



CITY BOARD OF ADJUSTMENT
AGENDA-Wednesday, June 7, 2023, 6:00 p.m.
Miller Building, 1st Floor Conference Room
2825 3rd Avenue North, Billings, Montana

NOTICE TO THE PUBLIC

In the event a quorum of the Council is present, no City-related decisions will be made during this meeting or event.

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://tinyurl.com/yckr478k>

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
- 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 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 April 5, 2023.

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 1366 -- 2280 Richards Rd. -- Allow a detached accessory structure in the front yard - A variance from Section 27-305, Table 27-300.4 -- A.7 (Rear Yard Location for Accessory Building) in a Residential Manufactured Home (RMH) zone, on Lots 23-24 of Lakeview Subdivision, an 11,491 square foot parcel of land. The purpose of the variance is to allow construction of a detached garage in the front yard of the property.**

- b. **City Variance 1367 -- Ping Circle -- Allow a a variance from max garage width on the front façade and from the build-to zone** - A variance from Sec. 27-305 (Table 27-300.4) from the required Front Build-To zones to allow the front door and living area of a new residence to be more than 50 feet from the front property line, and allow garage entry door width cover more than fifty percent (50%) of the front façade in an N2 zone, on Lots 5, 6, 10 & 11, Block 1, Founders Park Subdivision. These four lots total 35,689 square feet of land. The purpose of the variance is to allow construction of homes on four unique shaped parcels in the Founders Park Sub.

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 Support at bartleyr@billingsmt.gov.

City Board of Adjustment
Meeting Date: 06/07/2023

Information

Subject

The minutes of the Board meeting of April 5, 2023.

Attachments

BBOA_2023_0405

CITY BOARD OF ADJUSTMENT
MINUTES April 5, 2023

Name	Title	2023												
		01/04/2023	02/01/2023	03/01/2023	04/05/2023	05/03/2023	06/07/2023	07/05/2023	08/02/2023	09/06/2023	10/04/2023	11/01/2023	12/06/2023	
David Mitchell	Member	1	E	-	R	E	S	I	G	N	E	D	-	
Dave Hagstrom	Member	1	1	1	1									
George Warmer	Member	E	1	1	1									
Jeff Bollman	Vice Chair	1	1	E	E									
Oscar Heinrich	Chair	Z	1	1	Z									
Chris Hayes	Member	1	E	1	1									
Josh Sayer	Member	1	1	1	1									
TOTAL NUMBER OF APPLICATIONS 2023														
		01/04/2023	02/01/2023	03/01/2023	04/05/2023	05/03/2023	06/07/2023	07/05/2023	08/02/2023	09/06/2023	10/04/2023	11/01/2023	12/06/2023	TOTAL
Variance		1	4	3	4*									11
Appeal					1									1

* Returning variance

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

Chair Heinrich 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: Patrick Weber, Jeff Wollschlager, Rudy Grossman, Ron Reichenbach, George Reichenbach, Keith Shirley, Jason Norman (zoom), Kolten Knatterud (zoom)

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.

Approval of Meeting Minutes

Meeting minutes for February 1, 2023 and March 1, 2023. - APPROVED

Disclosure of Exparte Communications: NONE
Disclosure of Site Visits: Hagstrom and Heinrich, ALL
Disclosure of Conflict of Interest: Warmer 1361, recused

Public Hearings

Return Item - City Variance 1361 – Angel Oak Lane, The Timbers Sub – Attached Garage Location Entry – A variance from Section 27-307, Table 27-300.6, A11 (Attached Garage Location and Entrance) to allow attached garage space in the front half of structures and allow the garage entrance to face the street frontage, in a Mixed Residential 1 (NX1) zone, on Lots 1 through 27 of Block 1, The Timbers Subdivision (final plat pending). The total area affected is 4.9 acres of land. Tax ID: D05250 (part)

Recommendation:

Planning staff recommends denial of Variance 1361 and adoption of the findings of the review criteria.

Recommended Conditions: If the Board chooses to approve Variance 1361.

1. This approval is to allow the garage on the front of the building adjacent to street frontage on lots 7, 8 & 9 only in The Timbers Subdivision (final plat pending). No other variance is intended or implied.
2. The applicant will apply for and receive approval for the first building permit within 1 year and complete construction on the first dwelling within 3 years of BOA approval. Failure to meet the time limits of this condition will void the variance. All remaining lots will have completed construction within 7 years of BOA approval. Failure to construct within this time frame will require a new application and action from the BOA.
3. There will be no construction activities before 7 a.m. or after 8 p.m. daily.
4. Development of the parcels shall be in substantial conformance to the submitted site plans, minor modifications are allowed.
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: NONE

Public Hearing opened at 6:06 PM

Applicant: Ali Mitchell, 1263 Timber South Blvd

Why NX1 zone? City PND requires an NX zone in a PND over 40 acres. Neighbors concerned with high density zoning housing. NX1 allows 1-4 units. The location is based on wetlands. The City Council is considering a code change to allow front or side load garages.

Kolten Knatterud, IMEG, 175 N 27th St, STE 312

This is a working process, annexation and zoning. The alley access caused a loss of lots. The text amendments to the code are expected but have not occurred yet.

David Mitchell

We are asking for these special conditions for lots 7,8 and 9 only. There are other lots in the area enjoying the front load garages.

Jeff Wollschlager, 3711 Corbin Drive

He is in favor of this for density, design & location limits.

Questions for Applicant:

Boardmember Hagstrom asked for the location of the lots and if alternatives have been considered.

Staff explains the ew code and need for rear loading garages. Some uses are done well.

In Favor: None

Opposed: None

Public Hearing closed at 6:45 PM

Discussion:

Board member Hagstrom stated special conditions exist and this is in harmony with zoning. He moves for approval of 3 lots stating trying to meet density raises the price of all houses. He does not believe it sets a precedent nor does it confer any special privilege.

Motion

Board Member Hagstrom made a motion and Board Member Hayes seconded the motion to **approve** the City Variance 1361 with staff conditions and recommendations, stating there are special conditions that exist. It is in harmony with zoning, there is a hardship. Conditions 1 & 4.

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

The motion to **approve** City Variance 1361 passed with a 4-0 vote.

Appeal 23-01 – 918 Howard Avenue – Appeal the Determination that corrugated steel is not a commonly used fence material and the structure in question is not a fence – The Zoning Coordinator, in cooperation with the Code Enforcement Division made the determination that corrugated steel is not a

commonly used fence material in a residential zone is relation to the fence re-constructed at 918 Howard Avenue (BMCC Section 27-1209.E.1). The property owner now appeals such determination. The property is legally described as Lots 37 & 38, Block 18 of Broadwater Subdivision and is zoned N1-First Neighborhood. Tax ID: A03641

The Board may affirm, modify or reverse the determination of the Zoning Coordinator in this matter. BMCC 27-1616.

