

**CITY BOARD OF ADJUSTMENT**

MINUTES: September 3, 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	10/08/14	11/06/14	12/03/14
Jeff Bollman	Chairman	E	E	1	1	1	1	1	E	1			
James Olson	Board member	1	E	1	E	1	1	1	1	1			
Paul Hagen	Vice Chair	1	E	1	1	1	1	1	1	1			
Frank Chesarek	Board member	1	1	1	1	1	1	1	1	1			
Matthew McDonnell	Board member	1	1	E	1	1	E	1	1	1			
Martin Connell	Board member	1	1	1	1	1	E	1	1	E			
Mark Noennig	Board member	1	1	1	1	1	1	1	1	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	4	3	4	3	7	3	2	2				28

Chairman Bollman 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 3<sup>rd</sup> 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.

**Others in Attendance:** Citizen Bill Stene; Patrick Murphey, AmeriCorps Volunteer; Jake Reller, AmeriCorps Volunteer; Maria Grove, AmeriCorps Volunteer; Kersten Laveroni, AmeriCorps Volunteer; Courtney Hafner, AmeriCorps Volunteer; James J. Crumpler III, AmeriCorps Volunteer; Citizen Lis Vance; Citizen Angela Tschacher; Agent Maribeth Haynes; Applicant Anne-Marie Wade; Applicant David Currie

**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.

**Approval of the August 6, 2014 Meeting Minutes**

Chairman Bollman called for approval of the August 6, 2014 minutes.

**Board member McDonnell made a motion and Board member Olson seconded to approve the August 6, 2014 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 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. There were no disclosures of outside communication.

**Public Hearings**

Chairman Bollman stated the Board will open a public hearing and allow public comment this evening. Ms. Cromwell reviewed the hearing process and presentation process for the meeting for reviewing and acting on each variance. She stated four votes of the Board of Adjustment are required to pass a variance. This evening there are 6 Board members attending. A simple majority will approve requests.

Planner Dave Green reviewed the application for Variance request #1198 and presented the Board with the staff report for this request.

**Item #1 Variance #1198 - 209 Avenue D – Setbacks – A variance from 27-308 requiring a minimum side setback of 8 feet for a 2-story home to allow 5 feet in a Residential 7,000 (R-70) zone, Lots 5-7, Block 15, North Elevation Subdivision, 3<sup>rd</sup> Filing a 10,500 square foot parcel of land. The variance would allow the addition of a 304 square foot 2-story addition to the existing home. Tax ID: A11795.**

**REQUEST**

The applicant is requesting a variance from 27-308 requiring a minimum side setback of 8 feet for a 2-story home to allow 5 feet in a Residential 7,000 (R-70) zone on Lots 5-7, Block 15, North Elevation Subdivision, 3<sup>rd</sup> Filing. The property is a 10,500 square foot parcel of land. The variance would allow the addition of a 304 square foot, 2-story addition to the existing home. Tax ID: A11795, Anne-Marie Jean Wade, owners and Maribeth Haynes, A & E Architects, agent.

**RECOMMENDATION**

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 home to allow 5 feet in a Residential 7,000 (R-70) zone. No other variance is intended or implied with this approval.
2. The variance is limited to , Lots 5-7, Block 15, North Elevation Subdivision, 3<sup>rd</sup> Filing generally located at 209 Avenue D.
3. The applicant will meet all other City of Billings codes, building, fire, engineering and zoning, other than the side setback variance, with the proposed house addition.
4. The applicant will obtain an approved building permit within 18 months of Board approval and complete the construction within 3 years of permit issuance.

5. There shall be no construction or demolition work on the site before 7 am or after 8 pm daily.
6. Failure to begin or complete conditions or actions required by this approval within the time limits provided will void the variance approval.
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. There was none.

### **Public Hearing**

At 6:09 p.m., Chairman Bollman opened the public hearing and asked if there was anyone wishing to speak in favor or against City Variance #1198.

### **Proponents**

#### **Maribeth Haynes, A & E Architects, 608 North 29<sup>th</sup> Street, Billings, Montana**

Ms. Haynes is the agent for owner Anne-Marie and Jean Wade. She offered to answer questions from the Board.

#### **Anne-Marie Wade, 209 Avenue D, Billings, Montana**

Ms. Wade is the property owner. She said this house has changed hands several times as there is only bathroom facility for this home. This variance request is primarily to allow the addition on the rear of the home for a first floor secondary bathroom and a closet; and to extend the family room on the second floor.

### **Opponents**

There was none.

Chairman Bollman asked if there was anyone else wanting to speak in favor or against City Variance #1198. There was none. Chairman Bollman closed the public hearing, and called for a motion.

### **Motion**

**Board member Chesarek made a motion, and it Board member Olson seconded, to conditionally approve Variance #1198 with the conditions presented by staff and adoption of the Findings of Fact.**

### **Discussion**

Chairman Bollman called for discussion on the motion. There was none.

Chairman Bollman called for a roll call vote on the motion.

Board member	Yes	No	Abstain	Not Present
Jeff Bollman	X			
James Olson	X			
Paul Hagen	X			
Frank Chesarek	X			
Matthew McDonnell	X			
Martin Connell				X
Mark Noennig	X			

**The motion passed 6-0. City Variance #1198 is conditionally approved.**

Dave Green reviewed the application for Variance request #1199 and presented the board with the staff report for this request.

