



Community Development Department

**BISMARCK BOARD OF ADJUSTMENT
MEETING AGENDA**

July 9, 2014

1st Floor Conference Room

4:00 p.m.

City-County Office Building

MINUTES

1. Consider the minutes of the June 5, 2014 meeting of the Board of Adjustment.

REQUESTS

2. **Variance from Section 14-04-01(4) of the City Code of Ordinances (RR-Residential)(Front Yard) and Section 14-04-01(5) of the City Code of Ordinances (RR 0 Residential)(Side Yard) – 5538 Falconer Drive (Lot 5, Block 2, Falconer Estates)**

Tate Neideffer is requesting a variance to reduce the required front yard setback along the east side of his property from forty (40) feet to twenty (20) feet and the required side yard setback along the north side of the property from fifteen (15) feet to ten (10) feet in order to construct an accessory building.

Board Action: approve continue table deny

3. **Variance from Section 14-03-03(7) of the City Code of Ordinances (R5 – Residential) (Front Yard) – 1018 Calvert Drive (Lots 11A & 12B, Block 7, Sonnet Height Subdivision)**

Nathan Ellwein is requesting a variance to reduce the required front yard setback along the northwest side of his property, adjacent to Niagara Drive, from twenty-five (25) to three (3) feet in order to construct an accessory building.

Board Action: approve continue table deny

OTHER BUSINESS

4. **Other**

ADJOURNMENT

5. **Adjournment.** The next regular meeting date is scheduled for August 7, 2014.



**BISMARCK COMMUNITY DEVELOPMENT DEPARTMENT
STAFF REPORT**

BACKGROUND:	
Title: 5538 Falconer Drive – Variance (Front Yard Setback) (Lot 5, Block 2, Falconer Estates)	
Status: Board of Adjustment - Reconsideration	Date: July 9, 2014
Owner(s): Tate Neideffer	Engineer: None
Reason for Request: Variance from Section 14-04-01(4) of the City Code of Ordinances (RR-Residential)(Front Yard) and Section 14-04-01(5) of the City Code or Ordinances (RR – Residential)(Side Yard) to reduce the required front yard setback along the east side of his property from forty (40) feet to ten (10) feet and the required side yard setback along the north side of the property from fifteen (15) feet to ten (10) feet in order to construct an accessory building.	
Location: In south Bismarck, along the west side of Falconer Drive east of Sibley Drive	
ADDITIONAL INFORMATION:	
1. The Board of Adjustment, at its meeting of June 5, 2014, tabled the variance request from Section 14-04-01(4) of the City Code of Ordinances (RR – Residential)(Front Yard) to reduce the required front yard setback along the east side of the property from forty (40) feet to ten (10) feet in order for the applicant to revise the variance request to either reconfigure the location of the proposed accessory building or relocate the proposed accessory building.	
APPLICABLE PROVISION(S) OF ZONING ORDINANCE:	
1. 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.”	
2. Section 14-04-01(4) of the City Code of Ordinance (RR-Residential)(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.” According to the revised site plan submitted with the application the proposed accessory building will be located twenty (20) feet from the front property line.	
3. Section 14-04-01(5) of the City Code of Ordinance (RR-Residential)(Side Yard) states, “Each lot shall have two (2) side yards, one on each side of the principal and accessory buildings. The sum of the two (2) side yards shall not be less than twenty (20) percent of the average width of the lot, and in no case less than fifteen (15) feet per yard. According to the revised site plan submitted with the application, the proposed accessory building will be located ten (10) feet from the side property line.	
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 RR-Residential zoning classification.	

