

**CITY BOARD OF ADJUSTMENT**

MINUTES: July 7, 2010

*To be corrected and approved by a motion on August 4, 2010*

Name	Title	01/06/10	02/03/10	03/03/10	04/07/10	05/05/10	06/02/10	07/07/10						
Verne Bass	Boardmember	-	1	1	1	-	-	E						
Jeff Bollman	Chairman	-	1	1	1	-	-	1						
Paul Cox	Boardmember	-	1	1	1	-	-	1						
Daniel Eggen	Vice Chairman	-	1	1	1	-	-	1						
Neil Kiner	Boardmember	-	1	1	1	-	-	1						
Barbara Walborn	Boardmember	-	1	1	1	-	-	1						
Terry Matson	Boardmember	-	-	E	A	-	-	A						

TOTAL NUMBER OF APPLICATIONS 2010	01/06/10	02/03/10	03/03/10	04/07/10	05/05/10	06/02/10	07/07/10							TOTAL
Variance	0	2	5	0	0	0	1							8

Vice Chairman Eggen called the meeting to order at 6:05 p.m. The City Board of Adjustment met in the City Council Chambers.

Vice Chairman Eggen asked Nicole Cromwell to introduce the City Board of Adjustment Members and Planning Department Staff. Staff members that are present are Nicole Cromwell, Zoning Coordinator; and Tamara Deines, Planning Clerk.

**Public Comment:**

Vice Chairman Eggen opened the public comment period and asked if there was anyone wishing to speak during the public comment portion of the meeting. There was none. Vice Chairman Eggen closed the public comment period at 6:07 p.m.

**Approval of minutes: April 7, 2010**

Vice Chairman Eggen called for approval of the April 7, 2010 minutes. Vice Chairman Eggen requested that the attendance and application table be updated. Boardmember Kiner asked for clarification on the time period markings.

**Motion:**

*On a motion by Boardmember Kiner and seconded by Boardmember Cox the minutes of April 7, 2010 were approved as corrected with a 5-0 voice vote.*

**Disclosure of Conflict of Interest**

Boardmember Bollman stated that he is an employee of the Department of Natural Resources and Conservation.

**Disclosure of Outside Communication**

Per request of Vice Chairman Eggen, Nicole Cromwell explained there are times that applicants communicate directly with Board members and this should be communicated to the Commission. She stated that written ex-parte communication to the Board is available to the public in the Ex-Parte Notebook. There were no disclosures of outside communication from the members of the Board.

**PUBLIC HEARINGS:**

Vice Chairman Eggen asked Ms. Cromwell to read the determinations for granting a variance as well as review the rules for the procedure by which the public hearings will be conducted. Ms. Cromwell reviewed the procedures by which the meeting is conducted and the determinations for granting a variance She stated that the Board shall have no power to deny the proposed use but shall act only to allow a public forum for comment on the proposed use and that once the public hearing is closed, the requirements for the forum will be met.

**Public Hearings:**

**1. City Variance #1072 – 2414 7<sup>th</sup> Ave North – Land Use Contrary to Zoning -** A request to conduct a public hearing on the use of land by a public agency, the State of Montana, contrary to zoning – a public parking lot – in a Residential Multi-family (RMF) zone, on Lots 13 & 14, Block 270, Billings Original Town a 7,000 square foot parcel of land. MCA 76-2-402 requires the Board of Adjustment to hold a public hearing whenever a public agency proposes to use public land contrary to zoning. The Board of Adjustment has no power to approve or deny the proposed land use, but will act as the agent to conduct the public forum and receive comment. State of Montana, owner and Sanderson Stewart, agent.

Ms. Cromwell read the legal description and opened with a PowerPoint presentation which reviewed the request and recommendation below. She asked the members of the Board to refer to the full sized plans which she had made available to the Board.

