

Community Development Department

**BISMARCK BOARD OF ADJUSTMENT
MEETING AGENDA**

September 5, 2013

Tom Baker Meeting Room

4:00 p.m.

City-County Building

MINUTES

1. Consider the approval of the minutes of the August 1, 2013 meeting of the Board of Adjustment.

REQUESTS

2. **Variance from Section 14-04-01(4) of the City Code of Ordinances (RR-Residential District)(Front Yard)** – 2001 Sherman Drive (Lot 13, Block 1, Ridgeview Acres).
Mark Holzer is requesting a variance from the front yard setback requirement along the east side of his property from 40 feet to 19 feet in order to construct a 896 square foot (28'x32') accessory building.
3. **Variance from Section 14-04-03(7) of the City Code of Ordinances (R5-Residential District)(Front Yard)** – 523 North 1st Street (Lot 12, Block 16, Northern Pacific Addition)
Kristopher Smotherman is requesting a variance from the front yard setback from the north side of his property from 25 feet to 15 feet in order to construct an 840 square foot (30'x28') accessory building.
4. **Variance from Section 14-04-01(6) of the City Code of Ordinances (RR-Residential)(Rear Yard)** – 4560 Hillsboro Drive (Lot 1, Block 4, Grand Prairie Estates)
Lonny Bosh is requesting a variance from the rear yard setback from the west side of his property from 50 feet to 35 feet in order to construct a 1,200 square foot (30'x40') accessory building.
5. **Variance from Section 14-03-10(h) of the City Code of Ordinances (Off-Street Parking and Loading)(Retail Establishments) and Section 14-04-10(n) of the City Code of Ordinances (Off-Street Parking and Loading)(Warehouse/ Storage Facilities)** – 2228 East Front Avenue (Lots 4 and 5, Block 6, Casey's Industries Inc., First Addition)
Curt Binstock, Northwest Industrial Supply Inc, is requesting a variance from the required off-street parking requirements for retail facilities and warehouse/ storage facilities from 32 spaces to 24 spaces in order to construct a 9,216 square foot addition to the existing building.



6. **Variance from Section 14-04-19(6)(b)(1) of the City Code of Ordinances (Floodplain District)(Flood Hazard Reduction /Accessory Buildings) – 2812 Woodland Drive (Lot 7, Block 1, Timberlane Place 2nd Subdivision)**

Randy Pegors is requesting a variance from the elevation requirement for an accessory building constructed in the Special Flood Hazard Area (SFHA), or 100-year Floodplain, from 2 feet above the Base Flood Elevation (BFE) to 0 feet above the Base Flood Elevation (BFE), in order to construct a 1,260 square foot (36'x35') accessory building.

7. **Variance from Section 14-04-16(4) of the City Code of Ordinances (P-Public Use District)(Front Yard)– 408 West Sweet Avenue (Part of Park Hill Auditors Lots and Part of NE1/4 & E1/2 NW 1/4)**

Bismarck Park District is requesting a variance from the required front yard setback from 25 feet to 16 feet along the south side of their property in order to construct a grandstand behind home plate at the Bismarck Municipal Ball Park.

OTHER BUSINESS

8. **Other.**

ADJOURNMENT

9. **Adjournment.** The next regular meeting date is scheduled for October 3, 2013.

**BISMARCK-BURLEIGH COMMUNITY DEVELOPMENT DEPARTMENT
STAFF REPORT**

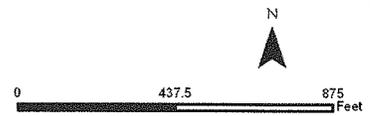
BACKGROUND:	
Title: 2001 Sherman Drive – Variance (Front Yard) (Lot 13, Block 1, Ridgeview Acres)	
Status: Board of Adjustment	Date: September 5, 2013
Owner(s): Mark Holzer	Engineer: None
Reason for Request: Variance from Section 14-04-01(4) of the City Code of Ordinances (RR-Residential District) (Front Yard) to reduce the required front yard setback along the east side of the property from 40 feet to 19 feet in order to construct a 896 square foot (28'x32') accessory building.	
Location: The property is located on the south side of Sherman Drive and east of Sibley Drive.	
APPLICABLE PROVISION(S) OF ZONING ORDINANCE:	
<ol style="list-style-type: none"> 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 hardship upon the owner, as distinguished from a mere inconvenience or desire to increase the financial return.” Section 14-02-03 of the City Code of Ordinances (Definitions) defines an accessory building as, “A subordinate building or structure, the use of which is customarily incidental to that of the principal building on the same lot.” Section 14-04-01(4) of the City Code of Ordinances (RR-Residential District)(Front Yard) states, “Each platted lot shall have a front yard not less than forty (40) feet in depth as measured from the front property line.” 	
FINDINGS:	
<ol style="list-style-type: none"> 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 RR-Residential zoning classification. The hardship is not caused by the provisions of the Zoning Ordinance. Strict application of the provisions of the Zoning Ordinance would not deprive the property owner of the reasonable use of the property. The requested variance is not the minimum variance that would accomplish the relief sought by the applicant. The granting of the variance is not in harmony with the general purposes and intent of the Zoning Ordinance. 	
RECOMMENDATION:	
<p>Staff recommends reviewing the above findings and modifying them as necessary to support the decision of the Board.</p> <p>If granted, the variance must be put to use within 24 months or it shall lapse and the landowner must reapply.</p>	

**Proposed Variance
Lot 13, Block 1, Ridgeview Acres
2001 Sherman Drive**



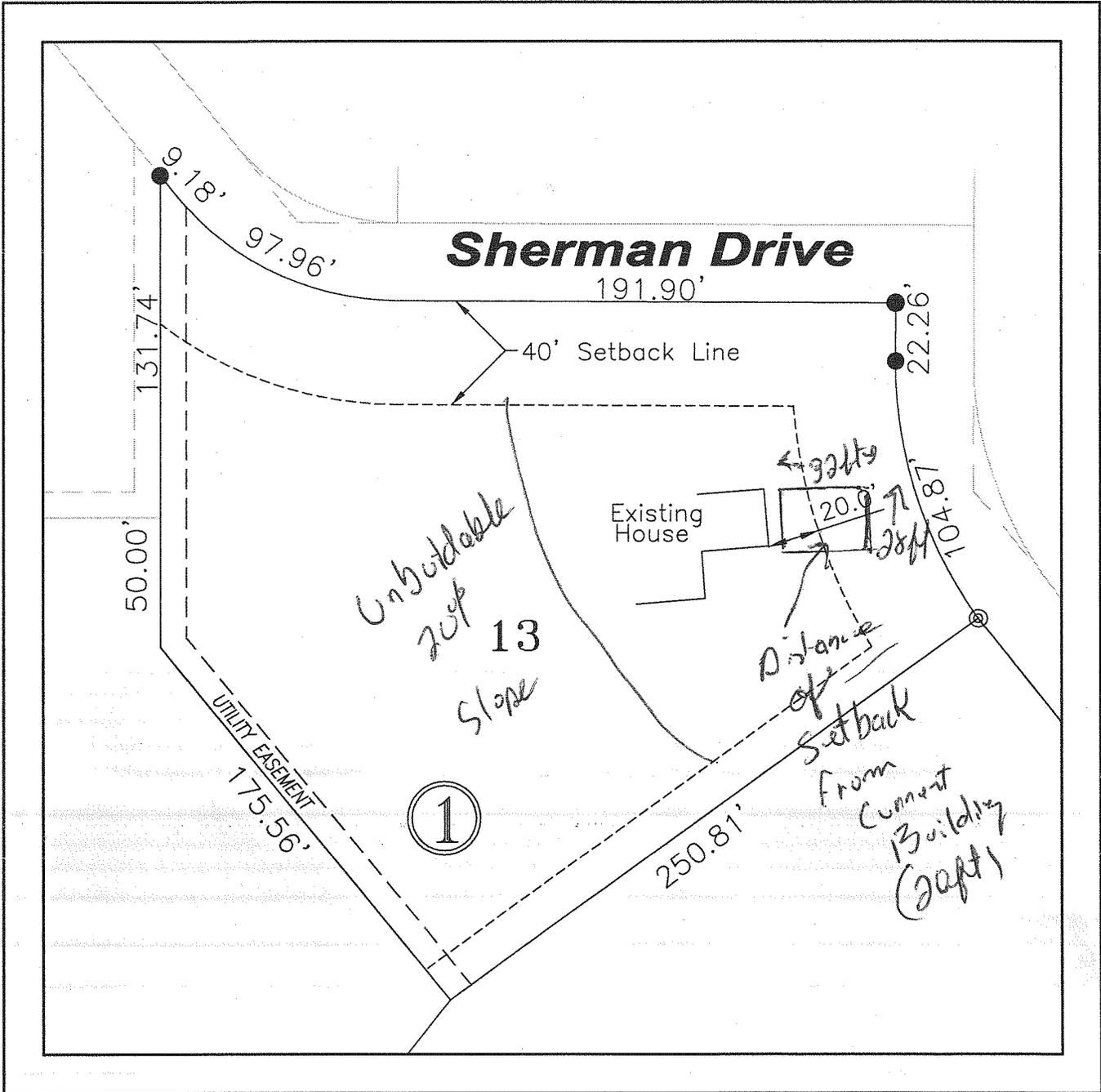
DISCLAIMER: This map is for representation use only and does not represent a survey. No liability is assumed as to the accuracy of the data delineated hereon.
Map was Updated/Created: August 27, 2013 (klr)

Source: City of Bismarck



LOT SURVEY

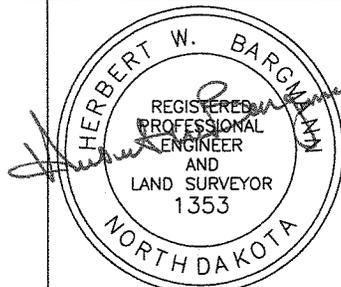
LOT 13 BLOCK 1
 SUBDIVISION Ridgeview Acres
 ADDRESS 2001 Sherman Drive
 BUILDER Mark Holzer ~ 220-2035



SCALE: 1" = 60'
 DATE: 5/20/08
 REVISED:

LEGEND

- MONUMENT FOUND
- ⊙ MONUMENT SET
- BUILDING SETBACK



DATE:

Wold Engineering, P.C.

