

**BISMARCK BOARD OF ADJUSTMENT
MEETING MINUTES
October 3, 2013**

The Bismarck Board of Adjustment met on October 3, 2013 at 4:00 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, Ken Heier, Blair Ihmels, Jeff Ubl and Michael Marback.

Staff members present were Kim Lee – Planning Manager, Jenny Wollmuth – Planner and Hilary Balzum – Community Development Office Assistant.

Others present were Kathleen Nordquist, Don Nordquist, Corey Castleman, Katie Vasbinder, David Hagerutt, Jessie Szarkowski, Dan Szarkowski, John Grassel and Michael Gunsch.

MINUTES:

Chair Marback asked for consideration of the minutes of the September 5, 2013 meeting.

MOTION: A motion was made by Mr. Ubl and seconded by Ms. Clark to approve the minutes of the September 5, 2013 meeting as distributed. With Board Members Clark, Heier, Ihmels, Ubl and Marback voting in favor, the minutes were approved.

VARIANCE FROM SECTION 14-04-06(7) OF THE CITY CODE OF ORDINANCES (R10-RESIDENTIAL DISTRICT)(FRONT YARD) – 914 SOUTH 17TH STREET

Chairman Marback stated the applicant was requesting a variance from the front yard setback requirement along the east side of his property from twenty-five (25) feet to twenty (20) feet in order to construct a 5'x8' uncovered deck on the second level of a proposed duplex.

Dan Szarkowski said he has taken pictures and has the addresses of other decks in the neighborhood that go into the setback, adding that a variance is necessary if he is going to add a deck to each unit of the complex. He then said it will also add curb appeal to the property.

Ms. Clark asked if the other unit will have a deck. Mr. Szarkowski replied that it will but it will be on the south side and will not be in the setback.

Ms. Clark then asked if it is an option to put the deck on the north side of the building instead. Mr. Szarkowski replied that it is possible but then it will be a very small distance from the neighboring house.

MOTION: A motion was made by Mr. Ihmels to approve the variance from the front yard setback requirement along the east side of the property from twenty-five (25)

feet to twenty (20) feet in order to construct a 5'x8' uncovered deck on the second level of a proposed duplex. . The motion was seconded by Mr. Ubl and was unanimously approved with Board Members Clark, Heier, Ihmels, Ubl and Marback voting in favor.

VARIANCE FROM SECTION 14-04-03(8) OF THE CITY CODE OF ORDINANCES (R5-RESIDENTIAL)(SIDE YARD) – 3312 DEVON PLACE

Chairman Marback stated the applicant was requesting a variance from the side yard setback requirement along the west side of his property from ten (10) feet to six (6) feet in order to construct a single-family dwelling.

Chairman Marback asked Mr. Lang, the applicant's contractor, what would the size of the rear yard be if the house was moved back further to the north. Mr. Lang said there would only be twenty-five (25) feet left.

Ms. Clark asked how many square feet the house is. Mr. Lang said it is 1700 square feet.

Don Nordquist said he lives at 3318 Devon Place and he is opposed to the variance. He said the lot itself would require a specially designed home, the plans are for the home to be too large to fit on the lot and also that doing so would decrease his home value. He then said Mr. Lang needs to move the house back on the lot and reduce its size.

John Grassel lives at 3326 Devon Place and he said he is also opposed to this request and thinks a larger front yard would look better and would be more suitable for the neighborhood.

Kathleen Nordquist also lives at 3318 Devon Place and she said most of the houses are set further back and one sticking further out would look odd.

Mr. Lang said if his request does not pass, he would be allowed by ordinance to move the garage along the east side of the property so that the east side yard is larger (11 feet) and reduce the side yard to six feet, and still be conforming.

Mr. Ihmels asked Mr. Nordquist what the setback is on his house. Mr. Nordquist guessed it is around 50 feet.

Mr. Ubl said it will take some work and creativity to make the required setback work, but it can be done with the current setback requirement.

MOTION: A motion was made by Mr. Ubl to deny the variance to reduce the side yard setback requirement along the west side of his property from ten (10) feet to six (6) feet in order to construct a single-family dwelling. The motion was seconded by Mr. Heier. With Board Members Clark, Heier, Ihmels, Ubl and Marback voting in favor of the motion, the motion was approved and the variance request was denied.

Chairman Marback informed the applicant, Mr. Lang, that he could appeal the decision to the City Commission if he chose to do so.

