



NOTICE TO THE PUBLIC

The public may attend in person or watch the meeting live on Facebook (see below). 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. Comments may be sent to Board via email before 1:00 PM on Wednesday, July 7, 2021. All emails received prior to this time will become part of the record for the public hearing. Live coverage can be viewed on the City of Billings Facebook page here; <https://www.facebook.com/Billings-Planning-Community-Services-Department-1738982159659260/?ref=bookmark>

- Please direct questions to Administrative Secretary Robbin Bartley at 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

4. Approval of Minutes

1. Meeting minutes of May 5, 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 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. **Variance 1332 - Reda Lane - width of ground floor dwelling units** - This is a variance request to one of the new zone district requirements for the Mixed Residential zones that limits the width of ground-floor units to 16 feet. The unit width requirement was intended to guide development to a denser multi-family pattern with multi-story buildings rather than single-story side-by-side apartments. Choosing the maximum ground-floor unit width was a starting point. Planning staff is monitoring this provision as implementation of the new code moves forward. We believe we will need to modify this code provision.
- b. **Variance 1334 - 2910 3rd Ave S - reduce front build-to area from 5 feet to 0 feet** for an addition on an existing building at 2910 3rd Ave S in a Neighborhood Mixed Use (NMU) zone district.

Other Business/Announcements

Adjournment

Information on the preceding item(s) may be obtained at the Planning & Community Services Department, 4th Floor of the Miller Building, 2825 3rd Ave North, Billings, MT 59101 or phone 247-8676. Anyone wishing to be heard on this matter may appear at this hearing or provide written testimony. Information on the preceding item(s) may be obtained at the Planning & Community Services Department, 4th Floor of the Miller Building, 2825 3rd Ave North, Billings, MT 59101 or phone 247-8676. Anyone wishing to be heard on this matter may appear at this hearing or provide written testimony to Planning Division at the address above.

Public hearings are accessible to individuals with physical disabilities. Special arrangements for participation in the public hearings by individuals with hearing, speech, or vision impairment may be made upon request at least three days prior to the hearing. Please notify Robbin Bartley, Administrative Assistant, at 247-8676 or e-mail to bartleyr@ci.billings.mt.us

City Board of Adjustment
Meeting Date: 07/07/2021

Information

Subject

Meeting minutes of May 5, 2021.

Attachments

CityBOA_2021_0505

CITY BOARD OF ADJUSTMENT

MINUTES May 5, 2021

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

One return Variance from January 6, 2021 meeting.

Chair Noennig called the meeting to order at 6:11 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: Jeff Aspenlieder, Jeff Essman

Public Comment

Chair Noennig opened the public comment period and asked if there was anyone wishing to speak during the public comment portion of the meeting. There was none.

Approval of Meeting Minutes

Meeting minutes for January 6, 2021 and February 3, 2021 and March 3, 2021.

Board member Mitchell motioned for approval of the January 6, 2021 minutes, Board member Hagen seconded. Approved by unanimous voice vote.

Board member Hagstrom motioned for approval of the February 3, 2021 minutes, Board member Bollman seconded. Approved by unanimous voice vote.

Board member Hagen motioned for approval of the March 3, 2021 minutes, Board member Mitchell seconded. Approved by unanimous voice vote.

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

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 1 site.

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

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

Chairman Noennig had no ex parte communications, has no conflicts of interest and visited no sites.

Board member Mitchell 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 and visited 1 site.

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 1331 – Intersection of Santiago Blvd and Blue Creek Rd – Build-to area - A variance from Section 27-406 requiring a Front Build-To zone of 5 to 20 feet to allow an 80-foot setback from the front property line on Blue Creek road to accommodate a Floodplain Boundary for a new 5,400 square-foot commercial structure in a Corridor Mixed Use 1 (CMU1) zone, on Lot 1 of Essman Subdivision, an 27,907 square-foot parcel of land. The purpose of the variance is to allow a new building outside of the Floodplain Boundary. Tax ID: D01951A

RECOMMENDATION

The Planning staff is recommending conditional approval and adoption of the findings of the variance criteria for this application.

Planning Staff is recommending the following conditions of approval:

1. The variance is limited to Lot I of Essman Subdivision generally located on the northeast corner of the intersection of Blue Creek Road and Santiago Boulevard.
2. The variance is from Section 27-406 requiring a maximum setback of 20 feet from the front property line - Blue Creek Road - to allow a maximum setback of 80 feet from the front property line. No other variance is intended or implied.
3. The applicant or developer will install 8 street frontage trees along the Blue Creek Rd property line and 5 street frontage trees along Santiago Blvd. No evergreen trees may be used in these locations. All other minimum requirements of the Landscaping regulations (Section 27-1300) shall be met.
4. All outdoor lighting, with the exception of signage, shall have full cutoff shields so no part of the fixture or lens projects below the cutoff shield. Light pole standards must be 15 feet in height or less. Height includes the fixture, the base and the supporting pole.
5. No fascia on the building or canopy may be internally illuminated.
6. There shall be no construction activity prior to 7 am or after 8 pm daily.
7. The applicant/developer shall apply for a building permit within 12 months of Board approval and complete the development within 3 years of Board approval. Completion includes all buildings, landscaping, parking and other site structures and amenities.
8. Failure to begin or complete the project according to the time periods within this approval will void the 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.

Questions for staff:

Board member Mitchell asked if this property is outside the City limits. Staff replied, no, it is very close to the outskirts.

Board member Bollman inquired about conditions 3, 4 and 5. Is that different than what is allowed in the new zoning regulations? Why are those conditions? Staff replied the street trees are required as listed, it is an added condition as a reminder of requirements for street frontage. The cut off shields and fascia would not normally apply so for a variance of this type this would be an appropriate condition.

Chair Noennig asked if the applicant was in agreeance with the conditions. Staff said she has not heard from them regarding the conditions.

Chair Noennig asked for clarification on the 80 foot verses 20 foot maximum setback requirement. The new code addressed the issue of bringing the buildings to the street.

Public Hearing

Chair Noennig opened the public hearing at 6:26PM and asked if there was anyone wishing to speak in favor or against **City Variance 1331**.

Applicant: Scott Aspenlieder, agent

Scott Aspenlieder explained the variance requested was to address the flood plain issues. He thinks the additional tree requirements is going to be confusing. Let's just meet the code.

Board member Heinrich asked who is going to be confused by the conditions.

Staff clarified the additional tree requirements.

Jeff Essman, 3130 McMasters

He explained he built the water station at this location. Blue Creek is a slow developing area. I am just now putting a building on this site. He would like condition #3 removed completely. It is challenging to grow trees in this area. The soil is clay.

Board member Hagstrom asked about the storage units in the area and how many trees were required there. Staff replied the project was built well before the new landscaping code. The previous code had no tree requirements.

Favor

NONE

Opposed

NONE

Discussion

At 6:21PM, Chair Noennig closed the Public Hearing and called for a motion.

Motion

Board Member Bollman made a motion and Board Member Connell seconded the motion to approve **City Variance 1331**, with staff recommendations and removing condition #3 and changing condition #7 from 12 to 24 months.

