

CITY BOARD OF ADJUSTMENT

MINUTES: February 6, 2013

Draft- To be approved by a motion on March 6, 2013

Name	Title	01/03/13	02/06/13	03/06/13	04/03/13	05/01/13	06/05/13	07/03/13	08/07/13	09/04/13	10/02/13	11/06/13	12/04/13
Jeff Bollman	Chairman	1	1										
Paul Cox	Boardmember	1	1										
Daniel Eggen	Boardmember	1	1										
Neil Kiner	Vice Chairman	E	E										
Barbara Walborn	Boardmember	1	1										
Marlene Walter	Boardmember	1	1										
James Olson	Boardmember	1	E										

TOTAL NUMBER OF APPLICATIONS 2012	01/03/13	02/06/13	03/06/13	04/03/13	05/01/13	06/05/13	07/03/13	08/07/13	09/04/13	10/02/13	11/06/13	12/04/13	TOTAL
Variance	3	4											7

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

Others in Attendance: Bill Stene; Linda French, Jeff Reed, Mark Morehead, Rob Morehead, Travis McDowell, Kelly Norwood, Jeff Norwood

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 6:02 p.m.

Approval of the January 3, 2013 Meeting Minutes

Chairman Bollman called for the approval of the January 3, 2013 meeting minutes. Daniel Eggen requested clarification on page 6-10 paragraph 2.

Motion

A motion was made by Dan Eggen and seconded by Paul Cox to approve the January 3, 2013 meeting minutes with corrections.

The motion carried with a unanimous voice vote.

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. Nicole Cromwell disclosed Planning staff received an email from adjacent property owner, Cari Sweet, in favor of Variance #1137. Jeff Bollman disclosed he works with the applicant for Variance #1138 but has no personal or financial interest in this application.

Public Hearing:

At 6:04 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: Variance #1137 – 23 Custer Avenue – A variance from 27-308 requiring a minimum lot area 13,000 square feet for 3 dwelling units (1 duplex and 1 single family) to allow the construction of a new duplex dwelling and the retention of an existing single family dwelling; from 27-308 requiring a minimum rear setback of 20 feet to allow a 1-foot setback for an existing single family dwelling in a Community Commercial (CC) zone, Lots 12 & 13, Block 1, Suburban Subdivision, a 7,000 square foot parcel of land. Tax ID: A15710. Big Sky Exterior Designs, Inc, owner and Travis McDowell, agent.

REQUEST

The applicant is requesting a variance from 27-308 requiring a minimum lot area 13,000 square feet for 3 dwelling units (1 duplex and 1 single family) to allow a lot area of 7,000 square feet. The variance will allow the construction of a new duplex dwelling and the retention of an existing single family dwelling. The applicant is also requesting a variance from 27-308 requiring a minimum rear setback of 20 feet to allow a 1-foot setback for the existing single family dwelling. The property is within a Community Commercial (CC) zone and is legally described as Lots 12 & 13, Block 1, Suburban Subdivision. In the CC zone, residential development is allowed by using the same lot area requirements and setbacks as the Residential Multi-family-Restricted (RMF-R) zone. The property is owned by Big Sky Exterior Designs and the agent is Travis McDowell. Planning staff is recommending conditional approval of the proposed reduction of the minimum lot size and the rear setback.

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 13,000 square feet to 7,000 square feet for a proposed new duplex dwelling and 1 single family dwelling and to allow a 1-foot rear setback for an existing single family dwelling. No other variance is intended or implied with this approval.
2. The variance is limited to Lots 12 and 13, Block 1, Suburban Subdivision generally located at 23 Custer Avenue.
3. The applicant will submit a building permit application for the new duplex within 90 days of Board approval.

4. The applicant will complete the construction of the new duplex within 18 months of building permit approval.
5. Construction or demolition activity will not occur prior to 8 am or after 8 pm daily.
6. Any future re-construction of the single family dwelling on the rear of the property will require compliance with other all other zoning regulations with the exception of the rear setback and city ordinances that apply at the time of re-construction.
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 asked the members of the Board for questions and discussion. Barbara Walborn asked if a demotion permit is required for this request. Nicole Cromwell explained she was referencing the permit for the new construction during the presentation; there is a separate permit required for demolition. In response to a question by Daniel Eggen, Nicole Cromwell stated it allows the rebuild of the alley house and grant the one-foot setback. She continued and clarified the setbacks required for one story and two story structures. Daniel Eggen noted a variance for 11 Custer Avenue.

Chairman Bollman called for presentation by the applicant.

Travis McDowell, 2029 Forest Park Drive, Billings, Montana

Mr. McDowell is the agent for Big Sky Exterior Designs. He commented the applicant wishes to have a nicer house and stated this should be an enhancement for the neighborhood.

