

**CITY BOARD OF ADJUSTMENT**

MINUTES: May 2, 2012

*Approved by a motion on July 3, 2012*

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

TOTAL NUMBER OF APPLICATIONS 2011	01/04/12	02/01/12	03/07/12	04/11/12	05/02/12	06/06/12	07/11/12	08/01/12	09/05/12	10/05/12	11/07/12	12/05/12	TOTAL
Variance	1	0	1	4	2	-							8

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 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 Lora Mattox, Transportation Planner.

**Others in Attendance:**

Applicant Steve Kerns; Applicant Susan Watters; Ernest Watters

**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 6:04 p.m.

**Disclosure of Conflict of Interest**

Chairman Bollman asked for disclosures of conflict of interest. There was none.

**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. No written communications were received by staff.

## **Approval of the April 11, 2012 Meeting Minutes**

Chairman Bollman called for the approval of the April 11, 2012 meeting minutes. Corrections were submitted by the members of the Board.

### **Motion**

**The minutes of April 11, 2012 were approved as corrected with a unanimous voice vote.**

### **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.

### **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 Lora Mattox gave the Staff presentation which reviewed the request and recommendation below.

**Item #1: Variance #1119 – 3190 Fairmeadow Drive – Lot Coverage - A variance from 27-308 requiring a maximum lot coverage of 30% to allow a maximum lot coverage of 35% for a proposed covered patio in a Residential 9,600 zone (R-96) on Lot 13, Block 1 of Ridgebrook Subdivision a 10,232 square foot parcel. Tax ID: A23663, Susan and Ernest Watters, owners.**

### **REQUEST**

The applicant is requesting a variance from BMCC 27-308 requiring maximum lot coverage of 30% to allow maximum lot coverage of 35% for a proposed covered patio in a Residential 9,600 (R-96) zone on Lot 13, Block 1 of Ridgebrook Subdivision. The property is 10,232 square feet and is addressed as 3190 Fairmeadow Drive. The owners are Susan and Ernest Watters.

Staff is recommending denial of the proposed variance.

Staff has reviewed other properties located on this cul-de-sac and found that all the properties are at or below the maximum lot coverage of 30%. There are no special conditions or circumstances peculiar to the lot nor is there anything inherent in the land that presents a hardship. Staff could not find any other variances within this subdivision or the surrounding subdivision related to increased lot coverage that were applied for and granted. Based on this information, staff is recommending denial of the variance application.

### Discussion

Chairman Bollman called for questions and discussion by the members of the Board.

### Public Hearing

At 6:19 p.m., Chairman Bollman opened the public hearing and called for proponents of City Variance #1119-3190 Fairmeadow Drive.

### Susan and Ernest Watters, 3190 Fairmeadow Drive, Billings, Montana

Applicant Susan Watters stated she lived at this address for 19 years and they are at the maximum allowable lot coverage. She said they have a southern exposure and it is hot from 12:00 p.m. to 7:30 p.m. and shade is important on a patio. She said the patio cover would have shingles to match the house and it won't be visible from the street. Ms. Watters said it they had discussed an awning but there is too much wind and would like to have a permanent structure. She stated removal of the existing shed is not an option. She said the neighbors are OK with this proposal and it won't make a big difference to the neighborhood.

### Discussion

Chairman Bollman asked the members of the Board for questions for the applicant. In response to a question by Dan Eggen, Ms. Watters said the new roof will be tied into the existing roof line. Paul Cox asked if they intend to enclose the patio, and Ms. Watters stated that is not their intent. She said the contractor could start the project by mid-June and finish in September.

Chairman Bollman asked if there was anyone wishing to speak for City Variance #1119. There was none.

Chairman Bollman closed the public hearing and called for a motion from the Board.

### Motion

**A motion was made by Dan Eggen and it was seconded by Marlene Walter to conditionally approve Variance #1119, 3190 Fairmeadow Drive to allow a maximum lot coverage of 35% for a proposed covered patio in a Residential 9,600 zone with the conditions below:**

1. The variance is to increase the allowed lot coverage from 30% to 35% for the purpose of constructing a patio cover. No other variance is intended or implied with this approval.
2. The variance is limited to Lot 13, Block 1 of Ridgebrook Subdivision a 10,232 square foot parcel generally located at 3190 Fairmeadow Drive.
3. Construction of the patio cover shall be in substantial conformance with the submitted site plan.
4. The applicant shall submit a building permit within 90 days of Board approval. Construction of the patio cover shall be completed within 6 months of Building Permit issuance.
5. No future variance for an increase in lot coverage beyond 35% will be allowed.
6. Failure to begin or complete actions required by this approval within the time limits set forth shall void this variance.
7. 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 discussion on the motion. There was none.

Chairman Bollman called for a voice vote.

