

# VARIANCE

2020-2021  
APPLICATION INFORMATION PACKET

CITY OF  
BILLINGS

# VARIANCE APPLICATION

## CITY OF BILLINGS

Planning & Community Services Department  
2825 3<sup>rd</sup> Ave North, 4<sup>th</sup> Floor  
Billings, MT 59101  
Phone: 247-8676 Fax (406) 657-8327  
Website: <http://ci.billings.mt.us>

In an effort to ensure all new **zoning applications** are complete and can be successfully processed by the Planning staff, advisory boards and decision making bodies, we now require an **application review appointment** at the time of submittal.

This appointment will ensure:

- All required forms, documents, cover letters, mailing labels, fees, site plans and other information is included
- All information on the land record and subject property is accurate and the site plan submitted is properly scaled
- Any deficient, missing or incorrect information can be noted for a follow-up submission
- All requests for uses, zoning districts or specific variances are correctly described and noticed

The Planning Staff will work with you to ensure your requested appointment time can be scheduled or alternative dates and times can be arranged. For applicants outside of Yellowstone County, a conference call appointment may be scheduled to review the application submitted. Agents may act on a property owner's behalf to review the application at the required meeting.

Applications with deficient, missing or inaccurate information will not be processed. Please read the application packet closely to ensure all required information is included in your submittal prior to scheduling an application review appointment.

In general, an application review appointment **will take approximately ½ hour**. Appointments **can be scheduled on the deadline day** for applications (the 1<sup>st</sup> Monday of each month), or **any day prior** to the application deadline **depending on staff availability**.

Please call 657-8247 to schedule an **application review appointment** or send an email to Jeannette Vieg at [vielj@billingsmt.gov](mailto:vielj@billingsmt.gov)

## INSTRUCTIONS

All applications shall be submitted to the Planning & Community Services Department, 2825 3<sup>rd</sup> Ave North, 4<sup>th</sup> Floor. The filing fee must accompany the application in order for it to be accepted.

All questions must be answered fully. Please type or print. You may attach further pages if additional space is needed. All plans and other exhibits submitted with this application will be retained as a part of the permanent record.

1. Answer the following questions:
  - A. What reasons prevent you from using this property in conformance with the Zoning Regulation requirements?
  - B. Why is there a need for the intended use of the property at this location?
2. Prepare a written statement addressed to the Chairperson of the Board of Adjustment. State what is intended to be done with the property, including new construction or change in the use of the property, and why the variance is being sought.
3. Prepare a dimensioned site plan as follows:
  - A. One full sized site plan and one reduced copy of the site plan at 8½"x11" or 11"x17".
  - B. Scale of the full sized site plan shall not be less than 1" = 40'.
4. If applicable, the site plan must include but not be limited to the following:
  - A. North arrow.
  - B. The locations and dimensions of all vehicular points of ingress and egress, drives, alleys, and off-street parking spaces.
  - C. Illustrate lot size showing lot line dimensions.
  - D. The locations and dimensions of all existing and proposed buildings, structures, and improvements including those which will be removed. Please label all information.
  - E. Show setbacks from all property lines for existing and proposed buildings.
  - F. Show the centerline of major and minor arterial streets.
  - G. Illustrate the square footage of existing and proposed buildings and structures.
  - H. Names and locations of adjacent streets, alleys, properties, etc.
  - I. Illustrate the height of any proposed structures.
  - J. Other pertinent features.

\*\* An example of a dimensioned site plan is attached as part of this application packet.
5. Photographs may be submitted and are often helpful. They should be of a size adequate to show the nature of the property.
6. Obtain from the Planning & Community Services Department a radius map showing all property which lies within 300 feet (or more) of the exterior boundaries of the subject property.