Recommendation:

Planning staff requests the Board of Adjustment affirm the determination of the Zoning Coordinator that metal panels are not materials commonly used for fencing within residential zone districts in Billings. Planning staff also requests the Board affirm the determination the structure as shown and constructed meets the definition of a "fence" requiring the submittal of a fence permit from the Planning Division. Any submitted fence permit can only be approved if found to be in compliance with the zoning code.

Alternatives

The Board of Adjustment may take one of the following actions:

Affirm in whole the Administrative Decision that the structure is a fence, requires a permit, and may not be constructed from metal panels

Affirm in part and reverse in part the Administrative Decision

Reverse in whole the Administrative Decision

Delay Action on the Appeal until the next Board meeting
Allow the appellant to withdraw the Appeal. Any appeal requires the affirmative vote of four or more members of the Board to reverse, in whole or in part, the Administrative Decision. Any decision of the Board may be appealed to district court by any party. Once a decision is made, no new appeal or variance for this property concerning this fence may be submitted to the Board of Adjustment for one year.

Applicant: Jason Norman, 633 Howard

Mr. Norman presented many photos of like fences in the area and state wide. Chair Heinrich was quick to point out we are only considering Billings, MT and municipal code. He converted the garage to a SFR which was permitted by the City of Billings. There was a lot of criminal activity before the conversion. The Central Terry Task Force area is a high crime area. The final project was a metal enclosure. He contacted the building division after completion and was told he did not need a permit. He was noticed in 10/2022 that a permit was required. The Planning staff said the material used was not allowed in Billings. He appealed to the Board. He states this is not a fence and is a good product to use. No damage from hail. It is aesthetic and has had no objections from the neighbors.

Motion

Board Member Warmer made a motion and Board Member Sayer seconded the motion to to recognize this as a fence.

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

The motion to **approve** Appeal 23-01 passed with a 5-0 vote.

Motion

Board Member Warmer made a motion and Board Member Hagstrom seconded the motion to to grant the appeal, material is appropriate for this fence.

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

The motion to **approve** Appeal 23-01 passed with a 5-0 vote.

Public Hearings

City Variance 1363 – 636 Key City Drive – Residential use on the ground floor in the front 30 feet in a re-built –
A variance request from Section 27-1002, and Table 27-1000.1 requiring any residential use in a CMU1 zone district be located at least 30 feet behind the front facade, on the East ½ of Lot 10, Block 1 Key City Subdivision, a 9,618 sf parcel of land. The variance would allow the owner to re-build a severely damaged residential structure without building a mixed use structure. Tax ID: C00709

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.

Recommended Conditions:

1. The variance is to allow a residential dwelling to occupy the entire first floor of a structure in a CMU1 zone. No other variance is intended or implied with this approval.
2. The variance is limited to the East ½ of Lot 10, Block 1 Key City Sub, a 9,618 sf parcel of land, generally located at 636 Key City Drive.
3. The approval is to allow the reconstruction of the existing structure in its current location **within the existing footprint as submitted by applicant at this variance.**
4. A building permit shall be obtained within 6 months and all construction and renovations shall be completed within 1 year of BOA approval.
5. The applicant shall meet all other city code requirements with the exception of this variance.
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, lease holders, heirs and assigns.

Questions for staff: NONE

Public Hearing opened at 7:59 PM

Applicant: Jeff Wollschlager, 3711 Corbin Drive

He asks for approval for reconstruction.

Questions for Applicant: NONE

In Favor: NONE

Opposed: NONE

Public Hearing closed at 8:07 PM

Discussion:

Motion

Board Member Hayes made a motion and Board Member Warmer seconded the motion to **approve** City Variance 1363, with the change to condition #3 and findings and recommendation of staff.

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

The motion to approve City Variance 1363 passed with a 5-0 vote.

City Variance 1364 – 315 Cody Circle – Rear Yard Location, Rear Setback, Building Height, and Minimum Separation from Principal Structure – A variance from Section 27-305, Table 27-300.4 – A.7 (Rear Yard Location for Accessory Building), A.8 (Minimum Rear Setback of 3 feet), B.13 (Height of Accessory Structure), and Section 27-1803 (Detached accessory structure Requires 6-foot minimum separation) in an N2 zone district on Lot 27, Block 11, Meadowlark Subdivision, a 12,840 sf parcel of land. If approved, the variance will allow an existing detached accessory to remain in place. Tax ID: C08098

Recommendation:

Planning staff recommends **denial** of Variance 1364 and adoption of the findings of the review criteria.

Recommended Conditions: If the Board chooses to approve.

1. This approval is to allow a variance request from Section 27-305, Table 27-300.4 -- A.7 (Rear Yard Location for Accessory Building), A.8 (Minimum Rear Setback of 3 feet), B.13 (Height of Accessory Structure), and Section 27- 1803 (Detached accessory structure Requires 6-foot minimum separation) in an N2 zone district on Lot 27, Block 11, Meadowlark Subdivision, a 12,840 sf parcel of land. If approved, the variance will allow an existing detached accessory structure to remain in place. No other variance is intended or implied.
2. The variance is limited to 315 Cody Circle, Lot 27, Block 11, Meadowlark Subdivision, a 12,840 sf parcel of land.
3. The applicant will apply for and receive approval for a building permit within 6 months. 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:

Public Hearing opened at 8:10 PM

Applicant: Scott Ireton, 315 Cody Circle

He stated he was ripped off by the contractor he hired. He does not want to tear down the building.

Questions for Applicant: NONE

In Favor: NONE

Opposed:

Rudy Grossman, Ron Reichenbach and George Reichenbach, and Kieth Shirley, all neighbors to this building, stated it is an eye sore and does not fit the neighborhood. It does not meet the CCR's or setback requirements.

Rebuttal:

The garage is 4 feet taller than my house. He had a permit but not for this building. Code complaints have been made and Rudy is always mad at him. If it has to come down, then it needs to come down.

Public Hearing closed at 8:24 PM

Discussion :

Motion

Board Member Hagstrom made a motion and Board Member Hayes seconded the motion to deny the **City Variance 1364 with staff conditions and recommendations.**

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

The motion to deny City Variance 1364 passed with a 5-0 vote.

City Variance 1365 – 6410/6412 Southern Bluffs Lane – Location of Garage and Garage Entry – A variance from Section 27-308, Table 27-300.7 – A.11 (Attached garage location and garage entry location) in an NX2 zone district to allow an attached garage in the front half of the proposed structure and a street front garage entry, on Lot 6, Block 1, Falcon Ridge Estates, 2nd Filing on an 11,402 sf parcel of land. Tax ID: A35151.

Recommendation:

Planning staff recommends conditional approval of Variance 1365 and adoption of the findings of the review criteria.

