

2016

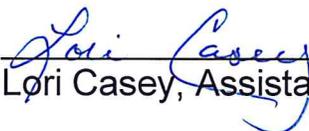
BUTTE-SILVER BOW ZONING BOARD OF ADJUSTMENT

**Thursday, February 18, 2016, at 12:00 NOON
Council Chambers – Room 312 -- Courthouse**

- I. Call to Order.
- II. Approval of the Minutes of the meeting of January 21, 2016.
- III. Hearing of Cases, Appeals and Reports:

Variance Application #15004 – An application for a variance by David A. & Linda L. Huffaker, owners, to allow the conversion of an existing garage into a living unit on a property that already contains a nonconforming duplex as the primary structure, varying from Section 17.10.020, Permitted Uses, of the BSBMC. The property is located in an “R-1” (One Family Residence) zone, legally described as Lots 21-24, Block 2 of the George Cobban No. 2 Addition, of the City and County of Butte-Silver Bow, State of Montana, commonly known as 2000 Lowell Avenue, Butte, Montana.

- IV. Other Business.
- V. Adjournment.

By: 
Lori Casey, Assistant Planning Director

Applicant or Representative must be present at the meeting

**BUTTE-SILVER BOW
ZONING BOARD OF ADJUSTMENT
STAFF ANALYSIS**

ITEM: **Variance Application #15004** - An application for a variance to convert an existing garage into a living unit on a parcel of record that contains a nonconforming duplex on a single parcel of record, varying from the requirements of Section 17.10.020, Permitted Uses, of the BSBMC.

APPLICANTS: David & Linda Huffaker, 2000 Lowell Avenue, Butte, Montana, owners.

TIME/DATE: Thursday, February 18, 2016, at 12:00 NOON, First Floor Conference Room, Room 103, Butte-Silver Bow Courthouse, Butte, Montana.

REPORT BY: Lori Casey, Assistant Planning Director

**VICINITY
MAP:**



**LOCATION/
DESCRIPTION:** The property is located in an "R-1" (Single Family Residence) zone, legally described as Lots 21-24, Block 2 of the George Cobban No. 2 Addition and is commonly known as 2000 Lowell Avenue, Butte, Montana.

PROPOSAL: The applicants are proposing to convert an existing garage into a living unit for a family member. Presently, there is a duplex on the property that was constructed prior to the Zoning Ordinance being adopted. The applicants occupy the duplex.

**STAFF
FINDINGS:** The Butte-Silver Bow Municipal Code Section 17.10.020, Permitted Uses, in an "R-1" (One Family Residence) zone, allows for one single family residence for each parcel of record. The applicants' request to place another living unit on one property requires approval from the Zoning Board of Adjustment.

Planning Department staff will review the three point criteria established by the Montana Supreme Court for the granting of variances.

1. A variance must not be contrary to the public interest.

It is the intent of the Zoning Ordinance to protect the public interest by preventing building congestion on properties in an effort to prohibit the spread of fire (promote safety), create uniformity within the different zoning districts and prevent uses of land that may have a negative impact on surrounding property owners.

The Ordinance defines a standard parcel size within the "R-1" zone as 6,000 square feet in area with a lot

width of 60'. The applicants' property is 12,000 square feet in area. In general, the property has sufficient lot size and frontage to accommodate another residence. That being said, the lot configuration is designed so that the area adjacent to Lowell Avenue has the 30' width for each lot and the 100' depth runs east and west. As a result, the garage is on the most easterly portion of Lots 23 and 24. However, the applicants are not requesting to separate the property so that each structure has its own parcel of record. The applicants are requesting to convert the garage into a living unit for a family member. If approved, the additional living unit would remain on the same parcel as the duplex.

In regards to negative impacts on adjacent residences, the applicants are converting an existing structure from being utilized as a garage to a living unit. The garage doors would be removed and windows and doors would be added to make the exterior resemble that of a residence versus a garage. The garage currently has an off-street parking apron that would provide the required parking for another residence. In addition the property is a corner parcel in which there is on-street parking available on Lowell Avenue and Cobban. The property directly to the east is located on or near the property line adjacent to the alley and is closest to the applicants' garage. However it does not appear that the impacts of the applicants converting the garage into a living unit would have any more impact on the neighboring property than the garage currently does. Directly north of the garage across Cobban is the neighbors' garage and directly west and south of the garage is the applicants' property. As such, it would appear that the conversion to a living unit

would have a minimal impact on the surrounding properties.

Based on the above discussion, converting the existing garage to another living unit to accommodate an additional family member would not appear to be contrary to the public interest.

2. A literal enforcement of the Zoning Ordinance must result in unnecessary hardship owing to conditions unique to the property.

Unnecessary hardship, as defined by the Montana Supreme Court, must result from a condition unique to the property, such as a unique property shape, topographical feature or geological trait. This quality must preclude the applicants' ability to place a structure on the property in compliance with the Zoning Ordinance. The hardship may not result from a condition created by the applicants.

The applicants' parcel size of 12,000 square feet in area exceeds the minimum property size required by the Zoning Ordinance. Therefore, there does not appear to be a hardship associated with the applicants' property.

3. The spirit of the Zoning Ordinance must be observed and substantial justice done.

It is the intent of the Zoning Ordinance to permit the reasonable use of private property while restricting practices that may infringe on the rights of adjacent landowners and the public in general.

Public health, safety and general welfare must be protected and weighed against the rights of the

applicants to develop a property in a way that may be suitable. If public interest can be protected pertaining to these issues, a variance may be appropriate.

The public health and safety issues that must be addressed with this application are: 1) the new living unit will be required to have its own water and sanitary sewer service line and 2) the applicants will be required to ensure that the conversion of a detached garage into a living unit meets all Building Code requirements.