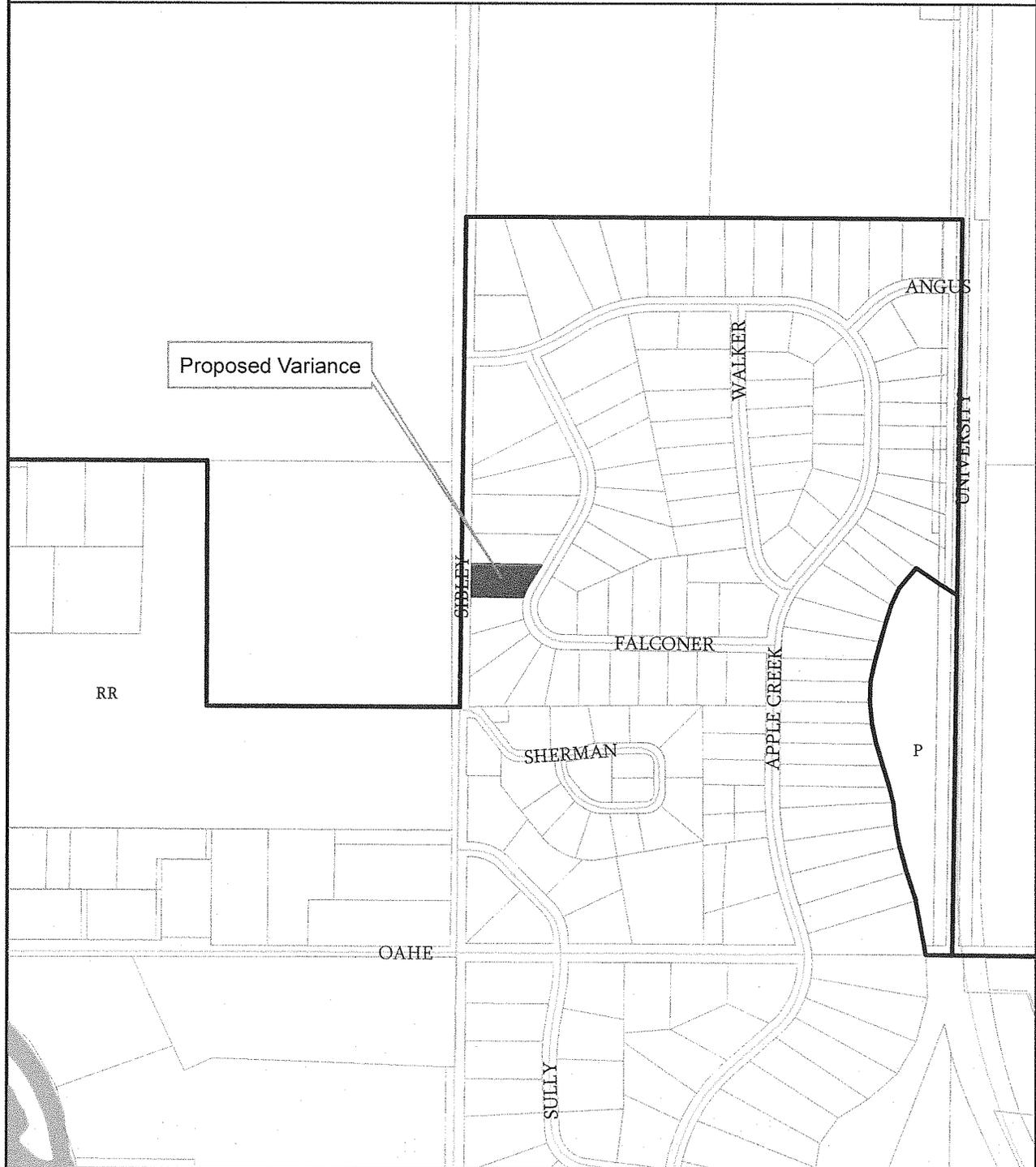
(continued)

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:

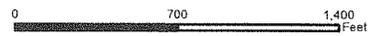
Staff recommends reviewing the above findings and modifying them as necessary to support the decision of the Board.

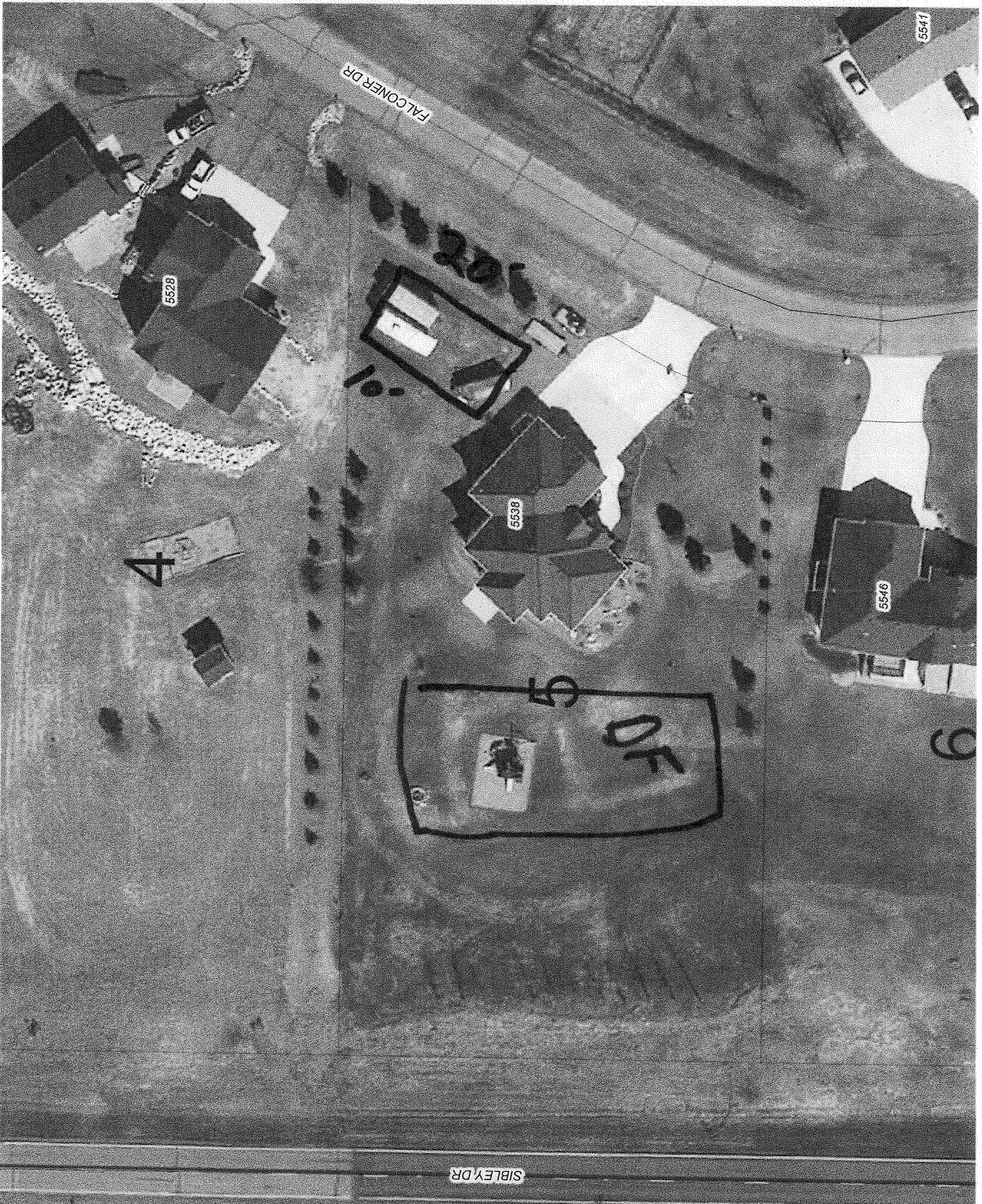
Proposed Variance Lot 5, Block 2, Falconer Estates