Recommended Conditions:

1. This approval is to allow a variance from Section 27-308, Table 27-300.7 -- A.11 (Attached garage location and garage entry location) in an NX2 zone district to allow an attached garage in the front half of the proposed structure and one street front garage entry for each unit in the duplex. No other variance is intended or implied.
2. The variance is limited to Lot 6, Block 1 of Falcon Ridge Estates, 2nd Filing, at 6410-6412 Southern Bluffs Lane.
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: NONE

Public Hearing opened at 8:29 PM

Applicant: Megan Boshert, Agent, no address given

Questions for Applicant: NONE

In Favor:

Opposed:

Public Hearing closed at 8:30 PM

Discussion : NONE

Motion

Board Member Sayer made a motion and Board Member Warmer seconded the motion to approve the **City Variance 1365 with staff conditions and recommendations.**

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

The motion to approve City Variance 1365 passed with a 5-0 vote.

Other Business: No meeting in May, 2023

ADJOURNMENT: The meeting adjourned at 8:34 PM.

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

Board of Adjustment

Date: 06/07/2023
Title: City Variance 1366-2280 Richards- location of detached accessory garage
Presented by: Karen Husman
Department: Planning & Community Services
Presentation: Yes

Information**RECOMMENDATION**

Planning staff recommends conditional approval of Variance 1366 and adoption of the findings of the review criteria.

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

This is a variance from Section 27-305, Table 27-300.4 -- A.7 (Rear Yard Location for Accessory Building) in a Residential Manufactured Home (RMH) zone, on Lots 23-24 of Lakeview Subdivision, an 11,491 square foot parcel of land. The purpose of the variance is to allow construction of a detached garage on the front of the lot. This lot has a few features that restrict the location of a detached structure, due to the lot shape and placement of the existing home. The only available building space on the property is to the east of the dwelling in what is considered the front yard.

There are other properties in this area and district that have detached garages on the side or front of the property. Approving this variance would not be a special privilege to the applicant.

APPLICATION DATA

OWNERS: Mitch Buesis
PURPOSE: Detached garage in front yard
LEGAL DESCRIPTION: Lots 23-24 of Lakeview Subdivision
ADDRESS: 2280 Richards
EXISTING LAND USE: Residential
PROPOSED LAND USE: Same with detached garage
EXISTING ZONING: RMH

CONCURRENT APPLICATIONS

None

SURROUNDING ZONING & LAND USE

NORTH: Zoning: N2
Land Use: Residential
SOUTH: Zoning: RMH
Land Use: Residential
EAST: Zoning: RMH
Land Use: Residential
WEST: Zoning: RMH
Land Use: Residential

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 are other properties in this area that have garages on the side or front of the property. Denying this request would deprive this applicant of rights commonly enjoyed by other property in the area.

STAKEHOLDERS

Planning staff has not received any comments on the application as of the date of this report. The Board of Adjustment will hold a public hearing prior to acting on the request.

ALTERNATIVES

The Board of Adjustment may:

- Conditionally approve the request variance and adopt the recommended findings of the review criteria; or

- Deny the variance and adopt different findings of the review criteria; or
- Delay action on the variance to the next scheduled Board meeting; or
- Allow the applicant to withdraw.

Four votes in favor are required to approve any variance. If a variance is denied, the applicant must wait one year to reapply for the same variance.

FISCAL EFFECTS

The Planning Division budget will not be effected by the Board's decision on this variance.

SUMMARY

Prior to approval, the Board of Adjustment shall ensure that the determinations for variances (Sec. 27-1627.D and E.), as outlined below, have been satisfied:

Section 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.

The subject property does have unique topographic features and circumstances that are relevant in the review of this variance request. The lot is oddly shaped and narrow with the residential home almost centered. The rear yard is not easily accessible or practical for the placement of a detached garaged.

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 are other detached structures within the surrounding area, that are in the front or side yard. Granting this variance would be consistent with limitations placed on other lots in the same zoning 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 granting of this variance will not confer a special privilege since similar properties exist in the vicinity of this property.

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 Policy.

Granting of this variance application is compatible with the goals of the 2016 Growth Policy. Allowing continued investment in residential property supports a use that is compatible with the neighborhood. Granting this variance should also be in harmony with the general purpose and intent of the Zoning Regulations. As stated in criteria 1, the parcel has unique features that would not allow a garage in the rear yard.

Section 27-1627.E

2) In granting any variance, the Board 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.

Staff is recommending several conditions for the variance request:

1. This approval is to allow the placement of a detached garage in a front yard. No other variance is intended or implied.
2. The variance is limited to Lots 23-24 of Lakeview Subdivision, generally located at 2280 Richards Rd.
3. The applicant will apply for and receive approval for a building permit within 6 months and complete construction within 1 year 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.

3) 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 recommending the applicant have 6 months to receive approval of a building permit and 1 year to complete the project.

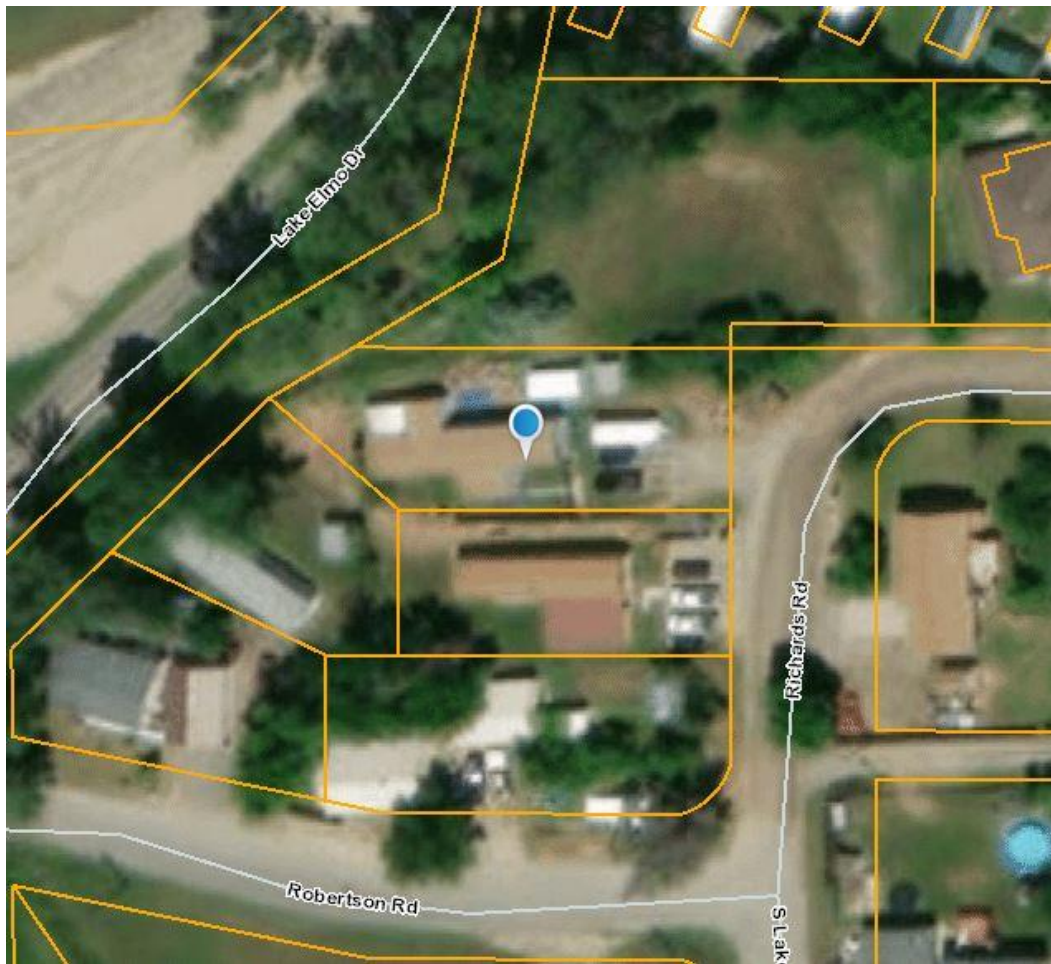
4) Under no circumstances shall the Board grant a variance to allow a use not permissible under the terms of this zoning code in the district involved. A variance shall not be a grant of special privilege inconsistent with limitations placed upon other properties in the district.