7. Obtain a certified list of names and addresses of the owners of all property shown within the radius on the map as provided by the Planning & Community Services Department. The first step is to take the radius map to the Montana Department of Revenue. The Department of Revenue is located on the 14<sup>th</sup> Floor of the Wells Fargo building at the southeast corner of North 27<sup>th</sup> Street and 2<sup>nd</sup> Avenue North. The Department of Revenue will generate a list of property owners and forward this list to the County Clerk & Recorder who will certify the list and notify you when it is complete. There is a certification charge, payable to the County Clerk & Recorder, of .50 cents per certified name. This list of names and mailing addresses must then be placed on gummed mailing labels and must be typed or neatly printed.
  
8. A filing fee must accompany all applications for variances. No application will be accepted until the filing fee is paid in full. Checks shall be made payable to the *City of Billings*. **THIS APPLICATION FEE IS NON-REFUNDABLE AND IS NO GUARANTEE THAT THE VARIANCE WILL BE GRANTED.**

RESIDENTIAL:   \$483.00  
 COMMERCIAL:   \$594.00

A \$50.00 deposit for posting of zoning request signs is required at the time the application is received. The deposit will be returned when the sign is returned by the applicant or agent at the first public hearing. If the sign is not returned at the first public hearing, the deposit will be retained.

9. A public hearing shall be held for all applications for a variance. As part of the notification procedure, the Zoning Coordinator will notify the property owners on the list prepared by the petitioner for the proposed variance. All persons identified as owners of property within 300 feet (or more) of the exterior boundaries of the property proposed for a variance shall be notified by mail not less than fifteen (15) days prior to the date of the public hearing before the City Board of Adjustment. In addition, notification of the proposed variance shall be posted in a conspicuous place on the property, and legal notice shall be published not less than fifteen (15) days prior to the public hearing in a newspaper of general circulation.
  
10. **IMPORTANT NOTICE TO PETITIONER:** You will be notified by mail approximately 1-week in advance as to the time, date and place of the public hearing on your petition. Attendance at the public hearing is not required, but is strongly recommended, so that you may present your case to the Board.

**Procedures and review Criteria for Variance requests**  
**Billings Montana City Code (BMCC) 27-1506 et seq.**

**SEC. 27-1506. CITY VARIANCES.**

(a) *Authority.* The city board of adjustment shall have the authority to grant a variance from the terms of this chapter in specific cases where it is found that the granting of the variance will not be contrary to the public interest and where, because of special conditions with respect to

the lot shape or topography, a literal enforcement of the provisions of the chapter would result in unnecessary hardship.

(b) *Applications.* An application for a variance shall be filed with the zoning coordinator under the following conditions:

- (1) The application shall include, but not be limited to the following:
    - a. A legal and general description of the tract(s) upon which a variance is sought;
    - b. The names and addresses of the owner(s) of the land subject to the variance, and his/her agent, if any, along with the recorded property owner's signature;
    - c. A certified list of the names, addresses and legal descriptions of the owners of property within a radius of three hundred (300) or more feet of the exterior boundaries of the tract(s); and
    - d. Gummed mailing labels with the names and mailing addresses typed or printed neatly of all of the property owners indicated on the certified list.
  - (2) The applicant shall present a map showing the location of the property for which the application is submitted, and its relation to adjoining property;
  - (3) The applicant shall present a dimensioned site plan of the property for which the application is submitted which shall include, but not necessarily be limited to, the following:
    - a. The location and dimension of all vehicular points of ingress and egress, drives, off-street parking spaces, channelizations and traffic circulations;
    - b. The location and size of all existing and proposed buildings, structures and improvements; and
    - c. The existing buildings, structures and improvements shall be labeled as such and indicated by a solid line. The proposed buildings, structures and improvements shall be labeled as such and indicated by a dashed or dotted line.
  - (4) The application shall state reasons why the variance is being sought and shall specify the facts of hardship upon which the request for a variance is based;
  - (5) The application must be submitted at least twenty (20) days prior to the date of the public hearing;
  - (6) The application must be accompanied by payment of all applicable fees; and
  - (7) An application for a variance may not be withdrawn or amended by the applicant after the legal advertising as required by this chapter shall have first appeared. However, the city board of adjustment may, by majority vote of members present, allow the application to be withdrawn without prejudice with respect to the twelve (12) month limitation of this chapter.
- (c) *Planning department action.* The zoning coordinator, upon receiving an application

for a variance shall do the following:

- (1) Consult with other departments of the city and/or county to fully evaluate the impact of the variance contemplated under the application upon public facilities and services;
- (2) Study each application with reference to its appropriateness and effect on existing and proposed land uses; and its relationship to the comprehensive plan;
- (3) Place notice of the time, date and place of the public hearing in a newspaper of general circulation fifteen (15) days in advance of the date set for the public hearing;
- (4) Notify, by mail, the owner of the property and/or his/her agent, of the time, date and place of the public hearing five (5) days in advance of that date;
- (5) Notify the property owners, by mail, within three hundred (300) feet of the exterior boundaries of the subject property of the time, date, place and proposed variance. The zoning coordinator may notify property owners within a radius of more than three hundred (300) feet if he/she determines that the proposed variance would likely have a substantial impact on the surrounding land uses;
- (6) Place a notice of the time, date and place of the public hearing on the property fifteen (15) days prior to the hearing date; and
- (7) Report his/her findings, in writing, to the city board of adjustment which report shall be a matter of public record.

(d) *City board of adjustment action.* The city board of adjustment, before it grants a variance shall determine:

- (1) That special conditions and circumstances exist which are peculiar to the land, the lot or something inherent in the land which causes the hardship, and which are not applicable to other lands in the same district;
- (2) That a literal interpretation of the provisions of this chapter would deprive the applicant of rights commonly enjoyed by other tracts in the same district;
- (3) That granting the variance requested will not confer on the applicant any special privilege that is denied by this chapter to other land in the same district;
- (4) That the granting of the variance will be in harmony with the general purpose and intent of this chapter and with the comprehensive plan;
- (5) In granting any variance, the board may prescribe appropriate conditions and safeguards in conformity with this chapter. Violation of such conditions and safeguards, when made a part of the terms upon which the variance is granted, shall be deemed a violation of this chapter;
- (6) The board shall prescribe a time limit within which the action for which the variance is required shall be begun or completed, or both. Failure to begin or complete such action within the time limit set shall void the variance; and

- (7) Under no circumstances shall the board grant a variance to allow a use not permissible under the terms of this chapter in the district involved. A variance shall not be a grant of special privilege inconsistent with limitations placed upon other property in the district.

## **2016 BILLINGS GROWTH POLICY STATEMENT AND GUIDELINES**

**Statement:** In the next 20 years, Billings will manage its growth by encouraging development within and adjacent to the existing City limits, but preference will be given to areas where City infrastructure exists or can be extended within a fiscally constrained budget and with consideration given to increased tax revenue from development. The City will prosper with strong neighborhoods with their own unique character that are clean, safe, and provide a choice of housing and transportation options.

### **Growth Guidelines:**

#### **Essential Investments (relating public and private expenditures to public values)**

- The safety of all users and the connectivity of the transportation system are important criteria to consider in roadway designs and transportation plans
- Public transit and commercial air service are critical to ensure access to and around the City
- Planning and construction of safe and affordable interconnected sidewalks and trails are important to the economy and livability of Billings.
- Developed parks that provide recreation, special amenities (community gardens, dog parks, viewing areas), and active living opportunities are desirable for an attractive and healthy community
- Natural landscapes are important because they define the uniqueness of Billings and help protect the environment
- Landscaping of public rights-of-way and entryways makes Billings more visually appealing to residents and visitors
- Public health and safety and emergency service response are critical to the well-being of Billings' residents, businesses, and visitors
- Infill development and development near existing City infrastructure may be the most cost effective
- Accessible, friendly and cost-effective government are important public values
- The history and heritage of Billings are cornerstones of our community
- Neighborhoods that are safe and attractive and provide essential services are much desired
- Infrastructure and service investments that stabilize or improve property values, secure future utility costs, consider maintenance costs, and improve our environmental quality far into the future (i.e. energy efficient) are desirable
- It is important to factor in maintenance costs when programming public spaces and infrastructure
- Integrated, long range water planning that better utilizes existing resources and treatment options, and when necessary acquires new ones, is vital.

