

CITY BOARD OF ADJUSTMENT

MINUTES: December 4, 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	1	1
Paul Cox	Vice Chairman	1	1	1	1	1	1	1	1	1	E	1	1
Daniel Eggen	Boardmember	1	1	1	1	1	1	1	1	1	1	1	1
Neil Kiner	Boardmember	E	E	1	1	1	1	1	E	1	1	1	1
Barbara Walborn	Boardmember	1	1	1	E	1	E	1	1	1	1	1	E
Marlene Walter	Boardmember	1	1	1	E	1	E	E	E	E	1	1	1
James Olson	Boardmember	1	E	1	1	A	1	1	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	2	2	31

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; and 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 November 6, 2013 Meeting Minutes

Chairman Bollman called for approval of the minutes.

Jim Olson made a motion and it was seconded by Neil Kiner to approve the November 6, 2013 meeting minutes as submitted.

The motion carried with a unanimous voice vote.

Disclosure of Conflict of Interest

Chairman Bollman asked for disclosures of conflict of interest. There were no 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. There were no disclosures of outside communication.

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 #1169 - 2209, 2219 and 2221 Monad Road – Lot Area - A variance from 27-308 requiring a minimum lot area of 10,000 square feet to allow a minimum lot area of 7,459 square feet (2209 Monad), 7,422 square feet (2219 Monad Road) and 7,406 square feet (2221 Monad Road) and from 27-308 requiring a rear setback of 15 feet to allow a 1-foot rear setback for 2221 Monad Road to allow the continuation and ability to reconstruct 3 existing 4-plex multi-family dwellings in a Residential Multi-family-Restricted (RMF-R) on lots 20, 21 and 23 of Block 14, Central Heights Subdivision, 5th Filing. Tax IDs: A04871, A 04869 and A04868, Curtis and Marlene Arney, Max Dell Dangerfield and Timothy J. Hudson, owners.

REQUEST

The applicants are requesting a variance from 27-308 requiring a minimum lot area of 10,000 square feet to allow a minimum lot area of 7,459 square feet (2209 Monad), 7,422 square feet (2219 Monad Road) and 7,406 square feet (2221 Monad Road) and from 27-308 requiring a rear setback of 15 feet to allow a 1-foot rear setback for 2221 Monad Road to allow the continuation and ability to reconstruct 3 existing 4-plex multi-family dwellings in a Residential Multi-Family-Restricted (RMF-R) zone on lots 20, 21, and 23 of Block 14, Central Heights Subdivision, 5th Filing. Tax IDs: A04871, A04869 and A04868. Curtis and Marlene Arney, Max Dell Dangerfield, and Timothy J. Hudson, owners.

RECOMMENDATION

Staff recommends conditional approval of the variance.

Staff is recommending the following conditions for the variance request:

1. The variance from 27-308 requiring a minimum lot area of 10,000 to allow lot sizes of 7,459 square feet (2209 Monad), 7,422 square feet (2219 Monad Road), and from 27-308 requiring a rear setback of 15 feet to allow a 1-foot rear setback for 2221 Monad Road. No other variance is intended or implied with this approval.
2. The variance is limited to Lots 20, 21, and 23 of Block 14, Central Heights Subdivision, 5th Filing.
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. There was none. Chairman Bollman called for presentation by the Applicant.

Curtis Arney, 2209 Monad Road, Billings, Montana

Mr. Arney is the property owner for 2209 Monad Road. He explained he submitted this application as he wishes to refinance his property and a variance is required by the lending institution.

Max Dell Dangerfield, 2219 Monad Road, Billings, Montana

Mr. Dangerfield is the property owner for 2219 Monad Road. He stated he applied for the variance as he wishes to be proactive and ensure he can replace the structures should they be destroyed need to be rebuilt.

Public Hearing

Chairman Bollman opened the public hearing and asked if there was anyone wishing to speak in favor or against City Variance #1168. There was none. Chairman Bollman closed the public hearing and called for a motion.

