



NOTICE TO THE PUBLIC

Citizens are invited to:

. Review the Agenda Packet on the City's website at: <https://ci.billings.mt.us/117/Agendas-Minutes>
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 the Board via email before 12:00 pm on the meeting date. All emails received prior to this time will be entered into the record for the public hearing. Comments may be submitted by:

- . Mail: City/County Planning Division, PO Box 1178, Billings MT 59103
- . Email: bernsb@billingsmt.gov
- . NOTICE: All meetings and official activities of the MPO are held in buildings and locations that comply with accessibility standards according to the Americans with Disabilities Act (ADA). A TTY number for the hearing impaired, 406-657-3079, is available upon request. 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 the Planning Division Office, at 406-247-8610.

Call the meeting to order.

Introduction of City Board of Adjustment Members and Planning Department Staff.

Public Comment

Approval of Minutes:

Meeting Minutes of June 4, 2025

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

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 1382** -- 300 S 24th St. W -- Allow increase in maximum wall sign square footage- A variance from Section 27-1407.C.2(a) requiring a maximum of 250 square feet total wall sign area per frontage in a Corridor Mixed Use 2 (CMU2), on Block 1, Lot 1, of JPM Subdivision, S12, T01 S, R25 E, a 9.018 acre parcel of land. The purpose of the variance is to allow a 441-square-foot wall sign on a street facing building façade of 180 lineal feet. Tax ID: A30040
- b. **City Variance 1383** -- 1753 Majestic Lane -- Required side or rear yard parking - A variance from Section 27-409- Table 27-400-6.B.6 requiring a side or rear yard parking in a Heavy Commercial (CX) zone, on Broso Valley Park Sub., BLOCK 1, Lot 20, S23, T1S, R25E, a 1.9896 acre parcel of land. The purpose of this variance request is to allow parking in the front yard. Tax ID: A30697

Other Business/Announcements

Adjournment

Additional information on this application is available on-line at <https://www.billingsmt.gov/2361/Current-Zoning-Applications>

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 Brenda Berns, Planning Clerk at bernsb@billingsmt.gov or 406-247-8610

Date: 07/02/2025
Title:
Presented by:
Department: Planning & Community Services
Presentation:

Information

RECOMMENDATION

The minutes of the Board meeting of June 4, 2025

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

ALTERNATIVES

City Council may:

- Approve; or,
- Not Approve

FISCAL EFFECTS

Attachments

Minutes of June 4, 2025

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	Chairman	1	1	-	-	1	1							
Oscar Heinrich	Member	1	1	-	-	A	V							
George Warmer	Member	1	1	-	-	1	A							
Michael Bruschwein	Vice Chair	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							
TOTAL NUMBER OF APPLICATIONS 2024		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	TOTAL
Variance		1	1	-	-	1	1							4
Appeal		-	-	-	-									

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 32nd 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 3rd 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 1st 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.17th 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 1st Ave N and N 17th 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 17th 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 16th St and 1st 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 1st 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

Board of Adjustment

Date: 07/02/2025
Title: City Variance 1382- 300. S. 24th St. - Allow increase in maximum wall sign square footage
Presented by: Karen Husman
Department: Planning & Community Services
Presentation: Yes

Information**RECOMMENDATION**

Planning staff is recommending denial based on the determinations of the review criteria for Variance 1382.

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

City Variance 1382 - A variance from Section 27-1407.C.2(a) requiring a maximum of 250 square feet total wall sign area per frontage in a Corridor Mixed Use 2 (CMU2), on Lot A1 of COS 1136, 2nd Amended located in S12, T01 S, R25 E, a 36.8248 acre parcel of land. The purpose of the variance is to allow a 441 square foot wall sign on a street facing building façade of 180 lineal feet.

The Rimrock Mall structure was constructed in 1975 under the former Highway Commercial zoning regulations. The portion of the building where the proposed signage would be located is the west-facing façade, oriented toward the travel lanes of the South 26th Street West connection. This façade is approximately 180 feet in length and 33 feet in height, totaling over 5,900 sqft in area. Rimrock Mall contains more than 459,057 sqft for multi-tenant use, 47,000 sqft being the future home of Dunham's Sports. Parking is primarily located on the north, south, and east sides of the building, while the parking area serving the proposed Dunham's Sports store is located on the west side, between the building and the adjacent drive lane.

Since 1972, the Board of Adjustment has granted relatively few sign variances, typically in response to requests for increased sign area due to unique building or site conditions. Sign size allowances are generally based on zoning district and sign type. Notable recent variance approvals include:

- Scheels, Shiloh Crossing (Variance granted -- December 2011): Approved a sign variance for a building with a similar façade area but greater height, to ensure visibility from a major roadway over 800 feet away.
- Target, Main Street (Variance 1351 -- December 2022): Approved a request in a Corridor Mixed Use 2 (CMU2) zone to exceed the one-sign limit for a single-tenant structure, allowing two wall signs--one as a replacement and a second for a designated pickup/load-out area. Visibility from a roadway more than 600 feet away.
- Coca-Cola Bottling Plant, South Frontage Road (Variance 1341 -- March 2022): Granted approval for a 456 sqft wall sign exceeding the 250 sqft maximum, located near the Zoo Drive/I-90 interchange. To affectively view from interstate traffic at 65 MPH speed limit.

Under the current sign code, total wall signage is limited to a maximum of 250 sqft, regardless of a building's overall size or street frontage. However, several nearby businesses, including Rimrock Mall, have signage installed under earlier sign code regulations. These prior standards allowed wall signage up to three square feet per linear foot of street-facing building frontage. The preexisting signage on the mall structure include: Dillard's department store with three different walls facing different levels of traffic with five signs at 210 sqft each. The previous Herberger's store signs were 410 sqft each, one on the proposed sign location and the other facing the south addressing Phyllis Lane traffic. The north side JC Penny store has one on the north wall and one on the east wall at approximately 220 sqft each, DressBarn also on the east wall at 210 sqft, and the main entrance "Rimrock Mall" sign is about 65 sqft.

Under the previous code, the west-facing façade of subject storefront could have qualified for up to 540 sqft of wall signage--equivalent to approximately 10% of the total façade area. In comparison, the 544 sqft sign on the Scheels building in Shiloh Crossing accounts for only about 5% of its overall façade. The sign code was updated in 2021 to reduce the allowance of oversized signage, particularly in areas where such large signs were no longer deemed necessary.

