

CITY BOARD OF ADJUSTMENT

MINUTES: July 11, 2012

Corrected and approved by a motion on September 4, 2012

Name	Title	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
Jeff Bollman	Chairman	1	-	1	1	1	C	1					
Paul Cox	Boardmember	1	-	1	E	1	A	1					
Daniel Eggen	Vice Chairman	1	-	1	1	1	N	1					
Neil Kiner	Boardmember	1	-	1	E	E	C	1					
Barbara Walborn	Boardmember	1	-	1	1	1	E	E					
Marlene Walter	Boardmember	1	-	1	1	1	L	1	-	-	-	-	-
James Olson	Boardmember	-	-	-	1	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	07/05/12	08/01/12	09/05/12	10/05/12	11/07/12	12/05/12	TOTAL
Variance	1	0	1	4	2	-	7						15

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, and Tammy Deines, Planning Clerk

Others in Attendance:

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. Paul Cox announced a conflict of interest on City Variance #1124 and will excuse himself for these items.

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. The following written communications were received by staff:

1. 5/30/12: BVAR 1123: letter. Sandy Racki, 1626 Kenmar Drive North, Billings, Montana

2. 7/04/12: BVAR 1122: email, Lora Mattox concerning Mr. Keith Ligman, 4607 Pine Cove Rd, Billings, Montana
3. 7/04/12: BVAR1122: email, Lora Mattox concerning phone call from resident at 4613 Toyon Drive, Billings, Montana

Approval of the May 2, 2012 Meeting Minutes (The June 6, 2012 meeting was cancelled due to a lack of a quorum.)

Chairman Bollman called for the approval of the May 2, 2012 meeting minutes. Corrections were submitted by the members of the Board. (Date Correction)

Motion

The minutes of May 2, 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 6:02 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.

1. Return Item - Variance #1121 – 2304 Colton Boulevard – Lot Coverage – A variance from 27-308 requiring a maximum lot coverage of 30% to allow lot coverage of 34% for the addition of an attached garage of 342 square feet in a Residential 7,000(R-70) zone on Lot 5, Block 2, Cohagen Subdivision (Unit B) a 10,880 square foot parcel. Tax ID: A20409, Herman Hauck, owner.

REQUEST

The applicant is requesting a variance from BMCC 27-308 requiring maximum lot coverage of 30% to allow maximum lot coverage of 34% for the addition of an attached garage of 342 square feet in a Residential 7,000 (R-70) zone on Lot 5, Block 2 of Cohagen Subdivision (Unit B). The property is 10,880 square feet and is addressed as 2304 Colton Boulevard. The owner is Herman Hauck.

Staff is recommending denial of the proposed variance.

Staff has reviewed other properties located in this subdivision and the surrounding area and found 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 presents a hardship. Staff could not find any other variances within this subdivision or the surrounding subdivisions related to increased lot coverage 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. He asked for clarification on the location of the proposed garage on the site plan. Lora Mattox referred to the building permit application and she stated she thought their intent was to keep the tool shed and noted there is some discrepancy. She deferred to the applicant who stated the tool shed will be removed. Dan Eggen noted page 2-10, "Reasons", and asked about the applicant's intention for the carport. Mr. Hauck said he would remove the gazebo type structure and the tool shed. Neil Kiner said the present plan would meet all setbacks but not the lot coverage.

Public Hearing

At 6:11 p.m., Chairman Bollman opened the public hearing and called for proponents of City Variance #1121-2304 Colton Boulevard.

Patrick Bruen, 2102 Woody Drive, Billings, Montana.

Mr. Buren is speaking in favor of this request. He said the applicants are elderly and have difficulty dealing with the elements. He said visually this is not a problem as there are similar elements in the neighborhood. He lives on the north side of Colton.

