within 1 year & complete construction within 2 years. Failure to meet the time limits will void the variance.
4. The garage shall be constructed in substantial compliance with the plans submitted with this application.

5. There will be no construction activities prior to 7:00AM or after 8:00 PM daily.
6. Shall meet all other city code
7. These conditions of variance approval shall run with the land described

Questions for staff:

Board member Heinrich asked if the applicant is present. Are they tearing down the old garage? Staff indicated they are adding on to existing by building up and out. Under the new code, 5 foot setbacks will be applicable.

Public Hearing

Chair Noennig opened the public hearing at 6:15PM and asked if there was anyone wishing to speak in favor or against **City Variance 1322**.

Applicant: Thomas J. & Janet Blenkinship, Jeff Wollschlager, Agent

Not present, was invited, was advised to appear so the Board could question.

Favor

NONE

Opposed

NONE

Discussion

At 6:17PM, Chair Noennig closed the Public Hearing and called for a motion. Board member Hagstrom asked if staff had received any opposition. None was received. He also asked if there were other similar variances in the neighborhood. Yes, there are several.

Motion

Board Member Bollman made a motion and Board Member Hagstrom seconded the motion to approve **City Variance 1322** with staffs findings of fact and conditions, modify Condition #2 to reflect the correct address from 2624 Downer to 2621 Downer.

MEMBER	YES	NO	ABSTAINED	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 1322 passed with a 6-0 vote.

City Variance 1326 – 2801 3rd Ave N – EMD sign size - A variance from 27-705.C.3.a, requiring an Electronic Message Display sign to be part of a permanent graphic display wall sign and when not part of a permanent graphic display to have a frame of not less than 8-inches in width, to allow two EMD wall signs (one for each street frontage) to not be part of a permanent graphic wall sign, and to have a frame of less than 8-inches, in a Central Business District (CBD) zone, on Block 45, Lot 1A, Billings Original Townsite, an 17,812 square foot parcel of land. The purpose of the variance is to allow two electronic message display (EMD) signs of 34 square feet each. Tax ID: A00262

2 letters of support were received from Staff of the Alberta Bair Staff. These letters have been forwarded to the Board.

RECOMMENDATION

Planning Staff has reviewed this application and after consideration is recommending conditional approval of Variance #1326. The criteria for making a recommendation to the BOA are not clearly determined in this case. The determinations made by staff could indicate a recommendation of approval or denial. Staff believes a recommendation of conditional approval would allow restrictive conditions to reduce the potential impact of the EMD sign at a busy intersection in downtown Billings.

1. The variance is to allow two EMD wall signs (one for each street frontage of no more than 34 square feet each) to not be part of a permanent graphic wall sign, and to have a frame of less than 8-inches. No other variance is intended or implied by this approval.
2. The variance applies to Block 45, Lot 1A, Billings Original Townsite, generally located at 2801 3rd Avenue North.
3. The proposed EMD signs will be located and oriented in substantial conformance with the submitted site plan.
4. The EMD will be static display only, with a hold time of no less than 1 minute for each message.
5. There will be no changing messages between 10:00pm and 7:00am. A single static message may be displayed during this time.
6. No video or animated display will be shown at any time.
7. The applicant will update it's pending permit within 6 months of the Board of Adjustment approval of the variance.
8. The signs will be installed within 1 year of Board of Adjustment approval of the variance.
9. Upon installation of EMD signs they will remain functional at all times. If at any time the display is broken or inoperable for 30 days, the sign will be repaired or it will be removed permanently.
10. Failure to begin or complete actions required by this approval within the time limits set forth shall void this variance.
11. 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:

Board member Connell asked the significance of condition #5. Staff is prohibiting sign change so as not to distract traffic. Board member Connell stated he feels this is beaurocratic overreach. Chair Noennig asked if the applicants agree to this condition. The applicant has made no comments regarding the conditions. If the Board chooses to remove a condition, they may.

Board member Heinrich asked if Re:Code had also been updated. Are flashing red or green allowed. The new code is not color specific, but limits flashing.