Historically, sign variances have been granted based on factors such as the substantial scale of buildings, the distance from adjacent roadways, and unique architectural or site-specific constraints. However, it is important to recognize that not all variance requests are approved, particularly when alternative signage options are available that can meet visibility needs without exceeding the limitations of the current sign code. In this case, the size limitation set by the current regulation is adequate to meet the signage needs of the site. A 250 sqft sign provides sufficient visibility from the adjacent drive lane and

effectively serves its intended purpose without requiring a variance. Several existing wall signs on the exterior of Rimrock Mall were approved under a previous version of the sign code, which allowed for more flexible standards in alignment with the zoning regulations at that time. These signs primarily advertise larger anchor tenants and are oriented toward vehicle traffic on South 24th Street West, with some positioned more than 600 feet from the intended viewing audience. As such, these legacy signs do not set a precedent for sign variance decisions under the current code. In the current request, the proposed sign is located approximately 120 feet from the nearest drive lane, where traffic speed is 15 MPH. Under these conditions, the sign can adequately serve its purpose without requiring a variance from the established standards.

APPLICATION DATA

OWNER: Rimrock Mall Realty Holding LLC, c/o Kohan Retail Investment group
AGENT: Devin Hartley
PURPOSE: 441 square foot sign (250 max allowed)
LEGAL DESCRIPTION: Lot A1 of COS 1136, 2nd Amended, S12, T01 S, R25 E.
ADDRESS: 300 S 24th St. W
SIZE OF PARCEL: 36.8248 acres
ZONING: CMU2
EXISTING LAND USE: Commercial Retail, multi-use, multi-tenant (Rimrock Mall)
PROPOSED LAND USE: No change in use

SURROUNDING ZONING & LAND USE

NORTH: Zoning: Corridor Mixed Use and Commercial Centers (CMU2)
Land Use: Commercial Mixed Use
SOUTH: Zoning: CMU2
Land Use: Commercial Auto sales
EAST: Zoning: Corridor Mixed-Use (CMU1)
Land Use: Multi-Purpose retail multi-occupancy (Rimrock Mini Mall)
WEST: Zoning: Parks and Open Space (P1)
Land Use: Park, baseball fields (Stewart Park)

STAKEHOLDERS

Planning staff notified adjacent property owners within 150 feet by mail, posted the property, and published the legal ad as required. As of the date of this staff report, no comments or concerns have been registered with the Planning Division.

ALTERNATIVES

The Board of Adjustment may:

1. Approve the requested Variance 1382 and amend the findings of fact for the criteria with conditions;
2. Approve the requested Variance 1382 and amend the findings of fact for the criteria with no conditions;
3. Deny the requested Variance 1382 with staff recommended findings of fact of the criteria;
4. Allow the applicant to withdraw the variance request; or
5. Delay action on the variance to a future BOA meeting

Under local regulations and state law, four votes in favor of a variance request are needed for approval. The applicant has not requested a delay of the hearing or a withdrawal of the application.

FISCAL EFFECTS

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

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.

There are no special circumstances that exist which are peculiar to the lot that are not applicable to other lots in the same district. The property is a 36.8248 parcel of land with a 459,057 sqft building, 47,000 sqft being the future home of Dunham's Sports and the subject storefront is oriented in a way to address traffic on an extension of 26th St. West. The signs on this building address traffic through parking lots. While this is not uncommon under the previous suburban development style, the new sign code was intended to work well with the new commercial zone district requirements that bring buildings to the street. The applicant can reduce the sign size by 191 sqft to adhere to the code requirements and still be sufficient to address traffic.

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

The Board of Adjustment has granted at least four sign area variances in the past decade. Two variances for the number of allowed signs on a property were granted prior to 1999. Sign variances are rare and very specific to conditions and buildings. Of the 1380+ variances of record, only about 19 applications for sign variances have been processed. Under the previous sign code, the sign budget was generous at 3 sf for each linear foot of street facing building facade. The sign code was amended to address this context insensitive approach and to define and allow other types of attached signs - not just wall signs as a generic term for all types of attached signage. In the current request, the proposed sign is located approximately 120 feet from the nearest drive lane, where traffic speeds are 15 mph. Under these conditions, the sign can adequately serve its purpose without requiring a variance from the established standards.

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 criteria number 2 granting this variance may confer on the applicant a special privilege because the Board of Adjustment has granted a limited number of variances from the code limitation on the sign size for other land in the same or similar district. Several existing wall signs on the exterior of Rimrock Mall were approved under a previous version of the sign code, which allowed for more flexible standards in alignment with the zoning regulations at that time. These signs primarily advertise larger anchor tenants and are primarily oriented toward vehicle traffic on South 24th Street West, with some positioned more than 600 feet from the intended viewing audience. As such, these legacy signs do not set a precedent for sign variance decisions under the current code. In the current request, the proposed sign is located approximately 120 feet from the nearest drive lane, where traffic speeds are 15 mph. Under these conditions, the sign can adequately serve its purpose without requiring a variance from the established standards.

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 this variance will meet the general purposes and intent of the 2016 Growth Policy. The Growth Policy guidelines state that local economic prosperity should be supported and sustained. However, it does not meet the zoning regulation specification for granting a variance application, and is not in harmony with the intent of the Zoning Code for new signage in this district.

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;

Although staff is recommending denial of the variance, if the BOA chooses to make different findings and approve the variance, staff recommends the following conditions;

1. The variance is for a 441 square feet attached wall sign. No other variance is intended or implied by this approval.
2. The variance applies to Lot A1 of COS 1136, 2nd amended located in S12, T1S, R25E, 300 South 24th St. West, specifically for the Dunham's Sports westerly suite storefront of Rimrock Mall.
3. The proposed location of the wall sign will be in substantial conformance with the submitted site plan and sign graphic. Minor adjustments to the plan are allowed.
4. The applicant will apply for a sign permit for the wall sign within 3 months and complete installation within 6 months of the Board of Adjustment approval.
5. This variance approval is for the specified suite location for the Dunham's Sports sign only. If the sign is removed it will be replaced with a conforming sign of no more than 250 sf.
6. Failure to adhere to these conditions will void the variance.
7. These conditions of variance approval shall run with this tenant space only and the sign in question for the tenant known as "Dunham's Sports" and shall apply to all current and subsequent owners, operators, managers, leaseholders, heirs and assigns of this business at this location.