Boardmember	Yes	No	Abstain	Not Present
Jeff Bollman	1			
Paul Cox	1			
Daniel Eggen	1			
Barbara Walborn	1			
Marlene Walter	1			
James Olson	1			

**The motion carries, 6-0.**

**Item #2: Variance #1120 – 946 N 22<sup>nd</sup> Street – Garage Setback** – A variance from 27-308 requiring a minimum 20-foot setback for a garage entrance to a street to allow a minimum 15-foot setback for 2 (two) proposed duplexes in a Residential 6,000 (R-60) zone on Lot 1 & 2, Block 305 of Billings First Addition and Sunnyside Subdivision 3<sup>rd</sup> Filing, each parcel is 7,500 square feet. Tax Ids: A16455 & A16455A, Steve Kerns, owner.

Ms. Cromwell read the legal description and Lora Mattox gave the Staff presentation which reviewed the request and recommendation below.

**REQUEST**

The applicant is requesting a variance from BMCC 27-308 requiring a minimum 20-foot setback for a garage entrance to a street to allow a minimum 15-foot setback for 2 (two) proposed duplexes in a Residential 6,000 (R-60) zone on Lot 1 & 2, Block 305 of Billings First Addition and Sunnyside Subdivision 3<sup>rd</sup> Filing. Each parcel is 7,500 square feet and is addressed as 946 North 22<sup>nd</sup> Street. Steve Kerns, owner.

Staff is recommending conditional approval of the proposed variance with the following conditions for the variance request:

1. The variance is to decrease the required 20’ garage entrance to a street to 15’. No other variance is intended or implied with this approval.
2. The variance is limited to Lot 1 & 2, Block 305 of Billings First Addition and Sunnyside Subdivision, 3<sup>rd</sup> Filing. The structures must be constructed in substantial compliance as shown on the submitted site plan.
4. A building permit application must be submitted within 6-months of Board of Adjustment approval.
5. The dwelling must be completed within 1 year of the issuing of a building permit. Failure to submit a building permit application or complete the construction within the time limits prescribed herein shall void the variance.
6. 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.

## Public Hearing

At 6:19 p.m., Chairman Bollman opened the public hearing and called for proponents of City Variance #1120-946 N 22<sup>nd</sup> Street.

## Steve Kerns, 946 N 22<sup>nd</sup> Street, Billings, Montana

Mr. Kerns stated that the variance would not impeded pedestrian traffic on the sidewalk as a typical double cab truck sits at a length of 21' and the driveway will be 24'. He continued to state that there will be two curb cuts for access, one per each structure. Chairman Bollman asked why Mr. Kerns couldn't meet the setbacks as these are vacant lots and that there seems to be room to move the garage 5' back. The applicant stated that he wanted to maintain the square footage proposed within single level structures. Member Dan Eggen asked what is the total living space; the applicant replied that the living area will be 1,107 square feet each and a garage total square footage of 545. The applicant also stated that he moved the fronts of the structures to 10<sup>th</sup> Avenue North from North 22<sup>nd</sup> Street due to the alley. Member Dan Eggen stated that he likes the idea of this project for infill. Member Eggen asked the applicant if the timeline proposed in the conditions is satisfactory to the applicant, Mr. Kerns replied yes.

At 6:27 p.m. Chairman Bollman asked if there was anyone wishing to speak for City Variance #1120. There was none.

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 Dan Eggen to conditionally approve Variance #1120-946 N 22<sup>nd</sup> Street with the conditions recommended by staff. Chairman Bollman stated the he will be voting against the request as he feels the applicant could situate the structures within the required setbacks without a variance.**

1. The variance is to decrease the required 20' garage entrance to a street to 15'. No other variance is intended or implied with this approval.
2. The variance is limited to Lot 1 & 2, Block 305 of Billings First Addition and Sunnyside Subdivision, 3<sup>rd</sup> Filing. The structures must be constructed in substantial compliance as shown on the submitted site plan and meet all other zoning and site development standards.
3. An exempt plat representing a boundary line relocation must be completed prior to the submittal of the building permit application.
4. A building permit application must be submitted within 1-year of Board of Adjustment approval.
5. The dwelling must be completed within 1 year of the issuing of a building permit. Failure to submit a building permit application or complete the construction within the time limits prescribed herein shall void the variance.
6. 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 stated the he will be voting against the request as he feels the applicant could situate the structures within the required setbacks without a variance.

Boardmember	Yes	No	Abstain	Not Present
Jeff Bollman		<b>1</b>		
Paul Cox	<b>1</b>			
Daniel Eggen	<b>1</b>			
Barbara Walborn	<b>1</b>			
Marlene Walter	<b>1</b>			
James Olson	<b>1</b>			

**The motion carries, 5-1.**

**Other Business/Announcements:**

- A. Announcement: The next City Board of Adjustment meeting will be held on Wednesday, June 6, 2012.

**Adjournment: 6:42 p.m.**

**ATTEST: Corrected and approved by a motion on July 2, 2012**

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**Chairman Jeff Bollman**

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**Tamara L. Deines, Planning Clerk**