Herman Hauck, 2304 Colton Boulevard, Billings, Montana

Applicant Herman Hauck is the owner of the property. He said he was a builder in Billings and is aware of the restrictions. He submitted the plans with the foundation in when the City caught an error after issuing the permit. He said the only option he had was to buy the property. Mr. Hauck said comments on code violations in the area. He asked if there is any ability to consider in favor of the garage. If denied he is asking to return to the building department as he is not satisfied with the square footage. He said sales value is less without a garage. Jeff Bollman asked about the size of the garage. Mr. Hauck said the tool shed will be removed and the new garage will be 18 X 23. The RV cover will be removed. Neil Kiner asked if the foundation exists under the slab. Mr. Hauck said it will have to be redone with this project. James Olson asked about the letter from the City. Mr. Hauck said the letter said they neglected to find additional regulations on the lot and further progress on the site was denied until resolved. It was resolved by removal of the double garage.

Discussion

Chairman Bollman asked the members of the Board for questions for the applicant.

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. Lora Mattox distributed a list of conditions to the Board for consideration.

1. The variance is to increase the allowed lot coverage from 30% to 34% for the purpose of constructing an attached garage of 414 square feet. No other variance is intended or implied with this approval.
2. The variance is limited to Lot 5, Block 2 of Cohagen Subdivision a 10,880 square foot parcel generally located at 2304 Colton Boulevard.
3. Construction of the attached garage 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 attached garage shall be completed within 6 months of Building Permit issuance and meet all other zoning, building and site development standards.

5. The gazebo/carport and tool shed on the west side of the property line shall be removed prior to final inspection of the attached garage.
6. Failure to begin or complete actions required by this approval within the time limits set forth shall void this variance.

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.

Motion

A motion was made by Paul Cox and it was seconded by James Olson to approve City Variance # 1121 with the condition staff recommended conditions and a condition that the tool shed will be removed.

Discussion

Chairman Bollman called for discussion on the motion. Nicole Cromwell pointed out the proposed garage will bring the lot coverage to 35%. Chairman Bollman asked for clarification on the garage size. Mr. Hauck said the dimensions for the garage would be 18 X 23. Lora Mattox stated from appearance of the site plan the tool shed is 38 square feet, which would bring the lot coverage to 34%

Motion

Paul Cox made a motion and it was seconded to amend the original motion with amended Condition #1 to read as below:

- 1. The variance is to increase the allowed lot coverage from 30% to 34% for the purpose of constructing an attached garage of 414 square feet. No other variance is intended or implied with this approval.**

Motion

Neil Kiner made a motion and it was seconded by Paul Cox to amend the original motion to reword Condition #5 to change “submitting” and insert “remove prior to final inspection of to read as below:

- 5. The gazebo/carport and tool shed on the west side of the property line shall be removed prior to final inspection of the attached garage.**

Discussion

There was no discussion on the amendment. Chairman Bollman called for a vote on the amended motion.

The amendment passed with a unanimous voice, 6-0.

Chairman Bollman called for a voice vote on the amended main motion.

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

The motion carries, 6-0. Variance #1121 is conditionally approved.

Item #2: Variance #1122 – 4573 Pine Cove Road – Garage Setback – A variance from 27-310(i) requiring a minimum setback of 20 feet from a street to allow a 5 foot minimum setback for a new detached garage in a Residential 9,600 (R-96) zone on Lot 16, Block 5 Lillis Heights Subdivision, a 10,765 square foot parcel. Tax ID: C08931, Guido and Amy Wagler, owners.

Ms. Cromwell read the legal description and Lora Mattox gave the Staff presentation which reviewed the request and recommendation below. She explained under the Planning Department’s jurisdiction, applications are reviewed under the Code, and Covenants and Restrictions are the responsibility of the homeowner.

REQUEST

The applicant is requesting a variance from BMCC 27-308 requiring a minimum setback of 20 feet from a street allow a 5 foot minimum setback for a new detached garage in a Residential 9,600 (R-96) zone on Lot 16, Block 5 Lillis Heights Subdivision, a 10,765 square foot parcel. The property is addressed as 4573 Pine Cove Road. The owners are Guido and Amy Wagler.