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.
Date: 5/9/2014 (hlb)

Source: City of Bismarck





FALCONER DR

5541

5528

5538

5546

4

5

DF

6

SIBLEY DR



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

1. Property Address or Legal Description: 5538 Falconer Drive (Lot 5, Block 2, Falconer Estates)

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

3. Type of Variance Requested: Front Yard and Side Yard variance request

4. Applicable Zoning Ordinance Chapter/Section: 14-04-01(4) (RR-Residential/Front Yard) and 14-04-01(5) (RR-Residential/Side Yard)

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.)

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

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

#5. The zoning ordinance would limit the full potential of this property due to the irregularities of the property. The 24 foot drop from the top of the hill to the bottom can be challenging to drive on, especially when the weather conditions included snow and ice. There is a drain field in the west part of the property that limit's building potential. Some land needs to left for future drain field expansion if need be.

#6 . The forty foot set back from the property pin closest to Falconer Drive is limiting the best space to put a garage. I believe this area would be the safest place to put a garage on this property. Driving down the hill would be dangerous for my daughter that will be learning to drive soon. Having a place to put all of my personal belongings that need to be out of the elements would extend their life cycle.

7#. I reassessed the possible locations for the garage. If I get a variance for a 20 foot set back instead of a 40 foot set back from the property pin closest to Falconer Drive. I would also need a variance for a 10 foot set back instead of 15 foot set back from my neighbor's property line to the north of the property. I believe these two variances would allow me enough space to put up a garage with 1800 square feet.

**EXCERPTS FROM BISMARCK ZONING ORDINANCE
RELATING TO VARIANCES
(City of Bismarck & ETA Requests)**

14-02-03. Definitions. The following definitions represent the meanings of terms as they are used in these regulations:

Variance: A device which grants a property owner relief from certain provisions of a 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 a desire to increase the financial return.

14-06-02. Powers and Duties.

* * * * *

2. Variances. On appeal from an order, requirement, decision or determination made by an administrative official, the board of adjustment may vary or adjust the strict application of any of the requirements of this article in the case of an exceptionally irregular, narrow, shallow or steep lot or other exceptional physical or topographical condition, by reason of which the strict application of the provisions of the article would result in unnecessary hardship that would deprive the owner of a reasonable use of the land or building involved, but in no other case.

No adjustment in the strict application of any provisions of this article shall be granted by the board of adjustment unless it finds:

- a. That there are special circumstances or conditions, fully described in the findings of the board, applying to the land or buildings for which the variance is sought, which circumstances or conditions are peculiar to such land or building, and do not apply generally to land or buildings in the neighborhood, and have not resulted from any act of the applicant taken subsequent to the adoption of this article, whether in violation of the provisions of the article, or not.
- b. That, for reasons fully set forth in the findings of the board, the circumstances or conditions so found are such that the strict application of the provisions of this article would deprive the applicant of the reasonable use of said land or building, and the granting of the variances is necessary for the reasonable use of the land or building, and that the variance as granted by the board is the minimum variance that will accomplish the relief sought by the applicant.
- c. That the grant of the variance will be in harmony with the general purposes and intent of this article, and will not be injurious to the neighborhood or otherwise detrimental to the public welfare.
- d. A variance granted under this chapter must be put into use within 24 months of the granting of the variance or it shall lapse and the landowner must reapply.

