



VIDEO CONFERENCE FORMAT

NOTICE TO THE PUBLIC

**\*\*ATTENTION\*\***

Due to the COVID-19 health concerns, this meeting will be held in a virtual videoconferencing environment. Zoning Commission members will attend the meeting via a remote location, using a virtual meeting method. The regular meeting rooms will be closed during the meeting. In order to honor the Right of Participation and the Right to Know in Article II, sections 8 and 9, of the Montana Constitution, the City/County Planning Division is making every effort to meet the requirements of the open meeting laws.

Citizens are invited to:

- Review the Agenda Packet on the City's website at: <https://ci.billings.mt.us/117/Agendas-Minutes>
- View the meeting live online at Facebook:  
<https://www.facebook.com/Billings-Planning-Community-Services-Department-1738982159659260>

Public comment will be taken only during the Public Comment periods as indicated on the agenda and during the Public Hearings, if any are scheduled, under the Regular agenda. Comments may be sent to Board via email before 10:00 AM on the meeting date. All emails received prior to this time will be read into the record for the public hearing. Comments may be submitted by:

- Mail: City/County Planning Division, 2825 3rd Ave N 4th Floor, Billings, MT 59101
  - Email: [bartleyr@billingsmt.gov](mailto:bartleyr@billingsmt.gov)
- Call in during the Public Comment periods as indicated on the agenda:
  - Citizens may call in during specific Public Comment periods at **406.237.6165**.  
All callers will be placed in a queued system and are asked to remain on hold and be patient. Calls will be taken in the order in which they are received. Callers will be limited to 3 minutes of testimony as is customary.  
Future delivery methods may be explored as best practice is learned.

Please direct questions to Administrative Secretary Robbin Bartley at [bartleyr@billingsmt.gov](mailto:bartleyr@billingsmt.gov) or 406-247-8676

**Call the meeting to order.**

**Introduction of City Board of Adjustment Members and Planning Department Staff.**

**Public Comment. This time is set aside for any Public Comments on items NOT on this Agenda. The phone number for Public Comment is 406-237-6165.**

**Approval of Minutes:**

The minutes of the Board meeting of January 6, 2021.

**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.  
  
Public Comment will be taken when the Chairman asks for it. Please call **406-237-6165** when the Chairman asks for Public Comment on the Variance for which you wish to be heard.
- C. Reading of notices of the public hearings on the following items:

## **Public Hearings:**

- a. **Return Item; City Variance 1322-2621 Downer Lane**-A variance from 27-310(i) requiring an 8-foot side setback on a detached accessory structure over 18 feet in height to allow a 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
- b. **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. Presented by Karen Husman, Planner I
- c. **City Variance 1327 - 3002 Alpine Drive** - 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%, a side setback of 3 feet and a rear setback of 0 feet for a detached structure 18 feet in height. Tax ID: A13162. Presented by; Karen Husman, Planner I.
- d. **City Variance 1328 - 1115 N. 25th St.** - 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 a 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 Presented by: Karen Husman, Planner I.
- e. **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, West Side Subdivision, a 3,730 square foot parcel of land. The purpose of the variance is to allow an existing structure a rebuild letter for financing purposes. Tax ID: A18033. Presented by; Karen Husman, Planner I.

## **Other Business/Announcements**

- a. Election of Chair and Vice Chair 2021
- b. City IPAD usage

## **Adjournment**

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 [bartlevr@ci.billings.mt.us](mailto:bartlevr@ci.billings.mt.us)

**City Board of Adjustment**

**Meeting Date:** 02/03/2021

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**Information**

**Subject**

The minutes of the Board meeting of January 6, 2021.

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**Attachments**

BBOA\_2021\_0106

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**CITY BOARD OF ADJUSTMENT**

MINUTES January 6, 2021

Name	Title	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												
Dave Hagstrom	Member	1												
Paul Hagen	Member	1												
Jeff Bollman	Vice Chair	1												
Oscar Heinrich	Member	1												
Martin Connell	Member	1												
Mark Noennig	Chair	1												
<b>TOTAL NUMBER OF APPLICATIONS 2021</b>		<b>01/06/2021</b>	<b>02/03/2021</b>	<b>03/03/2021</b>	<b>04/07/2021</b>	<b>05/05/2021</b>	<b>06/02/2021</b>	<b>07/07/2021</b>	<b>08/04/2021</b>	<b>09/01/2021</b>	<b>10/06/2021</b>	<b>11/03/2021</b>	<b>12/01/2021</b>	<b>TOTAL</b>
<b>Variance</b>		<b>4</b>												<b>4</b>

Vice Chair Bollman called the meeting to order at 6:05 p.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 November 4, 2020.

## Motion

Board Member Heinrich moved and Board Member Mitchell seconded the motion to approve the November 4, 2020 minutes. The motion carried with a unanimous voice vote.

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

Board Member Mitchell had no ex parte communications, has no conflicts of interest and visited all but Variance 1323 locations.

Board member Hagstrom had no ex parte communications, has no conflicts of interest and visited no sites.

Board member Hagen had no ex parte communications, has no conflicts of interest and visited 2 sites.

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

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

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

Chairman Noennig had some discussion with Bill Hanser and Dave Goodrich. He finds it necessary to recuse himself from the discussion and vote for Variance 1324 and visited no sites.

**Board Member Heinrich made a motion to change the Public Hearing order to 1323, 1322, 1325 and lastly 1324. Board Member Connell seconded the motion. All board members voted in favor.**

## 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 1323 – 718 S. 31<sup>st</sup> St. – Side setback** - A variance from 27-308 requiring a 5-foot side setback to allow 2-foot side setback in a Residential-6000 (R-60) zone, on Block 225, Lot 4, Billings Original Townsite, a 3,500 square foot parcel of land. The purpose of the variance is to allow the existing single family dwelling a rebuild letter. Tax ID: A01676

## RECOMMENDATION

Planning staff has reviewed this application & is recommending approval of Variance #1323. Based on the Determinations for granting a variance.

1. The variance is to reduce the side setback for a single-family dwelling on a 3500 square foot parcel of land from 5 feet to 2 feet 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 Lot 4, Block 225, Billings Original Townsite generally located at 718 S 31<sup>st</sup> Street.

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**

Vice Chairman Bollman opened the public hearing at 6:21PM and asked if there was anyone wishing to speak in favor or against **City Variance 1323**.

**Applicant: David Goodridge, Agent**

**Favor**

NONE

**Opposed**

NONE

**Discussion**

At 6:22PM, Vice Chairman Bollman closed the Public Hearing and called for a motion.

**Motion**

Board Member Heinrich made a motion and Board Member Hagen seconded the motion to approve **City Variance 1323** with staffs findings of fact.

<b>Member</b>	<b>Yes</b>	<b>No</b>	<b>Not Present</b>
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 1323 passed with a 7-0 vote.**

**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 & is recommending conditional approval of Variance #1322. Based on the Determinations for granting a variance.

1. To allow a variance from Section 27-308 requiring a minimum 5 foot setback from the side property line in a R-96 zone to allow 3 foot side setback. No other variance is intended or implied.
2. is limited to Lot 4 of Downer Acres Subdivision, 2624 Downer Lane.
3. will apply for and receive approval of a building permit within 1 year and complete construction within 2 years, failure will void the variance.
4. No construction activities prior to 7:00am or after 8:00 PM daily.
5. shall meet all other city code requirements except this variance.
6. Conditions run with the land described and apply to all current and subsequent owners, operators, managers, lease holders, heirs and assigns.

### **Questions for staff:**

Board member Heinrich asked if it is possible to ask for firmer plans and can we change the application to specify remodel or rebuild.

Board member Bollmam asked what is the threshold for requiring an 8-foot setback. Staff replied anything less than 18 feet high would require a 3-foot set back.

Board member Hagstrom confirmed this is a 11,292 square foot lot zoned R9600.

### **Public Hearing**

Vice Chairman Bollman opened the public hearing at 6:32PM 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**

### **Favor**

NONE

### **Opposed**

NONE

### **Discussion**

Board members asked if the adoption of RE:Code would change setback requirements. Staff replied all new accessory structures will require a 5-foot setback.

At 6:36PM, Vice Chairman Bollman closed the Public Hearing and called for a motion.

**Motion**

Board Member Heinrich made a motion and Board Member Bollman seconded the motion to delay for 30 days the vote on **City Variance 1322**.

<b>Member</b>	<b>Yes</b>	<b>No</b>	<b>Not Present</b>
David Mitchell	X		
Dave Hagstrom	X		
Paul Hagen	X		
Jeff Bollman	X		
Oscar Heinrich	X		
Martin Connell	X		
Mark Noennig	X		

**The motion to delay City Variance 1322 passed with a 7-0 vote.**

**City Variance – 1325 – 2607 Copper Blvd– Lot Area & Setback - -** A variance from 27-308 requiring a minimum lot size of 19,200 square feet for two single family dwellings, to allow a minimum lot size of 6,250 square feet, and from 27-308 requiring a 20-foot rear setback to allow a 3-foot rear setback in a Residential-9600 (R-96) zone, on Block 3, Lots 25-26, Amvet Park Sub, a 6,250 square foot parcel of land. The purpose of the variance is to allow two existing single-family dwellings to be reconstructed in order to acquire a rebuild letter. Tax ID: A02310

**RECOMMENDATION**

Planning staff has reviewed this application & is recommending conditional approval of Variance #1325. Based on the Determinations for granting a variance.

1. The variance is to allow a minimum lot area of 6,250 square feet for 2 single family dwellings and 3-foot rear setback for the easterly single-family dwelling. No other variance is intended or implied with this approval.
2. The variance is limited to Block 3, Lots 25-26 of Amvet Park Sub., 2607 Copper Blvd.
3. The applicant shall meet all other city code requirements with the exception of this variance.
4. These conditions of variance approval shall run with the land described in this authorization and shall apply to all current and subsequent owners, operators, managers, lease holders, heirs and assigns.

**Questions for staff:**

Board member Heinrich asked if rebuild letters will still be necessary when RE:Code is adopted. Staff replied rebuild letters will still be required/necessary in some situations.

**Public Hearing**

Vice Chairman Bollman opened the public hearing at 6:47PM and asked if there was anyone wishing to speak in favor or against **City Variance 1325**.

**Applicant: Helen M. Peterson, Dislorei Small Rodriquez & Kevin Lonebear, Agent/Not Present**

**Favor**

NONE

**Opposed**

NONE

**Discussion**

At 6:49PM, Vice Chairman Bollman closed the Public Hearing and called for a motion.

**Motion**

Board Member Heinrich made a motion and Board Member Hagstrom seconded the motion to approve **City Variance 1325** with staffs findings of fact.

<b>Member</b>	<b>Yes</b>	<b>No</b>	<b>Not Present</b>
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 1325 passed with a 7-0 vote.**

**City Variance – 1324 – NW of the intersection of Georgina Dr. & 44<sup>th</sup> St. W – lot area, lot Coverage, density-** A variance from Lenhardt Square PD Exhibit “B” as amended increasing the maximum density from 10 units per acre to 17.2 units per acre and to allow a variance from parking in Article V.B.4. to reduce enclosed parking from 2 enclosed spaces per dwelling unit to .75 covered spaces per apartment dwelling in the PD-MF-4 zone, on Parcel 2A of C/S 2063, a 19.13-acre parcel of land. The purpose of the variance is to allow development to be more consistent with the PD-MFR zone. A previous variance (Variance 1282) was granted and this variance will amend those conditions of approval.

Tax ID: D00514A

## **RECOMMENDATION**

Planning staff has reviewed this application & is recommending conditional approval of Variance #1324. Based on the Determinations for granting a variance.

1. A variance from Lenhardt Square PD increasing the maximum density to 17.2 units per acre & allow a variance from parking to reduce enclosed parking to .75 covered spaces per apartment in the PD-MF-4 zone. No other variance is intended or implied with this approval.
2. The variance is limited to Parcel 2A of C/S 2063.
3. The applicant shall meet all other city code requirements for the PD 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.

Staff received 16 exparte emails in opposition from surrounding property owners and the applicant responded. These emails and response have been forwarded to the Board previous to the meeting for review.

### **Questions for staff:**

Board member Hagen asked if all letters received were in opposition. Staff replied traffic, ingress and egress safety and parking were major areas of concern.

Board member Hagstrom asked about a previous Variance request for an increase in density that was approved by the Board. Staff explained the density increase request was a height increase, enabling the applicant to increase story levels. Also, a Special Review was approved by City Council to allow multi-unit buildings, more than 4 units in a structure. This Variance request is to numerically adjust the density per acre, allowing more density than is required in the Planned Development.

Board member Hagstrom stated he had not had the opportunity to read all submitted letters and asked staff if there were any adjacent neighbors addressing the density or were they all traffic concerns. Staff indicated density concerns were related to traffic increase. The density is consistent with the PD, it has always been multi-unit. The properties to the south are in this same density level (16-18 units). This request is not out of the ordinary for this or other PDs.

Board member Mitchell stated he assumes a Traffic Impact Study was done by City Engineering with this density. He asked to confirm a TIS was done with approval and was a permit issued. Staff directed these concerns to the applicant.

Vice Chair Bollman asked about the density on Interurban. Staff replied the density is greater on Interurban with a different underlying zoning. Will any other action be required by City Council.

Board member Heinrich wishes to confirm the underlying density is more than the PD requirement. Staff replied, no, the lot to the south is more dense. He then asked how Project RE:Code will effect this. Staff indicated it is a PD, their PD will carry over.

Board member Mitchell asked if it is easier to get a Zone change than a Variance? If they changed the zoning they would not need a variance, correct? Staff clarified his question asking if he is suggesting changing the underlying zone. Upon clarification Board member Mitchell asked again if a variance would be necessary if the zoning was changed. Staff asserted this is correct, however a Zone change

is more difficult and it takes more time.

**Public Hearing**

Vice Chairman Bollman opened the public hearing at 7:04PM and asked if there was anyone wishing to speak in favor or against **City Variance 1324**.

**Applicant: Bill Hanser, 2916 Thousand Oaks, Billings, MT**

Good Evening Chairman Bollman and Members of the Board

My name is Bill Hanser

I live at 2916 Thousand Oaks Street, Billings, MT

I am the current owner of Parcel 2A in the Lenhardt Square Planned Unit Development. In 2018 I had made a variance request for some additional units to make the project financially viable. However changes in the interim to the storm water management guidelines added considerable cost to the site development. This made the project financially unfeasible, and the land has sat undeveloped since. This is unfortunate because there is a strong need for affordable, quality, living spaces in our city, and the high cost of construction makes it prohibitive for most developers to enter the apartment marketplace.

Great Hall Partners is an experienced development group with numerous, successful, apartment projects. They have placed the property under contract, and using their experience and expertise have developed a modified design. This new design provides an improved neighborhood and will be a strong addition to the greater community. It offers:

Safer egress to the subdivision by the addition of a primary entrance at the roundabout at Monad and Shiloh Road

Although this new design requests a reduction in covered parking spaces, It will actually provide more overall parking spaces, with less on street parking

The new design offers Improved traffic flow,

Increased green space and quality of life for residents,

An improved storm water retention design at a lower cost of construction,

Increased areas for snow removal and storage,

And most importantly it creates quality, affordable, housing units in the Billings community

These modifications do require another slight increase in density, but it will also create a much better overall product for the residents of Billings and the adjoining neighbors. I strongly support the Great Hall Partners variance request.

The Founders of the Lenhardt Square PUD are also in agreement and support of this request. This design is well within the design guidelines of the Planned Unit Development, and it will bring this project into closer alignment with the already built elements of the PUD.

I would like to introduce John Casper from Great Hall Partners to speak.

**John Casper, 1700 42<sup>nd</sup> St S, Fargo, ND**

Currently we have 250 apartment units in different areas. We see the need for well kept affordable housing in the community which led us to Mr. Hanser and this opportunity. We are familiar and have done projects in different communities. There are a few issues that make this project feasible, the storm water retention requirement added costs, which we are able to resolve by increasing the density. We want a safe and attractive project with green space to attract occupants. Our goal is more green space. The project is approved for 237 units as it sits now. The variance we are requesting would allow for more green space, less street parking, more site parking, better access to the development.

Board member Hagen asked what the plan is for storm water retention. There will be an inground boulder storage under the parking area. By changing some of the building locations, a larger green space is possible for community use.

Board member Hagen inquired as to the material to be used for the underground piping. Steel or large PVC is the standard.

Vice Chair Bollman asked the difference in units approved now and what this variance would allow. His understanding is it is approved for 237 now and if approved it would be as many as 300 units.

Currently 237 units are approved, the current plan is to build 282 units, the request is for up to 300 units. The request is an additional 3.6 units per acre. It is currently approved at 13.6 units per acre, the request is for up to 17.2 units per acre. This is inline with other multi-family developments in the area.

