

CITY BOARD OF ADJUSTMENT

MINUTES: October 3, 2012

Approved by a motion as corrected on December 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	1	1	-	
Paul Cox	Boardmember	1	-	1	E	1	A	1	1	E	1	-	
Daniel Eggen	Boardmember	1	-	1	1	1	N	1	1	1	E	-	
Neil Kiner	Vice Chairman	1	-	1	E	E	C	1	1	1	1	-	
Barbara Walborn	Boardmember	1	-	1	1	1	E	E	1	1	1	-	
Marlene Walter	Boardmember	1	-	1	1	1	L	1	E		1	-	-
James Olson	Boardmember	-	-	-	1	1	-	1	1	1	E	-	-

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	0	7	2	1	2	0		20

Chairman Jeff 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 Planner Lora Mattox to introduce the City Board of Adjustment members and Planning Department staff. Attending Staff members are Lora Mattox, Planner; and Tammy Deines, Planning Clerk

Others in Attendance: Applicant John Schafer; Applicant Ryan Grimm

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 6:01 p.m.

Approval of the September 5, 2012 Meeting Minutes

Chairman Bollman called for the approval of the July 11, 2012 meeting minutes. Dan Eggen submitted corrections to Tammy Deines, Planning Clerk prior to this meeting. Jeff Bollman requested a correction on page 3, to correct “Dan Wagner” to “Dan Eggen” and asked that a statement of Board agreement be inserted to reflect moving the agenda change to move the approval of the meeting minutes after the public hearings.

Motion

A motion was made by Barbara Walborn and seconded by Marleen Walter to approve the September 5, 2012 meeting minutes with corrections.

Disclosure of Conflict of Interest

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

Disclosure of Outside Communication

Lora Mattox explained there are times applicants communicate directly with Board members and this should be communicated to the Board members in a public forum. There were no disclosures of outside communication.

PUBLIC HEARINGS:

Chairman Bollman asked Ms. Mattox 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. Mattox reviewed the procedures by which the meeting is conducted and the determinations for granting a variance.

Public Hearings:

At 6:04 p.m., Chairman Bollman stated the public hearing will be opened and this Board will allow public comment this evening. Ms. Mattox read the legal description and gave the Staff presentation which reviewed the request and recommendation below.

Variance #1130-715 Rimrock Road – A variance from 27-308 requiring a minimum 5 foot side setback to allow a minimum 2 foot side setback for an existing dwelling and a carport addition of 420 square feet; a variance from 27-602 requiring a maximum projection of 4 feet for an unenclosed porch and exterior stairwell in a principal arterial setback to allow a maximum projection of 12 feet in a Residential 9,600 (R-96) zone on the 61.5 ft X 200 ft of the E2E2E2SWSE4 of Section 30, T1N, R26E, a 12,300 square foot parcel of land. Tax ID: D05637, John and Connie Schafer, owners.

REQUEST

The applicant is requesting a variance from BMCC 27-308 requiring a minimum setback of 5 feet from side property line to allow a 2-foot setback and from BMCC 27-602 requiring a maximum projection in a principal arterial setback of 4 feet to allow a 12-foot projection for the construction of a new carport and entryway staircase to a residence in a Residential 9,600 (R-96) zone. The lot is legally described as an un-platted portion measuring 61.5 feet by 200 feet in the E2E2E2SWSE4 of Section 30, T1N, R26E. The parcel is 12,300 square feet in area and is addressed as 715 Rimrock Road. The owners are John and Connie Schafer.

Staff is recommending conditional approval of the proposed variance.

1. The variance is to reduce the required side setback from 5 feet to 2 feet for the addition of an attached carport and to increase the allowed projection in the arterial setback from 4 feet to 12 feet for a new covered porch and staircase. No other variance is intended or implied with this approval.
2. The variance is limited to 61.5 feet by 200 feet in the E2E2E2SWSE4 of Section 30, T1N, R26E generally located at 715 Rimrock Road.
3. Construction of the carport addition shall be in substantial conformance with the submitted site plan. The applicant will revise the drawing to include a solid wall on the east side of the

carport, with 1-hour fire rated construction with no overhang and no openings. The applicant is allowed to install a drip-edge or rain gutter to handle runoff from the carport roof.

4. The applicant shall submit a building permit within 6 months of Board approval.

Construction of the addition to the garage will 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. There was none.

Public Hearing

At 6:08 p.m., Chairman Bollman opened the public hearing and called for proponents of City Variance #1130-Rimrock Road.

