



COMMUNITY DEVELOPMENT DEPARTMENT

DATE: December 5, 2016

FROM: Carl D Hokenstad, AICP, Director of Community Development

ITEM: Part of Lot 3, Block 5, Northern Pacific Addition – Appeal

REQUEST

Anne Cleary is appealing the decision of the Board of Adjustment to deny a variances from Sections 14-04-03(4) of the City Code of Ordinances (R5-Residential)(Lot Area) to allow the construction of a single-family dwelling on a lot, platted prior to 1953, that is less than 5,000 square feet; from Section 14-04-03(7) of the City Code of Ordinances (R5-Residential)(Front Yard) to reduce the required front yard setback from twenty-five (25) feet to ten (10) feet; and from Section 14-04-03(9) of the City Code of Ordinances (R5-Rear Yard) to reduce the required rear yard setback from twenty (20) feet to five (5) feet.

Ms. Cleary is proposing to construct a single-family dwelling at 717 North Mandan Street. The lot is located within a subdivision (Northern Pacific Addition) that was platted in 1879 and certified and recorded in 1912. This parcel was created for the construction of a water pump house owned and operated by the City of Bismarck. The City of Bismarck sold the property in July 2015 and the pump house was demolished in November 2015.

The property is located in central Bismarck, between West Avenue C and West Avenue D, along the east side of North Mandan Street.

Please place this item on the December 13, 2016 City Commission meeting.

BACKGROUND INFORMATION

The Board of Adjustment held a public hearing on the variance request on November 3, 2016.

Numerous members of the public spoke at the public hearing. Written comments and a petition in opposition to the proposed request were submitted to the Board of Adjustment for review and are attached to the draft minutes (attached).

At the conclusion of the public hearing, and based on the findings contained in the staff report, the Board of Adjustment unanimously denied the variances needed to allow the construction of a single-family dwelling.

RECOMMENDED CITY COMMISSION ACTION

Consider the request for an appeal of the November 3, 2016 decision of the Board of Adjustment to deny variances from Section 14-04-03(4) of the City Code of Ordinances (R5-Residential)(Lot Area) to allow the construction of a single-family dwelling on a lot, platted prior to 1953, that is less than 5,000 square feet; from Section 14-04-03(7) of the City Code of Ordinances (R5-Residential)(Front Yard) to reduce the required front yard setback from twenty-five (25) feet to ten (10) feet; and from Section 14-04-03(9) of the City Code of Ordinances (R5-Rear Yard) to reduce the required rear yard setback from twenty (20) feet to five (5) feet on Part of Lot 3, Block 5, Northern Pacific Addition (717 N Mandan Street).

STAFF CONTACT INFORMATION

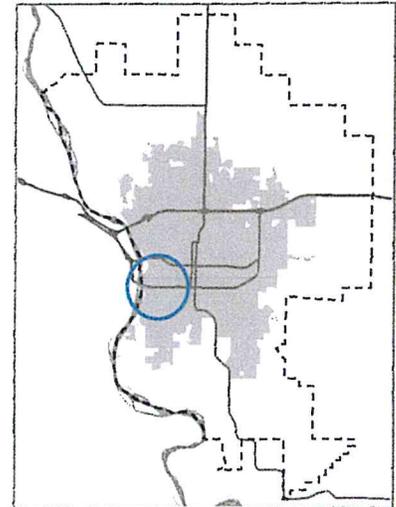
Please contact Jenny Wollmuth, CFM, the planner in our office assigned to this request at 355-1845 or jwollmuth@bismarcknd.gov.

Jenny Wollmuth, CFM, will present this item at the meeting.

Application for: Variance

Project Summary

Title:	The South 50 feet of the W1/3 of Lot 4, Block 5, Northern Pacific Addition (717 North Mandan Street)
Status:	Board of City Commissioners – Appeal
Owner(s):	Anne Cleary
Project Contact:	Blake Preszler, Plain View LLC
Location:	In central Bismarck, between West Avenue C and West Avenue D, along the east side of North Mandan Street
Request:	Variance from Sections 14-04-03(4); 14-04-03(7); and 14-04-03(9) of the City Code of Ordinances (R5 – Residential)(Lot Area / Front Yard / Rear Yard)



Staff Analysis

The applicant is requesting variances to allow the construction of a single-family dwelling on a lot platted prior to 1953, that is less than 5,000 square feet; to reduce the front yard setback along the west side of the property adjacent to North Mandan Street from twenty-five (25) feet to ten (10) feet; and to reduce the required rear yard setback located along the east side of the property from twenty (20) feet to five (5) feet.

The lot is located within a subdivision (Northern Pacific Addition) that was platted in 1879 and certified and recorded in 1912. The parcel was created for the construction of a water pump house owned and operated by the City of Bismarck. The City of Bismarck sold the property in July 2015 and the pump house was demolished prior to the sale of the parcel.



717 North Mandan Street

Applicable Provision(s) of Zoning Ordinance

Section 14-02-03 of the City Code of Ordinances (Definitions) defines a variance as, "A device which grants a property owner relief from certain provisions of the zoning ordinance when, because of the particular physical surroundings, shape or topographical condition of the property, compliance would result in a particular

(continued)

hardship upon the owner, as distinguished from a mere inconvenience or desire to increase the financial return.”

Section 14-04-03(4) of the City Code of Ordinances states, “Each permitted structure hereafter erected, together with its accessory buildings, shall be located on a lot having an area of not less than seven thousand (7,000) square feet. Provided, however, that on a record lot corresponding to a plat recorded prior to 1953, a single-family dwelling and accessory buildings may be erected, provided said lot contains no less than five thousand (5,000) square feet.” The lot is located within a plat recorded prior to 1953. The plat titled Northern Pacific Addition was recorded in 1912. However, the lot is less than 5,000 square feet. According to property information the lot is 2,500 square feet in area.

Section 14-04-03(7) of the City Code of Ordinances (R5 – Residential)(Front Yard) states, “Each lot shall have a front yard not less than twenty-five (25) feet in depth.” According to the site plan submitted with the application the proposed single-family dwelling would be setback ten (10) feet from the front property line located along the west side of the property adjacent to North Mandan Street.

Section 14-04-03(9) of the City Code of Ordinances (R5 – Residential)(Rear Yard) states, “Each lot shall have a rear yard not less than twenty (20) feet in depth.” According to the site plan submitted with the application the proposed single-family dwelling would be located five (5) feet from the rear property line along the east side of the property.

Required Findings of Fact

1. The need for a variance is not based on special circumstances or conditions unique to the specific

parcel of land involved that are not generally applicable to other properties in this area and within R5 - Residential zoning classifications.

2. The hardship is not caused by the provisions of the Zoning Ordinance.
3. Strict application of the provisions of the Zoning Ordinance would not deprive the property owner of the reasonable use of the property.
4. The requested variance is not the minimum variance that would accomplish the relief sought by the applicant.
5. The granting of the variance is not in harmony with the general purposes and intent of the Zoning Ordinance.

Staff Recommendation

Staff recommends reviewing the above findings and modifying them as necessary to support the decision of the Board.

