

**CITY BOARD OF ADJUSTMENT**

MINUTES: April 3, 2013

*To be approved by a motion on May 1, 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	1	E								
Paul Cox	Vice Chairman	1	1	1	1								
Daniel Eggen	Boardmember	1	1	1	1								
Neil Kiner	Boardmember	E	E	1	1								
Barbara Walborn	Boardmember	1	1	1	E								
Marlene Walter	Boardmember	1	1	1	E								
James Olson	Boardmember	1	E	1	1								

TOTAL NUMBER OF APPLICATIONS 2013	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	1	6									14

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

Vice Chairman Cox 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; Bill Gibson; Young Settergren; Erich-Emil Gabriel; Jason Ritchie; Sue Anderson; Larry Larsen; Travis McDowell, Carlos Davies

**Public Comment:**

Vice Chairman Cox 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 Cox closed the public comment period at 6:02 p.m.

**Approval of the March 6, 2013 Meeting Minutes**

Vice Chairman Cox called for the approval of the March 6, 2013 meeting minutes.

**Motion**

A motion was made by Daniel Eggen and seconded by Jim Olson to approve the March 6, 2013 meeting minutes as submitted.

**The motion carried with a unanimous voice vote.**

### **Disclosure of Conflict of Interest**

Vice Chairman Cox 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 some photographs of Lloyd Magrum Drive for City Variance #1144 this afternoon and they will be displayed this evening.

### **Public Hearing:**

At 6:04 p.m., Vice Chairman Cox 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 #1142 – 925 Jackson Street – Side Setback** – A variance from 27-308 requiring a minimum side setback of 5 feet to allow a minimum side setback of 3 feet for a new single family dwelling on a 5,055 square foot parcel, in an R-50 zone, Lot 44A, Block 3 King's Green Subdivision 3<sup>rd</sup> Filing. Tax ID: A28900. Real Estate Dynamics, Inc. owner and Tim Hudson, agent

### **REQUEST**

The applicant is requesting a variance from 27-308 requiring a minimum side setback of 5 feet to allow a minimum side setback of 3 feet for a new single family dwelling on a 5,055 square foot parcel, in an R-50 zone, Lot 44A, Block 3, King's Green Subdivision 3<sup>rd</sup> Filing. Tax ID: A28900. Real Estate Dynamics, Inc. owner and Tim Hudson, agent. Planning staff is recommending conditional approval of the proposed reduction of the side setback.

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

1. The variance is to decrease the required 5 foot side setback to 3 feet to allow the construction of a single family dwelling. No other variance is intended or implied with this approval.
2. The variance is limited to Lot 44A, Block 3, King's Green Subdivision generally located at 925 Jackson Street.
3. The applicant will submit a building permit application for the single family dwelling within 90 days of Board approval.
4. The applicant will complete the construction of the new structure within 18 months of building permit approval.
5. Per the Building Division, a one-hour rated wall will be required for that portion of the wall located closer than 5 feet to the property line. With the exception of the reduced side setback all other zoning code requirements will apply.
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**

Vice Chairman Cox asked the members of the Board for questions and discussion. Jim Olson asked if the ninety day timeframe for obtaining a permit is acceptable. Nicole Cromwell said although the applicant is not in attendance, they indicated they intend to submit for a permit within this time frame.

**Public Hearing**

Vice Chairman Cox opened the public hearing and asked if there was anyone wishing to speak in favor or against City Variance #1142. There was none. Vice Chairman Cox closed the public hearing at 6:11 p.m.

**Discussion**

Neil Kiner voiced concern with moving forward as the applicant is not in attendance. Nicole Cromwell explained this is a HUD affordable housing project. Daniel Eggen noted the plans submitted with the staff report.

**Motion**

**A motion was made by Jim Olson and it was seconded by Neil Kiner to approve City Variance #1142-925 Jackson Street with the conditions recommended by staff.**

**Discussion**

Vice Chairman Cox called for discussion on the motion. Paul Cox spoke in favor of the request and Neil Kiner said he is comfortable with moving forward with a vote.