Board member Bollman asked if there is a restriction without the variance. He also asked if the variance were denied, why are we not using Land Contrary to Zoning. Staff replied it is not a public agency using public land, so Contrary to Zoning is not applicable. Board member asked what the variance is for. Staff replied the variance is to use a 5 inch black frame rather than an eight inch black frame.

Board member Bollman asked if this were to be a traditional marquee rather than an EMD, would a variance be necessary. Staff indicated it would not.

Public Hearing

Chair Noennig opened the public hearing at 6:36PM and asked if there was anyone wishing to speak in favor or against **City Variance 1326**.

Applicant:

Jan Dietrich, 2018 Green Terrace

Design questions should be directed to Kevin Nelson, designer.

Board member Heinrich asked if she has any objections to the conditions.

A static presentation is chosen for the all the reasons indicated.

Jody Grant, 4356 Palisades Park

This sign can be dimmed. The time is not an issue, however as soon as a show is over, the sign is changed to the new and coming show.

Kevin Nelson, Cushing Terrell, 3945 Parkwood Drive

This sign can be programmed to do most anything needed. Timing, display options are not an issue.

The facility can choose how to display.

Board member Connell wants condition #5 to be removed.

Staff reiterated the changing is not meant to indicate the wording cannot be changed but rather the wording may not change minute to minute and flash.

Favor

Ron Yates, 1820 Mulberry

He Chair of the Board of Directors, please remove condition #5.

Tony Duncan, 4110 Ironhorse Trail

The sign is very programable, the next show can be programmed into the sign and change automatically.

Opposed

NONE

Discussion

At 6:48PM, Chair Noennig closed the Public Hearing and called for a motion.

Motion

Board Member Connell made a motion and Board Member Hagen seconded the motion to approve **City Variance 1326** with staff findings of fact and recommendations, removing condition #5.

MEMBER	YES	NO	ABSTAINED	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 1326 passed with a 6-0 vote.

City Variance 1327 -3002 Alpine Drive – Lot Coverage & setbacks - A variance from 27-308 requiring a maximum lot coverage of 30% to allow 33% lot coverage, and from 27-310(i) requiring an 8 foot side and rear setback for a detached structure to allow 3 foot side setback and 0’ rear setback for a detached accessory structure in a Residential-9600 (R-96) zone, on Block 1, Lot 2A Amended, Reimers Park Subdivision, an 13,660 square foot parcel of land. The purpose of the variance is to allow lot coverage of 33% and rear setback for a detached structure 18’ in height to 0’. Tax ID: A13162

RECOMMENDATION

Planning staff has reviewed this application & is recommending conditional approval of Variance #1327. Based on the Determinations for granting a variance.

1. Variance to allow a maximum lot coverage of 33% to allow a new detached garage of 1,000 sf to have 3’ side & 0’ rear setback. No other variance is intended or implied with this approval.
2. Variance is limited to Block 1, Lot 2A Amended, Reimers Park Subdivision. generally located at 3002 Alpine Drive.
3. Applicant will submit and obtain a building permit for the new garage within 1 year and have it completed within 2 years.
4. The applicant will submit a site plan for building permit approval in substantial conformance with the site plan submitted for this variance.
5. The applicant will provide documentation from the cove ditch company they approve the request to locate a structure as shown on the site plan in close proximity to the ditch.
6. Construction activity will not occur prior to 7 am or after 8 pm daily.
7. The applicant shall meet all other city code requirements for the proposed addition with the exception of this variance.
8. Failure to begin or complete actions required by this approval within the time limits set forth shall void this variance.
9. Conditions 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:

Board member Heinrich asked if staff has received any opposition. No correspondence has been received, opposed or in favor.

Public Hearing

Chair Noennig opened the public hearing at 6:56PM and asked if there was anyone wishing to speak in favor or against **City Variance 1327**.

Applicant:

Kyle Huss, 213, N. Broadway, agent
He has nothing to add to the staff report.

Favor

NONE

Opposed

NONE

Discussion

At 6:57PM, Chair Noennig closed the Public Hearing and called for a motion.
Board member Hagen asked if the house right across the street less than 33 percent lot coverage?
Staff does not have the information, it may be 2 lots.

