

CITY BOARD OF ADJUSTMENT

MINUTES: October 6, 2010

To be approved by a motion on November 3, 2010

Name	Title	01/06/10	02/03/10	03/03/10	04/07/10	05/05/10	06/02/10	07/07/10	08/04/10	09/01/10	10/06/10	11/03/10		
Verne Bass	Boardmember	-	1	1	1	-	-	E	R	R	R			
Jeff Bollman	Chairman	-	1	1	1	-	-	1	1	1	1			
Paul Cox	Boardmember	-	1	1	1	-	-	1	E	1	1			
Daniel Eggen	Vice Chairman	-	1	1	1	-	-	1	1	1	1			
Neil Kiner	Boardmember	-	1	1	1	-	-	1	1	1	1			
Barbara Walborn	Boardmember	-	1	1	1	-	-	1	E	1	1			
Terry Matson	Boardmember	-	-	E	A	-	-	A	R	R	R			

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	08/04/10	09/01/10	10/06/10			TOTAL
Variance	0	2	5	0	0	0	1	0	5	2			13

Chairman Bollman called the meeting to order at 6:00 p.m. The City Board of Adjustment met in the City Council Chambers.

Chairman Bollman asked Nicole Cromwell to introduce the City Board of Adjustment Members and Planning Department Staff. Attending Staff members are Nicole Cromwell, Zoning Coordinator; and Karen Miller, Planning Assistant.

Public Comment:

Chairman Bollman 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 Bollman closed the public comment period at 6:05 p.m.

Approval of minutes: September 1, 2010

Chairman Bollman called for approval of the September 1, 2010 minutes.

Boardmember Eggen asked for a correction regarding the number of applications in August and September. The matrix shows one application in August although we didn't hear the application until September.

Motion:

On a motion by Boardmember Kiner, and seconded by Boardmember Cox the minutes of September 1, 2010 were approved as corrected with a 5-0 voice vote.

Disclosure of Conflict of Interest

Re: Variance #1078: Boardmember Kiner stated that he does have contact with one of the staff working on the project. Chairman Bollman said he works for the State of Montana and the state owns adjacent land.

Although the admission may be a conflict, the Boardmembers did not recuse themselves as there is no vote on this particular item.

Disclosure of Outside Communication

Nicole Cromwell explained there are times that applicants communicate directly with Board members and this should be communicated to the Board members in a public forum. She stated that written ex-parte communication to the Board is available to the public in the Ex-Parte Notebook.

PUBLIC HEARINGS:

Chairman Bollman 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 pointed out that there are two vacancies on the Board of Adjustment and that opportunities will be given to the applicants if they wish to delay their application.

Public Hearings:

Item #1: City Variance #1078 – 805 Constitution Ave – Land Use Contrary to Zoning – A request to use public land contrary to zoning for the purpose of constructing a water booster station in a Residential 9,600 zone (R-96) on Lot 1, Block 27 of Kimberley Heights Subdivision, a 13,745 square foot parcel of land at 805 Constitution Avenue. The Board of Adjustment has no ability to approve or deny this request but will conduct a public hearing to receive public comment. Tax ID A23923; City of Billings, Public Works, owner.

Ms. Cromwell read the legal description and opened with a PowerPoint presentation which reviewed the request and recommendation below.

REQUEST

This item is being brought to the Board of Adjustment for a Public Forum to allow the City of Billings to construct a new water booster station in a Residential 9,600 (R-96) 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 City of Billings to allow the construction of a new water booster station on this vacant property to increase water pressure in the area. Above ground utility stations and equipment are not an allowed use within the R-96 zoning district.

RECOMMENDATION

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.

Discussion:

Chairman Bollman asked the members of the Board for questions or discussion

At 6:10 p.m., Chairman Bollman opened the public hearing and called for the applicant's presentation or for proponents **City Variance #1078 – 805 Constitution Ave**

Applicant

Randy Straus, City Engineer, City of Billings Public Works Department, Billings, Montana

Mr. Straus said he had no additional information except the fence shown on the site plan may be altered. They planned to have it look nice with landscaping surrounding the entire station inclusive of a fence. He presented a few photos reflecting what they are proposing, including the building, landscaping and fence. He added that the building will look like a nice residential yard shed and will be dressed up from there. The station is designed to be fairly quiet when fully completed. He said he did not anticipate the neighbors complaining about the station, and this should address their need to improve the low water pressure, etc.

Vice Chair Eggen asked how much improvement in pressure it would bring to the residents.

Mr. Straus said it would improve the pressure in most cases 20 to 30 lbs of pressure more than they currently have. In some cases it can boost the pressure up to 50 lbs more. It is difficult to give exact estimate of how much pressure will be added due to the topography of the subdivision and in lower lying areas they may already have 70 lbs the higher areas may get up to 50 lbs more pressure. He said if residents have any concerns they can contact the Public Works Department and it can be explained to them.

Vice Chair Eggen asked how long the construction would take.

Mr. Straus said it they may contract out part of the work and staff will do the rest to save costs. He explained what needs to be done to get it set and running. He said the unit is scheduled to arrive later this month and will be place on a concrete pad that will. He said this is feasibly a station that could be relocated to another location if this facility location were upgraded at some time in the future.

Boardmember Cox asked if the chain link fence demonstrated in the photos was similar to what was planned. He asked what type of fencing they would be providing and if it would be completely surrounding the building.