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>
Marleen Walter				<b>1</b>
James Olson	<b>1</b>			
Neil Kiner	<b>1</b>			

**The motion carried, 4-0. City Variance #1142 is conditionally approved.**

**Item 2: Variance #1143 – 7 Alderson Avenue – Lot Area** - A variance from 27-308 requiring a minimum lot area of 7,000 square feet to allow a minimum lot area of 3,425 square feet for an existing duplex, in an RMF-R zone, on the South 80 feet of Lot 3 and the South 95 feet and East 15 feet of Lot 4, Block 7, West Side Addition. Tax ID: A17750. JMR Properties LLC, owner and Eggart Engineering, agent.

**REQUEST**

The applicant is requesting a variance from 27-308 requiring a minimum lot area of 7,000 square feet to allow a minimum lot area of 3,425 square feet for an existing duplex; from 27-308 requiring a 15-foot rear setback to allow a 2-foot rear setback; from 27-308 requiring a 5-foot side setback to allow a 1.5-foot side setback, in an RMF-R zone, on the South 80 feet of Lot 3 and the South 95 feet and East 15 feet of Lot 4, Block 7, West Side Addition. Tax ID: A17750. JMR Properties LLC,

owner and Eggart Engineering, agent. Planning staff is recommending conditional approval of the proposed reduction of the minimum lot area.

Staff is recommending the following conditions for the variance request:

1. The variance is to decrease the minimum lot size from 7,000 square feet to 3,425 square feet for an existing duplex dwelling and to reduce the required 15' rear setback to allow a 2' rear setback and to reduce the required 5' side setback to allow a 1.5' side setback. No other variance is intended or implied with this approval.
2. The variance is limited to the South 80 feet of Lot 3 and the South 95 feet and East 15 feet of Lot 4, Block 7, West Side Addition generally located at 7 Alderson Avenue.
3. Any future rebuilds or remodel of the duplex dwelling will need to be done in compliance with the City's adopted building code and site development code. This includes per the Building Division, a one-hour rated wall will be required for that portion of wall located closer than 5 feet to the property line. With the exception of the minimum lot size required, and the reduction in the rear and side setback all other zoning code requirements will apply.
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, heirs and assigns.

### **Discussion**

Vice Chairman Cox asked the members of the Board for questions and discussion. Neil Kiner commented if the east wall is rebuilt, it could potentially be 1.5 feet away from the adjacent building. Nicole Cromwell noted the site plan and said the applicant may provide more information on the stoop area. In response to a question by Daniel Eggen, Nicole Cromwell stated the property is properly taxed and served with water, sewer, and garbage fees.

**Public Hearing** Vice Chairman Cox opened the public hearing and asked if there was anyone wishing to speak in favor or against City Variance #1143.

Vice Chairman Cox called for presentation by the applicant.

### **Quentin Eggart, Eggart Engineering, 6809 King Ave W, Billings, Montana**

Mr. Eggart is the agent for the applicant, JMR Properties. He said this is request has been submitted for financing reasons. He stated the stoop is uncovered and would not pose a problem for a rebuild. He suggested using a more vertical alignment should it be rebuilt. Paul Cox asked why the building in the rear of the lot was not included in the request. Mr. Eggart replied it is unconnected and not necessarily tied to the financing.

Vice Chairman Cox asked if there was anyone else wishing to speak in favor or against City Variance #1143. There was none. Vice Chairman Cox closed the public hearing at 6:26 p.m.

### **Motion**

**A motion was made by Dan Eggen and it was seconded by Jim Olson to approve City Variance #1143-7 Alderson Avenue with the conditions recommended by staff.**

**Discussion**

Vice Chairman Cox called for discussion on the motion. Neil Kiner voiced concern with setting a precedent for a 1.5 foot separation distance, and suggested a change in the condition language to specify the reduced setback. He asked if the code allows projection of two feet. Nicole Cromwell reviewed the condition of approval.

**Motion**

**Neil Kiner made a motion and it was seconded by Jim Olson to amend the original motion to read:**

**Condition of Approval #1: The variance is to decrease the minimum lot size from 7,000 square feet to 3,425 square feet for an existing duplex dwelling and to reduce the required 15’ rear setback to allow a 2’ rear setback and to reduce the required 5’ side setback to allow a 4.7 side setback and a 1.5 foot side setback for an 8-foot wide uncovered entry stoop and stairs. No other variance is intended or implied with this approval.**

Vice Chairman Cox called for a motion on the Amended Motion.

