



Community Development Department
BISMARCK BOARD OF ADJUSTMENT
MEETING AGENDA

November 5, 2015

Tom Baker Meeting Room

5:00 p.m.

City-County Office Building

MINUTES

1. Consider the minutes of the October 1, 2015 meeting of the Board of Adjustment.

REQUESTS

2. **Variance from Section 14-04-01(6) of the City Code of Ordinances (RR – Residential)(Rear Yard)** - Lot 3, Block 4, Northwood Estates Replat (10710 Olive Lane).

Owner / Applicant: Jeff and Kristen Blee

Board Action: approve continue table deny

3. **Variance from Section 14-04-01(5) of the City Code of Ordinances (RR – Residential)(Side Yard)** – Lot 2, Block 5, Prairie View Subdivision (5520 Meadowlark Lane)

Owner / Applicant: Cletus Ackerman

Board Action: approve continue table deny

4. **Variance from Section 14-04-03(8) of the City Code of Ordinances (R5 – Residential)(Side Yard)** – Lot 5, Block 2, Grandview Heights (1929 North Grandview Lane)

Owner / Applicant: Mike and Denise Kambeitz

Board Action: approve continue table deny



5. **Variiances from Section 14-04-03(7) of the City Code of Ordinances (R5 – Residential)(Front Yard) and Section 14-04-03(6) of the City Code of Ordinances (R5 – Residential)(Lot Coverage) – Lots 13-14, Block 18, Northern Pacific Addition**

Owner / Applicant: Larry and Peggy Shireley

Board Action: approve continue table deny

OTHER BUSINESS

6. **Bylaws of the Board of Adjustment**

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

ADJOURNMENT

7. **Adjournment.** The next regular meeting date is scheduled for December 3, 2015.

**BISMARCK COMMUNITY DEVELOPMENT DEPARTMENT
STAFF REPORT**

BACKGROUND:	
Title: 10710 Olive Lane – Variance (Rear Yard Setback – Accessory Building) (Lot 3, Block 4, Northwood Estates Replat)	
Status: Board of Adjustment	Date: November 5, 2015
Owner(s): Jeff and Kristen Blees	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 rear yard setback located along the west side of the property from seventy-five (75) feet to twenty (20) feet for the purpose of constructing an accessory building.	
Location: North of Bismarck, east of US Highway 83 and south of 110 th Avenue NE, along the west side of Olive Drive.	
ADDITIONAL INFORMATION:	
1. A request for approval of a Special Use Permit to increase the total area of accessory buildings located on the property to 3,200 square feet was approved by the Bismarck Planning and Zoning Commission at their meeting of October 28, 2018, with condition that a variance is approved to reduce the required rear yard setback for an accessory building from seventy-five (75) feet to twenty (20) feet.	
APPLICABLE PROVISION(S) OF ZONING ORDINANCE:	
1. Section 14-02-03 of the City Code of Ordinances (Definitions) defines a variance as, “A device which grants a property owner relief from certain provisions of the zoning ordinance when, because of the particular physical surroundings, shape or topographical condition of the property, compliance would result in a particular hardship upon the owner, as distinguished from a mere inconvenience or desire to increase the financial return.”	
2. Section 14-04-01(6) of the City Code of Ordinances (Rural 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 the larger, but need not exceed seventy-five (75) feet.” The lot dimensions require a rear yard setback of seventy-five (75) feet, according to the site plan submitted with the application, the accessory building is proposed to be set back twenty (20) feet from the rear property line.	
FINDINGS:	
1. The need for a variance is not based on special circumstances or conditions unique to the specific parcel of land involved that are not generally applicable to other properties in this area and within the RR – Residential zoning classification.	
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 reasonable use of the property.	
<i>(continued)</i>	

4. The granting of the variance is not in harmony with the general purpose 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.

