

**CITY BOARD OF ADJUSTMENT**

MINUTES December 7, 2016

Name	Title	01/06/2016	02/03/2016	03/02/2016	04/06/2016	05/04/2016	06/01/2016	07/06/2016	08/03/2016	09/07/2016	10/05/2016	11/02/2016	12/07/2016
Jeff Bollman	Board member	-	-	1	E	1	1	1	A	1	E	1	1
James Olson	Board member	-	-	1	1	E	1	E	R	R	R	R	R
Paul Hagen	Board member	-	-	1	1	1	1	1	1	E	1	1	1
Frank Chesarek	Vice Chairman	-	-	1	1	1	1	1	A	A	1	E	1
Oscar Heinrich	Board member	-	-	1	1	1	1	1	1	1	1	1	1
Martin Connell	Board member	-	-	1	1	1	E	1	1	1	1	1	1
Mark Noennig	Chairman	-	-	1	1	1	1	1	1	1	E	1	1

TOTAL NUMBER OF APPLICATIONS 2016	01/06/16	02/03/16	03/02/16	04/06/16	05/04/16	06/01/16	07/06/16	08/03/16	09/07/16	10/05/16	11/02/16	12/07/16	TOTAL
<b>Variance</b>	<b>0</b>	<b>0</b>	<b>2</b>	<b>1</b>	<b>3</b>	<b>3</b>	<b>6</b>	<b>3</b>	<b>3</b>	<b>1</b>	<b>1</b>	<b>3</b>	<b>26</b>

Chairman Noennig called the meeting to order at 6:00 p.m. The City Board of Adjustment met in the first floor conference room of the Miller Building located at 2825 3<sup>rd</sup> Avenue North.

Nicole Cromwell 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 Support.

**Attending:** Walter & Sherry Herbert, Darryl Weber, Quentin Eggart

**Public Comment**

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

**Approval Meeting Minutes**

Board member Heinrich made a motion for the approval of November 2, 2016, minutes. Board member Connell seconded the motion. Minutes were approved by unanimous voice vote 6-0.

**Disclosure of Conflict of Interest**

Chairman Noennig asked for disclosures of conflict of interest.

Chairman Noennig disclosed a possible conflict, he has formerly represented Greg Eggart.

Board member	Yes	No	Not Present
Jeff Bollman		x	
[REDACTED]			
Paul Hagen		x	
Frank Chesarek		x	
Oscar Heinrich		x	
Martin Connell		x	
Mark Noennig	x		

**Disclosure of Outside Communication**

Nicole Cromwell explained there are times applicants communicate directly with Board members or visit the site and this should be communicated to the Board members in a public forum.

Board member	Yes	No	Site visit?	Not Present
Jeff Bollman		x	no	
[REDACTED]				
Paul Hagen		x	all	
Frank Chesarek		x	no	
Oscar Heinrich		x	all	
Martin Connell		x	all	
Mark Noennig		x	no	

**Public Hearings**

Zoning Coordinator Nicole Cromwell reviewed the procedures for public hearings and stated the Board will open a public hearing and allow public comment this evening. She reviewed the hearing and presentation processes for the meeting and acting on each variance.

Nicole Cromwell read the legal description for **Variance #1245**:

Karen Husman presenting:

**Variance 1245 – 103 Alderson/1302 1<sup>st</sup> St West – Lot Area** - A variance from 27-308 requiring a minimum lot area of 9,600 square feet to allow a minimum lot area of 7,000 square feet in a Residential 7,000 (R-70) zone for an existing duplex dwelling on Lots 1 & 2, Block 8 of West Side Addition Subdivision, a 7,000 square foot parcel of land. The applicant is not planning any construction, but if approved would allow the re-building if needed in the future of a duplex (2-family) dwelling on these lots. Tax ID: A17773.

**RECOMMENDATION**

Planning Staff is recommending conditional approval.

Board member Heinrich confirmed this request is to obtain a rebuild letter.

**Public Hearing**

Chairman Noennig opened the public hearing and asked if there was anyone wishing to speak in favor or against **City Variance #1245**.

**Walter Herbert, 1005 O'Malley Drive, Billings 59102**

Mr. Herbert is selling this property and the potential buyer's insurance is requiring a rebuild letter. Chairman Noennig asked if homeowners insurance was requiring this or title insurance. Mr. Herbert confirmed it is the homeowner's insurance in order to obtain bank financing.