Motion

A motion was made by Boardmember Cox and it was seconded by Boardmember Olson to approve City Variance #1169-2209, 2219, and 2221 Monad Road with the conditions and findings of fact recommended by staff.

Discussion

Chairman Bollman called for discussion on the motion. Jeff Bollman asked if the Condition of Approval language for a 1-ft setback at 2221 Monad Road should include a phrase “for an enclosed carport” and Nicole Cromwell replied this may be a Board consideration.

Motion

Jeff Bollman made a motion and it was seconded Jim Olson to amend the Condition of Approval #1. To read, “The variance from 27-308 requiring a minimum lot area of 10,000 to allow lot sizes of 7,459 square feet (2209 Monad), 7,422 square feet (2219 Monad Road), and 7,406 square feet (2221 Monad Road) and from 27-308 requiring a rear setback of 15 feet to allow a 1-foot rear setback for an unenclosed car port for 2221 Monad Road. No other variance is intended or implied with this approval language for a 1-ft setback at 2221 Monad Road 1-ft rear **“for an unenclosed carport”**”

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 amended motion passes 6-0.

Chairman Bollman called for a vote on the original motion.

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 #1168 is conditionally approved.

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

Item #2. Variance #1170 - 1014 N 32nd Street – Lot coverage and side setback – A variance from 27-308 requiring a maximum lot coverage of 30% to allow a maximum lot coverage of 38% and from 27-310(i) requiring a minimum side setback of 3 feet to allow a 1 foot minimum side setback for the purpose of re-constructing an existing garage in a Residential 7,000 (R-70) zone on Lots 5 and 6, Block 16, of North Elevation Subdivision, 3rd Filing. Tax ID: A11761, Rob and Rachel Morehead, owners and Travis McDowell, agent.

REQUEST

The applicant is requesting a variance from 27-308 requiring a maximum lot coverage of 30% to allow a maximum lot coverage of 38% and from 27-310(i) requiring a minimum side setback of 3 feet to allow a 1 foot minimum side setback for the purpose of re-constructing an existing garage in a Residential 7,000 (R-70) zone on Lots 5 and 6, Block 16, of North Elevation Subdivision, 3rd Filing. Tax ID: A11761, Rob and Rachel Morehead, owners and Travis McDowell, agent.

RECOMMENDATION

Staff recommends conditional approval of the variance.

Staff is recommending the following conditions for the variance request:

1. The variance from 27-308 requiring a maximum lot coverage of 30% to allow a maximum lot coverage of 38% and from 27-310(i) requiring a minimum side setback of 3 feet to allow a 1 foot minimum side setback for the purpose of re-constructing an existing garage. No other variance is intended or implied with this approval.
2. The variance is limited to Lots 5 and 6, Block 16, of North Elevation Subdivision, 3rd Filing generally located at 1014 North 32nd Street.
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 the drawings 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.

Discussion

Chairman Bollman asked the members of the Board for questions and discussion. Marlene Walter asked if the alleyways are smaller. Dave Green said often times the alleyways are 20-feet wide but the lot configurations were different. He noted the unique configuration of the alleyway through this neighborhood and commented the alignment of the existing driveway may affect the garage placement. In response to further questions, Dave Green explained construction of an apartment above the proposed garage would not be allowed under the current zoning and an approved variance would be needed along with building permits.

Public Hearing

Chairman Bollman asked if there was anyone else wishing to speak in favor or against City Variance #1170.

Proponents

Travis McDowell, 2029 Forrest Park Drive, Billings, Montana

Mr. McDowell is the agent for applicants, Rob and Rachel Morehead. He explained the 1-ft setback request is due to the alignment of the existing drive. In response to a question by Marlene Walter Mr. McDowell said the new garage will be 1-ft from the property line. Marlene Walter commented lending agencies occasionally require an easement in this situation. Dan Eggen asked storm water flows and Mr. McDowell stated the storm water will be guttered and deterred from the neighboring property.

