

Variance 1390 Staff Report Attachments

**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 # A01718 CITY ELECTION WARD # 1-(BILLINGS)

Legal Description of Property: BILLINGS ORIGINAL TOWNSITE, S03, T01 S, R26 E, BLOCK 230, Lot 1 - 12, (LESS FRAC 184 SQ FT LT 1) & (LESS ROW) (19)

Address or General Location (If unknown, contact City Engineering): 802 S 26TH ST  
BILLINGS, MT 59101-4522

Zoning Classification: DX-Downtown Support

Size of Parcel (Area & Dimensions): Area: 41682 Sq Ft, Dimensions: 140' x 297.72'

Variance(s) Requested: To encroach (4) four feet into the East easement (currently 5 feet) adjacent to S. 26th St.

The owner is expanding the existing facility with a new 2,910 sf addition to increase production & efficiency.

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): GRAINS OF MONTANA BAKERY OPERATIONS INC  
(Recorded Owner)  
S 26TH ST BILLINGS 59101  
(Address)  
(406) 294-0240 kyle@grainsofmontana.com  
(Phone Number) (email)

Agent(s): MICHAEL BURKE  
(Name)  
800 GRANITE TOWER 222 NORTH 32ND STREET, BILLINGS, MT 59101  
(Address)  
(406) 248-7811 mburke@hgfa.net, hgfa@hgfa.net  
(Phone Number) (email)

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

Signature: *Kyle A Nielsen* Date: 12/30/25  
(Recorded Owner – digital signature allowed)

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HGFA Architects, PLLC  
800 Granite Tower  
222 North 32nd Street  
Billings, Montana 59101

Phone (406) 248-7811  
Fax (406) 259-9278  
email hgfa@hgfa.net  
www.hgfa.net

December 31, 2025

City of Billings  
Board of Adjustments  
Planning & Community Services Department  
P.O. Box 1178  
Billings, MT 59103

RE: Grains of Montana City Variance Request  
802 South 26<sup>th</sup> Street, Billings, MT

Dear Board of Adjustments,

We are requesting a variance to modify the set back off of South 26<sup>th</sup> Street for the property on 802 South 26<sup>th</sup> Street so as to accommodate our building expansion. In short, the variance is requesting an encroachment into the set back, (a 4' x 60' adjustment to the existing set back).

See the attached Grains of Montana City Variance Questions and Response packet.

Thank you for your consideration. We look forward to meeting and hearing from you.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Michael J. Burke'.

Michael J. Burke, AIA

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### Grains of Montana City Variance Question and Response

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;  
**Response: The process or general flow of the product that comes in from receiving flows through the production/baking and through to packaging and distribution hasn't changed and economically cannot, due to the extensive cost related to a potential reconfiguration of the entire process. We can only expand in two directions. To the north is limited as the receiving and delivery dock areas (size of trucks) and their maneuvering area needs to be maintained, while not infringing on the truck access off of S 26<sup>th</sup> St. The only other cost effective and reasonable option is to expand into the set back to the east, requiring a 4' encroachment of the setback for 60' parallel to S 26<sup>th</sup> St.**
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;  
**Response: The property in question is zoned DX (downtown support). As such, many downtown properties are designated CBD which allows building from property line to property line. This variance does not ask to build up to the property line, but to encroach into the setback which occurs along S. 26<sup>th</sup> ST (which is used primarily as a service drive for this property, the Montana Women's Prison (neighbor to the North) and the U.S. Post Office (neighbor to the East). The Montana Women's Prison has their outer most fence directly along the North sidewalk which is directly adjacent to 8<sup>th</sup> Ave. S. The U.S. Post Office has a parking lot that has a buffer yard along the East side of S. 26<sup>th</sup> ST. and maintains a substantial setback (greater than 20 feet) from this service drive. The variance is asking to encroach 4 feet into our properties 5 foot setback off S. 26<sup>th</sup> St. and is not asking to build up to the property line. The existing pedestrian sidewalk will remain in place along our property adjacent to S. 26<sup>th</sup> St. which also contains a landscape boulevard space between sidewalk and S. 26<sup>th</sup> St.**
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;  
**Response: The neighbors to the North and East are both zoned P2 and consist of the Montana Women's Prison (North) and Post Office (East), the neighbor to the West is the Chamber of Commerce which is zoned DX. All three of these facilities are unlikely to expand towards the adjacent streets or alley. The Bakery (zoned DX) is a growing business with increased demand for their products. This has prompted the proposed addition. Due to its logistics and required special needs, the addition requires**