**Sherry Herbert, 1005 O'Malley Drive, Billings 59102**

Mrs. Herbert reiterated the zoning must match the property.

**Opposed**

NONE

Board member Chesarek made a motion and Board member Connell seconded the motion to approve City Variance #1245 with the Findings of Fact presented by Staff.

Board member	Yes	No	Not Present
Jeff Bollman	x		
Paul Hagen	x		
Frank Chesarek	x		
Oscar Heinrich	x		
Martin Connell	x		
Mark Noennig	x		

The motion to approve City Variance #1245 passed 6-0.

Karen Husman presenting:

**Variance 1246 – 2730 41<sup>st</sup> St West - Accessory Building Area** - A variance from 27-310(i)(3) requiring a maximum floor area of 1,500 square feet per detached accessory structure and not more than 2,000 square feet total detached accessory structure floor area to allow 2,200 square feet for a single detached structure and a total of 3,000 square feet of detached accessory structure area in a Residential 9,600 (R-96) zone on Lots 5 through 10, of Westfield Subdivision, a 3.731 acre parcel of land. Tax IDs: C02266 & C02267.

**RECOMMENDATION**

Planning Staff is recommending denial.

Chairman Noennig asked staff to clarify the plan and if this structure could be a dwelling. Staff replied with the correct setbacks, yes.

Board member Hagen confirmed the 1500 square foot maximum in the City for a detached accessory structure.

Board member Heinrich inquired regarding any outside remarks. Staff replied there has been no communication either way regarding this application.

**Public Hearing**

Chairman Noennig opened the public hearing and asked if there was anyone wishing to speak in favor or against **City Variance #1246**.

**The applicant is not present.**

Staff reminded the board about a previously approved oversized garage approximately 2 miles away in 2014.

**Opposed**

NONE

**Discussion**

Board member Connell supports the staff recommendation to deny.

Board member Heinrich agrees

Chairman Noennig asked if a building permit had already been issued. Karen replied a permit is in review for the house and attached garage. Chairman Noennig commented he is usually swayed by the proponents but there is no opposition either. He does not feel it necessary to make the exception.

Board member Bollman made a motion and Board member Heinrich seconded the motion to deny City Variance #1246 with the Findings of Fact presented by Staff.

Board member	Yes	No	Abstain	Not Present
Jeff Bollman	x			
Paul Hagen	x			
Frank Chesarek	x			
Oscar Heinrich	x			
Martin Connell	x			
Mark Noennig	x			

The motion to deny is City Variance #1246 passed 6-0.

Karen Husman presenting:

**Variance 1247 – 3416 6<sup>th</sup> Ave S – Lot Area** - A variance from 27-308 requiring a minimum lot area of 6,000 square feet to allow a minimum lot area of 5,250 square feet for the proposed boundary line adjustment and aggregation to create two (2) 5,250 square foot lots for development of single family dwellings in a Residential 6,000 (R-60) zone on Lots 13, 14 & 15, Block 219, Billings Second Addition, a 10,500 square foot parcel of land. Tax ID: A01624.

**RECOMMENDATION**

Planning Staff is recommending conditional approval.

Chairman Noennig asked for clarification why 4 dwellings allowed, staff replied 3 lots combined equals 10,500 square feet. In R-6000 zoning, 10,000 square feet is necessary for 4 dwellings in one building.

Board member Heinrich confirmed if the lot was not split a condo would be necessary to sell them separately.

**Public Hearing**

Chairman Noennig opened the public hearing and asked if there was anyone wishing to speak in favor or against **City Variance #1247**.

**Quinton Eggart, agent**

Mr. Eggart noted the conflict of interest of Mark Noennig.  
After consideration, Mr. Eggart advised the owner to request a Variance to create lots for 2 single family homes, able to be conventionally financed and easily accessed. These dwellings could be rentals or for sale.

**Opposed**

NONE

Board member Chesarek made a motion and Board member Heinrich seconded the motion to approve City Variance #1247 with the Findings of Fact presented by Staff.

Board member	Yes	No	Abstain	Not Present
Jeff Bollman	x			
Paul Hagen	x			
Frank Chesarek	x			
Oscar Heinrich	x			
Martin Connell	x			
Mark Noennig	x			

The motion to approve City Variance #1247 passed 6-0.

**The public hearing was closed at 6:32pm.**

**Other Business/Announcements:**

The next meeting will be on January 4, 2016.  
Adjournment: 6:34 p.m.

**ATTEST: APPROVED by a motion on January 4, 2017.**

