

CITY BOARD OF ADJUSTMENT

MINUTES March 1, 2017

Name	Title	01/04/2017	02/01/2017	03/01/2017	04/05/2017	05/03/2017	06/07/2017	07/06/2017	08/02/2017	09/06/2017	10/04/2017	11/01/2017	12/06/2017
Jeff Bollman	Board member	1	1	E									
Dave Hagstrom	Board member	1	1	1									
Paul Hagen	Board member	1	1	1									
Frank Chesarek	Vice Chairman	1	1	E									
Oscar Heinrich	Board member	1	1	E									
Martin Connell	Board member	1	1	1									
Mark Noennig	Chairman	1	1	1									

TOTAL NUMBER OF APPLICATIONS 2017	01/04/2017	02/01/2017	03/01/2017	04/05/2017	05/03/2017	06/07/2017	07/06/2017	08/02/2017	09/06/2017	10/04/2017	11/01/2017	12/06/2017	TOTAL
	Variance	1	1	7									

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 3rd 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: Dayton Rush, Marlin Dunlap, Aaron Higginbotham, Barbara Cox, Michael Stoch, Mark Morehead, Rob Morehead, Travis McDowell, Will Robbins, Kristine Keller, Frank L Holbrook, Alex Sterhan, Don Sterhan, Marge Sterhan, Trae Schwenneker, Katelyn Christian, Paul Dextras

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 Connell made a motion for the approval of February 1, 2017 minutes. Board member Hagen seconded the motion. Minutes were approved by unanimous voice vote 4-0.

Disclosure of any Conflict of Interest, Ex Parte Communications and Site Visits

A new form has been implemented for any disclosures. If any Board member circled yes to a Conflict of Interest or Ex Parte Communication, it will be explained here.

None

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 then asked the Board to hear Variance # 1256 first as the applicant needed to return home. The Board agreed. The findings of Variance #1256 are found in numerical order. After Variance #1256;

Nicole Cromwell read the legal description for **Variance #1250**:

Karen Husman presenting:

Variance 1250 – 1147 O’Malley Drive – Detached Garage - A variance from 27-310(i) requiring a maximum garage foot print of 1,013 square feet to allow a detached garage foot print of 1,250 square feet; to allow a side wall height greater than 10 feet to allow a sidewall height of 15.5 feet; and from the required 8-foot side setback for a structure over 18 feet in height to allow a 5-foot side setback in a Residential 9,600 (R-96) zone, on Lot 1, and the West 1.67 feet of Lot 2, Block 2 of Neidemire Subdivision, a 11,745 square foot parcel of land generally located at 1147 O’Malley Drive. Tax ID: A11290

RECOMMENDATION

Planning Staff is recommending denial.

Questions for Staff:

Board member Connell asked staff if a basement is planned for the garage. Staff has no information indicating that intent.

Chairman Noennig asked what will be above the garage area. The proposal is for a bonus room.

Public Hearing

Chairman Noennig opened the public hearing and asked if there was anyone wishing to speak in favor or against **City Variance #1250**.

Travis McDowell, 2029 Forest Park Drive

Explained the size and height. 237 square feet is the overage amount.

Chairman Noennig asked about the size of the existing garage, 1013 is the current maximum. The sidewall height needs to be addressed.

Rob Moorehead, 1014 N 32nd Street

Mr. Moorehead is the brother to the applicant. Mr. Moorehead was granted a like Variance in the past. The slide presentation shows there is no privacy in the backyard. Board member Hagen asked what is the height of the garage. There are no other structures in the area that tall. If a breezeway were attached they would not need a variance. Chairman Noennig asked how the Variance qualifies under the criteria. Board member Connell stated we cannot grant approval unless it meets the criteria. He also inquired as to the special criteria that allowed the approval of his.

OPPOSED

Don Sterhan, 3104 E MacDonald Drive

He is a developer. There are 3 variances actually being requested. The structure does not fit in the neighborhood. He is concerned about future use and supports the recommendation for denial.

Alex Sterhan, 2130 Silver Sage Trail

Mr. Sterhan bought in this neighborhood because it is an older established neighborhood. The décor established is single level homes.