### **Opposed:**

#### **Mike Creeden, 685 Clarks River Rd, Laurel, MT**

He recognizes there is currently a large density of people residing in this area. He cares about the community, although he does not currently reside there. He points out there are no shopping amenities, such as grocery stores or gas in the community therefore requiring tenants to frequently leave and return from the development. His concern is the increased density, he questions the reasoning behind the increase. He opposes this matter completely, he believes it to be selfish and a detriment to the community.

#### **Sonny Kindsfater, 4733 Georgina**

She claims this is to be a gradual change from the apartments and townhouses to single family residences on the west, duplexes and triplexes on the east. In 2016 Janice Lenhardt Rehberg sat at her table discussing where to put in a round a bout for egress off King Ave. According to Ms. Kindsfater, Ms. Rehberg guaranteed her the property in question was to be single family residences. She was unaware of the previous approval of Variance 1282. She is totally against the density increase.

#### **Anthony Seitz, 4631 Georgina**

He moved to this community 3 years ago. All the lots adjacent to this property are 1 acre lots. He was under the impression the density was to be a little less transitioning to the 1 acre lots, now they want to increase the density. He voiced concerns about City services, such as Police and Fire, being able to serve these areas. The density should be dispersed throughout the City and not all in one place. This is just an attempt to make more money on a vacant piece of land. Plenty of profit is possible with the current approved density. The property values will be ruined if high density is placed on top of single family neighborhoods. It will also ruin their quality of life.

**Sara Creeden, 4733 Georgina**

She is disappointed the Board members did not take the time to read all letters written in opposition. She is concerned with the density of this part of Billings. It is straining the Police and Fire resources. The schools are in jeopardy. There is complete disregard for an established subdivision with no gradual density from the Happy Homes Apartments to the Georgina Subdivision. The original plans called for single family residences on smaller than 1 acre lots and now are proposing townhomes and multifamily residences. She requests plans be submitted with less density, more green space, trails and considerations to City resources.

Vice Chair Bollman reminded listeners only Mr. Hagstrom had voiced an inability to read all letters of opposition. Vice Chair Bollman had read them all.

**Rebuttal: Bill Hanser**

It was frequently mentioned the property adjacent to Georgina was to be single family. This is incorrect, the property was always zoned for four plexes at a minimum. The site plan submitted actually includes greater green space and garden areas. There is a softening density to the Georgina subdivision.

**John Casper**

Access is being approved for residences. Value is being shown for site parking rather than street parking to alleviate traffic issues. The new site plan, in general, is a nicer looking arrangement than the previous plans. The number of units has increased, but the number of buildings has decreased.

Vice Chair Bollman asked if approval was granted would the applicant be agreeable to additional conditions possibly implemented by the Board.

**Discussion**

Board member Mitchell asked if a Traffic Impact Study had been completed. Brian of Sanderson Stewart replied a TIS had been completed for the approved 237 units. The recommendation was to provide a connection from the end of 44<sup>th</sup> Street to Monad. Creating a secondary access and alleviating existing burdens.

Board member Mitchell pointed out the opposition being voiced regarding traffic issues for Georgina and was looking for some completed plans to alleviate those issues.

Georgina to the west is a private easement and not a public road. The road would have to be barricaded to eliminate traffic to the general public. Georgina is proposed as a future collector tying in to 56<sup>th</sup>.

Vice Chair Bollman asked staff if the increased density were approved, would a new TIS be triggered. Staff does not believe it would, however City Engineering would make the determination based on a site plan submittal.

Board member Heinrich asked staff if there are public meetings involved with this Planned Unit Development. No pre-app meetings are required with a Variance. He then asked if Police, Fire and the School District had submitted any comments regarding this Variance application. Staff advised

the application packets are sent out to agents for comments, including Police, Fire and Schools. No comments were received. Board member Heinrich asked if comments were ever received, to which Staff replied in the affirmative.

A caller insisted he be allowed to Rebut in opposition to the Variance. Vice Chairman Bollman denied the request as the caller had already been given the opportunity to comment. The caller insisted he be heard; Vice Chairman Bollman granted the caller one minute.

Board member Mitchell asked if Georgina has been improved to 52<sup>nd</sup>. No, it has not.

The planned access is at the existing Monad with a new planned access at 48<sup>th</sup> and King Ave. There is no plan or advantage to having an exit out of Georgina.

Board member Heinrich confirmed if this Variance is not approved, building in the area is still allowable.

Board member Hagstrom reminded the Board what the new density would be.

**Additional comments allowed, Mike Creeden, 685 Clarks River Rd, Laurel, MT**

Opponents deserve the opportunity to rebutt. It comes down to ¼ acre green space as the buffer zone adjacent to Georgina subdivision. We understand it is going to happen, we do not approve of the increased density. We appreciate the Board chairman having read the letters of opposition, but others did not. There is enough opposition in this matter, all the engineers speaking for this development are being paid by Mr. Hanser, we in the community do not have the funding to hire engineers to speak in our behalf.

At 7:59PM, Vice Chairman Bollman closed the Public Hearing and called for a motion.

**Motion**

Board Member Mitchell made a motion and Board Member Heinrich seconded the motion to approve **City Variance 1324** with staffs findings of fact and to conform to the site plan as submitted agreeing to submit an amendment of the Traffic Impact Study if required by City Engineering.

<b>Member</b>	<b>Yes</b>	<b>No</b>	<b>Not Present</b>
David Mitchell	X		
Dave Hagstrom	X		
Paul Hagen		X	
Jeff Bollman	X		
Oscar Heinrich		X	
Martin Connell		X	
Mark Noennig			Recused

**The motion to approve City Variance 1324 failed with a 3-3 vote.**

**Other Business:** Board member Connell read a written statement regarding his opposition to continuing Board meetings virtually. He contends the public is complaining they are not being fairly heard.

There are 5 Variances to be considered at February's meeting. We should vote on Chair and Vice Chair at this meeting,

Project RE:Code will have a second reading at City Council January 11, 2021.

**ADJOURNMENT: The meeting adjourned at 8:10PM.**

**ATTEST: DRAFT. To be approved by a motion at the next regularly scheduled meeting.**  
*Robbin Bartley, Administrative Assistant.*

## Husman, Karen

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**From:** Tony Seitz <seitzt44@gmail.com>  
**Sent:** Monday, January 4, 2021 1:05 PM  
**To:** Husman, Karen  
**Subject:** [EXTERNAL] Variance 1324-Lenhart Square PD Amendment for Jan 6th meeting.

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Karen Husman,

My name is Tony Seitz, my wife is Kay Seitz, and we are the property owners of 4631 Georgina Drive which is in the immediate vicinity of the proposed variance change of the 1324-Lenhart Square PD Amendment request.

We strongly oppose the requested change to a much higher density in the proposed development. The reasons for this opposition are as follows:

1. A variance to increase density was already granted in 2018 and we bought our property in 2019 with that understanding. Increasing the density will cause a probable drop in property value. Our present subdivision is 1 acre lots, and the increased density immediately to our East would negate much of the benefit enjoyed by our long time approved zoning.
2. The proposed layout shows the development's street, also called Georgina Drive, tying into our Georgina Drive which is a private easement and no easement is planned to allow that connection. Georgina Drive is a minimally maintained gravel road and a private easement which ends at the property line. No easement from our private road to the proposed development significantly impacts access for the proposed change in density.
3. The proposed decrease in parking and covered parking, along with increased density is somewhat on the ridiculous side. Less Parking and more people will obviously strain congestion and ambiance in the entire area. Police and Fire would be hampered with the resulting street parking congestion.
4. Recent records already show traffic accidents and serious traffic problems at 48th and King which will be dramatically impacted even by the 2018 approved population densities.
5. The variance does not take into consideration the negative effect of greatly expanding the already dense development created the past three years. I think it would be a detriment to the city and the West end to create an overly large, highly dense area. Areas such as dense apartment areas and mobile home parks are more serviceable and less objectionable when they are spread out and smaller, rather than becoming cities within our city. Both law enforcement and fire will agree that an overly dense population causes more problems.

Please ask the Board to deny the change from the already changed density adjustment made in 2018.

Thank you so much for your help,  
Tony and Kay Seitz  
4631 Georgina Drive  
Billings, Montana 59106  
(406) 850-5620

--  
**Tony Seitz**  
[seitzt44@gmail.com](mailto:seitzt44@gmail.com)  
(406) 850-5620

**Husman, Karen**

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**From:** Fleming, Dennis <Dennis.Fleming@chsinc.com>  
**Sent:** Monday, January 4, 2021 1:19 PM  
**To:** Husman, Karen  
**Subject:** [EXTERNAL] Variance 1324 - Lenhardt Sq. Pd

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Dear Karen:

I have been informed of a new variance being proposed that may affect my property on Georgina Dr. The variance is # 1324 Lenhardt Sq. PD.

It looks like the variance wants to increase the maximum density from 10 units to 17. These new units would be built on the west side of existing units. Correct me if I am wrong, but I believe they want to build a road to connect to Georgina Dr. from the northwest corner of apartments.

I purchased property on Georgina Dr. thinking this was a private road and would not extend to these apartment dwellings. I have some concerns about the variance and are listed:

I do not understand why they would decrease the parking, but increase the density?

If Georgina Dr. is extended to the apartments, will it be paved? (It looks like the road going north out of apartments to Monad Rd is gravel.)

Who is going to maintain Georgina Dr. if variance and road is passed, (Most of traffic will come from new apartment units.) I do not want to get stuck with this bill if road stays gravel.

If Georgina Dr stays gravel that would bring a lot of dust and traffic past my house.

Would there be a lot of construction traffic on Georgina Dr. for new units?

This extra traffic would not be conducive to raising a family on Georgina Dr.

I am afraid that my property value will decrease.

I am afraid accidents at intersections along 48<sup>th</sup> St. will increase. (these intersections are notoriously bad already)

Please ask to deny this variance.

Thank you 😊

**Dennis Fleming Family Trust**

**Husman, Karen**

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**From:** Dan Dyk <dand.ptl247@yahoo.com>  
**Sent:** Monday, January 4, 2021 11:13 AM  
**To:** Husman, Karen  
**Cc:** Sally Kindsfater; joe dyk  
**Subject:** [EXTERNAL] Variance request meeting

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Hello, my name is Dan Dyk. I have a vested interest in the properties adjacent to the Lenhart developments. I'm referring to the "Dyk" properties that immediately border the west. I wish to be part of the January 6, 2021 "Zoom" meeting, 6 pm, about the variance requested by the owner. Requested are dwelling density increase, and reduction of parking available to residents. I will submit comment, sent to you by 1 pm on that day. I wish to be included in other communications, publications, meetings about this variance request, as allowable. My phone is (406) 690-7271. My mailing address is 2301 Azalea Lane, Billings, MT 59102. My email is: dand.ptl247@yahoo.com. Thank you, Dan Dyk

Sent from my iPad

Vari. 1324

4

## Husman, Karen

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**From:** William Dyk <williamdyk@yahoo.com>  
**Sent:** Monday, January 4, 2021 11:27 AM  
**To:** Husman, Karen; Tony Seitz  
**Subject:** [EXTERNAL] Variance 1324-Lenhardt Square PD Amendment

**ATTENTION:** This email originated from outside of the City of Billings. Use caution when clicking links or opening attachments unless you recognize the sender and are expecting the contents.

Through: Karen Husman

To Whom it May Concern,

I am a homeowner on Georgina Drive, directly west of Variance 1324 - Lenhardt Square PD. I have been a home and land owner on this street for 28 years. As a land owner who owns property that borders Lenhardt Square development, I oppose the increase in density because of the negative impact it will have on the future development of Georgina Drive and the probable decrease in our established property values.

The land in the variance was already granted an increase in density in 2018. Increasing the density again by such a substantial amount will not only create too much traffic on our neighboring streets, but it will also drop our property values.

The only exit point for the variance is 44th St. (through an existing apartment complex to King Ave.). Based on the request, the variance is asking for an additional 70% increase in density and less parking. This seems highly unreasonable, because the area is already severely overpopulated with only one access point. It seems only reasonable that if you increased in density you would increase parking so the streets would not be congested with vehicles and restrict emergency vehicles. I would think our "arterial street network" should be fixed first to accommodate the already congested traffic between the existing apartment complexes in Lenhardt Square and the apartment complex south of King Ave. So, the request is not well-thought-out, in that it completely overlooks the lack of exit points and already congested traffic.

In relation to the future of Georgina Dr., the variance would negatively impact the property values and future development of the street. With increased population comes more light pollution, noise, and traffic. Each of these factors not only negatively impact Georgina's St.'s future property values but also harms the current livelihood of the street's residents.

Respectfully, I am asking for the board to deny this variance.

Sincerely,

William and Carol Dyk  
4719 Georgina Dr.  
Billings, MT 59106  
williamdyk@yahoo.com  
(406) 698-1132

**Husman, Karen**

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**From:** Mary Dyk <marydyk@me.com>  
**Sent:** Tuesday, January 5, 2021 8:25 AM  
**To:** Husman, Karen  
**Subject:** [EXTERNAL] Variance 1324-Lenhardt Square PD Amendment comments

**Follow Up Flag:** Follow up  
**Due By:** Wednesday, January 6, 2021 10:30 AM  
**Flag Status:** Flagged

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City Of Billings  
Planning and Community Services Department

My name is Mary Dyk. I own parcels D00511, D00510I, D00510H, and am part owner in parcel D00512 directly west of the proposed Lenhart Square Development. I am opposed to the requested variance because:

- \* It will negatively impact the surrounding community by increasing the local population and traffic flow. This is going to directly impact the local long time residents on a daily basis.
- \* The current plan is already going to be a big change to the neighborhood and this variance is obviously wanted to increase revenue for the developers not increase the needs of the community.
- \*The decrease in parking areas will push the traffic onto the street and create issues for local services such as emergency and snow removal. These apartments need more parking space not less.
- \* Creating "Diverse housing stock" as stated by the developer is already being done with the present plan. It tends to bring in a transient community which does not have an ownership in the community at large. This will not be beneficial.

Please consider denying this request for this variance.

Thank you!  
Sincerely,  
Mary Dyk  
Local land owner  
Sent from my iPad

**Husman, Karen**

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**From:** Aileen Kindsfater <aileen.kindsfater@gmail.com>  
**Sent:** Tuesday, January 5, 2021 11:31 AM  
**To:** Husman, Karen  
**Subject:** [EXTERNAL] Response to Variance Request 1324

**Follow Up Flag:** Follow up  
**Due By:** Wednesday, January 6, 2021 8:00 AM  
**Flag Status:** Flagged

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Ms. Husman and council members,

My name is Aileen Kindsfater and I am writing to you today in response to the variance request 1324-Lenhart Square PD Amendment.

My vested interest in this matter stems from the fact that my family, by marriage, owns the residence at 4733 Georgina Drive as well as a shared ownership of the acreage kitty-corner to this development to the southwest. This variance is directly tied to my husband's childhood home, current place of (home) business, and future place of residence.

To begin, I would like to point out that there was no recognition in the applicant's request that the proposed development is directly adjoining (to the West along Georgina Drive) to a county single-family residence/subdivision. This omission and false classification of the land use as "agricultural" neglected to acknowledge this variance's impact to a community of existing and soon-to-be built single family homes along Georgina Drive.

In 2018, unbeknownst to the above mentioned county subdivision land owners adjacent to this property, both a variance and special request were granted to this Tract within the Lehnart Square PD, increasing the density of the proposed development (see Sally Kindsfater's notes for further detail on the original platting of this Tract). And now today, we have become aware that another variance request of increased density and decreased covered parking has been applied for. Within that application it is stated that the "facts of hardship" are that the variances "are consistent with the immediately adjacent apartment developments". It is my deep concern that this justification, one, lacks any true hardship and two, leaves out any consideration of the **immediately adjacent development** along Georgina Drive.

As a professional engineer who had the privilege of working at Sanderson Stewart for four years, I fail to see the merit of these incremental variance requests to increase density without first requiring due diligence by the planning entities, for instance, to conduct a traffic study, seek consultation/recommendations from emergency services, the mass transit system and school systems--to name a few of the services involved. Just because you state that you are satisfying general criteria such as furthering the goals of the West Billings Plan or have proximity to arterial roadways doesn't mean that those criteria are being thoughtfully implemented or that those accesses are safe and sufficient for the proposed use. How are developers and their representatives being held accountable to the very important goal of *building enduring communities*?

Finally, I find the proposal of increased unit density in conjunction with decreased designated covered parking spaces a counter-productive approach to thoughtful planning. The increased open space that this is meant to facilitate is then offset by the congestion of on-street parking which is a significant detriment to the safety of the residents' personal property as well as traffic safety.