Attachments

1. Location Map
2. Site Plan and Architectural Renderings
3. Written Statement of Hardship
4. Board of Adjustment Minutes , November 3, 2016 - Draft

Bismarck *City Administration*

November 28, 2016

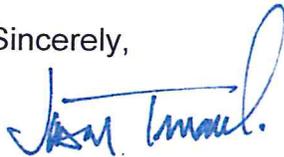
ANNE CLEARY
1603 1/2 HARMON AVE
BISMARCK ND 58501-2872

Dear Ms. Cleary:

This letter is to inform you that we have received your letter notifying the Bismarck City Commission that you have requested an appeal of the Board of Adjustment's November 3, 2016 decision to deny variances from Section 14-04-03(4) of the City Code of Ordinances (R5-Residential)(Lot Area) to allow the construction of a single-family dwelling on a lot, platted prior to 1953, that is less than 5,000 square feet, from Section 14-04-03(7) of the City Code of Ordinances (R5-Residential)(Front Yard) to reduce the required front yard setback from twenty-five (25) feet to ten (10) feet and from Section 14-04-03(9) of the City Code of Ordinances (R5-Rear Yard) to reduce the required rear yard setback from twenty (20) feet to five (5) feet, located on The North 50 feet of the West 1/3 of Lot 4, Block 5, Northern Pacific Addition (717 North Mandan Street).

We have put your appeal on the regular agenda of the December 13, 2016 City Commission meeting. The meeting will be held in the Tom Baker Meeting Room of the City/County Office Building at 221 North Fifth Street and will begin at 5:15 p.m. You or your representative should attend this meeting to answer any questions the Commission may have.

Sincerely,



Jason Tomanek
Assistant City Administrator
JT/keh

cc: Blake Preszler, Plain View Design Co.
Jenny Wollmuth, Planner
Carl Hokenstad, Community Development Director

From: [Jenny Wollmuth](#)
To: [Hilary Balzum](#)
Subject: FW: Appealing variance
Date: Tuesday, November 08, 2016 12:15:30 PM

Hilary,

Please set up a BCCA project for VAR2016-023.

Note: APO letters need to be in the mail by December 1ST.

Jenny Wollmuth, CFM, Planner
Community Development Department
Planning Division
701 355 1840 Department

www.bismarcknd.gov

From: Anne Cleary 
Sent: Tuesday, November 08, 2016 12:13 PM
To: Jenny Wollmuth
Subject: Appealing variance

Hello Jenny,

I'm writing to you to request to appeal the variance denied on November 3rd. I would like to attend and be on the schedule for the December 13th city commission meeting. Please let me know if that works, and if you need any other information from me for this appeal.

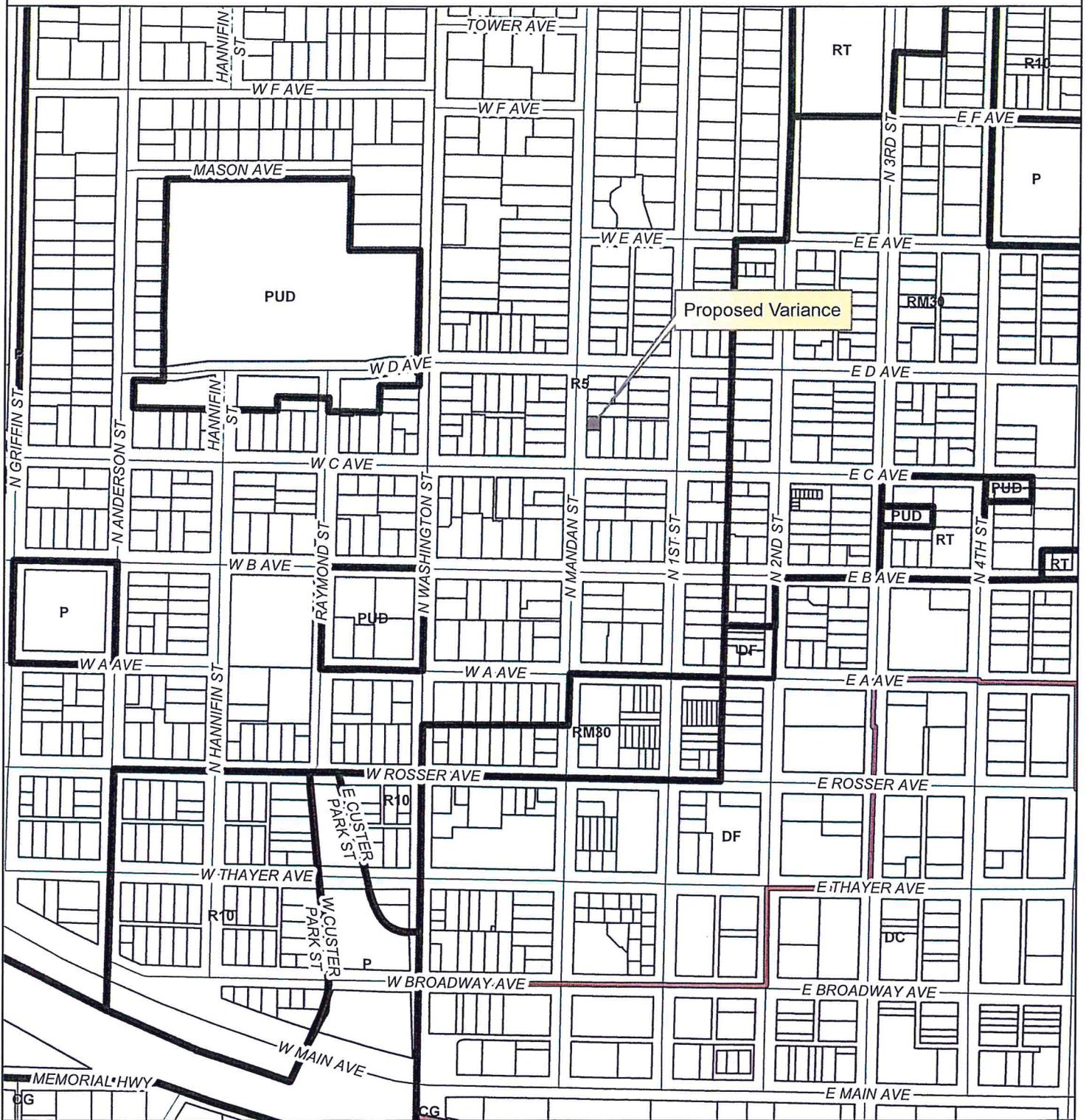
Thank you,
Anne Cleary

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Anne Cleary

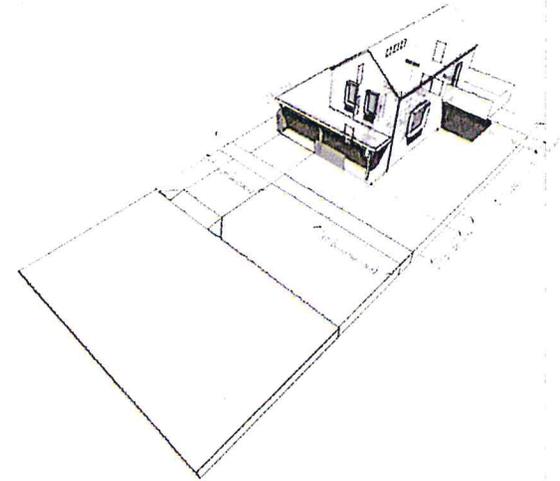
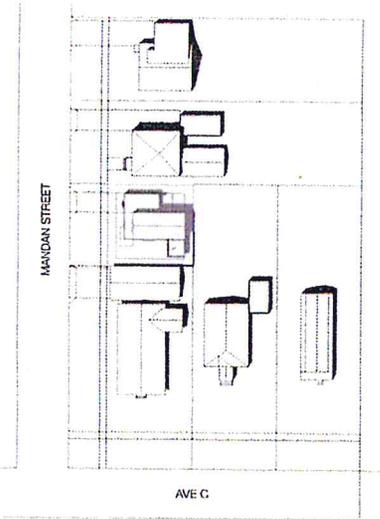

