

CITY BOARD OF ADJUSTMENT

APPROVED MINUTES: October 2, 2013

Name	Title	01/03/13	02/06/13	03/06/13	04/03/13	05/01/13	06/05/13	07/10/13	08/07/13	09/04/13	10/02/13	11/06/13	12/04/13
Jeff Bollman	Chairman	1	1	1	E	E	1	E	1	1	1		
Paul Cox	Vice Chairman	1	1	1	1	1	1	1	1	1	E		
Daniel Eggen	Boardmember	1	1	1	1	1	1	1	1	1	1		
Neil Kiner	Boardmember	E	E	1	1	1	1	1	E	1	1		
Barbara Walborn	Boardmember	1	1	1	E	1	E	1	1	1	1		
Marlene Walter	Boardmember	1	1	1	E	1	E	E	E	E	1		
James Olson	Boardmember	1	E	1	1	A	1	1	1	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	3	4	3	3	4	2			27

Chairman Jeff Bollman called the meeting to order at 6:03 p.m. The City Board of Adjustment met in the first floor conference room of the Miller Building located at 2825 3rd Avenue North.

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; Dave Green; Planner I; Tammy Deines, Planning Clerk

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 6:05 p.m.

Approval of the July 10, 2013, August 7, 2013, September 4, 2013 Meeting Minutes

Chairman Bollman called for approval of the minutes.

July 10, 2013

Jim Olson made a motion and it was seconded by Neil Kiner to approve the July 10, 2013 meeting minutes as submitted.

The motion carried with a unanimous voice vote.

August 7, 2013

Dan Eggen made a motion and it was seconded by Neil Kiner to approve the August 7, 2013 meeting minutes as submitted.

The motion carried with a unanimous voice vote.

September 4, 2013

Dan Eggen made a motion and it was seconded by Jim Olson to approve the September 4, 2013 meeting minutes with corrections noted on page 7-9, typographical error correction, changing “view shed” to “viewshed”.

The motion carried with a unanimous voice vote.

Disclosure of Conflict of Interest

Chairman Bollman asked for disclosures of conflict of interest

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. Staff received a letter dated September 23, 2013 from Louis H. Adler, 2102 Miles Avenue, Billings Montana in favor of City Variance #1166. Copies were distributed to the members of the Board and made available to the public.

**Boardmember Walborn arrived at 6:13 p.m.

Public Hearing:

Chairman Bollman stated the public hearing will be opened and this Board will allow public comment this evening. Ms. Cromwell reviewed the hearing process and presentation process for the meeting for how each variance will be reviewed and acted upon.

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

Item #1. Variance #1165 – 421 Rimrock Road – Garage size - A variance from 27-310(i)3 requiring a maximum detached garage size of 1,103 square feet to allow a maximum detached garage size of 1,500 square feet square feet in a R-96 zone on Lot 6A, Lyons Subdivision, Unit 2, a 17,431 square foot parcel of land. Tax ID: A34349B. Al and Bobbi Blain, owners and Travis McDowell, agent.

REQUEST

The applicant is requesting a variance from 27-310(i)3 requiring a maximum detached garage size of 1,103 square feet to allow a maximum detached garage size of 1,500 square feet in a R-96 zone on Lot 6A, Lyons Subdivision, Unit 2, a 17,431 square foot parcel of land. Tax ID: A34349B, Al and Bobbi Blain, owners and Travis McDowell, agent.

RECOMMENDATION

Staff recommends denial of the variance.

Should the Board of Adjustment make determinations in favor of the application and grant this variance staff is recommending the following conditions for the variance request:

1. The variance from a maximum detached garage size of 1,103 square feet to allow a maximum detached garage size of 1,500 square feet. No other variance is intended or implied with this approval.
2. The variance is limited to Lot 6A, Lyons Subdivision, Unit 2 generally located at 421 Rimrock Road.
3. The applicant will submit and obtain a building permit for the garage within 6 months and have the garage built within 18 months.
4. The applicant will construct the garage in substantial conformance to what has been submitted with this variance request.
5. Construction or demolition activity will not occur prior to 7 am or after 8 pm daily.
6. The applicant shall meet all other city code requirements for the proposed garage with the exception of this variance.
7. Failure to begin or complete actions required by this approval within the time limits set forth shall void this variance.
8. 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. Jim Olson asked for clarification on the staff recommendation for denial and it was given by Planner Dave Green, Dave explained the neighboring property meets code as there are two separate buildings and Staff was unable to find anything that would set precedence. Jim Olson asked about the height of the proposed structure; how it compares with the height of the building on the property in front of this parcel; and if there have been any concerns from the neighbors. Dave Green said staff has not received any input on this request and he noted the structure heights.