**Husman, Karen**

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**From:** ramona carl <ramonarcarl@gmail.com>  
**Sent:** Tuesday, January 5, 2021 1:10 PM  
**To:** Husman, Karen  
**Subject:** [EXTERNAL] Proposal for variance of variance #1282

**Follow Up Flag:** Follow up  
**Due By:** Wednesday, January 6, 2021 9:00 AM  
**Flag Status:** Flagged

**ATTENTION:** This email originated from outside of the City of Billings. Use caution when clicking links or opening attachments unless you recognize the sender and are expecting the contents.

Dear Ms. Husman and Board Members,

As an individual with an ownership interest in, and as an owner of a residential lot on the acreage closest to the proposed development, I object to the proposed modifications to variance #1282, which are requested on behalf of Great Hall Partners in the proposed variance #1324 having to do with the Lenhardt Square Development Agreement.

Please carefully consider the most certain negative impacts the proposed modifications will bring. An almost triple digit increase in density allowance coupled with a big reduction in covered parking availability is far less than optimal for the development of a Billings community.

Greatly reduced provision of covered parking space will result in a problem of ingress and egress needed for deliveries, snow clearance and maintenance of roads, and needed emergency response.

Traffic will be impacted along King Avenue, as those traveling into and out of this high density area will drive directly onto King Avenue, sometimes needing to make the more difficult left hand turn onto King Avenue in order to head east.

Best regards,

Ramona Carl

**Husman, Karen**

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**From:** sally@logotypepromotions.com  
**Sent:** Tuesday, January 5, 2021 4:17 PM  
**To:** Husman, Karen  
**Subject:** [EXTERNAL] Response to application for variance 1324  
**Attachments:** Lenhardt Square.pdf; 20210103-137A4554.jpg; 20210103-137A4584.jpg; 20210103-137A4565.jpg; 20210103-137A4553.jpg

**Follow Up Flag:** Follow up  
**Due By:** Wednesday, January 6, 2021 8:00 AM  
**Flag Status:** Flagged

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Response to Application for Variance 1324

My name is Sally Kindsfater. I have lived in the residential subdivision adjoining Tract 5 of Lenhardt Square since 1983. My address is 4733 Georgina Drive.

Each of the 10 plots in our county subdivision is single family, with 1.2 or so acres per plot. (Certificate of Survey 983). I have attached a conceptual master plan for Lenhardt Square, which **Janice Lenhardt Rehberg brought to me in 2016**, as they asked for us to cooperate with their request to the MDT to move a projected roundabout access to enter in their property on King Avenue West. She was adamant that their goal was a community that worked with existing neighborhoods, and that the tract adjoining our land would be single family homes, with duplexes or triplexes on the east portion of Tract 5. Our neighborhood was not informed that any zoning variance had taken place in 2018. I only learned of this last week.

The density of this variance will directly impact our lives. Attached are photos of our neighborhood. Again, I would like to point out that it is a subdivision, and while the unbuilt lots are farmed to maintain them, each is zoned as single family. In the spring of 2021, the 3 owners of lots on the northeast plot are planning to build homes for themselves. They invested in these lots with plans to live in a safe and stable neighborhood. Tract 5 of the Lenhardt Square requesting 17.2 units per acre will impose a hardship on our subdivision, an existing community.

Additional photos show the current state of parking at the Lenhardt Square apartments, and of the multi-family directly across the street. As you can see from the photos, parking is already an issue; traffic is not controlled for access onto King Avenue West. Emergency vehicles, road maintenance and garbage disposal crews currently face hardships in navigating the existing parking and traffic. More high density with less parking will make this hazard even greater.

I urge the board to deny this variance. The volume of high-density projects along King Avenue West between Shiloh and 48<sup>th</sup> Street West are creating a community that will have huge impact well beyond our subdivision. The long-term effects will not be easily remedied for services, schools and traffic.

Sincerely,

Sally Kindsfater  
 4733 Georgina Drive, Billings, MT 59106  
 406-652-1827  
 sally@logotypepromotion.com

**Husman, Karen**

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**From:** Mike Kindsfater <mike.kindsfater@gmail.com>  
**Sent:** Tuesday, January 5, 2021 4:31 PM  
**To:** Husman, Karen  
**Subject:** [EXTERNAL] Response to Variance Request 1324

**Follow Up Flag:** Follow up  
**Due By:** Wednesday, January 6, 2021 8:30 AM  
**Flag Status:** Flagged

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Dear Ms. Husman and board members,

My name is Michael Kindsfater and I am writing to you in response to the variance request 1324-Lenhardt Square PD Amendment.

My vested interest in this matter is that my family owns the residence at 4733 Georgina Drive, in addition to a shared ownership of the acreage kitty-corner to this development to the southwest. I lived in and was raised in this residence beginning in 1983, and will be moving back there with my family in the coming years. My concern is for a variety of negative impacts this variance will have on our subdivision.

First is that it requests a decrease in available covered parking while simultaneously increasing the density of residents. As they are allowed currently, there is already a disparity in the ratio of parking to residents. Further increasing that disparity will negatively impact owners in our subdivision and further negatively impact traffic circulation in our area. Nowhere else in Billings has there been allowed the quantity of high-density development that is currently being developed along the King Avenue corridor. Yet, this variance requests a **further** increase in population density—not only without adding sufficient covered parking to accommodate it—but in fact **decreasing** the amount of available parking, creating an even more disparate ratio of parking to population. This is not just a problem of unsightly congested street parking, but a problem of safety due to impacts on traffic and emergency services.

Further, this request does not take into consideration the current and ongoing development of single-family residences along Georgina Dr. There is no acknowledgment of this development in the proposal, and it has falsely classified the adjacent land use as “agricultural.” This would negatively impact all property owners of this subdivision.

I respectfully request that you deny this application. Thank you for hearing my concerns.

Sincerely,  
Michael Kindsfater

**Husman, Karen**

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**From:** janelle schrag <janellesabrat@hotmail.com>  
**Sent:** Tuesday, January 5, 2021 6:43 PM  
**To:** Husman, Karen  
**Subject:** [EXTERNAL] Variance 1324

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My name is Janelle Schrag. As a person that has ownership in land directly connected to the land for which a variance is being petitioned for, I would like my objection to be heard and considered.

This Variance is being requested for yet another population density increase after a Variance was already somehow granted in 2018. This new variance is a request to increase population density again by 28.5%!  
The tremendous increase in population density that this variance seeks would have irreparable and destructive results not only for the single home families that are already established and planned for and persons owning adjoining land , but also for those who would be stacked even higher on top of each other.

The infrastructure, which is already compromised, would bring even more problems if this variance is granted. The complete lack of consideration for parking would bring danger to children living here as they would not be seen when outside playing.  
The cramped parking, or lack of parking, would be a nightmare situation for snow removal, school busing, mail delivery, garbage and delivery services, and also emergency situations that are sure to happen with the large increase in population.

Now, just imagine those parked cars when it is time to go to work! Ingress and Egress to King Avenue is already overwrought.  
Adding the increased population density would make traffic even more hazardous than it is now. Dare I say, even a liability...

The single family homes that have been established , were built with an infrastructure to accommodate single family homes. With this Variance being granted it would severely impact the established home life of the adjoining property owners. Property values would decrease as would the quality of the lives of those who worked hard to establish their homes.  
Availability to everyday needs such as grocery stores, healthcare, Fire Protection services, Police patrol and response would all be required to serve too great of population density than would be safe or reasonable.

This Variance is a very poorly thought out request that gives no benefit or consideration to any one but the person making the request .  
There are so many aspects that are detrimental to so many others while giving benefit only to the requestor of this Variance.  
In all fairness and common sense, I strongly request that this Variance 1324 be denied.

Thank you.  
Janelle Schrag

**Husman, Karen**

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**From:** Sara Creeden <sara.creeden@gmail.com>  
**Sent:** Tuesday, January 5, 2021 7:40 PM  
**To:** Husman, Karen  
**Subject:** [EXTERNAL] Response to Variance Request 1324  
**Attachments:** Lenhardt Square.pdf

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Ms. Husman and Board of Adjustment,

My name is Sara Creeden and I am writing to you in response to the variance request 1324-Lenhardt Square PD Amendment.

My interest in this matter comes from growing up at 4733 Georgina Drive, where my mother still lives and my future residence is on the same street. We also have a shared interest in land directly to the southwest of the area under review.

I would like to start by pointing out that the adjacent land that the applicant referred to as 'agricultural' is in fact a single-family residence subdivision. These plots have been designated for over 35 years. This misrepresentation is neglectful and disregards the impact to a community of existing single-family homes on Georgina Drive, each with over an acre per home.

This week, I was made aware that in 2018 this land had a variance and special request granted without notification to the landowners on Georgina. The previous variance already increased the density of the development you are reviewing. Now, there is a request for even greater density with fewer parking spaces. With no grocery stores within two miles, and the closest bus route stopping at Shiloh, I have concerns how the people living there are expected to commute. An increase in density should have more designated parking on premises, not less.

At this point, it would appear the area to the west of Shiloh Avenue and King Avenue is about to become the most densely populated area in Montana.

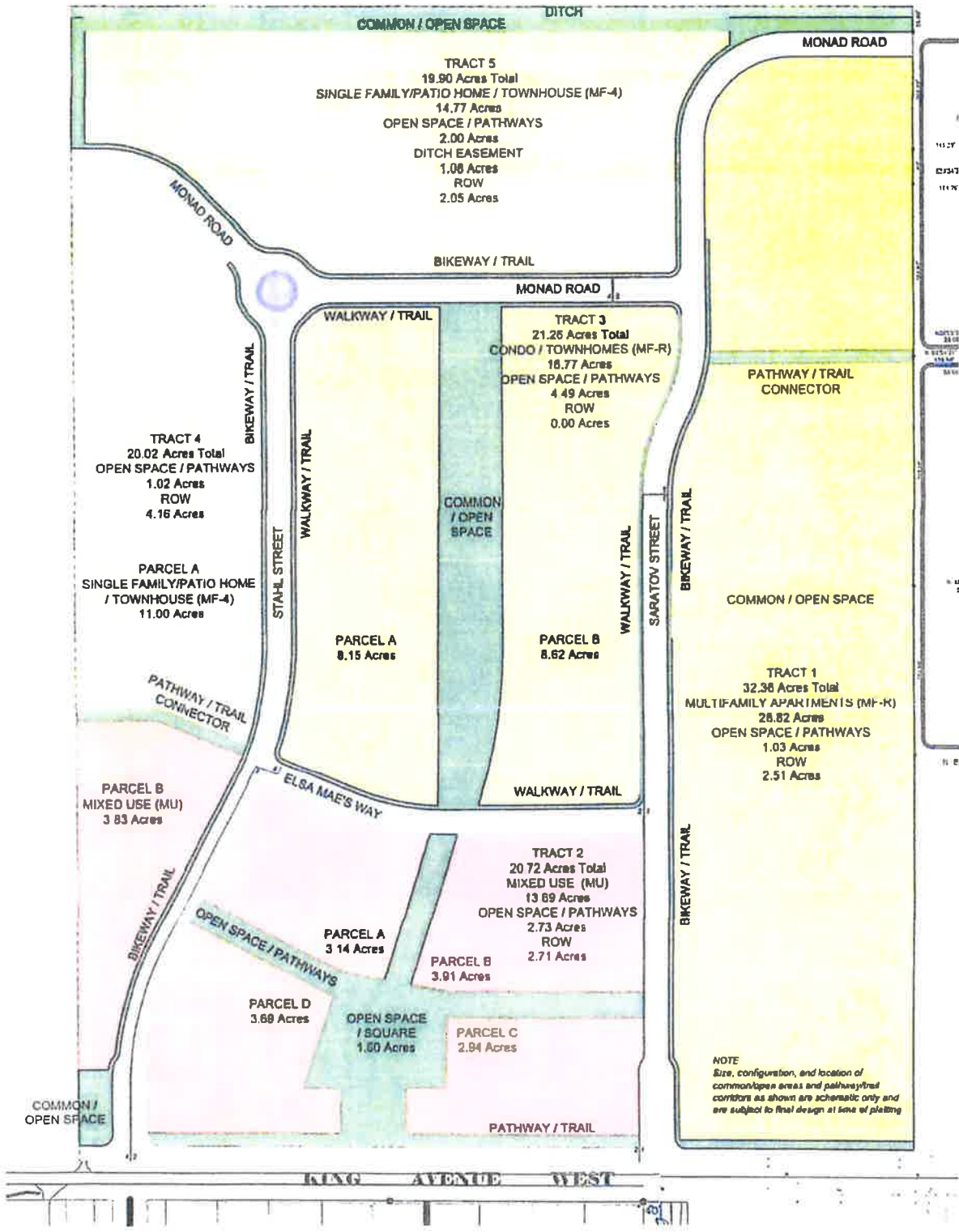
I am attaching to this email the plans that were shared by Janice Lenhardt Rehburg in 2016. These plans included green space, trails, and graduated density that considered the existing single-family community on Georgina Drive and included features that people moving into a growing city look for. This is drastically different from what is being evaluated this week.

Please, deny this variance. It strains an already busy infrastructure, sets unhealthy precedence for future development to gain density without thoughtfulness, and disregards the surrounding community already in place.

Sincerely,

Sara Creeden  
(406) 690-6917  
[sara.creeden@gmail.com](mailto:sara.creeden@gmail.com)

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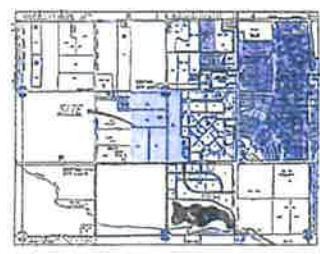
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**Husman, Karen**

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**From:** Joe <joevyk@aol.com>  
**Sent:** Tuesday, January 5, 2021 9:33 PM  
**To:** Husman, Karen  
**Subject:** [EXTERNAL] Variance 1324

ATTENTION: This email originated from outside of the City of Billings. Use caution when clicking links or opening attachments unless you recognize the sender and are expecting the contents.

My name is Joe Dyk and I would like to go on record as being against increasing the density of this development. There is not enough parking. Plans are being made to build out the county subdivision immediately west of this project on Georgina street.

The density of the county subdivision was set at 1 home per 1.19 acres back in the early 1980's by my parents. This farm has stayed in the same family since 1964. It is still farmed until a new entity or developer buys it. While we understand that Billings is growing and needs more housing, we don't think the west end needs a new "Cabrinis Greens". Especially next door to a subdivision with houses built 38 years ago. If this Hanser developer is truly concerned about open spaces, there is 65 acres for sale right next door.

Sent from my iPad

**Husman, Karen**

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**From:** Jeff Dyk <JeffD@totalstream.com>  
**Sent:** Wednesday, January 6, 2021 1:42 AM  
**To:** Husman, Karen  
**Subject:** [EXTERNAL] Response to variance request 1324-Lenhardt Square PD Amendment.

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Ms. Husman and council members,

My name is Jeff Dyk and I am writing to you today in response to the variance request 1324-Lenhardt Square PD Amendment.

My vested interest in this matter is my shared ownership in the Dyk Family trust, acreage that lies directly west and is adjoined to the aforementioned land that is proposing amendments.

My concerns are simple, that increasing density on an already dense dwelling proposal will adversely burden the area with too much traffic and will cause undue burdens on the community being developed to the west of single home dwellings.

Parking is not adequate, cramped conditions would increase liabilities for emergency services to the area, and consequently to the area adjoining to the west.

sincerely,

Jeff Dyk  
2103 Auburn Vale  
Katy, Texas 77493  
281-750-9104

**Husman, Karen**

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**From:** Mary Endicott <janiesings@gmail.com>  
**Sent:** Wednesday, January 6, 2021 9:45 AM  
**To:** Husman, Karen  
**Subject:** [EXTERNAL] Proposed variance #1324

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To Ms. Husman and Board Members

On August 14, 2020 I completed the purchase of the eastern most 1.19 acre lots north of Georgina. I am having a house built on this property and will become a resident by early fall 2021.

I vigorously object to approval for variance #1324, requested by Great Hall Partners pertaining to Lenhardt Square. A request for density was already granted in 2018 and this current proposal is for not only for increased density of units but also for reduced parking allowance for inhabitants!

If there are many more units per acre, the parking allowance should be increased, not decreased.

The higher density will affect my property and home because the calm and spacious and visual qualities that drew me to invest in this property and build a home on it will be dramatically reduced.

It should be considered by the applicants that the large number of cars owned by inhabitants will need daily egress and ingress onto King Ave. West. This road is used as a corridor to avoid the congestion of nearby streets and results in speeding. The ingress and egress issue will cause alot of congestion for this area.

I also refer you to Ordinance No.0535 and City Codes, Chapter 4-300. With more units and inhabitants there will be many more dogs. If these pet owners are not in compliance with these regulations it will present a nuisance and possibly danger to surrounding neighbors. The proposed open space does not seem adequate for a quality accomodation for these animals.

