



Community Development Department

**BISMARCK BOARD OF ADJUSTMENT
MEETING AGENDA**

June 4, 2015

Tom Baker Meeting Room

5:00 p.m.

City-County Office Building

MINUTES

1. Consider the minutes of the May 7, 2015 meeting of the Board of Adjustment.

REQUESTS

2. **Variance from Section 14-03-11(10)(e) of the Code of City Ordinances (Landscaping and Screening)(Buffer Yards)** – Lot 3 less the West 1 foot and the West 16 feet of Lot 4, Block 2, Meadow Valley Addition (413 East Bismarck Expressway)

Lyndon and Mona Mertz are requesting a variance to eliminate the required landscaping buffer yard for a new commercial use adjacent to a single-family residential use along the south side of their property in conjunction with the construction of a new commercial building.

Board Action: approve continue table deny

3. **Variances from Section 14-03-09 of the City Code of Ordinances (Nonconforming Uses) and Section 14-03-054)(c) of the City Code of Ordinances (Supplementary Provisions)** – The West 48 feet of Lot 5 and the West 48 feet of the South 25 feet of Lot 6, Block 11, Northern Pacific Addition (300 East Avenue B)

Deborah Kashur is requesting variances to allow the construction of an accessory building on a nonconforming lot (less than 7,000 square feet,) with an existing nonconforming use (single-family dwelling) in the RT – Residential zoning district, and to reduce the required front yard setback from twenty (20) feet to eighteen (18) feet in order to construct an accessory building.

Board Action: approve continue table deny

4. **Variance from Section 14-04-01(6) of the City Code of Ordinances (RR – Residential)(Rear Yard)** – Lot 2, Block 1, Foxhaven First Subdivision (7440 Red Fox Lane)

Paul and Belinda Wutzke are requesting a variance to reduce the required rear yard setback located along the west side of the property from sixty-four (64) feet to thirty (30) feet in order to construct an accessory building.

Board Action: approve continue table deny

5. **Variances from Section 14-04-07(7) of the City Code of Ordinances (R10 – Residential)(Front Yard) and Section 14-04-06(9) of the City Code of Ordinances (R10 – Residential)(Rear Yard)** – The East 102 feet of Lots 1 & 2, Block 45, Flannery and Wetherby Addition (1623 East Avenue B)

Kenneth and Susan Wangler are requesting variances to reduce the required front yard setback located along the north side of the property from twenty-five (25) feet to sixteen (16) feet, and to reduce the required rear yard setback located along the west side of the property from twenty (20) feet to ten (10) feet in order to construct an addition to the exiting attached garage.

Board Action: approve continue table deny

6. **Variance from Section 14-04-03(7) of the City Code of Ordinances (R5 – Residential)(Front Yard)** – Lot 11, Block 1, Kilber Addition (1905 Harding Place)

Aric and Mary Bandle are requesting a variance to reduce the required front yard setback from twenty-five (25) feet, measured from the eastern edge of the private roadway / access easement (Harding Place), to twelve (12) feet in order to construct a single-family dwelling.

Board Action: approve continue table deny

7. **Variance from Section 14-04-03(7) of the City Code of Ordinances (R5 – Residential)(Front Yard)** – Lot 13, Block 4, Highland Acres Second Addition (1136 North Parkview Drive)

Troy Olson is requesting a variance to reduce the required front yard setback located on the west side of their property from twenty-five (25) feet to fifteen (15) feet in order to construct a single family dwelling.

Board Action: approve continue table deny

8. **Variances from Section 14-04-07(9) of the City Code of Ordinances (RM30 – Residential)(Rear Yard) and Section 14-03-09 of the City Code of Ordinances (Nonconforming Uses)** – The West 50 feet of the North 50 feet of the North 100 feet of Lot 1, Block 2, Northern Pacific Addition (317 East Avenue D)

Jeff and Diane Kapple are requesting variances to reduce the required rear yard setback located along the south side of their property from twenty (20) feet to three feet 6 inches (3 feet 6 inches) and to allow the construction of a 9 square foot addition to their existing single-family dwelling on a nonconforming lot (less than 7,000 square feet).

Board Action: approve continue table deny

OTHER BUSINESS

9. Bylaws of the Board of Adjustment

Review the draft document of the Bylaws for the Board of Adjustment.

ADJOURNMENT

10. Adjournment. The next regular meeting date is scheduled for July 2, 2015.

**BISMARCK BOARD OF ADJUSTMENT
MEETING MINUTES
May 7, 2015**

The Bismarck Board of Adjustment met on May 7, 2015 at 5:00 p.m. in the Tom Baker Meeting Room in the City-County Office Building, 221 North 5th Street. Chairman Marback presided.

Members present were Ken Hoff, Chris Seifert, Jeff Ubl and Michael Marback.

Members absent were Jennifer Clark and Ken Heier.

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

MINUTES:

Chairman Marback called for approval of the minutes of the April 13, 2015 special meeting of the Board of Adjustment.

MOTION: A motion was made by Mr. Ubl and seconded by Mr. Hoff to approve the minutes of the April 13, 2015, special meeting. With Board Members Hoff, Seifert, Ubl and Marback voting in favor, the minutes were approved.

VARIANCE FROM SECTION 14-04-01(5) OF THE CITY CODE OF ORDINANCES (RR-RESIDENTIAL)(SIDE YARD) – LOT 11, BLOCK 5, FALCONER ESTATES (5525 APPLE CREEK DRIVE)

Chairman Marback stated the applicant, Robert Rebel, is requesting a variance to reduce the required side yard setback along the north side of his property from fifteen (15) feet to six (6) feet in order to construct an accessory building.

Ms. Wollmuth gave an overview of the request including the following 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.
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.
6. The granting of the variance is not in harmony with the general purposes and intent of the Zoning Ordinance.

Chairman Marback asked if the rear portion of the property is usable at all. Mr. Rebel said there is about a 40 foot drop off down to Apple Creek and that they have 1.2 acres with only about 27% of that being usable building area.

Chairman Marback asked how tall the structure will be. Mr. Rebel said he will go as low as he can with 11 foot sidewalls and a total square footage of about 1,300 square feet.

Mr. Hoff asked the length of the existing concrete pad on the front portion of the property. Mr. Rebel said it is approximately 40 feet long.

Mr. Hoff asked what the use for the accessory building will be. Mr. Rebel said a typical garage for extra vehicle storage, adding that it will not be big enough to store his camper and he is not interested in anything that large anyways.

Mr. Hoff asked what the standard wall height is for an accessory building. Mr. Ubl said it is typically 11 feet with a nine foot door.

Chairman Marback asked if any trees will have to be removed. Mr. Rebel said he will have to remove about 14 trees but they are not in good growing condition.

Mr. Hoff asked how long he has occupied the property. Mr. Rebel said he has been there 14 years.

Mr. Hoff asked if the shed is new or if it was there when they moved in. Mr. Rebel said it was there when they moved in and the only thing they have added is the camper pad.

Mr. Hoff said when a property is purchased the buyer knows what is there and should have an idea of what can and cannot be added but it seems future plans are lacking resulting in variances being requested.

Chairman Marback opened the public hearing.

There being no comments, Chairman Marback closed the public hearing.

MOTION: A motion was made by Mr. Seifert to approve the variance to reduce the required side yard setback along the north side of his property from fifteen (15) feet to six (6) feet in order to construct an accessory building. The motion was seconded by Mr. Hoff and with Board Members Hoff, Seifert, Ubl and Marback voting in favor of the motion, the motion was approved and the variance request was approved.

VARIANCE FROM SECTION 14-04-03(9) OF THE CITY CODE OF ORDINANCES (R5-RESIDENTIAL)(REAR YARD) – THE NORTH 70 FEET OF LOTS 13-14, BLOCK 18, NORTHERN PACIFIC ADDITION (521 NORTH WASHINGTON STREET)

Chairman Marback stated the applicants, Larry and Peggy Shireley, are requesting a variance to reduce the required rear yard setback along the south side of their property from twenty (20) feet to ten (10) feet four (4) inches in order to construct an addition to the existing single-family dwelling.

Ms. Wollmuth gave an overview of the request including the followings 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 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.
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.

Ms. Shireley said they have lived at this property since 1989 and would very much like to stay in their home, but with her and her husband approaching 60 years old, their home is not adequately accessible. She said there is not a full bath or bedroom on the main floor and her and her husband's mobility has become an issue. She said the purpose of the addition is to add an accessible front door with no steps, turning the garage into a bedroom and bathroom and adding a new two stall attached garage. She said the new attached garage would then be accessed from the kitchen. She said their neighbors on both sides are supportive of their idea and this will allow for them to stay and help avoid an obsolete home with little resale value. She said the design will be complimentary to the Cathedral District, which she actually helped establish and cares very much about, but they cannot stay in their home with the current design they have.

Chairman Marback opened the public hearing.

There being no comments, Chairman Marback closed the public hearing.

MOTION: A motion was made by Mr. Hoff to approve the variance to reduce the required rear yard setback along the south side of their property from twenty (20) feet to ten (10) feet four (4) inches in order to construct an addition to the existing single-family dwelling. The motion was seconded by Mr. Ubl

and with Board Members Hoff, Seifert, Ubl and Marback voting in favor of the motion, the motion was approved and the variance request was approved.

**PARKING DETERMINATION – THE NW1/4 OF THE SW1/4 OF SECTION 16,
T139N-R80W/GIBBS TOWNSHIP**

Chairman Marback stated the applicants, Michael and David Esposito and Dean Ulmer, are requesting the Board of Adjustment determine the number of off-street parking spaces required for a livestock sales pavilion.

Mr. Ulmer said he purchased this property with his business partner. They bought the property for the use of a livestock market in the area. He said he has a lifetime of livestock exchange experience and the owner of the property is ready to sell at this time so a contract for deed has been completed and the use is allowed in the A-Agricultural zoning district. He said their goal is to have a livestock market of cows, bulls and specialty breeds as well as online sales. He said the facility will be very modern with the ability to handle and present ring sales more securely. He added that North Dakota has lost two livestock markets recently and this is very much a needed use and the financing needed is already in place. He said they are looking to start sales in the fall as approvals of stormwater management plan, site plan and permits will be in place at that time.

Jess George said their only impediment at this point is the need for a parking determination. He said the planning department could not give a requirement as it is not stated in the ordinance but they need to plan parking for approximately 45 off-street parking spaces and he feels that will be more than adequate and the site can support that amount. He said trucks and cattle semi-trailers will only be there to load or unload and would not need to be calculated into the parking need. He added that most livestock markets he has seen and in the area have little to no parking.

Mr. Hoff asked how the sales building will be located on the property as well as where access will be and the placement of the off-street parking spaces.

Mr. Ulmer said access will be from 80th Street NE. He said the pavilion will be set back about 300-450 feet 80th St NE and a load out chute will be located on the north side.

Mr. Hoff asked if a clean out area will be provided. Mr. Ulmer said the back side of the pavilion is subject to becoming a clean out area according to the topography reports. Mr. George added that clean outs are actually not required so it is possible they will not have one or not allow it. He said many markets have stopped providing them.

Mr. Ulmer said their loan is only for the 40 acres being developed as it is possible the remaining southeast quarter will continue to be an agricultural use or farming rental.

Mr. Hoff asked how far the pavilion will be from the access point. Landon Niemiller, Swenson, Hagen & Co., said it will be 400 feet from the access point and the building will be approximately 9,000 square feet.