Consulting Engineers & Land Surveyors

BOTTINEAU, NORTH DAKOTA
 915 E. 11th ST.
 P.O. BOX 237 - 58518
 (701) 228-2292

MINOT, NORTH DAKOTA
 110 - 8th Ave SW
 P.O. BOX 1815 - 58702
 (701) 852-0338

BISMARCK, NORTH DAKOTA
 316 EASTDALE DRIVE
 P.O. BOX 1277 - 58502
 (701) 258-9227

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

1. Property Address or Legal Description: Lot (13) Block (1) Ridgeway Acres

2. Location of Property: City of Bismarck ETA Burleigh County

3. Type of Variance Requested: Adjustment of 40' Set Back

4. Applicable Zoning Ordinance Chapter/Section: 14-04-01, # 4

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.)

See Attachment

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

See Attachment

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

See Attachment

Mark Holzer
2001 Sherman Drive
Bismarck, ND 58504

Attachment #1

Question #5

Our house was built in 1975. At the time it the house was located in the northeast area of the property which currently has placed a topographic hardship on our ability to build a detached garage to the east side of our existing house. Although our lot is approximately 2.65 acres, approximately 2.24 acres to the south, southeast, and west is unbuildable because of a 20% slope Our property is on a corner lot which also limits our ability to expand because of the 19 ft utility easement and the 40 ft setback on both the north and east side of the existing property.

Question #6

In exploring all options to erecting this structure (detached 32 X 28 garage) and all possible locations, the proposed location of the garage is the only financial and practical location to build.

Question #7

The Variance requested would be for allowance to build 21 ft into the existing setback. This would allow for the construction of a 32 wide by 24 ft deep detached double garage that would be located 6 feet from our existing garage. Our current garage is 20 x 20 and is unusable as a garage because of it's size. ALL of our vehicles are parked outside in our driveway.

Currently, all utilities run in from behind all lots in our subdivision, utility easements are not a problem. My request will be over 25ft from our neighbors property, not affecting the 19 ft requirement. My request will not affect the safety or traffic flow or future road construction as a four lane road will never be constructed in this area. The proposed variance will not be a safety concern, as we have two entrances to the main road and never back into the street or have vehicles parked within 60 feet of the entrance unlike other property owners in the area.

The variance requested is not something that hasn't been granted or allowed in the past.
See Attachment:

Lot #5 is approximately 19 ft from setback
Lot #2 is approximately 22 ft from setback
Lot #7 building setting 1 ft from property line.



CITY OF BISMARCK
BUILDING DIVISION
221 N 5TH ST
BISMARCK, ND 58506-5503
PH (701) 355-1465



CITY OF BISMARCK / ETA & BURLEIGH COUNTY

RECEIVED DATE: _____

CONTACT INFORMATION:

1. Name: Mark Holzer

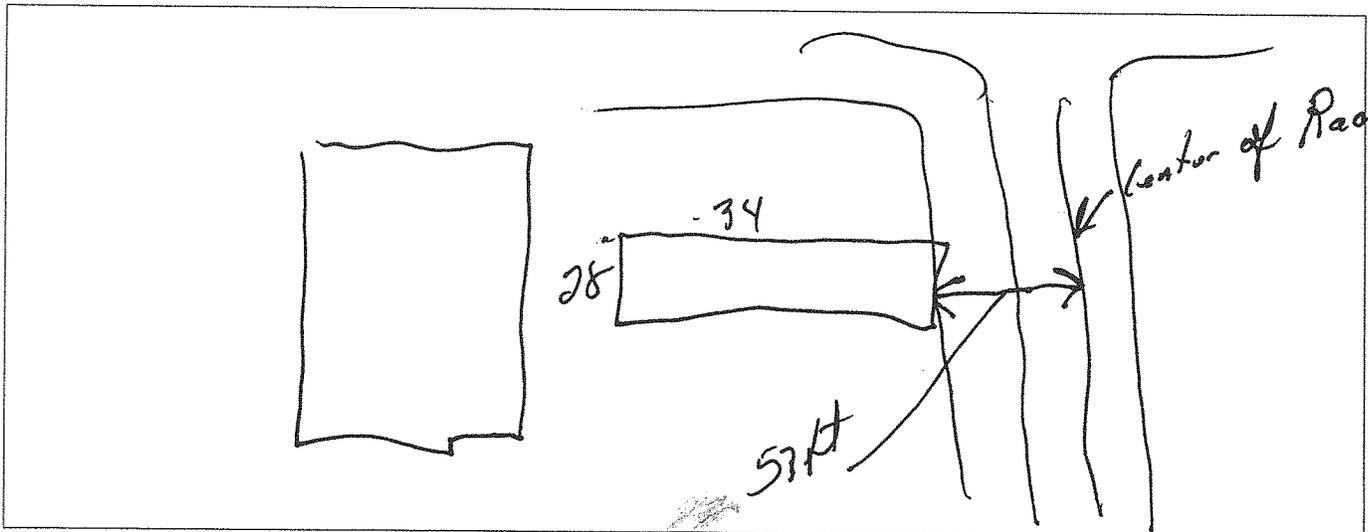
2. Phone Number: 701-220-2035

3. Property Address: 2001 Sherman Drive

4. Location of Property: City of Bismarck ETA Burleigh Country

5 Reason for variance I would like to Build a garage 28x34' to the east of My Existing Home. Because of the set back of 40ft from the edge of the Road it might Be tight getting it to fit. I am asking for a variance that would allow me to Build up on within 53' from the Center of the Road.

6. In the space below, please draw your lot, all existing buildings located on your lot and the proposed structure. Include dimensions of buildings , distance between buildings and your property lines.



7. Your application has been reviewed. It has been:

Approved

Denied

Reviewed By:



Date:

6-3-13

8. Reason for denial:

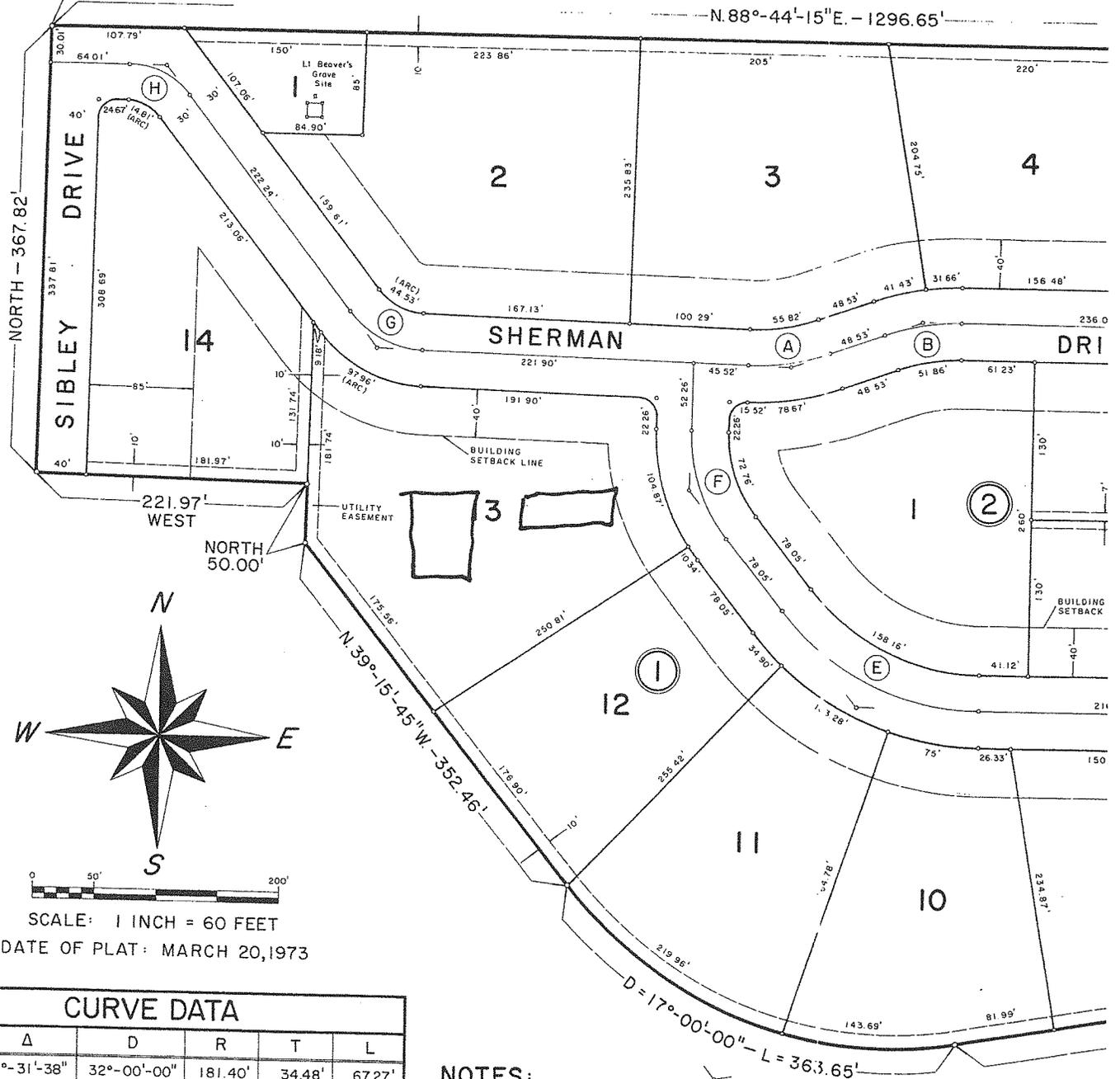
Ordinance 14-04-01, 4. requires a
40' setback from the property line.

Please make the corrections and resubmit the application

Please note that an application for a permit is deemed to be abandoned 180 days after the date of filing, unless the application has been pursued in good faith or a permit has been issued. Therefore, supply us with the required plans at your earliest convenience.