**VARIANCE FROM SECTION 14-03-10(h) OF THE CITY CODE OF ORDINANCES
(OFF-STREET PARKING)(RETAIL ESTABLISHMENTS) – 411 FRAINE
BARRACKS ROAD (Part of Block 2, River Heights Addition)**

Chairman Marback stated the applicant was requesting a variance from the off-street parking requirements for retail facilities to reduce the required off-street parking spaces to 27 spaces on the existing site to allow for the re-adaptive use of the existing building (Hanson's Furniture) for Epic Sports.

Michael Gunsch, Houston Engineering, submitted Exhibit A. He went on to explain that he has discussed with City Engineer Mel Bullinger things that might work including an encroachment agreement. He also said they are willing to accommodate the landscape buffer but then they might run into issues with vehicles having to back through the entire parking lot as well as safety issues.

Chairman Marback asked if the parking lot project will be in phases. Mr. Gunsch said the east portion will be done right away but the west portion, because of weather and timing, will be completed next year. He went on to say the interior building work needs to be done first.

Mr. Ihmels asked what the access point will be for Boneshaker Coffee. Mr. Gunsch explained that there will be two entrances to the building, one on the east side and one on the west side. He added that the total area in between has been modified for the total number of potential patrons. He said they have also contemplated moving the handicapped parking spaces to one side of the building.

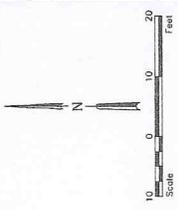
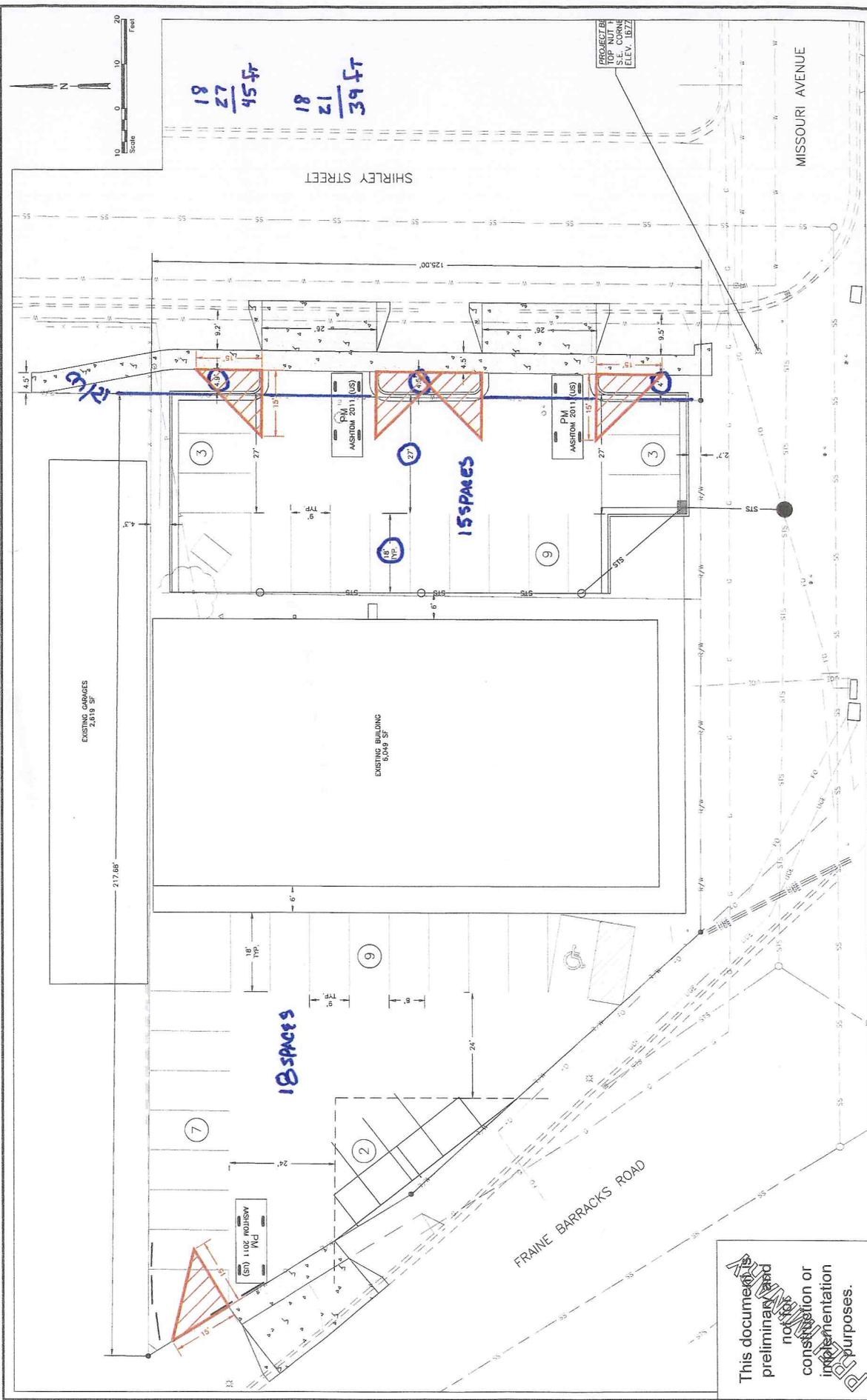
David Hegrot occupies a neighboring property and he said his only questions are regarding what kind of parking will be on the west side of the building, as well as how parking congestion will be handled when snow removal is required. He said he thinks the entire concept is a great idea and he thinks it is a nice challenge to take on.