Mr. Ubl asked if there will be any other additional spaces inside the building besides the livestock area. Mr. Niemiller said there will be an office and bathrooms that will take about 33% of the building. Mr. Ulmer added that the office will be approximately 900 square feet as well as a lounge area with TV's and internet accessibility for online sales that will also be about 900 square feet.

Mr. George said the livestock they will be selling will be superior and a lot of their success will come from the ability to see a live feed of the sales streamed to the lounge and the option to purchase livestock via online sales.

Mr. Ubl asked what the capacity of the sales area will be. Mr. Ulmer said they have planned seating for 108 people and the ring itself will be approximately 800 square feet internally with a 100 cubic foot entrance and exit.

Mr. Blaskowski stated the parking determination is needed to proceed with the submitted site plan so they can then move on to the building plan review process at the time of the permit application. He said plans are already drawn and bids have been given on all of the requirements.

Mr. Hoff asked what the square feet of parking will be. Jason Petryszyn, Swenson, Hagen & Co., said it will be approximately 120 x 190 square feet including the drive lanes.

Mr. Ubl said he would like to see those plans and some comparables in order to get a better idea of the needs.

Mr. Hoff asked if the parking will have curb and gutter. Mr. Petryszyn said it will be paved but not curbed immediately in order to allow for expansion to the north or south if needed.

Mr. Blaskowski said staff did ask for an explanation of the truck route as well as emergency vehicle accessibility and those concerns were settled. He added that they did not see the logic in striping those areas.

MOTION: A motion was made by Mr. Ubl to determine the parking suggestion of 45 spaces is adequate to support the use of a livestock sales pavilion on the NW1/4 of the SW1/4 of Section 16, T139N-R79W/Gibbs Township. The motion was seconded by Mr. Seifert and with Board Members Hoff, Seifert, Ubl and Marback voting in favor of the motion, the motion was approved and the parking determination was granted.

OTHER BUSINESS

BYLAWS OF THE BOARD OF ADJUSTMENT

Ms. Wollmuth stated that at the request of the Board of Adjustment members, she has drafted bylaws to be reviewed by the members and will take any suggestions on changes they think might be needed. She said these can be discussed further at the next meeting after they have had time to review them.

Chairman Marback said the applicants for a variance to support the use of the Bismarck-Mandan Food Cooperative did appeal the decision of the Board of Adjustment to the City Commission and they did end up receiving their variance as originally requested so activity should start at that location soon.

ADJOURNMENT

There being no further business, Chairman Marback declared the meeting of the Bismarck Board of Adjustment adjourned at 6:04 p.m. to meet again on June 4, 2015.

Respectfully Submitted,

Hilary Balzum
Recording Secretary

APPROVED:

Michael Marback, Chairman

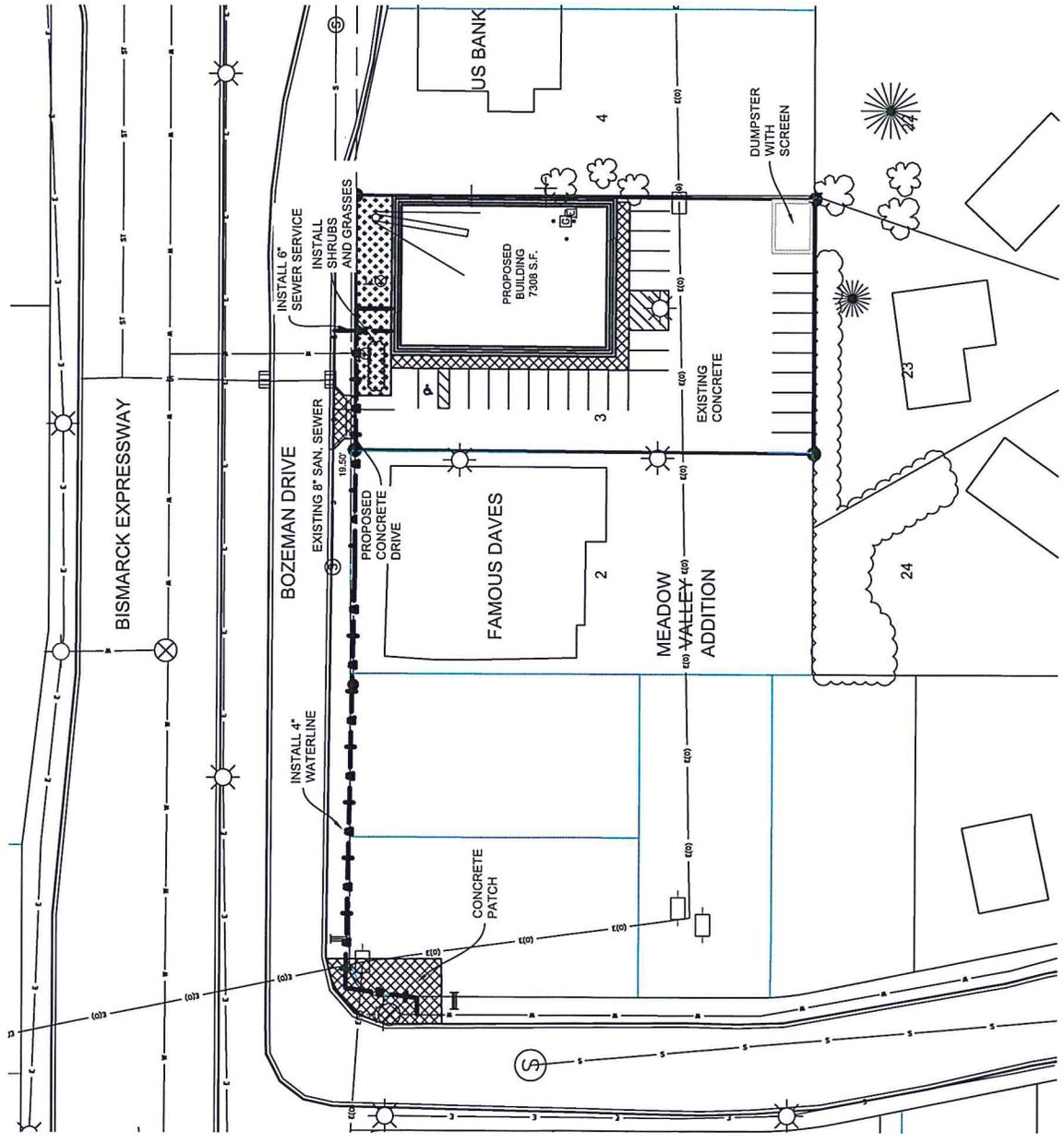
**BISMARCK COMMUNITY DEVELOPMENT DEPARTMENT
STAFF REPORT**

BACKGROUND:	
Title: 413 East Bismarck Expressway – Variance (Landscaping and Screening)(Buffer Yards) (Lot 3 less the West 1 foot and the West 16 feet of Lot 4, Block 2, Meadow Valley Addition)	
Status: Board of Adjustment	Date: June 4, 2015
Owner(s): Lyndon and Mona Mertz	Engineer: None
Reason for Request: Variance from Section 14-03-11(10)(e) of the City Code of Ordinances (Landscaping and Screening)(Buffer Yards), to eliminate the required twenty (20) foot landscaping buffer yard for new commercial use adjacent to a single-family residential use along the south side of the property in order to construct a new single-story, 7,308 square foot commercial building.	
Location: In south Bismarck, south of Kirkwood Mall between South 3 rd street and South 7 th Street, south of Bismarck Expressway along the south side of the Bozeman Drive frontage 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 14-03-11(10)(e) of the City Code of Ordinance requires the installation of a twenty (20) foot landscaping buffer yard for a new commercial use adjacent to a single-family residential use. According to the site plan submitted with the application, the applicant is proposing to eliminate the required landscaping buffer yard. 	
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 CG – Commercial 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.	

LEGEND

●	MONUMENT FOUND	○	SANITARY SEWER MANHOLE
⊙	MONUMENT SET, MAG NAIL	⊞	STORM SEWER INLET
⊞	GAS METER	⊞	HYDRANT
⊞	ELECTRIC PEDESTAL	⊞	GATE VALVE
⊞	SIGN	⊞	WATER SERVICE VALVE
○	BOLLARD	—	SANITARY SEWER
⊞	CONCRETE REPLACEMENT	—	WATERMAIN
⊞	POWER POLE	—	STORM SEWER
⊞	LIGHT POLE	—	WATER SERVICE
⊞	TREE	—	SEWER SERVICE
⊞	SHRUB		

NOTES:
IF THE EXISTING SANITARY SEWER SERVICE IS 6 INCHES, THE LINE SHALL BE CAMERAED TO VERIFY ITS INTEGRITY.



MATTHEWS FIRM
 LYNDON MATTHEWS
 413 EAST BISMARK EXPRESSWAY, BISMARK, ND

KLJ
 CONSULTING ENGINEERS

PROJECT NO. 1615125-HERTZ
 SHEET NO. 4
 DATE 5/15/2015

PROPOSED WORK

This drawing is preliminary and is for planning or conceptual purposes.



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

1. Property Address or Legal Description: 413 E. Bismarck Expressway, Bismarck, ND 58504

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

3. Type of Variance Requested: Landscape buffer

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.)

The area is needed for parking for the new tenants. Also need the area for Trash area and also snow pile. All businesses along the way pile snow back of their lots. This will cause us to have to haul our snow out. Also there is an existing lilac hedge on the residential lot behind us as well as a full privacy fence. If we add more trees that close - will potentially choke each other out due to being too close.

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

Area is Already an existing concrete parking lot would result in the loss of 2000 sqft of parking lot for new business. Need area for our trash dumpster. Already a buffer between resident and our lot.

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

The minimum variance requested is no buffer due to existing landscape - needed for snow storage and trash dumpster site. Also this area is already a concrete parking lot. We would have to tear that out.



Community Development Department

May 22, 2015

Dear Property Owner:

Please be advised that the Bismarck Board of Adjustment will be conducting a public hearing on a variance request on Thursday, June 4, 2015, at 5:00 p.m. in the Tom Baker Meeting Room, City-County Office Building, 221 North 5th Street, Bismarck, North Dakota, which may be of interest to you.

Lyndon and Mona Mertz are requesting a variance from Section 14-03-11(10)(e) of the City Code of Ordinances (Landscaping and Screening)(Buffer Yards), to eliminate the required twenty (20) foot landscaping buffer yard for a new commercial use adjacent to a single-family residential use along the south side of the property located on Lot 3 less the West 1' and the West 16' of Lot 4, Block 2, Meadow Valley Addition (413 East Bismarck Expressway).

A map showing the location involved in the requests 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 - planning@bismarcknd.gov.