**REQUEST**

This item is being brought to the Board of Adjustment for a Public Forum to allow the State of Montana to construct a new parking lot in a Residential Multi-family (RMF) zone. Public agencies may use public land contrary to zoning if a public hearing is held before the Board of Adjustment. This authority is shown on the attached copy of MCA 76-2-402. Specifically, this is a request from the State of Montana to allow the construction of a new parking lot for the existing Department of Labor & Industry Call Center located on an adjacent lot at 624 N 24<sup>th</sup> Street in the North Park neighborhood. Public parking lots are not an allowed use within the RMF zoning district. The new parking lot will allow Call Center employees to park off-street and ease some of the parking congestion in the neighborhood. State statute allows public agencies to use land contrary to zoning

after a Public Forum is held by the local Board of Adjustment. The Board shall have no power to deny the proposed use but shall act only to allow a public forum for comment on the proposed use.

Ms. Cromwell reviewed the criteria for review and the staff findings for this application.

\*\*Boardmember Walborn arrived at 6:11 p.m.

### **Discussion:**

Vice Chairman Eggen asked the members of the Board for questions or discussion. Boardmember Bollman asked about the fencing. Nicole Cromwell stated that the plan is not to provide a solid screen. She pointed out the proposed landscaping for this property and noted the landscaping key on the plans. In response to a question by Vice Chairman Eggen, Nicole Cromwell explained that the College of Technology's land use contrary to zoning application was submitted as they were unable to meet the frontage landscaping requirements for the Shiloh Overlay District.

At 6:29 p.m., Vice Chairman Eggen opened the public hearing and called for the applicant's presentation or for proponents of City Variance # 1072 – 2414 7<sup>th</sup> Avenue North-Land Use contrary to Zoning.

### **Applicant**

#### **Mac Fogelsong, Sanderson Stewart, 1300 North Transtech Way, Billings, Montana**

Mr. Fogelsong stated he is the representative for this applicant, Mr. Cody Mitchell State of Montana; and Mr. Tom Kunrad. He referred to the posted landscape plan. He pointed out that the parking was consciously placed on the north side of the property and away from the residential area. He said that the need arrives due to not enough street side parking and the need for more parking. He said that they have considered using fencing but found that it may create a maintenance issue. He pointed out the existing tree that will remain with the project. Boardmember Kiner asked about the irrigation service and Mr. Fogelsong said that it will come from 25<sup>th</sup> Street. In response to a question by Vice Chairman Eggen, Mr. Fogelsong stated that the alley will be paved to provide access to the building and to the public right of way. Boardmember Cox asked how public parking will be controlled. Mr. Fogelsong said that the intent is for private parking. Vice Chairman Eggen asked about the possibility of using a chaining effect in the future for security. Boardmember Kiner asked regarding the storm drainage for this property. Nicole Cromwell said that a stormwater master plan has been submitted and will be reviewed by the City Engineering Department.

### **Opponents**

Vice Chairman Eggen called for anyone else wishing to speak in favor of City Variance #1072. There was none. Vice Chairman Eggen called for opponents of City Variance #1072. There was none. The public hearing was closed at 6:23 p.m.

### **Motion:**

**\*\*The Board shall have no power to deny the proposed use but shall act only to allow a public forum for comment on the proposed use. The public hearing/forum for City Variance#1072 has been held as required by State Statute MCA 76-02-402.**

**Other Business/Announcements:**

- A. The next City Board of Adjustment will be held on Wednesday, August 4, 2010. One variance application will be reviewed. Boardmember Eggen said that he may be absent.
- B. Nicole Cromwell stated that Boardmember LaVerne Bass has accepted a position in Washington D.C. and will be submitting a letter of resignation. This position will be legally advertised. Interested persons may contact the City Administration Office to apply.
- C. ByLaws: Boardmember Jeff Bollman stated that the City Zoning Commission initiated the text amendment on June 1, 2010. Nicole Cromwell stated that City Council approved the amendment at 1<sup>st</sup> reading on June 28, 2010 and will hold a 2<sup>nd</sup> Reading on July 12, 2010. Boardmember Bollman stated that he anticipates that it will be approved and that the language for a change of circumstance will be stricken. Discussion followed by the members of the Board.
- D. It was noted by the members of the Board that Terry Matson was absent on April 7, 2010 and July 7, 2010. Nicole Cromwell will notify Mr. Matson.

**Adjournment: 6:35 p.m.**

*On a motion by Boardmember Walborn and seconded by Boardmember Cox the meeting was adjourned with a 5-0 voice vote.*

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**Chairman Jeff Bollman**

**ATTEST:**

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**Tamara L. Deines, Planning Clerk**