Bismarck

Community Development Department

June 27, 2014

Dear Property Owner:

Please be advised that the Bismarck Board of Adjustment will be conducting a public hearing on a variance request on Wednesday, July 9, 2014, at 4:00 p.m. in the 1st Floor Conference Room, City-County Office Building, 221 North 5th Street, Bismarck, North Dakota, which may be of interest to you.

Tate Neideffer is requesting a variance from Section 14-04-01(4) of the City Code of Ordinances (RR-Residential)(Front Yard) to reduce the required front yard setback along the east side of the property from forty (40) feet to twenty (20) feet and from Section 14-04-01(4) of the City Code of Ordinances (RR-Residential)(Side Yard) to reduce the required side yard set back along the north side of the property from fifteen (15) feet to ten (10) feet, in order to construct an accessory building on Lot 5, Block 2, Falconer Estates (5538 Falconer Drive).

A map showing the location involved in the request and site plan are enclosed for your information.

At the hearing, the Board of Adjustment will provide an opportunity for all interested persons to be heard with respect to this item. Interested persons may also submit written comments regarding this request prior to the meeting to the Community Development Department ~ Planning Division, PO Box 5503, Bismarck, North Dakota 58506-5503, fax: 701- 222-6450, or e-mail - cobplan@bismarcknd.gov.

The agenda packet for the meeting, which will include a staff report for this request, will be posted online at www.bismarcknd.gov, under Agendas and Minutes/Board of Adjustment, by the end of the day on Thursday, July 3rd.

If you have any questions or need any additional information on this request, please contact Jenny Wollmuth, the planner in our office assigned to this request, at 355-1845.

Bismarck Community Development Department - Planning Division

JW/hlb

Enc: Location Map
Site Plan

221 North 5th Street • PO Box 5503 • Bismarck, ND 58506-5503 • TDD: 711 • www.bismarck.org



**BISMARCK COMMUNITY DEVELOPMENT DEPARTMENT
STAFF REPORT**

BACKGROUND:	
Title: 1018 Calvert Drive – Variance (Front Yard Setback) (Lots 11A and 12B, Block 7, Sonnet Heights Subdivision)	
Status: Board of Adjustment	Date: July 9, 2014
Owner(s): Nathan Ellwein	Engineer: None
Reason for Request: Variance from Section 14-04-03(7) of the City Code of Ordinances (R5 – Residential)(Front Yard) to reduce the required front yard setback along the northwest side of the property, adjacent to Niagara Drive, from twenty-five (25) feet to three (3) feet in order to construct and accessory building.	
Location: In north Bismarck, at the northwest intersection of Calvert Drive and Niagara Drive.	
APPLICABLE PROVISION(S) OF ZONING ORDINANCE:	
<ol style="list-style-type: none"> 1. 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.” 2. Section 14-02-03 of the City Code of Ordinances (Definitions) defines a Lot-Corner as, “A zoning lot at the junction of and abutting on two or more intersecting streets or a curved street when the interior angle of the intersection does not exceed one hundred thirty-five degrees.” According to the site plan submitted with the application the proposed accessory building is located at the northwest intersection of Calvert Drive and Niagara Drive. 3. 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 accessory building will be setback three (3) feet from the front property line adjacent to Niagara Drive. 4. Section 14-04-03(8) of the City Code of Ordinances (R5 – Residential) (Side Yard) states, “No building on a corner lot shall have a side yard on the side street less than twenty-five (25) feet in width.” According to the site plan submitted with the application the proposed accessory building is located on a corner lot and setback three (3) feet from front property line adjacent to Niagara Drive. 	
FINDINGS:	
<ol style="list-style-type: none"> 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 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. 	
<i>(continued)</i>	