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>
Marleen Walter				<b>1</b>
James Olson	<b>1</b>			
Neil Kiner	<b>1</b>			

**The amended motion passes 4-0.**

Vice Chairman Cox called for a motion on the Original Motion.

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>
Marleen Walter				<b>1</b>
James Olson	<b>1</b>			
Neil Kiner	<b>1</b>			

**The original motion passes 4-0. Variance #1143 is conditionally approved.**

**Item 3: Variance #1144- – Variance #1144 – 5435 Rimrock Road – Detached Garage** – A variance from 27-310(i) requiring a maximum detached garage of 1,232 square feet to allow a maximum 1,824 square feet; requiring a maximum side wall height of 8 feet to allow a side wall height of 14 feet for a new detached garage on a 22,782 square foot parcel, in an R-96 zone, Lot 2A, Hart Acreage Tracts Subdivision. Tax ID: C03126. Susan Anderson and Donald Mueller, owners and Eggart Engineering, agent.

## **REQUEST**

The applicant is requesting a variance from 27-310(i) requiring a maximum detached garage of 1,232 square feet to allow a maximum 1,824 square feet; requiring a maximum side wall height of 8 feet to allow a side wall height of 14 feet for a new detached garage on a 22,782 square foot parcel in a Residential 9,600 (R-96) zone. The property is legally described as Lot 2A, Hart Acreage Tracts Subdivision. The property is owned by Susan Anderson and Donald Mueller and is represented by Eggart Engineering. Staff is recommending conditional approval of the proposed variance.

Staff is recommending 6 conditions for the variance request:

1. The variance is for a maximum accessory building footprint of 1,824 square feet and a maximum side wall height of 14 feet, no other variance is intended or implied by this approval.
2. The variance applies to Lot 2A, Hart Acreage Tracts generally located at 5435 Rimrock Road.
3. The proposed building will be located and oriented in substantial conformance with the submitted site plan.
4. The applicant will receive building permit approval within 6 months of the Board of Adjustment approval of the variance. Construction of the accessory building will be completed within 18 months 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.

## **Discussion**

Vice Chairman Cox asked the members of the Board for questions and discussion. Paul Cox asked about the property's access points. Nicole Cromwell stated the City allows two drive approaches per property as long as there is a separation of at least 25 feet. She said there were no site development requirements identified by City Engineering during this application review. In response to a question by Paul Cox, Nicole Cromwell said commercial uses are not allowed in this residential area.

**Public Hearing** Vice Chairman Cox opened the public hearing and asked if there was anyone wishing to speak in favor or against City Variance #1144.

Vice Chairman Cox called for presentation by the applicant.

## **Applicant**

### **Quentin Eggart, 6809 King Ave W, Billings, Montana**

Mr. Eggart is the agent for the applicant. Mr. Eggart stated the applicant is trying to clean up the lot and secure several vehicles and trailers. He said no further development will happen in the near future to develop the road and cul de sac.

Vice Chairman Cox asked if there was anyone else wishing to speak in favor or against City Variance #1143.

### **Curtis Settergren, 2937 Macleod Street, Billings, Montana**

Mr. Settergren commented on an approved variance for a parcel to the west and said he was not notified and did not have opportunity to oppose the request. Mr. Settergren said the plan is for

development of single family homes on eight acres. He stated he objects to this proposal, as the structure will have a minimum height of 21 feet and look like an industrial or storage building. He suggested the owners rent storage where it is allowed instead of building a large building in a residential zone. Paul Cox asked if he would be more in favor if the building materials used matched the house. Mr. Settergren said his opposition is primarily due to the sized of the building.