Proposed Variance

The North 50' of Lot 3, Block 5, Northern Pacific Addition

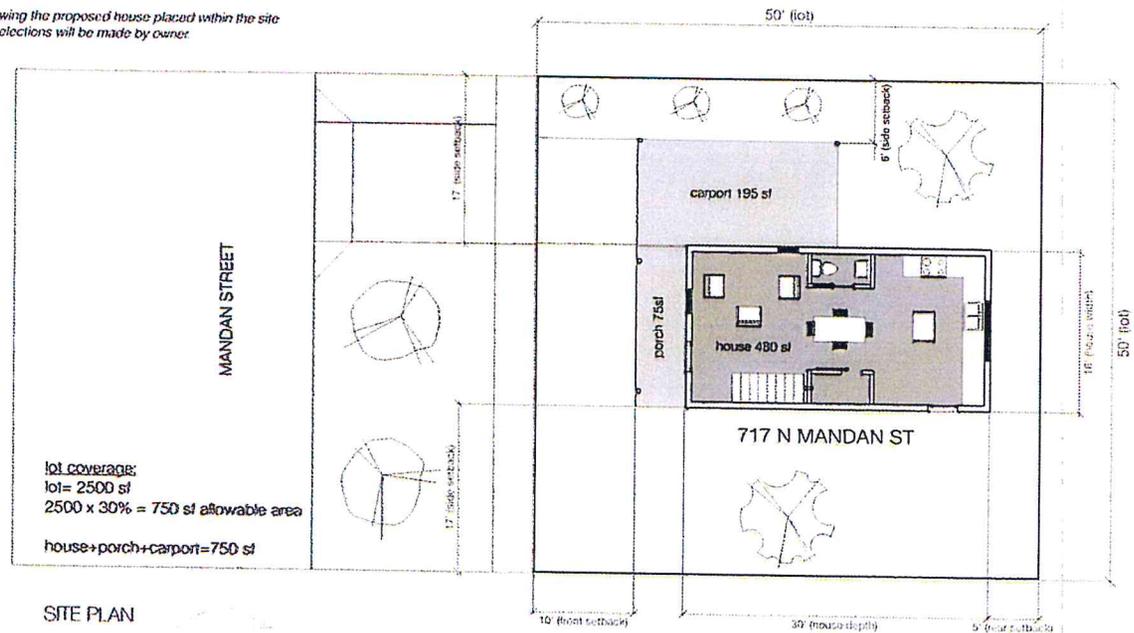
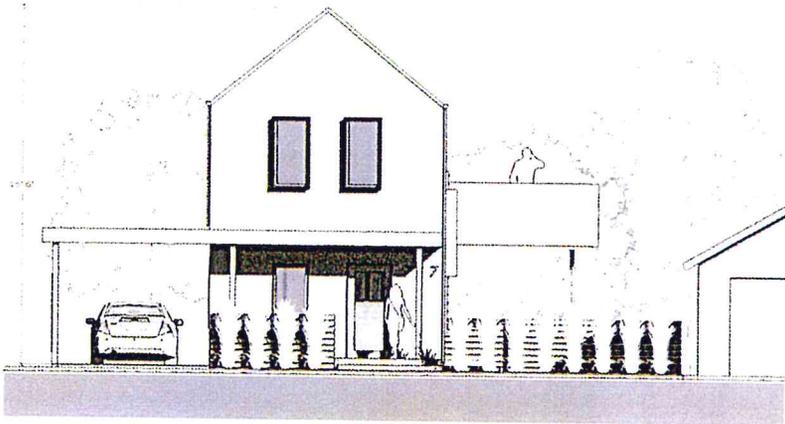


This map is for representational use only and does not represent a survey. No liability is assumed as to the accuracy of the data delineated hereon.

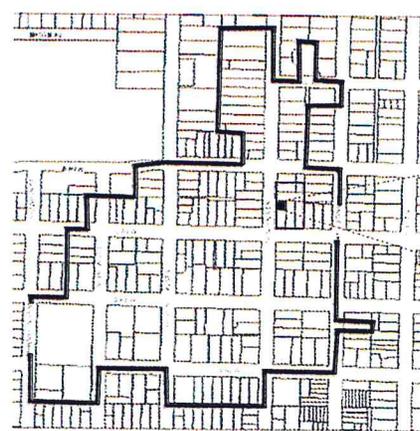
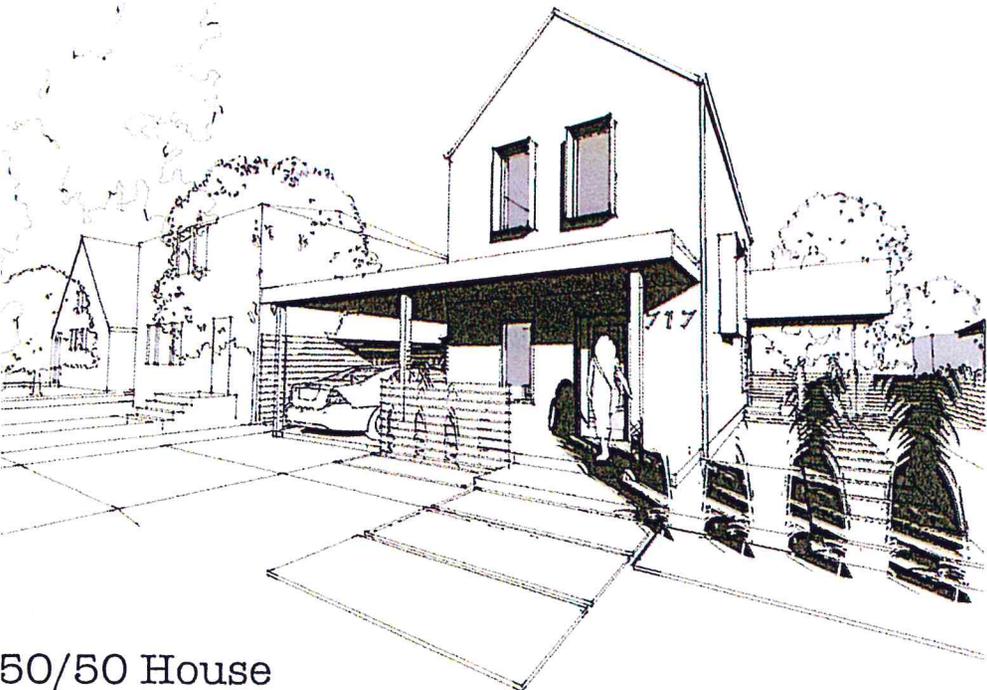




