

City Board of Adjustment

WEDNESDAY, June 4, 2025 AT 6:00pm

Board members		01/08/2025	02/05/2025	03/05/2025	04/02/2025	05/07/2025	06/04/2025	07/02/2025	08/06/2025	09/03/2025	10/01/2025	11/05/2025	12/03/2025	
Josh Sayer	<b>Chairman</b>	1	1	-	-	1	1							
Oscar Heinrich	Member	1	1	-	-	A	V							
George Warmer	Member	1	1	-	-	1	A							
Michael Bruschwein	<b>Vice Chair</b>	1	A	-	-	1	1							
Chris Hayes	Member	1	1	-	-	1	1							
Dave Hagstrom	Member	1	1	-	-	1	1							
Brian Roush	Member	1	1	-	-	1	1							
<b>TOTAL NUMBER OF APPLICATIONS 2024</b>		<b>01/08/2025</b>	<b>02/05/2025</b>	<b>03/05/2025</b>	<b>04/02/2025</b>	<b>05/07/2025</b>	<b>06/04/2025</b>	<b>07/02/2025</b>	<b>08/06/2025</b>	<b>09/03/2025</b>	<b>10/01/2025</b>	<b>11/05/2025</b>	<b>12/03/2025</b>	<b>TOTAL</b>
<b>Variance</b>		1	1	-	-	1	1							4
<b>Appeal</b>		-	-	-	-									

Please note: "A" stands for excused absence, "1" stands for present, "V" stands for Zoom participation

**Call the Meeting to Order:** Chairman Sayer called the meeting to order at 6:00 PM.

**Attending Staff:**

Anna Vickers, Planning Division Manager; Karen Husman, Zoning Coordinator; Tate Johnson, Planner; Brenda Berns, Planning Clerk

**Participants:** Jeff Wollschlager, Chuck Henrichs, Kody Johnson, Ryan Andersen

**Public Comment**

Chairman Sayer opened the public comment period and asked if there was anyone wishing to speak during the public comment portion of the meeting. There were no comments from the public.

## Approval of Meeting Minutes - May 7, 2025

The board voted unanimously to approve the meeting minutes of May 7, 2025.

### Disclosure of Ex Parte Communication – Board members and Staff

Disclosure of Ex Parte Communications - None

Disclosure of Site Visits – Board members Heinrich and Goss

Disclosure of Conflict of Interest – None

### Public Hearing:

Chairman Sayer opened the Public Hearing.

**City Variance 1380 – 910 N 32<sup>nd</sup> St – Side Setback** – A variance from 27-304, Table 27-300.3(A) 5 & 6 requiring a 5-foot side or rear setback to allow 3-foot minimum side setback (north property line) and a 0-foot rear setback (west property line) in a First Neighborhood (N1) zone, on the East 90 foot of Lots 2 and 3, Block 18, North Elevation Sub 3<sup>rd</sup> Filing, a 4,500 square foot parcel of land. The purpose of the variance is to allow an addition to the garage, a connection between the garage and the home, and a small addition to the home to the north. Tax ID: A11819.

Tate Johnson gave an overview of the variance. The proposed site plan proposes two additions, attaching the garage to the house and adding an addition to the north. The house and garage are already at the existing setbacks, 0' at the rear and 3' on the side. The surrounding properties are primarily residential, with an open space park directly to the south.

### Recommendation

Planning staff are recommending conditional approval based on draft findings of the review criteria for variances. There are four conditions. Granting the variance the BOA may impose appropriate conditions. Planning staff recommends the seven conditions.

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

1) **There is a hardship with the property** that is not applicable to other lands in the same district.

The narrow lot, historic layout, and existing structures create a unique hardship

2) **Denying the variance might deprive this owner of similar rights** enjoyed by others in the area.

Attached garages are typical in this area, several variances for similar circumstances have been granted.

3) **Granting the wall sign variance will not confer a special privilege to this applicant.**

Similar development style in area – will not confer a special privilege

4) **Granting the variance will be in harmony with the purposes of zoning and growth policy.**

Will maintain compatibility with surrounding uses and development in the area.

**5) In granting the variance the BOA may impose appropriate conditions.** Planning staff recommends the following conditions:

1. The variance is for a 3' side setback and 0' rear setback.
2. The variance is limited to this legally described lot.
3. The applicant will obtain a building permit within 1 year, and complete project in 2 years.
4. Substantial conformance to the submitted site plans
5. Shall meet all other City code requirements
6. Failure to begin or complete within time periods will void the variance.
7. These conditions of variance approval shall run with the land

**6) A time limit for action on the variance shall be prescribed.**  
See condition 3 above.

**7) No variance may allow a use not otherwise allowed** or be inconsistent with other limits on uses in the district.  
The proposed use an attached garage- which is an allowed use within the N1 zone.