**Bill Gibson, 3020 Lloyd Mangrum, Billings, Montana**

Mr. Gibson owns property directly north of this property. He thanked the Planning Department for sending the notice. Mr. Gibson said if the proposed structure is 38 feet wide with a 4-12 pitch, it would add six to seven feet to the 14-foot side wall making the peak as much as 21-23 feet. He said the proposed variance is extremely excessive. He voiced concern with setting a precedent for potential buyers in the future to build a similar large building. He noted photos he submitted to staff and said the covenants in the Yellowstone Country Club Subdivision do not allow buildings taller than 17 feet, and he doesn't see any reason they have to live with the open storage on the property. He noted the staff report states the reason is to keep these vehicles out of site. He said allowing the almost commercial looking building would be a big mistake.

**Carlos Davies, 3028 Lloyd Mangrum, Billings, Montana**

Mr. Davies voiced concern with the size of the building. He said if approved, it will create a precedent for the rest of the lots; create a commercial looking neighborhood; and affect the value of the homes.

**Curtis Settergren, 2937 Macleod Street, Billings, Montana**

Mr. Settergren noted the photo of the fencing and said the building would be the height of the shorter pine tree in the photo.

Vice Chairman Cox called for rebuttal.

**Rebuttal**

**Quentin Eggart, Eggart Engineering, 6809 King Ave W, Billings, Montana**

Mr. Eggart said the alternative to this proposal is to go with a 1,232 square foot garage. He said he can design a steel building with 14-ft doors or build something large, flat roofed, and unattractive. He said the peaked roof is a more attractive building opportunity. In response to a question by Daniel Eggen, Quentin Eggart said the evergreen trees will remain on the property.

Vice Chairman Cox asked if there was anyone else wishing to speak in favor or against City Variance #1144. There was none. Vice Chairman Cox closed the public hearing at 7:01 p.m.

**Motion**

**A motion was made by Neil Kiner and it was seconded by Daniel Eggen to approve City Variance #1144 5435 Rimrock Road with the conditions recommended by staff.**

**Discussion**

Vice Chairman Cox called for discussion on the motion. Daniel Eggen stated he has mixed feelings on this proposal. Jim Olson asked what will happen if another lot owner has a similar request. Nicole Cromwell said there are already two precedents, the Hatzel property, and another located in the Cold Stone Subdivision southwest of this parcel. She pointed out Yellowstone Country Club

Estates Subdivision does not allow detached structures. She said if this is approved, it will set a precedent for future applications in the area to apply for a similar variance. She said a variance can be approved for less than this request and commented 21 feet is not considered exceptionally tall. She said the sidewall height is of concern. Paul Cox said the issue is the pitch of the roof and the aesthetics of the structure. Discussion followed by members of the Board.

Vice Chairman Cox called for a vote on the motion.

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>
Marleen Walter				<b>1</b>
James Olson		<b>1</b>		
Neil Kiner		<b>1</b>		

**The motion fails 1-3. City Variance #1144 fails.**

**Item 4: Variance #1145- – Variance #1145 – 215 Miles Avenue – Lot Area** – A variance from 27-308 requiring a minimum lot area of 13,000 square feet to allow a minimum lot area of 7,000 square feet; from 27-308 requiring a minimum rear setback of 15 feet to allow a minimum rear setback of 1 foot for 1 existing single family residence and 1 new 2-family dwelling, in an RMF-R zone, Lots 7-8, Block 10, Suburban Subdivision. Tax ID: A15902. Larry Larsen, owner and Travis MacDowell, agent.

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 7 and 8, Block 10, Suburban Subdivision generally located at 215 Miles 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**

Vice Chairman Cox asked the members of the Board for questions and discussion. Neil Kiner asked regarding the reason for Condition of Approval #5, which deals with the time frame for demolition activity. Nicole Cromwell said there is a City noise ordinance and this condition is inserted as a reminder clause. Daniel Eggen asked about lot coverage. Nicole Cromwell said the RMF-R zoning allows for 55% lot coverage. Daniel Eggen pointed out that the same zoning history will be used for the next variance in the neighborhood.

**Public Hearing**

Vice Chairman Cox opened the public hearing and asked if there was anyone wishing to speak in favor or against City Variance #1145.