/JW

Proposed Variance

Lot 3, Block 4, Northwood Estates Replat

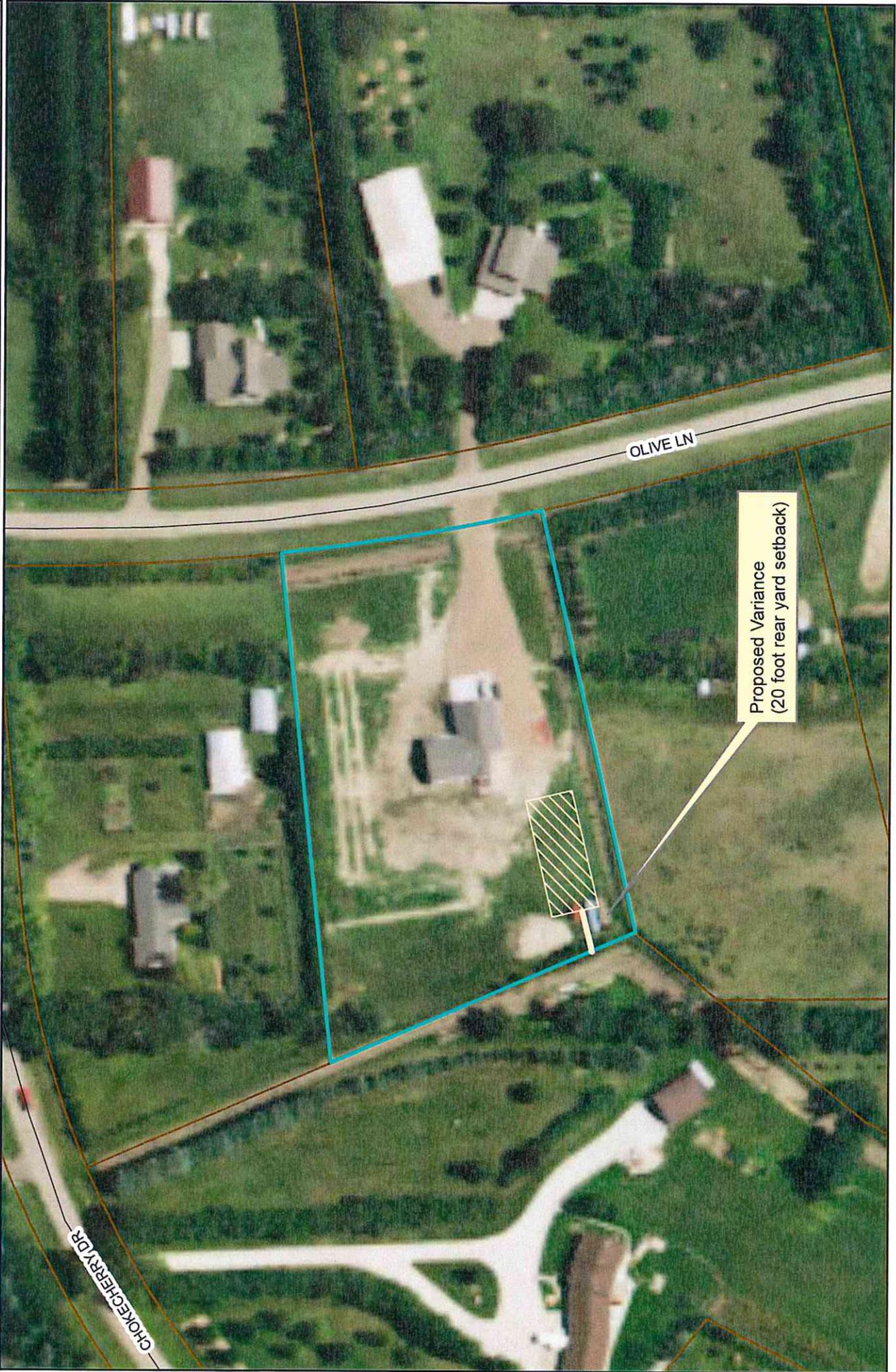


June 15, 2015 (h1b)

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.