The granting of this variance would not allow a use that is not allowed in the zoning district. Detached garages are allowed uses in this zone district.

Attachments

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

Zoning Map & Site Photos





West toward the subject property



Southeast



South on Richards Rd.



Looking east on N. Lakeview Dr.

CITY VARIANCE

APPLICATION FORM

ID: Billings Variance # 1360 - Project # PZA-23-00085

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

B603.80

PROPERTY TAX ID# A36133 CITY ELECTION WARD# 2

Legal Description of Property: Lakeview SUBD, S15, T01, N, R26E, Lot 23-24

Address or General Location (If unknown, contact City Engineering): 2280 Richards Rd. Billings, MT. 59105

Zoning Classification: IMP U | RMH

★ Size of Parcel (Area & Dimensions): 0.26 Acre 235' Long x 70' wide

Covenants or Deed Restrictions on Property: Yes No

If yes, please attach to application

Variance(s) Requested: change of zoning to allow building of garage to the back of property

Facts of Hardship: (attach letter) NO space to build on sides or front

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

Owner(s): Mitch Bucsis

(Recorded Owner) 2280 Richards Rd Billings MT

(Address) 406-998-8411 Lmbucsis@yahoo.com

(Phone Number) (email)

Agent(s): N/A

(Name)

(Address)

(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: Mitch Bucsis Date: 4-25-23

(Recorded Owner)



To Chairperson:

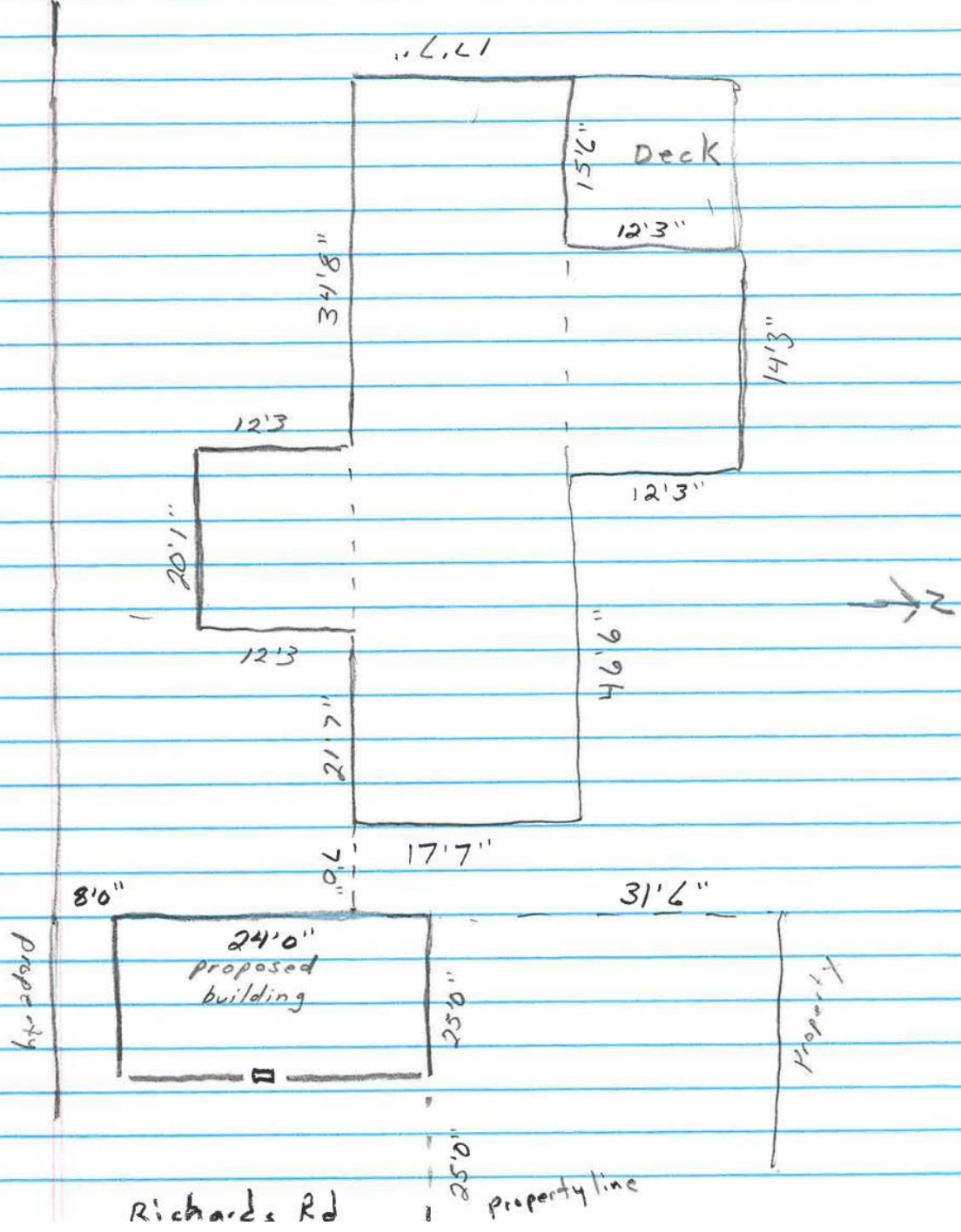
I live at 2280 Richards Rd, and I would like to build a garage. The city rules are that I would have to build it in front of my property. My property is shaped as a triangle and the point of the property is the front of the house and I have a lot of vacant lot on the back of my property the space that is in my backyard is 36.6' X 57' the garage that I want to build is 24'X25' so I a lot of room to build a garage and it won't block anybody's view.