Rob Morehead, 1014 North 32nd Street, Billings, Montana

Mr. Morehead said he purchased the property about one and half months ago. He said they want to add to the aesthetics with windows and siding to give the structure a craftsman feel. The duplex was chosen for financial reasons as it will make the project more feasible. He stated they would like to demolish the house as soon as possible, preferably before the end of the summer.

Public Hearing

Chairman Bollman opened the public hearing and asked if there was anyone wishing to speak in favor or against City Variance #1137.

Chairman Bollman closed the public hearing at 6:18 p.m.

Motion

A motion was made by Barbara Walborn and it was seconded by Paul Cox to approve City Variance #1137 with the conditions 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			
Marleen Walter	1			
James Olson				1
Neil Kiner				1

The motion carried, 5-0. City Variance #1137 is conditionally approved.

Item 2-Variance #1138 – 1045 N 25th Street - A variance from 27-308 requiring a minimum lot area of 19,200 square feet to allow a minimum lot area of 7,000 square feet for 2 existing duplex dwellings in a R-70 zone; from 27-308 requiring a maximum lot coverage of 30% (2,100 square feet) to allow a maximum lot coverage of 37% (2,590 square feet); from 27-308 requiring a minimum side adjacent to street setback of 10 feet to allow a minimum 7-foot setback; from 27-308 requiring a minimum rear setback of 20 feet to allow a minimum 3-foot setback; from 27-308 requiring a minimum side setback of 5 feet to allow a minimum 2-foot setback on the North 50 feet of Lot 2, Block 7, Sunnyside Subdivision 2nd Filing a 7,000 square foot parcel of land. Tax ID: A16380. Kelly Gilbertson-Norwood, owner.

REQUEST

The applicant is requesting a variance from 27-308 requiring a minimum lot area of 19,200 square feet to allow a minimum lot area of 7,000 square feet for 2 existing duplex dwellings in a R-70 zone; from 27-308 requiring a maximum lot coverage of 30% (2,100 square feet) to allow a maximum lot coverage of 37% (2,590 square feet); from 27-308 requiring a minimum side adjacent to street setback of 10 feet to allow a minimum 7-foot setback; from 27-308 requiring a minimum rear setback of 20 feet to allow a minimum 3-foot setback; from 27-308 requiring a minimum side setback of 5 feet to allow a minimum 2-foot setback on the North 50 feet of Lot 2, Block 7, Sunnyside Subdivision 2nd Filing, a 7,000 square foot parcel of land. Kelly Gilbertson-Norwood is the owner. Planning staff is recommending conditional approval of the proposed variances.

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

1. The variance is to allow a lot area of 7,000 square feet for 2 existing duplex dwellings in a R-70 zone; to allow a maximum lot coverage of 37% (2,590 square feet); to allow a minimum 7-foot side adjacent to street setback; to allow a minimum 3-foot rear setback; and to allow a minimum 2-foot side setback No other variance is intended or implied with this approval.
2. The variance is limited to North 50 feet of Lot 2, Block 7, Sunnyside Subdivision 2nd Filing generally located at 1045 North 25th Street and 2416 & 2418 11th Avenue North.
3. Any future re-construction of the existing structures 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

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

Barbara Walborn asked about off street parking. Nicole Cromwell said there may be a way to get four off street parking spaces at some future date.

Public Hearing

At 6:7 p.m., Chairman Bollman opened the public hearing and called for proponents or opponents of City Variance #1138.

Kelly Gilbertson-Norwood, 2201 Green Terrace Drive, Billings, Montana

Ms. Norwood stated she is proposing this variance for refinancing reasons.

Chairman Bollman asked if there was anyone else wishing to speak in favor or against City Variance #1138. There was none. Chairman Bollman closed the public hearing at 6:28 p.m.

Motion

A motion was made by Daniel Eggen and it was seconded by Barbara Walborn to approve City Variance #1138 with the conditions recommended by staff.

Discussion

Chairman Bollman called for discussion on the motion.

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

The motion carried, 5-0. City Variance #1138 is conditionally approved.

Item 3. Variance #1139 – 812 Yellowstone Avenue – A variance from 27-308 requiring a minimum lot area of 9,600 square feet to allow a minimum lot area of 7,000 square feet for an existing duplex (up/down) on Lot 39 & 40, Block 1 Comte Addition and the East ½ , East ½ Block 3, Lot 2 Rickman Subdivision a 7,000 square foot parcel of land. Tax ID: A05466. Fern Stene, owner and Bill Stene, agent.

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 the East ½ of Lot 39, Lot 40, Block 1 Comte Addition and the East ½, East ½ Block 3, Lot 2 Rickman Subdivision, a 5,250 square foot parcel. Fern Stene is the owner and Bill Stene 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 reduction in minimum lot size variance request:

1. The variance is to decrease the minimum lot size from 9,600 square feet to 5,250 square feet for an existing duplex dwelling. No other variance is intended or implied with this approval.
2. The variance is limited to East ½ Lot 39, Lot 40, Block 1 Comte Addition and the East ½, East ½ Block 3, Lot 2 Rickman Subdivision.
3. The applicant will inform the Solid Waste Division of the City of Billings the property is a two-family dwelling and fees should be assessed accordingly.
4. 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.
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.