I thank you for your time and considerations,

Mary Jane Endicott

## Husman, Karen

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**From:** Bryan Alexander <balexander@sandersonstewart.com>  
**Sent:** Wednesday, January 6, 2021 11:23 AM  
**To:** Husman, Karen; Bill Hanser; David Mitchell; drhagstrom@gmail.com; Jeff Bollman; Mark Noennig; Marty Connell; Oscar Heinrich; Paul Hagen  
**Cc:** Cromwell, Nicole; Bartley, Robbin; Scott Houle; Michael Casper  
**Subject:** RE: [EXTERNAL] Proposed variance #1324 [20215]  
**Attachments:** Lenhardt\_Neighbors\_Ltr\_010621.pdf; Georgina\_Easement.pdf

Hi Karen,

Attached is a letter aimed at addressing a number of the neighbor concerns ahead of tonight's hearing. If it is appropriate, we can send this out to the neighbors in which emails have been provided unless that is best to come from the Planning Division.

Thanks,  
Bryan

**Bryan Alexander** PE

Associate | Commercial Group Manager

t: 406-869-3343  
m: 406-855-8521

[SandersonStewart.com](http://SandersonStewart.com)

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**From:** Husman, Karen <husmank@billingsmt.gov>  
**Sent:** Wednesday, January 6, 2021 9:49 AM  
**To:** Bill Hanser <billhanser@hanserconstruction.com>; Bryan Alexander <balexander@sandersonstewart.com>; David Mitchell <d@cbcmontana.com>; drhagstrom@gmail.com; Jeff Bollman <jeffbollman@gmail.com>; Mark Noennig <mark@hendricksonlawmt.com>; Marty Connell <martyconnell@mconnell.com>; Oscar Heinrich <osclhjr@gmail.com>; Paul Hagen <p\_hagen@bresnan.net>  
**Cc:** Cromwell, Nicole <CromwellN@billingsmt.gov>; Bartley, Robbin <bartleyr@billingsmt.gov>  
**Subject:** FW: [EXTERNAL] Proposed variance #1324

Email number 14 regarding variance 1324.

January 6, 2021

## **Farmstead Apartments Zoning Variance Request 1324**

Dear Neighbor:

We received your letters of concern from the Planning Division and would like to reach out to provide some additional information and clarification regarding the proposed project and associated variance request for the Farmstead Road Townhomes and Apartments.

A majority of the concern centers around the following topics, which include parking, traffic, Georgina Drive improvements and project density. The staff report also identifies the property to the west as agricultural as the zoning at the time of the application was "Agricultural Open" though it is acknowledged that 1-acre residential tracts exist adjacent to Georgina Drive. Each of these topics are described below.

**Parking:** The proposed variance does not include a request to reduce the overall parking count for the development; the overall parking count will meet the requirements of the Planned Development zoning requirements. The variance request is to reduce the amount of parking that is covered/enclosed within the site development therefore allowing more parking on site by reducing the number of garages. No parking on public streets is included in the parking calculations above for the site. A further benefit of the new parking design allows for additional snow removal / storage locations on site.

**Traffic:** The proposed project, as stated in the application, will increase traffic generated from the site as there will be increased density; however, not by much more than is currently approved. The project will necessitate extension of 44<sup>th</sup> Street West to connect into Monad Road within the St. Vincent's Subdivision. This will provide a connection to the roundabout at Shiloh Road and Monad Road and provide a second connection to the arterial road network. Most, if not all, of the traffic from this development will use Monad and Shiloh as egress points which are created by this development. The creating of improved egress on to Monad will alleviate current traffic on South 44<sup>th</sup> St. / King.

**Georgina Drive:** The proposed site development will require the construction of Georgina Drive along the property's frontage as required for any development of the property. Georgina Drive is a dedicate right-of-way and is identified by the City of Billings as a proposed Collector that is planned to extend from 44<sup>th</sup> Street West and eventually connect to 52<sup>nd</sup> Street West. We understand that Georgina Drive to the west of the project site is located within a private easement. A road closed barricade, as approved by the City of Billings, will likely be necessary to prevent traffic through the private roadway.

**Project Density:** In our work with the Lenhardt family to develop this property we have attempted to increase parking on site as well as increasing the green space within the project. To create a more open and green development we are requesting to increase density by only 3.6 units/acre which will give us the ability to provide a more community focused development. Also, since the original plat of this property, the City of Billings has revised the stormwater management requirements, which has increased the cost required to develop this site. Our goal is to provide a community in which not only the residents can have a great quality of life but also any and all that work and live around the area.

**Husman, Karen**

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**From:** Lorna Dyk <lornadyk@gmail.com>  
**Sent:** Wednesday, January 6, 2021 12:28 PM  
**To:** Husman, Karen  
**Subject:** [EXTERNAL] Response to Application for Variance 1324

**ATTENTION:** This email originated from outside of the City of Billings. Use caution when clicking links or opening attachments unless you recognize the sender and are expecting the contents.

**Response to Application for Variance 1324**

My name is Lorna Dyk. I have ownership in land directly connected to the land for which variance 1324 is being petitioned. I am opposed to this request in its entirety, and would like the following to be considered in your review and decision-making.

The requested variance includes a proposed increase in population density from what was approved in 2018 for the developments that currently exist. In taking a drive through tour of these communities this past weekend, it is evident that there are difficulties in accommodating the needs of their tenants already at that population density. The development is attractive to tenants experiencing life transitions, rather than individuals seeking to establish a community and become a neighborhood. The single entrance to the development is lined with vehicles not able to be accommodated around the existing buildings. At the north end of the development vehicles have collected in areas without paving or evidence of [LD1] any development. It is my understanding that the requested variance will increase the population density by almost 30%, to that of an urban-like development rather a neighborhood community. The additional increase in population density will only amplify the evident lack of greenspace and spaces to accommodate the children and pets safely of residents and their guests. The significant increase in population density that is being requested will result in a neighborhood that is attractive to crime and difficult to provide adequate surveillance. This impact will have be felt by existing residents as well as single family residents owning the adjoining properties.

Driving west on King Avenue between Shiloh and 48<sup>th</sup> Street west also highlights the challenges of ingress and egress from the existing developments with the current population density. Frequently throughout the day there is a lineup of 5 to 10 drivers awaiting opportunity to turn onto King due to traffic volume. A further increase in population density as well as the amount of space devoted to high density development will only further amplify the challenges for drivers to enter onto King Avenue, even making the situation hazardous. The necessary infrastructure to make travel in this area safe for drivers **is not** in place.

The second aspect of this variance request that I would like to voice my strong opposition to is the request for decrease the parking requirements to 0.75/ residential unit. This request reflects that each resident will not have a vehicle in need of covered parking, or that the vehicles of those residents and their guest will be able to be accommodated by street parking. This does not make sense. If this variance is approved the challenges for snow removal, emergency access, busing support for families, as well as other transportation services and supports for residents will be challenging if not impossible.

As a result I am strongly requesting that variance 1324 be denied, as it appears to benefit only the desires of the requesting party and does not take into consideration all of the adjacent land uses and impacted neighborhoods.

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[LD1]

**Husman, Karen**

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**From:** Dan Dyk <dand.ptl247@yahoo.com>  
**Sent:** Wednesday, January 6, 2021 12:50 PM  
**To:** Husman, Karen  
**Cc:** Sally Kindsfater; joe dyk  
**Subject:** [EXTERNAL] Variance 1324

ATTENTION: This email originated from outside of the City of Billings. Use caution when clicking links or opening attachments unless you recognize the sender and are expecting the contents.

My name is Dan Dyk. I oppose this variance. The requested street-only parking is inadequate. Requested increase in density is excessive. I oppose Congestion on main ingress / egress through ways is already a community problem. Georgina, to the west, is a single family country subdivision platted with 1.25 acre homesites in the early 1980's, by my parents, Art and Myra Dyk. The main access to this subdivision is Georgina, dead-ending at the east side of the "Dyk farm". Ownership has been within the family. Plans for construction of new single family country homes are in progress for both sides of Georgina The requested variance would negatively impact property values, safety, community quality of life. This 3-story agglomeration of multi-family apartments resembles an oceangoing cargo ship placed on a small inland pond. Housing is needed, granted. Planning and zoning boards should not approve these variances. Original vision for Lenhardt plaza projected townhomes on the property in question. I urge returning to that Vision, or even lower density, for the sake of the immediate and wider communities.

Sent from my iPad



**City Board of Adjustment**

**Meeting Date:** 02/03/2021

**SUBJECT:** Variance 1322-2621 Downer Lane- Garage side setback

**THROUGH:** Karen Husman

**PRESENTED BY:** Karen Husman

**Information**

**REQUEST**

**Return Item; City Variance 1322-2621 Downer Lane-**A variance from 27-310(i) requiring an 8-foot side setback on a detached accessory structure over 18 feet in height to allow a 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 forwarding a recommendation of conditional approval for the variance based on the determinations for review provided within the summary portion this memo.

**APPLICATION DATA**

OWNERS: Thomas J. & Janet Blankenship

AGENT: Jeff Wollschlager, A-Line

PURPOSE: The purpose of the variance is to allow a new detached garage or renovate the existing garage in the same location

LEGAL DESCRIPTION: Lot 4 of Downer Acres Sub

ADDRESS: 2621 Downer Lane

EXISTING LAND USE: Residential

PROPOSED LAND USE: Residential

EXISTING ZONING: R-96

**CONCURRENT APPLICATIONS**

None.

**APPLICABLE ZONING HISTORY**

SUBJECT PROPERTY	VARIANCE #	DATE	FOR	APPROVED (Y/N)	ADDITIONAL DATA
None					
SIMILAR PROPERTY					
2720 Downer Lane	215	7/31/79	Rear sb, 10'	Y	
2725 Doreen	311	4/27/82	Rear sb, 14'	Y	
2410 Rimrock Rd.	903	8/5/03	Side sb, 2'	WD	
3004 Brentwood	576	10/25/88	Side sb, 6'	Y	SB for 2 story
2515 Rancho Rd.	None	n/a	Fr. SB < 10'	N/A	Garage & house less than 20 feet from ROW

**SURROUNDING LAND USE & ZONING**

NORTH: Zoning: R-96

Land Use: Residential

SOUTH: Zoning: R-96

Land Use: Residential

EAST: Zoning: R-96

Land Use: Residential

WEST: Zoning: R-96

Land Use: Residential

**BACKGROUND**

This is a variance request from a minimum 8-foot setback from the side property line in an R-96 zone to allow a 3-foot side setback for a detached garage more than 18 feet in height. The applicant is requesting the variance to allow removal or renovation of an existing garage and rebuilding in the same location a new, slightly larger garage. There have been similar variances granted in the surrounding neighborhoods, granting the variance would not be out of character for the neighborhood.

The Board, at its January 6, 2021, meeting, voted to delay action on this variance in order to confirm the applicant's intention to remove and rebuild the garage or remodel and enlarge the existing garage. The board also asked staff to confirm the actual proposed height and to determine if the structure could be relocated on the lot to accommodate the setback requirement. Staff has been in contact with the applicant and discussed the plans in more detail as per the BOA members requests. The plan is to renovate the existing garage from a 24'x24' garage which has an attic storage area into a 24'x36' garage with an enlarged bonus space above the garage. The bonus space will be approximately 665 square feet and would not be used as living space. The applicant's agent confirmed the overall height of the structure would be no higher than 24' at its highest point, and the wall height would not exceed the wall height of the existing residential structure.

## SUMMARY

### Proposed DETERMINATIONS for Variance 1322

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 existing structure was built in 1956, prior to zoning regulations. The property owner would like to remove the old garage or renovate and add square footage, or rebuild a new garage in the same location.

**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 1950'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 rebuild the existing garage and 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. This approval is to allow a variance from Section 27-308 requiring a minimum 8 foot setback from the side property line in a Residential – 9600 (R-96) zone to allow 3 foot side setback. No other variance is intended or implied.
2. The variance is 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 and complete construction within 2 years of BOA approval. Failure to meet the time limits of this condition 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. The applicant shall meet all other city code requirements with the exception of this variance.
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;**

Staff is proposing a time limit of one year acquire building permit approval and two years to complete construction.

**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 – detached garages are allowed in the R-96 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 in the summary section of this memo.

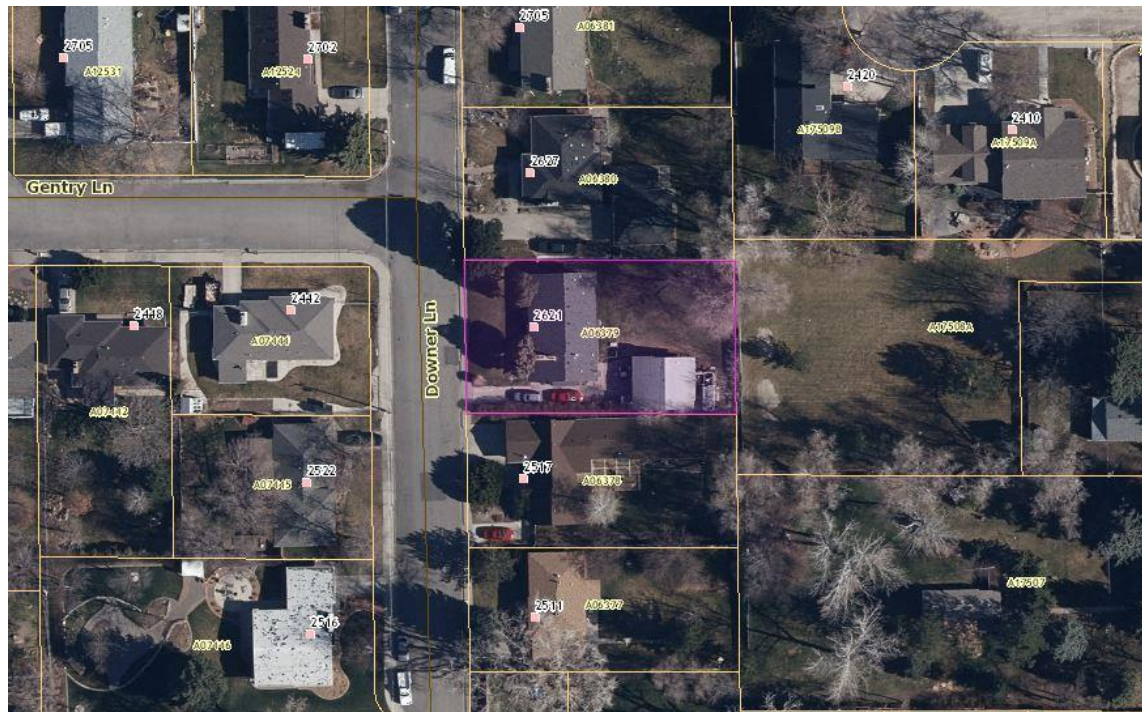
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## **Attachments**

Zoning Map & Site Photos  
Application & Applicant Letter  
Site Plan  
Site Plan 1

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# Zoning Map and Site Photos







East



West



North



South

Application & Applicant Letter

APPLICATION FORM

CITY VARIANCE

ID: Billings Variance # 1322 - Project # P2-20-00245

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 # A06379 CITY ELECTION WARD # 4

Legal Description of Property: Downer Acres, 535, TO 1 N, R25 E, Lot 4

Address or General Location (If unknown, contact City Engineering): 2621 Downer

Zoning Classification: R-9600 141.15' x 90'

Size of Parcel (Area & Dimensions): 11,292 SF

Covenants or Deed Restrictions on Property: Yes  No

If yes, please attach to application

Variance(s) Requested: 3' detached garage side setback for structure over 18' in height

Facts of Hardship: Existing garage w/ bonus space is too small for vehicle to fit and the bonus space is not code compliant for access.

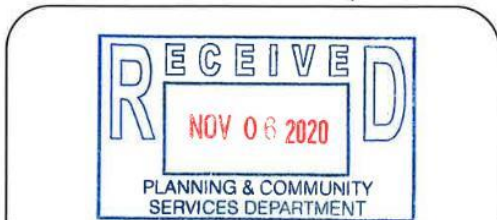
\*\*\* Additional information may be required as determined by the Zoning Coordinator in order to fully evaluate the application.

Owner(s): Blankenship, Thomas J + Janet  
(Recorded Owner) 4441 Harvest Ln 59106  
(Address) 406-656-5960  
(Phone Number) (email)

Agent(s): A-Line / Jeff Wollschlaeger  
(Name) 725 Grand Ave  
(Address) 406-321-2280 alinedrafting@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: Thomas Blankenship Date: 11-5-20  
(Recorded Owner)



11-05-20

## 2621 Downer Lane. Variance request

Subject: 2621 Downer Lane Billings MT 59102

Chairperson of the Board of Adjustment:

We are requesting a variance for a 3' side setback for a new detached garage with bonus space above with a side wall/ridge height of 23'8". An existing garage with existing bonus space above will be demolished and/or modified. The existing garage is too small for modern vehicles and the existing bonus space does not have adequate head clearances. The existing stairs are also non-code compliant. With a variance approval for the new structure it will bring updated curb appeal and provide a usable space and eliminate the number of vehicles parking on the street and existing drive.