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 not recommending a time limit for the denial. However, if the BOA chooses to approve the sign variance, staff recommends the applicant apply for a sign permit for the wall sign within 3 months and complete installation within 6 months of the Board of Adjustment approval.

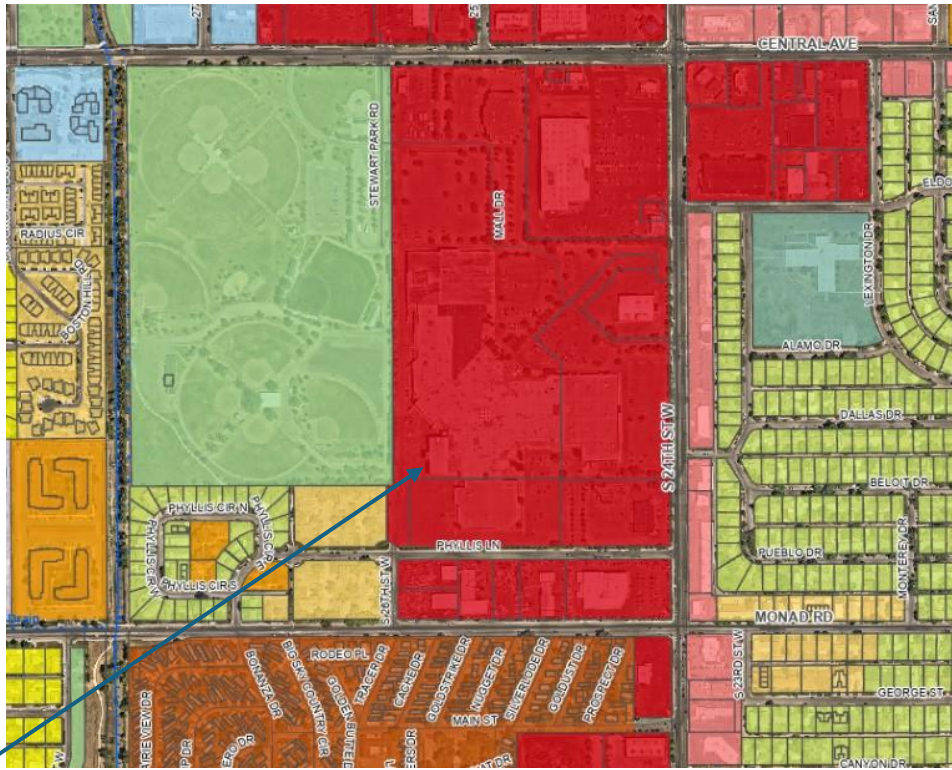
4) Under no circumstances shall the Board grant a variance to allow a use not permissible under the terms of this zoning code in the district involved. A variance shall not be a grant of special privilege inconsistent with limitations placed upon other properties in the district.

The granting of this variance would not allow a use that is not allowed in the zoning district. Commercial retail establishments are allowed with signage in the CMU2 zone.