Chairman Bollman called for presentation by the Applicant

Travis McDowell, 2029 Forest Park Drive, Billings, Montana

Mr. McDowell is the agent for property owners Al Littler and Bobbi Blain. Mr. McDowell stated this property is unique due to the length of the driveway. He said the structure's eave lines are low and they are forwarding this proposal is due to the limitations of the lot. He said he would be in agreement with the alternate conditions should the variance be conditionally approved.

Public Hearing

Chairman Bollman opened the public hearing and asked if there was anyone wishing to speak in favor or against City Variance #1165.

Proponents

Al Blain, 421 Rimrock Road, Billings, Montana

Mr. Blain is the property owner. He said he is trying to do this project in good taste and maximize the space. He said the only one that would be able to see the structure is Harold Johnson.

Harold Johnson, 425 Rimrock Road, Billings, Montana

Mr. Johnson said he does not have any issues with this proposal and he would be the only neighbor able to see this structure due to the surrounding landscaping.

Opponents

There were no opponents.

Chairman Bollman asked if there was anyone else wishing to speak in favor or against City Variance #1165. There was none. Chairman Bollman closed the public hearing and called for a motion.

Motion

A motion was made by Boardmember Olson and it was seconded by Boardmember Eggen to approve City Variance #1165-421 Rimrock Road with the alternate conditions of approval presented by Staff.

Discussion

Chairman Bollman called for discussion on the motion. Jim Olson said the motion is based on the fact that the proposed structure is compatible with the surrounding residences and there is no dissent from the neighbors.

Jeff Bollman stated he cannot support the motion as he is concerned with the precedence that would be set. He pointed out in this instance as there is an attached garage as well.

Barbara Walborn asked if the lots could be combined. Nicole Cromwell stated it would depend on the legal description and the unit ownership. As a point of clarification, Al Blain stated he has title ownership to other parcels and he pointed them out the posted site map.

Barbara Walborn asked if it would be possible for the applicant to delay this request for further consideration. Nicole Cromwell referred to page 6 of 14 of the staff report depicting the subject property and pointed out the common area.

Motion

Jeff Bollman made a substitute motion and it was seconded by Barbara Walborn to delay action on City Variance #1165-421 Rimrock Road until November 6, 2013 to allow the applicant more time to review parcel ownership.

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, 6-0. City Variance #1165 is delayed until November 6, 2013.

Discussion

Applicant Al Blain stated he does not feel this will set a precedence. Boardmember Kiner explained precedence does not depend on the site alone but what is also on paper. Chairman Bollman cautioned further discussion as the public hearing is closed for this variance.

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

Item #2. Variance #1166 – 3310, 3314 & 3474 Broadwater Ave; 3414, 3418 & 3422 Gallatin Place; 3330 Ravalli Place; 3302, 3308, 3358, 3453, 3462, 3468, 3469 & 3475 Winchell Lane – Lot Area - A variance from 27-308 requiring a minimum lot area of 9,600 square feet for duplex dwellings to allow existing lot areas ranging from 7,715 square feet to 9,076 in a R-70 zone on Lots 1 and 5, Block 1; Lots 4, 5 and 6, Block 2; Lots 1, 17, 19 and 20, Block 3; and Lots 1, 2, 11, 25, 26 and 27, Block 4 of Patricia Subdivision. Tax IDs: C02217, C02171, C02156, C02166, C02167, C02168, C02159, C02191, C02192, C02201, C02187, C02215, C02216, C02189 and C02190. Lou Adler, Mars Enterprises, LLC, Benny Milks Trust, Bradley Hoffman, Gordon and Rachel McCann, Gilbert and Sharon Dallas, Tim Price, Louis McKelvie, Laurel Reinholz, Colleen Krause, and Holetz and Dickson LLC, owners and Mike Oliver, agent.

REQUEST

The applicants are requesting a variance from 27-308 requiring a minimum lot area of 9,600 square feet for duplex dwellings to allow existing lot areas ranging from 7,715 square feet to 9,076 in a Residential-7000 (R-70) zone on Lots 1 and 5, Block 1; Lots 4, 5 and 6, Block 2; Lots 1, 17, 19 and 20, Block 3; and Lots 1, 2, 11, 25, 26 and 27, Block 4 of Patricia Subdivision. Tax IDs: C02217, C02171, C02156, C02166, C02167, C02168, C02159, C02191, C02192, C02201, C02187, C02215, C02216, C02189 and C02190. Lou Adler, Mars Enterprises, LLC, Benny Milks Trust, Bradley Hoffman, Gordon and Rachel McCann, Gilbert and Sharon Dallas, Tim Price, Louis McKelvie, Laurel Reinholz, Colleen Krause, and Holetz and Dickson LLC, owners and Mike Oliver, agent.