MEMBER	YES	NO	ABSTAINED	NOT PRESENT
David Mitchell	X			
Dave Hagstrom	X			
Paul Hagen	X			
Jeff Bollman	X			
Oscar Heinrich	X			
Martin Connell	X			
Mark Noennig	X			

The motion to approve City Variance 1331 passed with a 7-0 vote.

Other Business: No June meeting.

ADJOURNMENT: The meeting adjourned at 6:51PM.

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

Board of Adjustment

Date: 07/07/2021
Title: Variance 1332 - Reda Lane - width of ground floor dwelling units
Presented by: Nicole Cromwell
Department: Planning & Community Services
Presentation: Yes

Information**RECOMMENDATION**

Planning staff recommends conditional approval of the requested variance to the maximum width of ground-floor dwelling units in the Mixed Residential 2 (NX2) zoning district locate generally on Reda Lane east of 204 Reda Lane and west of 230 Reda Lane. The parcel is legally described at Tract 1B of C/S 19 and is about 1/2-acre in area. The proposed project would construct two 4-unit structures, provide off-street parking and landscaping for the vacant lot.

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

This is a variance request to one of the new zone district requirements for the Mixed Residential zones that limits the width of ground-floor units to 16 feet. The unit width requirement was intended to guide development to a denser multi-family pattern with multi-story buildings rather than single-story side-by-side apartments. Choosing the maximum ground-floor unit width was a starting point. Planning staff is monitoring this provision as implementation of the new code moves forward. We believe we will need to modify this code provision.

Reda Lane is a local street that connects with Lake Elmo Drive to the east. Zoning of these parcels on Reda under the previous zoning code was a mixture of Residential Multi-family, Residential 6,000 and Residential Manufactured Home. Reda Lane and the connecting local streets of Nash Lane and Rice Lane are all gravel streets that have never been improved after annexation by the city in 1984. Broadview Drive connecting north to south on the west edge of the neighborhood is paved. This paving was done as part of the new Uinta Park Subdivision (west of Broadview Dr) platted in 2004. Reda Lane is a local street that does not connect through to any adjacent collector or arterial streets. The only traffic on this network of streets is for local residents, guests and service providers to the residents. Two 4-unit multi-family dwellings may add up to 64 additional vehicle trips per day to this local street. This is not a significant amount of additional traffic.

There are several multifamily developments in the area and all have a variety of ground-floor unit widths, although none are as narrow as the current code requirement of 16 feet. The multi-family units at 230 Reda Lane are about 21 feet in width and the buildings are two-story. Brush Meadows apartments at 1203 Lake Elmo Drive are about 25 feet in width for ground-floor units, Stamer Gardens to the north has ground-floor units of 22 feet in width and the Red Fox apartments on Sioux Lane are up to 43 feet in width on the ground-floor. The Magic City Terrace at 1439 Main Street has ground-floor units that range from 21 feet to 29 feet in width. The narrow ground-floor width of 16 feet is not common in this area of Billings.

It appears from the site plan submitted, all other provisions of the zoning district will be met including the build-to area, door and windows on the front facades, parking locations and number of spaces, building heights and uses allowed. The NX2 zone district does not allow single dwelling unit structures - the minimum number of dwelling units in a structure is two and the maximum is eight. The ground-floor unit maximum width is intended only for "multi-unit" buildings and would not necessarily apply to side-by-side units such as townhomes. The side-by-side unit buildings are limited to 8 ground-floor units and a maximum building width of 172 feet. The Stamer Garden apartments are all single level units and each building has three levels. This is an example of a "multi-unit" building. The Red Fox apartments on Sioux Lane are built with 2-level units with a ground-floor and a second floor and are arranged side-by-side and not stacked. The maximum ground-floor unit width would not necessarily apply to these structures built with side-by-side units.

Planning staff is recommending conditional approval of the requested variance based on our findings of the variance criteria.

Before granting the requested variance, the Board of Adjustment shall consider the findings of the review criteria (Sec 27-1627.D)

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 or something inherent with this land that does not apply to other land in the same zone district of NX2. This is a new zone district requirement for the maximum width of ground-floor units for multi-unit structures. As the Planning staff is applying the new zoning code provision we are monitoring the code specifics to ensure the zoning tools are achieving the intended results. This particular requirement may need to be adjusted based on local experience.

2) That a literal interpretation of the provisions of this Zoning Code would deprive the applicant of rights commonly enjoyed by other tracts in the same district. This is the first variance requested from the new ground-floor width requirement for the Mixed Residential zone district. The previous zoning required minimum setbacks, building heights, lot coverage and lot area requirements, but did not impose ground floor unit widths. There is no applicable or similar zoning variance history to the application. Planning staff did find there were at least two zoning variances granted in the area to accommodate the previous minimum zoning setbacks. This is not a similar request but Planning staff found many of the nearby multi-family developments have similar unit widths as the requested 24-foot width. This appears to be a right commonly enjoyed by other property in the same district.

3) That granting the variance requested will not confer on the applicant any special privilege that is denied by this Zoning Code to other land in the same district. The zoning history in the area shows at least two granted variances for setbacks to allow for new buildings or for remodeling of existing buildings. Granting this variance will not confer on this applicant any special privilege. There is similar style of multi-family buildings in the area.

4) That the granting of the variance will be in harmony with the general purpose and intent of this Zoning Code and with the growth policies. The Growth Policy encourages a variety of housing choices in a neighborhood. Multi-family dwellings are under-supplied in Billings and especially in Billings Heights. The proposed number of units is not excessive given the size of the property, the two-story apartments to the east and the intended site development will include paved off-street parking, garage spaces and landscaping.

5) In granting any variance, the BOA may prescribe appropriate conditions and safeguards in conformity with this Zoning Code. 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 Zoning Code.

Planning Staff is recommending the following conditions of approval:

1. The variance is limited to Parcel 1B of C/S 19 generally located on the south side of Reda Lane between 204 Reda Lane and 230 Reda Lane.
2. The variance is from Section 27-308 Table 27-300.7 Site and Structure Regulations requiring a maximum ground-floor dwelling unit width of 16 feet to allow a

24-foot maximum. No other variance is intended or implied.

3. The applicant or developer will install the required 3 street trees along the Reda Lane. The minimum width of the street frontage planting bed is 10 feet, no turf-grass is allowed, and it must contain at least 75% organic materials. All other minimum requirements of the Landscaping regulations (Section 27-1300) shall be met.

4. All outdoor lighting, shall have full cutoff shields so no part of the fixture or lens projects below the cutoff shield. Light pole standards must be 15 feet in height or less. Height includes the fixture, the base and the supporting pole.

5. The applicant will install the required "B1" buffer yard on the west and south property lines and will include 1 tree for each 70-foot increment of property line.

6. There shall be no construction activity prior to 7 am or after 8 pm daily.

7. The applicant/developer shall apply for a building permit within 12 months of Board approval and complete the development within 3 years of Board approval. Completion includes all buildings, landscaping, parking and other site structures and amenities.

8. Failure to begin or complete the project according to the time periods within this approval will void the 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 BOA 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 recommending a 1-year time period to apply for a building permit and 3 years to complete the development.

7) Under no circumstances shall the BOA 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 proposed use for multi-family apartments is an allowed use in the NX2 zone district.

STAKEHOLDERS

Planning staff mailed legal notices to property owners within 300 feet of the subject property. Shawna Olson who owns 204 Reda Lane has submitted a letter of comment opposed to the requested variance. In addition, she has gathered signatures from surrounding owners who are also opposed to the requested variance. The letter of comment and the petition is attached to the staff report.