Thank you,

A handwritten signature in blue ink that reads "Mitch Bucsis". The signature is written in a cursive style with a long horizontal stroke at the end.

Mitch Bucsis

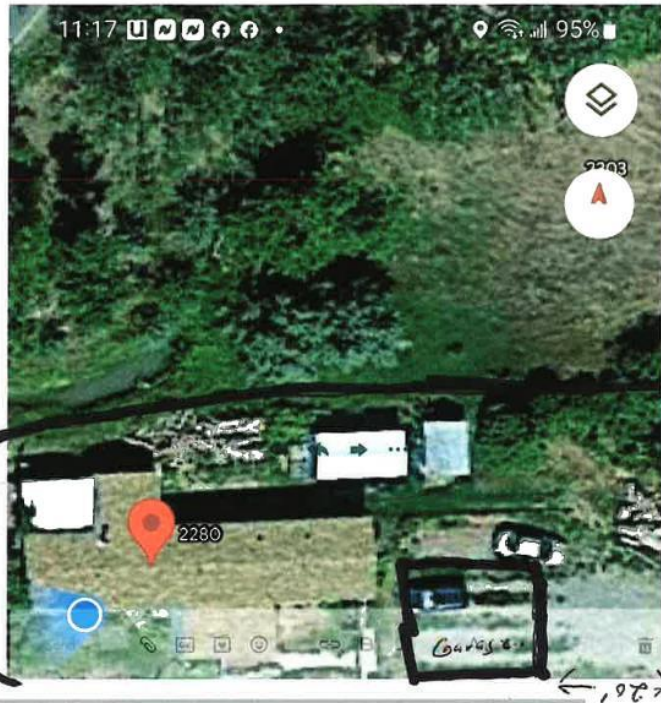
Trailer 17'7" Wide X 76'4"



- generator
- graham robertson
- H and R block 1
- hawaii
- headwaters cou
- heather brando... 3
- heidi
- heitz
- hungry girl 500
- important PM in... 34
- rene davis
- jimmie ch...
- jeet kr...
- 117
- jennif... bucsis
- jeremy bon... head award
- jim ulrickso...
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- 13
- linda cleveland 17
- MUSIC Reind... Food
- ma... birac
- metri park
- milita... stuff
- mitch 2
- mitch bucsis 2
- mojlene bucsis 2
- montana pric... 19
- national foot... ball ... 2
- national foot... ball ... 5
- navy
- netflix
- new memberships
- newsletters 17
- nova
- olympics 5
- orders made online
- Oregon trip
- paypal 13
- postal bullitins 37
- Q2 579
- QWEST 2
- rdtyse
- red flags
- retirement
- richard and linda 3
- rob poulos 13
- rockintherivers pictur...
- RTR 104

Lake Elmo

Irish Dads



Richards Rd

← 20' →

APPLICABLE ZONING HISTORY

SUBJECT PROPERTY	VARIANCE	DATE	FOR	APPROVED (Y/N)	ADDITIONAL DATA
None					
SURROUNDING PROPERTY	VARIANCE	DATE	FOR	APPROVED (Y/N)	ADDITIONAL DATA
198 Mountain View Blvd	1352	12/7/22	Detached Garage Location	Y	Topography and site dimension limits
426 Indian Trail	1353	12/7/22	Detached garage location	Y	Lot prevented rear location
315 Cody Circle	1364	4/5/23	Garage location & setbacks & height	N	Garage was constructed without a permit

Board of Adjustment

Date: 06/07/2023
Title: Variance 1367-Ping Circle- Build-to Zone-garage location & Door width
Presented by: Karen Husman
Department: Planning & Community Services
Presentation: Yes

Information**RECOMMENDATION**

Planning staff recommends conditional approval of Variance 1366 and adoption of the findings of the review criteria.

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

This is a variance request to allow a variance from Sec. 27-305 (Table 27-300.4) from the required Front Side Build-To zone to allow the front door and living area of a new residence to be more than 50 feet from the front property line, and allow garage entry door width more than fifty percent (50%) in an N2 zone, or in other words, allow the front facade or portions of the front facade of the structure to be constructed outside the required build-to zone per BMCC 27-300.4.A.3. While the front door and living area may be more than 50 feet from the property line, the code technically addresses the front facade and not specifically the front door. The N2 zone district site and structure standards require the entire front facade of a new structure be within the required build-to zone from the front property line. The build-to zone is a range for the N2 zone district between 10 feet and 20 feet behind the front property line. The request is to allow the front facade, not including the garage, to be setback from the property line no more than 55 feet.

The new zoning regulations allow variances from any numerical limitation or requirement in the code and this includes the build-to area. There are some small variations allowed through an administrative process, however larger deviations still require a review and approval by the Board of Adjustment. The same basic criteria for variances have carried through from the previous zoning regulations since these criteria are outlined in state law. There are other properties within the district that have been developed to the previous setback requirements. This subdivision was created under the previous zoning code, with the intent to develop under that code. With this development, the four subject parcels are located in a cul-de-sac design and are a unique shape that restrict these parcels from meeting the build to zone and front facade requirements of the N2 district.

Planning staff is recommending conditional approval based on the findings of the variance criteria to increase the front build-to area to allow the front door and living area of a new residence to be more than 50 feet from the front property line and allow the garage door more than 50% of the front facade in an N2 zone on Lots 5, 6, 10 & 11, Block 1, Founders Park Subdivision, 4 lots totaling 35,689 square feet of land.

STAKEHOLDERS

Planning staff has not received any comments on the application as of the date of this report. The Board of Adjustment will hold a public hearing prior to acting on the request.

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.

SUMMARY

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 these parcels other than the design of the lots are narrow on the front lot line and long in dimension and wider to the rear of the parcels restricting the options to build in the required build to zone. The subdivision consists of two dwellings built prior to the new zoning code that do not meet the build to zone front facade requirements. The previous zoning code had a minimum front setback of 20 feet but no maximum. There are other developed parcels within this subdivision that were constructed under the new requirements and conform to the newer standard, however, these other lots are a design and shape that does allow for these standards to be met.

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.

The majority of the homes built in this subdivision are in compliance with the current regulation for "build to" zone, however these lots are a design and dimension that would not allow them to easily meet these standards. Denial of the variance would deny this applicant rights commonly enjoyed by other parcels in the same district because there are two homes near the subject parcels that were constructed under the previous code. Alternatively, the build-to zone averaging takes the existing setbacks of the two dwellings on either side of the subject lot (in cases of subdivisions primarily constructed prior to the new code) and averages those setbacks together to determine the required build-to zone. In this case, the subject properties are adjacent to lots that are already constructed within, or being built to the newer required build to zone, so the build-to averaging would not apply.