PLAT OF RIDGEVIEW ACR BURLEIGH COUNTY, NORTH DAKOTA

NORTHWEST CORNER OF
SW 1/4 OF SE 1/4 OF
SECTION 27, 138-80

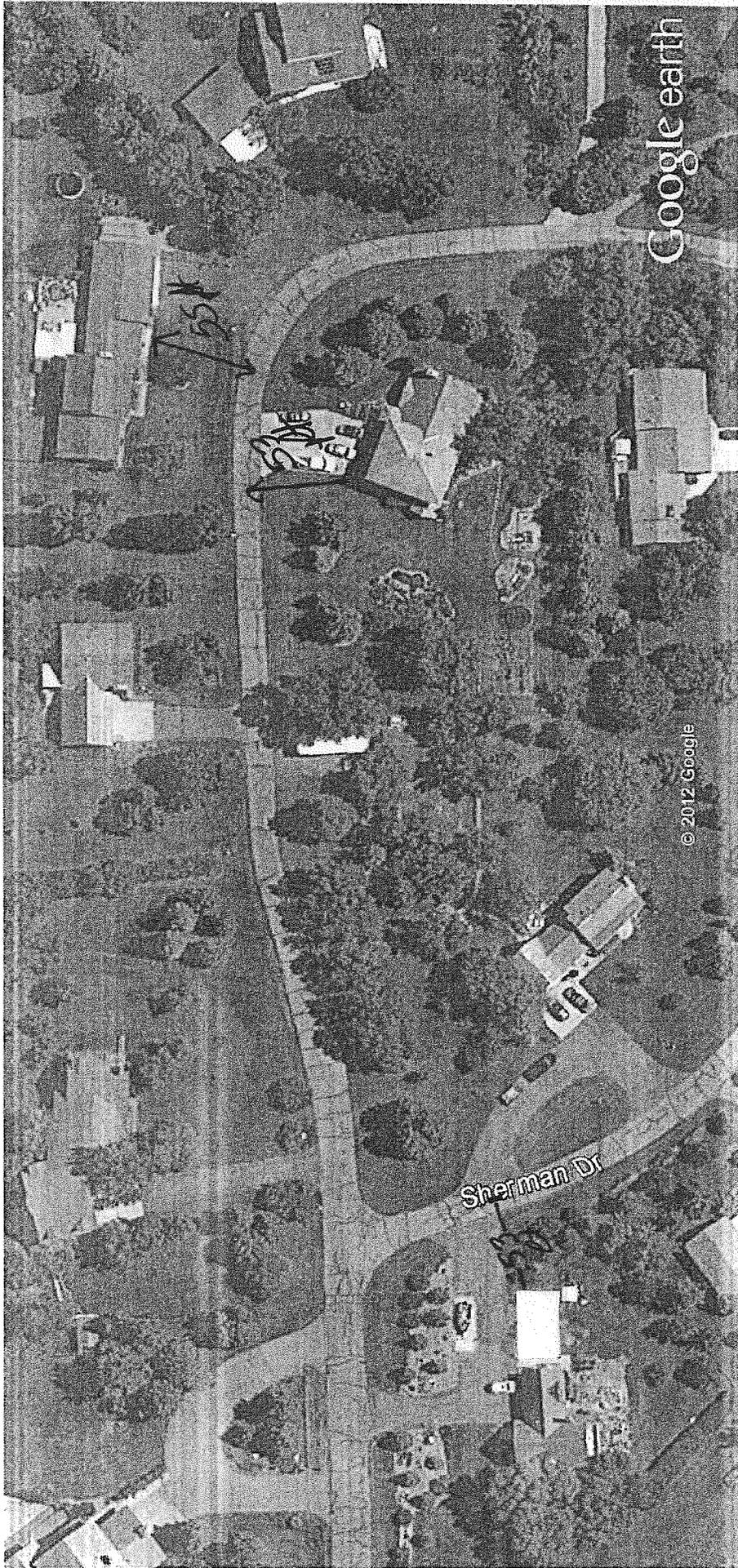


SCALE: 1 INCH = 60 FEET
DATE OF PLAT: MARCH 20, 1973

CURVE DATA					
CURVE	Δ	D	R	T	L
A	21°-31'-38"	32°-00'-00"	181.40'	34.48'	67.27'
B	20°-00'-00"	32°-00'-00"	181.40'	31.99'	62.50'
C (ARC)	90°-14'-16"	71°-37'-11"	80.00'	80.33'	126.00'
D (ARC)	89°-45'-44"	71°-37'-11"	80.00'	79.67'	125.33'
E	52°-00'-00"	28°-00'-00"	206.68'	100.80'	185.71'

NOTES:

- (1) 0 FEET FROM THE MONUMENT
 - (2) ALL CURVE RADIUS AT 15' SET INTERSECTIONS ARE ROUNDED WITH A FIFTEEN (15) FOOT RADIUS
 - (3) CURVE'S CHORD IS GREATER THAN ONE HUNDRED (100) FEET TO QUALIFY FOR CHORD DEFINITION. ALL OTHER CURVES ARE DEFINED BY CHORD DEFINITION.
- ALL THAT PART OF THE PLAT... NORTH OF 128th AND FORTY-FOUR... BEGINNING AT A POINT WHICH... FORTY-EIGHT DEGREES, FORTY-FOUR MINUT... SOUTHWEST QUARTER (SW 1/4) A DISTANCE... THE SAID SOUTHWEST QUARTER OF THE SOUT... BEING THE EAST LINE OF THE PLAT...