**Lot 3, Block 4, Northwood Estates Replat - Variance
(Rear Yard Setback - Accessory Building)**



Date: 10/27/2015

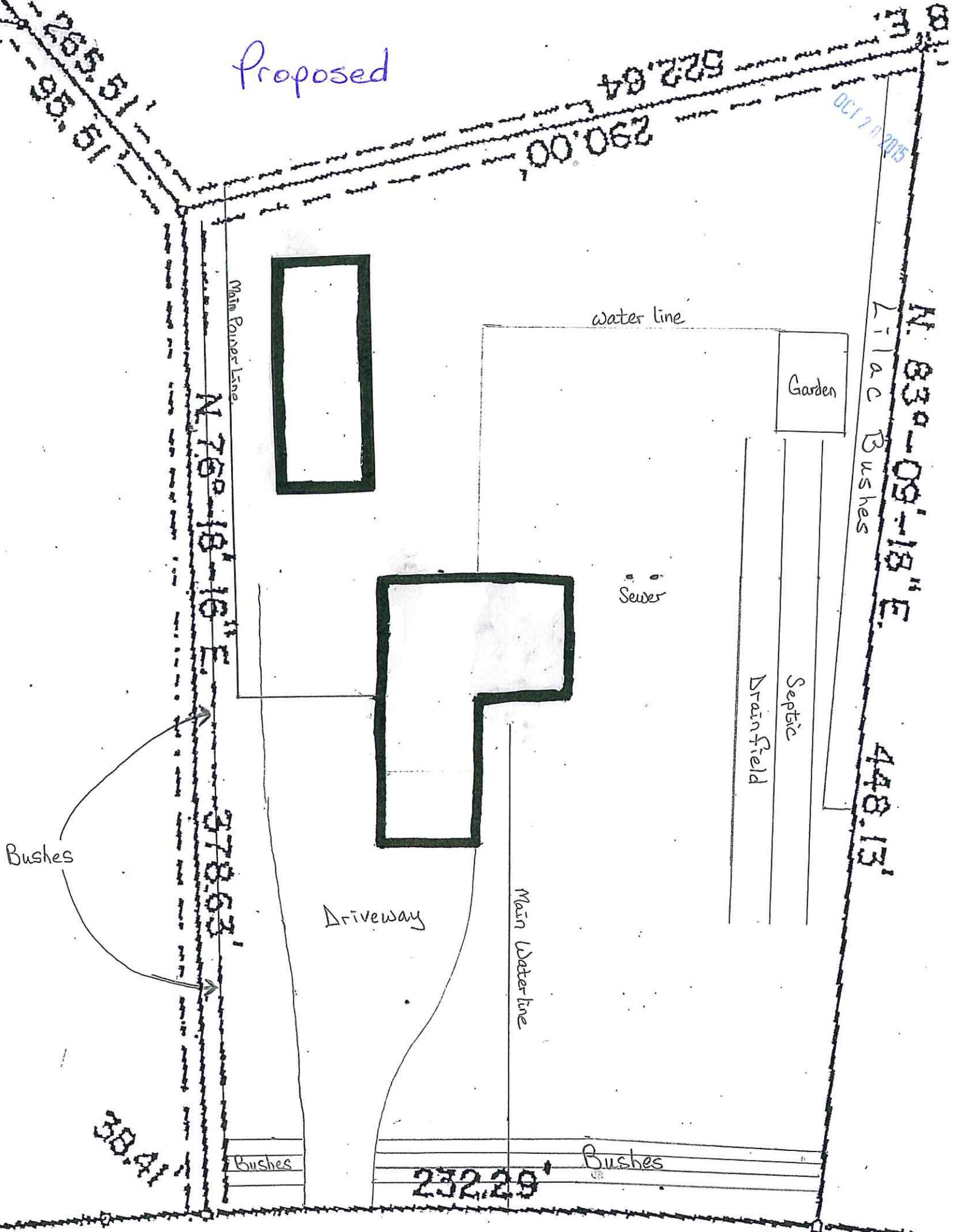


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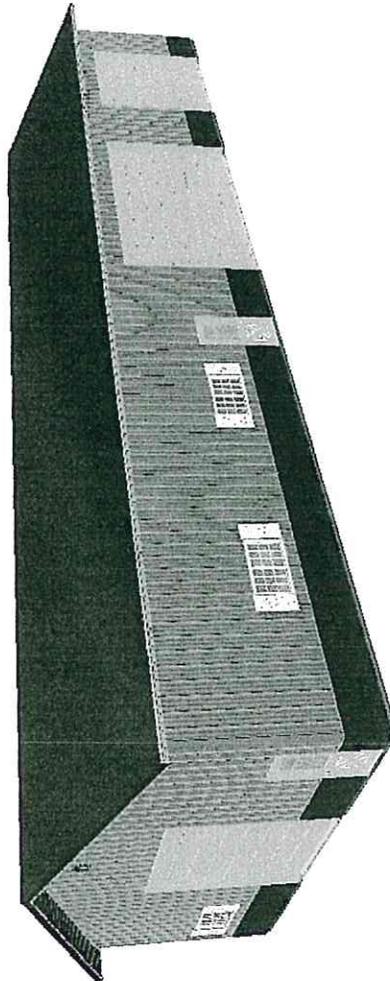
Proposed

OCT 20 2015



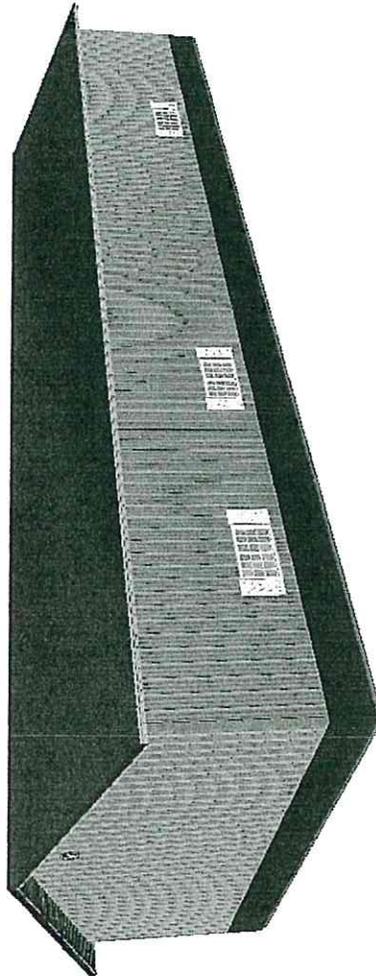
Building 306 36'x14'x88' (#1) Perspective From The Northeast

Peak Height	21'6"
Soffit Height	15' 3.5"
Grade to Heel	14'
Roof Pitch	4/12



Building 306 36'x14'x88' (#1) Perspective From The Southwest

Peak Height	21'6"
Soffit Height	15' 3.5"
Grade to Heel	14'
Roof Pitch	4/12





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

1. Property Address or Legal Description: 10710 Olive Lane

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

3. Type of Variance Requested:

4. Applicable Zoning Ordinance Chapter/Section: 14-04-01 (6)

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.)

Due to the slope of the land, placement of the house, and placement of the drainfield, having to erect the building 82.6' off the backline of the property may negate the ability to build a shop on the property.

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

The lot at the site of the shop slopes downward from the rear toward the house. Thus, there needs to be drainage allotted between the house and shop. If we stay 82.6' off the backline, the shop will be virtually up to the house/patio/deck/garage. Then, there would be no room for water drainage, no place for snow to blow through, and no area for vehicles to pass between the house and shop to access the shop's north doors.

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

In order to adequately place the building away from the house to allow landscaping, water runoff/drainage, snow movement, and vehicle access between the house and building to the side doors, the shop/building needs to be a maximum of 30' off the back property line. This distance will still allow ample vehicle/fire department vehicle access to the backside of the building.



Community Development Department

October 26, 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, November 5, 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.

Jeff and Kristen Blee are requesting a variance from Section 14-04-01(6) of the City Code of Ordinances (RR-Residential)(Rear Yard) to reduce the rear yard setback located along the west side of the property from seventy-five (75) feet to twenty (20) feet for the purpose of constructing an accessory building located on Lot 3, Block 4, Northwood Estates Replat (10710 Olive Lane).

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: 5520 Meadowlark Lane – Variance (Side Yard Setback – Accessory Building) (Lot 2, Block 5, Prairie View Subdivision)	
Status: Board of Adjustment	Date: November 5, 2015
Owner(s): Cletus Ackerman	Engineer: None
Reason for Request: Variance from Section 14-04-01(5) of the City Code of Ordinances (RR – Residential)(Side Yard) to reduce the required side yard setback located along the east side of the property from fifteen (15) feet to three (3) feet for the purpose of constructing an accessory building.	
Location: East of Bismarck, east of 52 nd Street NE and south of East Main Avenue, along the north side of Meadowlark Lane.	
ADDITIONAL INFORMATION:	
1. A request for approval of a Special Use Permit to increase the total area of accessory buildings located on the property to 2,088 square feet is scheduled for public hearing at the November 17, 2015 meeting of the Bismarck Planning and Zoning Commission. Approval of the proposed special use is required prior to issuing a building permit.	
APPLICABLE PROVISION(S) OF ZONING ORDINANCE:	
1. Section 14-02-03 of the City Code of Ordinances (Definitions) defines a variance as, “A device which grants a property owner relief from certain provisions of the zoning ordinance when, because of the particular physical surroundings, shape or topographical condition of the property, compliance would result in a particular hardship upon the owner, as distinguished from a mere inconvenience or desire to increase the financial return.”	
2. Section 14-04-01(6) of the City Code of Ordinances (Rural Residential)(Side Yard) states, “Each lot shall have two (2) side yards, one on each side of the principal and accessory buildings. The sum of the widths of the two (20) side yards shall not be less than twenty (20) percent of the average width of the lot, and in no case less than fifteen (15) feet per yard.” The lot dimensions require a fifteen (15) foot side yard located along the east side of the property. According to the site plan submitted with the application, the accessory building is proposed to be set back three (3) feet from the property line along the east side of the property.	
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 reasonable use of the property.	
<i>(continued)</i>	

