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