Staff is recommending the following conditions for the variance request:

1. The variance is to reduce the minimum setback for a garage entrance from a street to 5 feet for the construction of a detached accessory structure. No other variance is intended or implied with this approval.
2. The variance is limited to Lot 16, Block 5, Lillis Heights Subdivision generally located at 4573 Pine Cove Road.
3. Construction of the detached accessory structure shall be in substantial conformance with the submitted site plan.
4. The applicant shall submit a building permit within 6 months of Board approval. Construction of the detached accessory dwelling completed within 1-year of Building Permit issuance.
5. Approval of the variance does not exempt the property from compliance with other adopted city codes including but not limited to building codes, site development and other zoning regulations.
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. Dan Eggen asked if the applicant would sign the waiver of right to protest at the time of application. Lora Mattox said the waiver would be signed at the time the drive approach permit is obtained. He asked about the elevation. Lora Mattox said they will have to meet the conditions for side approach and drainage. She gave clarification on the garage dimensions, being 20' X 24'. In response to a question by Neil Kiner, she stated based on the review of the Covenants and Restrictions, her general understanding is there are to be no other accessory detached units in the subdivision. She pointed out they were amended in 1978 and noted language; "no building"... must be in authority of the current zoning regulations.

Public Hearing

At 6:19 p.m., Chairman Bollman opened the public hearing and called for proponents and opponents of City Variance #1122-4573 Pine Cove Road.

Proponents

Guido Wagler, 4573 Pine Cove Road, Billings, Montana

Mr. Wagler stated he has three letters of support which he distributed to the Board. He said the elevation difference and a survey was done to clarify the lot lines. Regarding the Covenants, he stated their attorney said the amended restrictions could mean additional structures could comply with zoning regulations. In response to a question by Daniel Eggen, Mr. Wagler said they are in acceptance of the conditions of approval and the building regulations.

Opponents

Keith Ligman, 4607 Pine Cove, Billings, Montana

Mr. Ligman noted the Covenants and Restrictions, and said a provision was made for signatures from the majority of the property owners but this has not been done. He said he doesn't feel this structure would fit in the subdivision, as there are no others like it. He said this property is located on a main road to the development and there is a fair amount of traffic. He said there is not an active homeowners association but the intent was not to have additional structures. Mr. Ligman noted the staff report, which states the intent is for a "hobby garage". He said storage areas are available for rent if adequate room is not available. He is not in favor of this request.

Bruce Meyer, 4554 Palisades Park Drive, Billings, Montana

Mr. Meyer objects to granting waivers of this sort as it sets a precedent, reduce privacy, and detract from the neighborhood aesthetics. He said it has become painfully clear the setbacks were intended to protect the privacy and aesthetics in the neighborhood and detracting from this affects property values. He pointed out Restriction #2, "No other building shall be located less than 10 feet from the sideline nor less than 20 feet from the rear line". He said the proposed building would be in violation of both of these requirements. He continued and read, "Each lot shall be known as a residential lot, and no structure shall be erected,...other than one detached single family dwelling with a private garage". He said there is already a single family structure with a garage on this parcel. Mr. Meyers said he sees three variances from the Covenants and Restrictions that would have to be allowed in order for this to be approved.

Rebuttal

Guido Wagler, 4573 Pine Cove Road, Billings, Montana

Mr. Wagler said the aesthetics is a matter of personal opinion. He said the Covenants have been amended, which means the all of the setbacks are within City Code except the 5-foot front setback. He doesn't agree that these are small lots with big buildings as the lot size is 11,000 square feet and there is plenty of space. He referred to the amended covenants, dated 1978 state the zoning code have to be followed. In response to a question by Daniel Eggen, Mr. Wagler said they will attempt make it look as if it was built at the same time as the other structures; the garage will have the same slope of roof and the siding will match the house. Paul Cox asked Mr. Wagler if he understands the homeowners could sue if the variance is granted. Mr. Wagler said he understands, but there are several detached structures in the neighborhood.