4. The granting of the variance is not in harmony with the general purpose and intent of the Zoning Ordinance.

RECOMMENDATION:

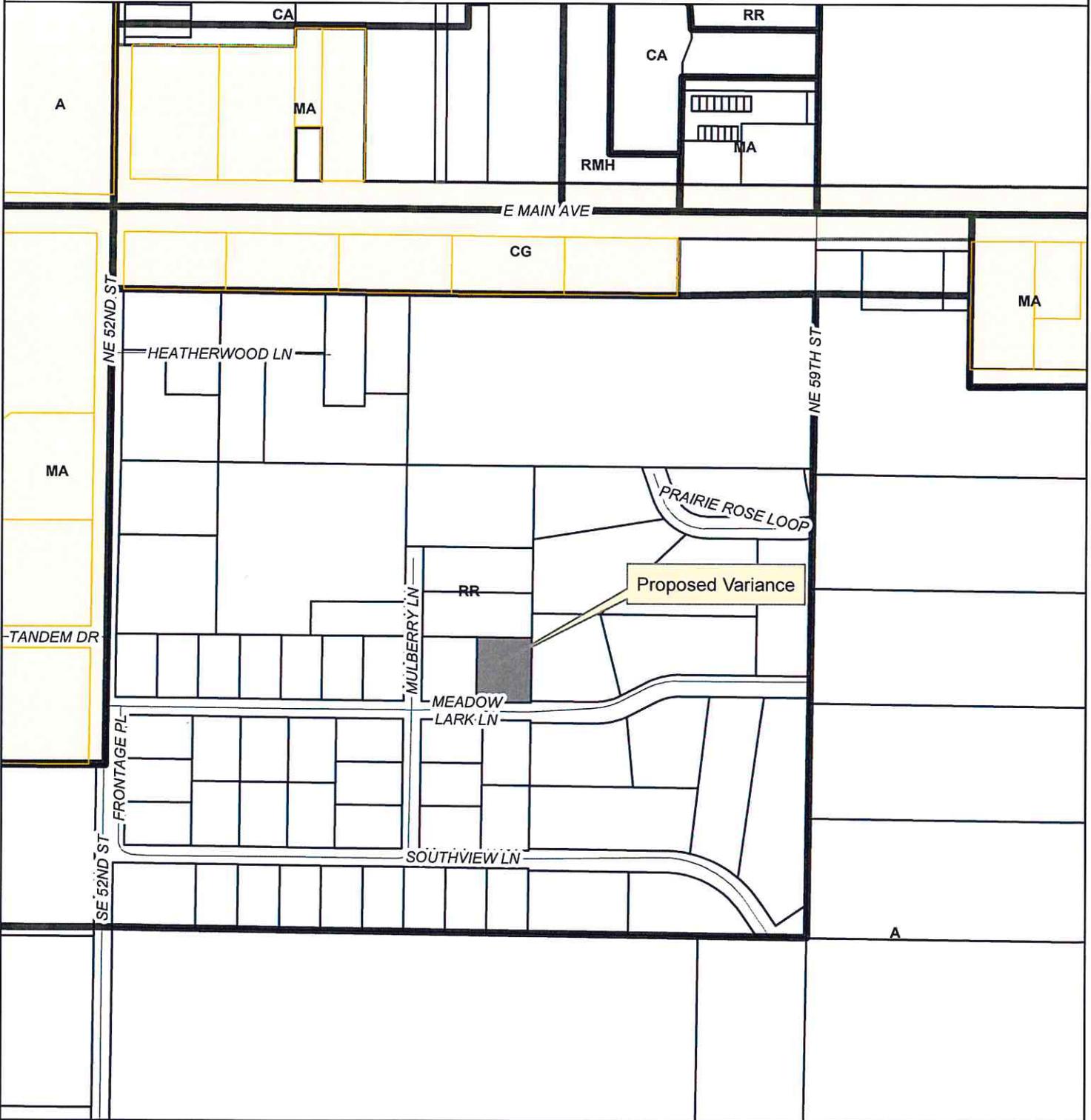
Staff recommends reviewing the above findings and modifying them as necessary to support the decision of the Board.

If the Board approves the variance as proposed, staff further recommends the following:

1. Approval of a special use permit to increase the total area of accessory buildings to 2,088 square feet be approved by the Bismarck Planning and Zoning Commission.