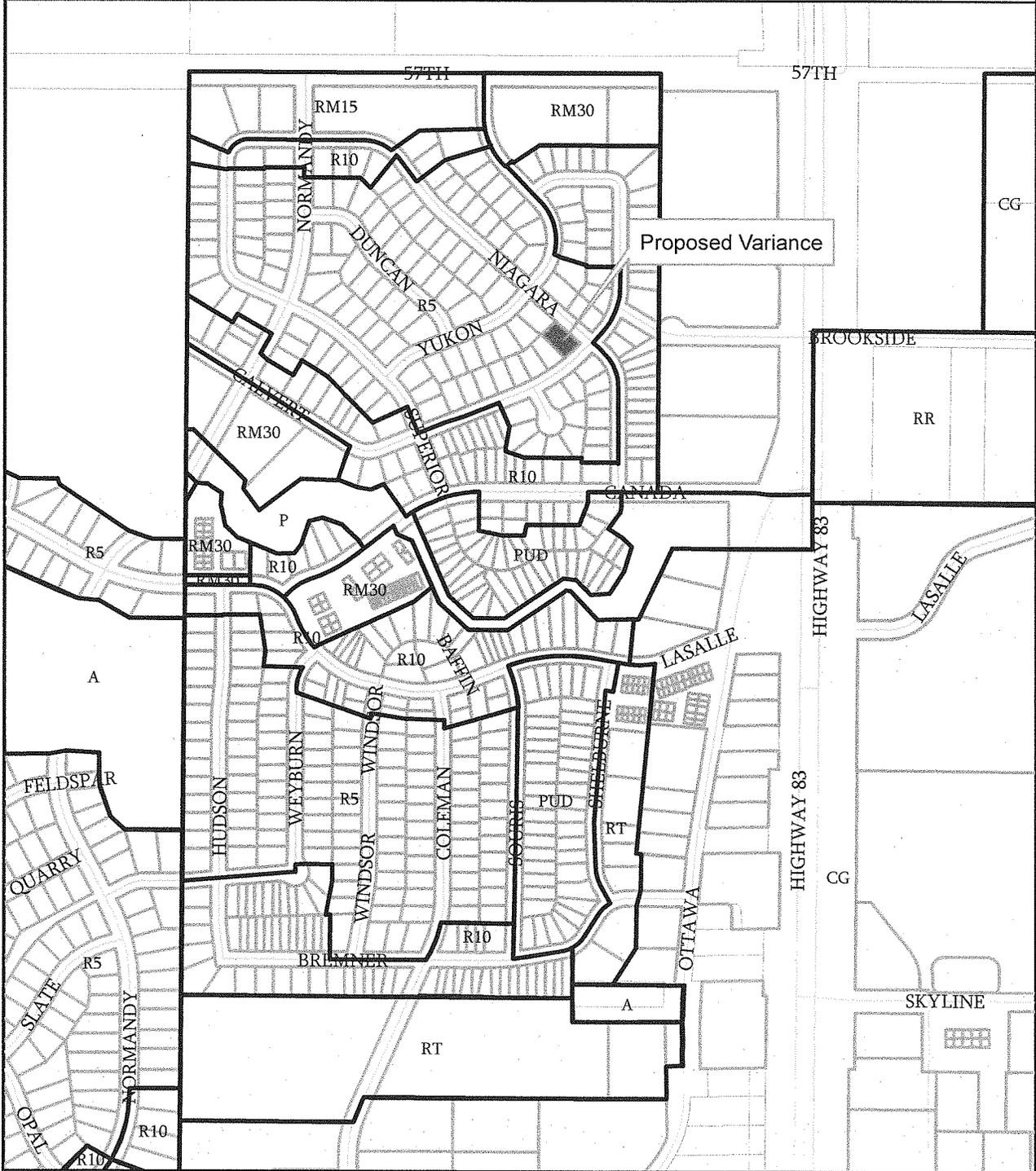
4. The requested variance is not the minimum variance that would accomplish the relief sought by the applicant.
5. The granting of the variance is not in harmony with the general purposes and intent of the Zoning Ordinance

RECOMMENDATION:

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

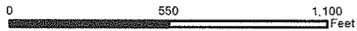
Proposed Variance

Lots 11A and 12B, Block 7, Sonnet Heights Subdivision



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.
Date: 6/17/2014(hlb)