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encroaching 4 feet into the setback along the service drive known as S. 26<sup>th</sup> St. The Montana Women's Prison (neighbor to the North across 8<sup>th</sup> Ave S.) has their outer most fence directly along the North sidewalk along 8<sup>th</sup> Ave. S. We are not asking to build on our East property (building or fence) which is adjacent to the existing sidewalk along S. 26<sup>th</sup> St. We are asking to encroach into the setback a maximum of 4 feet, which would still provide a minimum 1 foot setback along the existing sidewalk in addition to the boulevard between the existing sidewalk and S. 26<sup>th</sup> St.

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.

**Response:** We believe our project (Addition to the Grains of Montana Bakery) helps to reinforce a Strong Neighborhood. The addition will increase production/delivery capabilities of the existing business. It also infills useable building footprint in an otherwise underutilized portion of the property that sits adjacent to a service drive shared by 3 owners. The scale of the addition matches the lower walls of the existing Bakery and is a height of 18' – 8" with the largest existing portion of the Bakery (Southeast corner) is 24' – 8". The Addition will be constructed of CMU block walls to match that of the existing production facility. A pedestrian sidewalk will be reconstructed in its original location and help to maintain pedestrian traffic along the East side of the property. The new addition to the existing facility that encroaches 4 feet into the 5 foot setback will not disrupt or impact the existing, established pedestrian sidewalk along S. 26<sup>th</sup> St. nor does this encroachment impact or disrupt the current delivery use of S. 26<sup>th</sup> St. for the Montana Women's Prison (neighbor to the North), US Post Office (neighbor to the East) or Grains of Montana.

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1. Complete the City Variance application form – save as a digital document. Digital signatures are accepted.

**Response: See attached signed application**

2. Request a radius map and a surrounding owners list from the Planning Division. This will be sent to you via email.

**Response: Radius map obtained from planning division and referenced on C2.1 Layout (attached)**

3. Submit the map and list via email to the MT Department of Revenue to obtain a certified list of the property owner names and mailing addresses. (See page -5- for instructions).

**Response: Submitted map to mt department of revenue and obtained certified list of property owners and mailing addresses.**

4. Prepare a mailing label template digital document (AVERY 5160 – 30 labels per sheet) from the certified list of surrounding owners by neatly printing or typing the names and mailing addresses. One label per distinct owner/ mailing address regardless of how many times the name/address appears on the certified list. This label template will be submitted with the on-line application, along with a scanned copy of the certified list and map.

**Response: See attached mailing label template, scanned copy of the certified list of property owners and radius map (also placed on attached C2.1)**

5. Prepare a written statement to the Board of Adjustment and include the following information:

**Response:** Kyle and Kathy Nielsen broke ground on the property at 802 S 26<sup>th</sup> St., in 2009 in the hopes of providing a bakery that had unique offerings for stores, restaurants and the public both in Montana and across the country. They couldn't have anticipated the growth that they have seen over the past 17 years.