/JW

Proposed Variance Lot 2, Block 5, Prairie View Subdivision

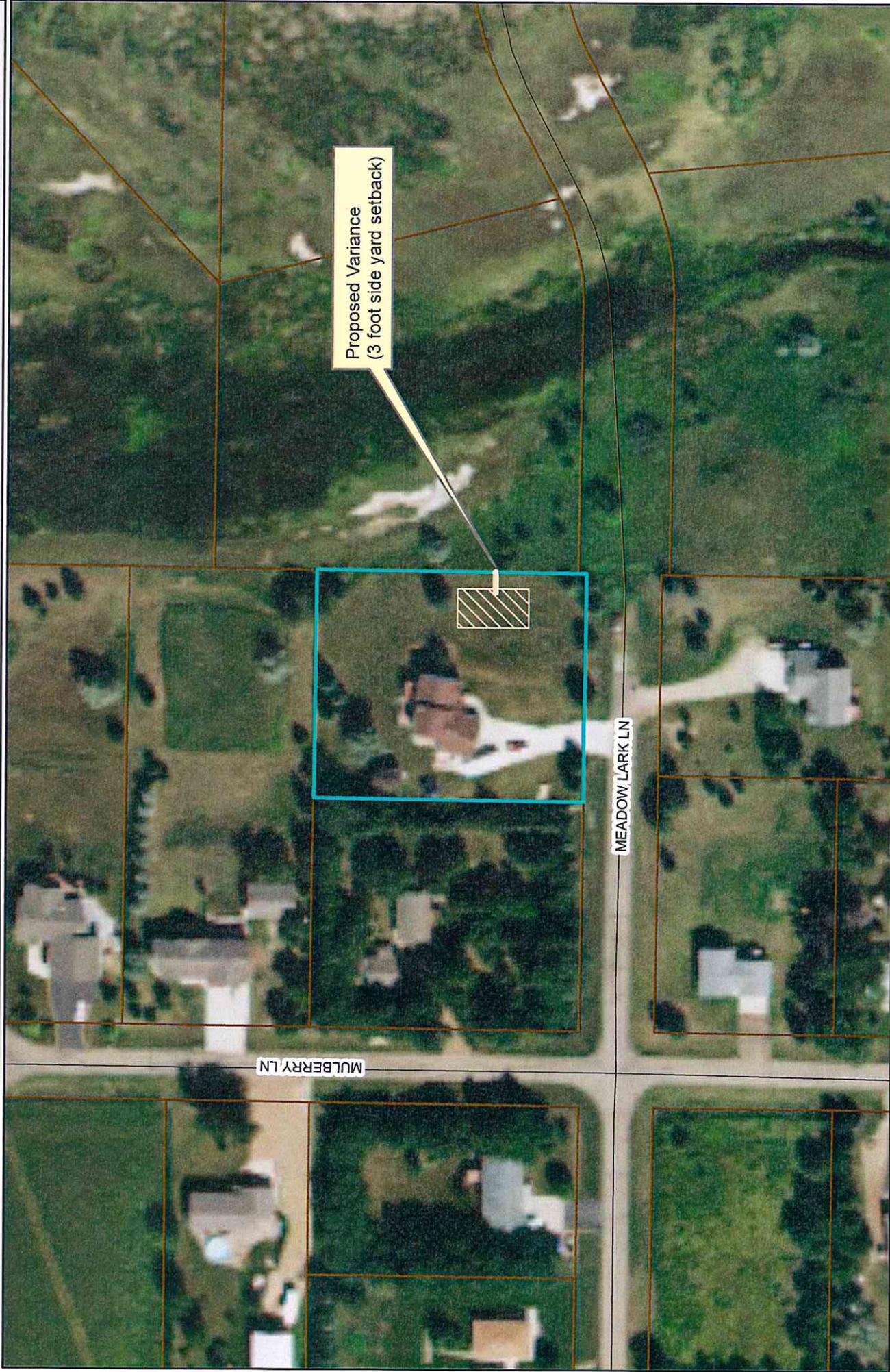


June 15, 2015 (h/b)

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**Lo 2, Block 5, Prairie View Subdivision
(Side Yard Setback - Accessory Building)**



Date: 10/27/2015



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Site Survey & Proposed Building Location
 Cletus & Darcy Ackerman
 Lot 2, Block 5, Prairie View Subdivision
 Bismarck, North Dakota



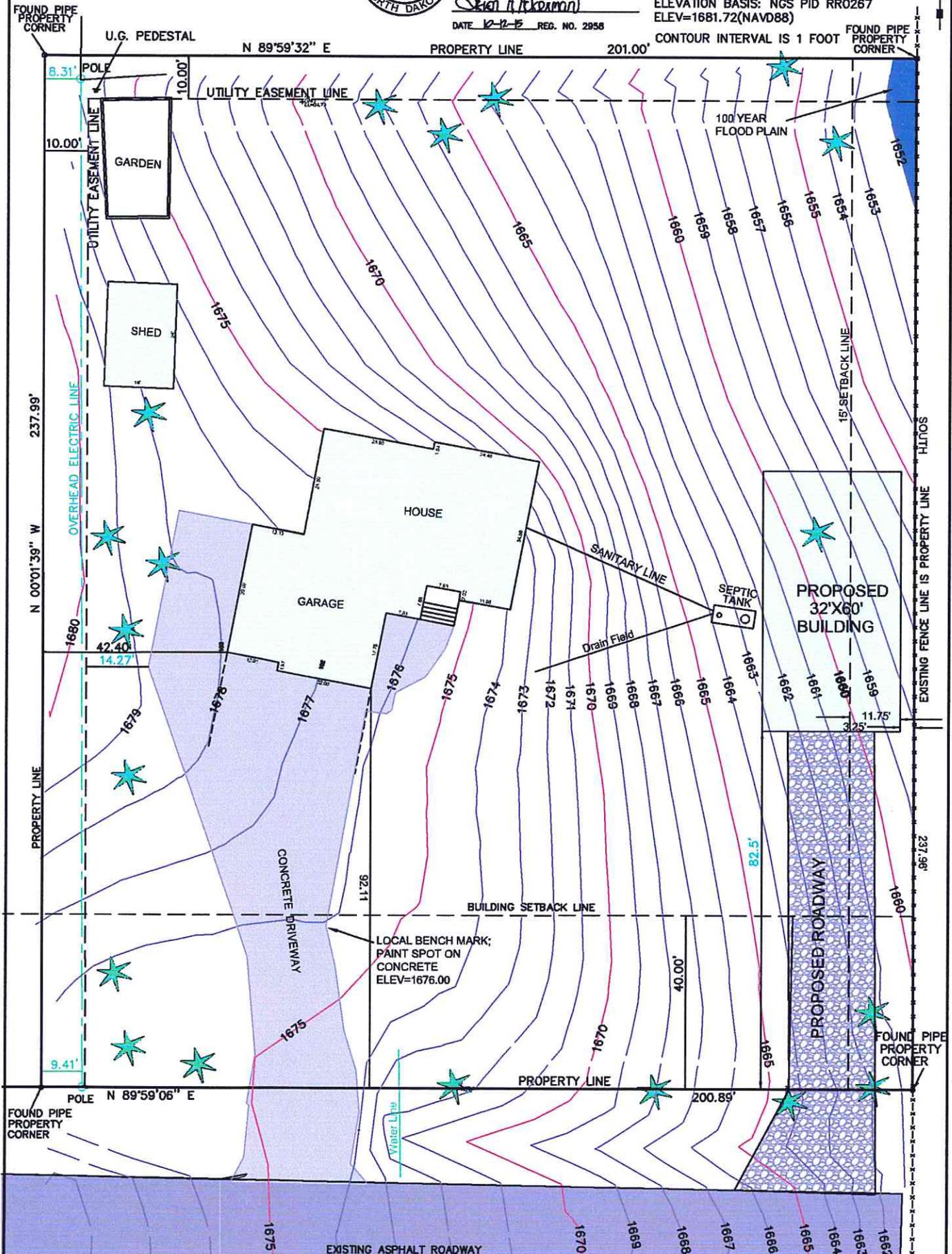
I HEREBY CERTIFY THAT THIS SURVEY, PLAN OR REPORT WAS PREPARED BY ME OR UNDER MY DIRECT SUPERVISION AND THAT I AM A DULY REGISTERED LAND SURVEYOR UNDER THE LAWS OF THE STATE OF NORTH DAKOTA

