

CITY BOARD OF ADJUSTMENT

MINUTES: August 3, 2011

Corrected and approved by a motion on September 7, 2011

| Name | Title | 01/06/11 | 02/02/11 | 03/02/11 | 04/06/11 | 05/04/11 | 06/01/11 | 07/06/11 | 08/03/11 | 09/07/11 | 10/05/11 | 11/02/11 | 12/07/11 |
|-----------------|---------------|----------|----------|----------|----------|----------|----------|----------|----------|----------|----------|----------|----------|
| Jeff Bollman | Chairman | 1 | 1 | 1 | 1 | 1 | 1 | 1 | 1 | | | | |
| Paul Cox | Boardmember | 1 | 1 | 1 | 1 | 1 | 1 | 1 | 1 | | | | |
| Daniel Eggen | Vice Chairman | 1 | 1 | 1 | 1 | 1 | E | 1 | 1 | | | | |
| Neil Kiner | Boardmember | 1 | 1 | 1 | 1 | 1 | 1 | 1 | 1 | | | | |
| Barbara Walborn | Boardmember | 1 | E | E | 1 | 1 | 1 | 1 | 1 | | | | |
| Vacant | Boardmember | - | - | - | - | - | - | - | - | | | | |
| Vacant | Boardmember | - | - | - | - | - | - | - | - | | | | |

| TOTAL NUMBER OF APPLICATIONS 2011 | 01/06/11 | 02/02/11 | 03/03/11 | 04/06/11 | 05/04/11 | 06/01/11 | 07/06/11 | 08/03/11 | 09/07/11 | 10/05/11 | 11/02/11 | 12/07/11 | TOTAL |
|--------------------------------------|----------|----------|----------|----------|----------|----------|----------|----------|----------|----------|----------|----------|-------|
| Variance | 1 | 1 | 4 | 4 | 5 | 3 | 3 | 2 | | | | | 23 |

Chairman Bollman called the meeting to order at 6:03 p.m. The City Board of Adjustment met in the City Council Chambers.

Chairman Bollman asked Zoning Coordinator Nicole Cromwell to introduce the City Board of Adjustment members and Planning Department staff. Attending Staff members are Nicole Cromwell, Zoning Coordinator; and Tammy Deines, Planning Clerk.

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 was none. Chairman Bollman closed the public comment period at 6:05 p.m.

Approval of minutes: July 6, 2011

Chairman Bollman stated approval of the July 6, 2011 minutes is delayed until the September 7, 2011 meeting.

Disclosure of Conflict of Interest

There were no disclosures of conflict of interest.

Disclosure of Outside Communication

Nicole Cromwell explained there are times applicants communicate directly with Board members and this should be communicated to the Board members in a public forum. She noted communication with Mr. Kurt Arnie, a surrounding property owner regarding Variance #1103. Mr. Arnie attempted to send an e-mail but it was not received by Staff.

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. Ms. Cromwell explained the voting process for this meeting, as there are only five members and two vacancies on the Board of Adjustment. She stated opportunities will be given to the applicants if they wish to delay their application until a full Board is available. The next meeting is September 7, 2011.

Public Hearings:

At 6:06 p.m., Chairman Bollman stated the public hearing will be opened and this Board will allow public comment this evening. Ms. Cromwell read the legal description and gave the Staff presentation which reviewed the request and recommendation below.

Item #1: City Variance #1103 – 2215 Monad Road – A variance from 27-308 requiring a minimum lot area of 10,000 square feet for a 4-plex multifamily dwelling to allow a minimum lot area of 7,422 square feet for an existing 4-plex dwelling in a Residential Multi-family-Restricted (RMF-R) zone on a property described as Lot 22, Block 14, Central Heights Subdivision, 5th Filing, Tax ID A04870; Martha Gonzales, owner and Carey Chapman, agent.

Nicole Cromwell opened this agenda item with a PowerPoint presentation.

REQUEST

The applicant is requesting a variance from Section 27-308 requiring a minimum lot area of 10,000 square feet for an existing 4-plex to allow a lot area of 7,422 square feet in a Residential Multi-family-Restricted (RMF-R) zone on Lot 22, Block 14, Central Heights Subdivision 5th Filing. Martha Gonzales, owner and Carey Chapman, agent. Planning staff is recommending conditional approval of the proposed variance.

Staff is recommending the following conditions for the variance request:

1. The variance is to decrease the minimum lot size from 10,000 square feet to 7,422 square feet for an existing 4-plex multi-family dwelling. No other variance is intended or implied with this approval.
2. The variance is limited to Lot 22, Block 14, Central Heights Subdivision, 5th Filing generally located at 2215 Monad Road.
3. Any future rebuilds or remodel of the 4-plex dwelling will need to be done in compliance with the City's adopted building code and site development code. With the exception of the minimum lot size required all other zoning code requirements will apply.
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 called for questions and discussion by the members of the Board. Nicole Cromwell clarified the setback requirements for Monad Road which is a minor arterial. Daniel Eggen asked regarding the RMF-R zoning and Nicole Cromwell explained the difference between the restricted and unrestricted zoning classifications. In response to Barbara Walborn, Nicole Cromwell stated the structures were built in 1970.