Motion

Board Member Hagen made a motion and Board Member Hagstrom seconded the motion to approve **City Variance 1327** with staffs findings of fact and conditions.

MEMBER	YES	NO	ABSTAINED	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 1327 passed with a 6-0 vote.

City Variance 1328 –1115 N 25th St – Lot Area, setbacks- A variance from 27-308 requiring a minimum lot size of 9,600 square feet for two single family dwellings, to allow a minimum lot size of 7,000 square feet, and from 27-308 requiring a 20-foot rear setback to allow a 3-foot rear setback, and from 27-310(i) requiring a 3 foot side setback for a detached structure to allow 1 foot side setback in a Residential-7000 (R-70) zone, Block 2, Lot 3, Sunnyside Subdivision, a 7,000 square foot parcel of land. The purpose of the variance is to allow existing structures a rebuild letter for financing purposes.
Tax ID: A16274

RECOMMENDATION

Planning staff has reviewed this application & is recommending conditional approval of Variance #1328. Based on the Determinations for granting a variance.

1. The variance is to allow a minimum lot area of 7,000 square feet for 2 single family dwellings, a 3-foot rear setback and a 1-foot side setback. No other variance is intended or implied with this approval.
2. The variance is limited to Block 2, lot 3, Sunnyside Subdivision, 1115 N 25th St.
3. For the purposes of this variance the rear house (768 sf) and the carport (312 sf) are attached as shown on the site plan and documented photos.
4. The applicant shall meet all other city code requirements with the exception of this variance.
5. These conditions 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.

The applicant needs a rebuild letter.

Questions for staff:

Public Hearing

Chair Noennig opened the public hearing at 7:02PM and asked if there was anyone wishing to speak in favor or against **City Variance 1328**.

Applicant:

David Goodrich, agent, 811 N. 31st
He is available for questions.

Favor: NONE

Opposed: NONE

Discussion

At 7:03PM, Chair Noennig closed the Public Hearing and called for a motion.

Motion

Board Member Bollman made a motion and Board Member Heinrich seconded the motion to approve **City Variance 1328** with staffs findings of fact and conditions.

MEMBER	YES	NO	ABSTAINED	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 1329 passed with a 6-0vote.

City Variance 1329 – 1116 2nd St W – Side setbacks- A variance from 27-308 requiring a 5-foot side setback for a single-family dwelling to allow a 1-foot setback for the north side and 0’ setback for the south side of an existing structure in a Residential-7000 zone, on Block 19, South 37.5’ of lots 43-46, a 3,730 square foot parcel of land. The purpose of the variance is to allow existing structure a rebuild letter for financing purposes. Tax ID: A18033

RECOMMENDATION

Planning staff has reviewed this application & is recommending conditional approval of Variance #1329. Based on the Determinations for granting a variance.

1. The variance is to allow a 1-foot setback for the north side and 0’ setback for the south side of an existing structure on a 3,730 square foot lot to conform to zoning in order to allow a rebuild letter. No other variance is intended or implied with this approval.
2. The variance is limited to Block 19, South 37.5’ of lots 43-46, West Side Subdivision generally located at 1116 2nd Street West.
3. The applicant/and/or property owner 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:

Public Hearing

Chair Noennig opened the public hearing at 7:06PM and asked if there was anyone wishing to speak in favor or against **City Variance 1329**.

Applicant:

Favor:NONE

Opposed: NONE

Discussion

At 7:10PM, Chair Noennig closed the Public Hearing and called for a motion.

Motion

Board Member Hagstrom made a motion and Board Member Bollman seconded the motion to approve **City Variance 1329** with staffs findings of fact and conditions.

MEMBER	YES	NO	ABSTAINED	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 1329 passed with a 6-0 vote.

Other Business: Mark Noennig and Jeff Bollman were unanimously acclamated to Chair and Vice Chair to the Board for 2021. Motion was made by Board member Heinrich and seconded by Board member Connell.

All Board members declined the assignment for use of a City owned IPAD for meeting attendance and/or meeting agenda and packet material review.

ADJOURNMENT: The meeting adjourned at 7:17PM.

ATTEST: APPROVED.