### **Board Questions**

A board member inquired about one of the listed review criteria, noting it seemed unrelated to the variance under consideration. Staff confirmed that the item was not applicable and had been included in error. The board member also asked whether any public comments had been received from neighboring property owners. Staff responded that no comments had been submitted.

### **Applicant's Agent**

The applicant's agent, Jeff Wollschlager, stated that the roof may need to be modified to ensure proper clearance for the existing windows where the addition connects to the structure. He added that the attached garage would enhance usability and convenience for the property owner.

### **Motion**

Motion made by Board member Hagstrom to approve the variance as recommended by staff, seconded by Board member Bruschein. The board voted unanimously to approve Variance 1380.

**City Variance 1381- 1617 1<sup>st</sup> Ave N – Build-to, Front Lot Line Coverage, Bay Doors and Fencing** – A variance from 27-904.D, Table 27-900-5.(1.a) requiring a minimum of 95% front lot line coverage to allow 45% front line coverage (N.17<sup>th</sup> St); from the requirement to build to the corner of an intersection and within the build-to-zone of a street side property line to allow the building in the proposed location of 76.5 feet north of the intersection of 1<sup>st</sup> Ave N and N 17<sup>th</sup> St; from Table 27-900-5(1.c) allowing only one bay door for loading or parking within the building to allow two bay doors (N 17<sup>th</sup> St); and Section 27-905.D, Table 27-0---10(4) requiring a 3-4 foot fence between a parking area and the street frontage landscaping to allow no fence along the parking area along N 16<sup>th</sup> St and 1<sup>st</sup> Ave N, in an EBURD Central Works (EBURD-CW) zone, on Lots 1-24 and the vacated alley of Block 81, Billings Original Town, a 90,000 square foot parcel of land. The purpose of the requested variances is to allow the construction of a new office and shop for Montana Tire. Tax IDs: A00537 and A00537A.

Karen Husman provided an overview of the variance request, noting that the site development is complex and involves multiple code requirements. The proposed plan is to develop the property for use by the Montana Tire Center.

### **Recommendation**

Staff is recommending conditional approval based on draft findings of the review criteria for variances. There are motels, automotive sales lots, and automotive service centers in the surrounding area. The variance will not confer a special privilege to this applicant.

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

1) **There is a hardship with the property** that is not applicable to other lands in the same district.

The property is subject to physical constraints with street frontage on three sides, making it impossible to meet all the "build-to" requirements. The unique characteristics of the lot present challenges for any business, but these are particularly pronounced for a proposed auto services.

2) **Denying the variance might deprive this owner of similar rights** enjoyed by others in the area.

Other developed parcels in the area with less than the current code requirements for front facade design, and lack of build to zone requirement the literal interpretation of this chapter would not deprive the applicant of rights enjoyed by other tracts. There have been other variances granted for the same type of variances in the CMU zones.

**3) Granting the variance will not confer a special privilege to this applicant.**  
Similar development style in area – will not confer a special privilege

**4) Granting the variance will be in harmony with the purposes of zoning and growth policy.**

Will maintain compatibility with surrounding uses and development in the area.

Section 27-1627.E.

**1. Whenever the City Board of Adjustment grants an application for a variance, the minutes shall specifically state the criteria upon which the variance is granted.**

The above-referenced criteria from Section 27-1627.D. has been addressed above in the staff report for the board to state.

**Section 27-1627.E., cont.**

**2. In granting any variance, the Board may prescribe appropriate conditions and safeguards in conformity with this Zoning Code.**

Planning staff recommends the following conditions:

1. variance request from 27-904.D, Table 27-900-5.(1.a) requiring a minimum to allow 45% front line cov. (N. 17th St); from the required to build to corner & within the build-to-zone street side to allow the building 76.5 feet north of 1st Ave N and N 17th St; from Table 27-900-5(1.c) allow two bay doors (N 17th St); & Section 27-905.D, Table 27-900- 10(4) allow no fence along parking at N 16th St & 1st Ave N. No other variance is intended or implied.

2. The variance is limited to this legally described lot.

## **Board Questions**

A board member requested clarification about parking and the orientation of the building. Staff explained that the area being discussed is considered the side of the property, and due to the unique zoning in the area, the project is allowed additional flexibility, including more than one service bay and a deviation from the Build-to-Zone requirement.

