

CITY BOARD OF ADJUSTMENT

MINUTES: December 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	1	1	1
James Olson	Board member	1	E	1	E	1	1	1	1	1	1	E	1
Paul Hagen	Vice Chair	1	E	1	1	1	1	1	1	1	1	1	1
Frank Chesarek	Board member	1	1	1	1	1	1	1	1	1	1	1	1
Matthew McDonnell	Board member	1	1	E	1	1	E	1	1	1	1	E	1
Martin Connell	Board member	1	1	1	1	1	E	1	1	E	1	1	1
Mark Noennig	Board member	1	1	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	1	2	33

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: Joe Bonini; Jeremy VanWagoner; Jamie Dyk, Jeff Dyk

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 November 6, 2014 Meeting Minutes

Chairman Bollman called for approval of the November 6, 2014 minutes. He asked for a correction on page 2 in the Public Hearing section to update the number of members attending to “5”.

Board member Connell made a motion and Board member Hagen seconded to approve the November 6, 2014 meeting minutes as corrected.

The motion carried with a unanimous voice vote, 7-0.

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 #1204 and presented the Board with the staff report for this request.

Item #1 Variance #1204 – 3203 Cassia Drive – Lot Coverage and Setbacks - A variance from 27-308 requiring a maximum lot coverage of 30% to allow a lot coverage of 36%: from 27-308 requiring a minimum rear setback of 20 feet to allow a 10-foot rear setback; and from 27-308 requiring a minimum 20 foot setback for a carport to allow a 15-foot minimum setback for the addition to a master bedroom and additional deck & carport area on Lot 1, Block 3 Wilshire Heights Subdivision, 6th Filing, an 11,303 square foot parcel of land. Tax ID: A20831.

REQUEST

The applicant is requesting a variance from 27-308 requiring a maximum lot coverage of 30% to allow a lot coverage of 36%: from 27-308 requiring a minimum rear setback of 20 feet to allow a 10-foot rear setback; and from 27-308 requiring a minimum 20 foot setback for a carport to allow a 15-foot minimum setback for the addition to a master bedroom and additional deck & carport area on Lot 1, Block 3, Wilshire Heights Subdivision, 6th Filing/. The property is an 11,303 square foot parcel of land zoned Residential 9600 (R-96). Tax ID: A20831, Jeff and Jamie Dyk, owners, Jeremy VanWagoner, agent.

RECOMMENDATION

Staff recommends conditional approval of the variance.

Staff is recommending the following conditions for the variance request:

1. The variance is only from 27-308 requiring a maximum lot coverage of 30% to allow a lot coverage of 36%: from 27-308 requiring a minimum rear setback of 20 feet to allow a 10-foot rear setback; and from 27-308 requiring a minimum 20 foot setback for a carport to allow a 15-foot minimum setback for the addition to a master bedroom and additional deck & carport area.
2. The variance is limited to Lot 1, Block 3 Wilshire Heights Subdivision, 6th Filing generally located at 3203 Cassia Drive.
3. Any construction activities must take place between 7 am and 8 pm.

4. The applicant is required to comply with all other building, engineering and zoning regulations, with the exception of the variance, that apply at the time of construction.
5. The applicant must provide construction drawings that reflect the full extent of the addition to the house.
6. The applicant will obtain a building permit within 6 months and have the construction of the addition complete within 1 year.
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. Per request of Board member Noennig, Dave Green provided clarification of the proposed project on a posted site plan. Marty Connell asked if the applicant is in violation of the building permit. Dave Green responded that the project was “red tagged” by the Building Department and that is why the applicant has applied for a variance.

In response to a question by Board member Noennig, Dave Green stated the sections of the carport and deck that are 30” above ground are included in the lot coverage percentage calculations. He continued and explained the set back issues with this property. Nicole Cromwell said the carport will require a 20’ set back but there was a projection into the setback previously. Dave Green submitted a copy of the original permit to the members of the Board for review and pointed out the right-of-way. In response to further question by Board member Connell, Dave Green said the deck is not in the correct setback. Board member Hagen said he visited the site and the north portion of the deck seems to be closer than ten feet.

Public Hearing

At 6:18 p.m., Chairman Bollman opened the public hearing and asked if there was anyone wishing to speak in favor or against City Variance #1204.

Proponents

Jeremy VanWagoner, agent. 3203 Cassia Drive, Billings, Montana

Mr. VanWagoner represents property owners Jeff and Jamie Dyk. He referred to the posted site plan and said he realized during the inspection of the deck that the setback requirement is greater due to having streets on both sides of the property. Mr. Van Wagoner stated they have halted construction. He said he made a mistake as there are two front set back requirements for this property, and the building permit was wrong based on the dimensions he provided. Board member Connell asked if there are any neighbors’ concerns. Ms. Dyk replied they have not received any complaints.

