

CITY BOARD OF ADJUSTMENT

MINUTES: January 2, 2014

Name	Title	01/03/14	02/05/14	03/05/14	04/02/14	05/07/14	06/04/14	07/02/14	08/06/14	09/03/14	10/01/14	11/06/14	12/03/14
Jeff Bollman	Chairman	E											
James Olson	Vice Chairman	1											
Paul Hagen	Boardmember	1											
Frank Chesarek	Boardmember	1											
Matthew McDonnell	Boardmember	1											
Martin Connell	Boardmember	1											
Mark Noennig	Boardmember	1											

TOTAL NUMBER OF APPLICATIONS 2014	01/03/14	02/05/14	03/05/14	04/02/14	05/07/14	06/04/14	07/02/14	08/06/14	09/03/14	10/01/14	11/06/14	12/03/14	TOTAL
Variance	3												3

Vice Chairman James Olson called the meeting to order at 6:00 p.m. The City Board of Adjustment met in the first floor conference room of the Miller Building located at 2825 3rd Avenue North.

Vice Chairman Olson 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.

Attending: Polly Kovash; Wanda L. Coles; Sheldon Douglas; Mary Ann Kraske

Public Comment:

Vice Chairman Olson 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 Olson closed the public comment period at 6:05 p.m.

Approval of the December 4, 2014 Meeting Minutes

Vice Chairman Olson called for approval of the December 4, 2013 minutes.

Mark Noennig made a motion and it was seconded by Matthew McDonnell to approve the December 4, 2013 meeting minutes as submitted.

The motion carried with a unanimous voice vote.

Disclosure of Conflict of Interest

Vice Chairman Olson 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. She stated two letters were received by staff.

Re: Variance #1171.12/23/13: Robert & Linda Harris, 40 Yellowstone Avenue, Billings, Montana

Re: Variance #1171.12/18/13: Lawrence W. and Karen C. Klee, 39 Yellowstone Avenue, Billings, Montana

Public Hearing:

Vice Chairman Olson 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 #1171 – 32 Clark Avenue – Side and Rear setback – A variance from 27-308 requiring a minimum side setback of 8 feet for a 2-story structure to allow 0-foot side and rear setbacks to allow the re-construction of an existing detached building in a Residential Multi-family-Restricted (RMF-R) zone on Lots 30 & 31 of Block 3, West Side Addition Subdivision, a 7,000 square foot parcel of land. Tax ID: A17683, Sheldon Douglas, owner.

REQUEST

The applicant is requesting a variance from 27-308 requiring a minimum side setback of 8 feet for a 2-story structure to allow 0-foot side and rear setbacks to allow the re-construction of an existing detached building in a Residential Multi-Family-Restricted (RMF-R) zone on Lots 30 & 31 of Block 3, West Side Addition Subdivision, a 7,000 square foot parcel of land. Tax ID: A17683, Sheldon Douglas, owner.

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 side setback of 8 feet for a 2-story structure to allow 0-foot side and rear setbacks to allow the re-construction of an existing detached building in a Residential Multi-family-Restricted. No other variance is intended or implied with this approval.
2. The variance is limited to Lots 30 & 31 of Block 3, West Side Addition Subdivision generally located at 32 Clark Avenue.
3. The applicant will submit and obtain a building permit for the garage/apartment within 1 year and have the garage/apartment built within 2 years.
4. The applicant will construct the garage/apartment in substantial conformance to the size and location depicted on 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.

Discussion

Vice Chairman Olson asked the members of the Board for questions and discussion. Marty Connell asked if consideration had been made to move the proposed building forward. Dave Green explained moving the building forward would not comply with the front setback requirement. He said the neighbors have expressed concern with parking and traffic movement. In response to a question by Mark Noennig , he clarified the setback and separation distances for the garage, which would be considered a principal use structure. He noted the requirements for storm water drainage and for the pad in front of the garage. Matthew McDonnell asked if the neighbors are concerned with the apartment above the garage. Paul Hagen commented the citizen letter suggested moving the new building forward towards the existing home at 32 Clark. Dave Green said this would not be possible due to the proposal for living space.