RECOMMENDATION

Staff is recommending the following conditions for the variance request:

1. The variance from 27-308 requiring a minimum lot area of 9,600 square feet for duplex dwellings to allow existing lot areas ranging from 7,715 square feet to 9,076. No other variance is intended or implied with this approval.
2. The variance is limited to Lots 1 and 5, Block 1; Lots 4, 5 and 6, Block 2; Lots 1, 17, 19 and 20, Block 3; and Lots 1, 2, 11, 25, 26 and 27, Block 4 of Patricia Subdivision. Generally located at 3310, 3314 & 3474 Broadwater Ave; 3414, 3418 & 3422 Gallatin Place; 3330 Ravalli Place; 3302, 3308, 3358, 3453, 3462, 3468, 3469 & 3475 Winchell Lane.
3. Any future re-construction of the existing structures will require compliance with 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 asked the members of the Board for questions and discussion. Dan Eggen asked if this variance will encompass the other homes in the area. Dave Green stated there are other property owners that will not be affected by this request but are interested in a similar proposal. He said this variance was initiated by realtor, Mike Oliver, who commented there were other interested parties but they did not meet the application deadline.

Public Hearing

Chairman Bollman asked if there was anyone else wishing to speak in favor or against City Variance #1166.

Proponents

Mike Oliver, (no address given), Billings, Montana

Mr. Oliver is the agent for the applicants. He stated the property owners are requesting the variance from the standpoint of the insurance and the limitations on the owners ability to refinance. He said he explained the variance to the property owners and he said this request is for the good of the neighborhood.

Lou Adler, 2102 Miles Avenue, Billings, Montan

Mr. Adler said the lots were created in 1960. He and his wife purchased these properties as a retirement plan. He asked that the Board accept the request for the variance for the benefit of the neighborhood.

Opponents

There was none.

Chairman Bollman asked if there was anyone else wishing to speak in favor or against City Variance #1166. There was none. Chairman Bollman closed the public hearing and called for a motion.

Motion

A motion was made by Boardmember Kiner and it was seconded by Boardmember Olson to approve City Variance #1166 with the conditions and Findings of Fact 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			
Marlene Walter	1			
James Olson	1			
Neil Kiner	1			

The motion passes. City Variance #1166 is conditionally approved, 6-0.

Zoning Coordinator Nicole Cromwell said Roberts Rules of Order allows for a motion for reconsideration of an item by a motion; then the matter would have to be brought back to the table for consideration.

Motion

Dan Eggen made a motion and it was seconded by Neil Kiner called for reconsideration of Variance #1165.

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 with a unanimous voice vote. Variance #1165 will be reconsidered at this meeting.

Reconsideration of Variance #1165

Chairman Bollman opened the public hearing and asked if there was anyone wishing to speak in favor or against City Variance #1165.

Proponents

Travis McDowell, 2029 Forest Park Drive, Billings, Montana

Mr. McDowell stated they would be allowed 1234 square feet should the additional properites be allowed in the lot coverage calculations.

Harold Johnson, 425 Rimrock Road, Billings, Montana

Harold Johnson added this property is attractive as they have completed a major rebuild of the house and it is hidden by the trees. He commented the existing garage is very small.

Chairman Bollman closed second hearing and called for a motion. Zoning Coordinator Nicole Cromwell explained the motion will supersede the preceding motions.

Motion

Dan Eggen made a motion and it was seconded by Jim Olson to conditionally approve City Variance # 1165 with the alternative conditions of approval as presented by staff.

Discussion

Chairman Bollman called for discussion on the motion.

Dan Eggen said motion and findings are based on the facts this structure fits the lot and the owners needs; no protest was received; positive neighbor input was given during the public hearing; the property is secluded; and the proposed structure will not impact the property owners based on the existing landscaping. Jim Olson concurred with Boardmember Eggen’s findings.

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 passes 5-1, with Jeff Bollman voting against the motion. City Variance #1165 is conditionally approved.

Other Business/Announcements:

--The next meeting will be held on November 6, 2013.

--Nicole Cromwell announced the Planning & Community Services open house that will be held on Monday, October 7, 2013 from 1:00 p.m.-5:00 p.m. at 2825 Third Avenue North. All are encouraged to attend.

Adjournment: 6:56 p.m.

The motion carried with a unanimous voice vote. The meeting was adjourned at 6:56 p.m.

ATTEST: Approved by a motion on November 6, 2013

Chairman Jeff Bollman

Tamara L. Deines, Planning Clerk