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.

Similar to 1 and 2, these parcels are narrow on the front lot line and long in dimension and wider to the rear of the parcels restricting the options to build in the required build to zone. The subdivision consists of two dwellings built prior to the new zoning code that do not meet the build to zone front facade requirements. There are other developed parcels within this subdivision that have been constructed under the new requirements and conform to the newer standard, however, those lots are a design shaped in a way that allows for these standards to be met. Granting this variance would not confer 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 Growth Policy and the Zoning Code together encourage uniform development and make allowances for sites with unique features. The Zoning Code criteria for approving variances is a tool that makes allowances for these odd shaped lots. In this case, approval of the variance would allow four odd shaped parcels to be developed for the intent of affordable housing supported in 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 build-to zone variance is limited to Lots 5, 6, 10 & 11, Block 1, Founders Park Subdivision, located on Ping Circle.
2. The variance is from Section 27-305 (Table 27-300.4) requiring a build-to zone range of 10 feet to 20 feet from the front property line to allow a portion of the front facade of the new residences to be more than 50 feet from the front property line in an N2 district. No other variance is intended or implied.
3. The structure will be built in substantial conformance to the site drawings submitted with this variance request.
4. Construction activity will not occur prior to 7 am or after 8 pm daily.
5. The applicant/developer shall apply for the first building permit within six months of Board approval and complete construction of the first unit within one year of Board approval.
6. Failure to begin or complete the project according to the time periods within this approval will void the variance.
7. The applicant shall meet all other city code requirements for the proposed single family homes, with the exception of 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, leaseholders, 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 6-month period to apply for a building permit and 1 year to complete construction of the first dwelling.

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 is an allowed use in the N2 zone district. Single family dwellings are allowed in the N2 zones.

Attachments

Zoning Map & Site Photos

Application & Applicant Letter

Site Plan



Subject property Lots 5,6



Looking to Subject property Lots 10, 11 (south)

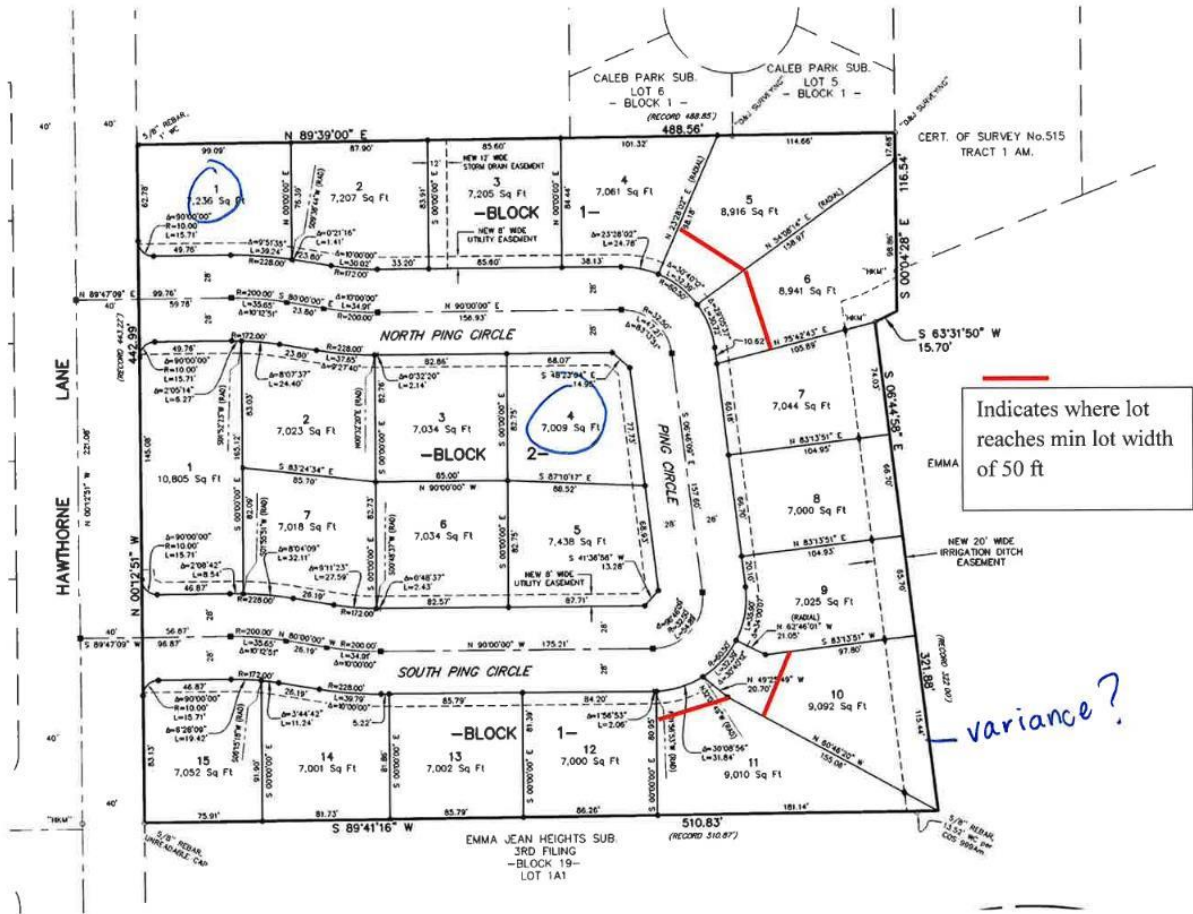


North



Looking West Toward Hawthorn

Founder's Park Subdivision:



Indicates where lot reaches min lot width of 50 ft

variance?

CITY VARIANCE

APPLICATION FORM
ID: Billings Variance # 1367 - Project # 23-00087

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 # A36853; A36854; A36858; A36859 CITY ELECTION WARD# 2

Legal Description of Property: Founders Park Sub, Block 1, Lots 5, 6, 10, 11

Address or General Location (If unknown, contact City Engineering): 1235 N. Ping Circle, 1513 Ping Circle, 1234 S. Ping Circle, 1242 S. Ping Circle

Zoning Classification: N2 - Mid-Century Neighborhood

Size of Parcel (Area & Dimensions): Varies, See Attached Exhibit *4 Lots Total - 35,689*

Covenants or Deed Restrictions on Property: Yes _____ No X

If yes, please attach to application

Variance(s) Requested: 1) maximum garage entry width on front facade (more than 50%); 2) maximum build-to range