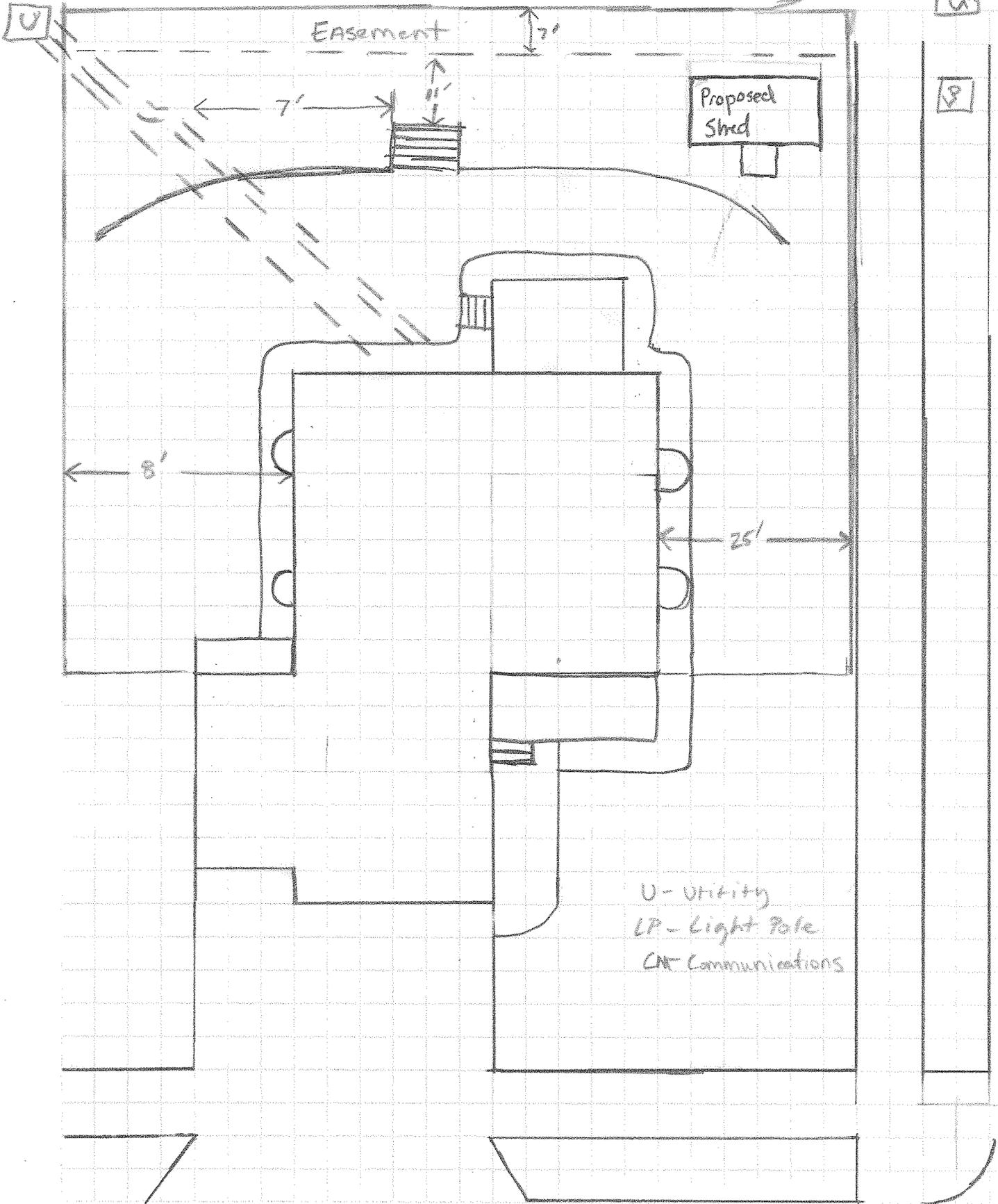
Source: City of Bismarck



Subject 1018 Calvert Drive - 25' Setback Variance Date _____

"Not to Scale"

By _____





YUKON DR

1000

1006

999

955

5412

1012

5406

1018

NIAGARA DR

CALVERT DR

1033

5414

5400

E NIAGARA DR

Residential
Auto & Truck



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

1. Property Address or Legal Description: 1018 Calvert Dr, Bismarck, ND - Sonnet Heights Subdivision, Block 7, Lot 11A & 12B

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

3. Type of Variance Requested: Variance to setback from an adjacent street on a corner lot for a shed

4. Applicable Zoning Ordinance Chapter/Section: 14-01-03(1)

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 25' setback from the adjacent street of my corner lot will not allow the building of a garden/storage shed of normal, useful size with the remaining available space. The yard does have a retaining wall that restricts the places that a storage building could be reasonably fit into. Also, the opposite corner where it would possibly have the room to be built is more steep and has all the utilities running to the house from that corner. The property also has a utility easement along the back making possible spaces for which the shed could be built very limited.

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

With these limitations, our only option would be to build a small oddly shaped unit that would render it useless for the purpose of being built. The retaining wall, utilities to the house, slope of the land, setback requirements, and the utility easement at the back of the property makes other options not feasible. If the setback could be changed it would give us the best and most reasonable scenario to build a shed on the property.

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

A variance of 3' to 5' will give us the best option to build the size of storage shed where the space could be properly used for the storage of lawn and garden equipment. This variance would also allow the building to be on the flattest part of the yard in the rear, making entry into the unit easiest and safest for people and equipment without intruding on the utilities or without the fear of dropping from the retaining wall.

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14-06-02. Powers and Duties.

* * * * *

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No adjustment in the strict application of any provisions of this article shall be granted by the board of adjustment unless it finds:

- a. That there are special circumstances or conditions, fully described in the findings of the board, applying to the land or buildings for which the variance is sought, which circumstances or conditions are peculiar to such land or building, and do not apply generally to land or buildings in the neighborhood, and have not resulted from any act of the applicant taken subsequent to the adoption of this article, whether in violation of the provisions of the article, or not.
- b. That, for reasons fully set forth in the findings of the board, the circumstances or conditions so found are such that the strict application of the provisions of this article would deprive the applicant of the reasonable use of said land or building, and the granting of the variances is necessary for the reasonable use of the land or building, and that the variance as granted by the board is the minimum variance that will accomplish the relief sought by the applicant.
- c. That the grant of the variance will be in harmony with the general purposes and intent of this article, and will not be injurious to the neighborhood or otherwise detrimental to the public welfare.
- d. A variance granted under this chapter must be put into use within 24 months of the granting of the variance or it shall lapse and the landowner must reapply.

Bismarck

Community Development Department

June 27, 2014

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Nathan Ellwein is requesting a variance from Section 14-04-03(7) of the City Code of Ordinances (R5-Residential)(Front Yard) to reduce the required front yard setback along the northwest side of the property, adjacent to Niagara Drive, from twenty-five (25) feet to three (3) feet in order to construct an accessory building on Lots 11A & 12B, Block 7, Sonnet Heights Subdivision (1018 Calvert Drive).

