

CITY BOARD OF ADJUSTMENT

MINUTES December 7, 2022

Name	Title	01/05/2022	02/02/2022	03/02/2022	04/06/2022	05/04/2022	06/01/2022	07/06/2022	08/03/2022	09/07/2022	10/05/2022	11/02/2022	12/07/2022	
David Mitchell	Member	1	-	1	E	E	E	1	E	-	E	-		
Dave Hagstrom	Member	1	-	1	1	1	1	1	1	-	1	-		
George Warmer	Member	-	-	1	1	1	E	1	1	--	1	-		
Jeff Bollman	Vice Chair	P	-	1	1	E	1	1	1		E	-		
Oscar Heinrich	Chair	1	-	1	1	1	1	1	1	-	1	-		
Chris Hayes	Member	-	-	-	1	1	1	E	1	-	1	-		
Josh Sayer	Member	-	-	-	1	1	1	1	1	-	1	-		
TOTAL NUMBER OF APPLICATIONS 2022		01/05/2022	02/02/2022	03/02/2022	04/06/2022	05/04/2022	06/01/2022	07/06/2022	08/03/2022	09/07/2022	10/05/2022	11/02/2022	12/07/2022	TOTAL
Variance		2	-	3	1	*2	1	*3	*2	-	1		4	11

*1 Returning variance

Chair Heinrich called the meeting to order at 6:00 p.m.

Chair Heinrich introduced the City Board of Adjustment members and Planning Department staff. Attending Staff members are Nicole Cromwell, Zoning Coordinator, and Robbin Bartley, Administrative Assistant.

Attending: Paige Connair (virtually), Sierra Hyde (Virtually), Joanna Graham(virtually), Tom (unknown), Shay Grinsell, Mike & LaRona Mahon, Lisa, Lavinder & Kevin Beebe

Public Comment

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

Approval of Meeting Minutes

Meeting minutes for October 5, 2022 were approved unanimously.

Disclosure of Exparte Communications: None

Disclosure of Site Visits: Mitchell visited 1351 & 1352, Heinrich visited all, Hagstrom visited 1354 and Sayer visited 1352

Disclosure of Conflict of Interest: None

Public Hearings

City Variance 1351 – 403 Main Street – Target – Wall Sign Variance - A variance from 27-1407.C – Table of Allowed Attached Signs – allowing only one wall sign on a single tenant structure to allow a second wall sign in a Corridor Mixed Use 2 (CMU2) zone, on Lot 2, Block 1 of Heights Town Center Sub, a 12-acre parcel of land. The purpose of the variance is to allow the replacement of existing wall signs with new Target signs. Tax ID: A17029A

Recommendation:

Planning staff is recommending conditional approval based on the very limited BOA history of granting similar variances for similarly situated buildings and property, and because property within the immediate vicinity enjoys the same type and size of signage without a variance. Several conditions are recommended to ensure the new signage has less of an impact on the surrounding property.

Recommended Conditions:

1. The variance is for one additional wall sign (attached sign type). No other variance is intended or implied by this approval.
2. The variance applies to Lot 2, Block 1, Heights Town Center Subdivision, generally located at 403 Main Street.
3. The proposed location of the additional wall sign will be in substantial conformance with the submitted site plan. Minor adjustments to the site plan are allowed.
4. The applicant will apply for a sign permit for the additional wall sign within 6 months of the Board of Adjustment approval.
5. The additional wall sign will be installed within 1 year of Board of Adjustment approval.
6. Failure to begin or complete actions required by this approval within the time limits set forth shall void 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, leaseholders, heirs and assigns.

Questions for staff:

Commissioner Warmer asked the difference between painted and mounted signs. Commissioner Hayes asked if Target owns the buildings to the south, NO

Chair Heinrich asked if this will set a precedence, NO

Public Hearing opened at 6:19 PM

Applicant: Joanna Graham, Kimley 111, E Broadway

Questions for Applicant

Chair Heinrich asked what has happened at other Target store location, the applicant replied they have not been denied

In Favor: None

Opposed: None

Public Hearing closed at 6:22 PM

Discussion

Motion

Board Member Mitchell made a motion and Board Member Hagstrom seconded the motion to approve the **City Variance 1351** with staff conditions and recommendations.