Sincerely,

Owners Representative of 2621 Downer Lane

DOWNER LANE

25'-0"

PROPERTY LINE N00°14'E  
80.00'

20'-0"  
SETBACK

PROPERTY LINE N88°49'W  
141.15'

2'-0"  
SETBACK

LOT 4  
11292 SQ FT

20'-0"  
SETBACK

PROPERTY LINE S00°14'W  
80.00'

6'-0"  
REAR  
GARAGE  
SETBACK

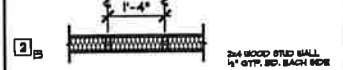
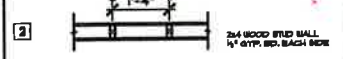
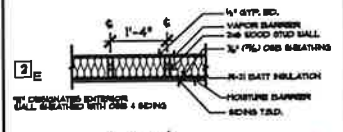
3'-0"  
SETBACK

PROPERTY LINE N88°49'W  
141.15'

VARIANCE REQUEST FOR  
DETACHED GARAGE WALL  
GREATER THAN 18'H WITH  
3'-0" SIDE SETBACK



**WALL LEGEND** SCALE 1/4" = 1'-0"



1/2" DESIGNATES WALL TO BE INSULATED.

INTERIOR APPLICATION TO BE PAINTED BY GYP. BD.

MINIMUM INSULATION VALUES FOR ALL SYSTEMS ARE AS FOLLOWS:

1. CEILINGS	R-49
2. WALLS	R-21
3. FLOOR (over unheated space)	R-30
4. FOUNDATION WALLS	R-21
5. BASEMENT WALLS	R-19
6. DOORS	R-2
7. WINDOWS	U-0.32

- (F) FAN
- (SD) SMOKE DETECTOR
- (HB) HOSE BIB
- (C) CARBON MONOXIDE DETECTOR
- (SG) SAFETY GLAZING

NOTE: CONTRACTOR TO VERIFY EXISTING CONDITIONS AND DIMENSIONS PRIOR TO CONSTRUCTION

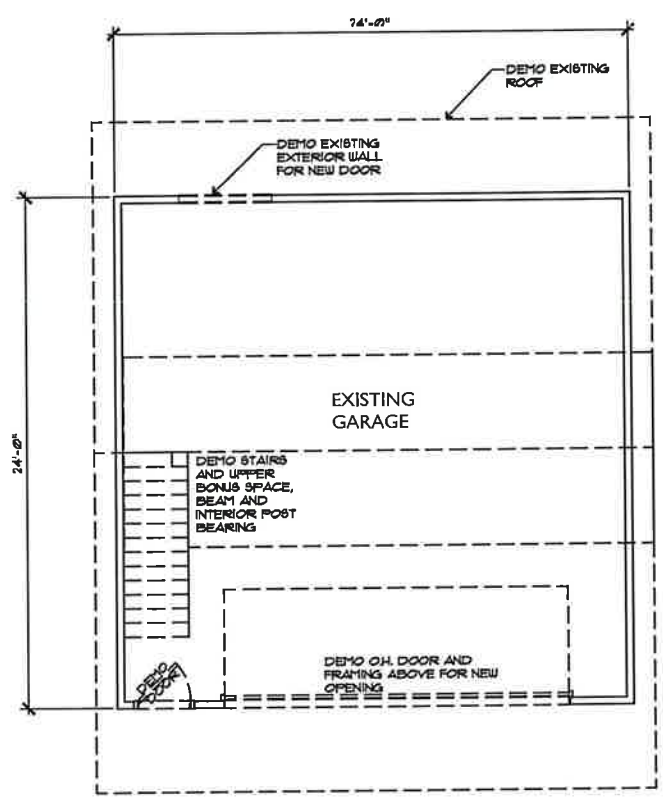
**NOTES**

-VERIFY ALL WINDOW SIZES W/ MANUFACTURER SPECS.

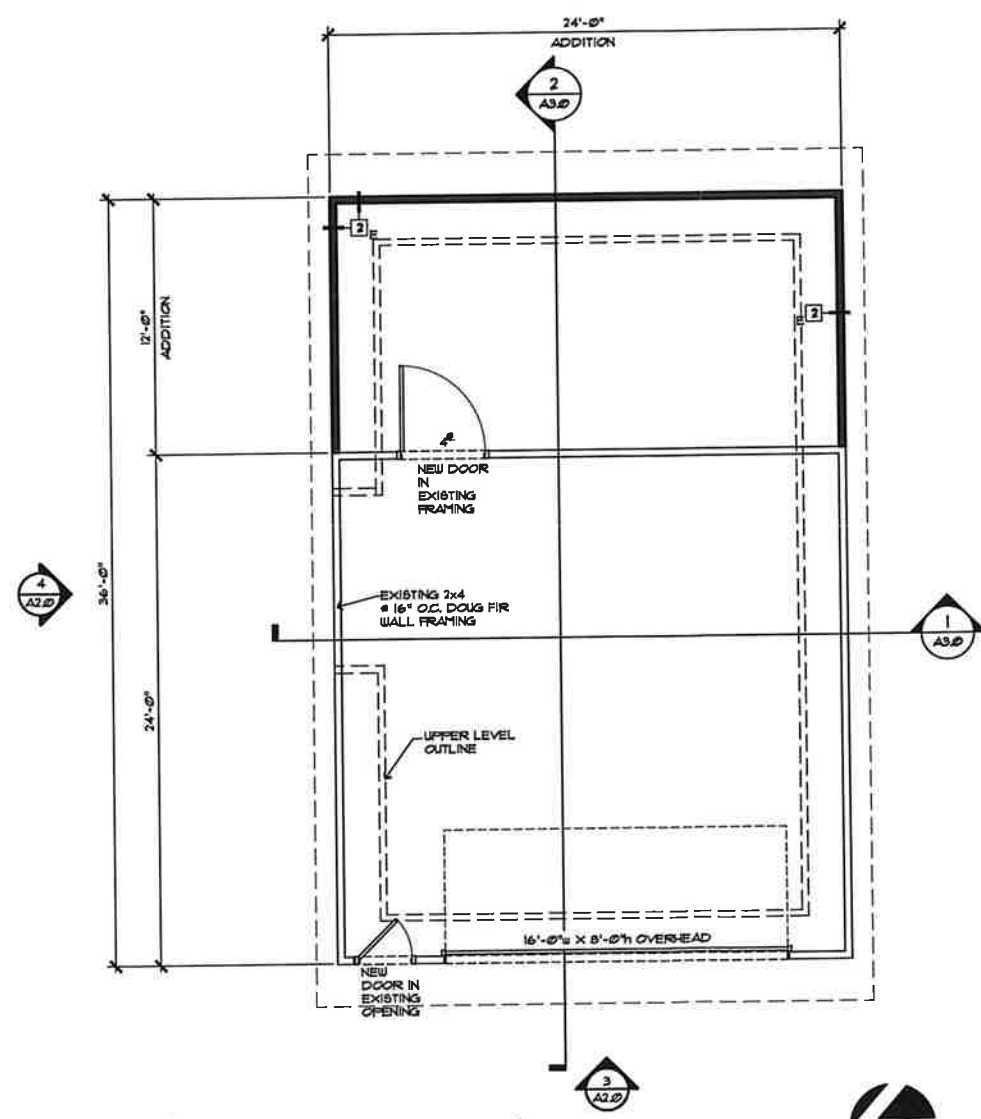
**AREA**

AREA:  
576 SQ. FT. (EXISTING)  
164 SQ. FT. MAIN LEVEL (ADDITION)  
768 SQ. FT. BONUS SPACE (ADDITION)

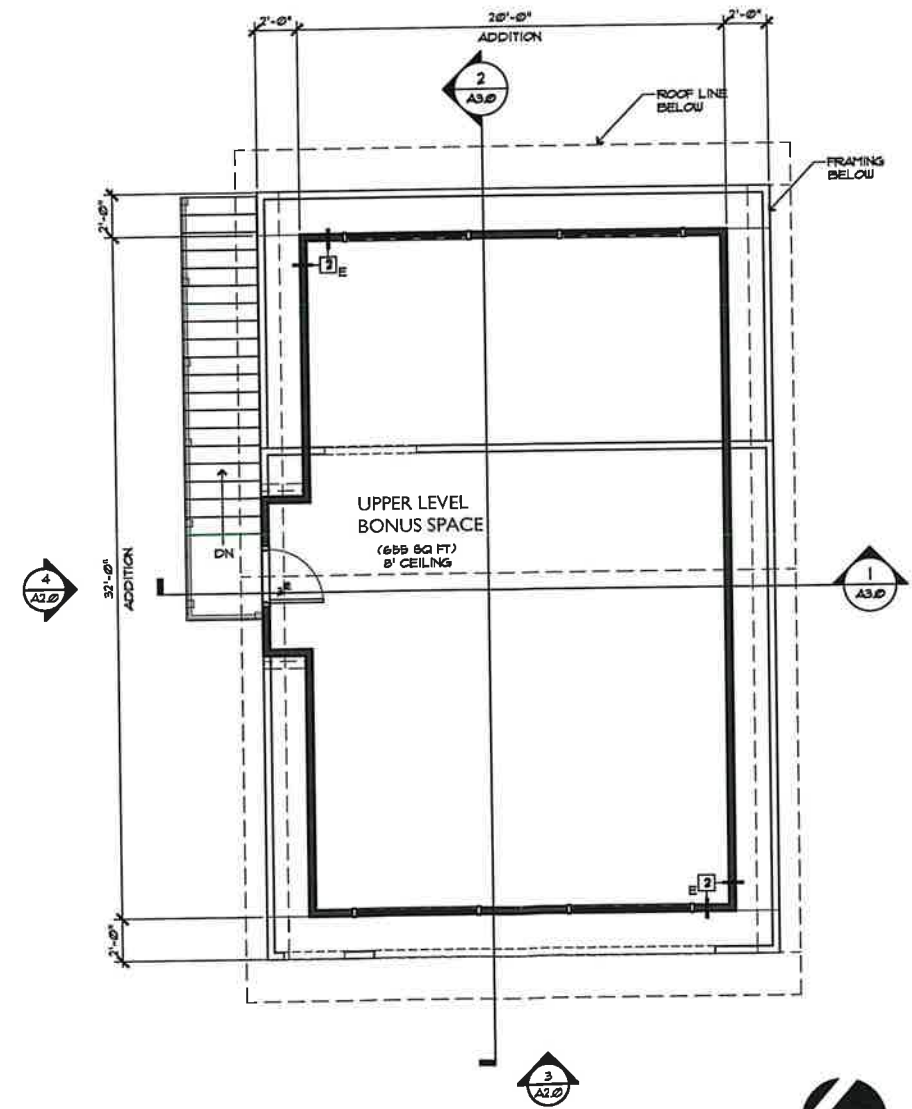
NOTE:  
-ALL WALL DIMENSIONS ARE TAKEN TO THE EDGE OF FRAMING, WINDOWS AND DOORS ARE DIMENSIONED TO THE CENTER OF THE OPENING. OPENINGS NOT DIMENSIONED TO BE CENTERED IN SPACE PROVIDED.



1 GARAGE EXISTING/ DEMO PLAN  
SCALE: 1/4" = 1'-0"



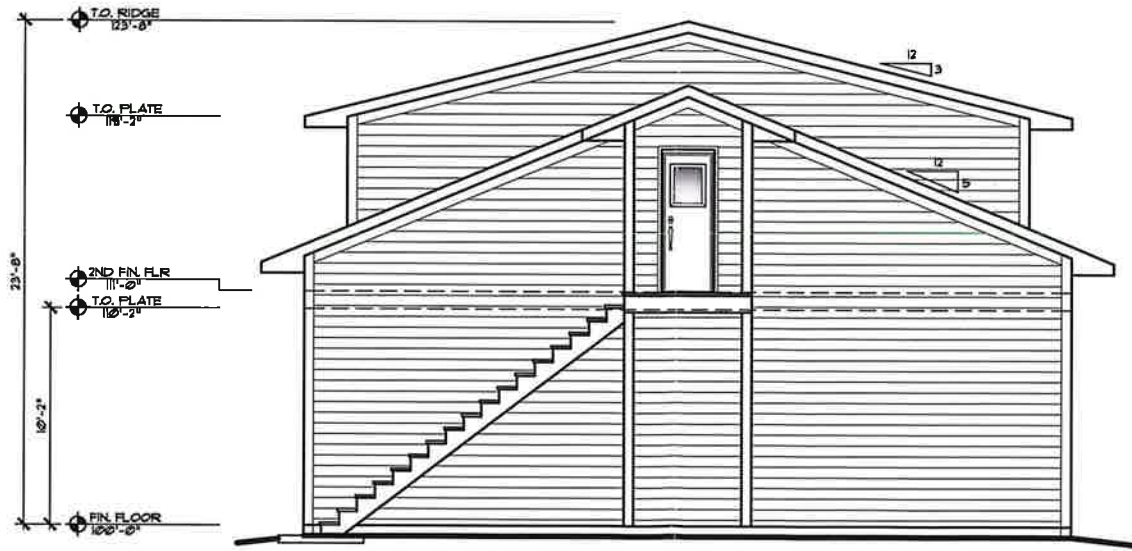
2 MAIN LEVEL GARAGE PLAN  
SCALE: 1/4" = 1'-0"



3 BONUS SPACE PLAN  
SCALE: 1/4" = 1'-0"



3 FRONT ELEVATION (GARAGE)  
 A2.0 SCALE: 1/4"=1'-0"



4 SIDE ELEVATION (GARAGE)  
 A2.0 SCALE: 1/4"=1'-0"



**City Board of Adjustment**

**Meeting Date:** 02/03/2021

**SUBJECT:** Variance 1326- 3801 3rd Ave N. -Alberta Bair EMD Sign

**THROUGH:** Karen Husman

**PRESENTED BY:** Karen Husman

**Information**

**REQUEST**

**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. Presented by Karen Husman, Planner I

**RECOMMENDATION**

Staff has reviewed this application and after consideration is recommending conditional approval. 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.

**APPLICATION DATA**

OWNERS: Fox Theater Corp.  
 AGENT: Tony Duncan, Sign Products  
 PURPOSE: EMD signs on N Broadway and 3rd Avenue North  
 LEGAL DESCRIPTION: Block 45, Lot 1A, Billings Original Townsite  
 ADDRESS: 2801 3rd Ave N  
 EXISTING LAND USE: Alberta Bair Theater  
 PROPOSED LAND USE: Same  
 EXISTING ZONING: CBD

**CONCURRENT APPLICATIONS**

Sign permit - PLN-20-03553

**APPLICABLE ZONING HISTORY**

SUBJECT PROPERTY	VARIANCE #	DATE	FOR	APPROVED (Y/N)	ADDITIONAL DATA
None					
<b>SIMILAR PROPERTY</b>					
Blk 91, Lts 13-18 OT	133	03/29/1977	Sign in Clear Vision area	Y	CBD
Blk 111, Lts 1&2 OT	464	03/27/1989	Sign code var	Y	CBD
Blk 94, Lts 11& 12 OT	512	02/03/1987	Wall sign	N	CBD
Blk 108, Lts 9 & 10 OT	580	12/27/1988	2 wall signs	N	CBD
2075 Central	634	03/05/1991	Sign size	N	RP
503 Wicks Lane	731	03/05/1996	Sign size	Y	RP
2139 Broadwater	753	10/07/1997	Sign size	Y	RP
2201 St. Johns Ave	762	04/07/1989	Sign size	Y	Public
2244 Central	777	09/01/1988	3 freestanding signs& separation	Y	
1029 Main St.	791	03/03/1999	sign setback 0' & height	Y	HC
2376 Main St.	799	06/01/1999	sign size & height	Y	HC
2376 Main St.	799	06/01/1999	Sign size	Y	HC

1111 24th St. W.	810	10/05/1999	Sign size	Y	RP
2455 Central	813	03/07/2000	sign size & SB	Y	
1145 North 19th St.	901	07/01/2003	Sign size	N	Med. Cor.
Blk 93, Lts OT	967	10/04/2005	Sign Project over ROW	Y	CBD
Blk 91, Lts 7A, 8-13 OT	975	12/06/2005	Sign Project over ROW	N	CBD
Blk 91, Lts 7A, 8-13 OT	975	02/21/2006	Appealed	Y	CBD
1101 Shiloh Cr. Blvd.	1112	12/07/2011	Sign size	Y	CI
2612 Belknap Ave	1124	07/11/2012	Sign size	Y	27th Corridor
2105 Central	1129	09/05/2012	Sign size	Y	RP
2345 King Ave	1233	07/16/2016	Sign size	Y	RP
100 Brookshire unit 1	1291	01/01/2019	sign area 116 sf	Y	
1101 Shiloh Cr. Blvd.	1112	12/07/2011	Sign size	Y	CI
2612 Belknap Ave	1124	07/11/2012	Sign size	Y	27th Corridor

## SURROUNDING LAND USE & ZONING

NORTH: Zoning: CBD  
Land Use: Church  
SOUTH: Zoning: CBD  
Land Use: Commercial  
EAST: Zoning: CBD  
Land Use: Commercial  
WEST: Zoning: CBD  
Land Use: Commercial offices

## BACKGROUND

This is a variance request 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. Section 27-705.C.3.a, requires 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. The purpose of the variance is to allow two electronic message display (EMD) signs of 34 square feet each. The signs would be along the marquee frontage at the corner of the building at 3rd Ave N and N Broadway. This corner of the building is very close to the traffic signal so conditions of approval are recommended to ensure the sign does not interfere with traffic safety at the intersection. N Broadway handles over 4,000 vehicle trips per day at this intersection in addition to the west-bound traffic on 3rd Ave North. This amount of traffic along with pedestrian crossings on all four legs of this intersection requires drivers to be focused and attentive to the travel environment.