ALTERNATIVES

The Board of Adjustment may:

- Approve the findings of the review criteria as proposed by Planning staff and conditionally approve the variance application; or,
- Change the findings of the review criteria as proposed by Planning staff and deny the variance application; or
- Allow the application to be withdrawn at the request of the applicant; or
- Delay action on the variance application to a future Board meeting.

FISCAL EFFECTS

Approval or denial of the proposed variance will have no effect on the Planning Division budget.

Attachments

Zoning Map and Site Photos

Application and Letter

Site Plan

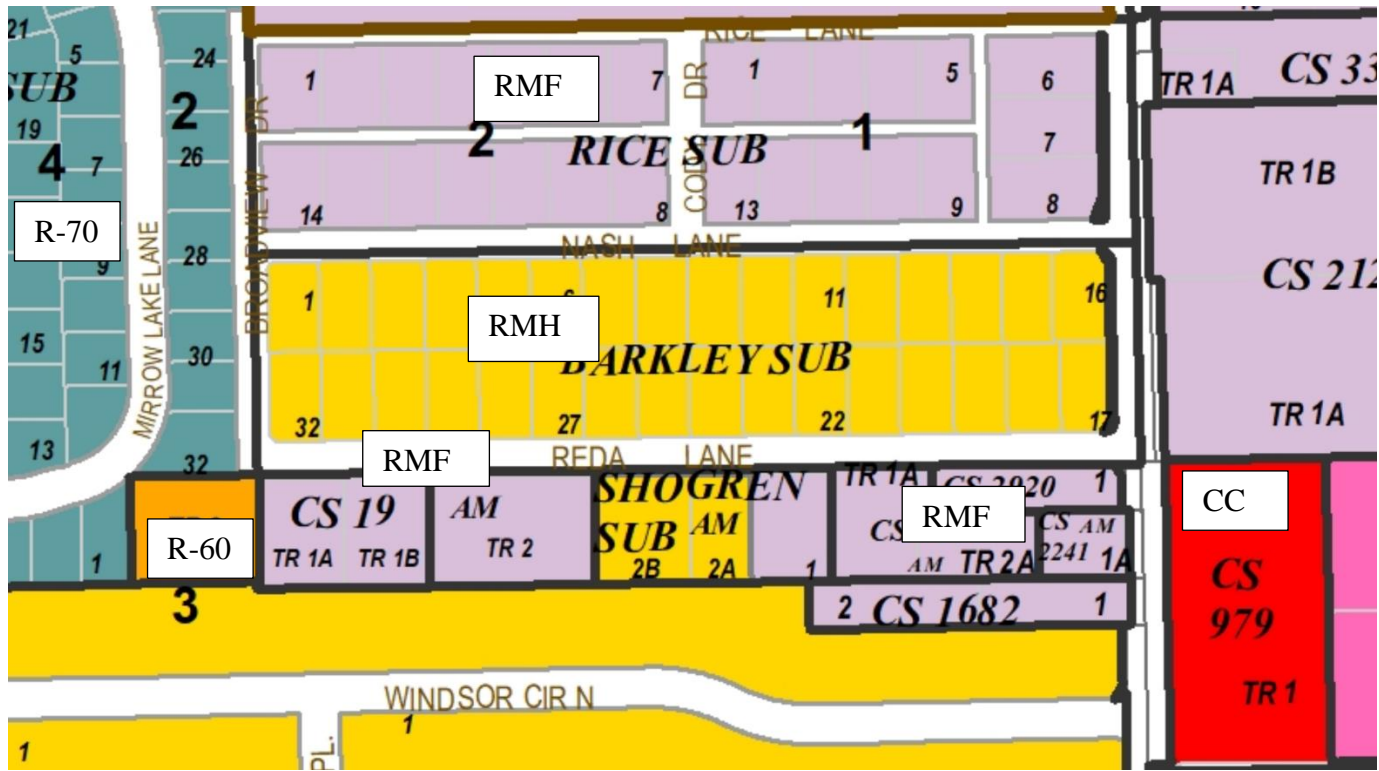
Public Comment and Petition Opposed

Chart of Zoning History

Variance 1332 – Reda Lane



Subject Property



Previous Zoning Map



Subject Property – view south from Reda Lane



View east on Reda Lane to apartments at 230 Reda Lane



View west on Reda Lane to 204 Reda Lane



View north and west across Reda Lane



View east on Reda Lane towards Lake Elmo Drive



Apartments at 230 Reda Lane (east of subject property)

Variance 1332 Reda Lane Application and Letter

2:30 PM
6/2/21

CITY VARIANCE

APPLICATION FORM

ID: Billings Variance # 1332 - Project # P2X-21-00147

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

PROPERTY TAX ID # A36502 CITY ELECTION WARD # 2

Legal Description of Property: S 22, T01 N, R26E, COS 19, Parcel 1B, AMD (19) AMD TRI

Address or General Location (If unknown, contact City Engineering): Empty lot between 204 and 230 Reda Ln.

Zoning Classification: NX2-Mixed Residential Res. 2-8 units

Size of Parcel (Area & Dimensions): 1/2 acre (21,796 sq. ft) 125 ft by 174

Covenants or Deed Restrictions on Property: Yes No

If yes, please attach to application

Variance(s) Requested: Avoidance of maximum building width per ground floor unit of 16ft. Section 27-308(2)

Facts of Hardship: The 16 foot ground floor requirement makes creating / designing livable space for dwellings too small and unattractive.

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

Owner(s): Covenant Properties LLC c/o James Wilson ^{Managing Member}
(Recorded Owner)
17270 Apache Ct, Penn Valley, CA 95946
(Address)
406-927-3727 jimwilson@alumni.nd.edu
(Phone Number) (email)

Agent(s): JW Papez, PE
(Name)
5420 Molo Road Billings MT
(Address)
406 545 5284 james@pds-eng.net
(Phone Number) (email)

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

Signature: [Signature] Date: 5/29/2021
(Recorded Owner)



Jim Wilson
17270 Apache Ct.
Penn Valley, CA 95946
(406)927-3727

June 2, 2021

Planning & Community Services Department
2825 3rd Ave North, 4th Floor
Billings, MT 59101

RE: Variance for Reda Lane Project

Hello Board of Adjustment:

I am writing to request a variance for an apartment build (2 rows of 4 units each) on Reda Lane. The new building code, while having many admirable aims, has created a very limiting build requirement of 16 feet for lower levels (per Section 27-308(2)). As I've gone to the drawing board with my drafter, I have had difficulty creating construction plans that would be useful and pleasing given the new width requirement and would request a variance to this requirement so as to construct something more attractive to would-be residents.

I've included a detailed site plan for the lot and we anticipate a conventional stick framed structure and plan to hardtop the driveway/parking area. This is one of the last vacant lots on Reda and it would be a nice addition to the area. It is zoned for multifamily use currently and is adjacent to an existing apartment structure.

Thank you for your time and consideration.

Sincerely,

A handwritten signature in black ink, appearing to read 'JLW', with a horizontal line extending to the right.

