

CITY BOARD OF ADJUSTMENT

MINUTES: October 8, 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	1		
James Olson	Board member	1	E	1	E	1	1	1	1	1	1		
Paul Hagen	Vice Chair	1	E	1	1	1	1	1	1	1	1		
Frank Chesarek	Board member	1	1	1	1	1	1	1	1	1	1		
Matthew McDonnell	Board member	1	1	E	1	1	E	1	1	1	1		
Martin Connell	Board member	1	1	1	1	1	E	1	1	E	1		
Mark Noennig	Board member	1	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	10/08/14	11/06/14	12/03/14	TOTAL
Variance	3	4	3	4	3	7	3	2	2	2			30

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 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.

Others in Attendance: Dorian Fournier Grainger; Jerome Ries; Danna Newell; Kevin Mintt; Dusty Eaton; Eric Simonsen; Paul Foster; Karen Long; Joel Long

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 September 3, 2014 Meeting Minutes

Chairman Bollman called for approval of the September 3, 2014 minutes.

Board member Connell made a motion and Board member Olson seconded to approve the September 3, 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 7 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 #1200 – 115 & 115 ½ Burlington Avenue – Lot Area - A variance from 27-308 requiring a minimum lot area of 9,600 square feet for 2 dwelling units to allow a minimum lot area of 7,000 square feet for 2 existing single family homes on Lots 7 & 8, Block 9, Westside Addition Subdivision. No new construction is planned but the variance, if approved, would allow the owner to re-build 1 or both dwellings in the future. Tax ID: A17802

REQUEST

The applicant is requesting a variance from 27-308 requiring a minimum lot area of 9,600 square feet for two dwelling units to allow a minimum lot area of 7,000 square feet for two existing single family homes on Lots 7 & 8, Block 9, Westside Addition Subdivision. The property is zoned Residential-7000 (R-70). No new construction is planned but the variance, if approved, would allow the owner to re-build one or both dwellings in the future. Tax ID: A17802, Dorian Fournier, owner.

RECOMMENDATION

Staff is recommending the following conditions for this variance request:

1. The variance is to decrease the minimum lot size from 9,600 square feet to 7,000 square feet for two existing single family homes. No other variance is intended or implied with this approval.
2. The variance is limited to Lots 7 & 8, Block 9, Westside Addition Subdivision generally located at 115 and 115 ½ Burlington Avenue.
3. Any future re-construction of the existing structure will require compliance with all Building Codes, Fire Codes, Engineering Codes, Zoning Regulations, and city ordinances that apply at the time of re-construction with the exception of the variance request.
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.

5. 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 #1200.

Proponents

Alan Granger, owner, 115 & 115 ½ Burlington Avenue, Billings, Montana

Mr. Granger is representing Ms. Fournier Granger who is the property owner. He said they wish to protect their investment should they wish to sell the property.

Opponents

There was none.

Chairman Bollman asked if there was anyone else wanting to speak in favor or against City Variance #1200. There was none. Chairman Bollman closed the public hearing, and called for a motion.

Motion

Board member Connell made a motion, and it Board member Chesarek seconded, to conditionally approve Variance #1200 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	1			
James Olson	1			
Paul Hagen	1			
Frank Chesarek	1			
Matthew McDonnell	1			
Martin Connell	1			
Mark Noennig	1			

The motion passed 7-0. City Variance #1200 is conditionally approved.

Dave Green reviewed the application for Variance request #1201 and presented the board with the staff report for this request.

Item #2 Variance #1201 – 3111 6th Ave North – Height – A variance from 27-309 requiring a maximum building height of 45 feet to allow a maximum building height of 70 feet in a Community Commercial (CC) zone on Lots 1 through 12, Block 45, Foster’s Addition Subdivision, a 42,000 square foot parcel of land. The variance would allow the construction of a new office building for the Transwestern development. Tax IDs: A07304, A07306, A07306, A07308.

REQUEST

The applicant is requesting a variance from 27-309 requiring a maximum building height of 45 feet to allow a maximum building height of 70 feet in a Community Commercial (CC) zone on Lots 1 through 12, Block 45, Foster’s Addition Subdivision, a 42,000 square foot parcel of land. The variance would allow the construction of a new office building for Transwestern Development. Tax IDs: A07304, A07306, A07306, A07308, United Properties, owner and Danna Newel, agent.