- That growth has led to many changes over that period. Once the original building was built many of the changes took place in the form of equipment to more efficiently produce their varied products. That has worked until now. This most recent planned renovation required more space. After extensive review that space made the most sense to be added to the receiving and distribution area, which was and is on the North-East corner of the building. Expansion in that area will allow the bakery to better organize and enlarge their packaging, distribution and receiving area. If a bakery needs to grow in those areas, it also needs to expand in the production side of the facility. As you would expect that is exactly what is happening. They are expanding the production area on the interior and thus pushing the packaging, distribution and receiving into the new addition. This addition allows the bakery not only to expand but to be more efficient. With receiving and distribution happening in two

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dedicated bays within the addition, the remaining space in the addition is for the packaging equipment which includes a new pallet bailer (currently not utilized due to lack of space). Because of the increased demand placed on the Bakery, the production equipment and the packaging line processes have also grown. The Bakery has outgrown its existing footprint as the equipment needs space around it for safety and operation. Since the packaging line is tied to the distribution bay, these processes need to be in the same space for efficiency. Because the addition includes (2) delivery/receiving bays and addition space for the packaging line, the required size of the addition requires us to ask for this variance; to move closer to the existing property line for this addition; to allow us to provide safe, organized packaging, distribution and receiving area in the Bakery sequence.

- A. What reasons prevent you from using this property in conformance with the Zoning Regulation requirements?
- **Response:** The process or general flow of the product that comes in from receiving flows through the production/baking and through to packaging and distribution hasn't changed and economically cannot, due to the extensive cost related to a potential reconfiguration of the entire process. We can only expand in two directions. To the north is limited as the receiving and delivery dock areas (size of trucks) and their maneuvering area needs to be maintained, while not infringing on the truck access off of S 26<sup>th</sup> St. The only other cost effective and reasonable option is to expand into the set back to the east, requiring a 4' encroachment of the setback for 60' parallel to S 26<sup>th</sup> St.
- B. Why is there a need for the intended use of the property at this location?
- **Response:** The need is existing and hasn't changed, however the demand placed on the Bakery has. The demand for Bakery has increased. The existing production sequence steps aren't being changed (It would be economically infeasible). We are improving/ expanding that sequence through efficiency, and equipment, which requires additional space. The required space is accomplished with our proposed addition.
- C. Explain any demolition, construction, or reconstruction intended for all structures. Save this as a digital document and upload it with the on-line application
- **Response:** The variance is for the expansion of the existing facility consisting of a one room addition (3 new CMU exterior walls) that improve/enlarges and better organizes the receiving, packaging and distribution processes within the Bakery sequence. It also involves new separate structural frames and roof elements. The addition will aid the Bakery in meeting the increased production and packaging requirements.

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7. Prepare a dimensioned site plan as follows and upload it to the on-line application:

A. One site plan no less than 8.5" X 11" or greater than 11"x17".

**Response: See attached C2.1 Layout drawing (11 x 17)**

B. Scale of the site plan shall not be less than 1" = 40'.

If applicable, the site plan must include but not be limited to the following:

**Response: See attached C2.1 Layout drawing at 1" = 40' (11 x 17)**

- North arrow.
- The locations and dimensions of all vehicular points of ingress and egress, drives, alleys, and off-street parking spaces.
- Illustrate lot size showing lot line dimensions.
- The locations and dimensions of all existing and proposed buildings, structures, and improvements including those which will be removed. Please label all information.
- Show setbacks from all property lines for existing and proposed buildings.
- Show the centerline of major and minor arterial streets.
- Illustrate the square footage of existing and proposed buildings and structures.
- Names and locations of adjacent streets, alleys, properties, etc.
- Illustrate the height of any proposed structures.
- Other pertinent features.

\*\*An example of a dimensioned site plan is attached as part of this application packet.

**Response: See attached C2.1 Layout drawing and C2.1A Exterior Elevations (of addition and existing Grains of Montana) and C2.1B Existing Photographs which address the points above.**

8. Photographs may be submitted and are often helpful. They should be of a size adequate to show the nature of the property. All photos should be saved as digital files and uploaded.

**Response: See attached C2.1A Photos & Elevations**

9. A filing fee must accompany all applications for variances. No application will be accepted until the filing fee is paid in full. Checks shall be made payable to the City of Billings.

**Response: See attached Receipt for Certified mailing list and filing fee.**