

## 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**

**Approval of Minutes:**

The minutes of the Board meeting of January 6, 2021 and February 3, 2021. Approval will be delayed until the next regularly scheduled meeting.

**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 Exparte Communication Binder is available at the Sign-In and Agenda Station.**

**Regular Business:**

- A. Opening of public hearings.
- B. Reading of rules for the procedure by which the public hearings will be conducted.
- C. Reading of notices of the public hearings on the following items:

**Public Hearings:**

- a. **City Variance -- 1330 -- 906 N. 32<sup>nd</sup> St.-- Side Yard setback and LC-** A variance from 27-308 requiring a 5-foot side setback to allow a 3-foot side setback, and from 27-308 requiring a maximum lot coverage of 30% to allow 31% maximum lot coverage, for an addition to the existing home and garage in a Residential-7000 (R-70) zone, on Block 19, Lot 6, & the North 15 feet of Lot 8, North Elevation Subdivision 3<sup>rd</sup> Filing, an 8,024 square foot parcel of land. The purpose of the variance is to allow expansion of the existing home and garage. Tax ID: A11840

**Other Business/Announcements**

**Adjournment**

Information on the preceding item(s) may be obtained at the Planning & Community Services Department, 4<sup>th</sup> Floor of the Miller Building, 2825 3<sup>rd</sup> Ave North, Billings, MT 59101 or phone 247-8676.

**Public Comment periods as indicated on the agenda, and during the Public Hearings under the Regular agenda. Comments may be sent to Board via email before 1:00 PM on Wednesday, March 3, 2021. All emails received prior to this time will be read into the record for the public hearing. The Public may call in during specific Public Comment periods at (406) 237-6165. All callers will be 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 restricted to 3 minutes of testimony as is customary. Live coverage can be viewed here <https://www.facebook.com/Billings-Planning-Community-Services-Department-1738982159659260/?ref=bookmarks>**

Public hearings are accessible to individuals with physical disabilities. Special arrangements for participation in the public hearings by individuals with hearing, speech, or vision impairment may be made upon request at least three days prior to the hearing. Please notify Robbin Bartley, Administrative Assistant, at 247-8676 or e-mail to [bartleyr@billingsmt.gov](mailto:bartleyr@billingsmt.gov)

**Board of Adjustment**

**Date:** 03/03/2021  
**Title:** City Variance 1330 - 906 N 32nd Street  
**Presented by:** Karen Husman  
**Department:** Planning & Community Services  
**Presentation:** Yes

**Information****RECOMMENDATION**

Planning staff has reviewed this application and is forwarding a recommendation conditional approval based on the determinations for granting a variance.

**REQUEST**

The applicant is requesting a variance from 27-304 requiring a 5-foot side setback to allow a 3-foot side setback, for an addition to the existing home and garage in a First Neighborhood (N1) zone, on Block 19, Lot 6, & the North 15 feet of Lot 8, North Elevation Subdivision 3rd Filing, an 8,024 square foot parcel of land. The purpose of the variance is to allow expansion of the existing home and garage. Tax ID: A11840

**APPLICATION DATA**

**OWNERS:** Dusty & Kara Eaton  
**AGENT:** Dusty Eaton  
**PURPOSE:** allow a 3-foot side setback for a proposed addition  
**LEGAL DESCRIPTION:** Lot 8 and Lot 9, Block 19 of North Elevation Sub., 3rd Filing  
**ADDRESS:** 906 N. 32nd St.  
**EXISTING LAND USE:** Residential  
**PROPOSED LAND USE:** Residential  
**EXISTING ZONING:** First Neighborhood (N1)

**CONCURRENT APPLICATIONS**

None

**APPLICABLE ZONING HISTORY**

Records show there have been 25 approved variance applications in this subdivision. Listed are the most recent.