Jim Wilson

-----Original Message-----

From: shawna olson <rsst000@msn.com>

Sent: Saturday, June 19, 2021 12:32 PM

To: Cromwell, Nicole <CromwellN@billingsmt.gov>

Subject: [EXTERNAL] City variance 1332 Reda lane

We have received a letter to request zoning changes to the lot next to my house at 204 Reda Ln. We are strongly opposed to this request!!! We and the other neighbors do not want a new apartment complex built at all in this neighborhood, let alone 2 and request to go over footage allowed, NO SUPPORT will be given from the residents. If they need more footage then go someplace else and buy a bigger lot!!! We have no want or need for more traffic in this now quiet neighborhood. That lot is a Holland drain field that has been sitting empty all these years for that very reason so it should stay vacant. We have a deer heard that relies on that lot for feed and shelter that us residents enjoy and this person is now taking that enjoyment away. This lot used to be part of my house and this is infuriating that the past owner split that piece off and sold it to someone that will build some rental unit that this neighborhood does not want and we are angry about this!!! We have even talked as residents of the neighborhood that a few of us would all go in together and buy this lot back if it was to come for sale again to insure there is nothing built there. We have discussed lawyer options to figure out what we can do to stop this person from building anything at all. This person Should know we do NOT want his building here at all so don't ask for more room and to go over footage. We probably can't stop a building from going up but we will try to stop 2 from going up. The part of the letter that says it would be a nice addition to Reda lane makes me and others want to puke!!! This building would bring our home values down and we are not ok with that either. We will continue to make it known that this building is a huge disappointment to our neighborhood and we are so discussted that this is happening!!!

Shawna and Bret Olson

204 Reda Lane

SUBJECT PROPERTY	VARIANCE #	DATE	FOR	APPROVED (Y/N)	ADDITIONAL DATA
C/S 19 Tract 1B	None			Original zone = RMF	Annexed July 1984
SURROUNDING PROPERTY	VARIANCE #	DATE	FOR	APPROVED (Y/N)	ADDITIONAL DATA
203 Reda Lane	City Var 771	July 7, 1998	Reduce garage setback to 7 feet	No	Garage remains in place
1002 Main Street	City Var 246	Feb 26, 1980	Reduce front setback to 10 feet	Yes	Safelite Auto Glass

Board of Adjustment

Date: 07/07/2021
Title: Variance 1334 - 2910 3rd Ave S - reduce front build-to area from 5 feet to 0 feet
Presented by: Nicole Cromwell
Department: Planning & Community Services
Presentation: Yes

Information**RECOMMENDATION**

Planning staff is recommending conditional approval based on the findings of the variance criteria to reduce the front build-to area from a minimum of 5 feet to allow a 0 foot front setback for an addition on an existing building at 2910 3rd Ave S in a Neighborhood Mixed Use (NMU) zone district. This property is a corner lot with an existing business (Koinonia Laundry) and a residence. The existing laundry building has a 0-foot front setback.

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

This is a variance request to allow a 0-foot front build-to area to put an addition on an existing building at 2910 3rd Ave South. The property is within the Neighborhood Mixed Use (NMU) zone but used to be zoned residential. This is the location of the Koinonia Laundry, a service business in the neighborhood for over 75 years. The applicant intends to expand the existing laundry building to create a restroom space and more room for equipment. The addition would be on the east side of the existing structure that fronts on S 29th St. There is a proposed small second story area above the first floor. There is no specified use for the second floor of the proposed addition.

The proposed addition would not have been possible under the previous residential zone. This zoning encouraged the disinvestment in the business and property. The new zone allows a build-to area along the front or side adjacent to a street of a minimum 5 feet. To reduce this area to 0 feet requires the approval of a variance. A build-to area is different from a basic minimum building setback. A build-to area is intended to set a range of minimum and maximum setbacks in order to preserve the urban development pattern of building closer to the edges of public sidewalks and streets. This development pattern encourages "eyes on the street" and fosters daily interactions with neighbors and visitors to the area. This atmosphere creates general safety and sociability in tightly woven neighborhoods. The doors and windows on these close-to-the-sidewalk buildings have a minimum area as a ratio of the building facade. In the NMU zone district this is 45% of the front facade measured between 2 feet and 8 feet above the sidewalk. The front facade of the building faces 3rd Ave South. The proposed addition is on a side street facade, so the door and window requirements do not apply to this side of the building.

The site has a privacy fence along the eastern property line adjoining the residence at 308 S 29th Street. This will help buffer the proposed addition. Planning staff has some recommended conditions for small site improvements to accommodate the proposed building. NMU zones are intended to be wholly within neighborhoods on the ends of blocks on corners, but attention to adjacent residential neighbors is important. The site plan as presented appears to meet all the other requirements of the NMU district (Section 27-407) and "neighborhood manners" provided in Section 27-403.L.

Planning staff is recommending conditional approval based on the proposed findings of the variance criteria.

Before granting the requested variance, the Board of Adjustment shall consider the findings of the review criteria (Sec 27-1627.D)

- 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 circumstance with this parcel that does not apply to other parcels in the area. This parcel as well as the surrounding neighborhood zone districts all have a minimum 5-foot to 8-foot build-to area. There is a distinct difference at this location as the building was built at the property line on both street frontages.
- 2) That a literal interpretation of the provisions of this Zoning Code would deprive the applicant of rights commonly enjoyed by other tracts in the same district. This is the first variance requested from the new build-to requirement for the mixed use zone district. The previous zoning required minimum setbacks. Planning staff found several prior variances to reduce setbacks including a 0-foot side setback. There are several 0-foot setback variances for property in and around downtown before the Central Business District zone was adopted and then expanded in 1982. Denial of the variance would deny this applicant rights commonly enjoyed by other parcels in the same area.
- 3) That granting the variance requested will not confer on the applicant any special privilege that is denied by this Zoning Code to other land in the same district. The zoning history in the area shows several granted variances for setbacks to allow for new buildings or for remodeling of existing buildings. Granting this variance will not confer on this applicant any special privilege.
- 4) That the granting of the variance will be in harmony with the general purpose and intent of this Zoning Code and with the growth policies.
The proposed site plan will not create an intrusion into the public space of the sidewalk and boulevard. The back of the curb is at least 10 feet from the property line so the building will not crowd the area. The growth policy encourages expansion of existing local businesses. The proposed variance is in harmony with the growth policy.
- 5) In granting any variance, the BOA may prescribe appropriate conditions and safeguards in conformity with this Zoning Code. 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 Zoning Code.
Planning Staff is recommending the following conditions of approval:
 1. The variance is limited to Lots 11 & 12, Block 167 of Billings Original Town generally located at 2910 3rd Avenue South.
 2. The variance is from Section 27-407 requiring a minimum build-to area of 5 feet from the front or street side property line to allow a 0-foot minimum build-to area on S 29th St. No other variance is intended or implied.
 3. The applicant or developer will install one street frontage tree on 3rd Avenue South within the concreted boulevard about halfway between the corner of the building and the drive approach. This will be accomplished by removing one of the concrete sections from the boulevard. A permit from the Engineering Division will be required to install this street tree.
 4. All outdoor lighting, with the exception of signage, shall have full cutoff shields so no part of the fixture or lens projects below the cutoff shield.
 5. All applicable sections of Section 27-403.L will be followed. The existing privacy fence on the easterly property line will be preserved and/or restored at the completion of construction.
 6. There shall be no construction activity prior to 7 am or after 8 pm daily.
 7. The applicant/developer shall apply for a building permit within 12 months of Board approval and complete the development within 3 years of Board approval.