Google earth

© 2012 Google

Sherman Dr

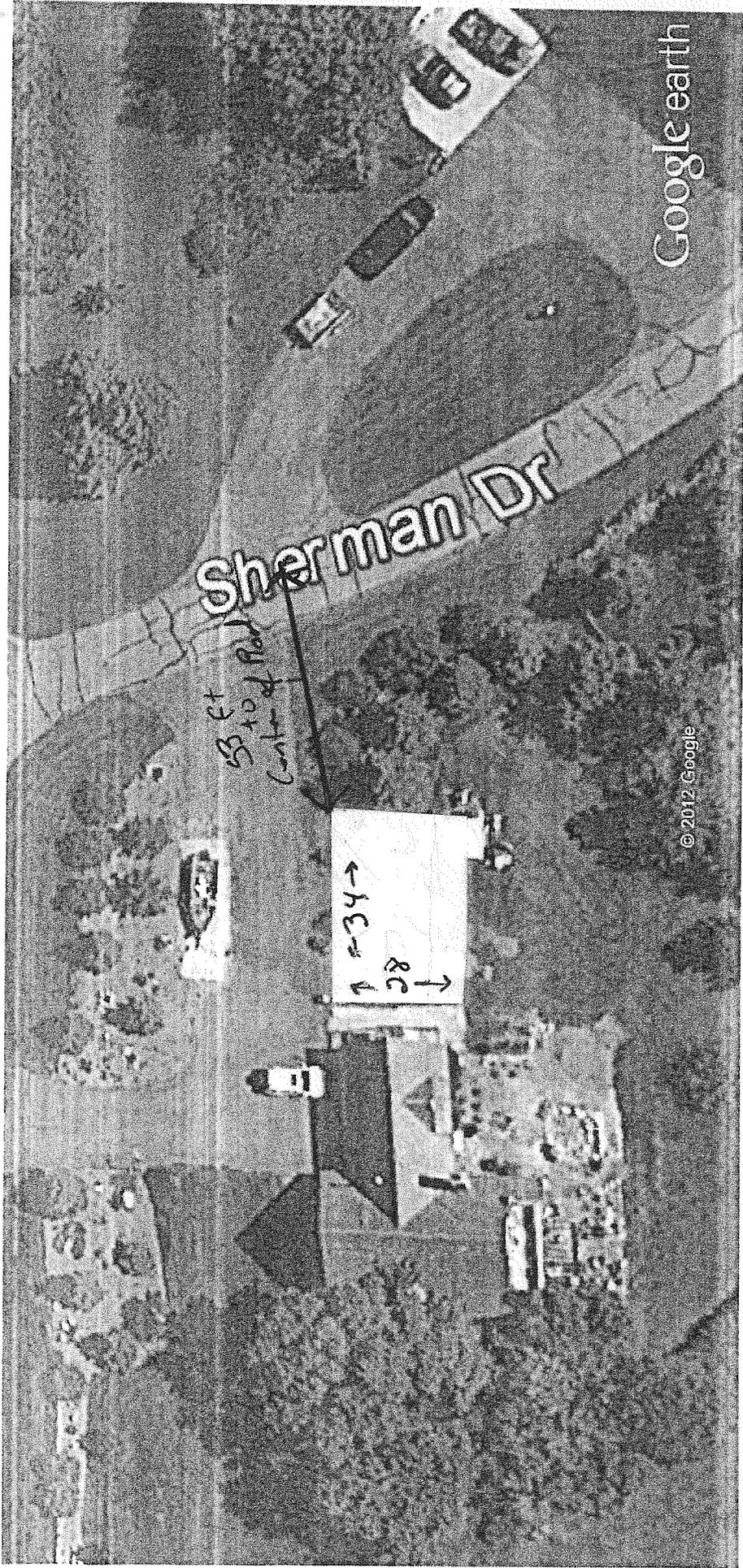
500

100

feet
meters

Google earth

Handwritten note:
Elevation
no reply



Google earth

© 2012 Google

Google earth

feet
meters

100

50



**BISMARCK-BURLEIGH COMMUNITY DEVELOPMENT DEPARTMENT
STAFF REPORT**

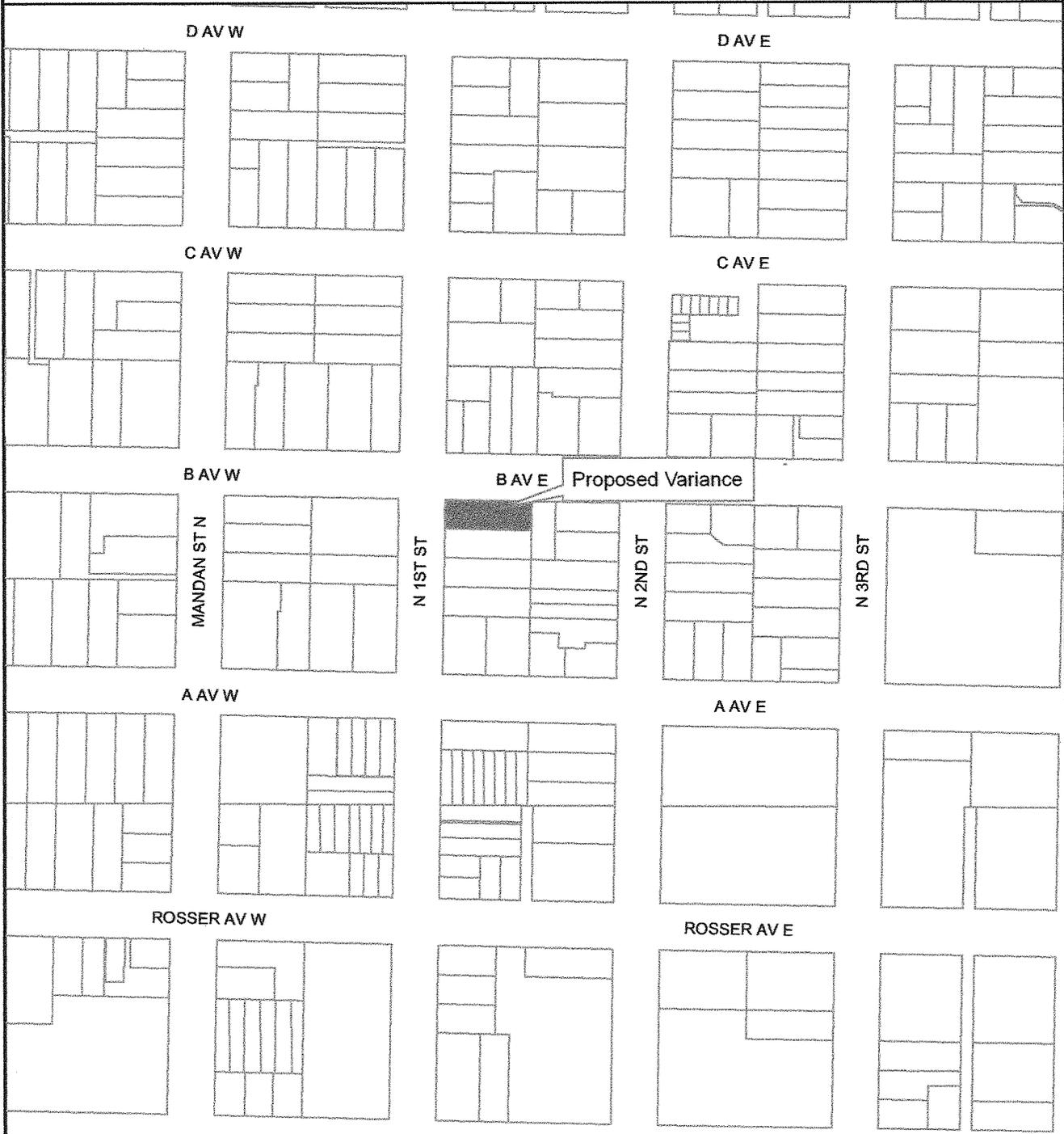
BACKGROUND:	
Title: 523 North 1 st Street – Variance (Front Yard) (Lot 12, Block 16, Northern Pacific Addition)	
Status: Board of Adjustment	Date: September 5, 2013
Owner(s): Kristopher Smotherman	Engineer: None
Reason for Request: Variance from Section 14-04-03(7) of the City Code of Ordinances (R5-Residential District) (Front Yard) to reduce the required front yard setback along the north side of the property from 25 feet to 15 feet in order to construct a 840 square foot (30'x28') accessory building.	
Location: The property is located at the southeast intersection of North 1 st Street and East B Avenue.	
APPLICABLE PROVISION(S) OF ZONING ORDINANCE:	
<ol style="list-style-type: none"> 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 hardship upon the owner, as distinguished from a mere inconvenience or desire to increase the financial return.” Section 14-02-03 of the City Code of Ordinances (Definitions) defines an accessory building as, “A subordinate building or structure, the use of which is customarily incidental to that of the principal building on the same lot.” Section 14-04-03(7) of the City Code of Ordinances (R5-Residential District)(Front Yard) states, “Each platted lot shall have a front yard not less than forty (25) feet in depth as measured from the front property line.” 	
ADDITIONAL INFORMATION:	
<ol style="list-style-type: none"> The applicant intends to demolish the existing 224 square foot (18'x12') accessory building located along the east side of the property and construct the proposed accessory building in the general location of the existing accessory building 	
FINDINGS:	
<ol style="list-style-type: none"> 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 classification. The hardship is not caused by the provisions of the Zoning Ordinance. Strict application of the provisions of the Zoning Ordinance would not deprive the property owner of the reasonable use of the property. The requested variance is not the minimum variance that would accomplish the relief sought by the applicant. The granting of the variance is not in harmony with the general purposes and intent of the Zoning Ordinance. 	

RECOMMENDATION:

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

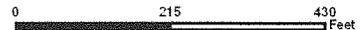
If granted, the variance must be put to use within 24 months or it shall lapse and the landowner must reapply.

Proposed Variance Lot 12, Block 16, Northern Pacific Addition 523 North 1st Street



DISCLAIMER: This map is for representation use only and does not represent a survey. No liability is assumed as to the accuracy of the data delineated hereon.
Map was Updated/Created: August 27, 2013 (klr)

Source: City of Bismarck



RECEIVED

AUG 13 2013

IN



**CITY OF BISMARCK/ETA & BURLEIGH COUNTY
APPLICATION FOR APPROVAL OF A VARIANCE
WRITTEN STATEMENT**

RECEIVED
AUG 13 2013

1. Property Address or Legal Description:
2. Location of Property: City of Bismarck ETA Burleigh County
3. Type of Variance Requested:
4. Applicable Zoning Ordinance Chapter/Section:
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.)

Without a larger 'garage' structure I am limited to keeping my 3 vehicles on the streets cluttering up the aesthetic value of my neighborhood. Unfortunately with my absurdly wide boulevard, any erected structure is limited to 20' (footing) and I cannot fit my truck w/ hitch. If I could build a proper garage, the value of my property would increase, allowing for more taxes! It will be a very fashionable garage modeled after the house design.

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

in #5 ↑ I answered thus, however, let me further say, that if I were able to park all my vehicles in a garage it would benefit myself and my neighbors.

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

the space is quintessential to have the garage design match the dimensions and value of the house. -

Called - 8/15/13

BIF010

RECEIVED

AUG 13 2013

CITY OF BISMARCK
BUILDING DIVISION
221 N 5TH ST
BISMARCK, ND 58506-5503
PH (701) 355-1465

Bismarck



CITY OF BISMARCK / ETA & BURLEIGH COUNTY ADMINISTRATIVE VARIANCE APPLICATION

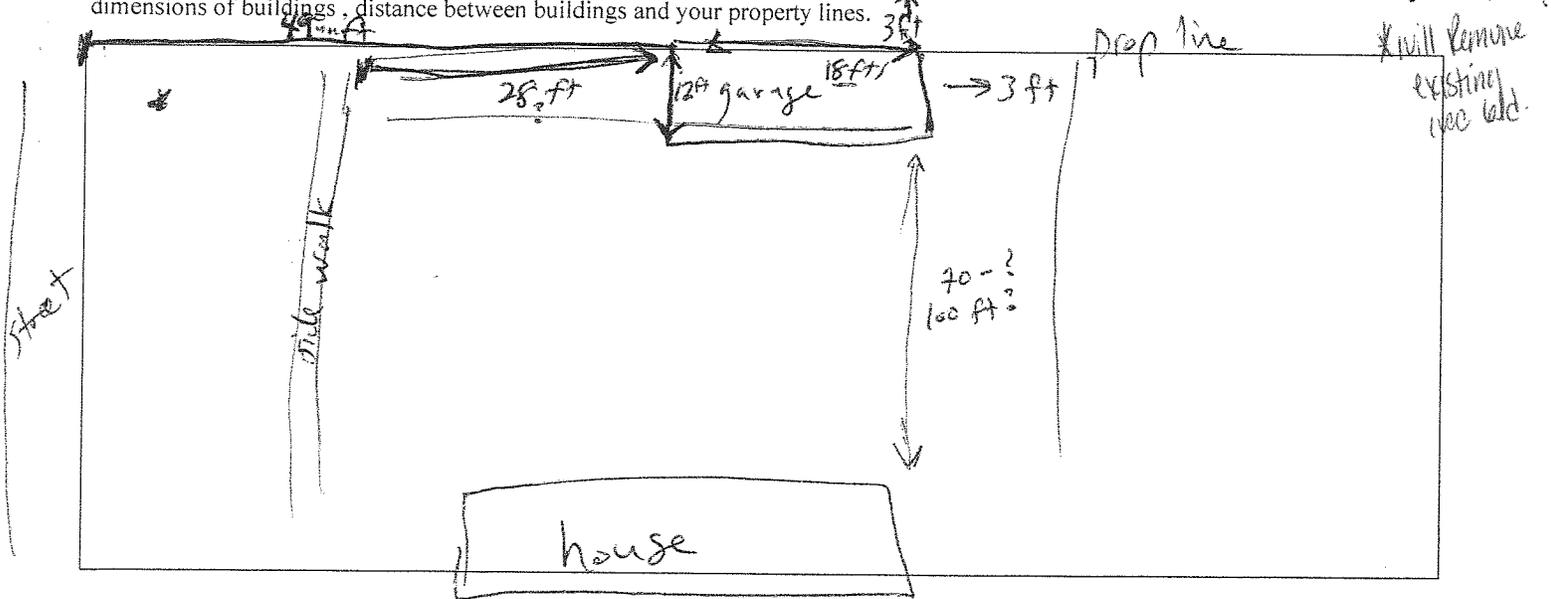
RECEIVED DATE: _____

CONTACT INFORMATION:

- 1. Name: Kristopher Smotherman
- 2. Phone Number: 701-226-1034
- 3. Property Address: 523 N 1st St 58501
- 4. Location of Property: City of Bismarck ETA Burleigh County

5 Reason for variance I want to rebuild a garage that can actually hold my boat and/or truck and work van. The new structure needs to be 30' in length (deep) in order to contain the trailer. 30' would push me to only 18' ft from the side walk, rather than 25'. If I could have the line pushed from 25' to 15' I would be able to work out the new garage, which would greatly beautify my property.