**Applicant**

**Travis MacDowell, 2029 Forrest Park Drive, Billings, Montana**

Mr. MacDowell is the agent for the applicant, Larry Larson. He said his client has developed multiple properties in this area. He said this request is similar to the variance on Custer Avenue and will raise the property values in the area. He stated the addition of four multiple off street parking spaces will be an added value.

Vice Chairman Cox asked if there was anyone else wishing to speak in favor or against City Variance #1145. There was none. Vice Chairman Cox closed the public hearing at 7:20 p.m.

**Motion**

**A motion was made by Neil Kiner and it was seconded by Jim Olson to approve City Variance #1145-214 Miles Avenue with the conditions recommended by staff.**

**Discussion**

Vice Chairman Cox called for discussion on the motion.

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>
Marleen Walter				<b>1</b>
James Olson	<b>1</b>			
Neil Kiner	<b>1</b>			

**The motion carried, 4-0. City Variance #1145 is conditionally approved**

**Item 5: Variance #1146- 409 and 415 Cook Avenue – Lot Area and setbacks** – A variance from 27-308 requiring a minimum lot area of 17,000 square feet to allow a lot area of 8,750 square feet (415 Cook Ave); from 27-308 requiring a minimum lot area of 6,000 square feet to allow a minimum lot area of 5,250 square feet (409 Cook Ave); from 27-308 requiring a minimum rear setback of 15 feet to allow minimum rear setback of 0 (zero) feet (409 & 415 Cook Ave); from 27-308 requiring a minimum side setback of 8 feet to allow a minimum side setback of 2 feet (415 Cook Ave) for a 1 existing 4-plex, 1 existing duplex (415 Cook Ave) and 1 existing single family dwelling (409 Cook Ave), in an RMF-R and CC zone, the West ½ Lot 7, 8, 9, Block 17 (415 Cook Ave) and

the East ½ Lot 7, 6, Block 17 (409 Cook Ave), Yellowstone Addition. Tax IDs: A19163 & A19162. Erich-Emil Gabriel, owner.

## **REQUEST**

The applicant is requesting a variance from 27-308 requiring a minimum lot area of 17,000 square feet to allow a lot area of 8,750 square feet (415 Cook Ave); from 27-308 requiring a minimum lot area of 6,000 square feet to allow a minimum lot area of 5,250 square feet (409 Cook Ave); from 27-308 requiring a minimum rear setback of 15 feet to allow minimum rear setback of 0 (zero) feet (409 & 415 Cook Ave); from 27-308 requiring a minimum side setback of 8 feet to allow a minimum side setback of 2 feet (415 Cook Ave) for a 1 existing 4-plex, 1 existing duplex located at 415 Cook Ave and 1 existing single family dwelling located at 409 Cook Ave. The property at 409 Cook Avenue is partially zoned Community Commercial (CC) and partially zoned Residential Multi-family-Restricted (RMF-R). The property at 415 Cook Avenue is zoned RMF-R. The property at 409 Cook Avenue is legally described as Lot 6 (CC) and the east ½ of Lot 7 (RMF-R), Block 17, Yellowstone Addition Subdivision. The property at 415 Cook Avenue is legally described as the west ½ of Lot 7, Lots 8 & 9, Block 17, Yellowstone Addition Subdivision. Residential development in the CC zone has the same lot area requirements and setbacks as the Residential Multi-family-Restricted (RMF-R) zone. The property is owned by Erich-Emil Gabriel. Planning staff is recommending conditional approval of the proposed reduction of the minimum lot size and the side and rear setbacks.

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

1. The variance is to reduce the minimum lot area of 17,000 square feet to allow a lot area of 8,750 square feet (415 Cook Ave); to reduce the minimum lot area of 6,000 square feet to allow a minimum lot area of 5,250 square feet (409 Cook Ave); to reduce the minimum rear setback of 15 feet to allow minimum rear setback of 0 (zero) feet (409 & 415 Cook Ave); to reduce the minimum side setback of 8 feet to allow a minimum side setback of 2 feet (415 Cook Ave) for a 1 existing 4-plex, 1 existing duplex located at 415 Cook Ave and 1 existing single family dwelling located at 409 Cook Ave. No other variance is intended or implied with this approval.
2. The variance is limited to Lots 6 through 9, Block 17, Yellowstone Addition Subdivision, generally located at 409 Cook Avenue and 415 Cook Avenue.
3. Any future re-construction of the structures closer than 5 feet to a side property line will require fire-rated construction on that side of the building and will require compliance with other all other zoning regulations with the exception of the variances granted herein and other 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**