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 COMMUNITY DEVELOPMENT DEPARTMENT
STAFF REPORT**

BACKGROUND:	
Title: 300 East Avenue B – Variance (Nonconforming Uses)(Front Yard Setback) (The West 48’ of Lot 5 and the West 48’ of the South 25’ of Lot 6, Block 11, Northern Pacific Addition)	
Status: Board of Adjustment	Date: June 4, 2015
Owner(s): Deborah Kasher	Engineer: None
Reason for Request: Variances from Section 14-03-05(4)(c) of the City Code of Ordinances (Supplementary Provisions) to reduce the required front yard setback located along the west side of the property, from twenty (20) feet to eighteen (18) feet, and from Section 14-03-09 of the City Code of Ordinances (Non-conforming Uses) to allow the construction of an accessory building on a non-conforming lot (less than 7,000 square feet) with an existing non-conforming use (single family dwelling) in the RT-Residential zoning district in order to construct an accessory building.	
Location: In central Bismarck, between East Avenue B and East Avenue C, along the east side of North 3 rd Street.	
ADDITIONAL INFORMATION:	
<ol style="list-style-type: none"> The property is considered a nonconforming use because single-family dwellings without a commercial use are not permitted within the RT – Residential zoning district and because the lot size does not meet the minimum size (7,000 square feet) for a lot located within the RT - Residential zoning district. The RT – Residential zoning district was expanded to include this property in October 1987; prior to the RT zoning the property was zoned RM – Residential. It appears that the property has been used as a single-family dwelling since the house was constructed in 1911. 	
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 14-03-09(3) of the City Code of Ordinances (Nonconforming Uses) states, “Alterations may be made to a nonconforming principal residential structure or any principal building in which there is a nonconforming residential use when the alteration will improve the livability thereof, provided it will not increase the number of dwelling units or the outside dimensions of the building.” According to the site plan submitted with the application, the outside dimensions of the building will be increased 108 square feet. Section 14-04-08(4) of the City Code of Ordinances (RT – Residential) requires a minimum lot size of 7,000 square feet. The proposed variance is located on a 4,800 square foot lot. It appears that the property has been 4,800 square feet prior to the rezoning to RT – Residential in 1986. Section 14-03-05(4)(c) of the City Code of Ordinance (Supplementary Provisions) states, “Accessory buildings, including garages, located on a corner lot in a residential district shall be located not less than twenty (20) feet from the lot line of the side street and in no case shall be set back less than the setback distance required for the principal building. The minimum setback from the adjacent lot line of the lot also facing the side street shall be the same as required for the principal building.” North 3rd Street is considered a side street for this property and a twenty (20) foot setback is required. According to the site plan submitted with the application the proposed accessory building is setback eighteen (18) feet from the front property line adjacent to North 3rd Street. 	

FINDINGS:

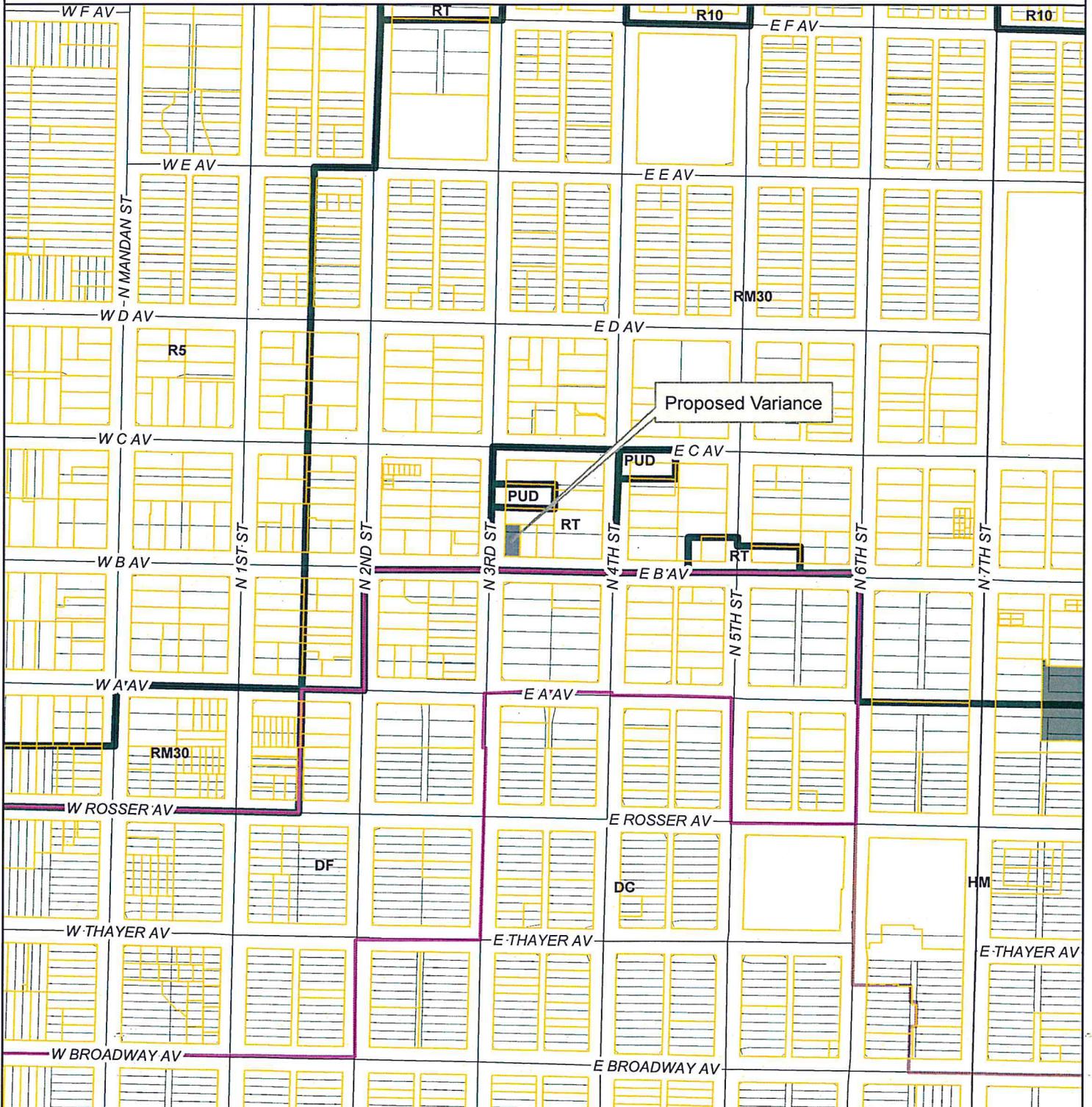
1. The need for a variance is not based on special circumstances or conditions unique to the specific parcel of land involved that are not generally applicable to other properties in this area and within the RT-Residential zoning classification.
2. The hardship is not caused by the provisions of the 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 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

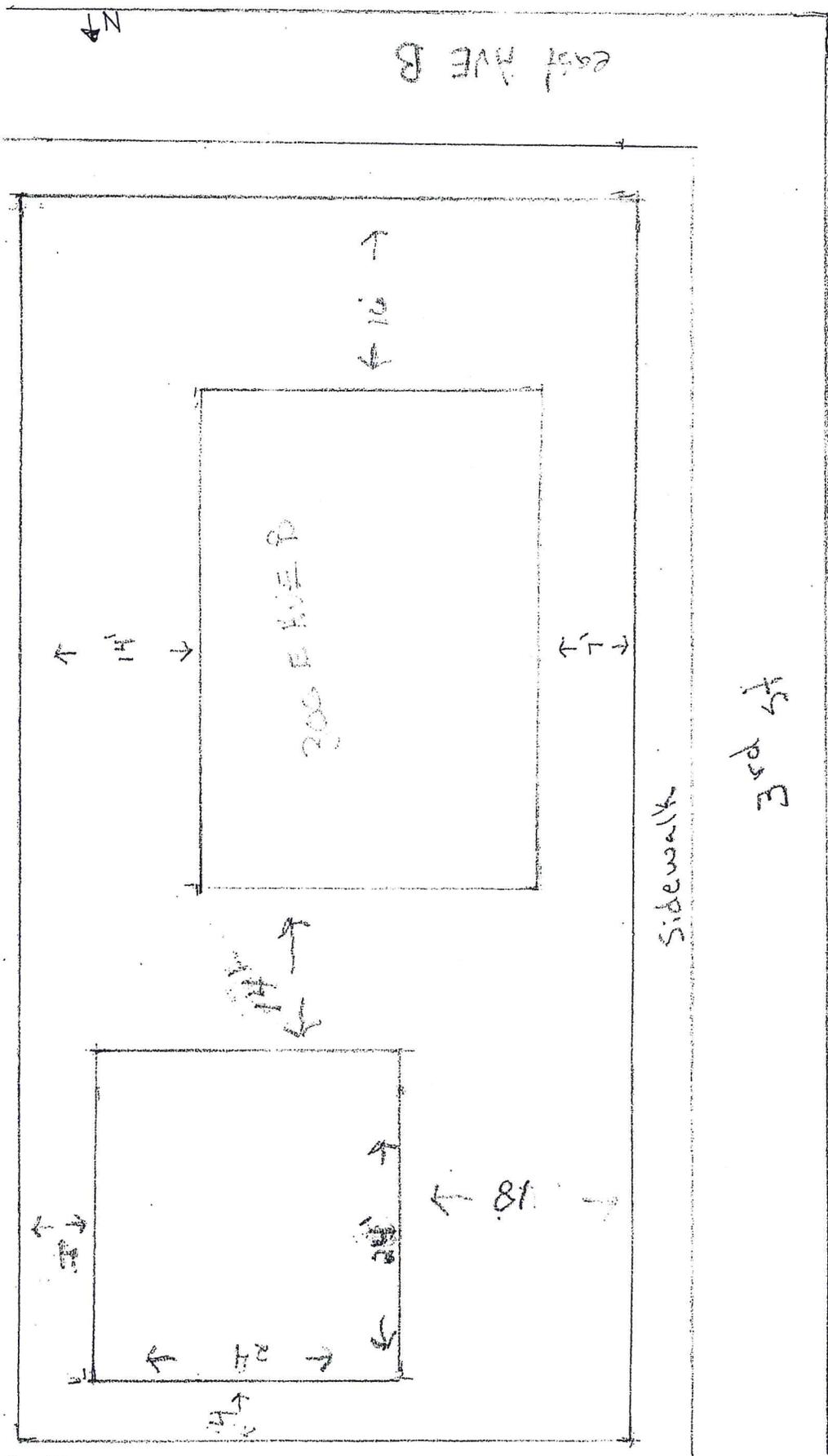
The West 48' of Lot 5 and the West 48' of the South 25' of Lot 6, Block 11, Northern Pacific Addition



March 5, 2015 (hlb)

This map is for representational use only and does not represent a survey. No liability is assumed as to the accuracy of the data delineated hereon.





lot size

45 ps E

16 x 16 thick edge
on slab with 1/2 rebar.

300 East B Avenue - Variance Request



Proposed 24' x 24' accessory building

18 Feet

N 3RD ST



This map is for representational use only and does not represent a survey. No liability is assumed as to the accuracy of the data delineated hereon.



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

1. Property Address or Legal Description:

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

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.)

It's difficult to utilize the property as it is now because there is very limited parking - one vehicle driveway, parking on 3rd st. is limited because of city street cleaning, and parking on Ave. B is limited due to how the corner of the lot is made & the stop sign is set back quite a bit. Law requires no parking 15' in front of a stop sign. A garage (2 stall) will not only help with parking problems, but will make the yard neater because we will also have storage.

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

We need a garage for parking as well as storage & security.

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

This is the smallest structure we can put on the lot to hold two vehicles and storage.