MEMBER	YES	NO	ABSTAINED	NOT PRESENT
David Mitchell	x			
Dave Hagstrom	x			
George Warmer	x			
Jeff Bollman				x
Oscar Heinrich	x			
Chris Hayes	x			
Josh Sayer	x			

The motion to approve City Variance 1351 passed with a 6-0 vote.

City Variance 1352 – 198 Mountain View Blvd – Detached Garage Yard Location and Setback - A variance from 27-306 – Table 27-300.5 requiring the location of a detach accessory building to be in the rear yard and from the minimum front setback of 20 feet for any structure to allow a front yard location and a 0 (zero) foot front setback for the reconstruction and expansion of an existing detached garage in a Suburban Neighborhood Residential (N3) zone, on C/S 575, Parcel 39B, a 10,790 square foot parcel of land. A previous variance for this structure was approved on July 1, 2020 . The applicant could not start the project within the time period allowed due to COVID 19 materials and labor shortages. Tax ID: A12584

Recommendation:

Planning staff is recommending approval based on the review criteria for variances and findings of the criteria. This lot has a substantial geographic hardship with slopes on the rear property and the slow, but steady geologic movement of the rims face to the south. There have been other setback variances granted in this area for both principal and accessory structures. Denying this request would deprive this applicant of rights commonly enjoyed by other property in the area.

The variance is for the 0-foot front setback and location within the front yard for the detached garage.

2. The variance is limited to this legally described lot.
3. Apply for a building permit within 1 year and complete the project within 3 years. Failure to meet time lines, voids the variance.
4. No construction before 7 am or after 8 pm.
5. Applicant will meet all other city codes required for construction.
6. These conditions of variance approval shall run with the land

Questions for staff:

Chair Heinrich asked if the old garage will be removed

Public Hearing opened at 6:32 PM

Applicant: Lisa Lavendar, 198 Mountain View Blvd

Questions for Applicant

Ms. Lavendar indicated the old garage will be replaced

In Favor: None

Opposed: None

Public Hearing closed at 6:33 PM

Discussion

Motion

Board Member Warmer made a motion and Board Member Hayes seconded the motion to approve the **City Variance 1352 with staff conditions and recommendations.**

MEMBER	YES	NO	ABSTAINED	NOT PRESENT
David Mitchell	x			
Dave Hagstrom	x			
George Warmer	x			
Jeff Bollman				x
Oscar Heinrich	x			
Chris Hayes	x			
Josh Sayer	x			

The motion to approve City Variance 1352 passed with a 6-0 vote.

City Variance 1353 – 426 Indian Trail – Detached Garage Yard Location - A variance from 27-306 – Table 27-300.5 requiring the location of a detach accessory building to be in the rear yard to allow a side yard location for a new 994 square foot detach garage in a Suburban Neighborhood Residential (N3) zone, on Lot 15, Block 5 of Spring Valley Sub, a 14,392 square foot parcel of land. Tax ID: A14524B

Recommendation:

Planning staff is recommending approval based on the review criteria for variances. This lot has an unusual shape and placement of the home on the lot creates a geographic hardship. There is not enough access to or room in the rear yard to construct a detached garage. There is no feasible or practical way to attach the proposed garage. There have been other setback and location variances granted in this area for both principal and accessory structures. Denying this request would deprive this applicant of rights commonly enjoyed by other property in the area.

Recommended Conditions:

1. This approval is to allow the placement of a detached garage in a street side yard. No other variance is intended or implied.
2. The variance is limited to Lot 15, Block 5 of Spring Valley Subdivision, generally located at 426 Indian Trail.
3. The applicant will apply for and receive approval for a building permit within 1 year and complete construction within 3 years of BOA approval. Failure to meet the time limits of this condition will void the variance.
4. There will be no construction activities before 7 a.m. or after 8 p.m. daily.
5. The applicant shall meet all other city code requirements in place at the time of construction except for the variance granted herein.
6. These conditions of variance approval shall run with the land described in this authorization and shall apply to all current and subsequent owners, operators, managers, leaseholders, heirs and assigns.