There have been several types of sign variance requests within the City. Some have been granted, some have not. There have not been any applications for an Electronic Message Display sign variance. Staff has reviewed this application and after consideration is recommending conditional approval. 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 conditional approval or denial. Staff believes a recommendation of conditional approval would allow restrictive conditions that will reduce the impact of the EMD sign at a busy intersection in downtown Billings.

## SUMMARY

### DETERMINATIONS

Prior to approval, the Board of Adjustment shall ensure that the determinations for variances, as outlined below, have been satisfied:

**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 subject property does not have special conditions or circumstances that are unique or different from other properties in the same zoning district. The applicant would like to place two Electronic Message Display (EMD) signs on a building without meeting the specific conditions under 27-705.C.3.a. The purpose of the variance is to allow two EMD signs of 34 square feet each.

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

There have been no other variance requests in the City of Billings for EMD signs. There have been several variances for sign size, some have been granted, some have not. There have been sign code variances to exceed the number of signs allowed and freestanding sign height.

**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 granting of this variance would confer a special privilege since properties that are zoned similarly and are located in the same area have complied with the sign limitations for EMD signs

**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;**

Granting this variance will meet the general purposes and intent of the Growth Policy. Granting this variance will not meet the general purposes and intent of the Zoning Regulations for EMD signs.

**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 approval with the following conditions:

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 10:00 P.M. and 7:00 A.M. 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 its pending sign permit within six 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. After installation, the EMD signs 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, leaseholders, 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; and**

Staff is recommending the applicant/agent have 1 year to install the EMD signs.

**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 properties in the district.**

The granting of this variance would not allow a use that is not allowed in the zoning district. EMD signs are allowed in this zoning district.

**RECOMMENDATION**

Staff has reviewed this application and after consideration is recommending conditional approval. 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 that will reduce the impact of the EMD sign at a busy intersection in downtown Billings.

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**Attachments**

Zoning Map & Site Photos  
Application & Applicant Letter  
Site Plan & Sign rendering

---





East



West



North



South





# Application & Applicant Letter



## ZONING VARIANCE REQUEST



The undersigned as owner(s) of the following described property hereby request a Variance from the terms of the Zoning Regulations.

Check one:  City of Billings Variance  Yellowstone County Variance

Address 2801 3rd Avenue N

Legal Description Billings Original Town Bloc 45, Lot 1A

STATEMENT: Answer the following questions on a separate document and upload to the online project attachments.

1. What reasons prevent you from using this property in conformance with the Zoning Regulation requirements? *Variance from Section 27-705(c)3.a.1 and 27-705(c)3.a.3 - requiring an EMD wall sign to be immediately adjacent to a permanent graphic wall sign.*

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

3. Statement to Chairperson of the Board Adjustment. What is intended to be done with the property, including new construction or change in the use of the property and why the variance is being sought.

### Required Project Uploads

--Site Plan

--Signed Application and Statement (Variance Questions)

--Radius Map & Certified List of Property Owners

--Typed Mailing Labels Certified Surrounding Property Owners

Online Access: <https://services.billingsmt.gov/citizenaccess/>

*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 Request for a Variance. Also, I attest that all the information presented herein is factual and correct.*

Recorded Owner(s) FOX THEATRE CORP

Owner's Address P.O. Box 1556 Billings, MT 59103

Owner's Phone Number 406-256-8915 (E-mail)

*jdietrich@albertabairtheater.org*

Applicant/Agent Sign Products, Tony Duncan

Applicant/Agent's Address 1425 Monad Road

Applicant/Agent's Phone Number 252-6348

(E-mail) *tduncan@signproductsinc.com*

Signature of Recorded Owner(s) *Janis R. Dietrich*

Date *8/20/2020*

AUTHORITIES: Procedures and review Criteria for Variance requests Billings Montana City Code (BMCC) 27-1506 et seq. (SEC. 27-1506. **CITY VARIANCES, CITY BOARD OF ADJUSTMENT** a) Authority. The City Board of Adjustment shall have the authority to grant a variance from the terms of this chapter in specific cases where it is found that the granting of the variance will not be contrary to the public interest and where, because of special conditions with respect to City Variance 2020-2021 updated Nov 8, 2019 the lot shape or topography, a literal enforcement of the provisions of the chapter would result in unnecessary hardship.

AUTHORITIES: Procedures and Review Criteria for County Variance requests: Unified Zoning Regulations Section 27-1511 et seq. SEC. 27-1511. **COUNTY VARIANCES, YELLOWSTONE COUNTY BOARD OF ADJUSTMENT** a) Authority. The County Board of Adjustment shall have the authority to grant a variance from the terms of the chapter in specific cases where it is found that the granting of the variance will not be contrary to the public interest and where, because of special conditions with respect to the lot shape or topography, a literal enforcement of the provisions of the chapter would result in unnecessary hardship.

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

ZONING VARIANCE REQUEST – STATEMENT Q & A

- 1- What reasons prevent you from using this property in conformance with the Zoning Regulation requirements? (Variance from Section 27-705(c)3.a.3 – requiring an EMD sign to be immediately adjacent to a permanent graphic wall sign.)

**-The architectural design of the building does not allow for permanent signs to be installed next to the EMD's. The permanent existing signage is in close proximity of the EMD's as shown in the "Color Rendering" attachment.**

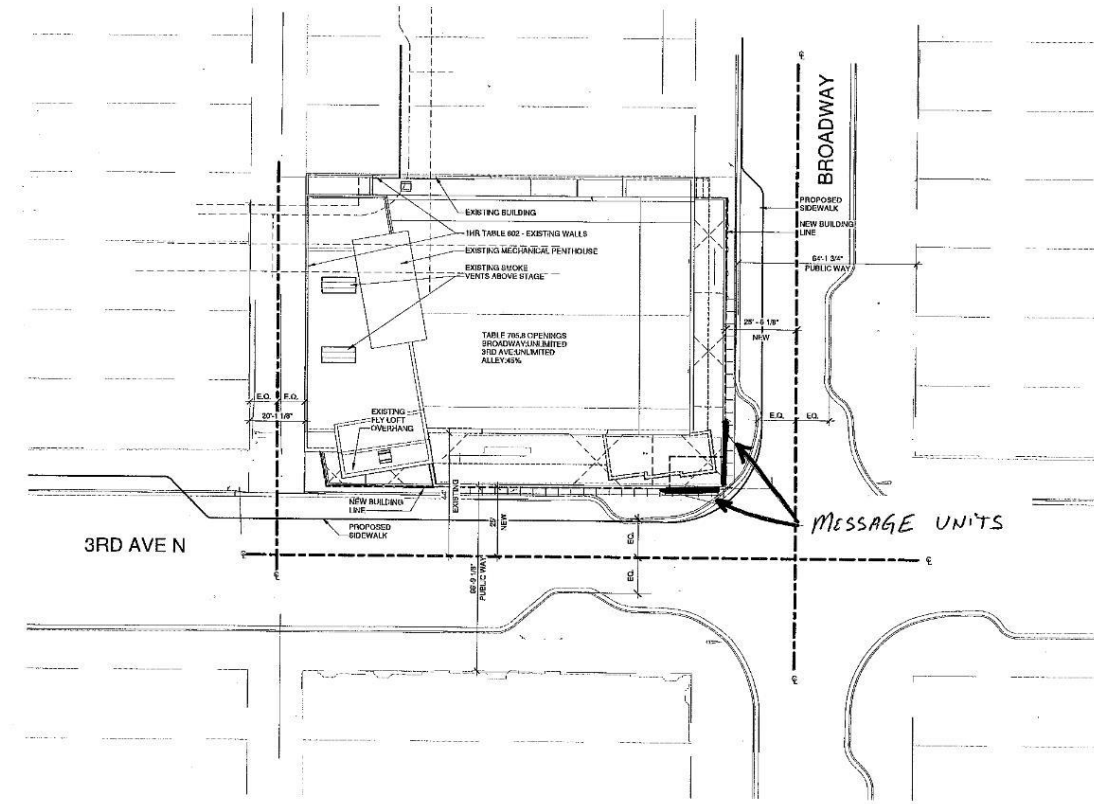
- 2- Why is there a need for the intended use of the property at this location?

**-The modern design of the Alberta Bair Theater renovation uses the EMD's to better promote the shows and events at the theater.**

- 3- Statement to Chairperson of the Board Adjustment

**-see "Statement to the Board of Adjustment" attachment.**

# Site Plan



1 SITE PLAN  
1" = 20'-0"



# Photo Rendering

ELECTRONIC MESSAGE UNITS SCALE: 1/8" = 1'-0"

**A** PROVIDE AND INSTALL TWO(2) ELECTRONIC MESSAGE UNITS, TIME-O-MATIC WATCHFIRE SERIES FULL COLOR LED UNITS, 10MM PIXEL PITCH WITH A 60 X 810 LAMP MATRIX, CAPABLE OF 7 LINES OF 3" CHARACTERS AND FULL ANIMATED GRAPHICS, DELL LAPTOP CONTROLLING COMPUTER, IGNITE OPX CONTROLLING SOFTWARE, 4G WIRELESS MODEM WITH LIFE OF SIGN CELLULAR CONTRACT COMMUNICATIONS, TEMP SENSOR WITH 100 STEP PHOTO CELL, AND WEB BASED TRAINING ALL INCLUDED. MOUNT SIGNS TO CORNER OF BUILDING. FABRICATE BLACK METAL CORNER SECTION FILLER TO JOIN UNITS.

<p><b>DESIGN</b></p> <p><input type="checkbox"/> As Designed</p> <p><input type="checkbox"/> With Changes</p> <p>DATE: _____</p> <p>BY: _____</p>	<p><b>PARTIAL SOUTH BUILDING ELEVATION</b> SCALE: 3/16" = 1'-0"</p>
<p><b>PARTIAL EAST BUILDING ELEVATION</b> SCALE: 3/16" = 1'-0"</p>	<p style="font-size: small;">                 CLIENT: SIGN PRODUCTS, INC. ALBERTA BAK THEATER BELLINGHAM, MT                  DATE: 08-19-20                  DESIGN: 18-00-20                  DRAWN: TONY D.                  CHECKED: TONY D.                  SCALE: 1/8" = 1'-0"                  SHEET: 1 OF 2                  THIS DESIGN IS THE PROPERTY OF SIGN PRODUCTS, INC. NO REPRODUCTION OR REUSE IS PERMITTED WITHOUT WRITTEN PERMISSION.             </p>



**City Board of Adjustment**

**Meeting Date:** 02/03/2021

**SUBJECT:** Variance 1327 - 3002 Alpine Drive

**THROUGH:** Karen Husman

**PRESENTED BY:** Karen Husman

**Information**

**REQUEST**

**City Variance 1327 - 3002 Alpine Drive** - 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%, a side setback of 3 feet and a rear setback of 0 feet for a detached structure 18 feet in height. Tax ID: A13162. Presented by; Karen Husman, Planner I.

**RECOMMENDATION**

Staff recommends conditional approval of the variance based on the determinations within the summary section of this report.

**APPLICATION DATA**

OWNERS: Kevin & Lynda Willms

AGENT: Samuel Hensler, PE & Kyle Huss

PURPOSE: Lot coverage of 33% & rear setback of 0 feet and side setback of 3 feet for a detached structure 18' in height

LEGAL DESCRIPTION: Block 1, Lot 2A Amended, Reimers Park Subdivision

ADDRESS: 3002 Alpine Drive

EXISTING LAND USE: Residential

PROPOSED LAND USE: Residential

EXISTING ZONING: R-96

**CONCURRENT APPLICATIONS**

None.

**APPLICABLE ZONING HISTORY**

SUBJECT PROPERTY	VARIANCE #	DATE	FOR	APPROVED (Y/N)	ADDITIONAL DATA
None					
<b>SIMILAR PROPERTY</b>					
3629 Vickory Dr.	811	1/5/00	SB	Y	
2607 Treasure	861	2/5/02	SB	Y	Side adjacent to street
2404 Quinn	932	5/6/04	LC 31%	Y	

**SURROUNDING LAND USE & ZONING**

NORTH: Zoning: R-96

Land Use: Residential

SOUTH: Zoning: R-96

Land Use: Residential

EAST: Zoning: R-96

Land Use: Residential

WEST: Zoning: R-96

Land Use: Residential

**BACKGROUND**

The applicant is asking for a variance to allow a maximum lot coverage of 33%, and to allow a 3-foot side setback and 0-foot rear setback for a detached accessory structure of 18 feet in height or more in an R-96 zone, on a 13,660 square foot parcel of land. The purpose of the variance is to allow construction of a new 1,000 square foot detached accessory structure.

The applicant states the garage would be 22 feet at the roof peak and would be adjacent to the rear property line. Records indicate there is an existing platted alley at the rear of the property that has not been constructed, making a zero setback to the rear an acceptable request as it is conforming to the current code for structures of less than 18 feet in height. Current code requires a minimum 6-foot rear setback for a detached accessory structure of 18 feet or more even when an alley exists but not constructed. The proposed zoning code allows a 0-foot rear setback for accessory buildings adjacent to an alley. The current lot coverage of 3,472 square feet of structure is about 25% of the total lot area. The requested 33% would allow a maximum lot coverage of 4,472 square feet. Under the new zoning code, this property would be "N3" zoning and the N3 zone district allows 40% lot coverage. The current code requires a minimum 8-foot side setback and a 6-foot rear setback for detached accessory structures of 18 feet in height or more. The new zoning code requires a 5-foot side setback for a detached accessory structure and allows a 0-foot rear setback where there is an alley, irrespective of the building height.

In order to begin construction prior to implementation of the new code, this variance approval is necessary for the lot coverage increase, the side setback reduction from 8 feet to 3 feet and the rear setback from 6 feet to 0 feet. Once the new code is adopted, this variance will be necessary only to allow the 3-foot side setback for the new structure.

## SUMMARY

### VARIANCE #1327 DETERMINATIONS

The Board of Adjustment (BOA) 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 wishes to add a new 1,000 square foot detached garage. There is an underground ditch - Cove Ditch - that runs beneath the backyard from northwest to the southeast. This underground structure restricts the size of any building proposed for this area of the 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;**

There have been other variances granted in the surrounding subdivisions. These variances were for setbacks and exceeding maximum lot coverage.

**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 to allow 33% lot coverage will not allow the applicant any special privileges. One similar variance 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.

**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:

1. The variance is to increase maximum lot coverage from 30% to 33%, to reduce the required 8-foot side setback to a 3-foot side setback, and to reduce the required rear setback from 6 feet to 0 feet for a structure of 18 feet in height or more to allow a new detached garage of no greater than 1,000 square feet. No other variance is intended or implied with this approval.
2. The variance is limited to Block 1, Lot 2A Amended, Reimers Park Subdivision, generally located at 3002 Alpine Drive.
3. The 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 that they approve the request to locate a structure as shown on the site plan in 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. 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; and**

The applicant will submit and obtain a building permit within 1 year and have it completed within 2 years of BOA 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 – single family dwellings with detached garages are allowed in the R-96 zone.

**RECOMMENDATION**

Staff recommends conditional approval of the variance based on the determinations within the summary section of this report.