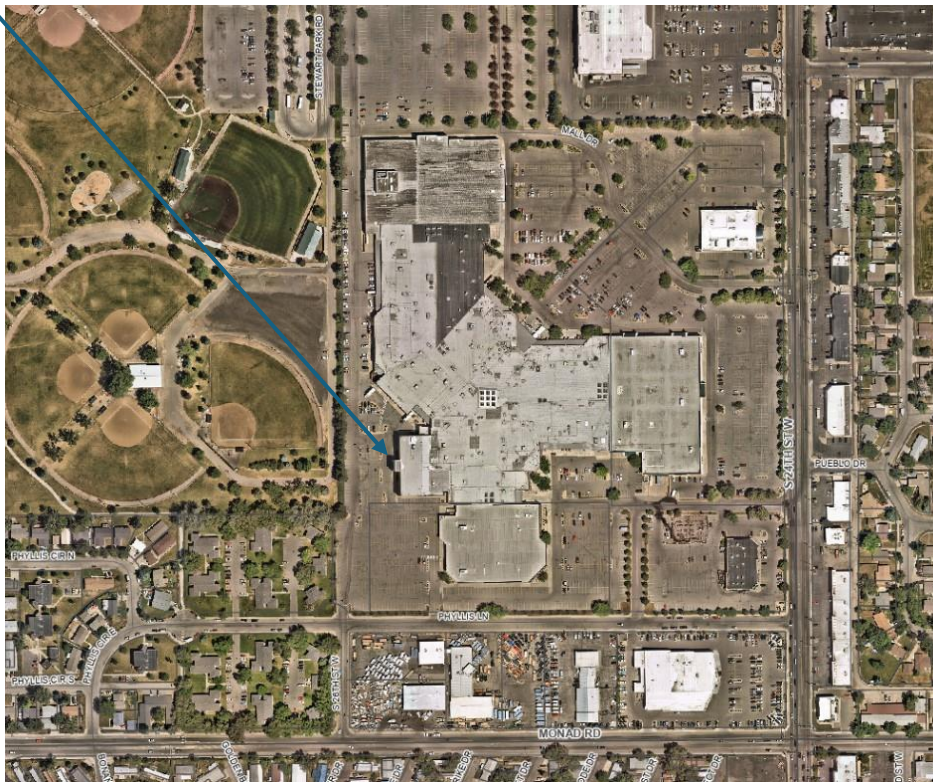
Attachments

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

Variance 1382
Zoning Map & Site Photos



Subject Property



Variance 1382
Zoning Map & Site Photos



Subject Property

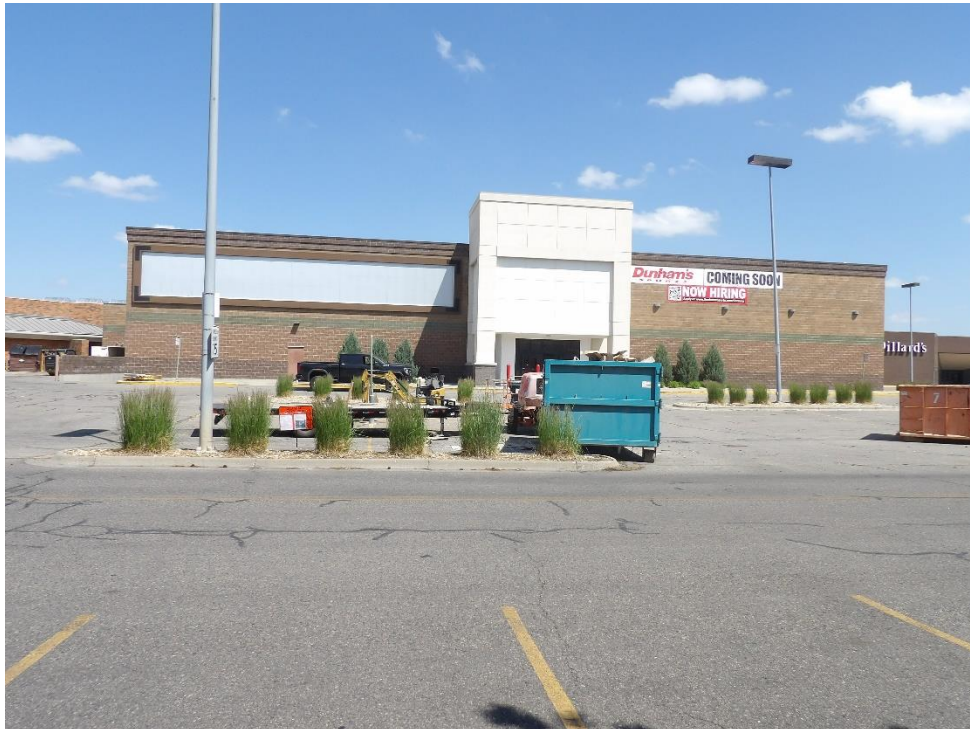


Looking North

Variance 1382
Zoning Map & Site Photos



Looking South



East

Variance 1382
Zoning Map & Site Photos



West



Proposed Sign Location

Variance 1382
Application & Applicant Letter

CITY VARIANCE APPLICATION FORM

CITY VARIANCE : Billings Variance # _____ - Project # _____

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

PARCEL TAX ID # A30040 CITY ELECTION WARD # 1

Legal Description of Property: S12, T01 S, R25 E, C.O.S. 1136 , PARCEL A1, 2ND AMND

Address or General Location (If unknown, contact City Engineering): _____
Future Dunham's Sports, 300 S 24th St W, Billings, MT 59102 (in Rimrock Mall)

Zoning Classification: Mercantile CMU2

Size of Parcel (Area & Dimensions): Building 208' 1 1/2" X 251' 6 1/2", 47,634 Square Feet

Variance(s) Requested: 420 sq ft Exterior Wall Sign

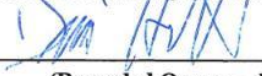
Facts of Hardship: (attach letter)

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

Owner(s): Rimrock Mall Realty Holding LLC, c/o Kohan Retail Investment Group
(Recorded Owner)
1010 Northern Blvd, STE 212, Great Neck, NY 11021
(Address)
610-291-4364 rsteiner@kohanleasing.com
(Phone Number) (email)

Agent(s): Devin Hartley
(Name)
300 South 24th Street West Billings, MT 59102
(Address)
(516) 708-9206 dhartley@krigproperties.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:  Date: 5-12-25
(Recorded Owner – digital signature allowed)

Variance 1382

Application & Applicant Letter

5. To the Board of Adjustment

Dunham's Sports is asking that you consider the following factors while reviewing their request for additional square footage of signage.

• **Lack of Visibility from Primary Entrance:**

Unlike other anchor tenants in the mall, Dunham's Sports lacks frontage or direct visibility from the main mall entrance on South 24th Street West. The store is situated at the rear of the mall, facing a park rather than a main traffic corridor, limiting exposure to both vehicular and pedestrian traffic.

• **Obstructed Storefront Due to Landscaping:**

The existing tree-lined property boundary significantly obstructs views of the Dunham's storefront. This natural screening reduces brand visibility and customer wayfinding. A larger, illuminated sign would help overcome these visual barriers and more effectively identify the store's location.