Community Development Department

May 22, 2015

Dear Property Owner:

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Deborah Kashur is requesting variances from Section 14-03-05(4)(c) of the City Code of Ordinances (Supplementary Provisions) to reduce the required front yard setback located along the west side of the property, from twenty (20) feet to eighteen (18) feet and from Section 14-03-09 of the City Code of Ordinances (Non-conforming Uses), to allow the construction of an accessory building on a non-conforming lot (less than 7,000 square feet) with an existing non-conforming use (single family dwelling) in the RT-Residential zoning district in order to construct an accessory building on the West 48 feet of Lot 5 and the West 48 feet of the South 25 feet of Lot 6, Block 11, Northern Pacific Addition (300 East B Avenue).

A map showing the location involved in the requests 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 - planning@bismarcknd.gov.

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

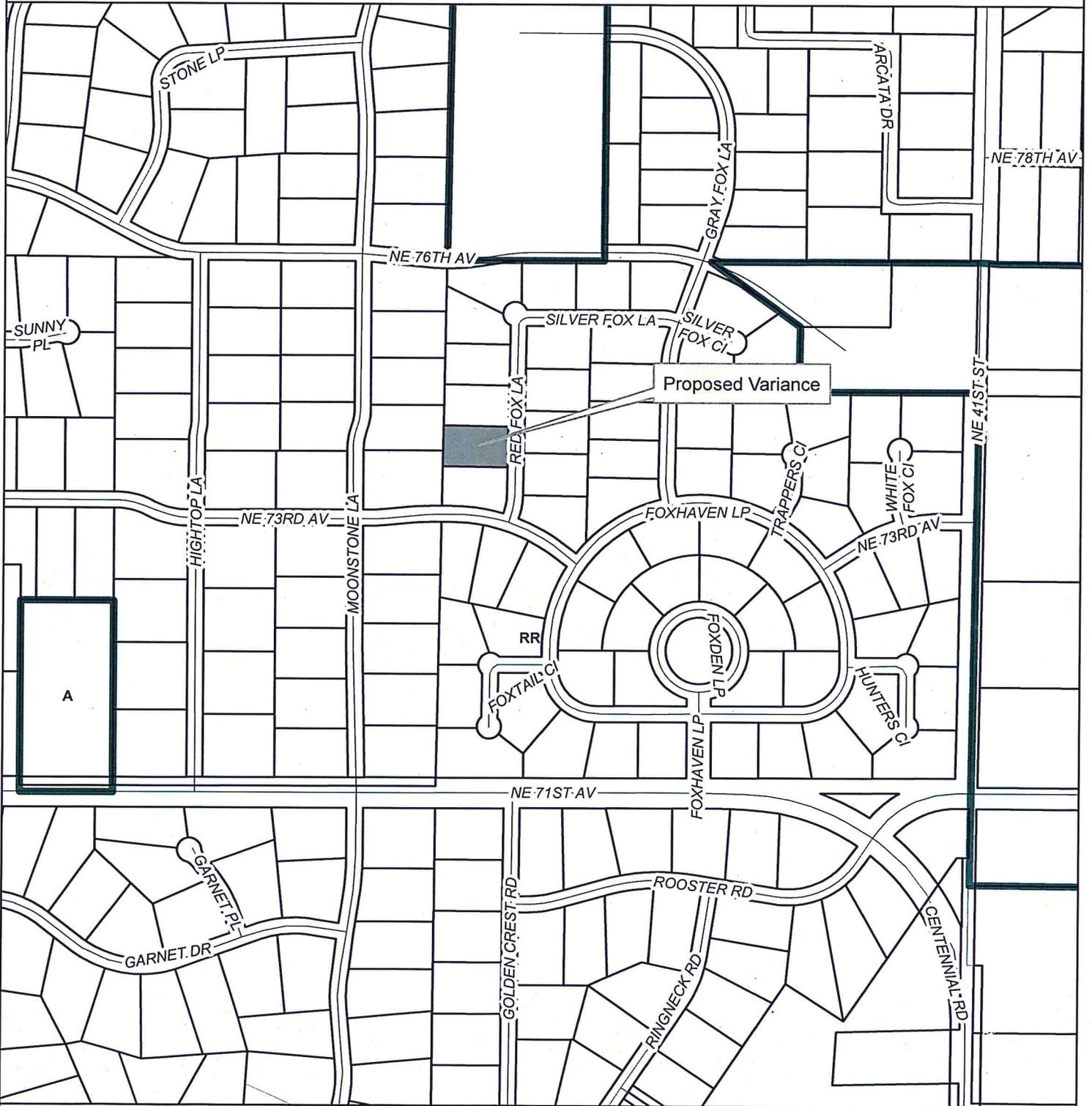


**BISMARCK COMMUNITY DEVELOPMENT DEPARTMENT
STAFF REPORT**

BACKGROUND:	
Title: 7440 Red Fox Lane – Variance (Front Yard Setback) (Lot 2, Block 1, Foxhaven First Subdivision)	
Status: Board of Adjustment	Date: June 4, 2015
Owner(s): Paul and Belinda Wutkze	Engineer: None
Reason for Request: Variance from Section 14-04-01(6) of the City Code of Ordinances (RR – Residential)(Rear Yard) to reduce the required rear yard setback located along the west side of the property from sixty-four (64) feet to thirty (30) feet in order to construct an accessory building.	
Location: In northeast Bismarck, north of 71 st Avenue NE along the west side of Red Fox 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 14-04-01(6) of the City Code of Ordinances (RR – Residential)(Rear Yard) states, “Each lot or premises, shall have a rear yard depth of not less than fifty (50) feet or twenty (20) percent of the depth of the lot or premises whichever is larger, but not to exceed seventy-five (75) feet. Twenty (20) percent of the depth of the lot is sixty-four (64) feet. According to the site plan submitted with the application the proposed variance is setback thirty (30) feet from the rear property line located along the west side of the property. 	
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.	

Proposed Variance

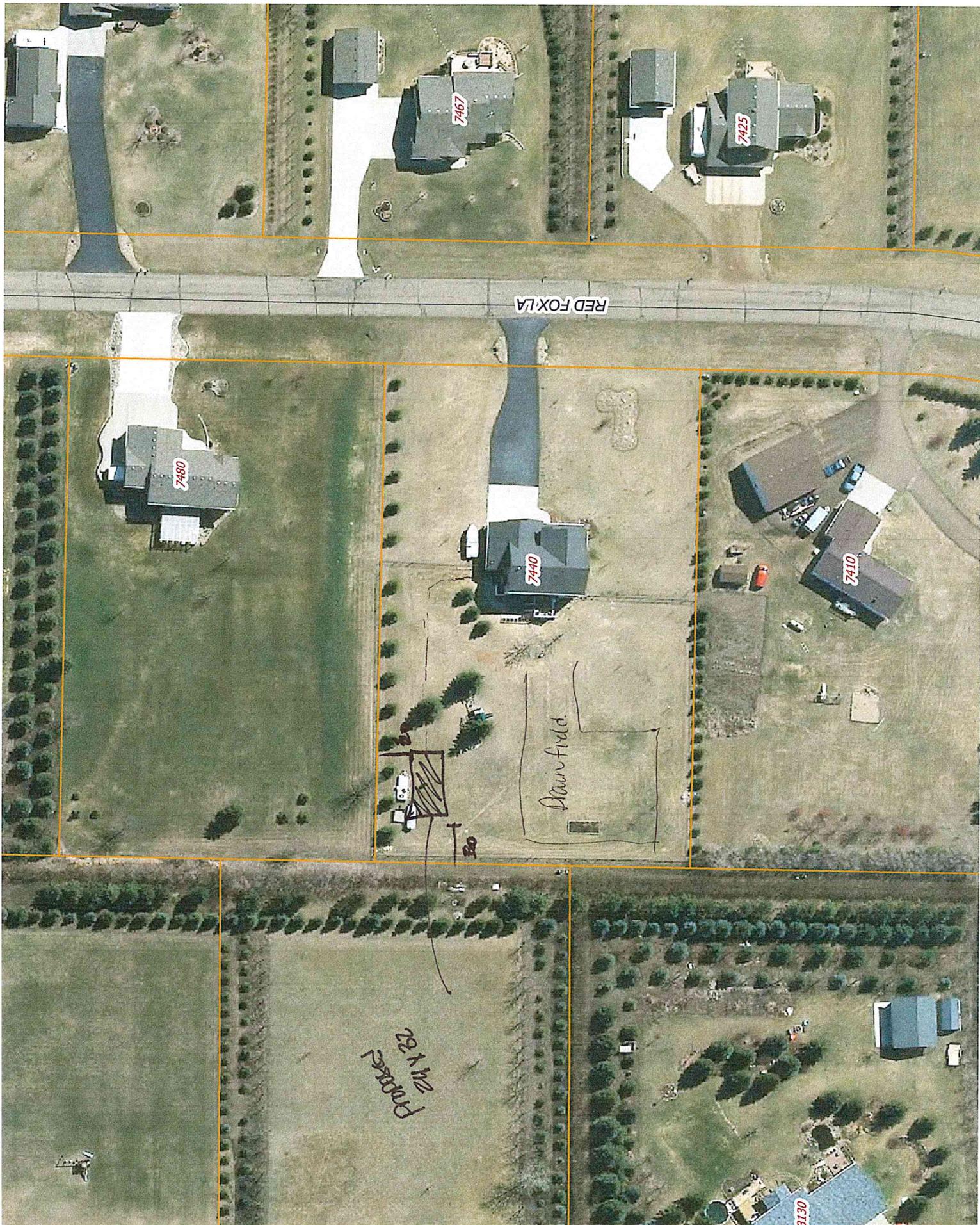
Lot 2, Block 1, Foxhaven First Subdivision



March 5, 2015 (hlb)

This map is for representational use only and does not represent a survey. No liability is assumed as to the accuracy of the data delineated hereon.







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

Paul + Belinda Witzke

1. Property Address or Legal Description: 7440 Red Fox Lane, Bismarck, ND 58503

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

3. Type of Variance Requested: Requesting reduction in back yard set back of 50 ft to 30 ft for single vehicle garage

4. Applicable Zoning Ordinance Chapter/Section: I'm not sure which Chapter/Section - I called in to get requirements for building

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.)

If we were to be required to comply to this ordinance for our planned 32' x 24' single car garage/shed we would not be able to follow through with building it. See reasons listed below.

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

Complying with the ordinance of 50 feet setback for building from back property line would require us to destroy three well-established evergreen trees that are 20+ years old. These are some of the tallest trees in the whole development. Even though we are not the first owners of the property, it appears these trees were planted prior to the house being built on the property. They provide natural windbreak and there are a pair of blue jays who seem to call these trees home

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

This is the only place on the property that we can build the single vehicle garage/shed as the topography of the north side yard is such that it slopes downward there. In the backyard, the south & middle backyard, has a double septic drainfield. Closer to the house in the NW back yard the land slopes downward making it impossible to build here.

In addition there is an MNU gas line coming out the north side of house and running parallel to the north property line in back yard



Community Development Department

May 22, 2015

Dear Property Owner:

Please be advised that the Bismarck Board of Adjustment will be conducting a public hearing on a variance request on Thursday, June 4, 2015, at 5:00 p.m. in the Tom Baker Meeting Room, City-County Office Building, 221 North 5th Street, Bismarck, North Dakota, which may be of interest to you.

Paul and Belinda Wutkze are requesting a variance from Section 14-04-01(6) of the City Code of Ordinances (RR-Residential)(Rear Yard) to reduce the required rear yard setback located along the west side of the property from sixty-four (64) feet to thirty (30) feet in order to construct an accessory building on Lot 2, Block 1, Foxhaven First Subdivision (7440 Red Fox Lane).