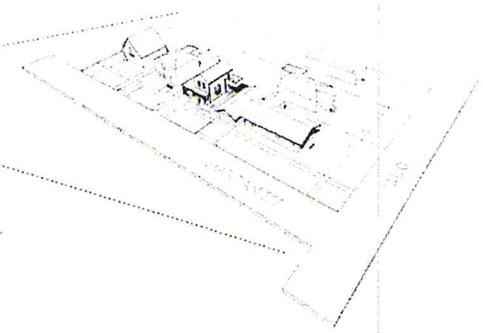
***conceptual rendering strictly for the intention of showing the proposed house placed within the site
- siding and colors are purely representational; final selections will be made by owner.*



SITE PLAN



CATHEDRAL DISTRICT



Urban infill is defined as new development that is sited on vacant or undeveloped land within an existing community, and that is enclosed by other types of development. The term "urban infill" itself implies that existing land is mostly built-out and what is being built is in effect "filling in" the gaps.

*sustainableinfrastructure.org

50/50 House

THE RESIDENCE OF ANNE CLEARY 717 NORTH MANDAN ST

The Cathedral District is one of Bismarck's most cherished and historically significant neighborhoods. Located on portions of two early Bismarck subdivisions—the Northern Pacific Addition, platted in 1876, and McKenzie's Addition of 1882, it was not until the early 1900s when the first homes were constructed.

Mostly developed from 1900-1945 the Cathedral District consists of homes of Shingle, Prairie, Tudor Revival, Craftsman, Cape Cod, and American Foursquare architectural styles. Today, this variety of style stands as Bismarck's most architecturally diverse and beloved neighborhoods.

The proposed 50/50 House on the vacant lot of 717 North Mandan Street seeks to continue the diverse legacy of the district. Through the process of design and understanding the rich context and history, the house is merely a modern continuation of the Cathedral District's story. Not unlike the homes in the district, the house is to be designed and built of its time and place.



EXISTING ELEVATION-MANDAN ST



PROPOSED ELEVATION-MANDAN ST

CITY OF BISMARCK/ETA
APPLICATION FOR APPROVAL OF A VARIANCE
WRITTEN STATEMENT

1. Property Address or Legal Description: 717 N. MANDAN ST.

2. Location of Property: City of Bismarck Extraterritorial Area (ETA)

3. Type of Variance Requested: SETBACKS: FRONT; REAR

4. Applicable Zoning Ordinance Chapter/Section: 14-04-03

5. Describe how the strict application of the requirements of the Zoning Ordinance would limit the use of the property. (Only limitations due to physical or topographic features - such as an irregularly shaped, narrow, shallow or steep lot or other exceptional physical or topographic condition - that are unique characteristics and not applicable to other properties in the neighborhood are eligible for a variance. Variances cannot be granted on the basis of economic hardship or inconvenience.)

- THE CITY ORDINANCE STATES A 25' FRONT YARD SETBACK. THE AVERAGE FRONT YARD SETBACK IN THE NEIGHBORHOOD IS (10'-12'). WE ARE PROPOSING A (10') SETBACK TO ACHIEVE CONTINUITY.
- ORDINANCE STATES 20' REAR YARD. WE ARE PROPOSING A 5' SETBACK. 20' IS TOO RESTRICTIVE SINCE LOT IS (50') DEEP.

6. Describe how these limitations would deprive you of reasonable use of the land or building involved and result in unnecessary hardship.

THE LIMITATIONS OF THE CITY ORD. DEPRIVES US OF REASONABLE USE OF THIS LOT BASED ON IT'S IRREGULAR SIZE (50'X50'). WITHOUT THE REQUESTED VARIANCES, THERE IS NO WAY TO BUILD AN APPROPRIATE DWELLING. RESULTING IN ANOTHER VACANT LOT VOID OF A DWELLING.

7. Describe how the variance requested is the minimum variance necessary to allow reasonable use of the property

THE VARIANCES WOULD ALLOW US TO BUILD AN APPROPRIATE STRUCTURE THAT WOULD ADD VALUE TO THE NEIGHBORHOOD AS WELL AS TAXABLE CONTINUE THE DIVERSE ARCHITECTURAL LEGACY OF THE CATHEDRAL DISTRICT.

**BISMARCK BOARD OF ADJUSTMENT
MEETING MINUTES
November 3, 2016**

The Bismarck Board of Adjustment met on November 3, 2016 at 5:00 p.m. in the Tom Baker Meeting Room in the City-County Office Building, 221 North 5th Street. Chairman Marback presided.

Members present were Jennifer Clark, Chris Seifert, Ken Hoff, Michael Marback and Rick Wohl.

Member absent was Ken Heier.

Staff members present were Jenny Wollmuth – City Planner, Brady Blaskowski – Building Official, Jason Hammes – Assistant City Attorney and Hilary Balzum – Community Development Administrative Assistant.

VARIANCES FROM SECTIONS 14-04-03(4); 14-04-03(7); AND 14-04-03(9) OF THE CITY CODE OF ORDINANCES (R5 – RESIDENTIAL)(LOT AREA/FRONT YARD/REAR YARD) – THE NORTH 50 FEET OF THE WEST 1/3 OF LOT 3, BLOCK 5, NORTHERN PACIFIC ADDITION (717 NORTH MANDAN STREET)

Chairman Marback stated the applicant, Anne Cleary, is requesting variances to allow the construction of a single-family dwelling on a lot platted prior to 1953, that is less than 5,000 square feet; to reduce the front yard setback along the west side of the property adjacent to North Mandan Street from twenty-five (25) feet to ten (10) feet; and to reduce the required rear yard setback located along the east side of the property from twenty (20) feet to five (5) feet.

Ms. Wollmuth gave an overview of the request, including the following findings:

1. The need for a variance is not based on special circumstances or conditions unique to the specific parcel of land involved that are not generally applicable to other properties in this area and within the R5-Residential zoning classifications.
2. The hardship is not caused by the provisions of the Zoning Ordinance.
3. Strict application of the provisions of the Zoning Ordinance would not deprive the property owner of the reasonable use of the property.
4. The requested variance is not the minimum variance that would accomplish the relief sought by the applicant.
5. The granting of the variance is not in harmony with the general purposes and intent of the Zoning Ordinance.

Ms. Wollmuth said staff recommends reviewing the findings in the staff report and modifying them as necessary to support the decision of the Board.

Chairman Marback said the written statement of hardship provided with this request states other homes nearby are setback anywhere from ten to twenty and asked if that is accurate.

Ms. Wollmuth said formal surveys of adjacent lots have not been provided, but aerial photos show some might be as little as six feet and the pump house that was on the property previously was set back approximately 16 feet.