6. In the space below, please draw your lot, all existing buildings located on your lot and the proposed structure. Include dimensions of buildings, distance between buildings and your property lines.



* I have a very wide Blvd. moving my garage up to 30' would still give me 40-41 ft from the road

7. Your application has been reviewed. It has been:

Approved

Denied

Reviewed By: *[Signature]*

Date: 8-5-13

8. Reason for denial: a 25' set back is required

Please make the corrections and resubmit the application

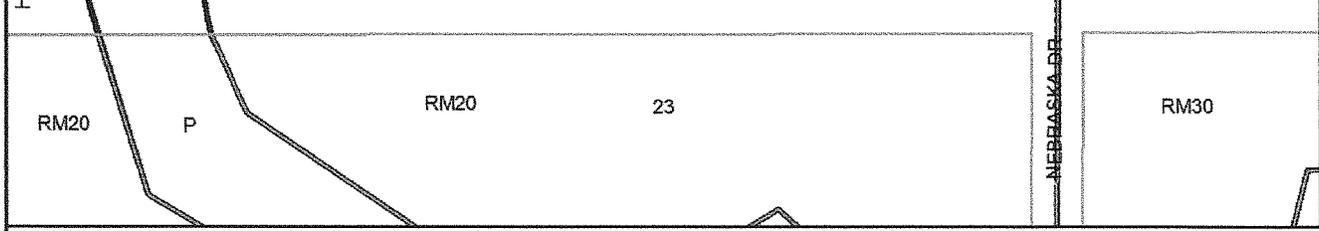
Please note that an application for a permit is deemed to be abandoned 180 days after the date of filing, unless the application has been pursued in good faith or a permit has been issued. Therefore, supply us with the required plans at your earliest convenience.

**BISMARCK-BURLEIGH COMMUNITY DEVELOPMENT DEPARTMENT
STAFF REPORT**

BACKGROUND:	
Title: 4560 Hillsboro Drive – Variance (Rear Yard) (Lot 1, Block 4, Grand Prairie Estates)	
Status: Board of Adjustment	Date: September 5, 2013
Owner(s): Lonny Bosch	Engineer: None
Reason for Request: Variance from Section 14-04-01(6) of the City Code of Ordinances (RR-Residential District) (Rear Yard) to reduce the required rear yard setback along the west side of the property from 50 feet to 35 feet in order to construct a 1,200 square foot (30'x40') accessory building.	
Location: The property is located along the west side of Hillsboro Drive between West Roundup Road and East Roundup Road.	
APPLICABLE PROVISION(S) OF ZONING ORDINANCE:	
<ol style="list-style-type: none"> 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 hardship upon the owner, as distinguished from a mere inconvenience or desire to increase the financial return." Section 14-02-03 of the City Code of Ordinances (Definitions) defines an accessory building as, "A subordinate building or structure, the use of which is customarily incidental to that of the principal building on the same lot." Section 14-04-01(6) of the City Code of Ordinances (RR-Residential District)(Rear Yard) states, "Each platted lot shall have a rear yard not less than forty (50) feet in depth as measured from the front property line." 	
FINDINGS:	
<ol style="list-style-type: none"> 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 RR-Residential zoning classification. The hardship is not caused by the provisions of the Zoning Ordinance. Strict application of the provisions of the Zoning Ordinance would not deprive the property owner of the reasonable use of the property. The requested variance is not the minimum variance that would accomplish the relief sought by the applicant. The granting of the variance is not in harmony with the general purposes and intent of the Zoning Ordinance. 	
RECOMMENDATION:	
Staff recommends reviewing the above findings and modifying them as necessary to support the decision of the Board.	
If granted, the variance must be put to use within 24 months or it shall lapse and the landowner must reapply.	

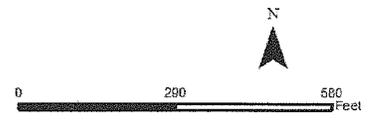
Proposed Variance

Lot 1, Block 4, Grand Prairie Estates (4560 Hillsboro Drive)



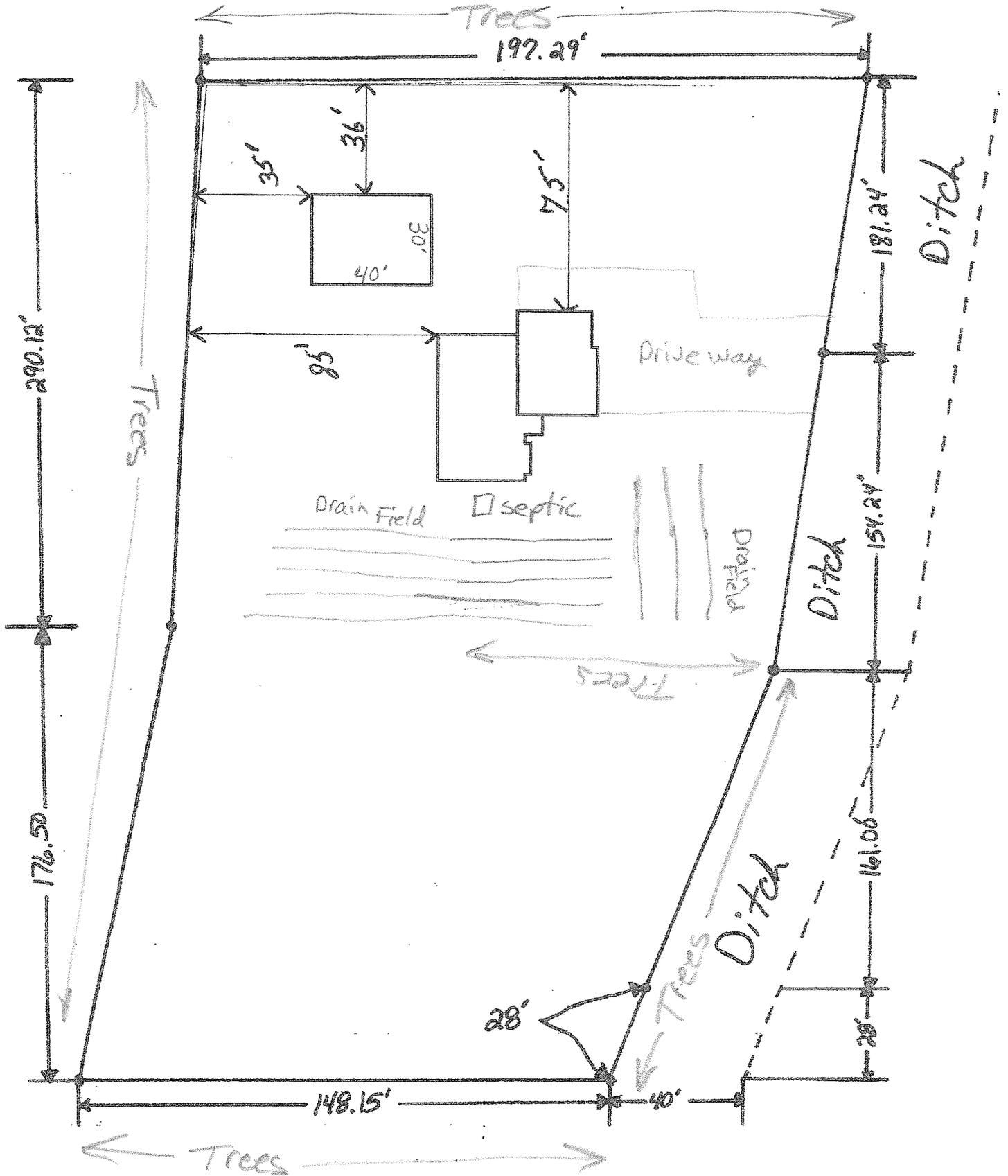
DISCLAIMER: This map is for representation use only and does not represent a survey. No liability is assumed as to the accuracy of the data delineated hereon.
Map was Updated/Created: August 26, 2013(jw)

Source: City of Bismarck



Measured 8-17-94

2 Acres



41

**CITY OF BISMARCK/ETA & BURLEIGH COUNTY
APPLICATION FOR APPROVAL OF A VARIANCE
WRITTEN STATEMENT**

1. Property Address or Legal Description:
2. Location of Property: City of Bismarck ETA Burleigh County
3. Type of Variance Requested:
4. Applicable Zoning Ordinance Chapter/Section:
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.)

Considering the location of the existing house: the existing mature trees, the drain field, we would have to make an additional approach if put on South part of lot. If detached garage could be placed North West corner by existing house would be closer for use and can use existing approach. Placing the detached garage back as far as we can will allow better drainage.

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

Putting the detached garage back by 15 ft. will require less fill dirt and will allow for better drainage. Other locations on the lot are not desirable due to the need for another approach, removal of existing mature trees and the existing drain field.

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

We are asking for a 35 ft. set back from the back of the lot instead of the 50 ft so the detached garage isn't so close to the house for better drainage and less fill dirt. There are 35 ft. total of large full mature trees which would separate the back of the detached garage to the property line and the neighbor's adjoining lot.