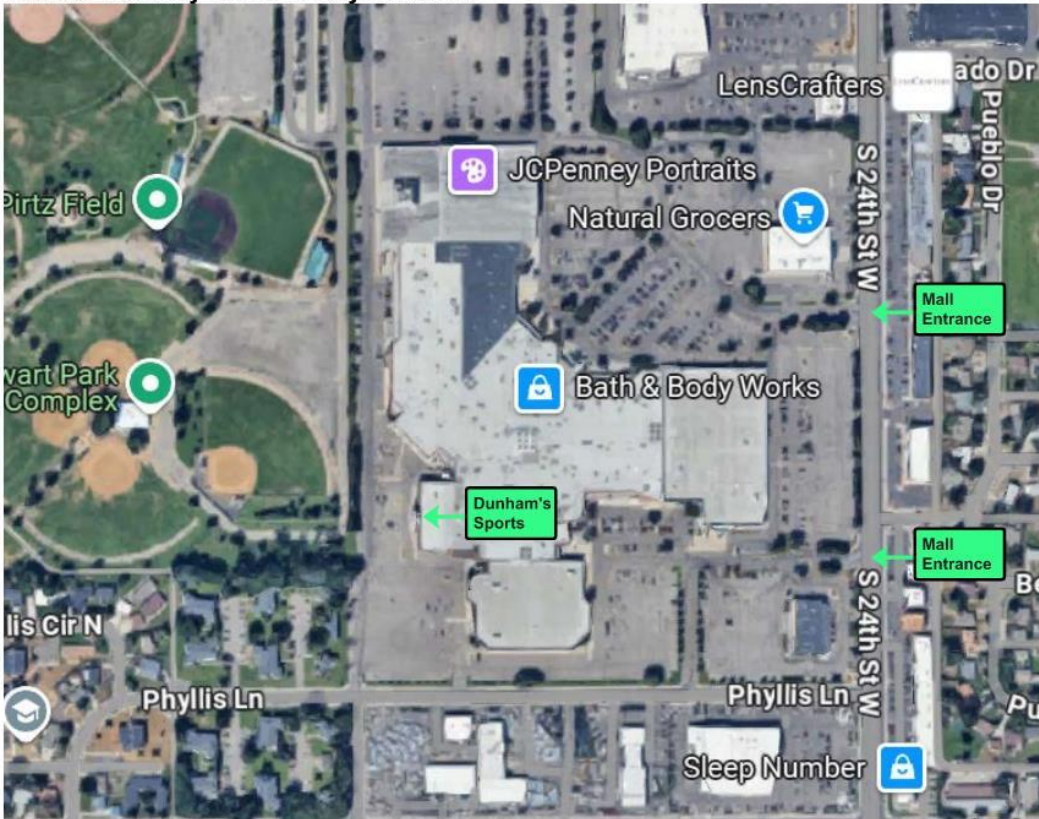
• **Precedent and Proportionality:**

The previous tenant occupied the same space with two (2) signs, each approximately 10 feet tall and 400 square feet, for a total of roughly 800 square feet. In contrast, Dunham's Sports is proposing a single sign that is smaller in height (6'-8") and totals 420 square feet — nearly half the combined signage area of the previous tenant. This request is both modest and proportional to the unique challenges of the location.

• **Comparison to Existing Tenant:**

Anchor tenant (Dillard's) has five signs at 215sf each. Two elevations have two signs each, and one on the third elevation.

Lack of Visibility from Primary Entrance



Dunham's SPORTS

Variance 1382
Application & Applicant Letter

Obstructed Storefront Due to Landscaping



Dunham's SPORTS

Variance 1382
Application & Applicant Letter

Precedent and Proportionality



Dillard's Signage- two signs on the main elevation facing 24th street - 430sf total



Dunham's SPORTS

Variance 1382
Application & Applicant Letter

Dillard's Signage- two signs on a side elevation facing Phyllis Lane - 430sf total



Dillard's Signage- side elevation facing main parking - 215sf total



***Dunham's* SPORTS**

Variance 1382
Site Plan & Sign Rendering



SUBJECT PROPERTY	VARIANCE #	DATE	FOR	APPROVED (Y/N)	ADDITIONAL DATA
300S 24 th St. W	None				
SURROUNDING PROPERTY	VARIANCE #	DATE	FOR	APPROVED (Y/N)	ADDITIONAL DATA
503 Wicks	731	3/5/1996	Sign Height/Size	Y	Double the height and area
2139 Broadwater	753	10/7/1992	Sign Height, setback, area, clearance	Y	More than double sign height and area
2201 St John's	762	4/7/1998	Sign height and area	Y	3 times sign height and area
2244 Central	777	9/1/1998	Number of signs and spacing	Y	3 signs granted
415 Broadwater	779	9/1/1998	Sign height	Y	Broadwater Elementary
2376 Main St	799	6/1/1999	Sign Height and area	Y	40 ft and 227 sf
1737 King Ave W	807	9/7/1999	Sign Height	Y	50 ft
1111 24 th St W	810	10/5/1999	Sign Height, number and area	Y	22.5 ft, 2 signs, 149 sf
310 N 27 th St	819	7/5/2000	Sign Height and separation	Y	10 ft and 65 ft separation
4432 S Frontage Rd	897	6/12/2003	Reduce sign setback	Y	2 ft setback
1145 N 19 th St	901	7/1/2003	Sign area	N	St Vs Hospital 173 sf
1824 King Ave W	907	8/5/2003	Sign height	N	Texas Roadhouse 45 ft height
106 N 28 th St	967	10/4/2005	Sign projection over public sidewalk	Y	The Soup Place now Stacked
517 Shiloh Rd	1097	6/1/2011	Sign height, illumination and area	N	Faith Chapel
1101 Shiloh Crossing Blvd	1112	12/7/2011	Sign Area	Y	Scheels 544 sf
2612 Belknap Ave	1124	7/11/2012	Sign Area and Height	Y	Vegas Hotel 170 sf and 50 ft height
1830 Harnish Blvd	1341	3/2/2022	Sign Area	Y	Coca-Cola
403 Main Street	1351	12/7/2022	No. of Wall Signs	Y	expired
1423 38 th St. W	1357	2/1/2023	Max sign size	N	

Board of Adjustment

Date: 07/02/2025
Title: Variance 1383-1753 Majestic Lane- Parking siting
Presented by: Karen Husman
Department: Planning & Community Services
Presentation: Yes

Information**RECOMMENDATION**

Planning staff recommends denial and adoption of the recommended findings of the review criteria for Variance 1383.

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

Variance 1383 - This is a variance request for property located at 1753 Majestic Lane in a Heavy Commercial (CX) zone district. This is a variance from Section 27-409 -- Table 27-400-6.B.6 requiring surface parking to be in the side or rear yard to allow parking in the front yard of property in a Heavy Commercial (CX) zone. The legal description of the property is Lot 20, Block 1 of Broso Valley Park Subdivision located in S23, T1S, R25E, a 1.9896 acre parcel of land.

The property is currently vacant, and developing it with the majority of parking in the front would be inconsistent with the intent of the zoning code, which seeks to discourage large expanses of surface parking along street frontages. The Board of Adjustment has previously approved variances for similar requests, including those for the Costco Warehouse at 3840 Zoo Drive (Variance 1343, 2022) which had a partial hardship due to the Canyon Creek Ditch easement, an office/warehouse building at 3160 S Frontage Road (Variance 1359, 2023) which had two petroleum pipelines and floodplain constraints, and another office/warehouse building on Conrad Road (Variance 1374, 2024) which was restricted due to internal semi-truck circulation that required a variance to keep pedestrians safe. These variances were granted based on unique site constraints and specific operational needs.

While several nearby parcels feature front yard parking, those projects were approved under the previous zoning code. Previous variance approvals applied to developments with specific, well-defined uses; in contrast, this proposal calls for two multi-tenant buildings whose future occupants are still unknown. Consequently, it is unclear whether parking placed in the front yard would adequately serve their operational needs. Alternative site designs could position parking along the sides or rear of the parcel, ensuring sufficient access and better compliance with current zoning objectives.

APPLICATION DATA

OWNER: 3 Arrows LLC

AGENT: Jacob Butt

PURPOSE: To allow parking in front yard

LEGAL DESCRIPTION: Lot 20, Block 1 of Broso Valley Park Subdivision located in S23, T1S, R25E

ADDRESS: 1753 Majestic Lane.