A map showing the location involved in the requests 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 - planning@bismarcknd.gov.

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 COMMUNITY DEVELOPMENT DEPARTMENT
STAFF REPORT**

BACKGROUND:	
Title: 1623 East Avenue B – Variance (Front Yard Setback) (The East 102 feet of Lots 1 and 2, Block 45, Flannery and Wetherby Addition)	
Status: Board of Adjustment	Date: June 4, 2015
Owner(s): Kenneth and Susan Wangler	Engineer: None
Reason for Request: Variances from Section 14-04-06(7) of the City Code of Ordinances (R10 – Residential)(Front Yard) to reduce the required front yard setback located along the north side of the property from twenty-five (25) feet to sixteen (16) feet, and from Section 14-04-06(9) of the City Code of Ordinances (R10-Residential)(Rear Yard) to reduce the required rear yard setback located along the west side of the property from twenty (20) feet to ten (10) feet in order to construct an addition to the existing attached garage.	
Location: In central Bismarck, in the southwest quadrant of the intersection of East B Avenue and North 17 th Street.	
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 14-04-03(7) of the City Code of Ordinances (R10 – 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 variance is setback sixteen (16) feet from the front property line located along the north side of the property. 3. Section 14-04-06(9) of the City Code of Ordinances (R10 – Residential)(Rear Yard) states, “Each lot shall have a rear yard not less than twenty (20) feet.” According to the site plan submitted with the application, the proposed addition is setback ten (10) feet from the rear property line located along the west side of the property. 	
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 R10-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 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

The East 120' of Lots 1 & 2, Block 45, Flannery and Wetherby Addition

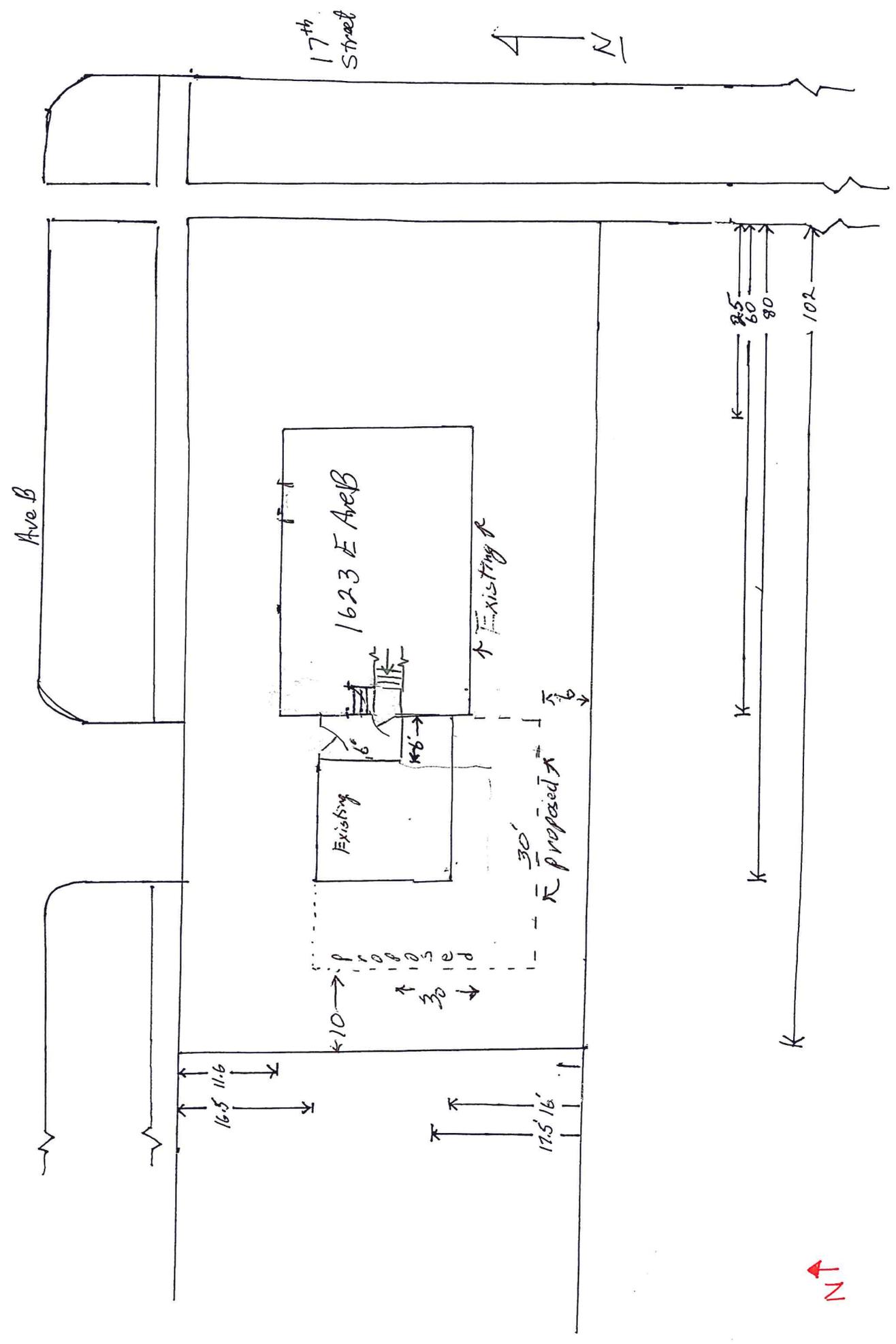


March 5, 2015 (h1b)

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Scale 1/16" = 1' = 16"



Bismarck

7

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

1. Property Address or Legal Description: 1623 E Ave B.
2. Location of Property: City of Bismarck Extraterritorial Area (ETA)
3. Type of Variance Requested: Set Back extension from right of way and Set Back Reduction from property line
4. Applicable Zoning Ordinance Chapter/Section: H-04-06(7) Frontyard + H-04-06(9) Rear Yurd.
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.)

Current Garage is Set Back 16 ft from Sidewalk (South of Sidewalk) Property is 50 ft N-S. Current Garage is 20 ft wide (E-W) and 19 ft Deep (N-S). East 6 ft is Entry way for Basement leaving 14 ft wide. Would like to extend West wall to within 10 ft of West property line (Approximately additional 10 ft) to allow a 24 wide (Standard double) garage. Current Setback along 20 ft of existing garage is not standard Setback - I would like a Variance to allow the shorter setback to be extend west an additional 10 ft and Backyard offset reduced to 10'

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

Current garage would be single only. Would like to be able to provide a garage for each Unit of the duplex. Current garage is not in good condition, roof is weak and leaks, needs to be rebuilt. Have adequate room on South of property to extend garage enough to fit a vehicle and still maintain 6 ft from property - could extend 10 additional feet west and still maintain 10 ft from East Property. I could not Setback from Sidewalk 25' and build a long enough garage to stay 6 ft from South property

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

Without Variance I would not be able to have 2 garage stalls. Unit is a duplex



Community Development Department

May 22, 2015

Dear Property Owner:

Please be advised that the Bismarck Board of Adjustment will be conducting a public hearing on a variance request on Thursday, June 4, 2015, at 5:00 p.m. in the Tom Baker Meeting Room, City-County Office Building, 221 North 5th Street, Bismarck, North Dakota, which may be of interest to you.

Kenneth and Susan Wangler are requesting variances from Section 14-04-06(7) of the City Code of Ordinances (R10-Residential)(Front Yard), to reduce the required front yard setback located along the north side of the property, from twenty-five (25) feet to sixteen (16) feet and from Section 14-04-06(9) of the City Code of Ordinances (R10-Residential)(Rear Yard), to reduce the required rear yard setback located along the west side of the property, from twenty (20) feet to ten (10) feet, in order to construct an addition to the existing attached garage on the East 102 feet of Lots 1 and 2, Block 45, Flannery and Wetherby Addition (1623 East B Avenue).

A map showing the location involved in the requests 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 - planning@bismarcknd.gov.

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

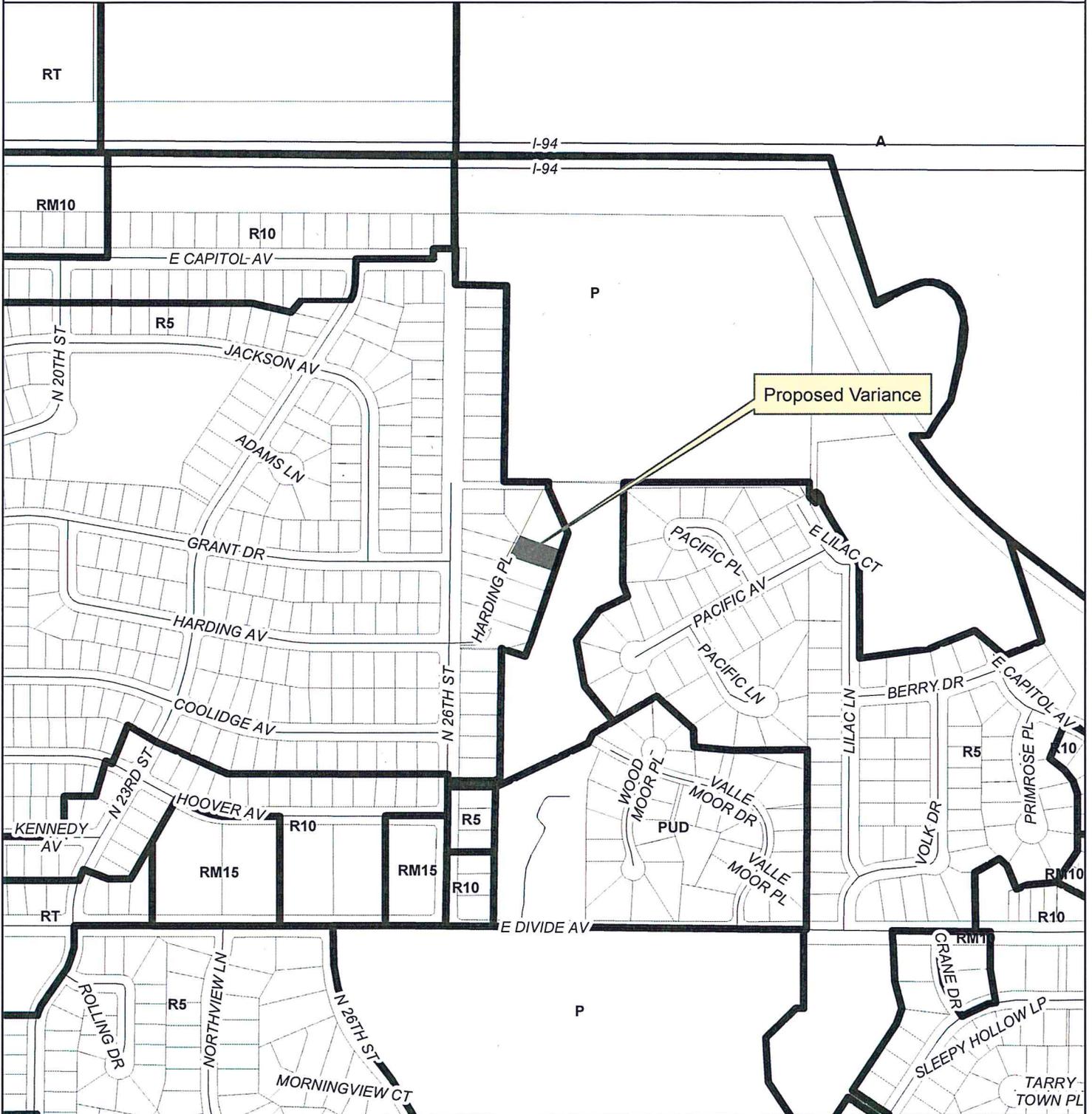


**BISMARCK COMMUNITY DEVELOPMENT DEPARTMENT
STAFF REPORT**

BACKGROUND:	
Title: 1905 Harding Place – Variance (Front Yard Setback) (Lot 11, Block 1, Kilber Addition)	
Status: Board of Adjustment	Date: June 4, 2015
Owner(s): Aric and Mary Bandle	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 from twenty-five (25) feet to fifteen (15) feet, measured from the interior edge of a private access easement (Harding Place), in order to construct a single-family dwelling.	
Location: In east Bismarck, between I-94 and East Divide Avenue, along the east side of Harding Place.	
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 yard and states that, “When a private roadway easement or access easement is located along a lot line, the yard width or depth shall be measured from the interior edge of said easement rather than the actual lot line.” Harding Place is platted as a private road / access easement. According to the site plan submitted with the application, the proposed single-family dwelling is setback fifteen (15) feet from the interior edge of the private access easement (Harding Place). 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 feet in depth.” According to the site plan submitted with the application the proposed single-family dwelling is setback fifteen (15) feet from the interior edge of the private road / access easement (Harding Place). 	
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.	