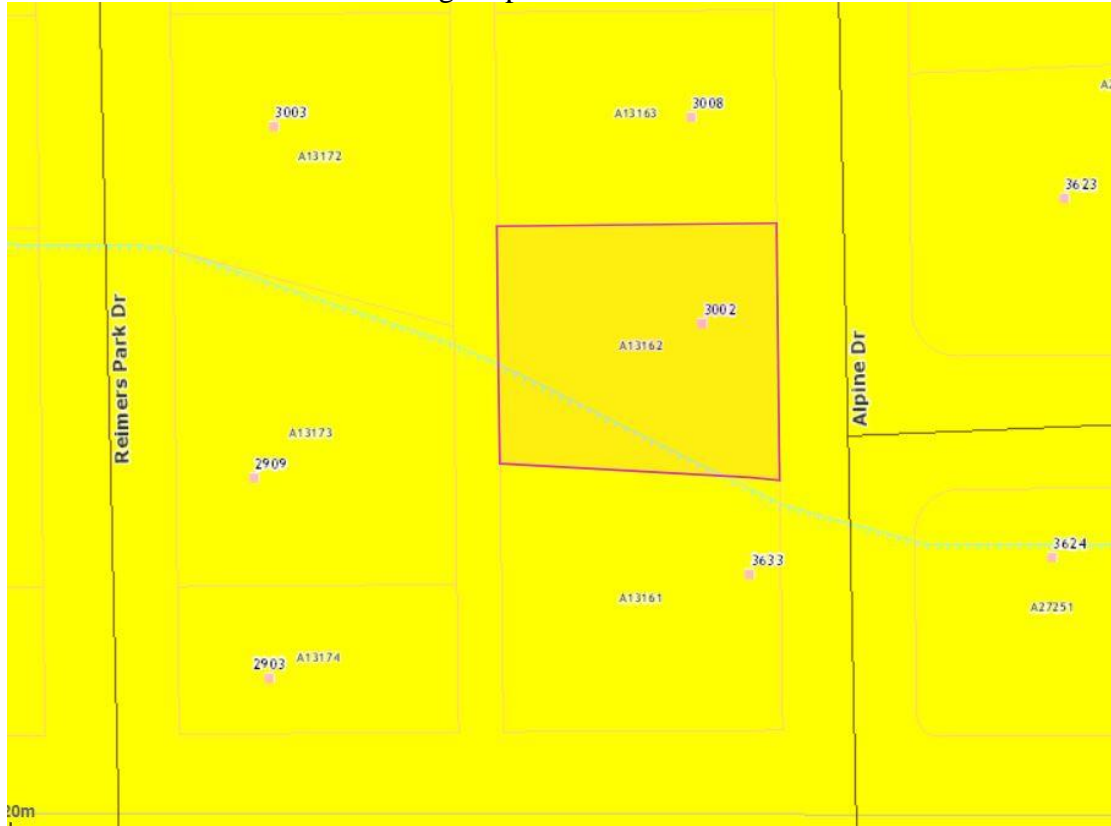
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**Attachments**

Zoning Map & Site Photos  
Application & Applicant Letter  
Site Plan

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# Zoning Map & Site Photos





West



North



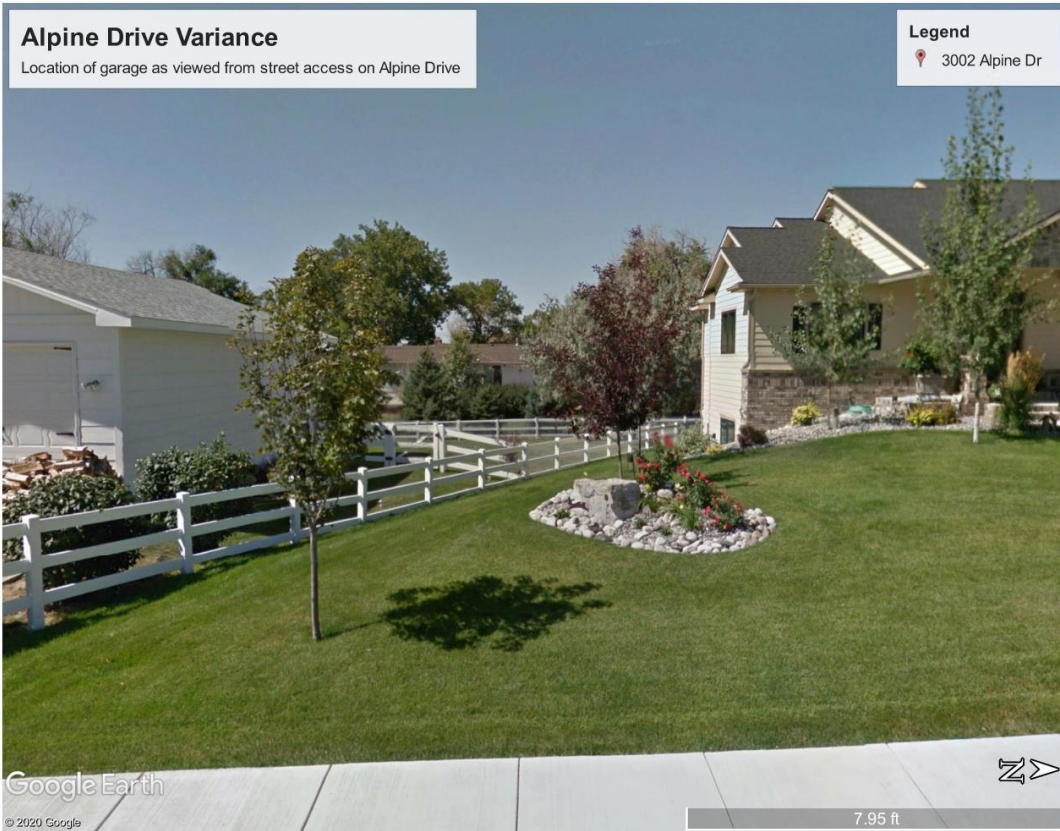
East



South



# Photos Submitted by Applicant



# Application & Applicant Letter

## APPLICATION FORM

CITY VARIANCE

ID: Billings Variance # \_\_\_\_\_ - Project # PZX-20-00278

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 # A13162 CITY ELECTION WARD # 4 (Billings)

Legal Description of Property: REIMERS PARK SUBD, S27, T01 N, R25 E, BLOCK 1, Lot 2A, AMD (20)

Address or General Location (If unknown, contact City Engineering): 3002 Alpine Dr  
Billings, MT 59102

Zoning Classification: R-96 Residential 9,600

Size of Parcel (Area & Dimensions): 13,660 sf / See below

Covenants or Deed Restrictions on Property: Yes \_\_\_\_\_ No X

If yes, please attach to application

Variance(s) Requested: Exceed 30% allowed lot coverage and reduce setback requirements for detached garage building over 18' in height

Facts of Hardship: Construct 1,000 sf detached garage, increasing lot coverage from 25% to 32.7 with setback requirements on side reduced from 8' to 3' and rear reduced from 8' to 0'

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

Owner(s): Willms, Kevin & Lynda  
(Recorded Owner) 3002 Alpine Dr, Billings MT, 59102  
(Address) 406-439-3818 lwillms78@gmail.com  
(Phone Number) (email)

Agent(s): Samuel Hensler, P.E. & Kyle Huss  
(Name) 213 N Broadway Suite 3, Billings MT 59101  
(Address) 406-451-2659 shensler@dyamic-mt.gov  
(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: *Lyndal Willms* Date: 12/30/20  
(Recorded Owner)



1A. What reasons prevent you from using this property in conformance with the Zoning Regulation requirements?

Code Sec 27-308 limits total lot coverage in residential zone R-96 to 30%. The primary structure at 3002 Alpine Dr, plus garage and patio, currently accounts for 25.4% coverage of a 13,660-sf lot. The remaining allowable coverage is not sufficient for the proposed detached garage. Further, Code Sec 27-310 requires side and rear setbacks of 8' for this detached garage, due to it being over 18' in height, street approached, and without an alley. We believe that reducing these setbacks to match the setbacks of an 18' high structure with an alley will result in an improvement that is more in harmony with the general purpose and intent of the code, due to the particulars of this location, as described below.

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

The homeowners, Mr. and Mrs. Willms, wish to improve their lot by constructing a detached garage for storage and indoor workspace. The remaining allowable lot coverage, 626-sf, is not of sufficient size for the desired detached garage. We respectfully request one variance to exceed the 30% lot coverage limit, by constructing a 1,000-sf detached garage. This will result in a 32.7% lot coverage, which is a modest exceedance that is within the allowable coverage of several other nearby residential zones. We also request a second variance to reduce setback requirements for this approximately 22' high structure without an alley from 8' side and rear, to match the setbacks for an 18' structure with an alley—3' side and 0' rear. We believe this is reasonable given the distance to the next closest structure (see site plans) and the presence of an approximately 25' wide stormwater ditch at the rear of the property, creating a buffer zone akin to an alley.

2. Written statement addressed to the Chairperson of the Board of Adjustment.

To the Chairperson of the Board of Adjustment, the homeowners of 3002 Alpine Dr., Mr. And Mrs. Willms, intend to improve their property by constructing a 1,000-sf detached garage. The first variance is being requested, due to the 30% lot coverage restriction, currently placed on Residential zone R-96. The current 13,660-sf lot has a coverage area of 3,472-sf, or 25.4%. The variance is seeking to increase coverage to 4,472-sf, or 32.7%. The second variance is being requested to reduce setback requirements for this ~22' structure without an alley, to match the setbacks for an 18' structure with an alley. We believe this is reasonable given the distance to the next closest structure (see site plans) and the presence of an approximately 25' wide stormwater ditch at the rear of the property, creating a buffer zone akin to an alley.



**DYNAMIC ANALYSIS**  
ENGINEERING CONSULTING

213 Broadway  
Suite 3  
Billings, MT 59101  
(406) 451-2659  
dynamic-mt.com

This drawing and all related documents (including electronic media) were prepared by Dynamic Analysis Engineering Consulting, Inc except as noted otherwise herein. The information herein shall only be used by the client to whom the services are rendered and for the purpose of constructing and/or installing the work as shown on certified documents. Any alteration or unauthorized use is strictly prohibited, and the user shall hold harmless and indemnify Dyanmic Analysis Engineering Consulting, Inc from all liabilities which may arise from any unauthorized use. Such use shall constitute the waiver of expressed or implied warranties and shall cover any liabilities which may arise from the construction, use or result o any such unauthorized use or changes.

DRAWING REVISION TYPES: A-Z: PRE-IFC 0-99: POST-IFC

NO.:	DATE:	DRAWN:	ISSUE / REVISION DESCRIPTION:

Scale 1" = 30'

11" x 17" ORIGINAL

IF THIS BAR DOES NOT EQUAL ONE INCH, ADJUST SCALES ACCORDINGLY

PROJECT NO:	DRAWN BY:	REVIEWED BY:	SAVE DATE:
XXX-XXX-XXXX	STH	STH	

Site Plan  
Proposed Detached Garage  
3002 Alpine Dr  
Billings, MT

SHEET NO.  
**S1.1**



**City Board of Adjustment**

**Meeting Date:** 02/03/2021

**SUBJECT:** Variance 1328 - 1115 N. 25th St.

**THROUGH:** Karen Husman

**PRESENTED BY:** Karen Husman

**Information**

**REQUEST**

**City Variance 1328 - 1115 N. 25th St.** - 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 a 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  
 Presented by: Karen Husman, Planner I.

**RECOMMENDATION**

Staff recommends conditional approval of the variance based on the determinations within the summary section of this report.

**APPLICATION DATA**

OWNERS: Capitol Land & Building Co.

AGENT: David Goodridge

PURPOSE: To allow 2 existing SFD's to remain and be rebuilt on the property, rear SB to 3' & Side 1'

LEGAL DESCRIPTION: Blk 2, lot 1, Sunnyside Sub.

ADDRESS: 1115 N. 25th St.

EXISTING LAND USE: Residential

PROPOSED LAND USE: Residential

EXISTING ZONING: R-70

**CONCURRENT APPLICATIONS**

None.

**APPLICABLE ZONING HISTORY**

SUBJECT PROPERTY	VARIANCE #	DATE	FOR	APPROVED (Y/N)	ADDITIONAL DATA
None					
<b>SIMILAR PROPERTY</b>					
L3 B19 Sunnyside	300	11/24/1981	Lot size	Y	
L3 B14 Sunnyside	365	7/26/1983	Lot size	Y	
L 3 B 10 Sunnyside	525	4/28/1987	SB	Y	
L1 B6 Sunnyside	528	6/2/1987	LC	Y	
L3 B9 Sunnyside	704	10/4/1994	SB	Y	
L3 B9 Sunnyside	705	10/11/1994	Lot size	Y	
1147 N 25 <sup>th</sup>	1197	8/6/2014	Lot area	N	Lot size for 2SFD
2307 11 <sup>th</sup> Ave N	1227	5/4/2016	Lot area	Y	Lot size for 1 duplex and 1 SFD
1045 N 25 <sup>th</sup> St	1138	2/6/2013	Lot Area	Y	Lot size and 37% Lot coverage

**SURROUNDING LAND USE & ZONING**

NORTH: Zoning: R-70  
Land Use: Residential  
SOUTH: Zoning: R-70  
Land Use: Residential  
EAST: Zoning: R-70  
Land Use: Residential  
WEST: Zoning: R-70  
Land Use: Residential

## BACKGROUND

The applicant is requesting a variance to allow the existing two single family dwellings and accessory structures to remain on the lot. The rear house was constructed in 1958, and the front house was constructed in 1940, before the 1972 zoning regulations were in place. There have been similar variances granted in this subdivision and in adjacent neighborhoods. There are many properties in this area of Billings that are nonconforming for minimum lot area requirements for multiple dwellings on a single lot. Many do not have lot area variance. The variance for this parcel would not negatively affect the neighborhood, as the buildings already exist. The applicant is requesting the variance in order to obtain a rebuild letter for financing purposes.

The proposed zoning for this property will be N1 - First Neighborhood when Project ReCode goes into effect in late February. The lot area variance will become moot once the new zoning is adopted. The side and rear setback variance will still be necessary. The new zoning requires a 5-foot rear setback and a 5-foot side setback for all structures.

## SUMMARY

### Proposed DETERMINATIONS for Variance 1328;

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 structures were built in 1940 and 1958, prior to zoning. In order for the property to be reconstructed as it is, the applicant is requesting approval so that a rebuild letter can be issued.

**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 other similar variances. There are other properties in the surrounding neighborhoods that have two dwelling units on lots not conforming to the zoning restrictions. 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 developed properties exist 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.

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

Staff is recommending the following conditions for the variance request:

1. The variance is to allow a minimum lot area of 7,000 square feet 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 1, Sunnyside Subdivision, 1115 N 25<sup>th</sup> 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 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; and**

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

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

The granting of this variance would not allow a use that is not allowed in the zoning district – single family dwellings are allowed in the R-70 zone.

## RECOMMENDATION

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

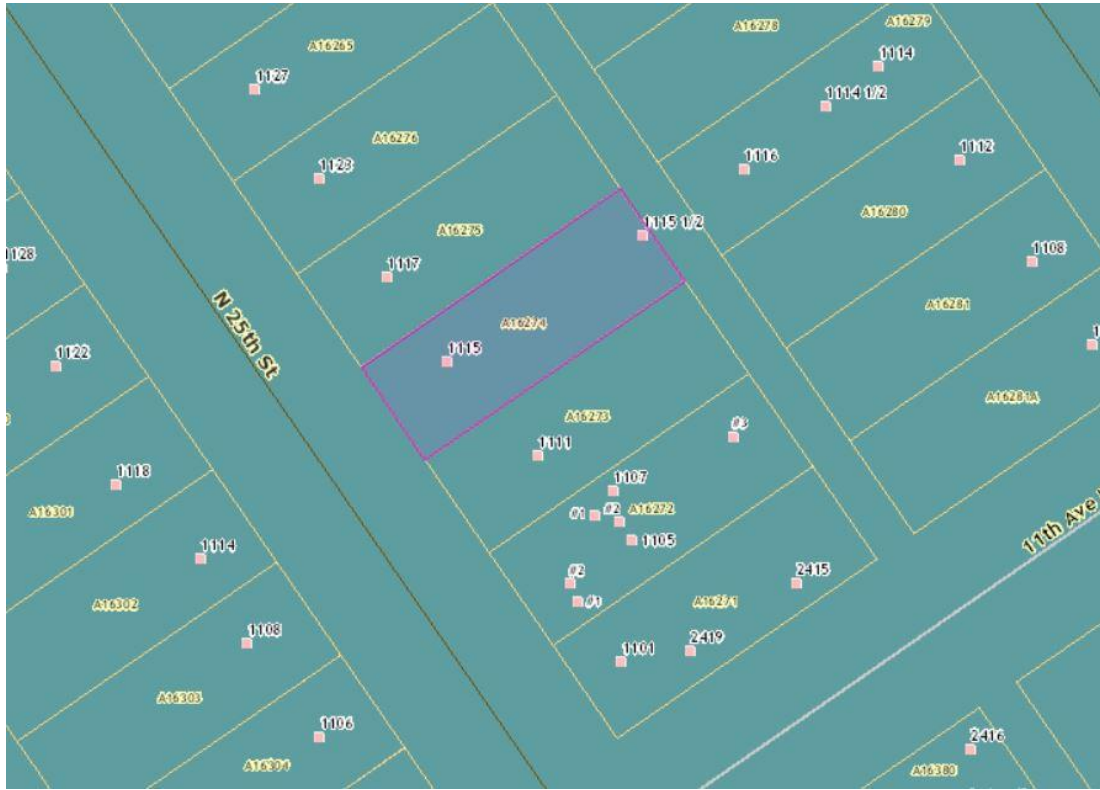
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### **Attachments**

Zoning Map & Site Photos  
Application & Applicant Letter  
Site Plan

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# Zoning Map & Site Photos





Subject Property





North



East



Northeast



East to rear of property

Photos submitted by applicant





# Application & Applicant Letter

## ZONING VARIANCE REQUEST

V011328

P2 x 20-00271

Authentication ID: 846B2451-6D50-496A-824E-C87E521F94F1



The undersigned as owner(s) of the following described property hereby request a Variance from the terms of the Zoning Regulations.