SIZE OF PARCEL: 1.9896 acres

ZONING: Heavy Commercial (CX)

EXISTING LAND USE: Vacant

PROPOSED LAND USE: Commercial Mixed Use

SURROUNDING ZONING & LAND USE

NORTH: Zoning: Heavy Commercial (CX)

Land Use: Warehouse/Construction (Northwest Pipe)

SOUTH: Zoning: CX

Land Use: Assisted Living (Canyon Creek Memory Care)

EAST: Zoning: CX

Land Use: Warehouse/Construction (Northwest Pipe)

WEST: Zoning: CX

Land Use: Medical Clinic (VA)

STAKEHOLDERS

Planning staff notified the surrounding property owners within 150 feet of the parcel by mail, placed a legal advertisement in the Yellowstone County News, and posted the property with the required sign. The application was also posted on our webpage for current zoning applications. No comments were received by staff at the time this report was submitted.

ALTERNATIVES

The Board of Adjustment may:

- Conditionally approve the requested Variance 1383 and amend the findings of fact for the criteria;
- Approve the requested Variance 1383 with different or added conditions, or no conditions;
- Deny the requested Variance 1383 and adopt the proposed findings of fact for the review criteria, as recommended by the Planning staff;
- Allow the applicant to withdraw the variance request; or
- Delay action on the variance to a future BOA meeting.

Under local regulations and state law, four votes in favor of a variance request are needed for approval. The applicant has not requested a delay of the hearing or a withdrawal of the application.

FISCAL EFFECTS

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

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.

Previous variance approvals applied to developments with specific, well-defined uses; in contrast, this proposal calls for two multi-tenant buildings whose future occupants are still unknown. Consequently, it is unclear whether parking placed in the front yard would adequately serve their operational needs. Alternative site designs could position parking along the sides or rear of the parcel, ensuring sufficient access and better compliance with current zoning objectives. This is an undeveloped parcel and there are no physical or restrictive hardships that would prevent development in accordance with the zoning requirements.

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.

Properties to the north, south, and west have been developed with front yard parking, adhering to previous zoning regulations. These establishments feature parking areas situated at the front of their lots. Moreover, the property to the south has been developed with extensive parking, stretching from the northern to the southern property lines on the west side of the building. Additionally, four variances for front yard parking have been granted, with three in the CX zone district and one in the CMU2 zone district. While other parcels in the area have been developed with front yard parking and similar variances have been granted, this particular parcel remains undeveloped. There are no physical or regulatory constraints, as other approved variances had, that would prevent development in full compliance with the current zoning standards.

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.

As indicated in the assessment of criteria 2, the approval of this variance might not bestow an exclusive benefit upon the applicant, given the existing developments in the vicinity and the past variances granted for parcels within a CX zone district facing comparable challenges. Nevertheless, it's important to note that the existing developments in the area were constructed in accordance with the previous code. This parcel is currently undeveloped, and there are no physical constraints or regulatory limitations that would prevent it from being developed in compliance with existing zoning requirements.

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.

The 2016 Growth Policy, in conjunction with the 2021 Zoning Code developed to support its implementation, seeks to move away from traditional development patterns that prioritize large front-yard parking areas in front of commercial buildings. Locating parking at the front of the building--even along a local street--does not align with the intent of the Growth Policy or current zoning standards. A more suitable design would position parking to the side or rear of the building to better reflect modern planning principles and community goals.

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;

Although staff is recommending denial, the following conditions are recommended if the BOA makes findings to approve the variance:

1. The variance is to allow surface parking spaces to be in the front yard of the proposed office/warehouse building at 1753 Majestic Lane. The front yard is a yard extending along the full length of the front lot line which is situated between the building and the front lot line on Majestic Lane. No other variance is intended or implied.
2. The variance is limited to Lot 20, Block 1 of Broso Valley Park Subdivision located in S23, T1S, R25E.
3. The site will be constructed in substantial conformance to the submitted site plan. Minor modifications to the location of the proposed structures and other site improvements as shown on the submitted site plans are allowed.
4. The applicant will complete the building permit process within 1 year of Board approval and complete the project within 2 years of Board approval.
5. Any structures not shown on this approved site plan will comply with all zoning regulations and other city regulations in place at the time of development.
6. All other zoning regulations, except for this specific variance, and any other applicable city regulations apply to the development of the site.
7. Failure to begin or complete actions required by this approval within the time limits set forth shall void this variance.
8. These conditions of variance approval shall run with the land described in this authorization and shall apply to all current and subsequent owners, operators, managers, lease-holders, heirs and assigns.

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 denial however, draft conditions of approval that include time limits to begin and complete the project are provided above.

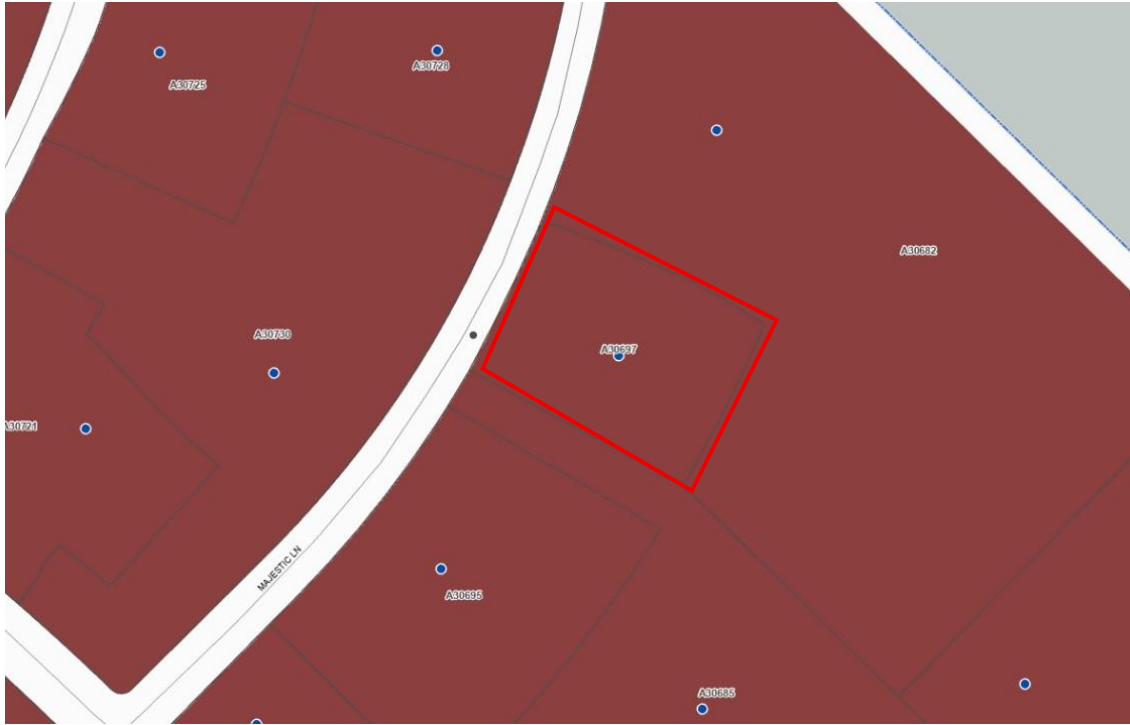
4) Under no circumstances shall the Board grant a variance to allow a use not permissible under the terms of this zoning code in the district involved. A variance shall not be a grant of special privilege inconsistent with limitations placed upon other properties in the district.