- Regulatory compliant water and wastewater treatment plants that provide sufficient capacity will help sustain community growth
- A supportive school system that inspires, motivates, and prepares students for meaningful employment is important for ensuring a high quality, competitive community
- A cost/benefit study is important to make cost effective land use decisions

**Place Making (Enhance, maintain, preserve, and improve existing public places)**

- A multi-use community recreation facility is desirable
- Enhancement and maintenance of public spaces and buildings through City stewardship is integral to a vibrant community
- Park master plans and transportation plans are important to facilitate the preservation and improved public access to the Yellowstone River and the Rims
- Public and private partnerships are valuable for creating enhanced entryways into Billings
- Locally grown foods help sustain agriculture, provide healthy options, and support local businesses
- The history and heritage of Billings are cornerstones of our community
- Natural landscapes are important because they define the uniqueness of Billings and help protect the environment and beautify neighborhoods
- Encouraging the installation of art in public spaces enhances the places and showcases the talents and diversity of the community
- Enhancing public buildings and spaces to be more efficient in their uses of energy, money, and space is important to having a vibrant and livable City

**Community Fabric (attractive, aesthetically pleasing, uniquely Billings)**

- Developed landscape areas in commercial areas encourage more pedestrian activity and vibrant commercial activity
- Attractive streetscapes provide a pleasant and calming travel experience in urban and suburban neighborhoods
- Outdoor public spaces provide casual and relaxing gathering areas for people
- Planning and construction of interconnected sidewalks and trails are important to the livability of Billings
- Developed parks that provide recreation, special amenities, and active living opportunities are desirable for an attractive and healthy community
- Natural landscapes and parks are important because they define the uniqueness of Billings and help protect the environment
- Cost-effective landscaping of public rights-of-way and entryways makes Billings more visually appealing to residents and visitors

**Strong Neighborhoods (livable, safe, sociable and resilient neighborhoods)**

- Zoning regulations that allow a mixture of housing types provide housing options for all age groups and income levels
- Walkable neighborhoods that permit convenient destinations such as neighborhood services, open space, parks, schools and public gathering spaces foster health, good will and social interaction



- Safe and livable neighborhoods can be achieved through subdivision design that focuses on complete streets, pedestrian-scale street lights, street trees and walkable access to public spaces
- Neighborhoods that are safe and attractive and provide essential services are much desired
- Zoning and subdivision regulations that utilize Crime Prevention Through Environmental Design (CPTED) strategies result in safer neighborhoods
- Implementation of the Infill Policy is important to encourage development of underutilized properties
- Public safety and emergency service response are critical to the well-being of Billings' residents and businesses

**Home Base (healthy, safe and diverse housing options)**

- A mix of housing types that meet the needs of a diverse population is important
- The Housing Needs Assessment is an important tool to ensure Billings recognizes and meets the demands of future development
- Common to all types of housing choices is the desire to live in surroundings that are affordable, healthy and safe
- Planning and construction of interconnected sidewalks and trails are important to the economy and livability of Billings
- Public safety and emergency service response are critical to the well-being of Billings' residents
- Homes that are safe and sound support a healthy community
- Accessory dwellings units provide an important type of affordable housing options if compatible
- Energy efficient housing can reduce energy consumption