Questions for staff:

Chair Heinrich asked why this is not considered a corner lot, staff replied it is pie shaped

Public Hearing opened at 6:42 PM

Applicant: Thomas & Daleen Heitz, 426 Indian Trail, Billings, MT

Questions for Applicant

In Favor: None

Opposed: None

Public Hearing closed at 6:43 PM

Discussion

Motion

Board Member Hayes made a motion and Board Member Mitchell seconded the motion to approve the **City Variance 1353 with staff conditions and recommendations.**

MEMBER	YES	NO	ABSTAINED	NOT PRESENT
David Mitchell	x			
Dave Hagstrom	x			
George Warmer	x			
Jeff Bollman				x
Oscar Heinrich	x			
Chris Hayes	x			
Josh Sayer	x			

The motion to approve City Variance 1353 passed with a 6-0 vote.

City Variance 1354 – 5821 Shooting Star Trail – Lot Coverage - A variance from 27-306 – Table 27-300.5 requiring a maximum of 40% lot coverage to allow a maximum of 2,498 square feet of lot coverage (~41.5%) for a proposed addition to an existing residence in a Suburban Neighborhood Residential (N3) zone, on Lot 7, Block 3 Trails West Sub 1st Filing, a 6,030 square foot parcel of land. Tax ID: A12584

Recommendation:

Planning Staff is recommending **conditional approval** based on draft findings of the review criteria for variances.

Recommended Conditions:

1. This approval is to allow 2,498 square feet of lot coverage (~41.5%). No other variance is intended or implied.
2. The variance is limited to Lot 7, Block 3 of Trails West Subdivision 1st Filing, generally located at 5821 Shooting Start Trail.
3. The applicant will apply for and receive approval for a building permit within 1 year and complete construction within 3 years of BOA approval. Failure to meet the time limits of this condition will void the variance.
4. There will be no construction activities before 7 a.m. or after 8 p.m. daily.
5. The applicant shall meet all other city code requirements in place at the time of construction except for the variance granted herein.
6. These conditions of variance approval shall run with the land described in this authorization and shall apply to all current and subsequent owners, operators, managers, leaseholders, heirs and assigns.

Questions for staff:

Board member Hagstrom asked if this will set a precedence and would he remove the shed?

Chair Heinrich if a gazebo is considered lot coverage, all roofs are considered in lot coverage excluding pergolas. It is a matter of storm water run off

Board member Hagstrom asked if staff had received any neighbors' objections

Public Hearing opened at 6:55 PM

Applicant: Mike Mann, 5821 Shooting Star

He believes there is a hardship as the floor plan sacrifices space for the dining area. The developer stopped building this floorplan due to lack of space.

Questions for Applicant

Board member Hagstrom stated this is a dense neighborhood, would you object to others doing the same

In Favor:

Karen Blaylock, 13 Blackberry Way

She asked how far the structure would be from the adjoining fence. It will be 7 feet, 9 inches, the setback requirement is 5 feet.

Opposed: None

Public Hearing closed at 7:04 PM

Discussion

Motion

Board Member Hagstrom made a motion and Board Member Warmer seconded the motion to approve the **City Variance 1354 with staff conditions and recommendations.**

MEMBER	YES	NO	ABSTAINED	NOT PRESENT
David Mitchell	x			
Dave Hagstrom	x			
George Warmer	x			
Jeff Bollman				x
Oscar Heinrich		x		
Chris Hayes	x			
Josh Sayer	x			

The motion to approve City Variance 1354 passed with a 5-1 vote.

Other Business: Chair Heinrich discussed the attendance policy for board members going forward. There is 1 application for January and Board member Warmer will not be attending.

ADJOURNMENT: The meeting adjourned at 7:15 PM.

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