Proposed Variance

Lot 11, Block 1, Kilber Addition



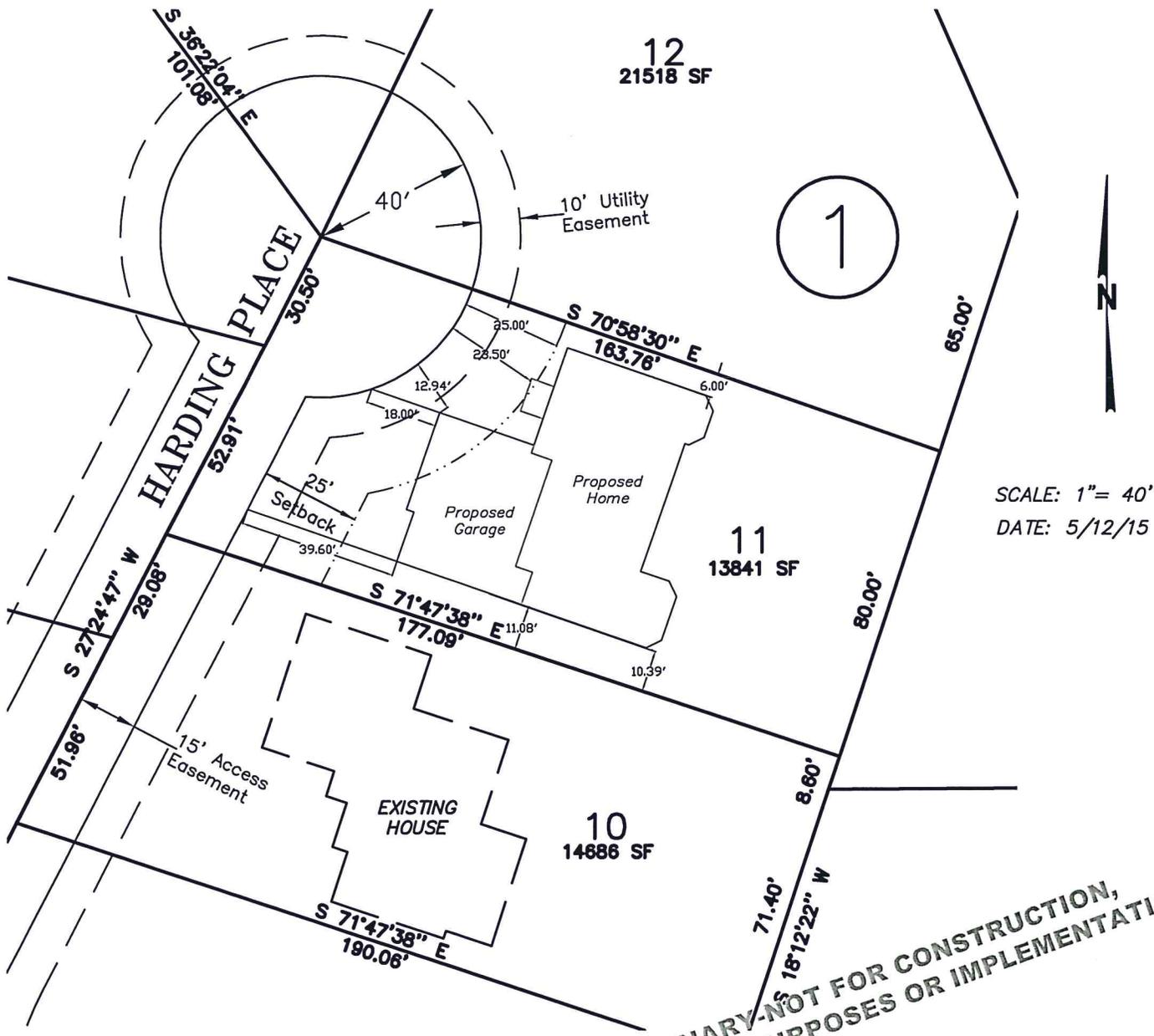
May 15, 2015 (h1b)

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LOT SURVEY EXHIBIT

LOT 11 BLOCK 1
 SUBDIVISION Kilber Addition
 ADDRESS 1905 Harding Place
 BUILDER Mark Fleck Construction



SCALE: 1" = 40'
 DATE: 5/12/15

**PRELIMINARY-NOT FOR CONSTRUCTION,
 RECORDING PURPOSES OR IMPLEMENTATION**

- ⊙ FOUND MONUMENT
- ⊙ SET MONUMENT
- ⊠ BUILDING SETBACK OR NON-ACCESS STAKE



SWENSON, HAGEN & COMPANY P.C.
 909 Basin Avenue
 Bismarck, North Dakota 58504
 sheng@swensonhagen.com
 Phone (701) 223-2600
 Fax (701) 223-2606

Surveying
 Hydrology
 Land Planning
 Civil Engineering
 Landscape & Site Design
 Construction Management

NOTES PLS

THE BUILDING SETBACK LINES SHOWN ARE TYPICAL, THERE MAY BE OTHER BUILDING RESTRICTIONS THAT AFFECT THIS PROPERTY. THE BUILDER IS RESPONSIBLE FOR VERIFYING THE BUILDING SETBACKS AND BUILDING DIMENSIONS. LOT DIMENSIONS ARE FROM PLAT.

FAXED OR EMAILED TO: _____ DATED: _____
 BUILDER OR OWNER



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

1. Property Address or Legal Description:

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

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.)

The standard 25' front yard setback from front lot lines or, in this case, an access easement line, will limit the buildable area for this lot. The lot is exceptionally steep, with nearly 25' of vertical drop from the front of the yard to the rear. As the lot is positioned at the start of the cul-de-sac bulb, the setback from the centerline of the road will be 65' to allow for the cul-de-sac paving, as opposed to the most of the neighboring homes, which will be 40' from the centerline. Because of the proposed position of the home a 12' front yard setback will still allow for a 18' driveway as its closest point to the road, with a 39.6' driveway on the South side.

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

The standard 25' setback limits the amount of space in which to build a home consistent with neighboring properties, without significant grading and dirtwork.

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

The 12' setback allows for an appreciable change in the position of the home, nearly 6' elevation difference, without placing any undue burdens or obstacles on neighboring properties, as the home will still be placed further East than the adjoining property to the South.

May 12, 2015

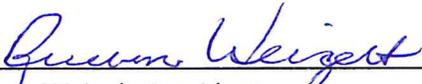
Bismarck Board of Adjustment

RE: Property Variance – 1905 Harding Place, Bismarck

My name is Rueben Weigelt, currently serving as the Harding Place Association President and residing at 1848 Harding Place, Bismarck.

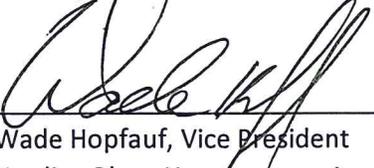
The board is aware that Aric and Mary Bandle are constructing a home at 1905 Harding Place, Bismarck and are seeking a variance from you to adjust the setback of their house. They have provided us with a copy of their application explaining their intent in detail, which we have reviewed and discussed with them.

This letter is to indicate our approval and support of this variance. Thank you for your consideration.



Rueben Weigelt, President
Harding Place Homeowners Association

5-12-15
Date



Wade Hopfauf, Vice President
Harding Place Homeowners Association
Residing at: 1908 Harding Place, Bismarck

5-14-2015
Date

May 12, 2015

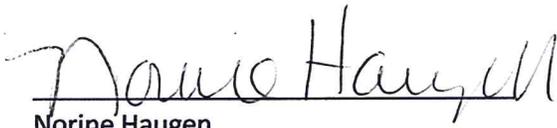
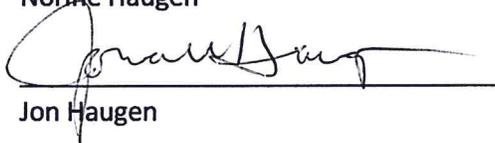
Bismarck Board of Adjustment

RE: Property Variance – 1905 Harding Place, Bismarck

Our names are Jon and Norine Haugen, owners of the vacant lot at 1911 Harding Place, Bismarck. We are members of the Harding Place Homeowners Association as well as the adjoining neighbors to the north of Aric and Mary Bandle.

We are aware that Bandle's are seeking a variance from you to adjust the setback of their house. They have provided us with a copy of their application explaining their intent in detail, which we have reviewed and discussed with them.

This letter is to indicate our approval and support of this variance. Thank you for your consideration.

 _____ Norine Haugen	<u>5/13/15</u> Date
 _____ Jon Haugen	<u>5/13/15</u> Date

May 12, 2015

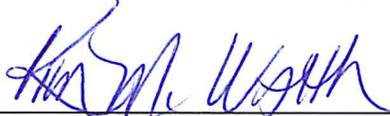
Bismarck Board of Adjustment

RE: Property Variance – 1905 Harding Place, Bismarck

Our names are Bruce and Kim Walth, residing at 1869 Harding Place, Bismarck. We are members of the Harding Place Homeowners Association as well as the adjoining neighbors to the south of Aric and Mary Bandle.

We are aware that Bandle's are seeking a variance from you to adjust the setback of their house. They have provided us with a copy of their application explaining their intent in detail, which we have reviewed and discussed with them.

This letter is to indicate our approval and support of this variance. Thank you for your consideration.



Kim Walth



Date



Bruce Walth



Date



Community Development Department

May 22, 2015

Dear Property Owner:

Please be advised that the Bismarck Board of Adjustment will be conducting a public hearing on a variance request on Thursday, June 4, 2015, at 5:00 p.m. in the Tom Baker Meeting Room, City-County Office Building, 221 North 5th Street, Bismarck, North Dakota, which may be of interest to you.

Aric and Mary Bandle are 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 from twenty-five (25) feet to fifteen (15) feet measured from the interior edge of a private access easement (Harding Place), in order to construct a single-family dwelling on Lot 11, Block 1, Kilber Addition (1905 Harding Place).