The granting of this variance would not allow a use that is not allowed in the zoning district. Office/warehouses businesses are allowed uses in the CX zone and are allowed to have parking.

Attachments

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

Variance 1383
Zoning Map & Site Photos



Variance 1383
Zoning Map & Site Photos



Subject Property looking east



Looking west

Variance 1383
Zoning Map & Site Photos



Looking North



Looking south

Variance 1383
Application & Applicant Letter

CITY VARIANCE APPLICATION FORM

CITY VARIANCE : Billings Variance # 1383 **Project #** _____

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

PARCEL TAX ID # A30697 **CITY ELECTION WARD #** 5

Legal Description of Property: _____
BROSO VALLEY PARK SUB, S23, T01 S, R25 E, BLOCK 1, Lot 20, 1.990 AC (04)

Address or General Location (If unknown, contact City Engineering): _____
1753 MAJESTIC LN, BILLINGS MT 59102

Zoning Classification: CX- HEAVY COMMERICAL

Size of Parcel (Area & Dimensions): 1.990 AC , 350' x 250'

Variance(s) Requested: FRONT YARD PARKING

Facts of Hardship: (attach letter) _____

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

Owner(s): 3 ARROWS LLC
(Recorded Owner)
1728 LAMPMAN DR STE A, BILLINGS, MT 59102
(Address)


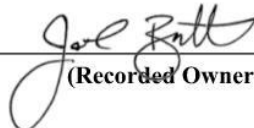
(Phone Number) _____ jacobbutt@pioneeroil-co.com
(email)

Agent(s): _____
(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:   **Date:** _____
(Recorded Owner – digital signature allowed)

Variance 1383

Application & Applicant Letter



Project Name: 1753 Majestic Lane, Multi-Use Commercial **Owner:** 3 Arrows LLC,
Jake Butt

Date: Monday, June 2nd, 2025

Location: 1753 Majestic Ln Billings, MT 59102

To the Board of Adjustment:

Reasoning for Non-Conformance in Zoning Regulation Requirements:

This is in application for a parking variance on the site of 1753 Majestic Lane, Billings MT 59102. This site is in zoning district CX- Heavy commercial, requiring side or rear parking only. This variance is petitioning for the addition of front yard parking, in front of the building, parallel to Majestic Ln.

The surrounding properties on this street all showcase this same front yard parking due to development prior to zoning changes. This includes the immediate neighbors to the North and South of the site, and the site across Majestic Ln. Due to this, this variance would match the existing context of the neighborhood.

While this site requires side and rear yard parking, there are multiple limiting factors to the site making these parking strategies difficult to construct around. Due to surrounding properties, the site only allows access from Majestic Ln, the front of the site. For side or rear parking, visitors are required to enter the site from the back of the building. A drainage ditch cuts into the property 20', and with setbacks, requires 25' of offset from the Sothern property line, increasing the narrowness of the property.

With the proposed commercial use, this building showcases a distinctly different use at the front and back. The building offers a highly commercial and public storefront "front side" and a BOH loading "back side" that features overhead garage doors and will be used to park vehicles, equipment, and trucks. This will require access to both sides of the building. Per the zoning regulations, the front entry of the building must be on Majestic Ln, as this is the only frontage. It is further noted that a main parking lot internal to the site allows the façade to be changed to face inward. However, due to the nature of the building, that would flip the back of the building loading area to front Majestic Ln, still requiring vehicular access and front yard parking, in turn still requiring a variance. However, this is less desirable option to what is currently proposed.

Due to the limited site width, maintaining the main entry on Majestic Ln with no front yard parking, visitors would be required to park behind the building, then circulate on pedestrian sidewalks around to the front. Further, to accommodate the 23' drive aisle requirement, the building must be placed as far North on the site as possible, leaving little space for landscaping on either the North or South end of the building. Per the site plan, only 3' landscaping is shown to South of the building, leaving no area for safe pedestrian sidewalk. Visitors would either be required to walk within the vehicular road or enter through the back of the building.

A priority for this commercial zoning is to create a welcoming storefront. If parking is only available behind the building, visitors experience a less than desirable entry with no landscaping, gathering spaces, and storefront. This curb appeal is of high value to the tenants as they invest into their space to attract potential customers. Along with these aesthetic concerns, safety also comes to mind. As mentioned, the rear of this building is designed primarily for loading services. Mixing the loading and customer zones is always of concern. A variance for front yard parking greatly solves this issue to allow a clear

Variance 1383

Application & Applicant Letter



separation of circulation from front yard to back yard. Visitors would be allowed to enter the site and park then enter in the front of the building without mixing with the loading zones.

It is important to note that ample rear parking is still proposed along with side yard parking in the back of site where there is more width available in order to maintain the greatest flexibility for tenant types and spaces. With limited side yard parking, providing only rear parking would create a large solid block of parking. A variance for front yard parking would cluster and disperse parking between the buildings allowing a site design that better integrates landscaping, shade trees, gathering spaces, and user-friendly spaces on the site.