Amy Wagler, 4573 Pine Cove Road, Billings, Montana

Ms. Wagler stated they would not be in violation of the setbacks if the variance is approved. She said the Covenants are vague and they were considered by their attorney. Ms. Wagler stated the precedent has already been set for detached structures as within a 3 block radius she found a double garage, a single detached building, and an artist's studio. She submitted photographs to the Board. She said they spoke to the neighbors who would most directly impact and they did not care.

At 6:59 p.m. Chairman Bollman asked if there was anyone wishing to speak for City Variance #1122. There was none.

Chairman Bollman closed the public hearing and called for a motion from the Board. Paul Cox stated it is important the applicant understands he will have to defend this decision against the homeowners association. Marlene Walter commented on the size of the proposal and the sheds depicted.

Motion

A motion was made by Daniel Eggen and seconded by James Olson to conditionally approve Variance #1122-4573 Pine Cove Road with the conditions recommended by staff.

Discussion

Chairman Bollman called for discussion.

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

The motion fails 2-4. Variance #1122 is denied.

Item #3: Variance #1123 – 5813 Kit Lane South – Patio Cover Setback – A variance from 27-308 requiring a minimum setback of 5 feet to allow a 2.5 foot setback to add a covered patio in a Residential 7,000 (R-70) zone on Lot 1, Block 3, Foxtail Village Subdivision a 9,600 square foot parcel. Tax ID: C14858, Edward Weber, 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 side yard setback of 5 feet to allow a 2.5 foot setback to add a covered patio in a Residential 7,000 (R-70) zone on Lot 1, Block 3 Foxtail Village Subdivision, a 9,600 square foot parcel. The property is addressed as 5813 Kit Lane South. The owner is Edward Weber.

Staff is recommending conditional approval of the proposed variance.

1. The variance is to reduce the minimum side setback from a minimum 5 feet to 2.5 feet for the construction of a covered patio. No other variance is intended or implied with this approval.
2. The variance is limited to Lot 1, Block 13 Foxtail Village Subdivision generally located at 5813 Kit Lane South.
3. Construction of the covered patio shall be in substantial conformance with the submitted site plan.
4. The applicant shall submit a building permit within 6 months of Board approval. Construction of the covered patio shall be completed within 1-year of Building Permit issuance.
5. Approval of the variance does not exempt the property from compliance with other adopted city codes including but not limited to building codes, site development and other zoning regulations.
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. He noted the building Department is requiring a one hour wall and asked what will happen if the utilities need to do work. Lora Mattox said she is unsure.

Public Hearing

At 7:06 p.m., Chairman Bollman opened the public hearing and called for proponents of City Variance #1123-5813 Kit Lane South.

Edward Weber, 5813 Kit Lane South, Billings, Montana

Mr. Weber stated they built a swimming pool a year ago and they are requesting to extend the roofline of the house. He clarified the dimensions and construction of the proposed extension and said it will cut some of the wind. He said the structure will be within six inches of the fence line which also is the property line. In response to questions from the Board, he pointed out the location of the utility lines on this property. He said he would accept the conditions associated with the proposal and the neighbors are in agreement with the proposal.

At 7:19 p.m. Chairman Bollman asked if there was anyone wishing to speak for City Variance #1123. There was none.

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

Motion

A motion was made by Neil Kiner and seconded by Marlene Walter to conditionally approve Variance #1123-5813 Kit Lane with the conditions recommended by staff.

Discussion

Chairman Bollman called for discussion. There was none.

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

The motion carries, 5-1. Variance #1123 is conditionally approved.

Item #4: Variance #1124 – 2612 Belknap Avenue – Sign Variance – A variance from 27-706(d) – South 27th Street Corridor signs – requiring a maximum freestanding sign height of 12 feet and maximum sign area of 40 square feet to allow a maximum sign height of 50 feet and sign area of 170 square feet; requiring a maximum wall sign area of 50 square feet to allow a maximum wall sign area of 124 square feet; and limiting the number of wall signs to 2 wall signs to allow 4 wall signs in the South 27th Street Corridor zone on Lot 4A, Block 1, Clark Subdivision. Tax ID: D01750, Greg Pekovich, owner and Sign Products, agent.