REBUTTAL

My brother and his wife have German Shepherds and are car collectors. There is no intention to be industrial later on.

Discussion

Board Connell cannot find justification to approve this Variance. Chairman Noennig asked what the specific conditions are.

BOARD MEMBER Hagstrom made a motion and BOARD MEMBER Hagen seconded the motion to deny City Variance #1250 with the Findings of Fact presented by Staff.

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

	No	Abstain	Not Present
The motion to deny City Variance #1250 passed 4-0.			
Nicole Cronwell read the legal description for Variance #1251.			

Karen Husman presenting:

Variance 1251 – 2315 9th Avenue N – Land Use Contrary to Zoning (LUCZ) – new 911 Center – A request to hold a public hearing to receive public comment on the proposed construction of a new 911 Communication Center in a Residential 7,000 (R-70) zone, on the South ½ of Lot 3, Block 9, Sunnyside Subdivision 2nd Filing, a 21,000 square foot parcel of land generally located at 2135 9th Avenue North. The proposed facility will not meet the required front or side adjacent to street setback requirements, will install an 80-foot communications tower, and will have generators and transformers near the east property line. The City Board of Adjustment has no power to approve, deny or attached conditions to the proposed use. State law (MCA **76-2-402**) requires a forum before the Board of Adjustment to receive public comment. Tax ID: A16423

RECOMMENDATION

Planning Staff is recommending conditional approval.

Questions for Staff:

NONE

Public Hearing

Chairman Noennig opened the public hearing and asked if there was anyone wishing to speak in favor or against **City Variance #1251**.

Dave Rush, CTA

Mr. Rush pointed out the changes.

Opposed

NONE

Discussion

There is no action required by the Board. This satisfies the Public Hearing portion.

Nicole Cromwell read the legal description for **Variance #1252**:

Karen Husman presenting:

Variance 1252 – 906 N 32nd Street – Side Setback – A variance from Section 27-308 requiring a minimum 5-foot side setback to allow a 2-foot side setback for a proposed 380 square foot addition to an existing dwelling in a Residential 7,000 (R-70) zone, on the North 15 feet of Lot 8 and Lot 9, Block 19 of North Elevation Subdivision, 3rd Filing an 8,024 square foot parcel of land generally located at 906 N 32nd Street. Tax ID: A11840

RECOMMENDATION

Planning Staff is recommending conditional approval.

Questions for Staff:

NONE

Public Hearing

Chairman Noennig opened the public hearing and asked if there was anyone wishing to speak in favor or against **City Variance #1252**.

Dusty Eaton, owner

Mr. Eaton has a growing family and is committed to living downtown. He is committed to preserving the area.

Chairman Noennig confirmed if he moved the proposed addition forward, no variance would be needed. Access to the new addition is limited to anywhere but there.

Opposed

NONE

Discussion

BOARD MEMBER Hagen made a motion and BOARD MEMBER Connell seconded the motion to approve City Variance #1252 with the Findings of Fact presented by Staff.

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

	No	Abstain	Not Present
The motion to approve City Variance #1252 passed 4-0.			
Nicole Cromwell read the legal description for Variance #1253 :			
Karen Husman presenting:			
Variance 1253 – 2401 & 2405 Sunnyview Lane – Lot Area – A variance from 27-308 requiring a minimum lot area of 19,200 square feet for 2 dwelling units in a Residential 9,600 (R-96) zone, on Lot 2, and the North 30 feet of Lot 3, Block 3 of Pleasant Acres Subdivision to allow a minimum lot area of 10,400 square feet for two existing dwelling units, generally located at 2401 and 2405 Sunnyview Lane. The owner and buyer require a lot area variance in order to finance the sale of the property and no construction or re-construction is contemplated. Tax ID: A12905			

RECOMMENDATION

Planning Staff is recommending conditional approval.

Questions for Staff: NONE

Public Hearing

Chairman Noennig opened the public hearing and asked if there was anyone wishing to speak in favor or against **City Variance #1253**.

Marlin Dunlap, 2401 Sunnyview Lane

The previous owners wanted the Dunlap’s to buy this house. They are now deceased. We need a compliance letter to get financing and there are no changes.