The intended use of the property and why it is desired:

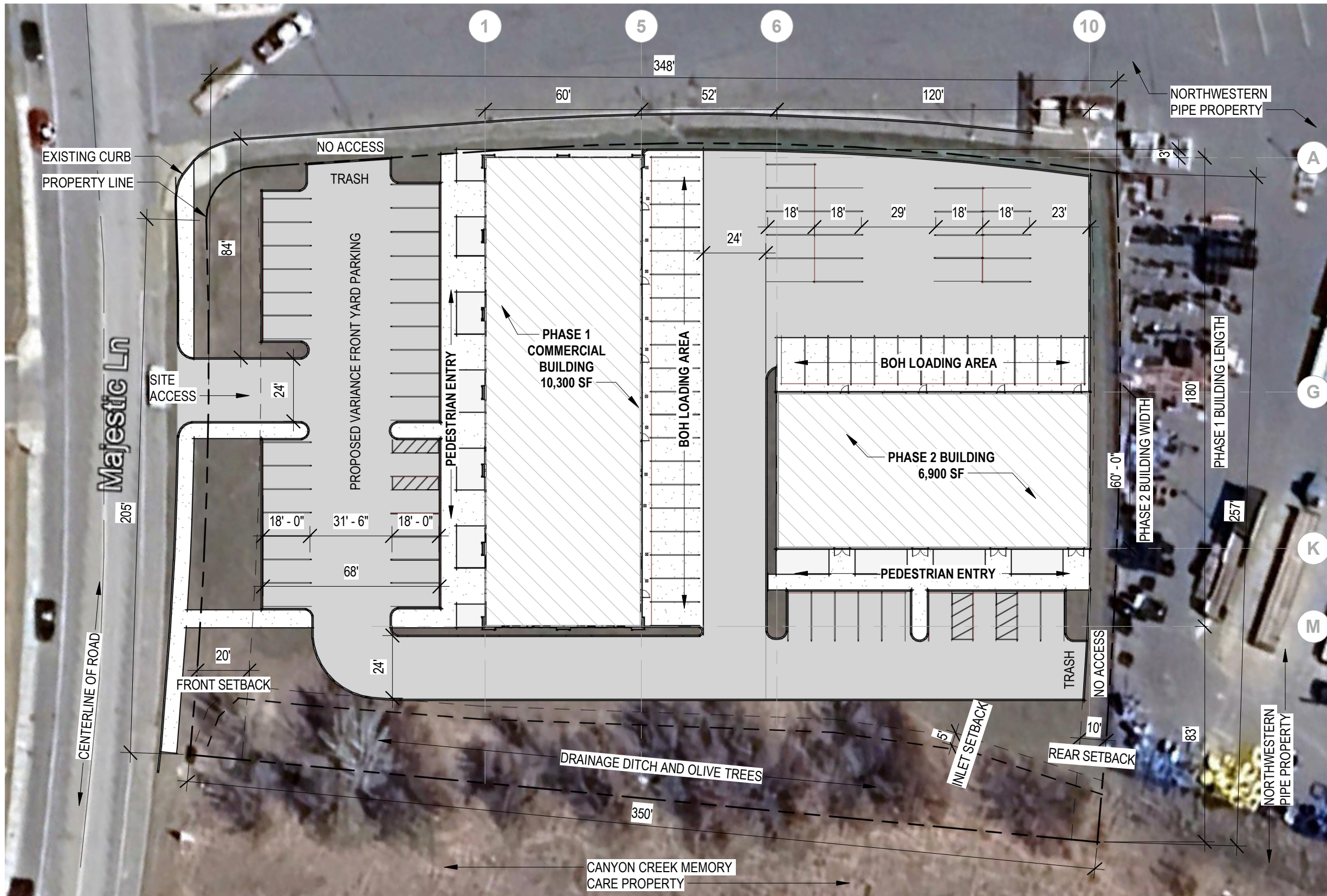
The intended use of this property is a multi-use tenant commercial space. The building use will be designed to accommodate business, mercantile, assembly, low-hazard and medium-hazard storage. This creates a wide variety of tenant options from hairdressers, offices, vets, out-patient clinics, mechanic shops, restaurants, cafes, bars, furniture makers, small scale manufacturers, food production, art studios, markets, retail shops, etc.

The goal for this project is to add to the growing commercial fabric of the neighborhood and provide space for businesses that can support both commercial and industrial/shop or storage space. This neighborhood offers a unique combination of industrial based businesses and public facing businesses; this project seeks to accommodate both. With the current development in this area, flexible, multi-use commercial spaces are a valuable community investment to attract and retain a skilled and diverse workforce, to support new businesses, and to add to Billing's economy.

Demolition, construction, or reconstruction intended for all structures:

There will be two phases of new construction. Each phase is intended to construct one new structure. Phase one is a multi-use commercial tenant space. There will not be any demolition or reconstruction of existing structures as there are no existing structures on site. The drainage inlet and existing olive trees currently on site are intended to remain on site.

Variance 1383
Application & Applicant Letter



ZONING: CX - HEAVY COMMERCIAL

FRONT SETBACK : 20'
 SIDE SETBACK : 0'
 REAR SETBACK : 10'
 OVERALL MAX HEIGHT: 60'

PROPOSED BUILDING HEIGHT: 20'



1753 Majestic Lane, Billings MT

Site Plan

06/02/25



Exterior Design.

Loading Area - BOH

Garages View



Elevations.

Creating a Pedestrian Storefront to Majestic Lane



WEST ELEVATION

APPLICABLE ZONING HISTORY

SUBJECT PROPERTY	VARIANCE	DATE	FOR	APPROVED (Y/N)	ADDITIONAL DATA
None					
SURROUNDING PROPERTY	VARIANCE	DATE	FOR	APPROVED (Y/N)	ADDITIONAL DATA
3245 Conrad Rd.	1374	5/1/24	Parking in Front yard in CMU2	Y	
3508 S Frontage Rd	1372	11/6/23	Parking in front yard in CX zone	Y	
3100 S Frontage Rd	1371	10/4/23	Parking in front yard in CX zone	Y	
4825 Midland Rd	1360	3/1/23	Parking in front yard in CMU2 zone	Y	
3160 S Frontage Rd	1359	2/6/23	Parking in front yard in CX zone	Y	
3840 Zoo Dr	1343	5/4/22	Parking in front yard in CX zone	Y	