RECOMMENDATION

Staff recommends conditional approval of the variance.

1. The variance is for a maximum building height of 70 feet and no other variance is intended or implied by this approval.
2. The variance applies to Lots 1 through 12, Block 45, Foster’s Addition Subdivision, generally located at 3111 6th Avenue North.
3. The proposed building will be located and oriented in substantial conformance with the submitted site plan near the southeast area of the property.
4. The applicant will apply for a building permit within two years of the Board of Adjustment approval of the variance. Construction will be completed within five years 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. The applicant shall meet all other building, fire, engineering and zoning codes, with the exception of height, of the City of Billings.
7. No construction or demolition activity will take place before 7 am or after 8 pm.
8. The applicant will leave all existing street trees along 6th Avenue North and North 31st Street in place and intact, and keep them protected at all times during the construction of the proposed new building. Any tree removed or severely damaged will be replaced with a tree of a minimum of 6 inch caliper.
9. 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. In response to a question by Boardmember Noennig, Dave Green clarified the location of the existing structures on the property and the proposed location for the new building.

Chairman Bollman opened the public hearing and asked if there was anyone wishing to speak in favor or against City Variance #1201.

Proponents

Danna Newell, 5207 Rocky Mountain Boulevard, Billings, Montana

Ms. Newell is the President of United Properties. She stated they have recently acquired the Elite apartments slated for demolition to make room for new buildings and parking area. Ms. Newell said they will probably address the new structure on North 31st Street to provide a continuum for their existing properties. She said they are trying to replicate the existing buildings, and their goal is to keep their tenants located in Downtown Billings.

Board member Connell suggested Ms. Newell contact the Fire Department for the address change proposal. In response to a question by Mark Noennig, Ms. Newell said the new building will have five stories with a lower level for storage purposes.

Jerome Ries, 2215 Fox Drive, Billings, Montana

Jerome Ries, United Properties, said this project will be a duplication of the Transwestern II and Transwestern III buildings with a “new look”. He commented 85% of the buildings in this neighborhood are rentals and the structures have a variety of heights. He said the tree canopy may provide a buffer for the buildings’ height and pedestrians may not notice the height of the building.

Danna Newell, 5207 Rocky Mountain Boulevard, Billings, Montana

Ms. Newell presented a letter to the Board from KOA Campgrounds in favor of the project. She said KOA is a full floor tenant in the Transwestern III building. She stated they may be prospective tenant in the new building as they are looking to centralize their properties and want to stay in downtown Billings.

Kevin Mintt, 2314 Quinn Haven, Billings, Montana

Mr. Mintt represents Dick Anderson Construction and manages the Billings office. He stated Dick Anderson will be the general contractor and a partner for this project. He said they like to use local vendors for their projects and a building of this size will bring in several suppliers and contractors. Mr. Mintt stated they are excited about this project and are requesting approval of this variance request.

Dusty Eaton, A & E Architects, 906 N 32nd Street, Billings, Montana

Mr. Eaton said A & E Architects is the architects for this project. He stated the design for this project will be in keeping with the existing buildings but in a more modern way. He said they wish to be sensitive to its context by holding the urban edge and minimizing the pedestrian crossing length from the parking lot to the buildings.

Eric Simonson, 608 N 29th Street, Billings, Montana

Mr. Simonson added that he and Dusty Eaton reside in the North Elevation neighborhood and favor the infill and level of development. He stated the project will be a nice addition to the neighborhood.

Opponents: There was none.

Motion

Board member Olson made a motion, and Board member McDonnell seconded the motion to conditionally approve Variance #1201 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 a roll call vote on the motion.

Board member	Yes	No	Abstain	Not Present
Jeff Bollman	1			
James Olson	1			
Paul Hagen	1			
Frank Chesarek	1			
Matthew McDonnell	1			
Martin Connell	1			
Mark Noennig	1			

The motion passed 7-0. City Variance #1201 is conditionally approved.

Other Business/Announcements:

The Planning office will be closed on Tuesday, November 4, 2014 to observe Election Day. The next City Board of Adjustment meeting is on **Thursday, November 6, 2014.**

Adjournment: 6:35 p.m.

ATTEST: APPROVED BY A MOTION ON NOVEMBER 6, 2014

Jeff Bollman, Chairman

Tamara L. Deines, Planning Clerk