SUBJECT PROPERTY	VARIANCE #	DATE	FOR	APPROVED (Y/N)	ADDITIONAL DATA
906 N 32 <sup>nd</sup> St	1252	3/1/2017	Side SB	Y	
<b>SIMILAR PROPERTY</b>					
3114 12 <sup>th</sup> Ave. N	1082	12/1/2010	LC & SB	Y	Side & Rear SB
1014 N 32 <sup>nd</sup> St.	1170	12/4/2013	LC & SB	Y	Side SB
209 Ave. D	1198	9/3/2014	SB	Y	Side SB

**SURROUNDING ZONING & LAND USE**

**NORTH:** Zoning: N1  
Land Use: Residential single family  
**SOUTH:** Zoning: N1  
Land Use: Residential single family  
**EAST:** Zoning: N1  
Land Use: Residential single family  
**WEST:** Zoning: N1  
Land Use: Residential single family

**BACKGROUND (Consistency with Adopted Plans and Policies, if applicable)**

The applicant is requesting a variance to allow a 3-foot side setback for an addition to the existing home and garage. The purpose of the variance is to allow expansion of the existing home and garage. In 2017, the BOA approved a variance for a 2 foot side setback on the north side of the dwelling in order to allow a small encroachment for a new addition. The property is unique in its shape and alignment with property lines was difficult for this addition. The applicant wishes to remove an older garage and rebuild a new one and expand to include an addition to the home on the southern side

connecting the garages and house.

There have been 25 approved variance applications in this subdivision, 12 of them were for request to decrease the required setback distance. The first filing of the North Elevation Subdivision was platted around 1900. This particular subdivision began developing over 100 years ago as a single family housing neighborhood. Many of them have a structure that is built very close to the side property line. Some properties in this neighborhood have obtained a variance while some of them have not. The property owner is requesting the variance to add on to the existing house and for additional garage space.

## FISCAL EFFECTS

N/A

## SUMMARY

### DETERMINATIONS

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

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

There are no special circumstances that exist which are peculiar to the land, other than the lot is an odd shape in that it is not square or rectangle. The applicant wishes add on to the existing single-family dwelling and garage.

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

The subject property is in a subdivision where most homes were built in the early 1900's. There have been 25 variance requests in the surrounding neighborhood many of them for setback and 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;**

Granting this variance would not confer a privilege to this applicant that others in the subdivision do not have. This is an old subdivision and there are several properties that are closer to the property line than allowed.

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

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

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

Staff is recommending the following conditions for the variance request;

1. This variance approval is to allow 3-foot side setback for a proposed addition to an existing dwelling and garage in a First neighborhood (N1) zone, an 8,024 square foot parcel of land generally located at 906 North 32<sup>nd</sup> Street. No other variance is intended or implied with this approval.
2. The variance is limited to the North 15 feet of Lot 8 and Lot 9, Block 19 of North Elevation Subdivision, 3<sup>rd</sup> Filing, generally located at 906 N 32<sup>nd</sup> Street. Tax ID: A11840.
3. The applicant will submit and obtain a building permit for the addition within 12 months of variance approval and have the addition completed within 24 months.
4. The applicant will construct the addition in substantial conformance to the drawings submitted with this variance request.
5. Construction or demolition activity will not occur prior to 7 am or after 8 pm daily.
6. The applicant shall meet all other city code requirements for the proposed addition with the exception of this variance.
7. Failure to begin or complete actions required by this approval within the time limits set forth shall void this variance.
8. These conditions of variance approval shall run with the land described in this authorization and shall apply to all current and subsequent owners, operators, managers, lease holders, heirs and assigns.

**6. The Board shall prescribe a time limit within which the action for which the variance is required shall be begun or completed, or both. Failure to begin or complete such action within the time limit set shall void the variance; and**

If the variance is approved; the property owner shall apply for a building permit to construct the addition within 12 months and complete construction within 24 months.

**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 -- N1 zoning districts allow residential remodeling and additions to existing structures.

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#### **Attachments**

Zoning Map & Site Photoe  
Application & Applicant Letter  
Site Plan



**ATTACHMENT**  
Site Photographs



Subject Property.



Looking North



Looking South



East



Looking east at a similar setback.



# APPLICATION FORM

CITY VARIANCE

ID: Billings Variance # \_\_\_\_\_ - Project # \_\_\_\_\_

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 # A11840 CITY ELECTION WARD # \_\_\_\_\_

Legal Description of Property: NORTH ELEVATION SUB 3RD FILING, S32, T01 N, R26 E, BLOCK 19, LOT 9, & N15 FT LT 8

Address or General Location (If unknown, contact City Engineering): 906 N 32nd St.

