

**BISMARCK BOARD OF ADJUSTMENT
MEETING MINUTES
AUGUST 6, 2009**

The Bismarck Board of Adjustment met on August 6, 2009 at 4:00 p.m. in the Tom Baker Meeting Room in the City-County Office Building, 221 North 5th Street. Board members present were Chair Michael Marback, Blair Ihmels, Warren Tvenge, Ken Heier, and Larry Thompson.

Staff members present were Ray Ziegler (Building Official), Gregg Greenquist (Planner), and Kim Riepl (Office Assistant).

Others present were John G. Morrison, 905 N. Anderson Street; Beth Nodland, 905 N. Anderson Street; Steve Gerriets, 913 N. Anderson Street; Dannie Schmaltz, 909 N. Anderson Street; Terri Camp, 1156 Keating Drive; Jim Camp, 1156 Keating Drive; and Brent Ghering, 5736 Lariat Loop.

MINUTES

Chair Marback asked for consideration of the May 7, 2009 minutes. Mr. Thompson noted a correction to be made to the last paragraph, page 1, which incorrectly describes Mr. Thompson seconding the motion being made. It should read: “Mr. Tvenge seconded the motion...”

MOTION: A motion was made by Mr. Ihmels and seconded by Mr. Heier to approve the minutes of the May 7, 2009 meeting as amended. With all members voting in favor, the minutes were approved as amended.

VARIANCE – LOWELL J. CAMP –1156 KEATING DRIVE

Mr. Camp requested a variance to reduce the side yard building setback distance from 7-feet to 5-feet. The property is located at 1156 Keating Drive and is legally described as Lot 2, Block 1, Keating Addition. Chair Marback read the applicant’s reason for request and asked if he had anything to add. Mr. Camp replied only that the existing landing is now 22-feet but will be reduced to 19-feet due to the 7-foot setback requirement.

Mr. Thompson questioned the accuracy of the drawing as the garage appeared to be detached. Mr. Camp stated the garage will be attached.

Mr. Tvenge asked where, exactly, the expansion would be taking place, to which Mr. Camp replied the existing garage was to be removed with the proposed attached garage to replace it.

Mr. Heier asked if all distances shown had been measured to the eve. Mr. Camp explained the measurements were actually to the wall. He noted the front of the proposed garage will be between the side door and the kitchen window.

Mr. Tvenge inquired as to what the hardship would be if the variance were not approved. Mr. Camp elaborated on the landing reduction from 22-feet to 19-feet.

Chair Marback requested information regarding any neighbor's comments. Mr. Greenquist stated only one comment had been received, and that neighbor stated he supports the variance request. Mr. Greenquist added no objections to the variance had been received.

Mr. Heier questioned the distance to the lot to the west. Mr. Camp replied it was well over 10-feet, possibly 15-feet, a comment supported by Board members who had inspected the property.

MOTION: A motion was made by Mr. Ihmels to approve the request for a reduction in the side yard setback from 7-feet to 5-feet. Mr. Heier seconded the motion and with all members voting in favor, the motion was approved.

VARIANCE – DANNIE & RHONDA SCHMALTZ – 909 N. ANDERSON STREET

Mr. Schmaltz requested an increase in lot coverage from 30% to 37% and also a reduction in the side yard setback requirement from 6-feet to 3-feet for the purpose of constructing a detached garage in the rear yard. Reading from the staff report, Chair Marback noted that buildings cover a total square footage of 2,140 square feet of the lot and inquired whether that included the 8'x 8' shed. Mr. Greenquist replied that it did. Mr. Schmaltz continued in saying he had the support of his neighbors located immediately north and south of his home, and that in constructing the proposed garage, he would use materials that matched the two-year old exterior of his home.

Chair Marback noted the covered patio indicated on the rear of the home appeared to be more of a "three season" porch, to which Mr. Schmaltz replied it was, and that due to a hailstorm and mold issues it had been rebuilt. Chair Marback asked if it were attached to the house and Mr. Schmaltz confirmed it was. Chair Marback noted there was no building permit obtained for the conversion from a covered patio to a three season porch. Mr. Schmaltz explained the three season porch was there when they purchased the house, but had originally had a flat roof. When issues of mold and hail damage arose, they had the porch structure renovated, with the flat roof being changed to an angled roof. No permit was obtained at the time as they thought it was not required in order to rebuild a structure that existed when they purchased the home. Asked by Chair Marback what type of foundation was under the structure, Mr. Schmaltz replied it was a floating slab.

Chair Marback asked Mr. Schmaltz if he intended to keep the shed, to which he replied he did not, and that it would be removed.

Chair Marback questioned the sidewall height of the proposed garage as the drawing seemed to depict an overall height of 23'-4". It also showed a height of 8'-1" for each the main garage area and the loft bringing the combined height to over 16-feet. He stated the maximum sidewall height allowed by code to be 14-feet. Mr. Schmaltz offered to reduce the height of the structure. Chair Marback then asked Mr. Ziegler what the foundation requirements would be for a 2-story structure such as this and if it would require a 4' foundation to which Mr. Ziegler replied that due to the 20' span of the structure, it may require an additional 8"x16" footing. Mr. Schmaltz offered the option of constructing a standard walk-through garage with rafters as he only wants the loft for

light storage.

Mr. Ihmels asked for confirmation of the side and rear setback distances required by code. Mr. Ziegler replied that because of the sunroom, the garage will not meet the requirement of being 10-feet behind the house, and that means adhering to the same side yard setback requirement as the primary building. Mr. Ziegler added that an important issue to consider because the renovation of the sunroom was not permitted, is which structural members were added and the affect that will have on the primary structure.

Mr. Ihmels asked the basis for the 30% lot coverage determination and Mr. Ziegler replied it has to do with density issues in a residential area. Mr. Ihmels asked if Mr. Schmaltz's lot was nonconforming and Mr. Greenquist replied it meets the 7,000 square foot minimum. Further discussion took place in regards to the measurements pertaining to setbacks and lot coverage. It was noted that an "eve-to-eve" measurement was to be used in computing setback compliance.

Brent Ghering asked if it would be legal to build the garage with no overhang. It was confirmed that it would be legal.

MOTION: Mr. Heier made a motion to approve the variance request to increase the lot coverage from 30% to 37% conditional upon the understanding that the garage will be constructed a minimum of 10-feet from the primary structure and that the sidewall height will not exceed 14-feet. Mr. Ihmels seconded the motion, and with all members voting in favor, the motion was passed.

ADJOURNMENT

There being no further business, the meeting of the Bismarck Board of Adjustment was adjourned at 4:35 p.m., to meet again on September 3, 2009.

Respectfully Submitted,

Kim Riepl
Recording Secretary

APPROVED:

Michael Marback, Chair