

CITY BOARD OF ADJUSTMENT

MINUTES: August 1, 2012

Draft- To be approved by a motion on September 5, 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	E				
Paul Cox	Boardmember	1	-	1	E	1	A	1	1				
Daniel Eggen	Vice Chairman	1	-	1	1	1	N	1	1				
Neil Kiner	Boardmember	1	-	1	E	E	C	1	1				
Barbara Walborn	Boardmember	1	-	1	1	1	E	E	1				
Marlene Walter	Boardmember	1	-	1	1	1	L	1	E	-	-	-	-
James Olson	Boardmember	-	-	-	1	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	2					17

In the absence of Chairman Jeff Bollman, Vice Chairman Kiner called the meeting to order at 6:00 p.m. The City Board of Adjustment met in the City Council Chambers.

Vice Chairman Kiner 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

Others in Attendance: Marion Schaaf, Ann Muthman, Virginia Schillreff, Edna Shult, Applicant Sheldon Eaton; Applicants, Ursala Slovak and Ronald J. Slovak; Nancy Laster, Sharron Kennedy, Dori Wertman

Public Comment:

Vice Chairman Kiner 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 Kiner closed the public comment period at 6:01 p.m.

Disclosure of Conflict of Interest

Vice Chairman Kiner asked for disclosures of conflict of interest. There were 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. The following written communications were received by staff:

1. July 27, 2012, e-mail Dorie Mouat regarding City Variance #1127
2. July 31, 2012, e-mail Sharon Kennedy regarding City Variance #1127
3. July 31, 2012, e-mail Colleen Dernbach regarding City Variance #1127

Approval of the July 11, 2012 Meeting Minutes (The June 6, 2012 meeting was cancelled due to a lack of a quorum. Delayed)

Vice Chairman Kiner called for the approval of the July 11, 2012 meeting minutes. Corrections were submitted by the members of the Board. Approval of the July 11, 2012 meeting minutes were delayed to allow for the Planning Clerk's review as the draft was inadvertently distributed incomplete.

**Paul Cox arrived at 6:04 p.m.

PUBLIC HEARINGS:

Vice Chairman Kiner 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 6:04 p.m., Vice Chairman Kiner 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.

1. Variance #1127 – 3110 and 3114 North Daffodil Drive – Lot Area – A variance from Section 27-308 requiring a minimum lot area of 9,600 square feet for a two-family dwelling to allow a lot area of 9,329 square feet for a proposed two-family townhome in a Residential 7,000 (R-70) zone on Lot 2, Block 2, Aspen Grove Subdivision, 4th Filing, a 9,329 square foot parcel of land. Tax ID: A28774, Aspen Grove Partnership, owner and Sheldon Eaton, agent.

REQUEST

The applicant is requesting a variance from BMCC 27-308 requiring a minimum lot area of 9,600 square feet for a duplex to allow a minimum lot area of 9,329 square feet for the construction of a two-family dwelling in a Residential 7,000 (R-70) zone on Lot 2, Block 2, Aspen Grove Subdivision 4th Filing, a 9,329 square foot parcel. The property is addressed as 3110 and 3114 N Daffodil Drive and is currently vacant. The owner is Aspen Grove Partnership, and Sheldon Eaton is the agent.

Staff is recommending the following conditions for the variance request:

1. The variance is to reduce the required lot area from 9,600 square feet to 9,329 square feet for the purpose of constructing one (1) duplex dwelling. No other variance is intended or implied with this approval.
2. The variance is limited to Lot 2, Block 2, Aspen Grove Subdivision, 4th Filing generally located at 3110 and 3114 N Daffodil Drive.
3. Construction of the duplex 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 addition to the duplex will be completed within 18 months 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. Failure to begin or complete actions required by these conditions shall void the 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

Vice Chairman Kiner called for questions and discussion by the members of the Board. Neil Kiner asked about the proposed lot coverage. Nicole Cromwell stated the proposed structure will meet the required lot coverage for this lot and Mr. Eaton said it falls within the 30% requirement.

Ms. Cromwell noted this would be reviewed with the building permit. She said the primary reason for denial of the previous variance was staff did not consider the existing condition on surrounding residential lots and commented on the 2004 variance. Paul Cox asked if services will be affected and Nicole Cromwell said all of the services are already installed.

Public Hearing

At 6:17 p.m., Vice Chairman Kiner opened the public hearing and called for proponents of City Variance #1127-3110 and 3114 North Daffodil Drive.

Sheldon Eaton, 3215 Reimers Park Drive, Billings, Montana.

Mr. Eaton pointed out this is the last lot in the association of 21 lots with 42 individual units. He said there will be two individual owners for this parcel. He noted the previous request for a variance which was denied. He said they wish to enhance the neighborhood and the neighbors wish to have something built on the lot. Mr. Olson commended Mr. Sheldon on the way the subdivision was developed.

Discussion

Vice Chairman Kiner asked the members of the Board for questions for the applicant. There were none.

Vice Chairman Kiner asked if there was anyone wishing to speak for City Variance #1127.

