

**BISMARCK BOARD OF ADJUSTMENT  
MEETING MINUTE  
SEPTEMBER 3, 2009**

The Bismarck Board of Adjustment met on September 3, 2009 at 4:00 p.m. in the Tom Baker Meeting Room in the City-County Office Building, 221 North 5<sup>th</sup> 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 Jacquie and Kent Ellis, 609 W. Avenue F; Deb and Scott Germain, 1913 N. Griffin Street; and Gary Swift, 828 N. 10<sup>th</sup> Street.

**MINUTES**

Chair Marback asked for consideration of the August 6, 2009 minutes.

**MOTION:** A motion was made by Mr. Ihmels and seconded by Mr. Tvenge to approve the minutes of the August 6, 2009 meeting as presented. With all members voting in favor, the minutes were approved.

**VARIANCE – GARY SWIFT – 828 N. 10<sup>th</sup> STREET**

Mr. Swift requested a variance to reduce the side yard building setback distance from 20-feet to 5-feet on a nonconforming corner lot. The property is located at 828 N. 10<sup>th</sup> Street and is legally described as the east 72-feet of Lots 1&2, Block 67, McKenzie & Coffins Addition. Chair Marback read the applicant's reason for request and asked if he had anything to add. Mr. Swift replied he was actually requesting the setback be reduced to 6-feet rather than 5-feet. Mr. Greenquist provided clarification on the setbacks required for each side of the property as it was a corner lot and suggested referring to the yards by direction (east, west, and south) rather than by front, rear, or side. Assuming the front yard to be the east side, the rear yard would then be the west side, where the setback would have to be reduced to 5-feet.

**MOTION:** A motion was made by Mr. Ihmels to approve the request for a reduction in the side yard setback from 20-feet to 5-feet. Mr. Tvenge seconded the motion and with all members voting in favor, the motion was approved.

Chair Marback summarized the basis of the approval as being due to the non-compliant lot size.

**VARIANCE - SCOTT and DEBORAH GERMAIN-1913 N. GRIFFIN STREET**

The applicants requested a variance to reduce the front yard setback from 25-feet to 12-feet for the purpose of constructing a detached double garage where there is now a

detached single garage. Mr. Greenquist stated the property is a double frontage lot at the end of a block, effectively giving it three front yards.

Mr. Germain stated it was his intent to remove the existing garage and add 10-feet more of concrete. In response to Mr. Tvenge's question regarding an attached garage, Mr. Germain stated there is a large deck that would interfere with having an attached garage.

**MOTION:** Mr. Heier made a motion to approve the variance request to reduce the front yard setback from 25-feet to 12-feet. Mr. Thompson seconded the motion, and with all members voting in favor, the variance was approved.

Chair Marback stated the variance was granted due to the non-compliant nature of the lot as it is a double frontage lot at the end of a block.

#### **VARIANCE - KENT ELLIS – 602 WEST AVENUE F**

Mr. Ellis requested a variance to reduce the side yard setback from 6-feet to 5-feet on a corner lot for the purpose of building an addition to the existing house.

Chair Marback asked if any opposition had been received relative to the request, as comments supporting approval of the variance had been received. There was no opposition.

**MOTION:** Mr. Tvenge made a motion to approve the variance request to reduce the side yard setback from 6-feet to 5-feet. Mr. Heier seconded the motion, and with all members voting in favor, the variance was approved.

Chair Marback noted the variance was granted because the existing structure was likely built under older, less-restrictive setback requirements.

#### **OTHER BUSINESS**

Chair Marback announced the possible appointment of a sixth member to the Board of Adjustment. The candidate's name is Jennifer Clark, a local attorney, who, although she works for the ND Legislative Council and will be unavailable to attend meetings in the months of January-April when the Legislature meets, seems to be very well-qualified for the position. Mr. Greenquist elaborated on the months of Ms. Clark's potential absence from meetings, noting these months were traditionally light in regards to variance activity. All Board of Adjustment members concurred in their recommendation of the candidate.

Chair Marback reported a pay increase had been approved by the City of Bismarck Budget Committee and also the Board of City Commissioners. The increase will become effective January 1, 2010, and increases the amount for each Board of Adjustment member from \$20.00 per meeting attended to \$40.00 per meeting attended.

**ADJOURNMENT**

There being no further business, the meeting of the Bismarck Board of Adjustment was adjourned at 4:20 p.m., to meet again on October 1, 2009.

Respectfully Submitted,

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Kim Riepl  
Recording Secretary

APPROVED:

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Michael Marback, Chair