Completion includes all buildings, landscaping, parking and other site structures and amenities.

8. Failure to begin or complete the project according to the time periods within this approval will void the 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 BOA 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 recommending a 1-year time period to apply for a building permit and 3 years to complete the development.

7) Under no circumstances shall the BOA 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 proposed use of the building is an allowed use in the NMU zone district.

ALTERNATIVES

The Board of Adjustment may

- Approve the findings of the review criteria as proposed by Planning staff and conditionally approve the variance application; or,
- Change the findings of the review criteria as proposed by Planning staff and deny the variance application; or
- Allow the application to be withdrawn at the request of the applicant; or
- Delay action on the variance application to a future Board meeting.

FISCAL EFFECTS

Approval or denial of the proposed variance will have no effect on the Planning Division budget.

Attachments

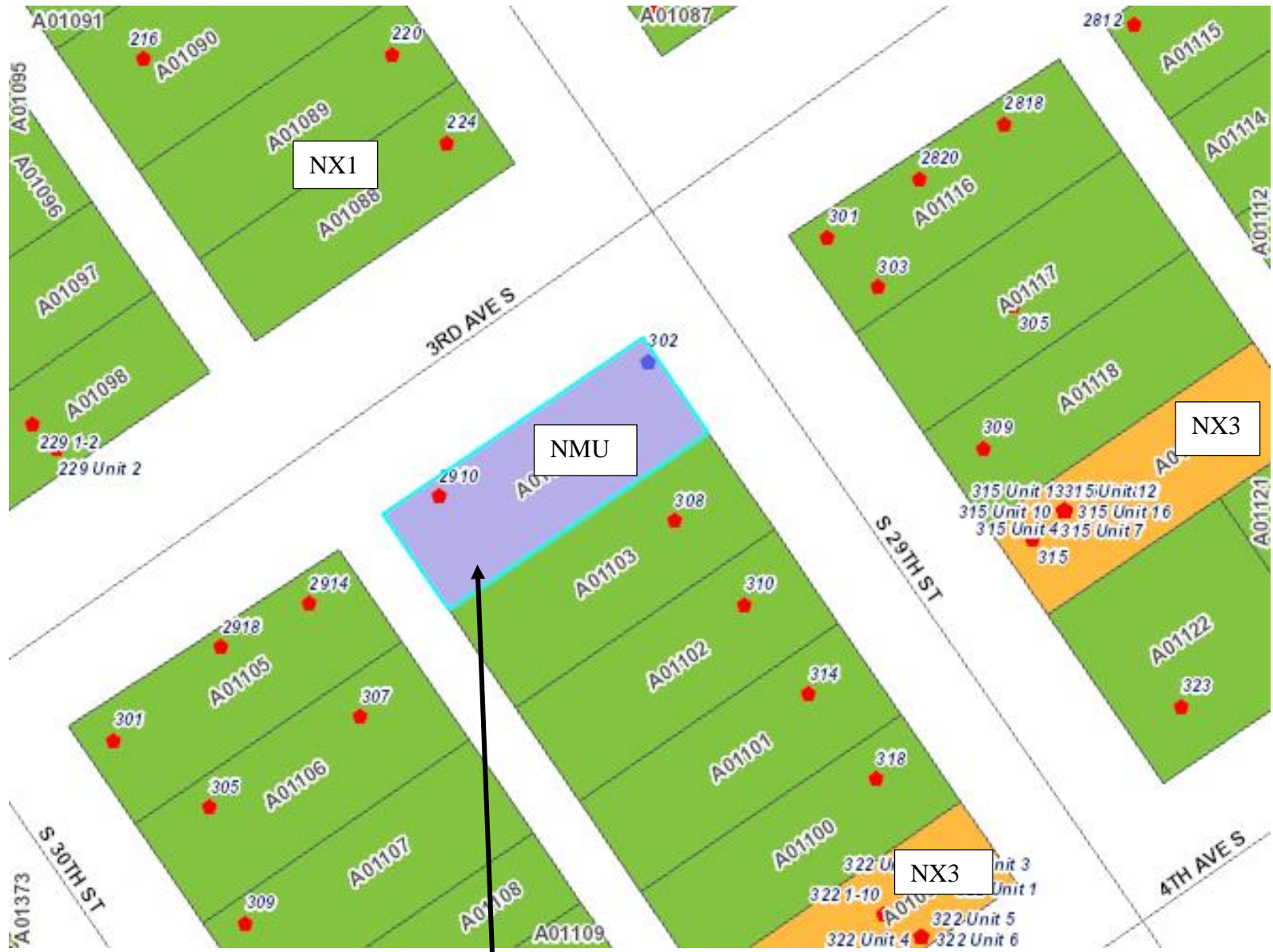
Zoning Map and Site Photos

Zoning History Chart

Application and Letter

Site Plan

Variance 1334 – 2910 3rd Ave S – Build-to area



Subject Property



Subject Property – residential home on south end of lot



View west along 3rd Avenue South



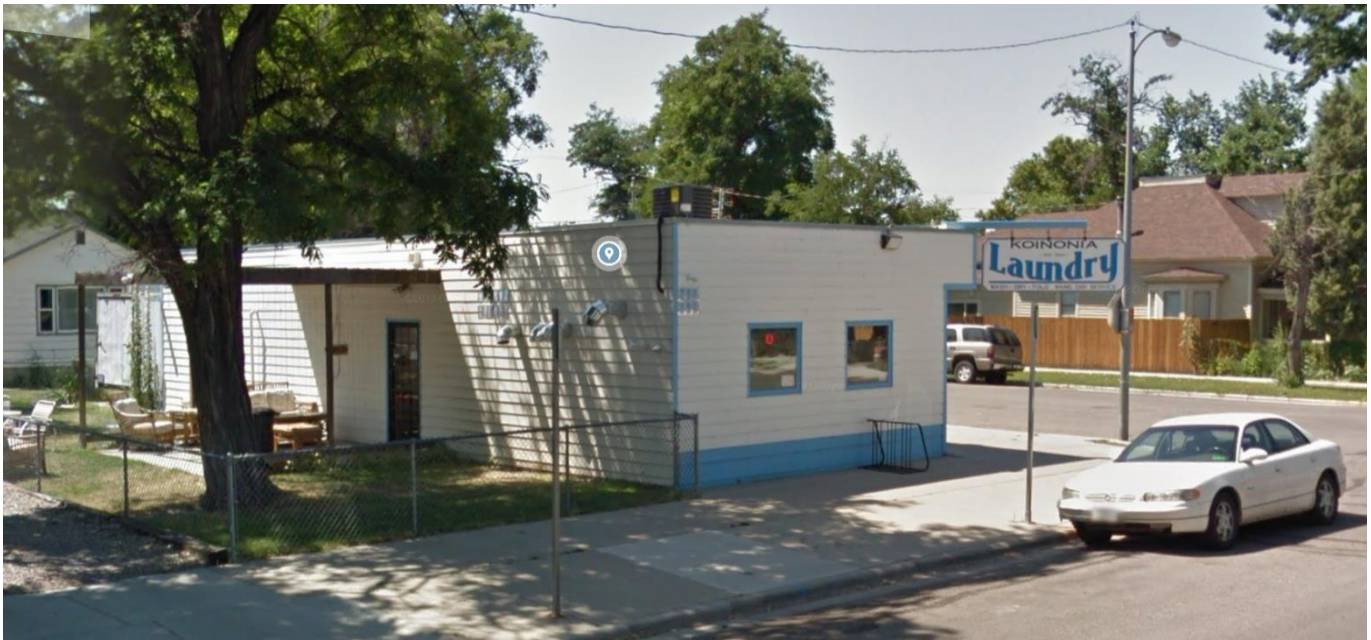
View east along 3rd Ave South



View north across 3rd Ave South



View of Koinonia Laundry from 3rd Ave South at S 29th St



View of S 29th St façade – addition location

SUBJECT PROPERTY	VARIANCE #	DATE	FOR	APPROVED (Y/N)	ADDITIONAL DATA
2910 3 rd Ave S	None				
SURROUNDING PROPERTY	VARIANCE #	DATE	FOR	APPROVED (Y/N)	ADDITIONAL DATA
317 S 30 th St	City Var 1236	July 6, 2016	½-foot side setbacks	Yes	Existing buildings
201 S 29 th St	City Var 1260	June 7, 2017	Lot area & setbacks	Yes	
413/419 S 29 th St	City Var 607	Dec 5, 1989	Side Setbacks	Yes	
2914 4 th Ave S	City Var 158	Sept 27, 1977	Front & side setbacks	Yes	
401 N 23 rd St	City Var 1	Jan 31, 1973	Front setback	Yes	
411 N 18 th St	City Var 130	March 29, 1977	Front setback to 0 feet	Yes	

Variance 1334 2910 3rd Ave S Application and Letter

CITY VARIANCE APPLICATION FORM ID: Billings Variance # 1334 - Project # Pzx-21-00156

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

PROPERTY TAX ID # A01104 CITY ELECTION WARD # 1

Legal Description of Property: Billings Original townsite Block 167 Lot 11-12

Address or General Location (If unknown, contact City Engineering): 2910 3rd Avenue South

Zoning Classification: NMU - Neighborhood Mixed Use

Size of Parcel (Area & Dimensions): 7,000 sq. (50' x 140')

Covenants or Deed Restrictions on Property: Yes _____ No X

If yes, please attach to application

Variance(s) Requested: front setback - 0 (zero) requested (existing building is on the property line.)

Facts of Hardship: the setback would take away from a proposed addition to the building which serves the community laundry needs.

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

Owner(s): Maximilian S. Hoffmann

(Recorded Owner) 2910 3rd Ave. South

(Address) (434) 770-3183 mhoffmt@gmail.com