MOTION: A motion was made by Mr. Ubl to approve the variance request to reduce the required off-street parking spaces to 27 spaces on the existing site to allow for the re-adaptive use of the existing building (Hanson's Furniture) for Epic Sports. The motion was seconded by Mr. Ihmels, and unanimously approved with Board Members Clark, Heier, Ihmels, Ubl and Marback voting in favor of the motion.

Secretary's Note: Mr. Ubl removed himself from the Board at this time.

**VARIANCE FROM SECTION 14-03-10(g) OF THE CITY CODE OF ORDINANCES
(OFF-STREET PARKING AND LOADING)(PLACES OF PUBLIC ASSEMBLY) –
1603 EAST MAIN AVENUE**

Chair Marback stated the applicant was requesting a variance from the off-street parking requirements for places of public assembly to reduce the required off-street parking spaces on the existing site to allow for the re-adaptive use of the existing building (Sweetheart Bakery) for Sixteen03 Main Events Center.



18
27
45 ft

18
21
39 ft

PROPOSED
TRIPLEG
S.E. CORNER
ELEV. 1827

EXISTING GARAGES
2,519 SF

EXISTING BUILDING
1,149 SF

18 SPACES

15 SPACES

FRAME BARRACKS ROAD

SHIRLEY STREET

MISSOURI AVENUE

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		Bismarck P: 701.323.0200 F: 701.323.0300	Drawn by AAS	Date 9-27-13	SHEET CONCEPT 5 SIGHT TRIANGLE PROJECT NO. 7880-001
			Checked by MHG	Scale AS SHOWN	2 OF 3
No.	Revision	Date	By		