Another board member asked where the main entrance is located. Staff responded that the entrance is planned along 1<sup>st</sup> street.

There was a question about how the front of the property was determined. Staff explained that, because the site has multiple street frontages, the front was designated based on the location of the primary bay access doors. A board member asked if multiple variances were being requested. Staff clarified that this is a single variance application that includes several elements.

Questions were also raised about landscaping compliance and whether any representatives from EBURD or neighboring property owners had commented. Staff stated that landscaping will be reviewed during the building permit process and that no public comments or objections have been received.

### **Applicant's Agent**

**The applicant's agent, Chuck Henrichs**, acknowledged that the request includes several variances but noted that the limited bay zoning allows for a perpendicular parking aisle off the frontage street without counting it as street frontage. He stated that the design has been adapted to meet most of the code requirements, but a few did not make sense for the specific use and layout of the site.

Regarding truck access, he explained that semi-truck traffic will have a pull-through route from 17th Street to 16th Street. There is approximately 70 feet of clearance on the west side of the building to the sidewalk, and about 140 feet on the east side—providing ample maneuvering space.

In reference to the fence variance, he explained that strict adherence to the landscaping code would require the installation of a 4-foot metal fence along approximately 450 feet of frontage, surrounded by about 500 shrubs and trees. He expressed concern that this would be difficult to maintain, would trap blowing debris, and would not offer meaningful protection or benefit to the site.

### **Board Questions**

A board member asked whether the landscaping plan shown in the presentation would be the final version. The applicant responded that the final design would likely include more plants than depicted.

Another board member inquired whether the applicant had consulted with the local zoning district. The applicant confirmed that discussions had taken place and that the district was in agreement. Two separate applications had been submitted for review.

There was also a question about future development on the northern portion of the site. The applicant shared that there are plans to construct additional buildings, possibly two, each approximately 60 by 80 feet.

Finally, a board member asked if a zoning change had been considered. The applicant stated that while it was discussed, they opted not to pursue it to avoid affecting the zoning for the entire block.

Anna Vickers, Planning Division Manager, provided clarification regarding the EBURD zoning. She explained that the challenges stem from the intersection of the EBURD zoning regulations, use allowances, and the form-based code. Within the form-based code, compliance is tied to meeting bay requirements, and since the proposed use involves bays, the limited bay frontage provisions continue to guide what is permissible.

Ms. Vickers noted that one of the primary complications is the large size of the parcel and the multiple street frontages it has. As a result, even with a zoning change, some variances would still likely be required due to the unique characteristics of the site.

Cody Johnson, agent for the Tire Center, added a comment regarding the landscape plan. He noted that while the plan illustrates much of the proposed landscaping, it does not fully depict all the trees. Regarding the requested fence variance, they are seeking to eliminate the requirement for certain plants, which they believe would otherwise create safety concerns. Overall, he emphasized that the requested variances remain consistent with applicable building codes.

Chairman Sayer closed the Public Hearing

**Motion**

Motion made by Board member Henrich to approve the staff recommendations and findings of fact, including the multiple code requirements in Variance 1381, seconded by Board member Hagstrom. The board voted unanimously to approve Variance 1381.

**Other Business**

Chairman Sayer asked if there were any items for the month of July. Ms. Husman stated there will be two variances brought before the board.

Anna Vickers addressed the board to discuss the current meeting time. She noted that the City is undergoing significant changes resulting from recent legislative actions, particularly concerning how property taxes are administered. While these changes do not directly impact the Planning Division, they do affect the budgets for building operations and facility use. Historically, the Board of Adjustment has met at 6:00 p.m., following the City Zoning Commission, which meets at 4:30 p.m. on the same day. Given the rising costs associated with evening meetings—including utilities, security, and staffing—staff is proposing to move the Board of Adjustment’s meeting time earlier, to 4:00 or 4:30 p.m. Ms. Vickers emphasized the desire to be mindful of board members’ commitments and the public’s ability to attend. She expressed appreciation for the board's time and asked for a collaborative discussion to explore a mutually agreeable solution.

**Board Discussion**

Board Member Bruschwein expressed flexibility and was open to either proposed meeting time. Chairman Sayer and Board Member Henrich both stated a preference for moving the meeting time to 4:30 p.m.

**Motion**

Board Member Hagstrom made a motion to approve changing the City Board of Adjustment’s meeting time to 4:30 p.m., which was seconded by Board Member Hayes. The board voted unanimously in favor of the new meeting time.

**ADJOURNMENT:** The meeting adjourned at 6:38PM.

*Brenda J Berns, Planning Clerk*