Mr. Straus said they plan to fence the full perimeter of the property. He said this is an effort to prevent potential for vandalism. He added they will also be landscaping as well.

Opponents

Chairman Bollman called for anyone else wishing to speak in favor of City Variance #1078. There were none. Chairman Bollman called for opponents of City Variance #1078. There was none. The public hearing was closed at 6:25 p.m.

Public Forum Held (No Motion):

** 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.

Item #2: City Variance #1079 – 1512 and 1514 Yellowstone Avenue – A variance request to reduce the required lot area from 10,000 square feet to 8,550 square feet for existing 4-plex multi-family dwellings in a Residential 6,000 (R-60) zone on the East 36 feet of Lot 3 and the West 21 feet of Lot 4, Block 2, Van Ornum Subdivision located at 1512 Yellowstone Avenue a 8,550 square foot parcel land and the West 57 feet of Lot 3, Block 2, Van Ornum Subdivision located at 1514 Yellowstone Avenue a 8,550 square foot parcel of land. No new construction is proposed however if one or both of the structures were to be damaged it could be re-built as a 4-plex multi-family dwelling. Tax ID A17353 & A17352. Evangeline Roll and Joseph Tabeau, owners.

Ms. Cromwell read the legal description and opened with a PowerPoint presentation which reviewed the request and recommendation below. She also reviewed the other variances in the immediate neighborhood. There had been granted for multi-family dwellings similar to this.

REQUEST

The applicant is requesting a variance from BMCC 27-308 requiring a minimum lot area of 10,000 square feet for each 4-plex multi-family building to allow a lot area of 8,550 square feet in a Residential 6,000 (R-60) zone. The variance application is for two (2) separate 8,550 square foot lots located at 1512 and 1514 Yellowstone Avenue. No work is planned on either 4-plex but this variance will allow the 4-plexes to be re-built if destroyed or damaged.

Staff is recommending conditional approval of the proposed variance.

1. The variance is to reduce the required lot area from 10,000 square feet to 8,550 square feet for one 4-plex dwelling at 1512 Yellowstone Avenue and from 10,000 square feet to 8,550 square feet for one 4-plex dwelling at 1514 Yellowstone Avenue. No other variance is intended or implied with this approval.
2. The variance is limited to these two lots described as the East 36 feet of Lot 3 and the West 21 feet of Lot 4, Block 2 (1512 Yellowstone Avenue) and the West 57 feet of Lot 3, Block 2, Van Ornum Subdivision (1514 Yellowstone Avenue).
3. If the dwelling units are re-constructed in the future they must meet all other requirements of the zoning regulations with the exception of the variance noted above. The reconstruction must also comply with all other City of Billings regulations including but not limited to building code and site development codes in place at the time of reconstruction.
4. 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.

Discussion:

Chairman Bollman asked the members of the Board for questions or discussion.

At 6:30 p.m., Chairman Bollman opened the public hearing and called for the applicant's presentation or for proponents of #1079 – 1512 and 1514 Yellowstone Avenue.

Chairman Bollman asked how many square feet of lot were required for an 8-plex (one building with 8 units).

Ms. Cromwell clarified the requirement of 16,000 square feet of lot for one 8-plex. She added if this were destroyed, they would be able to rebuild an 8-plex with the two lots of 8,550 square feet each combined totaling 17,100 square feet of lot, without a variance approval, but needing a Special Review approval. With this approval they would be able to rebuild the two separate 4-plexes, one on each lot.

Applicant

Evangeline Roll and Joseph Tabeau , Billings, Montana

Ms. Roll asked for an approval on her variance application and stated she was applying for a refinance to reroof and upgrade and the financing institution would not approve her request without the variance approval allowing rebuild as the property stands with the two 4-plexes. She asked for clarification on the number of units that qualified a property for commercial review.

Boardmember Eggen residential construction is 1 to 4 units is residential. He said 5 or more units qualify it as a commercial building. He asked if she had any neighbors ask about the request.

Ms. Roll said she had been in contact with some of the neighbors and had nothing but support from them as they felt she had improved the property since she had been owner. They were satisfied with the maintenance and management of the property and supported the improvements.

Opponents

Chairman Bollman called for anyone else wishing to speak in favor of City Variance #1079. There was none. Chairman Bollman called for opponents of City Variance #1079. There was none. The public hearing was closed at 6:38 p.m.

Motion:

A motion was made by Boardmember Walborn and seconded by Boardmember Eggen to conditionally approve City Variance #1079 with the conditions recommended by staff.

Discussion:

Chairman Bollman called for discussion on the motion. There was none.
Chairman Bollman called for the roll call vote on the motion.

Boardmember	Yes	No	Abstain	Not Present
Jeff Bollman	1			
Paul Cox	1			
Daniel Eggen	1			
Barbara Walborn	1			
Neil Kiner	1	-	-	-
Vacant	-	-	-	-
Vacant				

City Variance#1079 is conditionally approved

Other Business/Announcements:

- A. Announcement: The next City Board of Adjustment will be held on Wednesday, November 3, 2010. There is one application for a change on detached structure to allow vertical siding.
- B. Announcement: Board openings

Adjournment: 6: 45 p.m.

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

Chairman Jeff Bollman

ATTEST:

Karen Miller, Planning Assistant