Vice Chairman Olson called for presentation by the Applicant.

Sheldon Douglas, 32 Clark Avenue, Billings, Montana

Mr. Douglas is the property owner for 32 Clark Avenue. He said careful consideration of the parking needs was taken for the occupants of the dwelling and for occasional guests. He noted the posted site plan with the parking denotations for parking on the property and one occasional on street parking space. Mr. Douglas said he spoke with the Fire Department; emergency vehicles and sanitation vehicles will be addressed through the building permit review process.

Discussion

Mark Noennig asked regarding the Fire Department's requirements for access. Mr. Douglas explained that a minimum width dimension for a fire truck is 20' and the access will be addressed through the building permit review process.

Public Hearing

Vice Chairman Olson opened the public hearing and asked if there was anyone wishing to speak in favor or against City Variance #1171. There was none. Vice Chairman Olson closed the public hearing and called for a motion.

Motion

A motion was made by Boardmember Mark Noennig and it was seconded by Boardmember Frank Chesarek to approve City Variance #1171- 32 Clark Avenue with the conditions and findings of fact recommended by staff.

Discussion

Vice Chairman Olson called for discussion on the motion. There was none. Vice Chairman Olsen called for a roll call vote for City Variance #1171.

Boardmember	Yes	No	Abstain	Not Present
Jeff Bollman				1
James Olson	1			
Paul Hagen	1			
Frank Cheserek	1			
Matthew McDonnell		1		
Martin Connell	1			
Mark Noennig	1			

The motion passes 5-1, with Boardmember McDonnell voting against the motion.

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

Item #2. Variance #1172 – 3507 & 3507 ½ Poly Drive – Lot area, setbacks – A variance from 27-308 requiring a minimum lot area of 19,200 square feet for 2 dwelling units to allow a lot area of 7,928 square feet for 2 existing dwellings; from 27-602 requiring a 70-foot to centerline setback to a minor arterial street (Poly Drive) to allow a 55 foot setback; from 27-308 requiring a 20-foot front yard setback on Avalon Road to allow a 10-foot front yard setback in a Residential 9,600 (R-96) zone on Lot 9, Block 3 of Swartz-McGeorge Subdivision. Tax ID: A16849, Pauline I Soderberg, owner, Polly Kovash, agent.

REQUEST

The applicant is requesting a variance from 27-308 requiring a minimum lot area of 19,200 square feet for 2 dwelling units to allow a lot area of 7,928 square feet for 2 existing dwellings; from 27-602 requiring a 70-foot to centerline setback to a minor arterial street (Poly Drive) to allow a 55 foot setback; from 27-308 requiring a 20-foot front yard setback on Avalon Road to allow a 10-foot front yard setback in a Residential 9,600 (R-96) zone on Lot 9, Block 3 of Swartz-McGeorge Subdivision. Tax ID: A16849, Pauline Soderberg, owner, Poly Kovash 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 minimum lot area of 19,200 square feet for 2 dwelling units to allow a lot area of 7,928 square feet for 2 existing dwellings; from 27-602 requiring a 70-foot to centerline setback to a minor arterial street (Poly Drive) to allow a 55 foot setback; from 27-308 requiring a 20-foot front yard setback on Avalon Road to allow a 10-foot front yard setback. No other variance is intended or implied with this approval.
2. The variance is limited to Lot 9, Block 3 of Swartz-McGeorge Subdivision generally located at 3507 and 3507 ½ Poly Drive.
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

Vice Chairman Olson asked the members of the Board for questions and discussion. Frank Cheserek asked about the requirements to rebuild this structure if it was destroyed. Dave Green stated the setbacks would have to be maintained as requested along with other required setbacks.

Public Hearing

Vice Chairman Olson asked if there was anyone else wishing to speak in favor or against City Variance #1172.

Proponents

Polly Kovash, Billings, Montana

Ms. Kovash is the agent for applicant Pauline Soderberg. She thanked Mr. Green for his presentation and said she is available for questions.