DATE 12-12-15 REG. NO. 2958

0 30 60



THE EAST LINE OF THIS LOT HAS A PLAT BEARING OF DUE SOUTH
 ELEVATION BASIS: NGS PID RR0267
 ELEV=1681.72(NAV88)
 CONTOUR INTERVAL IS 1 FOOT





**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.)

There is no room for a building on the West side of the house due to electrical easement. The only option is to place a building on the East side of the house which has a steep drop-off (incline) and flattens out somewhat near the East property line.

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

Starting 15 feet in of the East property line puts me in a very steep incline of my property which would also start to disrupt earth surrounding the drain field of our house. The possibility of the land being developed to the East of my property is slim as the property directly to the East is wetlands.

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

I would like to be 3' feet off my East property line due to the elevation of my land, if I start 20 feet in from the East property line I would be close to a very steep incline on my property. Keeping it close to the East property line allows me a much flatter area, but is still a 5 feet difference in elevation in the width of the building.



Community Development Department

October 26, 2015

Dear Property Owner:

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Cletus Ackerman is requesting a variance from Section 14-04-01(5) of the City Code of Ordinances (RR-Residential)(Side Yard) to reduce the side yard setback located along the east side of the property, from fifteen (15) feet to three (3) feet for the purpose of constructing an accessory building located on Lot 2, Block 5, Prairie View Subdivision (5520 Meadowlark Lane).

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**

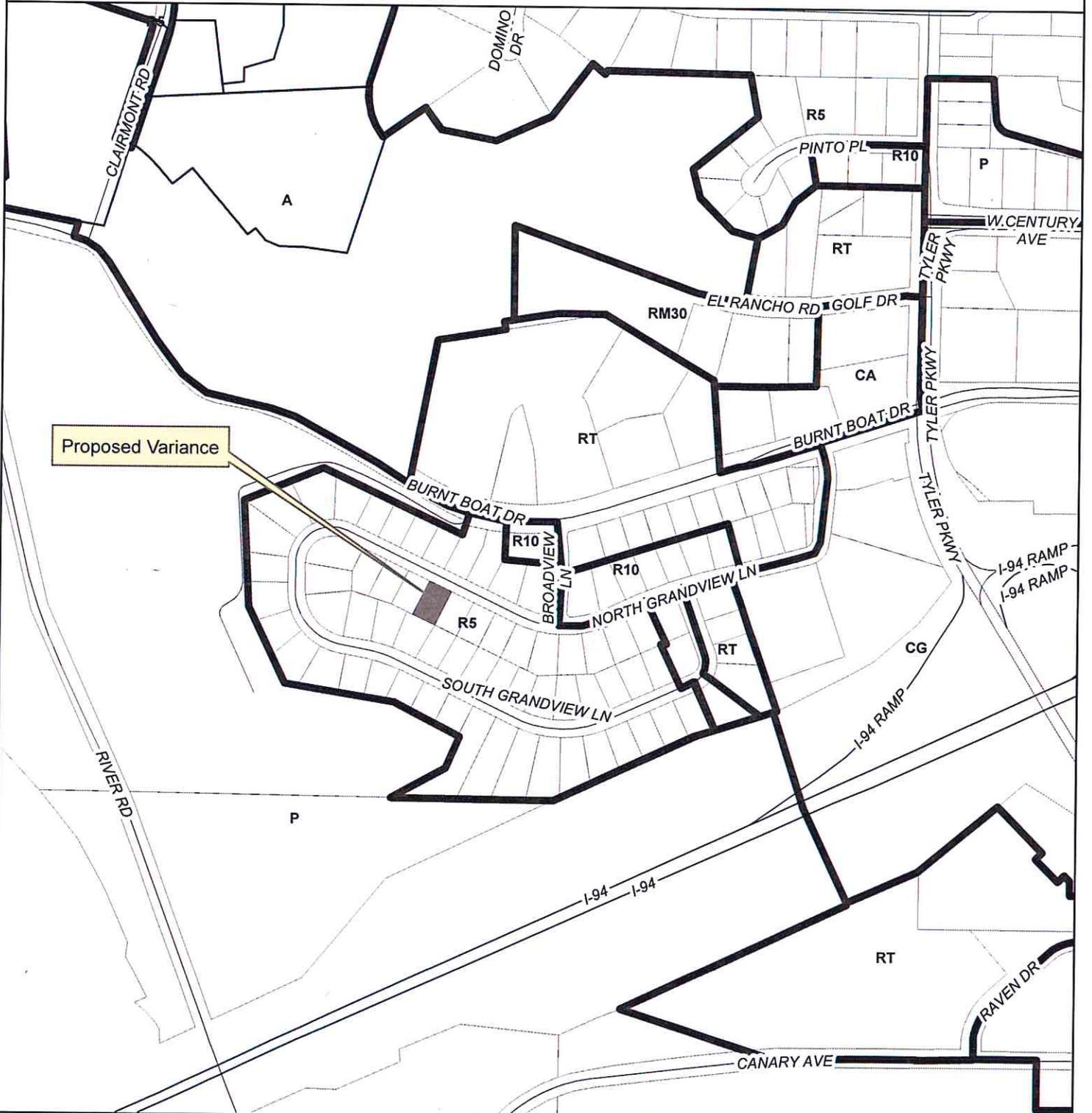
BACKGROUND:	
Title: 1929 North Grandview Lane– Variance (Side Yard Setback) (Lot 5, Block 2, Grandview Heights)	
Status: Board of Adjustment	Date: November 5, 2015
Owner(s): Mike and Denise Kambeitz	Engineer: None
Reason for Request: Variance from Section 14-04-03(8) of the City Code of Ordinances (R5 – Residential)(Side Yard) to reduce the required side yard setback located along the west side of the property from six (6) feet to four (4) feet for the purpose of constructing an addition to the existing attached garage.	
Location: In northwest Bismarck, between Interstate 94 and Burnt Boat Drive, along the south side of North Grandview Lane.	
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(8) of the City Code of Ordinances (R5 – Residential)(Side Yard) states, “Each Lot shall have two (2) side yards, one on each side of the principal building. The sum of the widths of the two (2) side yards shall not be less than twenty (20) percent of the average width of the lot, except in cases where the ratio between the front lot width and the rear lot width is three (3) or greater. On any lot having an average width of sixty (60) feet or less, each side yard shall not be less than ten (10) percent of the average width of the lot, and in no case shall a side yard be less than five (5) feet in width. On any lot having an average width of greater than sixty (60) feet, neither side yard shall be less than six (6) feet in width.” The lot dimensions require a six (6) foot side yard located along the west side of the property. According to the site plan submitted with the application, the addition to the existing attached garage is proposed to be set back four (4) feet from the property line 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 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 reasonable use of the property. 4. The granting of the variance is not in harmony with the general purpose 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.