**Mobility and Access (transportation choices in places where goods and services are accessible to all)**

- Connecting people to places with transportation choices is vital to the well-being of Billings' residents, businesses and visitors
- Safe and accessible transportation systems benefit everyone's quality of life
- Affordable public transit is much desired
- Development oriented to transit routes will provide more transportation choices and is preferred
- "Safe Routes to Schools" promotes physical health and reduces vehicle trips, earning parents more time and less costs for transportation
- Planning and construction of interconnected sidewalks and trails are important to the economy and livability of Billings
- On-street bike facilities promote predictability for all users
- Expanded air service ensures that Billings remains a competitive and an accessible destination
- Technology can reduce congestion and facilitate emergency vehicle travel at railroad crossings

**Prosperity (promoting equal opportunity and economic advancement)**

- Predictable, reasonable City taxes and assessments are important to Billings' taxpayers
- A diversity of available jobs can ensure a strong Billings' economy
- Successful businesses that provide local jobs benefit the community
- Community investments that attract and retain a strong, skilled and diverse workforce also attracts businesses
- Retaining and supporting existing businesses helps sustain a healthy economy
- Continued workforce training benefits the community and helps attract and retain businesses
- Strategically placed industrial parks will encourage a more diverse city economy, and will better help manage effluent and emission from industrial processes

**APPLICATION DEADLINES**  
**2020 - 2021**

CITY BOARD OF ADJUSTMENT

Applications for a **variance** must be presented to the Planning & Community Services Department by 5:00 p.m. on the dates as set forth below. These deadlines **cannot** be altered due to state laws concerning public notice. All parties involved will be sent a notice of the time, date, and place of the public hearing.

**DEADLINE**  
(1<sup>st</sup> MONDAY)

**BOARD OF ADJUSTMENT HEARING**  
1<sup>st</sup> WEDNESDAY, 6:00 P.M.  
1<sup>st</sup> Floor, 2825 3<sup>rd</sup> Ave North

December 2, 2019

January 2, 2020 (THURS)

January 6, 2020

February 5, 2020

February 3, 2020

March 4, 2020

March 2, 2020

April 1, 2020

April 6, 2020

May 6, 2020

May 4, 2020

June 3, 2020

June 1, 2020

July 1, 2020

July 6, 2020

August 5, 2020

August 3, 2020

September 3, 2020

September 8, 2020 (TUES)