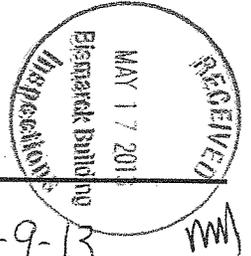
We have spoken to the adjoining neighbors and the Grand Prairie Covenant Committee and they are in favor of this variance request.

called
5/20/13
LM



CITY OF BISMARCK
BUILDING DIVISION
221 N 5TH ST
BISMARCK, ND 58506-5503
PH (701) 355-1465

CITY OF BISMARCK / ETA & BURLEIGH COUNTY
ADMINISTRATIVE VARIANCE APPLICATION



RECEIVED DATE: 5-9-13 WMM

CONTACT INFORMATION:

1. Name: Lonny Bosch

2. Phone Number: 701-258-9215

3. Property Address: 4560 Hillsboro Dr

4. Location of Property: City of Bismarck ETA Burleigh County

5 Reason for variance We would like to request a 15 ft easement encroachment to move the new detached garage back 15 ft to allow for better drainage between the house & the detached garage. This would still allow 35 ft to the existing property line on back of the property which is buffered by aged pine & Green Ash trees. This allows 4 rows of trees between the detached garage & the neighbors property.

6. In the space below, please draw your lot, all existing buildings located on your lot and the proposed structure. Include dimensions of buildings, distance between buildings and your property lines.

See attached...

7. Your application has been reviewed. It has been:

Approved

Reviewed By:

[Signature]

Denied

Date:

8. Reason for denial:

Ordinance 14-04-01

required a 50 ft rear yard setback

Please make the corrections and resubmit the application

Please note that an application for a permit is deemed to be abandoned 180 days after the date of filing, unless the application has been pursued in good faith or a permit has been issued. Therefore, supply us with the required plans at your earliest convenience.

RE: Outbuilding Erection at 4560 Hillsboro Dr

Date: August 07, 2013

To Whom It May Concern,

On Behalf of GPEA (Grand Prairie Estates Association), this letter is intended to witness support for the erection of an outbuilding that complies with the GPEA Covenants, at a residence within the Grand Prairie Estates subdivision of Burleigh County. The outbuilding request is at a 15' variance to the required 50' setback from a property line. As noted in the attached request, this 15' variance still allows a 35' setback from the property line, with mature trees lying on the line as additional buffer.

We the committee feels that this is a reasonable request and all other restrictions will be complied with per city, county, and association codes. The homeowner – Lonny Bosch, who has a place of residence at 4560 Hillsboro Dr, Bismarck ND – Burleigh County - has every intention of improving his property and complying with all restrictions or requirements for this construction.

Sincerely,

Matt Sagaser

A handwritten signature in cursive script, appearing to read "Matt Sagaser", with a long horizontal flourish extending to the right.

President, GPEA

4420 Hillsboro Drive

Bismarck ND, 58503

701-678-4133

**BISMARCK-BURLEIGH COMMUNITY DEVELOPMENT DEPARTMENT
STAFF REPORT**

BACKGROUND:	
Title: 2228 East Front Avenue – Variance (Off-Street Parking) (Lots 4 and 5, Block 6, Casey’s Industries Inc. 1 st Addition)	
Status: Board of Adjustment	Date: September 5, 2013
Owner(s): Curt Binstock	Engineer: None
Reason for Request: Variance from Section 14-03-10(h) of the City Code of Ordinances (Off-Street Parking and Loading) (Retail Establishments) and Section 14-03-10(n) of the City Code of Ordinances (Off-Street Parking and Loading)(Warehouse/Storage Facilities) to reduce the number of required off-street parking space for retail facilities and warehouse/storage facilities from 32 spaces to 24 spaces in order to construct a 9,216 square foot addition to the existing building.	
Location: The property is located along the north side of East Front Avenue, south of BNSF Rail Line.	
APPLICABLE PROVISION(S) OF ZONING ORDINANCE:	
<ol style="list-style-type: none"> 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 hardship upon the owner, as distinguished from a mere inconvenience or desire to increase the financial return.” Section 14-03-10(h) of the City Code of Ordinances (Off-Street Parking and Loading)(Retail Establishments) states “In a MA-Industrial District off-street parking shall be provided in an amount equivalent to one space for each two hundred (200) square feet of gross floor space area on the ground floor, plus one space for each three hundred (300) square feet of gross floor area in a basement or any story above ground floor.” Section 14-03-10(i) of the City Code of Ordinances (Off-Street Parking and Loading)(Office Building) states “one space for each two hundred fifty (250) square feet of gross floor area.” Section 14-03-10(n) of the City Code of Ordinances (Off-Street Parking and Loading)(Warehouse/Storage Facilities) states “One space for each six hundred (600) square feet of storage space. Retail and office areas shall meet the requirements of subsections h. and i. of Section 14-03-10 of the Zoning Ordinance.” 	
ADDITIONAL INFORMATION:	
<ol style="list-style-type: none"> This variance request has been submitted prior to a submittal of a formal site plan for review. The applicant intends to construct an addition to the existing building. The proposed addition will be located on the north side of the property and will have a building footprint of 9,216 square feet. According to the site plan submitted, a total of 32 off-street parking spaces are required; 8.5 spaces for the retail portion of the addition, 1.3 spaces for the office portion of the addition and 21.9 spaces for the warehouse/storage facility portion of both the exiting building and proposed addition. All required off-street parking spaces are required to be surfaced with a hard-surfaced material. 	
FINDINGS:	
<ol style="list-style-type: none"> 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 MA-Industrial zoning classifications 	

(continued)

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.

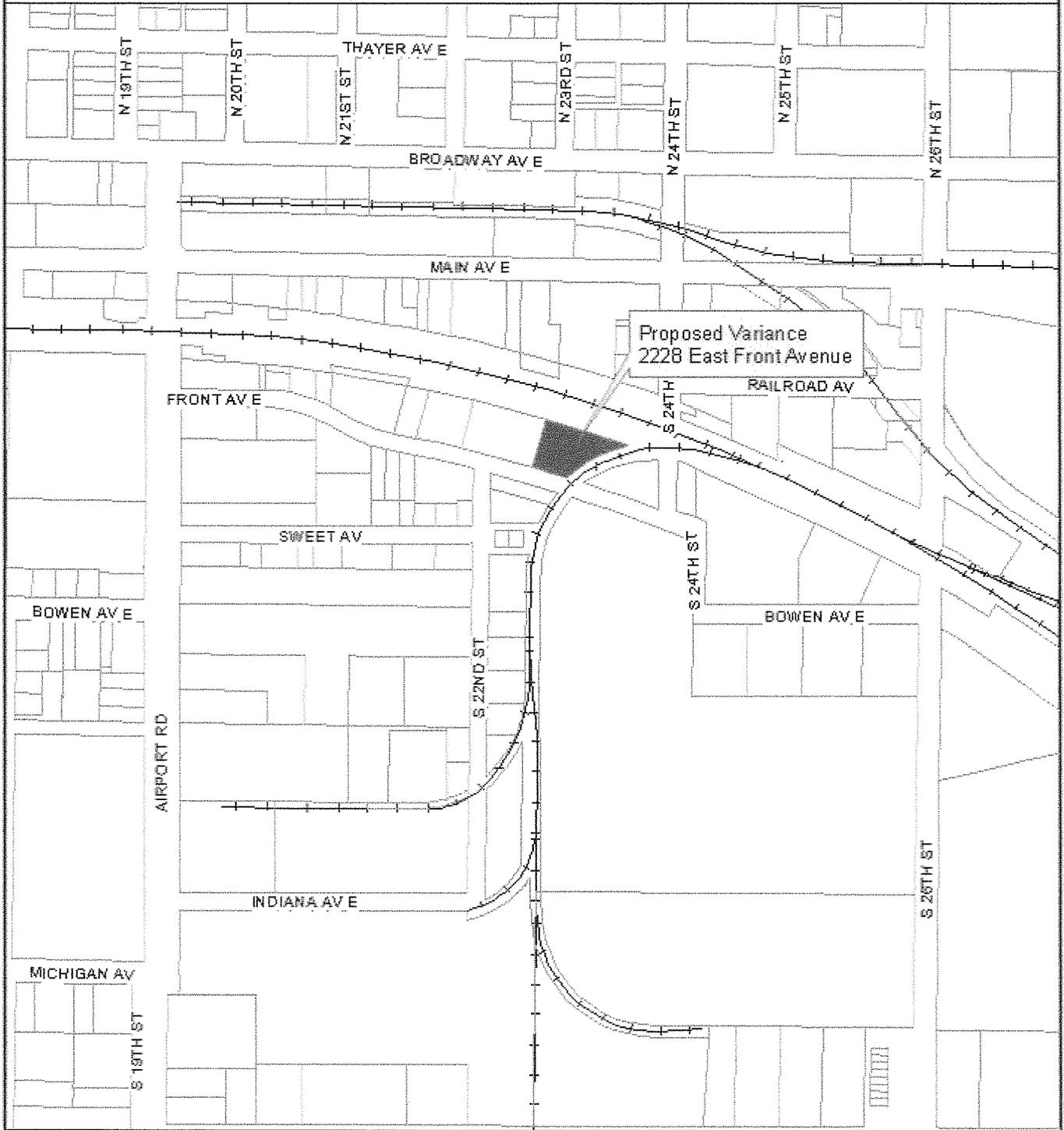
RECOMMENDATION:

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

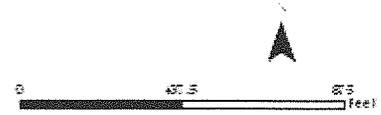
If granted, the variance must be put to use within 24 months or it shall lapse and the landowner must reapply.

Proposed Variance

Lots 4 & 5, Block 6, Casey's Industrial Inc 1st Addition



Map prepared by the City of Chicago, Department of Planning and Economic Development, 120 North Dearborn Street, Chicago, Illinois 60602. All rights reserved. No part of this map may be reproduced without the written permission of the City of Chicago.



**CITY OF BISMARCK/ETA & BURLEIGH COUNTY
APPLICATION FOR APPROVAL OF A VARIANCE
WRITTEN STATEMENT**

1. Property Address or Legal Description: 2228 E. Front Ave/ Lots 4 and 5 of Block 6 of Casey's Ind. Inc

2. Location of Property: Bismarck City of Bismarck ETA Burlei

3. Type of Variance Requested: Off Street Parking Limitations

4. Applicable Zoning Ordinance Chapter/Section: MA (Light Industrial)

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 property is located on east front street directly south of an active rail line and west of an inactive spur line creating an irregularly shaped property. The irregular shape limits available parking for the proposed industrial warehouse building.