Rob and Rachel Morehead, 1014 N 32nd Street, Billings, Montana

Mr. Morehead is the property owner of 1014 N 32nd Street. He said the proposed windows upstairs are for aesthetics only and the attic will be used for storage. He stated the neighbors are in favor of the proposed garage as the existing garage is about to fall over.

Chairman Bollman called for Opponents of City Variance #1170.

Opponents

Rita Giebick, 2232 Green Terrace Drive, Billings, Montana

Ms. Giebick voiced concern with the storm water displacement as she has had to remediate storm water in the alley to avoid water flowing in her basement. She said the proximity of the new garage may affect her ability to do maintenance on her garage and she will have additional expenses due to the need for rain gutter installation. Ms Giebick commented the garage would close off access to the alley. She stated she doesn't want additional persons living in this area should the garage be converted to a rental.

Paul Cox asked Ms. Giebink if her garage is located just off of the property line. Ms. Giebink stated she said she has not had the property surveyed. Paul Cox asked where the storm sewer is located and if it would help if the applicant installed rain gutter on her building. Ms. Guinich referred to an aerial map and pointed out the storm sewer. In response to Dan Eggen, Ms. Guinick stated she does not reside at 113 Avenue E and there is limited access to the alley from her property.

Rebuttal

Chairman Bollman called for rebuttal.

Travis McDowell, 2029 Forrest Park Drive, Billings, Montana

Mr. McDowell said the storm water will be piped across the driveway back into the applicant’s property. He said access to Ms. Giebink’s garage shouldn’t be an issue; her graveled driveway will not be disturbed as there will be a pad poured up to the building a foot off of the property line.

In response to Boardmember Kiner, Mr. McDowell commented Ms. Giebink’s garage may be on the property. Mr. Morehead said he owns a windows and siding company and there will have enough space to side the garage. Boardmember Eggen noted the concern with property line and Mr. Morehead stated he will locate the property pins through a site survey before construction. Mr. McDowell said they are actually moving the new garage further off of the property line.

Chairman Bollman asked if there was anyone else wishing to speak in favor or against City Variance #1170. There was none. Chairman Bollman closed the public hearing and called for a motion.

Motion

A motion was made by Boardmember Dan Eggen and it was seconded by Boardmember Jim Olson to approve City Variance #1170 with the conditions and Findings of Fact recommended by staff.

Discussion

Chairman Bollman called for discussion on the motion. Neil Kiner stated it would be helpful if the property pins would be located prior to this meeting. Jeff Bollman said he did not feel he can support this request due to the distance between the structures. Paul Cox spoke in favor of the motion. Neil Kiner stated he supports the lot coverage request but not the 1-ft. setback from the property line.

Chairman Bollman called for a vote on the motion.

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

The motion passes. City Variance #1170 is conditionally approved 4-2, with Boardmember Bollman and Boardmember Kiner voting against the motion.

Other Business/Announcements:

- A. Nicole Cromwell said Mayor Hanel will forward recommendations to City Council for new Board of Adjustment members for approval on Monday December 9, 2013. Boardmember Jeff Bollman and Boardmember Jim Olson reapplied. Ms. Cromwell presented certificates of appreciation to the following board members: Dan Eggen, Paul Cox, Marlene Walter, and Neil Kiner and thanked them for their service to their community as members of the Board of Adjustment.

- B. Announcement: The Planning & Community Services Department will be closed on Wednesday, December 25, 2013 to observe Christmas Day and Wednesday, January 1, 2014 to observe New Year's Day.

- C. The next City Board of Adjustment meeting will be held on **Thursday, January 2, 2014**.

Adjournment: 6:56 p.m.

ATTEST:

Chairman Jeff Bollman

Tamara L. Deines, Planning Clerk