Mr. Hoff asked how long the pump house sat unused before it was torn down. Ms. Wollmuth said she believes it was demolished around 2012 and she does not have any history on how long it was unused prior to that.

Anne Cleary provided the Board of Adjustment with pamphlets and case study information.

Mr. Hoff asked why this design concept is preferred by the owner. Ms. Cleary said she is a local business owner, works downtown and loves how eclectic the neighborhood is. She said she does not desire to live beyond her means and many of the existing homes she looked at with her realtor were too big for one person. She said she can build this home for under \$200,000 and be able to live comfortably and within her means.

Mr. Wohl asked if she was advised on the limitations of the lot when she purchased it. He said the goal should be to build a house that is both suitable for this lot and also appropriate for the neighborhood.

Chairman Marback asked if there will also be a car port and covered porch on the home. Ms. Cleary said that is correct and that they will be set back the same as the pump house was, with the porch being set back just slightly closer.

Ms. Clark asked what the setback would be without the covered porch. Chairman Marback said it would be set back 15 feet without the porch.

Chairman Marback opened the public hearing.

Tom Mayer, 612 North Mandan Street, said he lives one block south of this property and is opposed to the requests. He said the proposed house would be no bigger than the meeting room they are in now and when a house on Avenue C was destroyed by a fire the owners wanted to rebuild but were told they could not because their lot was too small. He said the proposed house is also not in accordance with the architectural footprint of the Cathedral District. Mr. Mayer's comments are attached as Exhibit A.

Logan Greeley, 715 North Mandan Street, said he is opposed to the requests and feels construction of the proposed home would negatively impact adjacent property values. He said a well-established tree would have to be cut down and the owner has made no efforts to contact the

neighborhood, with the exception of one couple. Mr. Greeley's comments are attached as Exhibit B.

Mr. Hoff asked Mr. Greeley when he moved into his home. Mr. Greeley said he moved in last summer, right before a meeting took place at the Heritage Center regarding development of this lot. He said he did contact the owner to state his interest in purchasing the lot and would rather see it turned into a community garden.

Susan Holland, 222 West Avenue C, said the statement made by the neighborhood is driven by aesthetics and that all of the homes have their own uniqueness. She said she fully supports the tiny-house movement but all she sees when she looks at the concept of this house is California and it just will not fit the neighborhood.

Gene Lehr, 122 West Avenue C, said a portion of his lot was purchased many years ago when a pump house was needed. He said he contacted the City when it came for sale and went through the bidding process. He said he did not have the highest bid but was also told the lot was not buildable and he is opposed to any construction on the lot.

Ms. Clark asked Mr. Lehr how far his house is set back on his lot. Mr. Lehr said it is approximately six feet in both the front and the back. Ms. Clark asked if he would be ok with the proposed house having the same setbacks as him. Mr. Lehr said he would maybe be ok with that, but he does not want to see any of the properties nearby lose their value either.

Bonnie Palecek, 704 Mandan Street, said there has been a lack of transparency that has created a lack of trust in the local government. She said she wants to see more positive efforts to bring this neighborhood together and she does not wish ill will on Ms. Cleary, but construction of this home will negatively impact the aesthetics of the neighborhood. Ms. Palecek's comments are attached as Exhibit C.

Stacy Bullinger, 722 North Mandan Street, said she only received about a weeks' notice about these requests and immediately visited with her neighbors and formed a petition spanning two blocks. She said 70% of those surveyed ended up signing the petition. She said the self-guided tour of the cathedral district should also be taken into consideration. Ms. Bullinger's petition and self-guided tour map are attached as Exhibit D.

Mr. Hoff asked if a neighbor's home burned down and they wanted to rebuild, would anybody be okay with new construction then. Ms. Wollmuth said the ordinance was revised to state a building destroyed 50% or more does have to be rebuilt on the same footings and be the same size as the original structure, or smaller.

Pete Neigum, 723 North Mandan Street, said he also tried to buy this lot through the bidding process but never received a call back when he asked about it. He said he feels angles are being worked and he is definitely opposed to the requests. He said his house is set back 14 feet or more on his property.

Dan Eastgate, 3006 Eastgate Drive, said he is in favor of the requests as Ms. Cleary's friend and realtor. He said she grew up on East Avenue A and completely understands the integrity of this neighborhood. He said none of the houses look the same and construction of the proposed home would be a tremendous improvement to both the vacant lot and the neighborhood.

Amy Sakariassen, 603 North Mandan Street, said she is significantly invested in the Historical District and lives in an infill property built in 1938. She said almost all houses in the neighborhood are roughly the same distance from the sidewalk, which is one of the great contributing factors of the Cathedral District. She said the trees on the boulevard are listed on National and State registries and are protected by laws that would not allow them to be removed without going through a process.

Ashley Champion, 13817 Saddlehorn Drive, said she is in favor of the variance requests and the main point is that it is the reduction of the required setbacks that needs to be focused on. She said all of the houses in the neighborhood were built over several decades and the proposed house will not stand out significantly from the existing ones. She said it might seem like a small lot for the house but it is not a 'tiny house' and will fit fine.

Paul Picha, 700 North Mandan Street, said his observation is that any decision made here needs to be defensible and there is an ample number of reasons that the requests should be denied.

Blake Preszler, Plainview Design, said the drawing provided in the handout is merely a concept. He said the home would be 50 feet by 50 feet, the same as that of one nearby that has a zero foot setback. He said they are being as conservative as they can with the design and either way, they should be able to work around the established tree, whether they place the house somewhere else on the lot or not.

Mr. Greeley asked the Board of Adjustment to please hold off on further consideration of these requests until the proposed Infill and Redevelopment Plan is complete. He said not every lot needs a house on it and allowing this would allow too many undesirable things in the future.

Tanner Reidman, 510 North Mandan Street, said he works with Mr. Preszler and also lives in this neighborhood. He said his home is the only one that is not two stories and there are others that do not necessarily fit with the aesthetics of the neighborhood but all are on 50 foot wide lots.

Ms. Cleary said she was not aware the tree is considered historical until after the house plans were drawn. She said she will change the plans to accommodate the tree, as they are only draft plans at this point and are essentially just the general concept of what would be built. She said she has no intention of building her home completely out of character of the neighborhood and it will be very simple so as to not draw adverse attention. She said it would not be a 'tiny house' and she has no attachment to the covered porch, so she would be willing to remove that as well in order to minimize the needed variance.

Additional comments on this request are attached as Exhibits E-L.

There being no further comments, Chairman Marback closed the public hearing.

Ms. Clark asked where the Infill and Redevelopment Plan is at in the process. Ms. Wollmuth said the open house on the plan was scheduled for today as that was the only time that worked for Planning. She said it has not been presented to the Planning and Zoning Commission or the City Commission yet. She said the Plan is scheduled for a public hearing at the November 16, 2016 of the Planning and Zoning Commission.

Ms. Clark asked how this request would fit into that plan. Ms. Wollmuth said the plan was not created solely for this request. She said the plan and processes associated with the proposed infill are still susceptible to being modified, as they have not been presented to the Planning and Zoning Commission or the Bismarck City Commission.