Facts of Hardship: See Attached Letter

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

Owner(s): Habitat For Humanity, Mid-Yellowstone Valley

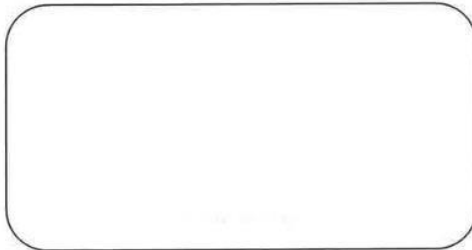
(Recorded Owner)
685 King Park Dr., Billings, MT 59102
(Address)
406-860-2460 thayes@billingshabitat.org
(Phone Number) (email)

Agent(s): Performance Engineering - Scott Aspenlieder, PE

(Name)
608 North 29th Street, Billings, MT 59101
(Address)
406-384-0080 scott@performance-ec.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: Timothy Hayes Date: 4/12/23
(Recorded Owner)





MEMO

To: City of Billings - Board of Adjustments

From: Scott Aspenlieder, PE, Project Manager SA

Date: April 13, 2023

Re: Habitat For Humanity - Founders Park Sub Lot Variance Application

On behalf of Habitat For Humanity - Mid-Yellowstone Valley (HFH), Performance Engineering is requesting variances from two parts of zoning code for N2 - Mid-Century Neighborhood to allow for continue construction of single family housing in their subdivision. The Founders Park Subdivision was created under the old zoning code at which time the planned construction worked for the style and type of houses built by HFH and all zoning codes were able to be met. When the subdivision was redesignated as N2 under Project Recode Lots 5, 6, 10 and 11 were unable to comply with the current code for construction. These four lots are located on the outer corners of Ping Circle leaving them narrow street frontages with wide backyards being "pie-shaped" lots. Our formal request is for variance to the following rules:

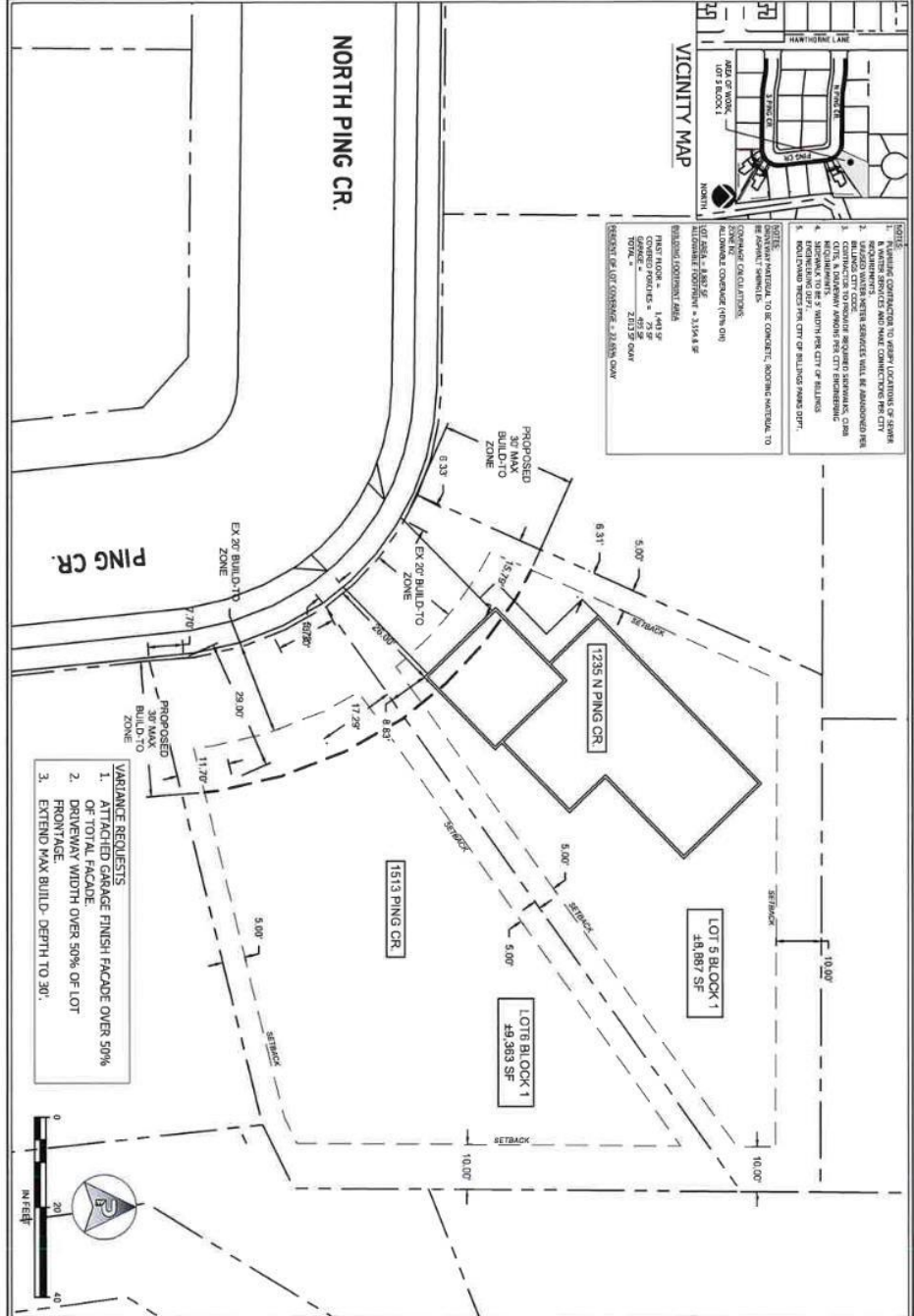
1. Maximum garage entry width on the front façade (more than 50%).
2. Maximum build to range of 20-feet.

The variances are required due to the narrow frontages located on Ping Circle creating little room for side or rear load garages to reduce the garage entry width on the front façade. HFH builds a very economical structure using similar plans on the lots within Founders Park to keep the cost of construction down to allowing them to meet their mission of producing affordable housing. Changes to the garages would likely not fit on the lots as they are constituted and would not match the character and market created within the Founders Park Subdivision to this point.

HFH is requesting a variance from the maximum build to range of 20-ft, again, due to the narrow frontage on Ping Circle. The width of the planned buildings forces them to be placed further back on the lots to meet the minimum side setback from neighboring lots on either side. Sliding the buildings back and allowing for a 30-ft maximum build to range would still meet the intent of the build to requirement while keeping with the character of the Founders Park Subdivision. Significant changes to the existing floor

plans for the standard houses built by HFH would be required to meet the current code at a direct cost and detriment to HFH.

If approved the lots will be constructed as presented on the exhibits included with this application. This will be single family home construction in accordance with all other zoning code rules and in keeping with the character of the Founders Park neighborhood.