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

The site allows for a reasonable amount of parking for existing and proposed building but, due to the irregularly shaped property, limits available parking by several stalls. The proposed plan allows for more parking than neighboring properties in the immediate area.

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

The proposed plan has maximized the number of available parking stalls in accordance with city ordinance regarding stall size, sufficient space for parking maneuvers, and methods of ingress and egress for loading areas.

The requested variance is the minimum necessary to complete the proposed building project.

CITY OF BISMARCK
BUILDING DIVISION
221 N 5TH ST
BISMARCK, ND 58506-5503
PH (701) 355-1465

CITY OF BISMARCK / ETA & BURLEIGH COUNTY
ADMINISTRATIVE VARIANCE APPLICATION

RECEIVED DATE: 6/20/13

CONTACT INFORMATION:

1. Name: Ross & Associates Llc - Mark Hurstad.

2. Phone Number: 701-200-3560

3. Property Address: 2228 East Front Ave

4. Location of Property: City of Bismarck ETA Burleigh County

5 Reason for variance: Northwest Industrial Supply currently leases approximately 6000 sf of warehouse storage across Front Ave. to the south. The owner would like to vacate the leased property and move to the new proposed building on its property. In order to accommodate parking for existing and proposed building the owner is in need of a variance.

6. In the space below, please draw your lot, all existing buildings located on your lot and the proposed structure. Include dimensions of buildings , distance between buildings and your property lines.

See Attached

7. Your application has been reviewed. It has been:

Approved

Denied

Reviewed By:



Date:

8/20/13

8. Reason for denial:

Ordinance 14-09-10 requirements
for parking area not being met.

Please make the corrections and resubmit the application

Please note that an application for a permit is deemed to be abandoned 180 days after the date of filing, unless the application has been pursued in good faith or a permit has been issued. Therefore, supply us with the required plans at your earliest convenience.

**BISMARCK-BURLEIGH COMMUNITY DEVELOPMENT DEPARTMENT
STAFF REPORT**

BACKGROUND:	
Title: 2812 Woodland Drive – Variance (Floodplain / Accessory Building) (Lot 7, Block 1, Timberlane Place 2 nd Subdivision)	
Status: Board of Adjustment	Date: July 3, 2013
Owner(s): Thomas Brown	Engineer: None
Reason for Request: Variance from Section 14-04-19(6)(b)(1) of the City Code of Ordinances (Flood Hazard Reduction/Accessory Buildings) to reduce the elevation requirement for an accessory building being constructed in the Special Flood Hazard Area (SFHA), or 100-year Floodplain, from 2 feet above the Base Flood Elevation (BFE) to 0 feet above the Base Flood Elevation (BFE).	
Location: Along the north side of Woodland Drive and west side of Smokey Lane.	
APPLICABLE PROVISION(S) OF ZONING ORDINANCE:	
<ol style="list-style-type: none"> 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 hardship upon the owner, as distinguished from a mere inconvenience or desire to increase the financial return.” Section 14-04-19(6)(b)(1) (FP Floodplain District/Provisions for Flood Hazard Reduction/Accessory Buildings) states, “Accessory buildings over 120 square feet in area shall be subject to the same construction requirements as the residential structure to which it is accessory. New construction and substantial improvement of any residential structure shall have the lowest floor, including basement and/or crawl space, elevated on fill and/or a permanent foundation to at least two (2) feet above the base flood elevation. 	
ADDITIONAL INFORMATION – VARIANCES FROM FLOODPLAIN PROVISIONS:	
<p>In considering appeals and variance applications, and in addition to the requirements outlined in Section 14-06-02 of the City Code of Ordinances (Powers and Duties), the Board of Adjustment shall consider all technical evaluations, all relevant factors, and the standards specified in this section, including:</p> <ol style="list-style-type: none"> The danger to life and property due to flooding or erosion damage; The danger that materials may be swept onto other lands to the injury of others; The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner; The importance of the services provided by the proposed facility to the community; The necessity to the facility of a waterfront location, where applicable; The availability of alternative locations for the proposed use, which are not subject to flooding or erosion; The compatibility of the proposed use with the existing and anticipated development; The relationship of the proposed use to the comprehensive plan and floodplain management program for that area; 	
<i>(continued)</i>	

9. The safety of access to the property in times of flood for ordinary and emergency vehicles;
10. The expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site; and
11. The costs of providing governmental services during and after flood conditions, including maintenance and repair of utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.

FINDINGS:

Any Variance

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 RR-Residential zoning classification.
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 will 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; however, it is doubtful that it would be injurious to the neighborhood or otherwise detrimental to the public welfare.

Floodplain Variance

1. The 1,260 square foot (36'x35') accessory building may increase flood levels during the base flood discharge.
2. The variance is not the minimum necessary, considering the flood hazard, to afford relief.
3. The applicant has not shown good and sufficient cause for granting the variance.
4. A failure to grant the variance would not result in exceptional hardship to the applicant.
5. The granting of the variance may result in increased flood heights, additional threats to public safety and conflict with existing local laws or ordinances. However, it is doubtful the granting of the variance would cause fraud or victimization of the public.

RECOMMENDATION:

Staff recommends reviewing the findings above and modifying them as necessary to support the decision of the Board. Staff also recommends that if the variance is granted the following condition would apply:

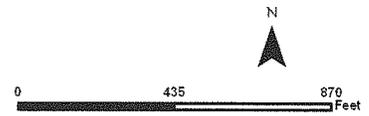
If granted, the variance must be put to use within 24 months or it shall lapse and the landowner must reapply.

Proposed Variance
Lot 7, Block 1, Timberlane Place 2nd Subdivision
2812 Woodland Drive



DISCLAIMER: This map is for representation use only and does not represent a survey. No liability is assumed as to the accuracy of the data delineated hereon.
Map was Updated/Created: August 27, 2013 (klr)

Source: City of Bismarck





**CITY OF BISMARCK/ETA & BURLEIGH COUNTY
APPLICATION FOR APPROVAL OF A VARIANCE
WRITTEN STATEMENT**

1. Property Address or Legal Description: 2912 Woodland Dr.

2. Location of Property: City of Bismarck ETA Burleigh County

3. Type of Variance Requested: 14-04-13/6/6/1

4. Applicable Zoning Ordinance Chapter/Section: Flood Plain

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.)

My existing house and garage are built to old standards. New code requires me to build new garage several feet higher than existing buildings and much higher than my driveway. Previous owner converted attached garage into living space. (2 car)

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

Don't know how I could make existing driveway work with new building because of height requirements. Have attached pictures of neighbors building built to new standards. and how high garage door is.

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

This building is for storing yard equipment and extra vehicles. Our land did not flood in last flood.



CITY OF BISMARCK
BUILDING DIVISION
221 N 5TH ST
BISMARCK, ND 58506-5503
PH (701) 355-1465

CITY OF BISMARCK / ETA & BURLEIGH COUNTY
ADMINISTRATIVE VARIANCE APPLICATION

RECEIVED DATE: _____

CONTACT INFORMATION:

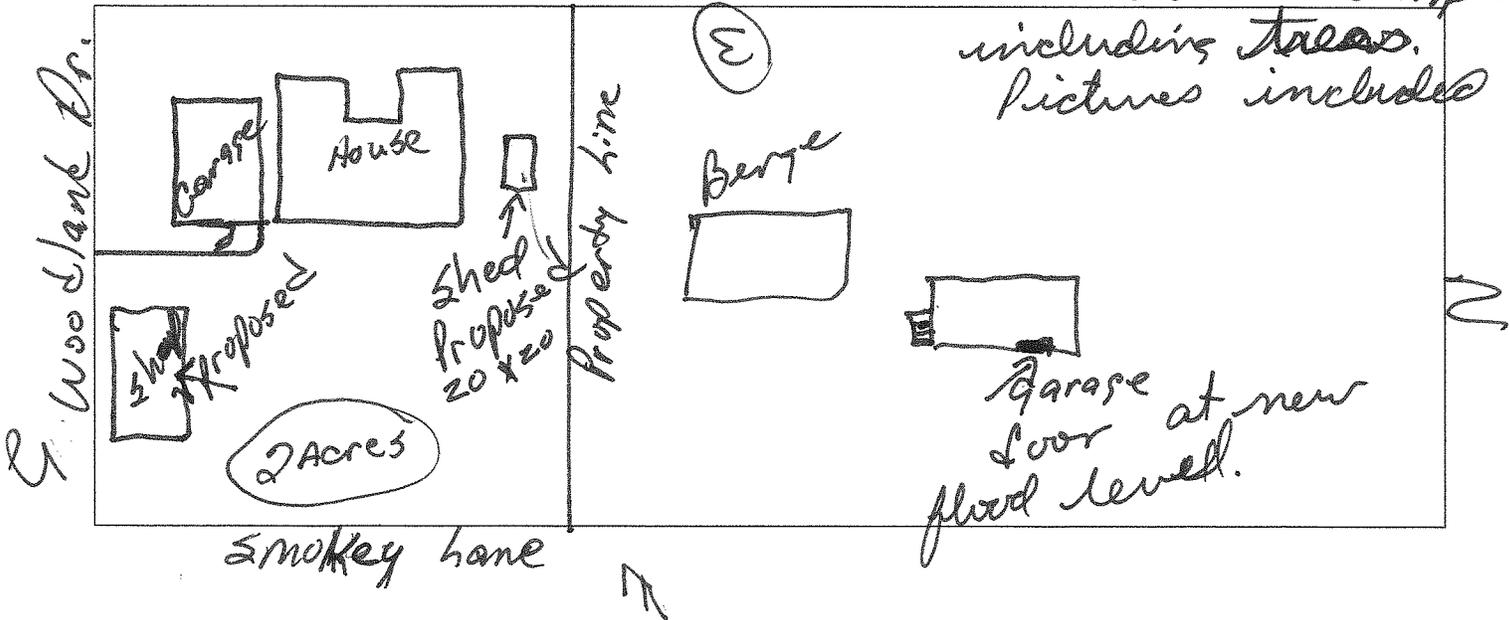
- 1. Name: Randy Pegors
- 2. Phone Number: 701-224-1112
- 3. Property Address: 2812 Woodland Dr. Bismarck 58504
- 4. Location of Property: City of Bismarck ETA Burleigh County

5 Reason for variance

Our house was built in 1978 to the (1634 ft at driveway?) level and shed and shop would have to be built 4 to 5 ft above my current driveway or yard. It would be completely useless + look terrible. Would

6. In the space below, please draw your lot, all existing buildings located on your lot and the proposed structure. Include dimensions of buildings, distance between buildings and your property lines.

have to alter terrain completely including trees. Pictures included



7. Your application has been reviewed. It has been:

Approved

Denied

Reviewed By:



Date:

5-24-13

8. Reason for denial:

Ordinance 14-04-09 requires
all accessory buildings over 120 sq. ft.
to be elevated 2' above B.F.E.