A map showing the location involved in the requests 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 - planning@bismarcknd.gov.

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

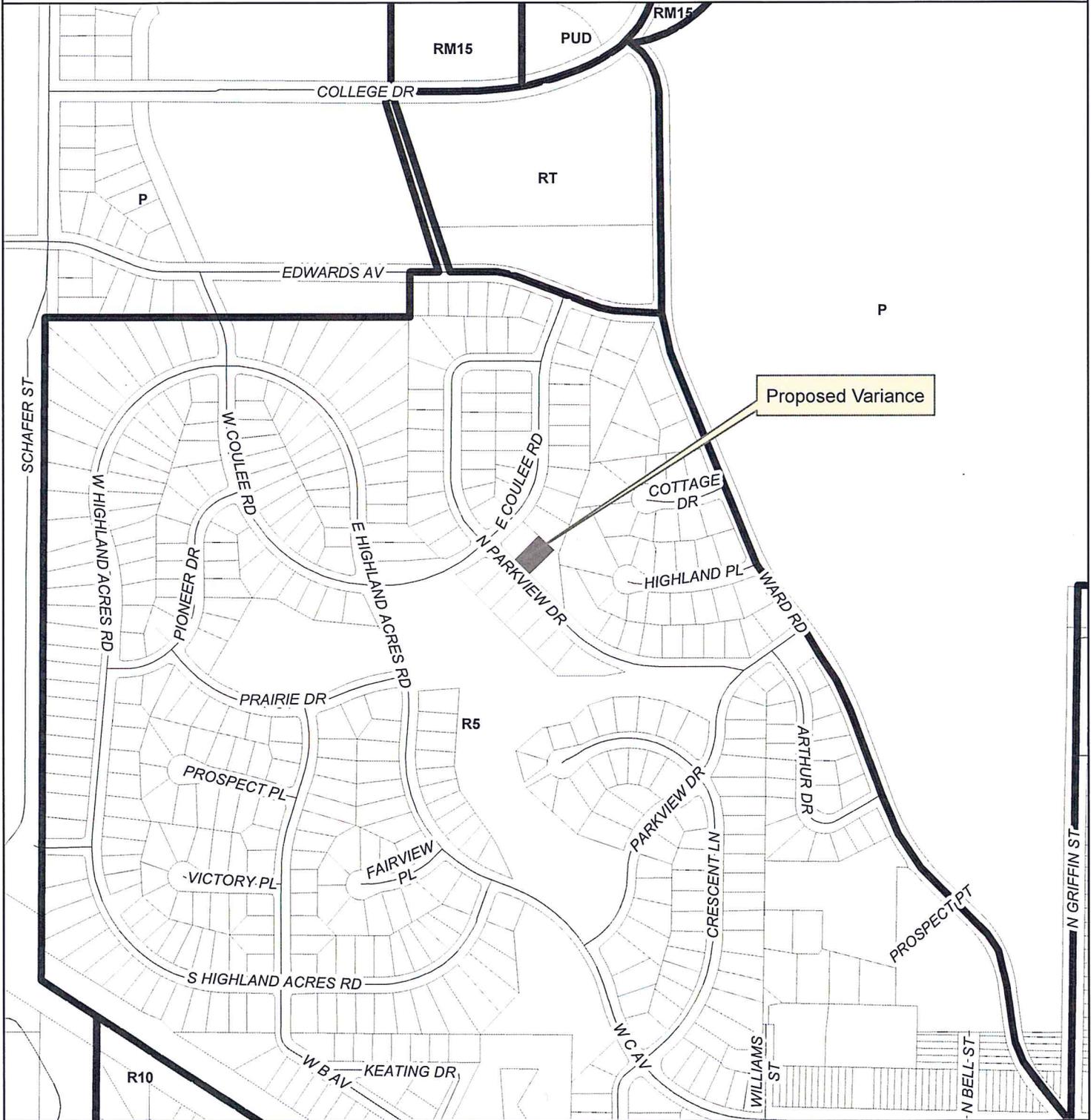


**BISMARCK COMMUNITY DEVELOPMENT DEPARTMENT
STAFF REPORT**

BACKGROUND:	
Title: 1136 North Parkview Drive – Variance (Front Yard Setback) (Lot 13, Block 4, Highland Acres Second Addition)	
Status: Board of Adjustment	Date: June 4, 2015
Owner(s): Troy Olson	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 west side of the property from twenty-five (25) feet to fifteen (15) in order to construct a single-family dwelling.	
Location: In east Bismarck, between Schafer Street and Ward Road, along the east side of North Parkview 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 14-04-03(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 variance is setback fifteen (15) feet from the front property line located along the west side of the property. 	
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.	

Proposed Variance

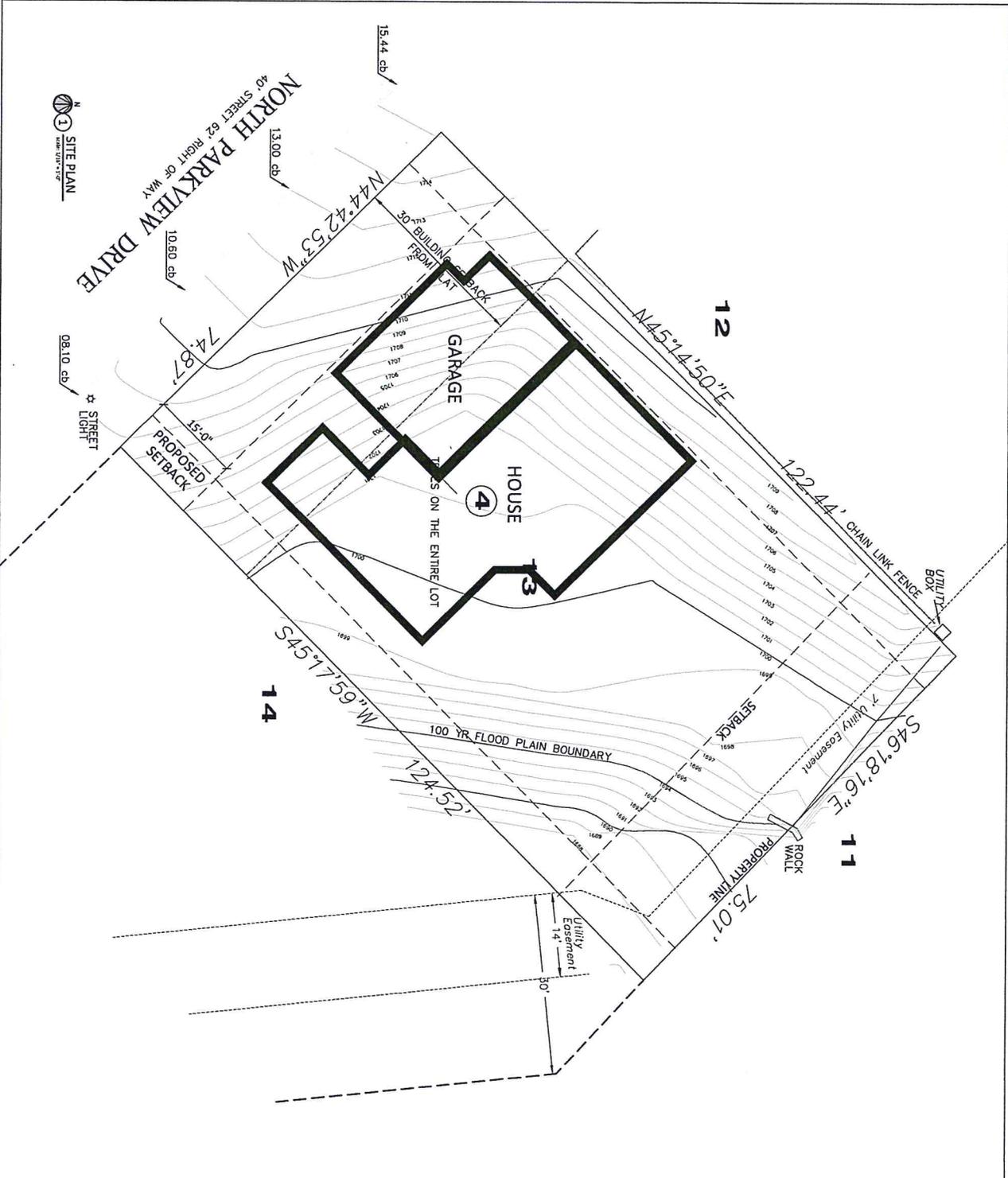
Lot 13, Block 4, Highland Acres 2nd Addition



March 5, 2015 (h1b)

This map is for representational use only and does not represent a survey. No liability is assumed as to the accuracy of the data delineated hereon.





1 SITE PLAN
SCALE: 1/8" = 1'-0"

Zoning district: R5

* ALL INFORMATION IS BASED ON ESTIMATES & IS ONLY CONCEPTUAL.*

LOT: HIGHLAND ACRES
- 9,000 SF
- .25 ACRES

ZONING DISTRICT: R5
- LOT COVERAGE (30% MAX): 2,700SF MAX.
- FRONT YARD: 30'
- SIDE YARD: 10% OF LOT WIDTH
- REAR YARD: 20'
- HEIGHT LIMITS: 40'

COVENANTS - VERIFY W/ OWNER
FLOOD REQUIREMENTS - VERIFY W/ OWNER

These drawings are for conceptual purposes only. The building contractor is responsible for verifying the applicable local code cannot be held responsible for inaccuracies or omissions. The client should be held responsible for the owner or a delay in the project.

5-14-13
SITE PLAN
A0.1

BISMARCK, NORTH DAKOTA
OLSON RESIDENCE

kbv

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DESIGN DEVELOPMENT
FOR CONCEPTUAL DESIGN PURPOSES ONLY
NOT FOR CONSTRUCTION



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

1. Property Address or Legal Description: 1136 N. Parkview Dr.

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

3. Type of Variance Requested: 15' Setback, Front

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.)

I am proposing a 15 feet front building set back. The lot is rectangle in shape. The land within is extremely steep in the front + in the back. The steep area in the back is at an angle which leaves a small area for the home to be positioned to allow a usable back yard.

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

With a longer set back, there will be an extreme amount of fill dirt in the front. The pie shaped back yard will shrink drastically.

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

The placement of the home with a 15 feet setback will give me the least amount of fill dirt in front. Also the ^{back} corner of the house won't protrude into the drop off where the flood plain is located.



Community Development Department

May 22, 2015

Dear Property Owner:

Please be advised that the Bismarck Board of Adjustment will be conducting a public hearing on a variance request on Thursday, June 4, 2015, at 5:00 p.m. in the Tom Baker Meeting Room, City-County Office Building, 221 North 5th Street, Bismarck, North Dakota, which may be of interest to you.

Troy Olson 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 located along the west side of the property, from twenty-five (25) feet to fifteen (15) feet in order to construct a single-family dwelling on Lot 13, Block 4, Highland Acres 2nd Addition (1136 North Parkview 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 - planning@bismarcknd.gov.