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**At 7:20 p.m. Paul Cox recused himself and left the meeting.

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

REQUEST

The applicant is requesting a variance from 27-706(d) requiring a maximum sign area of 40 square feet for a freestanding sign to allow a maximum sign area of 170 square feet; a maximum sign height of 12 feet to allow a maximum sign height of 50 feet; a maximum number of wall signs of two (2) to allow four (4) wall signs; and requiring a maximum wall sign area of 50 square feet to allow a maximum wall sign of 124 square feet to allow the reconstruction and replacement of existing signage on the former War Bonnet Inn property. The property is zoned S. 27th Street Corridor and special sign regulations apply to this district. The property is legally described as Lot 4A of Clark Subdivision and is 2.51 acres in area. Greg Pekovich is the owner and Sign Products, Mike

Nordquist, is the agent. Planning staff is recommending conditional approval of the proposed variances with the exception of the freestanding sign height.

1. The variance is from 27-706(d) requiring a maximum sign area of 40 square feet for a freestanding sign to allow a maximum sign area of 170 square feet; a maximum free-standing sign height of 12 feet to allow a maximum free-standing sign height of 12 feet as measured from the crown of South 27th Street to the west of the current free-standing sign location; a maximum number of wall signs of two (2) to allow four (4) wall signs; and requiring a maximum wall sign area of 50 square feet to allow a maximum wall sign of 124 square feet to allow the reconstruction and replacement of existing signage on the former War Bonnet Inn property. No other variance is intended or implied with this approval.
2. The variance is limited to Lot 4A, Block 1 Clark Subdivision generally located at 2612 Belknap Avenue. The signs must be constructed in substantial compliance as shown on the submitted site plan and meet all other zoning and building code requirements where applicable.
3. The proposed signs may be illuminated however, no electronic message display (EMD), traveling, blinking, flashing or variable illumination of the signs or on the building is allowed.
4. The sign permits, and any additional permits required, shall be obtained within 2 months of Board of Adjustment approval.
5. The signs must be installed within 6 months of Board of Adjustment approval. Failure to obtain a sign permit or complete the installation 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. Daniel Eggen said the Scheel's sign variance should have been included in the variance history. Neil Kiner asked regarding concurrent applications and if the code allows for proximity to interstates. Nicole Cromwell said there are six or seven different sign codes and there are some allowances if the property is shared with interstate right-of-way. She explained the allowed heights and sign sizes allowed in other districts. Jeff Bollman asked if the wall signs will be approved as requested by the applicants. Nicole Cromwell said the third condition of approval states the applicant will request removal of the words, "electronic message display", as he does not wish to encumber this property with this restriction in the future. Daniel Eggen asked about a completion date, and Nicole Cromwell said the signs must be installed within six months of Board of Adjustment approval. Daniel Eggen noted the request for a maximum free standing sign height of 12 feet as measured from the crown. He asked if this is allowing them to measure it differently than staff would otherwise.

Public Hearing

At 7:40 p.m., Chairman Bollman opened the public hearing and called for proponents of City Variance #1124-2612 Belknap Avenue.

Greg Pekovich, 3550 Masterson Circle, Billings, Montana

Mr. Pekovich stated he spoke with Mike Yakawich, South Side Task Force, who was excited with what Mr. Pekovich plans to do with this property. He thanked Nicole Cromwell for her educating him on the sign code. He stated he has done business in the area for over forty years. He said the Task Force was concerned this would be a low end extended stay motel. He said they have used this