Proponents

Sharon Kennedy, 3125 North Daffodil, Billings, Montana

Ms. Kennedy said there are six other home owners who would like to have something built on this lot. She asked the Board for approval of this variance. Mr. Kennedy said those neighbors who attend the Homeowners meetings thought this would be beneficial to this neighborhood.

Marian Schauff, 3111 North Daffodil, Billings, Montana

Ms. Schauff stated this is a nice area and she feels it would be nice to have new neighbors instead of a vacant lot.

Ann Muthman, 3115 North Daffodil Drive, Billings, Montana

Ms. Muthman is in favor of this request. She said having a new structure built would be a nice addition to the neighborhood.

Virginia Schillreff, 3134 North Daffodil Drive, Billings, Montana

Ms. Schillreff is in favor of this request. She said this is a popular neighborhood and a nice place to live.

Edna Shult, 3121 North Daffodil Drive, Billings, Montana

Ms. Shult is in favor of this request as it would be a great improvement to the Homeowner’s Association and financially beneficial.

Nancy Lassiter, 365 West Daffodil Drive, Billings, Montana

Ms. Lassiter said she feels this is one of the nicest Homeowners Association. She would like to see this completed so the Association will then be complete.

Doris Wertman, 3120 North Daffodil Drive, Billings, Montana

Ms. Wertman lives adjacent to this lot and would like to see this lot developed. She said the new construction would remove the rabbits and be a good tax benefit.

Vice Chairman Kiner asked if there was anyone else wishing to speak in favor or against City Variance #1127. There was none. Ice Chairman Kiner closed the public hearing and called for a motion from the Board.

Motion

A motion was made by Barbara Walborn and it was seconded by Jim Olson to approve City Variance # 1127 with the conditions recommended by staff.

Discussion

Vice Chairman Kiner 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			
Marlene Walter				1
James Olson	1			
Neil Kiner	1			

The motion carries, 5-0.City Variance #1127 is conditionally approved.

Item #2: Variance #1128 – 1505 and 1507 Yellowstone Avenue – Lot Area – A variance from Section 27-308 requiring a minimum lot area of 9,600 square feet for a two-family dwelling to allow a lot area of 8,400 square feet for an existing two-family dwelling in a Residential 7,000 (R-70) zone on Lot 2, Block 1, Westview Subdivision, an 8,400 square foot parcel of land. Tax ID: A18252, Ursula Slovak, owner.

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 9,600 square feet for one existing duplex in a Residential 7,000 (R-70) zone on Lot 2, Block 1 of Westview Subdivision, an 8,400 square foot parcel. Ursula Slovak is the owner. Planning staff is recommending conditional approval of the proposed reduction of the minimum lot size.

Staff is recommending the following conditions for the reduction in minimum lot size variance request:

1. The variance is to decrease the minimum lot size from 9,600 square feet to 8,400 square feet for an existing duplex dwelling. No other variance is intended or implied with this approval.
2. The variance is limited to the Lot 2, Block 1, Westview Subdivision generally located at 1505 and 1507 Yellowstone Avenue.
3. Any future re-construction of the existing structure will require compliance with other all other zoning regulations and city ordinances that apply at the time of re-construction.
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

Vice Chairman Kiner called for questions and discussion by the members of the Board. In response to a question by Daniel Eggen, Nicole Cromwell said the Department of Revenue recognizes this property a having a duplex. Daniel Eggen asked how quickly the approval letters are presented. Nicole Cromwell explained once the variance is approved, the letters are usually sent the following day. She noted there is a thirty day appeal process and gave further clarification on the language in the approval letter which is sent to the applicant and the agent.

Public Hearing

At 6:32 p.m., Vice Chairman Kiner opened the public hearing and called for proponents of City Variance #1128-1505 and 1507 Yellowstone Avenue.

Ursula Slovak, 3710 Heritage Drive, 1505 and 1507 Yellowstone Avenue, Billings, Montana

Ms Slovak stated she has is in the process of selling this property to new buyer, and the appraiser has requested the variance. If the variance is not granted, the property will be difficult for her to sell.

At 6:33 p.m. Vice Chairman Kiner asked if there was anyone wishing to speak for City Variance #1128. There was none. Vice Chairman Kiner closed the public hearing and called for a motion from the Board.

Motion

A motion was made by Daniel Eggen and seconded by Barbara Walborn to conditionally approve Variance #1128-1505 and 1507 Yellowstone Avenue with the conditions recommended by staff.

Discussion

Vice Chairman Kiner called for discussion. Daniel Eggen stated this is consistent due to the situation of the lot size and the views of the financial institutions.

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 carries 5-0. City Variance #1128 is conditionally approved.

Other Business/Announcements:

- A. **Announcement:** The next City Board of Adjustment meeting will be held on Wednesday, September 5, 2012. Marlene Walter and Neil Kiner asked to be excused.

Adjournment: 6:36 p.m.

ATTEST: Draft. To be approved by a motion on September 5, 2012.

Vice Chairman Neil Kiner

Tamara L. Deines, Planning Clerk