John Schafer-715 Rimrock Road, Billings, Montana

Mr. Schafer is the property owner. He stated the staff report was complete and the house has been at this location since 1949. They plan to install a firewall as suggested by staff. Barbara Walborn asked about the enclosed porch, and clarification was given by staff with a depiction. Neil Kiner asked how the existing roof line with the valley will work with the proposed plan. John Schafer explained they will address the valley and the stormwater flows.

Chairman Bollman asked if there was anyone else wishing to speak in favor or against City Variance #1130. There was none. Chairman Bollman 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 Paul Cox to approve City Variance # 1130 with the conditions recommended by staff.

Discussion

Chairman Bollman called for discussion on the motion. Paul Cox said the proposal will be a nice addition to the house.

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 carried, 5-0. City Variance #1130 is conditionally approved.

Variance #1131-2843 Oakland Drive – A variance from 27-310 requiring a maximum side wall height of a detached garage be no taller than the side wall height of the residential dwelling to allow a side wall height of 10 feet 4 inches in a Residential 9,600 (R-96) zone on Lot 25 and the west 2 feet of Lot 26, Block 1, Oakland Subdivision 1st Filing, a 9,625 square foot parcel of land. Tax ID: C02109, Ryan J. Grimm, owner.

Discussion

Chairman Bollman called for questions and discussion by the members of the Board. Lora Mattox noted no other variance for sidewalls have been granted in this area. Paul Cox asked for clarification of the proposed garage and it was given by Lora Mattox. Marleen Walter pointed out the garage will be accessed from the alleyway and asked if a photo was available. Barbara Walborn noted the citizen's letter of objection to the adjacent garage having 10-foot walls. Lora Mattox said the protest letter seemed to be more concerned with the size of the garage. She said all of the zoning requirements except the sidewalls would be met.

Public Hearing

At 6:19 p.m., Chairman Bollman opened the public hearing and called for proponents of City Variance #1131-Oakland Drive.

Ryan Grimm, 2843 Oakland Drive, Billings, Montana

Mr. Grimm is the property owner. He submitted a photograph of the alleyway along to the Board. He said the existing shed will be removed. He stated he feels discriminated as he purchased a house that is built on a slab and is unable to build the ten-foot side walls whereas the adjacent houses are on a concrete basement foundation. Mr. Grimm stated the existing two car garage will not house his pickup due to the seven-foot door and there are structural issues. He submitted photos depicting posts that obstruct the parking area, along with photos of the neighbor's garage to the east of this property. He said the lady who objected to the size of the garage lived in an apartment off of 28th Street West. He pointed out the proposed garage in his backyard would not in his neighbor's viewshed.

In response to a question by Paul Cox, Mr. Grimm said he can only build the garage if it is detached. He explained he could demo the existing garage and build higher but this would not be as aesthetically pleasing. He said building a ten-foot garage in the back is more reasonable and the immediate neighbors are in favor of this proposal. In response to Paul Cox, Mr. Grimm stated there will be no sewer or water hooked into the garage.

Chairman Bollman asked if there was anyone else wishing to speak in favor or against City Variance #1131. There was none. Chairman Bollman closed the public hearing and called for a motion from the Board.

Lora Mattox submitted staff recommended conditions should the Board recommend conditional approval:

1. The variance is to increase the sidewall height of the detached garage to a maximum of 10 feet 4 inches. No other variance is intended or implied with this approval.
2. The variance is limited to Lot 25 and the west 2 feet of Lot 26, Block 1 Oakland Subdivision, 1st Filing generally located at 2843 Oakland Drive.
3. Construction of the detached garage 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 garage will 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.

Motion

A motion was made by Neil Kiner and it was seconded by Barbara Walborn to approve City Variance # 1131 with the conditions recommended by staff.

Discussion

Chairman Bollman called for discussion on the motion. Jeff Bollman asked if the timeline for obtaining a permit and completion was satisfactory. Mr. Grimm stated he intended to begin the project right away. Regarding substantial conformance with the regulations, Lora Mattox said the Building Division will review placement on the lot with current setbacks as submitted with the site plan and the variance.

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 carried, 5-0.City Variance #1131 is conditionally approved.

Other Business/Announcements:

- A. Announcement:** The next City Board of Adjustment meeting will be held on Wednesday, December 5, 2012 as no variance applications were submitted in November.

Adjournment: 6:32 p.m.

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

Chairman Jeff Bollman

Tamara L. Deines, Planning Clerk