/JW

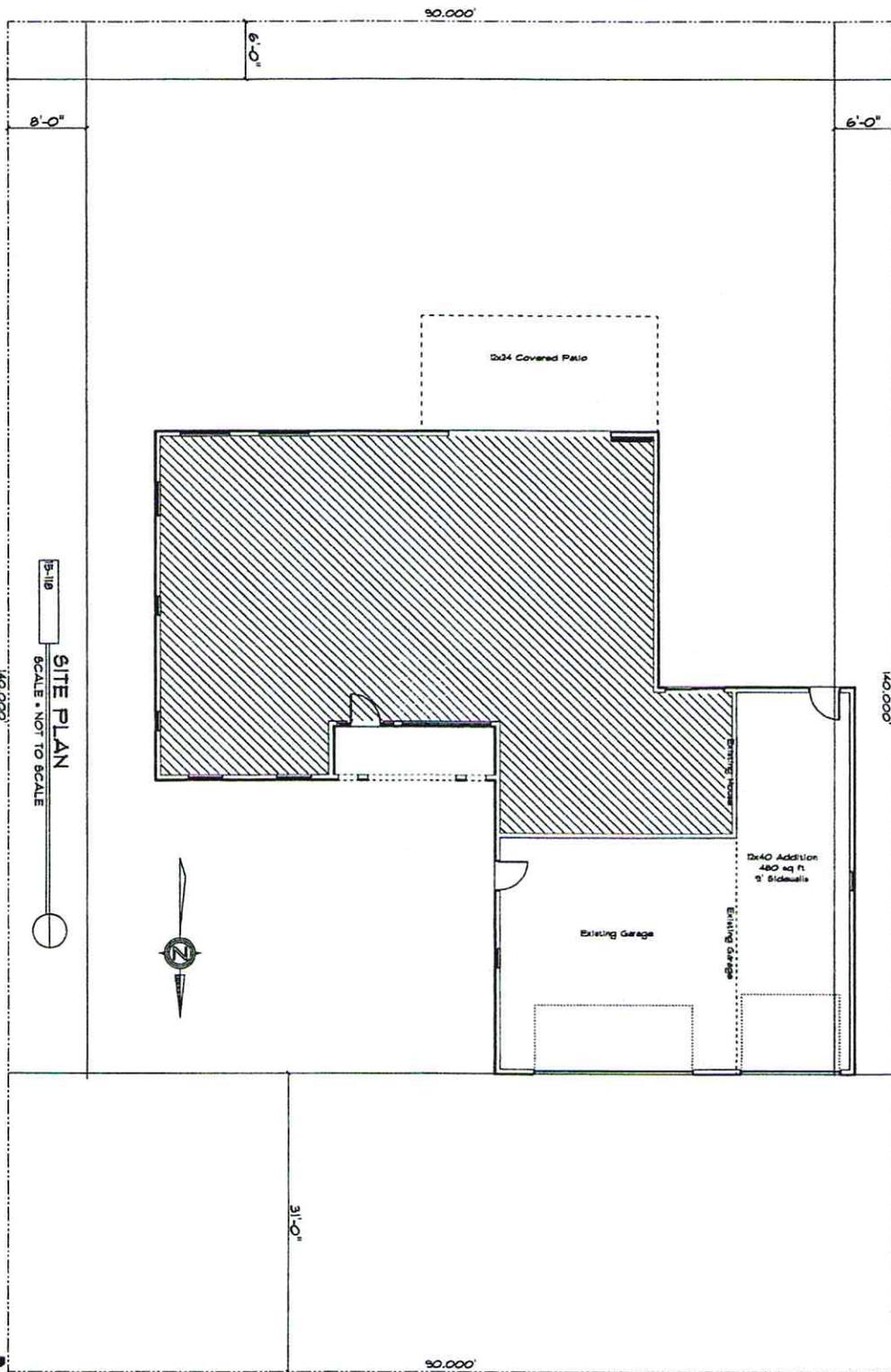
Proposed Variance Lot 5, Block 2, Grandview Heights



October 12, 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.