(Phone Number) (email)

Agent(s): Scott Atwood (Atwood Architecture)

(Name) 1301 Division Street

(Address) (406) 855-4262 scott@atwoodarchitecture.com

(Phone Number) (email)

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

Signature: [Signature] acting as owner's rep. Date: 6/7/2021

(Recorded Owner)





June 7, 2021

Board of Adjustment
Billings Planning & Community Services Dept.
2825 3rd Avenue North
Billings, MT 59101

Re: Request for Variance
Koinonia Laundry
Architects Project Number: 2021-11

Dear Board Members,

As Owner's representative for Max Hoffman, owner of the Koinonia Laundry that occupies the subject site, we respectfully request a variance to the front "build to" setbacks required by the NMU zoning of the property.

While the attached documents/application package records the physical parameters of the property and proposed expansion, please see the following to address the specific questions issued in the Variance package.

A: What reasons prevent you from using the property in conformance with the Zoning Regulations?

ANSWER:

While technically, there are no reasons that absolutely prevent the use of the property (or in this case, the proposed ADDITION to the existing building) under the current zoning regulations, it is noted that the existing building does NOT comply with the current zoning setback which is placed directly on the property line. (Off of the South 29th Street face).

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

ANSWER:

The Koinonia Laundry has been a fixture in the community for more than 75 years and provides a valuable service to the residents of the area. Since purchasing the property/business, Mr. Hoffman has expanded services to 24/7, pick-up and delivery. He has created a safe, successful business that allows residents the opportunity to either do their own laundry or have the business provide this service. Two factors limit the facility. They can't provide an accessible restroom and they simply need more room for equipment. The proposed addition allows both goals to be met. An accessible restroom is being installed and added equipment will allow an expansion of services to the community.

1301 Division Street

Billings, MT 59101

406-855-4262

C: Explain any demolition, construction, or reconstruction intended for all structures.

ANSWER:

A non-complying canopy will be removed to allow the proposed building addition. In addition, the parking will be modified to gain another stall (or 2) on the actual property. Contact has been made with City Engineering and John Zisch reports that we will be allowed to use the Proportionate Compliance portion of the Code to provide for the desired parking requirements. It is expected that the existing curb cut will be modified to allow both access to the off street parking and to gain one more stall on the street.

We hope you find the above information useful in your determination and look forward to gaining the community's input as the variance gets advertised and they are alerted.

Thank you for your consideration.

Sincerely,
Atwood Architecture

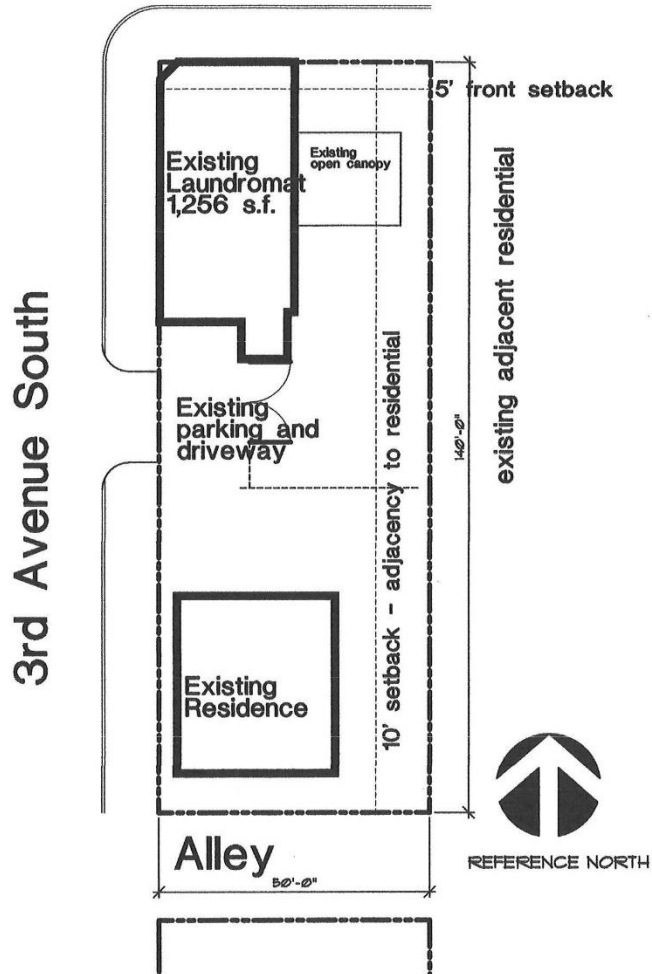
A handwritten signature in blue ink that reads "SCOTT ATWOOD". The signature is stylized and written in all caps.