In regard to the water and sanitary sewer, the applicants are aware that the mains are located in the Lowell Avenue right-of-way. Their site plan supplied with this application identifies a utility easement for the services lines.

It is also the applicants' responsibility to ensure that the existing garage can be converted into a living unit and meet the required Building Codes. The applicants are further advised that all electrical and plumbing work must be done by licensed electrical and plumbing contractors.

If public interest can be protected pertaining to these issues, a variance may be appropriate.

Therefore, the approval of this variance to convert an existing garage into a living unit contingent on the applicants meeting the water, sanitary sewer and Building Code requirements would not be contrary to the spirit of the Zoning Ordinance and would appear to be consistent with the intent of the Zoning Ordinance to allow for the reasonable development of private property.

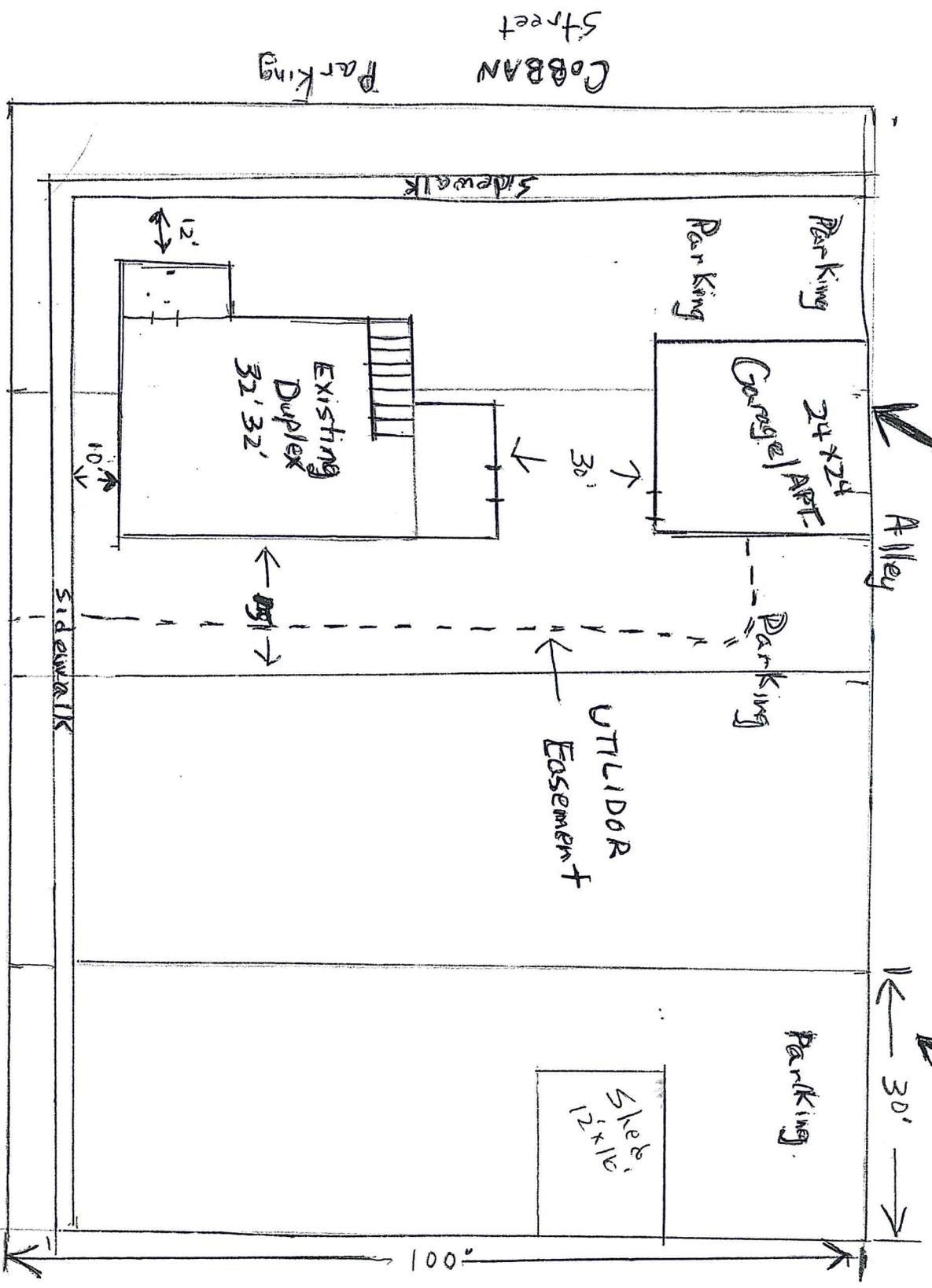
CONCLUSION: Based on the above analysis, staff believes that the conversion of an existing garage into a living unit would not compromise the spirit of the Zoning Ordinance to allow for the reasonable use of private property nor would it be contrary to the public interest.

Therefore, staff recommends approval of Variance Application #15004 provided the following conditions are met:

1. Prior to receiving a building permit, the applicants shall supply the Planning Department with written approval from the BSB Public Works Department to connect the living unit with new service lines from Lowell Avenue.
2. The applicants shall secure the necessary building permits and comply with all applicable codes for converting the garage into living area.
3. The approval of this variance is for one additional living unit with the living unit being the footprint of the garage, any expansion of the living unit or additional units will further review and approval from the Zoning Board of Adjustment.

EXISTING Garage to be converted to apartment

4 lots 30' X 106' each



Scale 1/8" = 15'

Request By property owners DAVID & Linda HUFAKER to add another residence on a parcel of record that has an existing duplex.