Check one:  City of Billings Variance  Yellowstone County Variance

Address 1115 N 25th St Billings, Mt 59101

Legal Description SUNNYSIDE SUBD 1ST FILING, S32, T01 N, R26 E, BLOCK 2, Lot 3, S50 FT N2 LT 3

STATEMENT: Answer the following questions on a separate document and upload to the online project attachments.

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

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

3. Statement to Chairperson of the Board Adjustment. What is intended to be done with the property, including new construction or change in the use of the property and why the variance is being sought.

### Required Project Uploads

--Site Plan

--Signed Application and Statement (Variance Questions)

--Radius Map & Certified List of Property Owners

--Typed Mailing Labels Certified Surrounding Property Owners

Online Access: <https://services.billingsmt.gov/citizenaccess/>

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 Request for a Variance. Also, I attest that all the information presented herein is factual and correct.

Recorded Owner(s) CAPITAL LAND & BUILDING CO

Owner's Address PO BOX 23104

Owner's Phone Number (406) 860-1607 (E-mail) jdt2009@live.com

Applicant/Agent David Goodridge

Applicant/Agent's Address 1010 Grand Ave suite B

Applicant/Agent's Phone Number 406 591 1605 (E-mail) dave@billingscommercialrealestate.com

Signature of Recorded Owner(s)

 Richard A Lee

Date 12/22/2020

12/30/2020 6:19:16 PM MST  
**AUTHORITIES:** Procedures and review Criteria for Variance requests Billings Montana City Code (BMCC) 27-1506 et seq. (SEC. 27-1506. **CITY VARIANCES, CITY BOARD OF ADJUSTMENT**) a) Authority. The City Board of Adjustment shall have the authority to grant a variance from the terms of this chapter in specific cases where it is found that the granting of the variance will not be contrary to the public interest and where, because of special conditions with respect to City Variance 2020-2021 updated Nov 8, 2019 the lot shape or topography, a literal enforcement of the provisions of the chapter would result in unnecessary hardship.

**AUTHORITIES:** Procedures and Review Criteria for County Variance requests: Unified Zoning Regulations Section 27-1511 et seq. SEC. 27-1511. **COUNTY VARIANCES, YELLOWSTONE COUNTY BOARD OF ADJUSTMENT** a) Authority. The County Board of Adjustment shall have the authority to grant a variance from the terms of the chapter in specific cases where it is found that the granting of the variance will not be contrary to the public interest and where, because of special conditions with respect to the lot shape or topography, a literal enforcement of the provisions of the chapter would result in unnecessary hardship.

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

## **1115 N 25<sup>th</sup> St Variance questions**

### **A. What reasons prevent you from using the property in conformance with the Zoning Regulation requirements?**

- Currently there are two houses located on the above-mentioned property. The back house sits approximately 3'-9" away from the back-property line in the alley which does not meet current zoning code minimum yard requirements of 20'. The garage for the front house and carport for the back house are not built 5' away (current requirement) from the property line to the sides, they are 1' currently.

Also, current zoning code requires 9,600 sq ft for two houses to be built on the property. With only a 7,000 sq ft lot this creates another non-conformity. This restricts buyers from obtaining loans to purchase the property. This variance would allow for it to be rebuilt with the setback issues it currently has as well as the addressing the area requirement of the current code.

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

- As a two-house property the ability for affordable housing can be met for the potential buyer of the property (an investor) as well as a future buyer down the road. An investor who owns a two-house property can provide rents that would be less than a stand-alone house by itself. A possible future owner/occupant can afford to live in one of the units and collect rent on a unit that can go towards a mortgage. In either scenario a more affordable loan can be obtained if this variance is granted.





**City Board of Adjustment**

**Meeting Date:** 02/03/2021

**SUBJECT:** Variance 1329-1116 2nd St. West

**THROUGH:** Karen Husman

**PRESENTED BY:** Karen Husman

**Information**

**REQUEST**

**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, West Side Subdivision, a 3,730 square foot parcel of land. The purpose of the variance is to allow an existing structure a rebuild letter for financing purposes. Tax ID: A18033. Presented by; Karen Husman, Planner I.

**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.

**APPLICATION DATA**

OWNERS: Vick Van Buskirk

AGENT: Carrie McNeese

PURPOSE: Allow existing residence to remain and be rebuilt on the property

LEGAL DESCRIPTION: Block 19, South 37.5’ of lots 43-46 West Side Subdivision

ADDRESS: 1116 2nd St. W

EXISTING LAND USE: Residential

PROPOSED LAND USE: Residential

EXISTING ZONING: R-70

**CONCURRENT APPLICATIONS**

None

**APPLICABLE ZONING HISTORY**

Staff has researched the surrounding neighborhoods and found many nonconforming lots (that did not have a variance application on file) that were smaller than the required size allowed under the Zoning Code. In addition, there have been twenty-one variance requests in this subdivision. The variance requests have been for lot coverage, setbacks, and lot area. Eight of the twenty-one variances were for lot area, two were denied and six approved. Listed are the 5 most recent.

SUBJECT PROPERTY	VARIANCE #	DATE	FOR	APPROVED (Y/N)	ADDITIONAL DATA
None					
<b>SIMILAR PROPERTY</b>					
302 Burlington	1074	9/1/2010	Lot size, SB, LC	Y	Lot size for a SFD
244 Burlington	1086	3/2/2011	Lot size, LC	Y	
317 Lewis	1094	3/2/2011	Lot size, SB, LC	Y	
311 Alderson	1195	7/2/2014	Lot size	Y	Lot size for a Duplex
103 Alderson	1245	12/7/2016	Lot size	Y	Lot size or duplex

**SURROUNDING LAND USE & ZONING**

NORTH: Zoning: R-70  
Land Use: Residential  
SOUTH: Zoning: R-70  
Land Use: Residential  
EAST: Zoning: R-70  
Land Use: Residential  
WEST: Zoning: R-70  
Land Use: Residential

## BACKGROUND

The applicant is requesting a variance to allow the existing single family dwelling to remain on the lot. The house was constructed in 1915. There have been similar variances granted in the district. The variance for this parcel would not negatively affect the neighborhood, as the building already exists. The applicant is requesting the variance in order to obtain a rebuild letter for financing purposes.

This is an older neighborhood in Billings and there are several properties in the area that have more than one dwelling unit on them. There have been variances that have been granted in the area for single family, duplex, and three-plexes, on smaller lots than what is allowed by current zoning. There are other properties in the neighborhood that have multiple dwelling units on smaller lots. Some properties have obtained variances in the subdivision while others have not. The existing 3,730 square foot lot would allow one single family dwelling. The applicant would like a variance for side setbacks on the existing single family dwelling in order to get a rebuild letter.

## SUMMARY

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

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

There are no special conditions or circumstances with the land that create a hardship. The structure was built prior to the zoning restrictions 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 that began developing well before the current zoning (1972). Over the years, many changes to existing structures have happened that may or may not meet current code. Variances have been granted in the area for existing dwellings on smaller lots, and for reduction in setbacks. Some properties have obtained variances while others have not. Therefore, allowing the applicant setback variances for an existing dwelling on a 3,730 square foot lot does not deprive the applicant of rights commonly enjoyed by other properties 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;**

Granting this variance would not confer a privilege to this applicant that is denied to other owners in the area. There are several properties that do not meet the required setbacks.

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

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

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

Staff is recommending the following conditions for the variance request:

1. The variance is to allow a 1-foot setback for the north property line and 0' setback for the south property line (both side setbacks) for an existing structure on a 3,730 square foot lot. 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, a 3,730 square foot parcel of land generally located at 1116 2nd St W.
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.

**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**

The requested variance is to ensure the future opportunity to rebuild one single family dwelling on a 3,730 square foot parcel of land in its current location.

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

The granting of this variance would not allow a use that is not already allowed in the zoning district – Residential -7000 zoning allows single family dwellings.

## RECOMMENDATION

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

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### **Attachments**

Zoning Map & Site Photos  
Application & Applicant Letter  
Site Plan

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# Zoning Map & Site Photos





Subject Property





West



Looking West on the South side of the house



East



Alley east

# APPLICATION FORM

## CITY VARIANCE

ID: Billings Variance # p2-210005 Project # 1329

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 # A18033 CITY ELECTION WARD # 1

Legal Description of Property: WEST SIDE SUBD, S04, T01 S, R26 E, BLOCK 19, Lot 43, 37.5' LT 43-46 GeoCode: 03-0927-04-1-18-12-0000

Address or General Location (If unknown, contact City Engineering): \_\_\_\_\_

1116 2ND ST W

Zoning Classification: Residential 7000

Size of Parcel (Area & Dimensions): 3730 sq ft - plat attached

Covenants or Deed Restrictions on Property: Yes  No

If yes, please attach to application

Variance(s) Requested: rebuild letter

Facts of Hardship: \_\_\_\_\_

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

Owner(s): VAN BUSKIRK, VICK

(Recorded Owner)

1116 2ND ST W, Billings, MT 59101

(Address)

406-281-4269

(Phone Number)

vickivan@bresnan.net

(email)

Agent(s): Carrie McNeese

(Name)

4309 GRAND AVE. BILLINGS, MT 59106

(Address)


406-248-9948

(Phone Number)

vickivan@bresnan.net

(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:  Vicki Van Buskirk Date: 1/4/2021  
1/4/2021 11:10:46 PM EST  
(Recorded Owner)



To: Chairperson of the Board of Adjustment  
From: Deon & Anja Berube (buyer)  
Vicki Van Buskirk (seller)  
Date: January 4, 2021  
Subject: Variance letter – 1116 2<sup>nd</sup> St W.

In regards to the property located at 1116 2<sup>nd</sup> St W, I am trying to sell this property to Deon & Anja Berube. The appraisal came back that it was deemed non-conforming. We reached out to the City and received a message back that the property could not be re-built as-is with the current zoning. The buyers are wanting to purchase this property to provide a place to live for the buyers sister. I have owned this home since approximately 1978, and have refinanced several times without any issues.

I am aware that the city is meeting to modify the current codes for homes like mine that I feel should be grandfathered in. However, I am aware that if it was to burn, that we would need to conform to some new setbacks, and the buyer are aware of that too.

The current zoning allows single family homes on lots of at least 7,000 square feet. Although the current lot is less than 7,000 square feet (3,730 sf), a provision in the current code allows all lots of record – regardless of lot area - to have a single family dwelling on the lot. This is Section 27-402 – Lots of Record. This provision continues in the new code.

This provision however requires all other requirements of the R-70 district to be met for new construction or a re-build. We are willing to adhere to this with a 5-ft setback if we are allowed a re-build letter.

The current code allows 30% lot coverage – the current structure is about 36% lot coverage. The dwelling sits on the alley property line – for at least part of the structure. The code requires a 5-foot side setback and we would do this if we needed to rebuild.

A portion of the dwelling sits very close to the north property line (shared with 1118 2<sup>nd</sup> ST W). This property line also requires a 5-foot setback, which could be done if rebuilt.

The proposed zoning of the property is N1 – First Neighborhood I believe. The new zoning allows single family dwellings on lots at least 20 feet in width at the street. This lot meets this provision.

The new zoning allows up to 80% lot coverage for side street lots such as this one and the lot to the north at 1118 2<sup>nd</sup> St West. The current lot meets this requirement.

The new zoning still requires the 5 foot side setbacks for both the alley property line and the north property line. This would require a variance under the existing and new codes for the re-build on the same footprint/foundation, which is why we are applying.

We would like a rebuilt letter but they say the only way to receive a full re-build letter is through a zoning variance application and approval from the City Board of Adjustment. This would cover the side setbacks. This is why we are applying.

Thank you for your help in getting this new buyers sister a home to live in.

Best Regards,

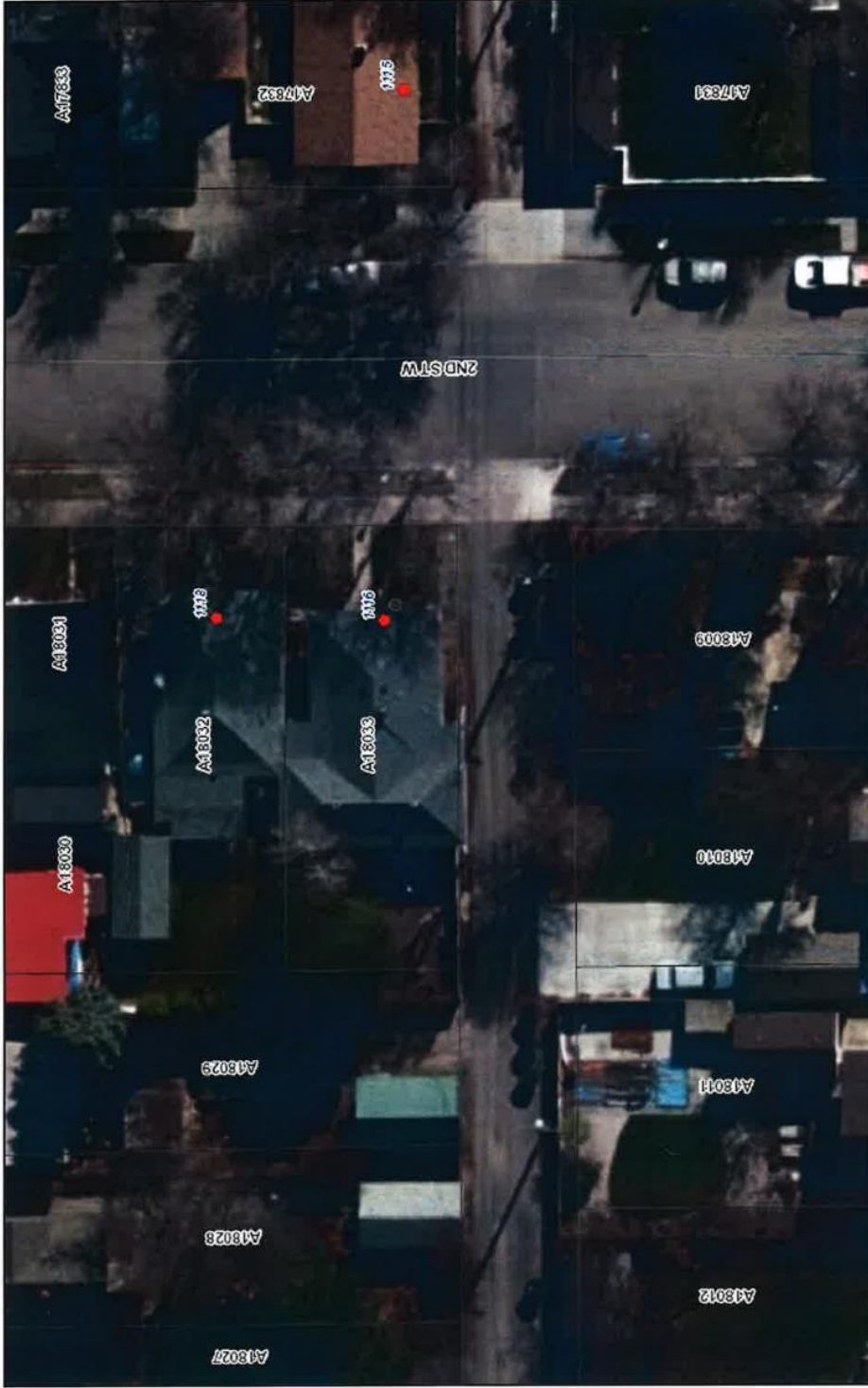
Vicki Van Buskirk (seller)

Authenticate  
Vicki Van Buskirk  
1/4/2021 11:10:48 PM EST

Deon & Anja Berube (buyer)

*Deon Berube* 1/4/2021  
*[Signature]*

1116 2nd ST W aerial map



1/4/2021, 2:36:14 PM