Scott Atwood, Registered Architect

Attachments
copy: Max Hoffman

PROPERTY DEVELOPMENT CONCEPT STUDY FOR:
2910 3rd AVENUE SOUTH
BILLINGS, MONTANA

South 29th Street



Existing Conditions

1"=30' on 8 1/2"x11" paper

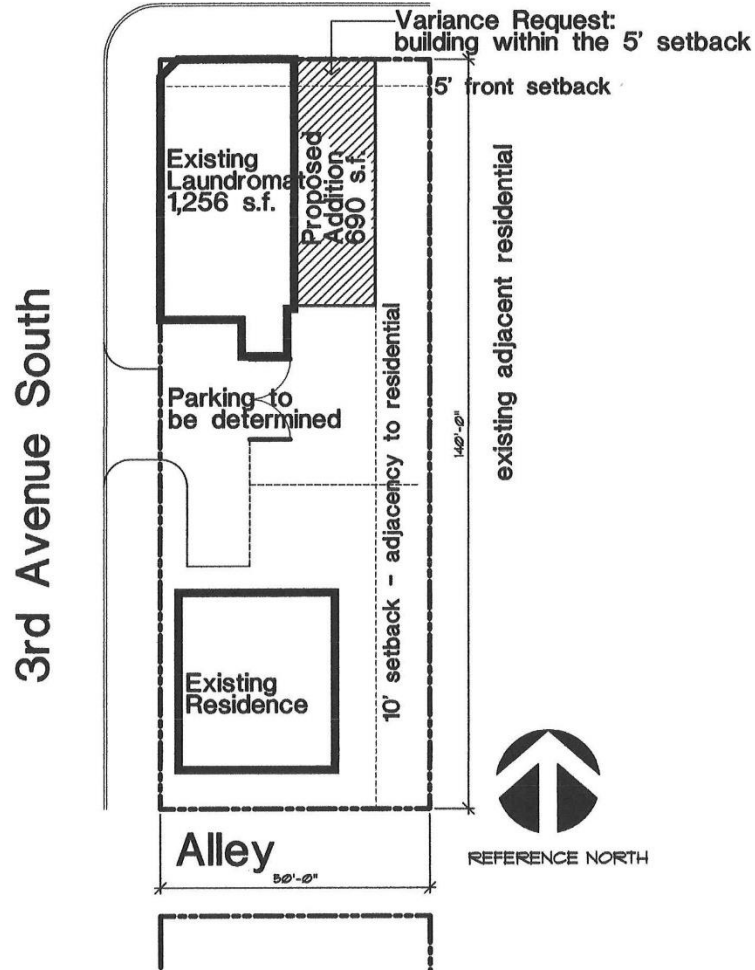
7,000 s.f. lot (50'x140')



6-7-2021

**PROPERTY DEVELOPMENT CONCEPT STUDY FOR:
 2910 3rd AVENUE SOUTH
 BILLINGS, MONTANA**

South 29th Street



Proposed Addition

1"=30' on 8 1/2"x11" paper

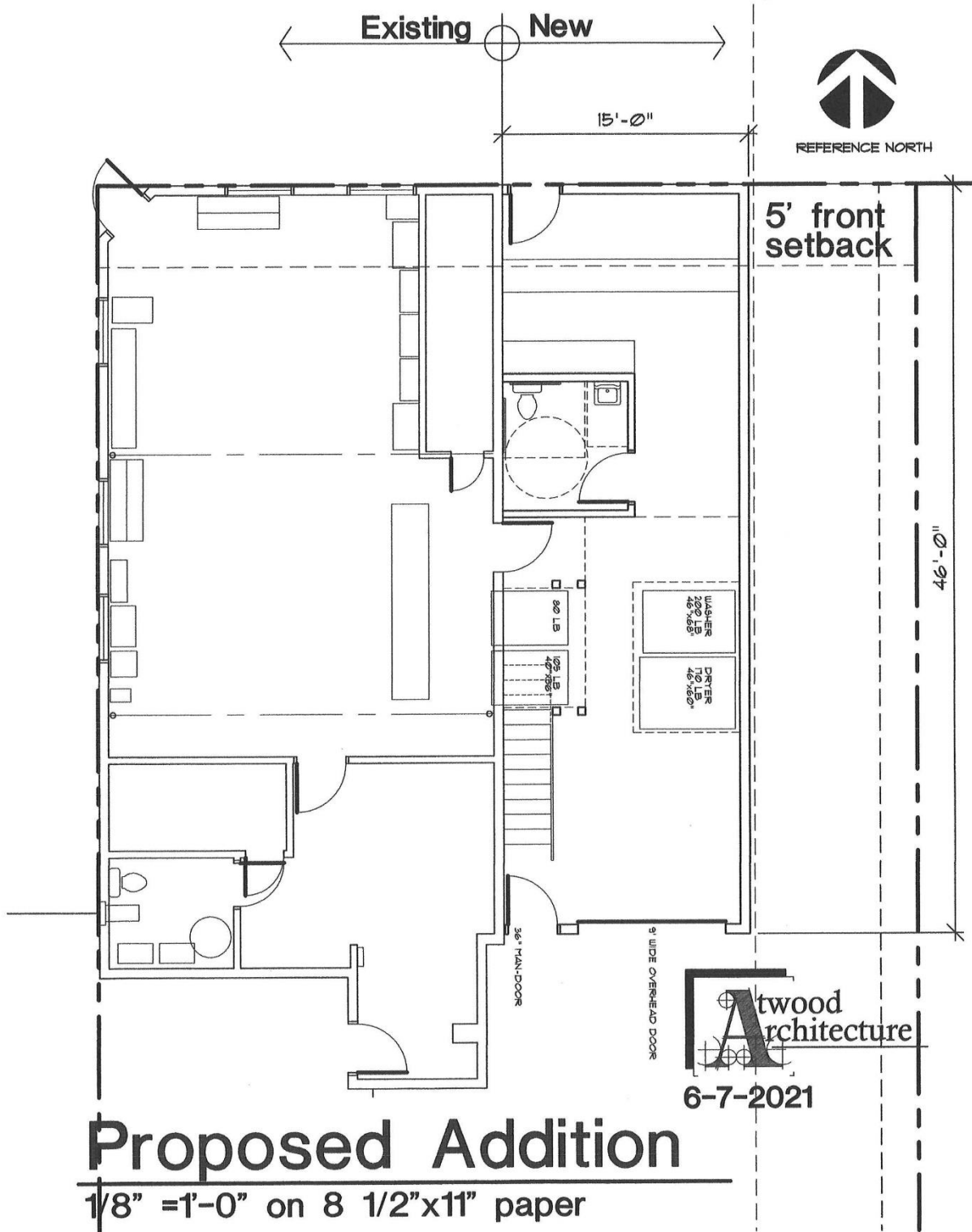
7,000 s.f. lot (50'x140')