Please make the corrections and resubmit the application

Please note that an application for a permit is deemed to be abandoned 180 days after the date of filing, unless the application has been pursued in good faith or a permit has been issued. Therefore, supply us with the required plans at your earliest convenience.

**BISMARCK-BURLEIGH COMMUNITY DEVELOPMENT DEPARTMENT
STAFF REPORT**

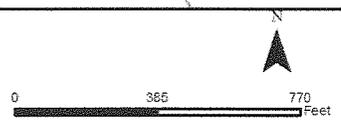
BACKGROUND:	
Title: 408 West Sweet Avenue – Variance (Front Yard) (Part of Park Hill Auditors Lots and Part of the NE ¼ & the E ½ of the NW ¼ of Section 5, T138N-80W/Lincoln Township)	
Status: Board of Adjustment	Date: September 5, 2013
Owner(s): Bismarck Park District	Engineer: None
Reason for Request: Variance from Section 14-04-16(4) of the City Code of Ordinances (P-Public Use District)(Front Yard) to reduce the required front yard setback along the south side of the property from 25 feet to 16 feet in order to construct a grandstand behind home plate at the Municipal Ball Park.	
Location: The property is located along the north side of West Sweet Avenue and west side of South Washington Street.	
APPLICABLE PROVISION(S) OF ZONING ORDINANCE:	
<ol style="list-style-type: none"> 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 hardship upon the owner, as distinguished from a mere inconvenience or desire to increase the financial return.” Section 14-02-03 of the City Code of Ordinances (Definitions) defines a structure as, “Anything constructed or erected, which requires location on the ground or is attached to something having a location on the ground; including but not limited to buildings, adverting signs, billboards and poster panels; but not including customary fences or boundary or retaining walls.” Section 14-04-16(4) of the City Code of Ordinances (P-Public Use District)(Front Yard) states, “Each platted lot shall have a front yard not less than forty (25) feet in depth.” 	
FINDINGS:	
<ol style="list-style-type: none"> 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 P-Public use zoning classification. The hardship is not caused by the provisions of the Zoning Ordinance. Strict application of the provisions of the Zoning Ordinance would not deprive the property owner of the reasonable use of the property. The requested variance is not the minimum variance that would accomplish the relief sought by the applicant. The granting of the variance is not in harmony with the general purposes and intent of the Zoning Ordinance. 	
RECOMMENDATION:	
<p>Staff recommends reviewing the above findings and modifying them as necessary to support the decision of the Board.</p> <p>If granted, the variance must be put to use within 24 months or it shall lapse and the landowner must reapply.</p>	

Proposed Variance
Part of Park Hill Auditors Lots and
Part of the NE ¼ & the E ½ of the NW ¼ of Section 5, T138N-80W/Lincoln Township
408 West Sweet Avenue



DISCLAIMER: This map is for representation use only and does not represent a survey. No liability is assumed as to the accuracy of the data delineated hereon.
 Map was Updated/Created: 08/30/13 (jw)

Source: City of Bismarck



**Municipal Field
Renovation & Site Layout**

**BISMARCK PARKS AND
RECREATION DISTRICT**
Est. 1927
400 East Front Avenue
Bismarck, ND 58504

Revision: _____ Date: _____ Description: _____ By: _____

- LEGEND**
- 4" ASPHALT PAVEMENT OVER EXISTING
 - - - EXISTING AREA DRAIN
 - EXISTING MAJOR CONTOUR
 - EXISTING MINOR CONTOUR



THIS DOCUMENT WAS ORIGINALLY
ISSUED AND SEALED BY
CLINTON KNUTSON
REGISTRATION NUMBER
PE-4623
ON 08/29/2013 AND THE ORIGINAL
DOCUMENT IS STORED AT
ULTEIG ENGINEERS



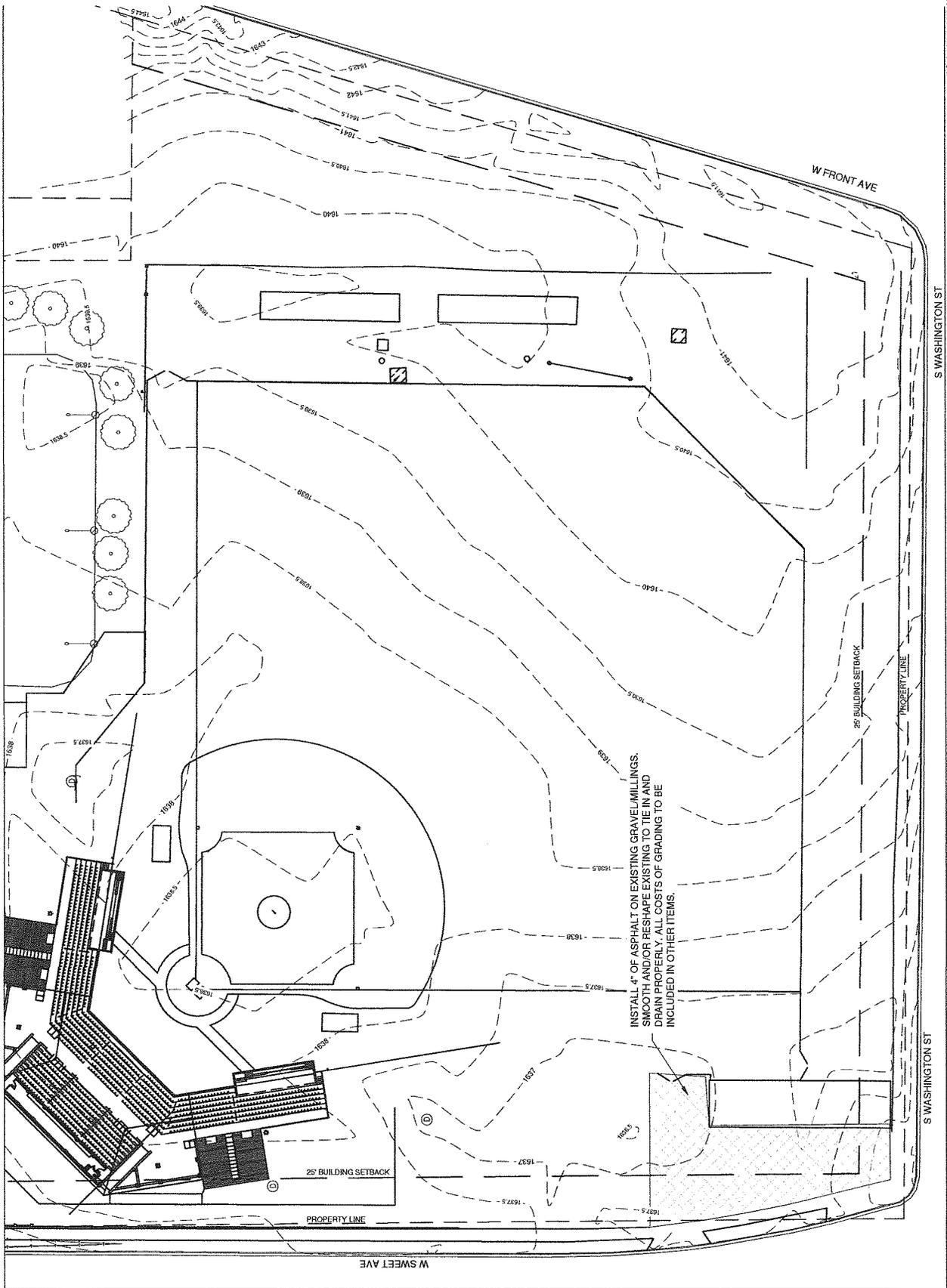
415 South Main Street
Bismarck, North Dakota 58504
Phone: 701.226.6507 Fax: 701.224.1163
Web: www.ulteig.com

Drawn By: CK
Checked By: CK
Approved By: CK

**MUNICIPAL FIELD
PAVING PLAN**

Project Number: 13-00015
Date: August 29, 2013
Sheet #: 8 of 12

X:\Project\2013\0815\paving\paving_Plan.dwg PLANS\2013.2.28.P16



S WASHINGTON ST

S WASHINGTON ST

W FRONT AVE

W SWEET AVE

PROPERTY LINE

25' BUILDING SETBACK

25' BUILDING SETBACK

PROPERTY LINE

25' BUILDING SETBACK

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

1. Property Address or Legal Description:

2. Location of Property: City of Bismarck ETA Burleigh County

3. Type of Variance Requested:

4. Applicable Zoning Ordinance Chapter/Section:

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.)

EXISTING BLEACHERS ENCRoACHED SEVERAL FEET, GRANDSTAND IS GETTING IMPROVED AND ENLARGED. DUE TO THE POSITION OF THE EXISTING FIELD WE WERE NOT ABLE TO MOVE THE NEW GRANDSTAND IN ENOUGH TO AVOID ENCRoACHMENT WITHOUT RE DESIGN. A SMALL CORNER ENCRoACHES 8.25 FEET

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

EXTENSIVE REWORKING OF THE FIELD WOULD BE REQUIRED TO ADJUST GRANDSTAND LOCATION.

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

ONLY A SMALL TRIANGLE OF THE GRANDSTAND ENCRoACHES ON THE SETBACK.