sign on other properties, and are trying to create an image to give good feelings to people. Mr. Pekovich said South 27th Street is a primary exit into the City of Billings and the depressed part is the Hotel is up against the interstate. He stated by placing the large sign on the edge of the roof, the signage will be visible from the overpass and create visibility from the highway. He stated they plan to remodel and place copper roofing on the building. He said they have no visibility from the highway. He stressed he is trying to change the image of the War Bonnet. He said he could change a face plate but it will not change the image as quickly as when a new sign is installed. He distributed a document to explain the depressed situation on the highway, and emphasize that signage on a motel on the highway is critical. He pointed out the smallest sign on the highway is in the range of 35 feet. He said they are in a hardship situation due to the surrounding zoning. He reviewed each of the sign variance requests and distributed a depiction of the proposed signage to the Board. Neil Kiner asked if he has considered changing the location of the sign. Mr. Pekovich explained he has offered to purchase a parcel at the rear of the property but it is a “for not situation”. He asked if he should have old signage or a new 50-ft sign with a better image. He stated if this is not approved, he will have to reface the existing sign. Daniel Eggen asked if the Staff measurement from the crown is acceptable. Mr. Pekovich stated this would allow a 12-foot sign from the crown. He said the EMD reasoning is technology changes and the requirement would run with the property forever; which may be a limitation in the future.

At 8:16 p.m. Chairman Bollman asked if there was anyone wishing to speak for City Variance #1124. There was none.

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

Motion

A motion was made by Jeff Bollman and seconded by Neil Kiner to conditionally approve Variance #1124-2612 Belknap Avenue with the conditions recommended by staff with modifications:

- 1. Free Standing Sign Height: instead of 12 ft crown to 40 from grade at the base of the sign**
- 2. Not approve the wall sign area and have it remain at 50 sq ft. per each individual sign.**
- 3. Condition #3: An electronic message display no greater than 48 square feet is allowed.**

Motion

James Olson made a motion and it was seconded by Daniel Eggen to amend the original motion to state the free standing sign height shall be measured 40 feet from centerline of South 27th Street.

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

The motion carries, 4-1, with Paul Cox abstaining.

Discussion

Chairman Bollman called for discussion on the original motion. Members of the Board deliberated on allowable sign heights.

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

The motion carries, 5-0, with Paul Cox abstaining. Variance #1124 is conditionally approved.

Item #5: Variance #1125 – 1703, 1705 and 1707 8th Street West – Lot Area – A variance from Section 27-308 requiring a minimum lot area of 13,000 square feet for a duplex and a single family dwelling in a Residential 6,000 (R-60) zone to allow a minimum lot area of 7,000 square feet for existing dwellings on Lot 3, Block 4, West 50 feet less North 10 feet for alley, Billings Heights Subdivision. Tax ID: A03085, Roy’s LLC, owner and Sam Westlind, agent.

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

REQUEST

The applicant is requesting a variance from 27-308 requiring a minimum lot area of 13,000 square feet for 1 existing duplex and 1 existing single-family dwelling (former professional office space) in a Residential 6,000 (R-60) zone on West 50 feet of Lot 3, Block 4, less north 10 feet for the alley, Billings Heights Subdivision, a 7,000 square foot parcel. Roy’s LLC is the owner and Sam Westlind is the agent. Planning staff is recommending conditional approval of the proposed reduction of the minimum lot size.

Staff is recommending the following conditions for the variance request:

1. The variance is to decrease the minimum lot size from 13,000 square feet to 7,000 square feet for existing duplex dwelling and 1 single family dwelling. No other variance is intended or implied with this approval.
2. The variance is limited to the West 50 feet of Lot 3, Block 4, less north 10 feet for the alley, Billings Heights Subdivision generally located at 1703, 1705 and 1707 8th Street West.
3. Any future re-construction of the existing structures will require compliance with other all other zoning regulations and city ordinances apply at the time of re-construction.
3. 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. There was none.

Public Hearing

At 8:37 p.m., Chairman Bollman opened the public hearing and called for proponents of City Variance #1125-1703, 1705, and 1707 8th Street West, Billings, Montana.

Sam Westlind, 1617 Avenue E, Billings, Montana

Mr. Westlind stated he is trying to bring this property to its highest and best use. In response to a question by Paul Cox, Mr. Westlind said the old laundry building is now a 3 bedroom, one bath residence.