Vice Chairman Cox asked the members of the Board for questions and discussion. Nicole Cromwell stated the applicant has applied for refinancing reasons. Neil Kiner commented the 0 lot line on both lots is a little disconcerting. Nicole Cromwell said the building official stated there were no concerns with building on the alleyway. She commented on the possibility of consolidating the lots and rebuilding the structure.

**Public Hearing**

Vice Chairman Cox opened the public hearing and asked if there was anyone wishing to speak in favor or against City Variance #1146.

**Applicant**

**Erich-Emil Gabriel, 2810 S Frontage Road, Billings, Montana**

Mr. Gabriel is the property owner. He stated his intention with this application is for refinancing purposes and to clean the neighborhood up as it is a blighted area. He said he is looking to invest \$40,000-\$60,000 in improvements.

Vice Chairman Cox asked if there was anyone else wishing to speak in favor or against City Variance #1146. There was none. Vice Chairman Cox closed the public hearing at 7:37 p.m. and called for a motion.

**Motion**

**A motion was made by Daniel Eggen and it was seconded by Neil Kiner to approve City Variance #1146-409 and 415 Cook Avenue with the conditions recommended by staff.**

**Discussion**

Vice Chairman Cox called for discussion on the motion.

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>
Marleen Walter				<b>1</b>
James Olson	<b>1</b>			
Neil Kiner	<b>1</b>			

**The motion carried, 4-0. City Variance #1146 is conditionally approved.**

**Item 6: Variance #1147- – Variance #1147 – 713 & 715 Avenue F – Lot Area** - A variance from 27-308 requiring a minimum lot area of 7,000 square feet to allow a minimum lot area of 6,020 square feet for an existing 2-family dwelling, in an R-60 zone, Lot 6, Tract A, C/S 441. Tax ID: A03116. Jason Stene, owner and Bill Stene, agent.

**REQUEST**

The applicant is requesting a variance from 27-308 requiring a minimum lot area of 7,000 square feet for one existing duplex in a Residential 6,000 (R-60) zone on Lot 6 of Billings Heights Subdivision, Tract A, C/S 441, a 6,020 square foot parcel. Jason 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 7,000 square feet to 6,020 square feet for an existing duplex dwelling. No other variance is intended or implied with this approval.

2. The variance is limited to Tract A, C/S 441 in Lot 6 of Billings Heights Subdivision, generally located at 713 & 715 Avenue F.
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 Cox asked the members of the Board for questions and discussion.

**Public Hearing** Vice Chairman Cox opened the public hearing and asked if there was anyone wishing to speak in favor or against City Variance #1147.

Vice Chairman Cox called for presentation by the applicant.

**Bill Stene, 2355 Cline Road, Billings, Montana**

Mr. Stene is the agent for the applicant Jason Stene, a previous renter, who recently purchased the property. Mr. Stene said this request is for future financing purposes.

Vice Chairman Cox asked if there was anyone else wishing to speak in favor or against City Variance #1147. There was none. Vice Chairman Cox closed the public hearing at 7:44 p.m.

**Motion**

**A motion was made by Jim Olson and it was seconded by Neil Kiner to approve City Variance #1147-713 & 715 Avenue F with the conditions recommended by staff.**

**Discussion**

Vice Chairman Cox called for discussion on the motion.

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>
Marleen Walter				<b>1</b>
James Olson	<b>1</b>			
Neil Kiner	<b>1</b>			

**The motion carried, 4-0. City Variance #1147 is conditionally approved.**

**Other Business/Announcements:**

The next City Board of Adjustment meeting will be held on May 1, 2013.

**Adjournment:**

**Motion**

**At 7:50 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: Draft-To be approved by a motion on May 1, 2013**

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**Vice Chairman Paul Cox**

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**Tamara L. Deines, Planning Clerk**