Chairman Marback asked how many infill projects the plan would address. Ms. Wollmuth said it would address infill within City limits which could include large scale projects or small scale projects.

Ms. Clark asked if development of this site will meet some Historical District building limitations or any other hurdles further down the road. Ms. Wollmuth said there are not provisions in the zoning ordinance in place at this time pertaining to historical preservation.

Mr. Seifert asked if there have been any other 2,500 square foot lots developed recently. Ms. Wollmuth said she is not aware of any new construction on lots less than 5,000 square feet.

Mr. Hoff asked how big the lot was for a variance for an addition to an existing house that was previously granted on North 13th Street and West Avenue B. Ms. Wollmuth said it was approximately 3,900 square feet.

Mr. Seifert asked if this request would have further consideration by another Board. Ms. Wollmuth said if the variance is approved, the owner could start construction and if it is denied an appeal can be submitted to the City Commission.

Mr. Hoff asked if they will be required to stay within the variance granted if they are allowed to build this house. Ms. Wollmuth said that is correct, that they would be limited to the variance granted with the motion.

Mr. Clark said this proposal is consistent with the setbacks of some adjacent properties, especially if the cover is taken off the porch, but she has concerns with the perception that the purchase of the property was not fair. She said if it is denied and appealed then those better suited to hear that information will consider it.

Mr. Seifert said many of the houses in that neighborhood were built before any setback requirements were in place and he has a problem with a new structure on such a small lot.

Chairman Marback said he likes the concept of the house but agrees that some elected officials should make a final decision that know how the bidding and purchase process played out.

Mr. Wohl said the things that need to be considered are the minimal setbacks and that the lot is less than 5,000 square feet. He said not only do the setbacks need to fit but there are also no other lots this size in that area.

MOTION: A motion was made by Ms. Clark to deny the variances to allow the construction of a single-family dwelling on a lot platted prior to 1953, that is less than 5,000 square feet; to reduce the front yard setback along the west side of the property adjacent to North Mandan Street from twenty-five (25) feet to ten (10) feet; and to reduce the required rear yard setback located along the east side of the property from twenty (20) feet to five (5) feet on the North 50 feet of the West 1/3 of Lot 3, Block 5, Northern Pacific Addition (717 North Mandan Street). The motion was seconded by Mr. Seifert and with Board Members Clark, Hoff, Marback, Seifert and Wohl voting in favor of the motion, the motion was approved and the variance was denied.

Hilary Balzum

From: Planning - General Mailbox
Sent: Thursday, October 27, 2016 8:48 AM
To: Carl Hokenstad; Daniel Nairn; Hilary Balzum; Jenny Wollmuth; Kim Lee; William Hutchings
Subject: FW: Anne Cleary request for variances

From: Tom Mayer [mailto:████████████████████]
Sent: Wednesday, October 26, 2016 5:39 PM
To: Planning - General Mailbox
Subject: Anne Cleary request for variances

Anne Cleary's request for variances regarding a "house" planned at 717 N. Mandan Street should be denied.

A park model trailer with a small deck would be about the same as her proposal.

The structure would be unsightly and entirely out of keeping with the rest of the homes in the area. It would look like a kid's fun house on the postage stamp size lot in question.

Anne clearly I assume is a straw woman for Venture Realty which came up with this hare-brained idea in the first place. The two neighbors on each side should each buy half of the lot. But I assume the owner would stiff them, which is why it hasn't happened. .

Tom Mayer
612 N. Mandan St.
Bismarck, ND 58501



This email has been checked for viruses by Avast antivirus software.
www.avast.com

Hilary Balzum

From: Planning - General Mailbox
Sent: Monday, November 07, 2016 1:39 PM
To: Carl Hokenstad; Daniel Nairn; Hilary Balzum; Jenny Wollmuth; Kim Lee; William Hutchings
Subject: FW: Correction

From: Tom Mayer [mailto:████████████████████]
Sent: Friday, November 04, 2016 1:51 PM
To: Planning - General Mailbox
Subject: Correction

I want to correct a statement I made when testifying Nov. 3, 2016, regarding Item 4 on the Bismarck Board of Adjustment agenda. I was referring to a similar sized small lot on which a house had been destroyed by fire but the city did not allow the owner to rebuild. I stated it was at 212 Avenue C West; I should have said 212 Avenue C East (about two and one-half blocks east of the lot in question). That lot is now the backyard to the west of the house on the corner at 700 Third Street N. My point is that there shouldn't be a disparate result on similar sized lots.

Tom Mayer
612 N Mandan St.
Bismarck, ND 58501



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Hilary Balzum

From: Planning - General Mailbox
Sent: Wednesday, November 02, 2016 3:14 PM
To: Carl Hokenstad; Daniel Nairn; Hilary Balzum; Jenny Wollmuth; Kim Lee; William Hutchings
Subject: FW: Neighbor opposed to VAR2016-023

From: logan greeley [mailto:████████████████████]
Sent: Wednesday, November 02, 2016 3:12 PM
To: Planning - General Mailbox
Subject: Neighbor opposed to VAR2016-023

I'm writing in regards to the variance request for project number VAR2016-023, The 50' X 50' lot at 717 North Mandan Street.

I am the homeowner of 715 North Mandan Street and share a property line with the currently vacant lot. I am opposed to the current variance request. As a homeowner in the Bismarck Cathedral Area Historic District (BCAHD) I can say that a large part of my decision to purchase in the location that I did was based on the charm that an older home would provide as well as the surrounding homes. If there was a new home on this block, I would not have purchased in this location. I believe future potential buyers would be shopping with a similar thought process. A home designed as proposed in VAR2016-023 would most definitely be a deterrent to potential buyers thus reducing the value of my home.

In addition to the desirability of the neighborhood I would be lying if I didn't claim pride simply in maintaining ownership of a home within an area listed on the National Register of Historic Places. I recognize that I live near the edge of the BCAHD. I am aware that the boundaries of the BCAHD have increased as well as decreased over time. I am concerned that a home built in this manner could potentially give reason the remove this block from the internal boundaries of the BCAHD. This too would be a deterrent to potential buyers thus reducing the value of my home.

Anne Cleary stated in her variance request that the homes of this community have a majority setback of 10' and that she would be conforming to what already exists. While this may be true of other blocks, it is not true of the 700 block of North Mandan Street. The plan does not match the existing context of the 700 block of North Mandan Street nor does it match the "Simple Formula" as provided on page 34 of Bismarck's own draft Infill and Redevelopment Plan.

The current request would require the removal of a large old growth tree which is attractive and provides shade to my home during the summer months. Removal of this tree will decrease the attractiveness of the street reducing property value as well as increase the cost to cool my home.

As the adjacent property owner I have seen this lot go unmaintained. The current owner has occasionally cut the lawn but in large part I have maintained it. I worry that this development is only an attempt to turn a profit. I worry that this will become a rental property, again reducing the desirability of the area and value of my home. I don't believe that this development is in the best interest of the community. At no point has the current land owner attempted to contact neighbors for input on the lot. I believe that the current land owner was fully aware of the variances needed to develop this lot prior to acquiring ownership of this lot. Any due diligence on her part in researching this parcel would have provided her the knowledge that this lot is essentially unbuildable.