October 7, 2020

October 5, 2020

November 4, 2020

November 2, 2020

December 2, 2020

December 7, 2020

January 6, 2021

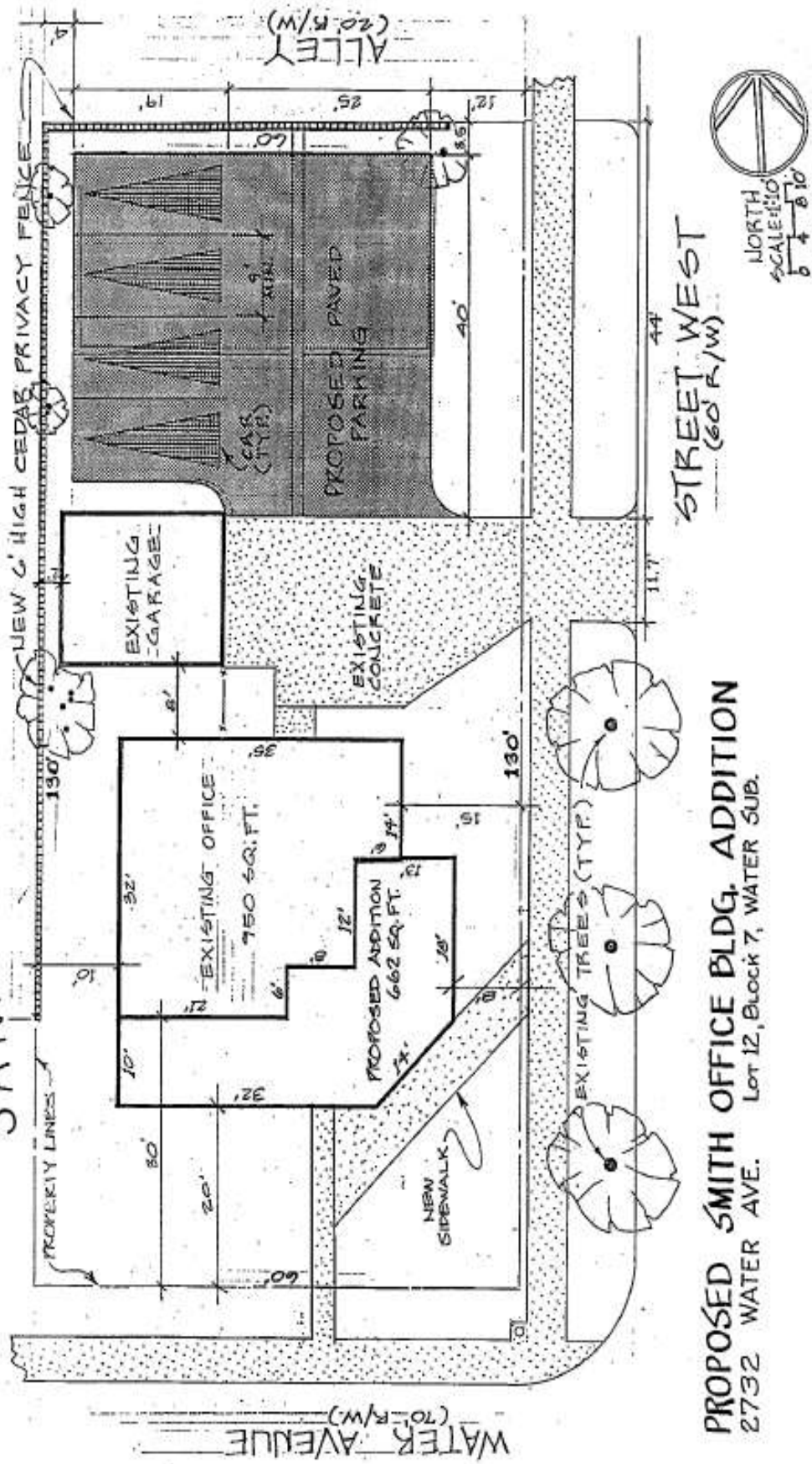
January 4, 2021

February 3, 2021

February 1, 2021

March 3, 2021

# SAMPLE SITE PLAN



**PROPOSED SMITH OFFICE BLDG. ADDITION**  
 2732 WATER AVE. Lot 12, Block 7, WATER SUB.

# APPLICATION FORM

CITY VARIANCE

ID: Billings Variance # \_\_\_\_\_ - Project # \_\_\_\_\_

The undersigned as owner(s) of the following described property hereby request a Variance from the terms of the City of Billings Zoning Regulations.

TAX ID # \_\_\_\_\_ CITY ELECTION WARD # \_\_\_\_\_

Legal Description of Property: \_\_\_\_\_

Address or General Location (If unknown, contact City Engineering): \_\_\_\_\_

Zoning Classification: \_\_\_\_\_

Size of Parcel (Area & Dimensions): \_\_\_\_\_

Covenants or Deed Restrictions on Property: Yes \_\_\_\_\_ No \_\_\_\_\_

If yes, please attach to application

Variance(s) Requested: \_\_\_\_\_

Facts of Hardship: \_\_\_\_\_

\*\*\* Additional information may be required as determined by the Zoning Coordinator in order to fully evaluate the application.

Owner(s): \_\_\_\_\_

(Recorded Owner)

(Address)

(Phone Number)

(email)

Agent(s): \_\_\_\_\_

(Name)

(Address)

(Phone Number)

(email)

I understand that the filing fee accompanying this application is not refundable, that it pays for the cost of processing, and that the fee does not constitute a payment for a Variance. Also, I attest that all the information presented herein is factual and correct.

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

(Recorded Owner)