6-7-2021

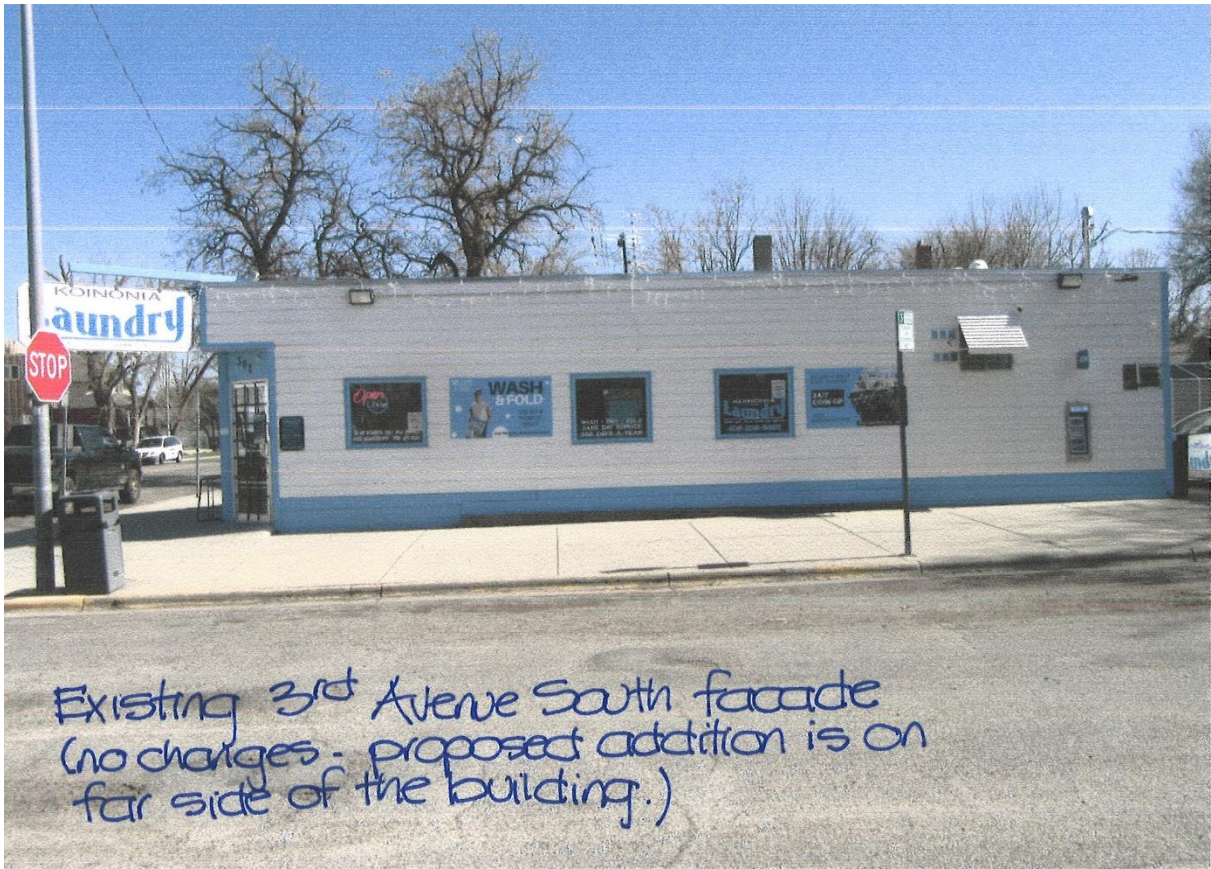
PROPERTY DEVELOPMENT CONCEPT STUDY FOR: 2910 3rd AVENUE SOUTH

BILLINGS, MONTANA



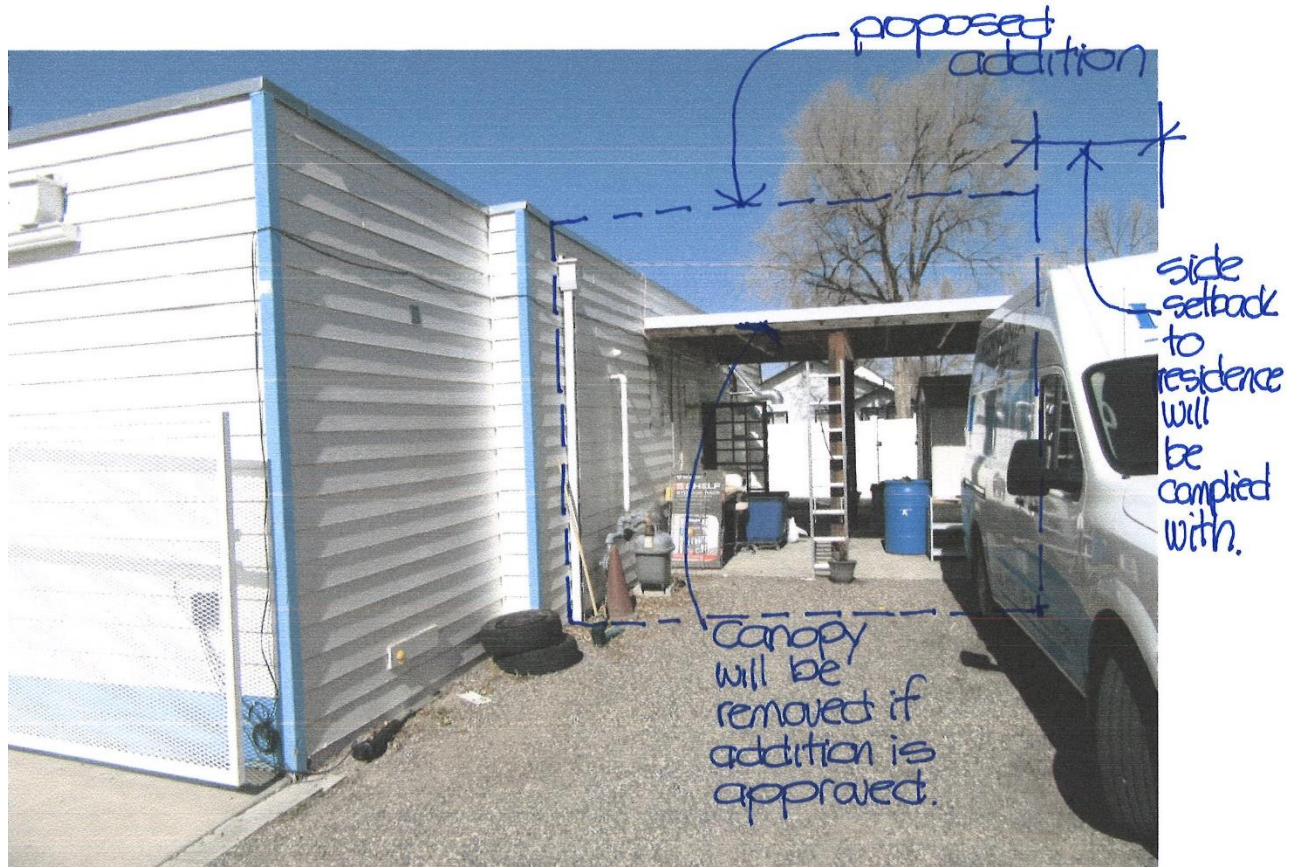
Proposed Addition

1/8" = 1'-0" on 8 1/2"x11" paper



Existing 3rd Avenue South facade
(no changes - proposed addition is on
far side of the building.)





proposed addition

side setback to residence will be complied with.

Canopy will be removed if addition is approved.