There is a place in this this world for infill but this 50' X 50' lot is not it. The question needs to be asked, "where do we stop?" If the variances were granted for this lot which has already been a sensitive topic (http://bismarcktribune.com/news/local/historic-cathedral-district-group-rallies-residents/article_9b2cf89c-ae3-574e-8bb5-ffbcfadcb170.html) , it opens the doors for developers to develop any lot they want.

The home's design plan deviates from Bismarck's draft infill plan.

"Traditional Neighborhoods

The traditional neighborhoods are located on the original grid, which was platted between 1877 and the 1940s. The street layout creates a repeating pattern of 300x300 foot blocks, which is an ideal environment for safe and pleasant walking and biking. The proximity to downtown and the State Capitol complex offers a high level of convenience to job centers and institutional amenities. The wide historic range and style of architecture and the abundance of mature trees are distinct amenities. **Any infill and redevelopment of this area should be modest in scale and aligned with the general form of its surroundings.**" Pg. 15

4 | Preservation and Enhancement of Architectural and Historical Character

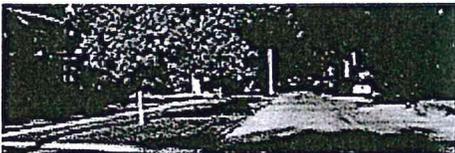
The buildings, trees, and public spaces that have been built, planted, and installed over the years in Bismarck contribute to the uniqueness of the community, remind us of our past, and represent significant investments of resources. There is a strong case for protecting these assets. At the same time, Bismarck has been evolving since it was founded and neighborhoods have always been dynamic and open to new ideas.

Infill and redevelopment should strike a balance between preserving the character of the past while remaining open to the possibility of the future. The style and character of any Bismarck neighborhood is greater than the sum of its parts. Everything from the street widths to the layout of buildings and architectural details of individual buildings contributes to the overall character of the area. Infill and redevelopment should respect the people who already live and work in that place, and contribute to its character rather than distract from it.

- Design Objectives:**
- Rehabilitation of buildings attempts to restore, repair or replace elements as necessary (in that order). Elements that are not compatible are removed.
 - The character of the existing neighborhood is respected with use of complementary:
 - Shape, Form and Height
 - Texture / Materials
 - Open Space / Setbacks
 - Color Palette (in some cases).
 - New trees and shrubs of similar species are planted in anticipation of the death of aging vegetation.

pg. 20

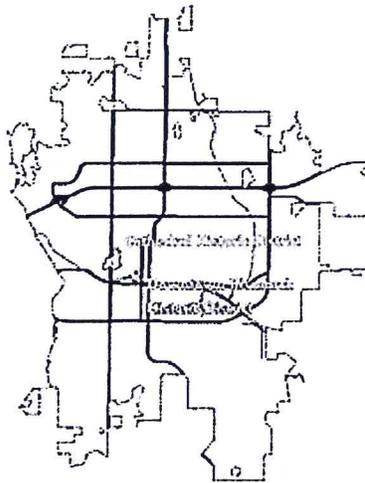
5 | Allow Creation of Historic Design Standards for Neighborhoods



Districts in the National Register of Historic Places are federally recognized as worthy of preservation. There are currently two historic districts in Bismarck, the Downtown Bismarck Historic District and the Cathedral Area Historic District, although others may be eligible upon application and approval.

Special design standards are in place for downtown that assist with the preservation of historic structures, but no other historic preservation standards currently exist outside of downtown, either through City ordinance or private covenants. There is a broad spectrum of possible historic preservation provisions that may be utilized, from simple prohibitions on demolition of contributing structures to precise regulations for all building alterations to maintain historical accuracy.

There are costs and benefits to imposing historic preservation standards, and primarily these costs are incurred by and the benefits accrued to the residents of these districts. Therefore, this plan does not make a recommendation regarding further extension of historic standards, but rather sets a posture of openness and assistance if the majority of the property owners of any recognized neighborhood wish to impose rules upon themselves.



Strategy: Allow and assist with the creation of district-specific historic preservation design standards for any area listed on the National Register of Historic Places upon petition from at least half of all property owners in the district.

-Logan Greeley



704 Mandan Street
Bismarck, ND

Board of Adjustment
Baker Meeting Room
November 3, 2016

Members of the Board:

My name is Bonnie Palecek, and for the last 42 years I have lived at 704 Mandan Street, directly across the street from 717 Mandan Street, the lot being considered for a variance today. I say this knowing that I risk being stereotyped as an old person resisting change, claiming special entitlement simply because I have occupied a certain small space for a long time.

I don't believe that occupying space, in its own right, gives one special entitlements. On the other hand, I do believe that to build a strong community, we must pay respectful attention to those who feel and express personal stakes in the issue at hand. For me, one of the most defining and binding aspects of a healthy community is a sense of place.

Many of us in the Cathedral District experience that sense of place in part through the green space and mature trees that surround us. This proposed variance would directly threaten both.

I worry all the time about losing more trees. And since "development" and "infill" plans were announced a year and a half ago for the green space across the street, I have daily grieved the potential loss of two magnificent trees I have lived with for the last four decades. There are only two original elms left on that side of the street. Those on our side have been mutilated to make way for power lines.

It takes a long time to grow a tree in North Dakota, and much care, and then much vigilance to protect them. Our family was involved in a campaign to save the elms on Avenue C years ago, and more recently, to a lesser extent, to maintain a respectful, aesthetically acceptable thoroughfare when Washington Street was widened.

For some reason, many believe that trees and green space are expendable. We don't always realize how interrelated we are, how much we have been given, and how fragile it all is. As someone has said, "We are not the only species on the earth, we just act like it." In our arrogance, and I believe at our peril, we often act as though all that matters is our immediate needs – for a street, a house, bigger garages for more vehicles.

Thank you for creating this forum in which to listen to people from a neighborhood which still values itself enough to talk to each other and officials like you to try to find mutually acceptable solutions to the challenges change inevitably brings.

A sense of community is an increasingly rare reality. Once lost, it is almost impossible to retrieve. Building trust can only grow in the soil of mutual respect. And that takes time, just like growing a tree. Please don't minimize or dismiss the deeply felt hurts and fears of those who speak here today – on all sides. What we perceive as a lack of transparency and collusion by those with power is no small thing. Large parts of our daily, lived experiences in the neighborhood in which we live rest with you in a very tangible way.

Thank you for hearing us and responding in a meaningful way.



Bonnie Palecek

The following petition is being signed by home owners in the Cathedral Neighborhood who are not in favor of having the variances granted related to the constructing of a single-family home, to be located on the South 50 feet of the West 1/3 of Lot 4, Block 5, Northern Pacific Addition (717 North Mandan Street).

The proposed Variances and a copy of the map showing the location involved in the request and a site plan are attached.