Zoning Classification: R7000 (New Zoning Description under the Re:Code would be N1)

Size of Parcel (Area & Dimensions): AREA: 8,024 SF (Triangular shaped lot - reference site plan for dimensions)

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

If yes, please attach to application

Variance(s) Requested: Requesting a variance for one edge of small single-car garage to cross the sideyard setback. This would reduce the side-yard setback from 5' to 3'. Also requesting the

Facts of Hardship: We having a growing family and are committed to staying in the historic part of downtown Billings We believe in investing in our home in this neighborhood in order to continue revitalizing and keeping properties viable for growing families.

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

Owner(s): Dusty & Kara Eaton  
(Recorded Owner)  
906 N 32nd St.  
(Address)  
406-698-1816 deaton@ae.design  
(Phone Number) (email)

Agent(s): Dusty Eaton  
(Name)  
906 N 32nd St.  
(Address)  
406-698-1816 deaton@ae.design  
(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: Dusty Eaton Digitally signed by Dusty Eaton  
DN: CN=Dusty Eaton, OU=Users, OU=Billings, DC=aaarchitects, DC=local  
Date: 2021.01.21 08:40:38-0700 Date: 1/21/21  
(Recorded Owner)





What can we  
help you create?

A&E  
124 N 29<sup>th</sup> St. Suite 100  
Billings, MT 59101

January 26<sup>th</sup>, 2021

Board of Adjustment  
City of Billings

Re: Variance Request  
906 N 32<sup>nd</sup> St

Dear Chairperson,

Thank you for the opportunity to provide information regarding a proposed variance request for my personal residence at 906 N 32<sup>nd</sup> St.

I am proposing a small addition to our existing historic home. We have a growing family and need to add additional space to make the home more functional. We are committed to investing in this historic area near downtown, but also need to provide more space for our growing family.

My home sits on a large corner lot which has a triangular shape. In order to efficiently construct a small addition, I am requesting a variance to cross the side-yard setback on one side reducing it to 3'-0". The addition to the home includes expanding one wall of the house and rebuilding a single-car garage. The garage wall is the area that will cross the side-yard setback. This garage will be small in scale and sits up against a landscaped and fenced separation to the neighbor. Most importantly, the garage is a replacement for a structurally inadequate garage that is currently in this same location. Since there is already an existing garage in the same location that we are rebuilding, the visual impact to the neighbors will not change.

Because we are expanding the house slightly, the footprint of the overall lot coverage also increases very minimally over the 30% lot coverage. With this addition we will be at 31.5% and therefore seeking a variance for lot coverage as well. It is worth noting that under the new zoning code, which is not yet adopted, the lot coverage for N1 would increase to 40%.

Due to the property being a large corner lot, the neighbors are set back from this addition and therefore should see minimal impact. This area is also densely landscaped which creates good visual separation between homes. As an architect in this community, the design for this addition will be historically

**ae.design**



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sensitive, scaled appropriately, and will match the existing home in design, color, and materials. Once complete, the addition will look as if it has always been a part of the home.

Sincerely,

A handwritten signature in black ink, appearing to read 'Dusty Eaton', written over a horizontal line.

**Dusty Eaton**

CEO | Principal



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help you create?

## City of Billings Variance Request Application

### Variance Questions

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

I am proposing a small addition to our historic home. We have a growing family, but we are committed to remaining downtown and investing in our historic property. The small single-car garage facing the driveway is not adequate and has structural concerns. We are proposing to rebuild that single car garage as well as expand our kitchen slightly. These additions request two minor variances:

1. Where we are rebuilding the garage, we will move it over slightly and it will be 3' from the side property line rather than 5'.
2. The increased size slightly pushes over the 30% lot coverage to 31.5%.

**1b) Why is there a need for the intended use of the property at this location?**

This additional will replace a garage that is not functional and accommodate our growing family so we can remain in this historic neighborhood of Billings.



**Attachment**  
**Rendering of new addition**



BEFORE ADDITION



PROPOSED ADDITION - RENDERING