Jeff and Jamie Dyk, 3203 Cassia Drive, Billings, Montana

Jamie Dyk said the construction site looks rough as construction was halted. They are working on the back section of the desk as allowed by the building inspector.

Opponents

Chairman Bollman called for opponents of City Variance #1204. There was none.

Chairman Bollman closed the public hearing, and called for a motion.

Motion

Board member Chesarek made a motion and it was seconded by Board member Olson to conditionally approve Variance #1204 with the conditions presented by staff and adoption of the Findings of Fact.

Discussion

Chairman Bollman called for discussion on the motion. Board member Connell voiced concern that the applicant may have outgrown the house. He said the applicant is caught in a situation that they can do nothing about. Mr. Dyk said they have considered moving but have decided to remodel and plan to retire there. He said they would like to see it finished.

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 5-1-1 with Board member Connell abstaining and Board member Hagen voting against the motion.

City Variance #1204 is conditionally approved, 5-1-1.

Planner Dave Green reviewed the application for Variance request #1205 and presented the Board with the staff report for this request.

Item #2 Variance #1205 – 10th St West and Wyoming – Lot Area – A request to renew the conditional approval of Variance #1159 - a variance from 27-308 requiring a minimum lot area of 30,000 square feet for three 4-plex dwellings to allow a lot area of 27,950 square feet for the construction of three 4-plex dwellings in an R-60 zone on Lots 16-18, Block 2, Broadacre Subdivision. Tax IDs: A03227, A03228, A03229. The owner received a concurrent special review approval from the City Council in August 2013

REQUEST

The applicant is requesting to renew the conditional approval of Variance #1159 - a variance from 27-308 requiring a minimum lot area of 30,000 square feet for three 4-plex dwellings to allow a lot area of 27,950 square feet for the construction of three 4-plex dwellings in an R-60 zone on Lots 16-18, Block 2, Broadacre Subdivision. Tax IDs: A03227, A03228, A03229. The owner received a concurrent special review approval from the City Council in August 2013.

RECOMMENDATION

Staff recommends conditional approval of the variance.

1. The variance is to decrease the minimum lot area of 30,000 square feet for three 4-plex dwellings to allow a lot area of 27,950 square feet for the construction of three 4-plex dwellings in a Residential 6000 (R-60) zone. No other variance is intended or implied with this approval.
2. The variance is limited to Lots 16-18, Block 2, Broadacre Subdivision, generally located on the south west corner of Wyoming and 10th Street West.
3. The applicant will submit and obtain a building permit for at least one of the new 4-plexes within 1 year of Board of Adjustment approval.
4. The applicant will complete the construction of all three of the 4-plexes within 3 years of Board of Adjustment approval.
5. Construction or demolition activity will not occur prior to 7 am or after 8 pm daily.
6. Failure to begin or complete actions required by this approval within the time limits set forth shall void this variance.
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 Noennig asked about the ownership of the undeveloped properties and Dave Green stated there are multiple property owners.

Public Hearing

At 6:37 p.m., Chairman Bollman opened the public hearing and asked if there was anyone wishing to speak in favor or against City Variance #1205.

Proponents

Joe Bonini, 8470 Longmeadow Drive, Billings, Montana

Mr. Bonini is the contractor for this project and has submitted for all three building permits. He explained he has submit this application as he inadvertently let the previous permit expire. He said they will begin construction on the south unit when the building permits are issued. Mr. Bonini said they are creating 42 off-street parking places and approximately 12 on-street parking places. The improvements will include paving the alley to the south building, and installing curb and gutter.

Opponents

There was none.

Chairman Bollman asked if there was anyone else wanting to speak in favor or against City Variance #1205. There was none. Chairman Bollman closed the public hearing, and called for a motion.

Motion

Board member Noennig made a motion and it was seconded by Board member Olson to conditionally approve Variance #1205 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.

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 #1205 is conditionally approved.

Discussion

Chairman Bollman asked the members of the Board for questions and discussion on the motion. There was none.

Other Business/Announcements:

- The next City Board of Adjustment meeting will be held on **Wednesday, January 7, 2015.**
- Election of Officer for the 2015 City Board of Adjustment will be held on Wednesday, January 7, 2015.
- The Planning Division office will be closed on Tuesday, December 25, 2014 to observe Christmas Day and Thursday, January 1, 2015 to observe New Year’s Day.

Adjournment: 6:45 p.m.

ATTEST:

Jeff Bollman, Chairman

Tamara L. Deines, Planning Clerk