Discussion

Chairman Bollman asked the Board for questions and discussion. Barbara Walborn asked regarding the setback requirements and Nicole Cromwell replied the requirements are met. Daniel Eggen asked how Condition #3 is monitored, and Nicole Cromwell explained this can be done by contacting the Public Works Department.

Bill Stene, 2355 Cline Road, Billings, Montana

Mr. Stene stated this is his mother's house, and it was purchased in 1993. He said there are separate meters for the basement and it has been rented since the time of purchase. He explained they submitted this application as they need a for a rebuild letter for financing purposes.

At 6:37 p.m. Jeff Bollman closed the hearing and called for a motion.

Motion

A motion was made by Paul Cox and it was seconded by Marleen Walter to approve City Variance #1139 with the conditions 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			
Marleen Walter	1			
James Olson				1
Neil Kiner				1

The motion carried, 5-0. City Variance #1139 is conditionally approved.

Item 4. Variance #1140 – 4863 King Avenue East – A variance from 27-1005 requiring a maximum building height of 40 feet to allow a maximum building height of 45 feet in an Entryway General Commercial (EGC) zone for a proposed 3-story hotel on Lot 5A, Block 1 Popelka Commerce Center Subdivision, a 2-acre parcel of land. Tax ID: A31141. Popelka Enterprises, owner and Sanderson Stewart, Pat Davies, P.E. agent.

REQUEST

The applicant is requesting a variance from BMCC 27-1005 requiring a maximum building height of forty (40) feet to allow a maximum height of forty-five (45) feet in an Entryway General Commercial (EGC) zone. The property is legally described at Lot 5A, Block 1, Popelka Commerce Center Subdivision and is generally located at 4863 King Avenue East. The owner is Popelka Enterprises and the agent is Pat Davies, P.E. of Sanderson Stewart. Staff is recommending conditional approval of the proposed variance.

Staff is recommending six conditions for the variance request:

1. The variance is for a maximum building height of 45 feet and no other variance is intended or implied by this approval.
2. The variance applies to Lot 5A, Block 1 of Popelka Commerce Center Subdivision generally located at 4863 King Avenue East.
3. The proposed building will be located and oriented in substantial conformance with the submitted site plan.
4. The applicant will apply for a building permit within 18 months of the Board of Adjustment approval of the variance. Construction of the hotel will be completed within 3 years of Board of Adjustment approval.
5. Failure to begin or complete actions required by this approval within the time limits set forth shall void this 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.

Nicole Cromwell pointed out the updated site plan that was distributed to the member of the Board.

Discussion

Chairman Bollman asked the Board for questions and discussion.

In response to a question by Barbara Walborn, Nicole Cromwell stated there is adequate parking with the new plan. Daniel Eggen asked for clarification on the recent variances. Nicole Cromwell said the variances in 2010-2011 did not come to fruition. Daniel Eggen asked if City Code will be amended for the height limitations, and Nicole Cromwell replied it may time to revisit the 45’ foot limit in Commercial Entryway General Commercial zones. Daniel Eggen asked about signage and if this part of the permit process. Nicole Cromwell stated sign permits are separate and issued through the Planning office. Paul Cox asked if Popelka Way is private or public. Nicole Cromwell deferred to the applicant. She said if public utilities are placed there, it is more than likely a public roadway.

Pat Davies, Sanderson Stewart, 1300 N Transtech Way, Billings, Mt 59102

Pat Davies is the agent for Popelka Enterprises. Mr. Davies stated this variance request is in line with previous requests. He asked for the Board’s support of the staff recommendation for conditional approval. Mr. Davies explained the applicant planned for Polpelka Way to be a private drive and it would be maintained by the property owner.

Chairman Bollman asked if there was anyone else wishing to speak in favor or against Variance #1140. There was none. Chairman Bollman closed the public hearing at 6:49 p.m.

Motion

A motion was made by Barbara Walborn and it was seconded by Paul Cox to approve City Variance #1140 with the conditions recommended by staff using the new site plan.

Discussion

Paul Cox commented on other City locations with similar variances.

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

The motion carried, 5-0. City Variance #1140 is conditionally approved.

Other Business/Announcements:

The next City Board of Adjustment meeting will be held on March 6, 2013.

Adjournment:

Motion

At 6:52 p.m. Daniel Eggen made a motion and it was seconded by Paul Cox to adjourn.

The motion carried with a unanimous voice vote.

ATTEST: Approved by a motion on March 6, 2013

Chairman Jeff Bollman

Tamara L. Deines, Planning Clerk