Vice Chairman Olson asked if there was anyone else wishing to speak in favor or against City Variance #1172. There was none. Vice Chairman Olson closed the public hearing and called for a motion.

Motion

A motion was made by Boardmember Paul Hagen and it was seconded by Boardmember Marty Connell to approve City Variance #1172 with the conditions and Findings of Fact recommended by staff.

Discussion

Vice Chairman Olson called for discussion on the motion. There was none. Vice Chairman Olson called for a vote on the motion.

Boardmember	Yes	No	Abstain	Not Present
Jeff Bollman				1
James Olson	1			
Paul Hagen	1			
Frank Cheserek	1			
Matthew McDonnell	1			
Martin Connell	1			
Mark Noennig	1			

The motion passes 6-0. City Variance #1172 is conditionally approved.

Item #3. Variance #1173 – 1401 Granite Avenue – Front setback – A variance from 27-308 requiring a minimum front setback of 20 feet to allow a front setback of 9 feet to allow the re-construction of a dwelling in a Residential 9,600 (R-96) zone on the south 110 feet of Lot 4, Block 6,

Lee Heights Subdivision, 2nd Filing a 9,900 square foot parcel of land. Tax ID: A10164, Mary Ann Kraske, owner.

REQUEST

The applicant is requesting a variance from 27-308 requiring a minimum front setback of 20 feet to allow a front setback of 9 feet to allow the re-construction of a dwelling in a Residential 9,600 (R-96) zone on the south 110 feet of Lot 4, Block 6, Lee Heights Subdivision, 2nd Filing a 9,900 square foot parcel of land. Tax ID: A10164, Mary Kraske owner.

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 front setback of 20 feet to allow a front setback of 9 feet to allow the re-construction of a dwelling. No other variance is intended or implied with this approval.
2. The variance is limited to Lot 4, Block 6, Lee Heights Subdivision, 2nd Filing generally located at 1401 Granite Avenue.
3. The applicant will submit and obtain a building permit for the new house within 1 year and have the house built within 2 ½ years.
4. The applicant will construct the house at the stated setbacks 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 house 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

Vice Chairman Olson asked the members of the Board for questions and discussion. In response to questions by Matthew McDonnell, Dave Green said there may be future applications for variances from adjacent owners. Three lots were involved in the gas explosion and the adjacent properties are in the same situation as this property owner.

Public Hearing

Vice Chairman Olson asked if there was anyone else wishing to speak in favor or against City Variance #1173.

Proponents

Mary Ann Kraske, 1401 Granite Avenue, Billings, Montana

Ms. Kraske is the property owner. She said she is pleased with Mr. Green's staff presentation and she asked the Board to grant approval of the variance. Ms. Kraske responded to Mark Noennig and said she thought the property owner to the west is considering rebuilding.

Vice Chairman Olson asked if there was anyone else wishing to speak in favor or against City Variance #1173. There was none. Vice Chairman Olson closed the public hearing and called for a motion.

Motion

A motion was made by Boardmember Paul Hagen and it was seconded by Boardmember Marty Connell to approve City Variance #1173 with the conditions and Findings of Fact recommended by staff.

Discussion

Vice Chairman Olson called for discussion on the motion. There was none. Vice Chairman Olson called for a vote on the motion.

Boardmember	Yes	No	Abstain	Not Present
Jeff Bollman				1
James Olson	1			
Paul Hagen	1			
Frank Cheserek	1			
Matthew McDonnell	1			
Martin Connell	1			
Mark Noennig	1			

The motion passes, 6-0. City Variance #1173 is conditionally approved.

Other Business/Announcements:

- A. Nicole Cromwell explained the resource materials distributed to the members of the Board. She encouraged members to visit sites of pending applications prior to meetings and offered her contact information.
- B. The next City Board of Adjustment meeting will be held on **Wednesday, February 4, 2014.**
- C. Election of Officers will be held at the next meeting.

Adjournment: 6:49 p.m.

ATTEST: Approved by a motion on February 4, 2014.

Vice Chairman James Olson

Tamara L. Deines, Planning Clerk