NOTES:

1. PLUMBING CONNECTION TO NEARBY LOCATIONS IS SHOWN FOR INFORMATION ONLY. CONTRACTOR TO VERIFY ALL CITY REQUIREMENTS.
2. ALL UTILITIES SHOWN ARE BASED ON RECORD DRAWINGS. CONTRACTOR TO VERIFY ALL UTILITIES AND MAKE CONNECTIONS PER CITY REQUIREMENTS.
3. CONTRACTOR TO VERIFY ALL RECORD DRAWINGS, CITY REQUIREMENTS, AND CITY PERMITS FOR ALL UTILITIES AND MAKE CONNECTIONS PER CITY REQUIREMENTS.
4. CONTRACTOR TO VERIFY ALL RECORD DRAWINGS, CITY REQUIREMENTS, AND CITY PERMITS FOR ALL UTILITIES AND MAKE CONNECTIONS PER CITY REQUIREMENTS.
5. CONTRACTOR TO VERIFY ALL RECORD DRAWINGS, CITY REQUIREMENTS, AND CITY PERMITS FOR ALL UTILITIES AND MAKE CONNECTIONS PER CITY REQUIREMENTS.

NOTES:

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2. CONTRACTOR TO VERIFY ALL RECORD DRAWINGS, CITY REQUIREMENTS, AND CITY PERMITS FOR ALL UTILITIES AND MAKE CONNECTIONS PER CITY REQUIREMENTS.

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5. CONTRACTOR TO VERIFY ALL RECORD DRAWINGS, CITY REQUIREMENTS, AND CITY PERMITS FOR ALL UTILITIES AND MAKE CONNECTIONS PER CITY REQUIREMENTS.

VARIANCE REQUESTS:

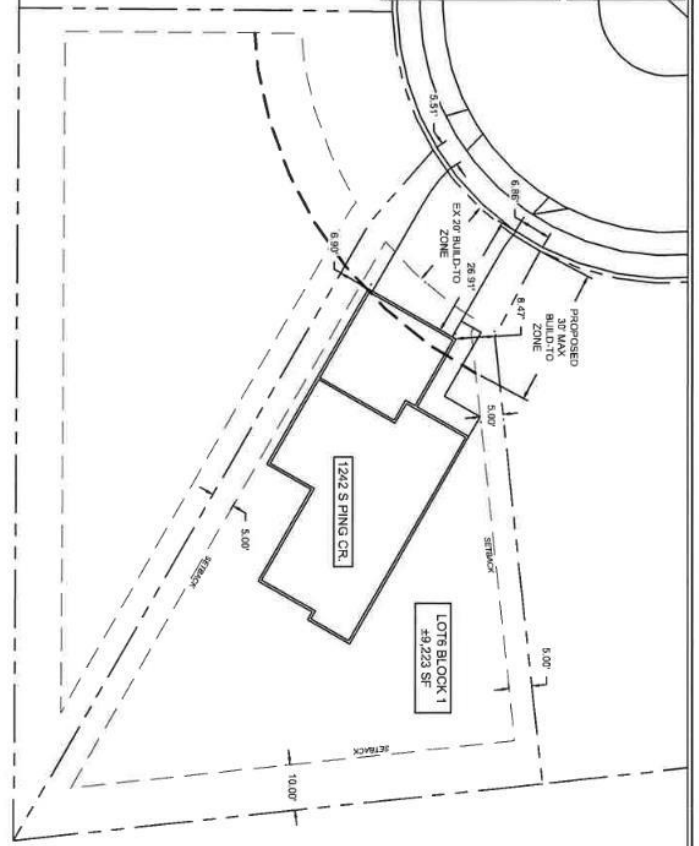
1. ATTACHED GARAGE FINISH FACADE OVER 50% OF TOTAL FACADE.
2. DRIVEWAY WIDTH OVER 50% OF LOT FRONTAGE.
3. EXTEND MAX BUILD-DEPTH TO 30'.

<p>HABITAT FOR HUMANITY</p> <p>FOUNDERS SUBDIVISION BILLINGS, MT 59105</p>		
<p>SHEET TITLE</p> <p>1235 N PING CIRCLE FOUNDERS SUB VARIANCE</p>		
<p>PROJECT NUMBER</p> <p>2023-001</p>	<p>SHEET NUMBER</p> <p>1 OF 4</p>	<p>DRAWING NUMBER</p> <p>1</p> <p>DATE: 11/3/2023</p>

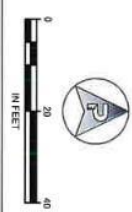
VICINITY MAP



- NOTES:**
1. ALL WORK SHALL BE IN ACCORDANCE WITH THE CITY OF BILLINGS ZONING ORDINANCES.
 2. ALL WORK SHALL BE IN ACCORDANCE WITH THE CITY OF BILLINGS SUBDIVISION ORDINANCES.
 3. CONTRACTOR TO PROVIDE REQUIRED PERMITS, CLAIMS, AND BONDING AS REQUIRED BY THE CITY OF BILLINGS.
 4. CONTRACTOR TO PROVIDE ALL NECESSARY MATERIALS TO BE CONCRETE, INCLUDING MATERIAL TO BE CONCRETE.
- NOTES:**
1. DRIVEWAY MATERIAL TO BE CONCRETE, INCLUDING MATERIAL TO BE CONCRETE.
 2. DRIVEWAY MATERIAL TO BE CONCRETE, INCLUDING MATERIAL TO BE CONCRETE.
 3. DRIVEWAY MATERIAL TO BE CONCRETE, INCLUDING MATERIAL TO BE CONCRETE.
 4. DRIVEWAY MATERIAL TO BE CONCRETE, INCLUDING MATERIAL TO BE CONCRETE.
- PROPOSED DRIVEWAY:**
- 1. DRIVEWAY MATERIAL TO BE CONCRETE, INCLUDING MATERIAL TO BE CONCRETE.
 - 2. DRIVEWAY MATERIAL TO BE CONCRETE, INCLUDING MATERIAL TO BE CONCRETE.
 - 3. DRIVEWAY MATERIAL TO BE CONCRETE, INCLUDING MATERIAL TO BE CONCRETE.
 - 4. DRIVEWAY MATERIAL TO BE CONCRETE, INCLUDING MATERIAL TO BE CONCRETE.



- VARIANCE REQUESTS**
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 2. DRIVEWAY WIDTH OVER 50% OF LOT FRONTAGE.
 3. EXTEND MAX BUILD-DEPTH TO 30'.



<p>HABITAT FOR HUMANITY</p> <p>FOUNDERS SUBDIVISION BILLINGS, MT 59105</p>		
<p>SHEET TITLE</p> <p>1242 S PING CIRCLE FOUNDERS SUB VARIANCE</p>		
<p>PROJECT NUMBER</p> <p>2023-004</p>	<p>SHEET NUMBER</p> <p>3 OF 4</p>	<p>DRAWING NUMBER</p> <p>3</p> <p>CONTINUED SHEET</p>
<p>DATE</p> <p>4/13/2023</p>		