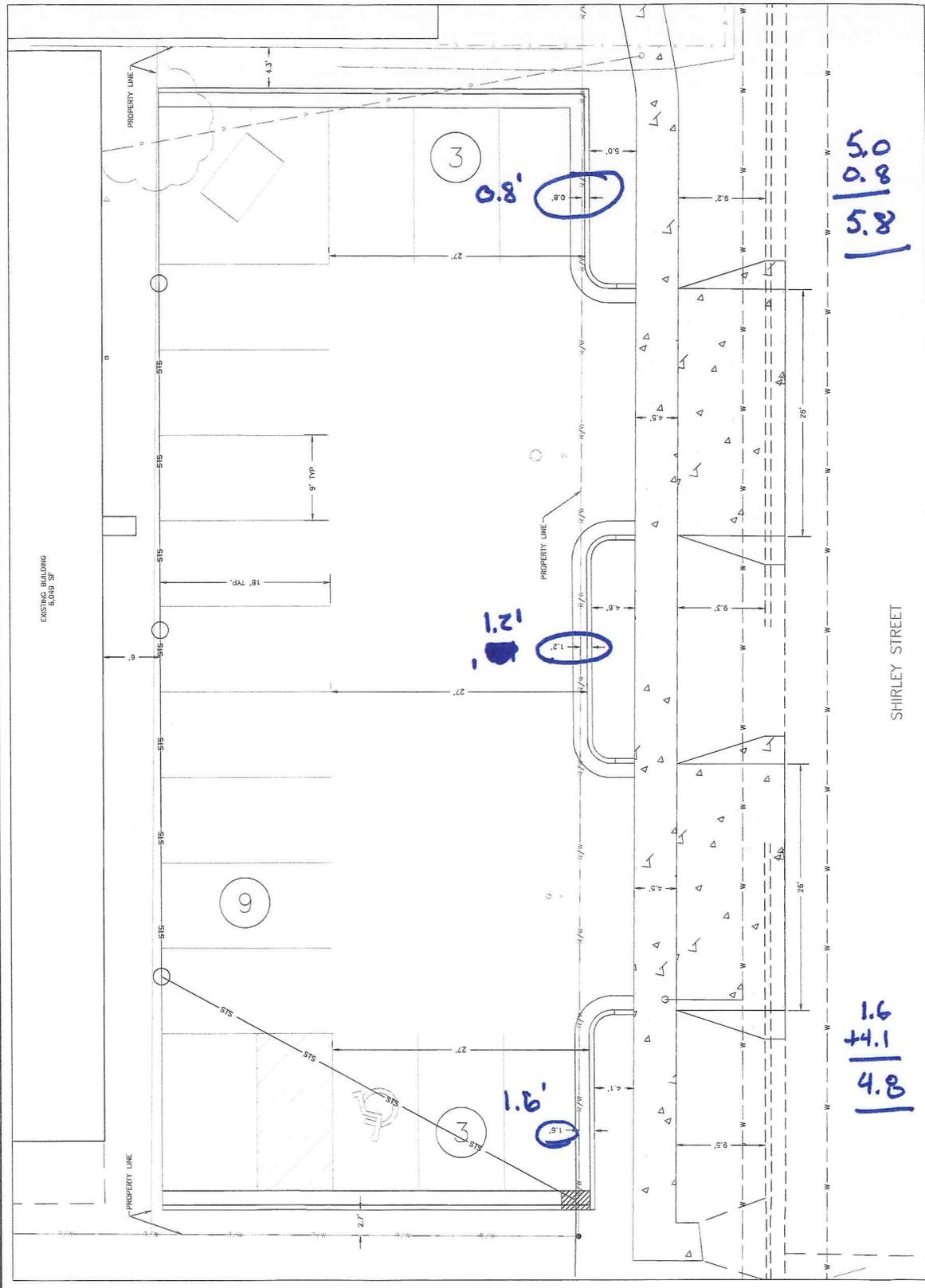
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This document is preliminary and not for construction or implementation purposes.

CONCEPT 5
ENCROACHMENT
PROJECT NO. 7880-003

SHEET
3 OF 3



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Date: 9-18-13
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Checked by: MHG
Scale: AS SHOWN



No.	Revision	Date	By

7880-003-Enc 5 Sports Relocation-CD\CONCEPT\7880-003-Enc 5-ENCROACHMENT-9/18/2013 2:45 PM-14241.dwg

Katie Vasbinder, Ubl Design Group, explained to the Board that the existing building was an industrial use with industrial use parking requirement. She said the building has been added on to multiple times for events with storage for the building and a large kitchen. She said they have met with Planning staff as well as Brady Blaskowski, Acting Building Official, have discussed a lease agreement with the BNSF Railroad to increase parking, and plan to demolish two other buildings on the property to increase parking. She went on to explain that the building is in need of a sprinkler system as well as other upgrade work.

Mr. Ihmels asked Ms. Vasbinder to elaborate on the railroad agreement. She explained that there is a lease agreement between the railroad and the property owner but it must be in place for at least three years before property can be acquired from the railroad. It is, however, included in the total number of parking spaces.

Ms. Lee said Mr. Blaskowski is comfortable with the new proposed parking numbers.

MOTION: A motion was made by Mr. Ihmels to approve the variance request from the required off-street parking requirements on the existing site to allow for the re-adaptive use of the existing building (Sweet Heart Bakery) for Sixteen03 Main Events Center. The motion was seconded by Ms. Clark, and unanimously approved with Board Members Clark, Heier, Ihmels, Ubl and Marback voting in favor of the motion.

Secretary's Note: Mr. Ubl returned to the Board at this time.

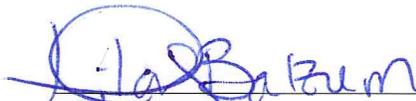
OTHER BUSINESS

Chairman Marback requested that the Board members be allowed parking in the City parking lot during meetings. Ms. Wollmuth said she would visit with Keith Hunke, Assistant City Administrator, regarding this request and let them know what she finds out at the next meeting.

ADJOURNMENT

There being no further business, Chairman Marback declared the meeting of the Bismarck Board of Adjustment adjourned at 4:54 p.m. to meet again on Thursday, November 7, 2013.

Respectfully Submitted,



Hilary Balzum
Recording Secretary

APPROVED:



Michael Marback, Chairman