The following individual property owners are NOT in favor of the Community Development Department approving the requested Variances:

Name: Address: Telephone:

Hacy Bullinger	722 N. Mandan St. Bismarck	701-630-9009
Eric Bullinger	722 N. Mandan St. Bismarck	(701) 955-4889
Connie Nugum	723 N. Mandan St. Bismarck	701-258-9612
Steve DeGarmo	723 N. Mandan St.	701-258-9612
Mike Deary	719 N. Mandan St.	223-1863
Mike Deary	719 N. Mandan St.	223-1863
Logan Greeley	715 N Mandan St.	708-289-9318
Veronica Orzco	715 N Mandan St	6305127012
Tommy	714 MANDAN ST	701-220-068
Travis + Lisa	" "	763-527-3565
Donnie & Fred Palumbo	704 Mandan St	701-202-7396
Tom & Jan Mayer	612 Mandan St.	723-6218
Eugene R Lebr	122 W. Ave. C	491-5892

Hilary Balzum

From: Planning - General Mailbox
Sent: Monday, October 31, 2016 8:51 AM
To: Carl Hokenstad; Daniel Nairn; Hilary Balzum; Jenny Wollmuth; Kim Lee; William Hutchings
Subject: FW: Variance Request for 717 N. Mandan Street

-----Original Message-----

From: Lori Orser [mailto:██]
Sent: Saturday, October 29, 2016 3:57 PM
To: Planning - General Mailbox
Subject: Variance Request for 717 N. Mandan Street

My sister owns the home at 801 N. Mandan Street and I lived in it for many years. We are preparing it for sale. We feel that the proposed variance and home at 717 will make Mandan Street appear overcrowded and ugly, and will reduce the value of the home we own. The proposed building is within the Cathedral Historic District but in no way resembles a historic home. It violates the theme of the district. We are completely opposed to approval of the variance, or of any building on that property. A small park for neighborhood children would be much more appropriate. I cannot attend the hearing because of a recent injury, but I hope that my comments will be considered.

Sincerely,
Lori Orser

Sent from my iPhone

Hilary Balzum

From: Planning - General Mailbox
Sent: Tuesday, November 01, 2016 9:40 AM
To: Carl Hokenstad; Daniel Nairn; Hilary Balzum; Jenny Wollmuth; Kim Lee; William Hutchings
Subject: FW: Comments Associated with Variance Request for 717 North Mandan Street

From: Ben Ehreth [mailto: [REDACTED]]
Sent: Monday, October 31, 2016 4:58 PM
To: Planning - General Mailbox
Subject: Comments Associated with Variance Request for 717 North Mandan Street

Greetings,

My wife and I are property owners at 108 W Ave C in Bismarck, ND. We have received notification from the City of Bismarck regarding a variance request for a reduction of front and rear yard setbacks at the 717 North Mandan Street property. We have reviewed the site plan for the proposed development and we are supportive of the subject variance requests.

We appreciate the notification of this proposal and for the opportunity to comment.

Sincerely,
Ben Ehreth

Hilary Balzum

From: Planning - General Mailbox
Sent: Wednesday, November 02, 2016 9:27 AM
To: Carl Hokenstad; Daniel Nairn; Hilary Balzum; Jenny Wollmuth; Kim Lee; William Hutchings
Subject: FW: variance from setback Mandan St.

From: Jeff Frohlich [mailto:
Sent: Wednesday, November 02, 2016 8:37 AM
To: Planning - General Mailbox
Subject: variance from setback Mandan St.

November 2, 2016

My name is Jeff P. Frohlich. I have lived on Mandan St. for over 30 years. I am a Professional Land Surveyor and know the importance of following the city ordinances concerning setbacks and lot sizes. It is my understanding that this small lot was originally part of the lot located directly south of this parcel. The city purchased this small tract and constructed a small brick building (pumping station). Recently the building was removed. It is my opinion that this small tract should be placed back into the lot it came from. Anybody who purchased this lot with the intent of getting variances and changing city setback laws **should not** be allowed to do so.

Jeff P. Frohlich

Hilary Balzum

From: Planning - General Mailbox
Sent: Thursday, November 03, 2016 1:52 PM
To: Carl Hokenstad; Daniel Nairn; Hilary Balzum; Jenny Wollmuth; Kim Lee; William Hutchings
Subject: FW: Variance Hearing for 717 N Mandan Street

From: Gordon Nygard [mailto:████████████████████]
Sent: Thursday, November 03, 2016 1:46 PM
To: Planning - General Mailbox
Subject: Variance Hearing for 717 N Mandan Street

I am appalled that there even is a hearing over this variance request, what with the area being designated as a historical area.

How does one person/entity think that they have the right to uproot all the time, effort, and resources that went into the designation in order to preserve the charm and ubiquity of the area? It appears the requestor is very self-serving in nature and has no regard for others who live in the area and take great pride in owning and living in that area.

I had the privilege of growing up on Mandan Street in one of those historic homes. Mine was built in 1929 and still holds a special place in my heart.

Please vote no on this variance request.

Thank you,

Gordy Nygard

Hilary Balzum

From: Planning - General Mailbox
Sent: Thursday, November 03, 2016 12:50 PM
To: Carl Hokenstad; Daniel Nairn; Hilary Balzum; Jenny Wollmuth; Kim Lee; William Hutchings
Subject: FW: No to variance request for 717 Mandan Street

From: vnwood.vtec [mailto:████████████████████]
Sent: Thursday, November 03, 2016 12:20 PM
To: Planning - General Mailbox
Subject: No to variance request for 717 Mandan Street

This email is in reference to the hearing today for the variances requested for the property at 717 N. Mandan Street. I strongly object to such variances being granted, especially since the proposed design is so at odds with the architecture and setting for this historic neighborhood.

It seems a shame to have invested city and human resources in designating and promoting an entire area as historical and then consider allowing this dwelling to be built on said property. Many homeowners proudly restore, paint, add features and maintain their homes in keeping with their historic registry. The proposed design is not in harmony with the preservation efforts of those homeowners.

I not only grew up on Mandan Street, I also bought my own home in this same neighborhood. I sincerely hope you will deny this request for variances.

Virginia Nygard Wood
Sent from my Verizon, Samsung Galaxy smartphone

Hilary Balzum

From: Planning - General Mailbox
Sent: Thursday, November 03, 2016 12:50 PM
To: Carl Hokenstad; Daniel Nairn; Hilary Balzum; Jenny Wollmuth; Kim Lee; William Hutchings
Subject: FW: Opposition to the proposal for variance for 717 Mandan Street

From: judy broekemeier [mailto:██]
Sent: Thursday, November 03, 2016 11:48 AM
To: Planning - General Mailbox
Subject: Opposition to the proposal for variance for 717 Mandan Street

Having grown up on Mandan Street and now being part owner of my childhood home, I am compelled to email my objection to the upcoming proposed variances for 717 Mandan Street. These variance requests should be denied as they are vastly different from any other single family dwellings along that street and would greatly alter the neighborhood. Additionally, the design is not aesthetically in keeping with this specially designated historic district. Please consider the people and work that has gone into this historic and charming neighborhood and deny the request before you.
Thank you. Judy Nygard Broekemeier 808 Mandan Street