A map showing the location involved in the request and site plan are enclosed for your information.

At the hearing, the Board of Adjustment will provide an opportunity for all interested persons to be heard with respect to this item. Interested persons may also submit written comments regarding this request prior to the meeting to the Community Development Department ~ Planning Division, PO Box 5503, Bismarck, North Dakota 58506-5503, fax: 701- 222-6450, or e-mail - cohplan@bismarcknd.gov.

The agenda packet for the meeting, which will include a staff report for this request, will be posted online at www.bismarcknd.gov, under Agendas and Minutes/Board of Adjustment, by the end of the day on Thursday, July 3rd.

If you have any questions or need any additional information on this request, please contact Jenny Wollmuth, the planner in our office assigned to this request, at 355-1845.

Bismarck Community Development Department - Planning Division

JW/hlb

Enc: Location Map
Site Plan



**BISMARCK BOARD OF ADJUSTMENT
MEETING MINUTES
June 5, 2014**

The Bismarck Board of Adjustment met on June 5, 2014 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, Ken Hoff, Chris Seifert and Michael Marback.

Board member Jeff Ubl was absent.

Staff members present were Jason Hammes – Assistant City Attorney, Jenny Wollmuth – Planner and Hilary Balzum – Community Development Office Assistant.

MINUTES:

Chairman Marback asked for consideration of the minutes of the April 3, 2014 and May 1, 2014 meetings of the Board of Adjustment.

MOTION: A motion was made by Ms. Clark and seconded by Mr. Seifert to approve the minutes of the April 3, 2014 and May 1, 2014 meetings as distributed. With Board Members Clark, Heier, Hoff, Seifert and Marback voting in favor, the minutes were approved.

APPOINTMENTS/ELECTION OF OFFICERS

Chairman Marback said the reappointment of board members Ken Heier and himself has been completed. He then introduced new board member Ken Hoff, who has replaced Blair Ihmels who has moved out of the jurisdiction.

Chairman Marback then suggested Ms. Clark be selected as vice chairman. Upon a general voice consensus Ms. Clark was selected vice chairman of the Board of Adjustment.

VARIANCE FROM SECTION 14-04-04(1) OF THE CITY CODE OF ORDINANCES (RR-RESIDENTIAL)(FRONT YARD) – 5538 FALCONER DRIVE (LOT 5, BLOCK 2, FALCONER ESTATES)

Chairman Marback stated the applicant was requesting a variance to reduce the required front yard setback along the east side of the property from forty (40) feet to ten (10) feet in order to construct an accessory building.

Mr. Hoff asked if a business was being run or is going to be run out of this residence. Mr. Neideffer said he is currently storing landscaping materials in closed trailers on the property but the main purpose for the variance is to have a building where he can store items out of the reach of his children and neighborhood children.

Mr. Hoff asked how the old the house is and if Mr. Neideffer has been the only owner. Mr. Neideffer said they built the house 10 years ago and that it was placed where it is to avoid the drain field at the back of the property.

Mr. Seifert asked if there is a problem or an ordinance relating to running a business at this location. Ms. Wollmuth said allowable uses include education, public recreation, foster care and family child care; business uses are not allowed as it is a residential district.

Ms. Clark said she understands the concept of the request and asked if there are any other options that would bring Mr. Neideffer closer to complying with the ordinance.

Mr. Neideffer said even if he cannot use the shop for business purposes, he would still want it for household. He would also like to build to the maximum square footage allowed and that would require it to be placed as he has proposed.

Ms. Clark said it looks as if this issue is one of the owners making and they limited the use of the building area because of where the house was placed on the property.

Chairman Marback asked what the side yard requirement is on this lot. Ms. Wollmuth said it is 15.

Mr. Hoff asked if the building could be placed in the rear yard on the south side of the house anywhere. Ms. Wollmuth said the topography on that side would require quite a bit more construction preparation needs and extra expense for the owner.

Mr. Hoff then asked if accessory buildings are allowed in the floodplain. Ms. Wollmuth said they are but they have added requirements.

Ms. Clark asked if the covenants for the area have been checked. Mr. Neideffer said it is his understanding that the only restriction is on colors and whatever zoning requirements are in place. Ms. Wollmuth said the area was platted in 1977 but the requirements have never changed.

Mr. Seifert said he feels approving this request would make the property inconsistent with the adjacent lots because the others do not have any accessory buildings that close to their homes, but he also understands the need to avoid the drain field.

MOTION: A motion was made by Ms. Clark to table the variance to reduce the required front yard setback along the east side of the property from forty (40) feet to ten (10) feet in order to construct an accessory building, in order to allow the applicant time to propose an alternative plan. The motion was seconded by Mr. Heier and with Board Members Clark, Heier, Hoff, Seifert and Marback voting in favor of the motion, the variance request was tabled.