Public Hearing

At 6:14 p.m., Chairman Bollman opened the public hearing and called for proponents of City Variance #1103.

Max Dangerfield, 2214 Monad, Billings, Montana

Mr. Dangerfield stated he is favor of this request.

Carey Chapman, (no address given)

Ms. Chapman is the listing agent on this property. She requested approval of this variance to allow her client to get a loan on this property.

Marlene Walter, 625 Avenue C, Billings, Montana

Ms. Walter is representing the buyer of this property. She stated applications will be seen in the future due to the tightening of the lending requirements. Ms. Walter is in favor of this request.

At 6:17 p.m. Chairman Bollman asked if there was anyone present wishing to speak against City Variance #1103. There was none. Discussion followed by the members of the Board on the process to amend the zoning rules to address the similar properties in this neighborhood. Nicole Cromwell stated it is possible to have multiple owners submit a single application. Chairman Bollman closed the public hearing and called for a motion from the Board.

Motion

A motion was made by Paul Cox and seconded by Barbara Walborn to conditionally approve City Variance #1103-2215 Monad Road as presented by staff.

Discussion

Chairman Bollman called for discussion on the motion. There was none. Chairman Bollman called for a 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 #1103-2215 Monad Road—is conditionally approved, 5-0.

Chairman Bollman asked Ms. Cromwell for presentation of agenda item #2-City Variance 1104.

Ms. Cromwell read the legal description and gave the Staff presentation which reviewed the request and recommendation below. She noted the City Zoning Commission is recommending conditional approval of the Special Review to City Council.

Item #2: City Variance #1104 – 721 and 723 N 16th Street - A variance from 27-308 requiring a minimum lot area of 8,500 square feet for a 3-plex dwelling to allow a lot area of 7,000 square feet to the allow the addition of 1 dwelling unit to an existing duplex dwelling in a Residential 6,000 (R-60) zoning district on Lots 52 and 53, Block 1, North Park Subdivision, a 7,000 square foot parcel of land, Tax ID: A12035. Jonathan Kober, owner. A concurrent special review application has been filed with the Zoning Commission to allow the multi-family use.

REQUEST

The applicant is requesting a variance from BMCC 27-308 requiring a minimum lot area of 8,500 square feet for a proposed 3-unit multi-family dwelling to allow a lot area of 7,000 square feet in a Residential 6,000 (R-60) zone. The property is legally described as Lots 52 and 53, Block 1, North Park Subdivision and has an address of 721 and 723 N 16th Street. If the variance is approved, the owner intends to add another dwelling unit to the existing duplex dwelling. The owner has submitted a concurrent special review application to allow the multi-family dwelling in the R-60 zone. The City Zoning Commission will make a recommendation to the City Council. The City Council will consider the request on August 22, 2011.

Staff is recommending conditional approval of the proposed variance.

1. The variance is to reduce the required lot area from 8,500 square feet for a 3-unit multifamily dwelling to 7,000 square feet. No other variance is intended or implied with this approval.
2. The variance is limited to Lots 52 & 53, Block 1 North Park Subdivision generally located at 721 and 723 N 16th Street.
3. The applicant will submit a building permit application for the interior remodel of the basement area for 1 additional dwelling unit within 6 months of board approval. Approval of the variance does not exempt the property from compliance with other adopted city codes including but not limited to building codes and site development.
4. The applicant will complete the project within 18 months of board of approval.
5. 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.

Planner Nicole Cromwell opened with a PowerPoint presentation of the Staff report for this request. She noted if this request for variance is denied, the special review for this property would not move forward to City Council.

Discussion

Chairman Bollman called for questions and discussion from the members of the Board. In response to a question by Barbara Walborn, Nicole Cromwell explained a special review was required to change the duplex to a tri-plex. Daniel Eggen asked if the property would be re-assessed if this is approved. Nicole Cromwell stated the Department of Revenue will assess the property and the change in fees will be made. In response to further questions by the Board, she said the structure was built in 1997 as a duplex; there are no parking issues as there are six off-street parking spaces; and the City Fire Department will assign the new address when the project is completed.

Public Hearing

At 6:31 p.m., Chairman Bollman opened the public hearing and called for the applicant’s presentation or for comments on City Variance #1104-721 North 16th Street.

Applicant

Jonathan Kober, 2213 Hyacinth , Billings, Montana

Mr. Kober is the owner of the property. He feels he is doing the neighborhood a favor as he is offering housing and the property is close to new condition.

Chairman Bollman asked for anyone wishing to speak in favor or against City Variance #1104-721 and 723 North 16th Street. Chairman Bollman closed the public hearing at 6:32 p.m.

Motion

Barbara Walborn made a motion and it was seconded by Neil Kiner conditionally to approve City Variance #1104 as recommended by staff.

Discussion

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

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

The motion carried unanimously. City Variance #1104 is conditionally approved, 5-0.

Other Business/Announcements:

- A. Announcement: The next City Board of Adjustment meeting will be held on Wednesday, September 7, 2011

Adjournment: 6:35 p.m.

Motion

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

Chairman Jeff Bollman

ATTEST:

Tamara L. Deines, Planning Clerk