Opposed

NONE

Discussion

BOARD MEMBER Connell made a motion and BOARD MEMBER Hagstrom seconded the motion to approve City Variance #1253 with the Findings of Fact presented by Staff.

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

	No	Abstain	Not Present
The motion to approve City Variance #1253 passed 4-0.			
Nicole Cromwell read the legal description for Variance #1254.			
Nicole Cromwell presenting:			
Variance 1254 – 3933 Shiloh Road – Building Height – A variance from 27-309 requiring a maximum building height of 45 feet to allow a maximum building height of 50 feet in a Community Commercial (CC) zone on Tract 1B1 of C/S 2277 in the proposed Shiloh Commons Subdivision, a 9.38-acre parcel of land generally located on the north east corner of Shiloh Road and Central Avenue. Tax ID: D00325			

RECOMMENDATION

Planning Staff is recommending conditional approval.

Questions for Staff:

Board member Connell confirmed the hardship would be on the builder regarding parking. Staff advised there has not been a variance requested for parking.

Public Hearing

Chairman Noennig opened the public hearing and asked if there was anyone wishing to speak in favor or against City Variance #1254.

Michael Stock, 4520 Rainfield

Mr. Stock is an agent for the owner and is here to answer questions.

Chairman Noennig asked what the other building is. It is slab on grade, a retail pad.

Opposed
NONE

Discussion

BOARD MEMBER Hagstrom made a motion and BOARD MEMBER Hagen seconded the motion to approve City Variance #1254 with the Findings of Fact presented by Staff.

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

	No	Abstain	Not Present
The motion to approve City Variance #1254 passed 4-0.			
Nicole Cromwell read the legal description for Variance #1255 :			
Nicole Cromwell presenting:			
Variance 1255 – 1010 N 24th St – Projection in Front Setback – A variance from 27-310(g) requiring a maximum projection in the required 20-foot front setback of 4 feet, to allow a maximum projection of 7 feet into the required 20-foot front setback for a proposed new front deck in a Residential 7,000 (R-70) zone, on the North 50 feet of the South 125 feet of Lot 4, Block 7, Sunnyside Subdivision, 2 nd Filing, a 7,000 square foot parcel of land generally located at 1010 N 24 th Street. Tax ID: A16389			

RECOMMENDATION

Planning Staff is recommending conditional approval.

Questions for Staff:

Board member Hagstrom asked if a deck may encroach. Staff explained the need for a Variance in this situation.

Public Hearing

Chairman Noennig opened the public hearing and asked if there was anyone wishing to speak in favor or against **City Variance #1255**.

Aaron Higginbotham, owner, 1315 Bitterroot Drive

The deck is an enhancement; the existing concrete was in horrible condition.

Opposed
NONE

Discussion

NONE

BOARD MEMBER Hagen made a motion and BOARD MEMBER Hagstrom seconded the motion to approve City Variance #1255 with the Findings of Fact presented by Staff.

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

	No	Abstain	Not Present
Planning Staff presented City Variance #1255 passed 4-0.			
Nicole Cromwell read the legal description for Variance #1256:			
Nicole Cromwell presenting:			

Variance 1256 – 1413 18th St West – Lot Coverage – A variance from 27-308 requiring a maximum lot coverage of 30% (1,550 square feet) to allow a maximum lot coverage of 40% (2,066 square feet) in a Residential 7,000 (R-70) on Lot 13 & the South 65 feet of Lot 12 & and the West 20 feet of the South 65 feet of Lot 14, Block 6 of Kober Subdivision, 3rd Filing a 5,166 square foot parcel of land (or 5,406 square feet including the north 3 feet of the alley as deeded in 1954), for the purpose of construction 1 new two-family dwelling generally located at 1413 18th St West. A previous variance was approved to reduce the required lot area and the front setback (Variance 1248). Tax ID: A09951

RECOMMENDATION

Planning Staff is recommending conditional approval.

Questions for Staff:

Chairman Noennig asked what changed that required a new Variance. The 1st plan was not practical.