VARIANCE FROM SECTION 14-03-05(4)(b) OF THE CITY CODE OF ORDINANCES (SUPPLEMENTARY PROVISIONS) – 1303 NORTH 3RD STREET (LOT 14, BLOCK 7, CASEY'S 2ND ADDITION)

Chairman Marback stated the applicant was requesting a variance to reduce the required rear yard setback along the east side of his property from twenty (20) feet to six and-a-half (6 ½) feet in order to construct an accessory building with access perpendicular to the adjacent alley.

Chairman Marback asked the applicant if it would be possible to turn the accessory building to allow better access. Mr. Marquardt said he would then have to tear down an established tree and would also lose landscaping.

Ms. Clark asked if the proposed garage depth of 26 feet is generous. Chairman Marback said it would fit most vehicles.

Mr. Marquardt said it would be hard to put the building anywhere else, and with having a hitch on his pickup, a garage that is only 24 feet deep would not be big enough.

Mr. Heier asked if a normal distance from the alley would be three feet. Ms. Wollmuth said it is three feet as long as the garage doors do not face the alley.

Mr. Hoff asked if the building could be moved closer to the house. Ms. Wollmuth said if it is less than 10 feet from the house it can be as close as three feet from the property line, but the six foot side yard setback requirement would need to be maintained.

MOTION: A motion was made by Mr. Heier to approve the variance to reduce the required rear yard setback along the east side of his property from twenty (20) feet to six and-a-half (6 ½) feet in order to construct an accessory building with access perpendicular to the adjacent alley. The motion was seconded by Ms. Clark. With Board Members Clark, Heier, Hoff, Seifert and Marback voting in favor of the motion, the motion was approved and the variance request was approved.

VARIANCES FROM SECTION 14-04-09(9) OF THE CITY CODE OF ORDINANCES (HM-MEDICAL FACILITY DISTRICT) TO REDUCE THE REQUIRED REAR YARD SETBACK ALONG THE WEST SIDE OF THE PROPERTY FROM TEN (10) FEET TO ONE (1) FOOT AND SECTION 14-03-10(1) OF THE CITY CODE OF ORDINANCES (OFF-STREET PARKING AND LOADING) – 500 NORTH 8TH STREET (TRACT 500 BEING A PART OF BLOCKS 27 AND 38, NORTHERN PACIFIC 2ND ADDITION)

Chairman Marback stated that the applicant is requesting variances to reduce the rear yard setback along the west side of the property from ten (10) feet to one (1) foot in order to construct and addition to the Bismarck Cancer Center in line with the existing building and to reduce the number of required off-street parking spaces to thirty-two (32) spaces.

Lon Romsaas, Swenson, Hagen & Co., said the adjacent neighbors of the property have expressed their support for the approval of the requests. The need for expansion at the Bismarck Cancer Center is to better serve patients, but it will eliminate 19 of the employee parking spaces.

Ms. Clark said diligent efforts were made to replace the needed parking, but the request was denied by the Planning and Zoning Commission.

Mr. Hoff asked how many are going to be needed. Mr. Romsaas said the potential addition would require 83 parking spaces.

Ken Dykes, Bismarck Cancer Center, said the expansion is purely to accommodate medical advances, but they do not anticipate more patients and they will not need more employees.

Mr. Hoff asked why this request was tabled from the April 3, 2013 meeting. Ms. Wollmuth explained that the request was to override staff's interpretation that off-site parking lots were not an allowed use in residential zoning district. Since that time staff had drafted an ordinance which was adopted by the City Commission on May 27, 2014 that would allow off-site parking as a special use in the RT-Residential and RM-Residential zoning districts via a special use if certain provisions were met. Unfortunately the special use request for the four off-site parking lots was denied by the Planning and Zoning Commission on May 28, 2014 because none of the parking lots met all of the provisions outlined in the ordinance.

MOTION: A motion was made by Mr. Seifert to approve the variances to reduce the rear yard setback along the west side of the property from ten (10) feet to one (1) foot in order to construct and addition to the Bismarck Cancer Center in line with the existing building and to reduce the number of required off-street parking spaces to thirty-two (32) spaces. The motion was seconded by Mr. Hoff. With Board Members Clark, Heier, Hoff, Seifert and Marback voting in favor of the motion, the motion was approved and the variance request was approved.

OTHER BUSINESS

Chairman Marback asked if the July meeting of the Board of Adjustment can be pushed back. Ms. Wollmuth said it could potentially be held on July 9th and that she would check the availability of the conference rooms and be in touch with everybody. (Secretary's note: The July meeting was rescheduled from July 3rd to July 9th at 4pm in the first floor conference room in the City-County Building).

ADJOURNMENT

There being no further business, Chairman Marback declared the meeting of the Bismarck Board of Adjustment adjourned at 4:50 p.m. to meet again on a date to be determined.

Respectfully Submitted,

Hilary Balzum
Recording Secretary

APPROVED:

Michael Marback, Chairman

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