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 COMMUNITY DEVELOPMENT DEPARTMENT
STAFF REPORT**

BACKGROUND:	
Title: 317 East Avenue D – Variance (Nonconforming Uses)(Rear Yard Setback) (The West 50 feet of the North 50 feet of the North 100 feet of Lot 1, Block 2, Northern Pacific Addition)	
Status: Board of Adjustment	Date: June 4, 2015
Owner(s): Jeff and Diane Kapple	Engineer: None
Reason for Request: Variances from Section 14-04-07(9) of the City Code of Ordinances (RM – Residential)(Rear Yard) to reduce the required rear yard setback located along the south side of their property from twenty (20) feet to three (3) feet six (6) inches and from Section 14-03-09(3) of the City Code of Ordinances (Nonconforming Uses) to allow the construction of a nine (9) square foot addition to an existing single-family dwelling on a nonconforming lot (less than 7,000 square feet).	
Location: In central Bismarck, between North 3 rd Street and North 4 th Street, along the south side of East Avenue D.	
ADDITIONAL INFORMATION:	
<ol style="list-style-type: none"> The existing single-family dwelling was constructed in 1941. According to the original building permit the house was constructed on a 50 foot x 50 foot (2,500 square foot) lot and set back five (5) feet from the rear property line. The property is considered nonconforming because the lot size and building setbacks do not meet the minimum requirements for a property located within the RM – Residential zoning district. The property is located within the RM-Residential zoning district. Single-family dwellings are not typically permitted within the RM – Residential zoning district, but are permitted in an area bounded by Washington Street, Boulevard Avenue, Sixteenth Street and Broadway Avenue. This property is located within this area. 	
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 14-03-09(3) of the City Code of Ordinances (Nonconforming Uses) states, “Alterations may be made to a nonconforming principal residential structure or any principal building in which there is a nonconforming residential use when the alteration will improve the livability thereof, provided it will not increase the number of dwelling units or the outside dimensions of the building.” According to the site plan submitted with the application the outside dimensions of the building will be increased nine (9) square feet and will reduce the rear yard setback by eighteen (18) inches. Section 14-03-07(9) of the City Code of Ordinances (RM – Residential)(Rear Yard) states, “Each lot shall have a rear yard not less than twenty (20) feet in width. Such rear yard setbacks shall apply to all structures permitted on or after August 12, 1997.” The single-family dwelling was constructed in 1941. According to the original building permit, the house was setback five (5) feet from the rear property line when constructed. 	

FINDINGS:

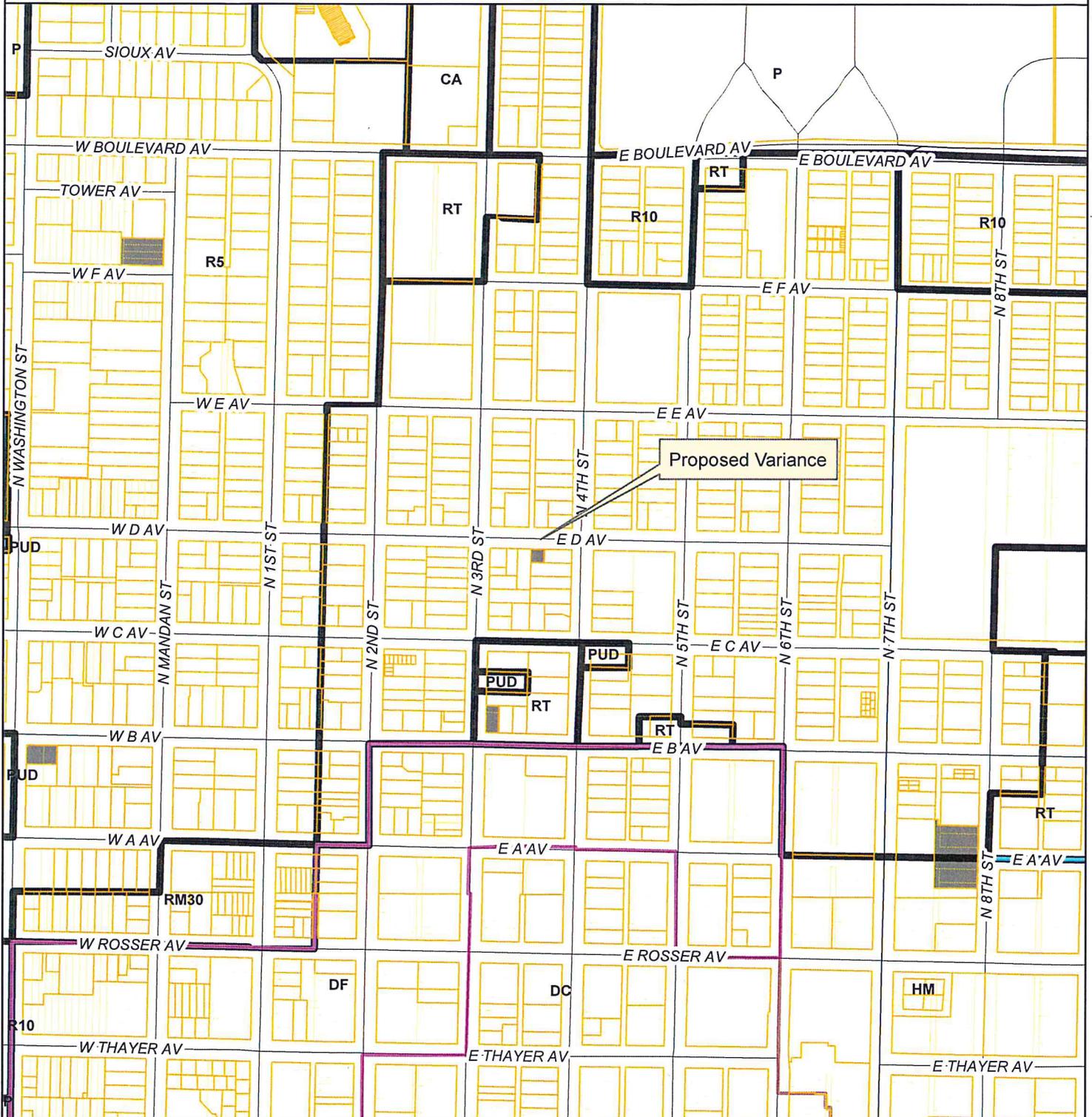
1. The need for a variance is not based on special circumstances or conditions unique to the specific parcel of land involved that are not generally applicable to other properties in this area and for a single-family dwelling within the RM-Residential zoning classification.
2. The hardship is not caused 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 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

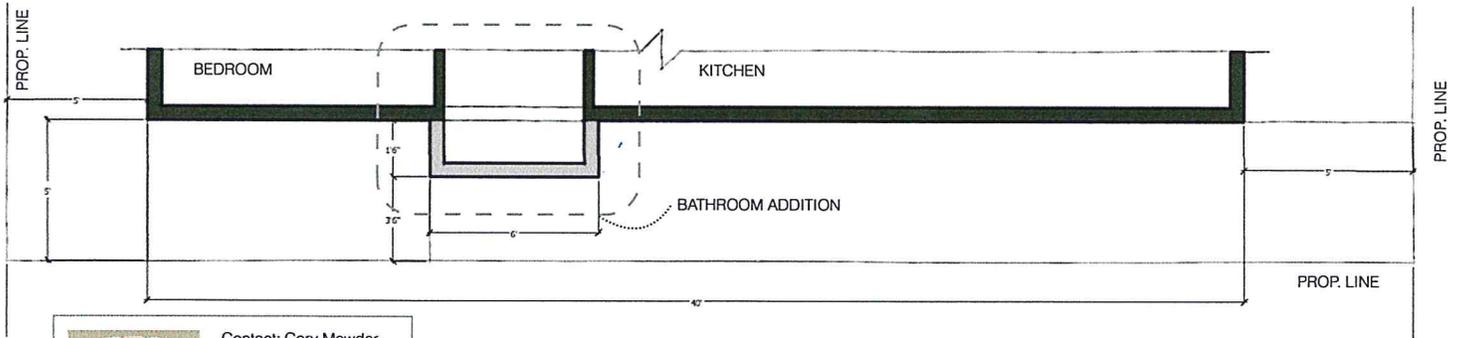
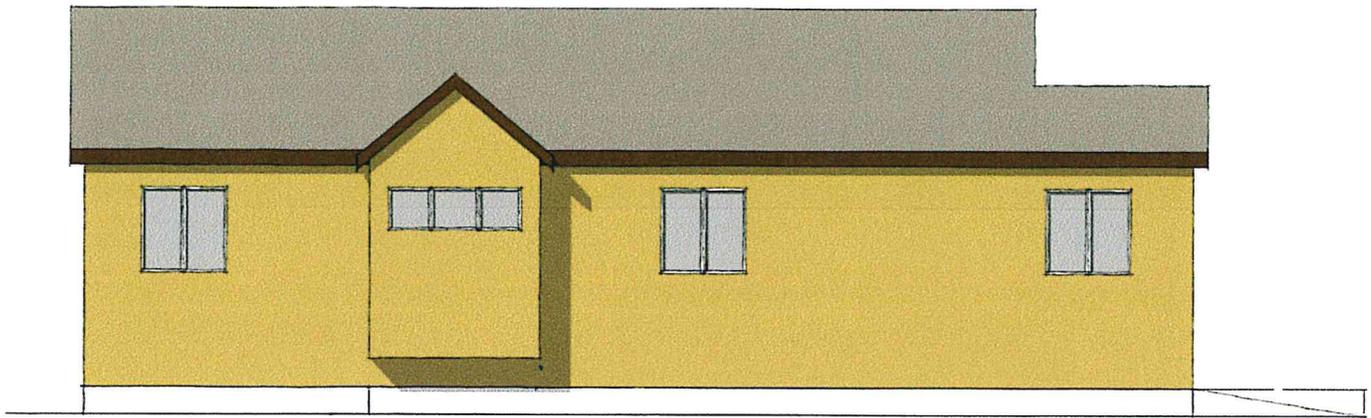
The West 50' of the North 50' of the North 100' of Lot 1, Block 2 Northern Pacific Addition



March 5, 2015 (hlb)

This map is for representational use only and does not represent a survey. No liability is assumed as to the accuracy of the data delineated hereon.





Contact: Cory Mowder
527-1333



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

1. Property Address or Legal Description: 317 East Ave D

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

3. Type of Variance Requested: Rear Set Back

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.)

We have a very small property and feel that the 18" requested will make our bathroom more functional.

18 inches

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

This 1942 bathroom is unusually small and has no shower. An 18" addition would allow us to construct a shower that is sufficient & functional and we would like to build it in a way that keeps the integrity ~~of~~ of this older home.

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

An 18" inch addition will not interfere with the accessibility of the walkway or any access to the utilities. We feel this addition is not invasive to the outer construction of the house & will not even be noticed by any of the neighbors.



Community Development Department

Note: The previous notice you received regarding this item contained an incorrect size for the proposed addition. The correct size of the proposed addition is given below.

May 22, 2015

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Jeff and Diane Kappel are requesting variances from Section 14-04-07(9) of the City Code of Ordinances (RM30-Residential)(Rear Yard) to reduce the required rear yard setback from twenty (20) feet to three feet six inches (3 feet 6 inches) and from Section 14-03-09(3) of the City Code of Ordinances (Nonconforming Uses) to allow the construction of a **9 square foot** addition to an existing single-family dwelling on a nonconforming lot (less than 7,000 square feet) on the West 50' of the North 50' of the North 100' of Lot 1, Block 2, Northern Pacific Addition (317 East Avenue D).

A map showing the location involved in the requests 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 - planning@bismarcknd.gov.

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