**Item #2 Variance #1199 – 23 Monroe Street – Lot Area – A variance from 27-308 requiring a minimum lot area of 7,000 square feet for 2 dwelling units to allow 6,250 square feet in a Residential 6,000 (R-60) zone on Lots 35 and 36, Block 2, State Realty Addition. The variance would allow the construction of a new duplex on the property. Tax ID: A14633.**

### **REQUEST**

The applicant is requesting a variance from 27-308 requiring a minimum lot area of 7,000 square feet for 2 dwelling units to allow 6,250 square feet in a Residential 6,000 (R-60) zone on Lots 35 and 36, Block 2, State Realty Addition. The variance would allow the construction of a new duplex on the property. Tax ID: A14633, and Trent Currie, owner.

### **RECOMMENDATION**

Staff recommends conditional approval of the variance.

1. The variance is to decrease the minimum lot size from 7,000 square feet to 6,250 square feet for the construction of a duplex. No other variance is intended or implied with this approval.
2. The variance is limited to Lots 35 and 36, Block 2, State Realty Addition generally located at 32 Monroe Street.
3. The applicant will meet all other City of Billings codes, including building, fire, engineering and zoning, other than the lot size, with the proposed new duplex.
4. The applicant will obtain an approved building permit within 18 months of Board approval and complete the construction within 3 years of permit issuance.
5. There shall be no construction or demolition work on the site before 7 am or after 8 pm daily.
6. Failure to begin or complete conditions or actions required by this approval within the time limits provided will void the variance approval.
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. Board member Cheserek asked if the lots have been renumbered on the posted Surrounding Zoning map and Dave Green clarified and said the address numbers are depicted instead of the lot numbers.

Chairman Bollman opened the public hearing and asked if there was anyone wishing to speak in favor or against City Variance #1199.

### **Proponents**

#### **Trent Currie, 528 Katherine Anne Drive, Billings, Montana**

Mr. Currie stated he recently purchased this lot and will construct the proposed duplex. He is a Billings resident and owns other rental properties out of state.

### **Opponents:**

#### **Angela Tschacher, 44 Monroe, Billings, Montana**

Ms. Tschacher stated she is not in favor with more multi-family properties in this area. She pointed out that in most cases rental properties are not maintained as well as the single family homes. She commented that in several instances the neighbors have tried to contact the owners of the rentals to no avail to request upkeep for the properties. She stated they have contacted the City Code Enforcement Division to address the weed issues but have had no response. Ms. Tschacher asked what guarantee they will have that the new residents will maintain these rentals. She stated she prefers a single family dwelling on this lot as there will never be a chance for a duplex to be individually owned.

Ms. Tschacher voiced concern with limited on street parking.

#### **Lisa Vance, 30 Monroe, Billings, Montana**

Ms. Vance stated they do not want more rentals in this neighborhood and related a recent violent incident that took place in one of the neighborhood rentals. She said she loves her neighbors and neighborhood and they are leery of additional rentals because of their past experiences.

Board member Noennig asked if there are any new rentals in the area. Ms. Vance said the majority are older; there is a single family rental but it is also unkempt.

### **Rebuttal**

Chairman Bollman called for rebuttal.

#### **Trent Currie, 528 Katherine Anne Drive, Billings, Montana**

Mr. Currie stated he understands the neighbor's concerns but he intends to maintain his investment and screen tenants. His goal is to have families living in these units. He said he has chosen to put additional space in the back of the units to provide off street parking.

Board members Olson and Mc Donald asked how Mr. Currie plans to address the lawn care and snow removal for this property. Mr. Currie replied he plans to hire a professional management team to handle lawn care and snow removal and charge the expenses to the tenant as a part of the lease. In response to a question by Board member Noennig, Mr. Currie stated that upon receiving an application, he requests background checks for tenant history and asks for referrals in order to qualify for the property. He said he will be handling the tenant complaints and currently lives in Billings. The units have 1,050 square feet per side and the rent will range from \$1050-\$1100 per side.

Board member Chesarek pointed out the City Code Enforcement Division should handle the weed complaints. Ms. Taschacher said they have not received any response. Board member McDonnell

asked if Ms. Vance’s and Ms. Tschaecher’s perception would change if this was a single family home. Ms. Tschaecher voiced concern with the potential for occupation by college students and the additional cars with a duplex.

**Motion**

**Board member Olson made a motion, and it was seconded by Board member McDonnell to conditionally approve of Variance #1199 with the conditions presented by staff and adoption of the Findings of Fact.**

**Discussion**

Chairman Bollman called for discussion on the motion.

Chairman Bollman called for discussion on the motion. Board member Chesarek commented he understands the neighbors’ concerns but the applicant is not appearing to request anything illegal with the property. He commented that typically homeowners do not have the opportunity to choose their neighbors, good or bad. Board member McDonnell encouraged the neighbors to communicate and build relationships with the applicant. Board member Noennig noted that a new construction single family home could also be a rental. He said the applicant sounds as if he will be a good land lord. Paul Hagen stated he visited this site and this will be a welcome change to this neighborhood.

Chairman Bollman called for a roll call vote on the motion.

Board member	Yes	No	Abstain	Not Present
Jeff Bollman	X			
James Olson	X			
Paul Hagen	X			
Frank Chesarek	X			
Matthew McDonnell	X			
Martin Connell				X
Mark Noennig	X			

**The motion passed 6-0. City Variance #1199 is conditionally approved.**

**Other Business/Announcements:**

The next City Board of Adjustment meeting is scheduled for October 8, 2014. There will be two applications to review.

**Adjournment: 6:35 p.m.**

**ATTEST: Approved by a motion on October 8, 2014**

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**Jeff Bollman, Chairman**

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**Tamara L. Deines, Planning Clerk**