

**BISMARCK BOARD OF ADJUSTMENT
MEETING MINUTES
July 2, 2015**

The Bismarck Board of Adjustment met on July 2, 2015 at 5:00 p.m. in the Tom Baker Meeting Room in the City-County Office Building, 221 North 5th Street. Vice Chairman Clark presided.

Members present were Jennifer Clark, Ken Heier, Ken Hoff and Chris Seifert.

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

MINUTES:

Vice Chairman Clark called for approval of the minutes of the June 4, 2015 meeting of the Board of Adjustment.

MOTION: A motion was made by Mr. Hoff and seconded by Mr. Seifert to approve the minutes of the June 4, 2015, meeting. With Board Members Clark, Heier, Hoff and Seifert voting in favor, the minutes were approved.

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)

Vice Chairman Clark stated the applicants, 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 existing attached garage.

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 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.

Ms. Wollmuth said based on the above findings, staff recommends reviewing the above findings and modifying them as necessary to support the decision of the Board.

Mr. Wangler said after finding out that a one foot foundation cannot be rebuilt on, he will manage with the original 18 foot setback and will have more electrical work to do but he will make the original proposal of 18 feet on the north, 10 feet on the west and six feet on the sides work.

Vice Chairman Clark opened the public hearing.

There being no comments, Vice Chairman Clark closed the public hearing.

MOTION: A motion was made by Mr. Heier to approve the variance to reduce the front yard setback to 18 feet for the East 102 feet of Lots 1 & 2, Block 45, Flannery and Wetherby Addition (1623 East Avenue B), with the findings amended to be based on special circumstances and it being appropriate to build with a front yard setback of 18 feet. The motion was seconded by Mr. Hoff and with Board Members Clark, Heier, Hoff and Seifert, the motion was approved and the variance was granted.

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) AND SECTION 14-03-05(4) OF THE CITY CODE OF ORDINANCES (SUPPLEMENTARY PROVISIONS) – 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)

Vice Chairman Clark stated the applicants, 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) 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) and to allow the construction of an accessory building with a zero (0) side and rear yard setback located along the west and south sides of their house.

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 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.

Ms. Wollmuth said based on the above findings, staff recommends reviewing the above findings and modifying them as necessary to support the decision of the Board.

Corey Mowder, Apple Creek Builders, said the existing bathroom in the home is small and the owners would like to remodel it to include a shower and full vanity that is 18 inches long. He said this will add an excessive amount of functionality to the bathroom and because the home is a tuck-under design, an L-shaped accessory building is needed in order to fit and hold the homes maintenance items.

Mr. Heier said he feels there is not any other option that would be safer than to have the accessory building on the property line in this case.

Vice Chairman Clark opened the public hearing.

There being no comments, Vice Chairman Clark closed the public hearing.

MOTION: A motion was made by Mr. Heier to approve the 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) 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) and to allow the construction of an accessory building with a zero (0) side and rear yard setback located along the west and south sides of their house, as based on special circumstances and the characteristics of the neighborhood. The motion was seconded by Mr. Seifert and with Board Members Heier, Hoff, Seifert and Clark voting in favor of the motion, the motion was approved and the variance request was granted.

VARIANCE FROM SECTION 14-04-03(9) OF THE CITY CODE OF ORDINANCES (R5-RESIDENTIAL)(REAR YARD) – LOT 14, BLOCK 5, HIGH MEADOWS (3425 OVERLOOK DRIVE)

Vice Chairman Clark stated the applicants, Tom and Dianna Turck, are requesting a variance to reduce the required rear yard setback located along the east side of their property from twenty (20) feet to sixteen (16) feet two (2) inches in order to construct a sunroom addition.

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 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. Wollmuth said based on the above findings, staff recommends reviewing the above findings and modifying them as necessary to support the decision of the Board.

Nate Halvorson, Regal Homes, explained that the new sunroom addition to the home will be smaller than the existing deck and it would be placed in alignment with the widest portion of the lot so as to need the most minimal variance necessary. He said it will be built as small as they are able to do so while still having it be functional and usable and added that it will be shingled and sided to match the house. He said it will be mostly glass with a heating and cooling system and an entrance and exit on the north side.

Vice Chairman Clark asked when the home was built.

Mr. Turck said it was built in 1992 and they have lived there since 2000.

Mr. Seifert asked if the deck was bigger than the sunroom will be. Mr. Halvorson said that is correct.

Vice Chairman Clark asked if the third stall of the garage is in compliance with the setback requirements or if that was granted a variance as well.

Mr. Blaskowski explained that the lot survey shows it at 9.9 feet or 20% of the width of the lot which appears deceiving but is correct and it is in compliance with the setback requirements for that location.

Vice Chairman Clark opened the public hearing.

There being no comments, Vice Chairman Clark closed the public hearing.

MOTION: A motion was made by Mr. Hoff to approve the variance to reduce the required rear yard setback located along the east side of their property from twenty (20) feet to sixteen (16) feet two (2) inches in order to construct a

sunroom addition, based on special circumstances due to the angle of the lot. The motion was seconded by Mr. Seifert and with Board Members Heier, Hoff, Seifert and Clark voting in favor of the motion, the motion was approved and the variance was granted.

OTHER BUSINESS

BYLAWS OF THE BOARD OF ADJUSTMENT

Vice Chairman Clark said she would like to move discussion of the bylaws of the Board of Adjustment to the August meeting so Chairman Marback can be present to give input.

Ms. Wollmuth said in the future it can be discussed to move the July meeting of the Board of Adjustment to the second Thursday so as to avoid conflicts with people having time off for the holiday weekend. She also reminded the Board that it is critical for the staff findings to be modified to support the motion when granting a variance in the event a denial decision is appealed to the City Commission.

Ms. Clark said she will be unable to attend the August meeting of the Board of Adjustment.

ADJOURNMENT

There being no further business, Vice Chairman Clark declared the meeting of the Bismarck Board of Adjustment adjourned at 5:23 p.m. to meet again on August 6, 2015.

Respectfully Submitted,


Hilary Balzum
Recording Secretary

APPROVED:


Jennifer Clark, Vice Chairman