Barbara Cox, owner

We need a Variance for the new duplex plans to work. We need the room.

Public Hearing

Chairman Noennig opened the public hearing and asked if there was anyone wishing to speak in favor or against **City Variance #1256**.

Opposed

NONE

Discussion

Board member Hagstrom asked if there will be a basement and asked about square footage.

BOARD MEMBER Hagen made a motion and BOARD MEMBER Connell seconded the motion to approve City Variance #1256 with the Findings of Fact presented by Staff.

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

The motion to approve City Variance #1256 passed 4-0.

The public hearing was closed at 7:29 PM.

Other business:

The next meeting will be on April 5, 2017.

The meeting adjourned at 7:29PM.

ATTEST: APPROVED. April 5, 2017.





City-County Planning Division
Wednesday, March 1, 2017
City Board of Adjustment
Exparte & Conflict of Interest Disclosures



DISCLOSURE OF EXPARTE COMMUNICATION: Circle Yes or No.

If "Yes", Please announce the details of your exparte communication to the Board and Clerk for the record.

Variance #	Noennig	Chesarek	Hagen	Bollman	Heinrich	Hagstrom	Connell
1250	YES/NO	YES/NO	YES/NO	YES/NO	YES/NO	YES/NO	YES/NO
1251	YES/NO	YES/NO	YES/NO	YES/NO	YES/NO	YES/NO	YES/NO
1252	YES/NO	YES/NO	YES/NO	YES/NO	YES/NO	YES/NO	YES/NO
1253	YES/NO	YES/NO	YES/NO	YES/NO	YES/NO	YES/NO	YES/NO
1254	YES/NO	YES/NO	YES/NO	YES/NO	YES/NO	YES/NO	YES/NO
1255	YES/NO	YES/NO	YES/NO	YES/NO	YES/NO	YES/NO	YES/NO
1256	YES/NO	YES/NO	YES/NO	YES/NO	YES/NO	YES/NO	YES/NO

DISCLOSURE OF SITE VISITS: Circle Yes or No.

If "Yes", Please announce the locations you visited to the Board and Clerk for the record

Variance #	Noennig	Chesarek	Hagen	Bollman	Heinrich	Hagstrom	Connell
1250	YES/NO	YES/NO	YES/NO	YES/NO	YES/NO	YES/NO	YES/NO
1251	YES/NO	YES/NO	YES/NO	YES/NO	YES/NO	YES/NO	YES/NO
1252	YES/NO	YES/NO	YES/NO	YES/NO	YES/NO	YES/NO	YES/NO
1253	YES/NO	YES/NO	YES/NO	YES/NO	YES/NO	YES/NO	YES/NO
1254	YES/NO	YES/NO	YES/NO	YES/NO	YES/NO	YES/NO	YES/NO
1255	YES/NO	YES/NO	YES/NO	YES/NO	YES/NO	YES/NO	YES/NO
1256	YES/NO	YES/NO	YES/NO	YES/NO	YES/NO	YES/NO	YES/NO

DISCLOSURE OF CONFLICT OF INTEREST: Circle Yes or No.

If "Yes", Please announce your statement of conflict of interest to the Board and Clerk for the record. Board members with Conflicts of Interest must abstain from any participation on the agenda item.

Variance #	Noennig	Chesarek	Hagen	Bollman	Heinrich	Hagstrom	Connell
1250	YES/NO	YES/NO	YES/NO	YES/NO	YES/NO	YES/NO	YES/NO
1251	YES/NO	YES/NO	YES/NO	YES/NO	YES/NO	YES/NO	YES/NO
1252	YES/NO	YES/NO	YES/NO	YES/NO	YES/NO	YES/NO	YES/NO
1253	YES/NO	YES/NO	YES/NO	YES/NO	YES/NO	YES/NO	YES/NO
1254	YES/NO	YES/NO	YES/NO	YES/NO	YES/NO	YES/NO	YES/NO
1255	YES/NO	YES/NO	YES/NO	YES/NO	YES/NO	YES/NO	YES/NO
1256	YES/NO	YES/NO	YES/NO	YES/NO	YES/NO	YES/NO	YES/NO