At 8:39 p.m. Chairman Bollman asked if there was anyone wishing to speak for City Variance #1125. 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 seconded by Neil Kiner to conditionally approve Variance #1125-1703, 1705, and 1707 8th Street West with the conditions recommended by staff.

Discussion

Chairman Bollman called for discussion

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

The motion carries 6-0. Variance #1125 is conditionally approved.

Item #6: Variance #1126 – 1204 Ponderosa – Front Setback – A variance from Section 27-308 requiring a minimum front setback of 20 feet in a Residential 9,600 (R-96) zone to allow a setback of 14 feet for proposed addition to an attached garage on Lot 3, Nicolaus Subdivision 2nd Filing a 9,179 square foot parcel of land. Tax ID: A11302, Francis and Susan Krezelak, owners and Scott Peterson, agent.

Ms. Cromwell read the legal description and 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 setback of 20 feet from a street allow a 14-foot minimum setback for an addition to an existing attached garage in a Residential 9,600 (R-96) zone on Lot 3, Nicolaus Subdivision 2nd Filing, a 9,179 square foot parcel. The property is addressed as 1204 Ponderosa Drive. The owners are Francis and Susan Krezelak and Scott Peterson is the agent.

Staff is recommending conditional approval of the proposed variance.

1. The variance is to reduce the required front setback of 20 feet to 14 feet for an addition to an existing attached garage. No other variance is intended or implied with this approval.
2. The variance is limited to Lot 3, Nicolaus Subdivision, 2nd Filing generally located at 1204 Ponderosa Drive.
3. Construction of the garage addition shall be in substantial conformance with the submitted site plan.
4. The applicant shall submit a building permit within 6 months of Board approval. Construction of the detached accessory dwelling completed within 1-year of Building Permit issuance.
5. Approval of the variance does not exempt the property from compliance with other adopted city codes including but not limited to building codes, site development and other zoning regulations.
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. In response to a question by Paul Cox, Nicole Cromwell stated the City has not maintained the right-of-way. As requested by Jim Olson, Nicole Cromwell gave clarification on the terms “substantial conforming” and said they may wish adjust the location within the site plan.

Public Hearing

At 8:48 p.m., Chairman Bollman opened the public hearing and called for proponents of City Variance #1126-1204 Ponderosa.

Francis Krezelak, 1204 Ponderosa, Billings, Montana

Mr. Krezelak stated they purchased the property in 1998 and in the last three years they have had several instances of vandalism. He stated the ditch acts as a “freeway” and building the garage will protect his property. He said presently there are no sidewalk or street lights. Mr. Krezelak stated they have taken it upon themselves to add area lights and proposing the garage.

Scott Peterson, 3332 Lynn Avenue, Billings, Montana

Mr. Peterson is the agent for Francis Krezelak, owners. He said he does not see this being a problem. The driveway is arched and will be the entrance to the garage. He is in favor of this request.

At 8:51 p.m. Chairman Bollman asked if there was anyone wishing to speak for City Variance #1126. There was none.

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

Motion

A motion was made by Neil Kiner and seconded by Marlene Walter to conditionally approve Variance #1126-1204 Ponderosa with the conditions recommended by staff.

Motion

Jeff Bollman made a motion to amend the original motion and it was seconded by Neil Kiner to amend Condition #3 to add, “no overhead garage door can be located on the north side of the addition”.

The motion carried unanimous voice vote.

Discussion

Chairman Bollman called for discussion on the original motion.

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. Variance #1126 is conditionally approved.

Other Business/Announcements:

Announcement: The next City Board of Adjustment meeting will be held on Wednesday, August 1, 2012. Jeff Bollman may not attend.

Adjournment: 8:54 p.m.

Motion

Dan Eggen made a motion and it was seconded by Neil Kiner to adjourn.

The motion carried unanimous voice vote.

Chairman Jeff Bollman

ATTEST:

Tamara L. Deines, Planning Clerk