15-118
SITE PLAN
 SCALE - NOT TO SCALE



ALL RIGHTS RESERVED

PLAN #	15-118	PRINT DATE/TIME	04/10/2024 10:53 PM
CONTRACTOR	Big River Builders	SCALE	NOT TO SCALE
CUSTOMER	Kamboritz	DRAWN BY	Jerry Bauer



853 5TH AVE
 HANCOCK, MI 49830
 PHONE 483-3444
 FAX 483-3444

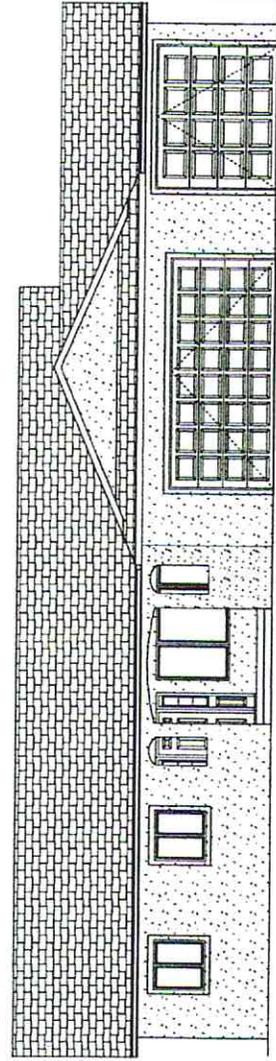
NOTE: VERIFY ALL DIMENSIONS
 ALTHOUGH EVERY EFFORT HAS BEEN MADE IN PREPARING THESE PLANS AND CHECKING THEM FOR ACCURACY, THE CONTRACTOR MUST CHECK ALL DETAILS AND DIMENSIONS AND BE RESPONSIBLE FOR THE BATE FOR ALL GOVERNING CODES AND BUILDING PRACTICES. THESE DRAWING CONFORMS TO GENERALLY ACCEPTED BUILDING PRACTICES. HOWEVER, STATE AND LOCAL CODES VARY WIDELY, THE DESIGNER, AND "PBC" SHALL NOT BE HELD LIABLE FOR ANY ERRORS. ALL CONSTRUCTION SHALL COMPLY WITH ALL APPLICABLE STATE AND LOCAL CODES. DO NOT SCALE DRAWING. PRINTED DIMENSIONS OVERRIDE SCALING. VERIFY WITH THE SPOOK MANUFACTURE ON ALL SPOOK SIZES AND APPLICABLE EGARMS REQUIREMENTS. CONTRACTOR SHALL VERIFY ALL MECHANICAL AND ELECTRICAL REQUIREMENTS AND CLEARANCE. CONTRACTOR SHALL VERIFY ALL FLOOR AND ROOF BEARING LOCATIONS. CONTRACTOR SHALL VERIFY ALL BEAM AND HEADER SIZES FOR CODE COMPLIANCE.

NOTES: VERIFY ALL DIMENSIONS
 ALL ROOMS AND BUILDING PRACTICES THESE DRAWINGS CONFORM TO GENERAL ACCEPTED BUILDING PRACTICES HOWEVER STATE AND LOCAL CODES VARY GREATLY THE CONTRACTOR MUST CHECK ALL DETAILS AND DIMENSIONS AND BE RESPONSIBLE FOR THE SAFE FOR ALL GOVERNING AGENCIES. VERIFY ALL DIMENSIONS
 VERIFY ALL BRICK AND SHOWER AREA FOR CODE COMPLIANCE
 ANY LOCAL ROSSER REQUIREMENTS CONTRACTOR SHALL VERIFY ALL MECHANICAL AND ELECTRICAL REQUIREMENTS AND CLEARANCE CONTRACTOR SHALL VERIFY ALL FLOOR AND ROOM FINISHING LOCAL CONTRACTOR SHALL VERIFY WITH THE LOCAL MANUFACTURER ON ALL WINDOW SIZES AND SIZES. ALL CONTRACTOR SHALL COMPLY WITH ALL APPLICABLE STATE AND LOCAL CODES. DO NOT SCALE DRAWING PRINTED DIMENSIONS OVERSEAS SCALES VARY WITH THE LOCAL MANUFACTURER ON ALL WINDOW SIZES AND SIZES. ANY ROOM FINISHING LOCAL CONTRACTOR SHALL VERIFY WITH THE LOCAL MANUFACTURER ON ALL WINDOW SIZES AND SIZES.

NO. 100 1/2
 P.O. BOX 18
 HANSON, MO 63044
 TEL: 636-221-1111
 FAX: 636-221-1111



PRINT DATE: Thursday, October 08, 2010
 PRINT TIME: 3:13 PM
 SCALE: 1/8" = 1'-0"
 DRAWN BY: James Deener
 CUSTOMER: Kumboltz



FRONT ELEVATION
 SCALE = 1/8" = 1'-0"

B-118



FRONT ELEVATION
 SCALE = 1/8" = 1'-0"

B-118



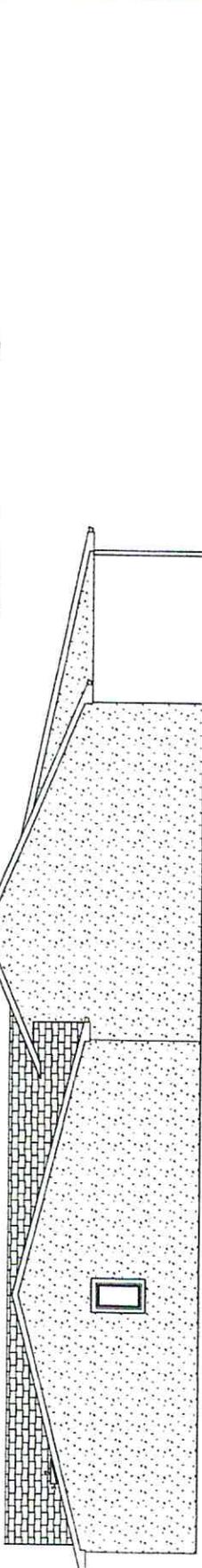
FRONT ELEVATION
 SCALE = 1/8" = 1'-0"

B-118



FRONT ELEVATION
 SCALE = 1/8" = 1'-0"

B-118



RIGHT ELEVATION
 SCALE = 1/8" = 1'-0"

B-118



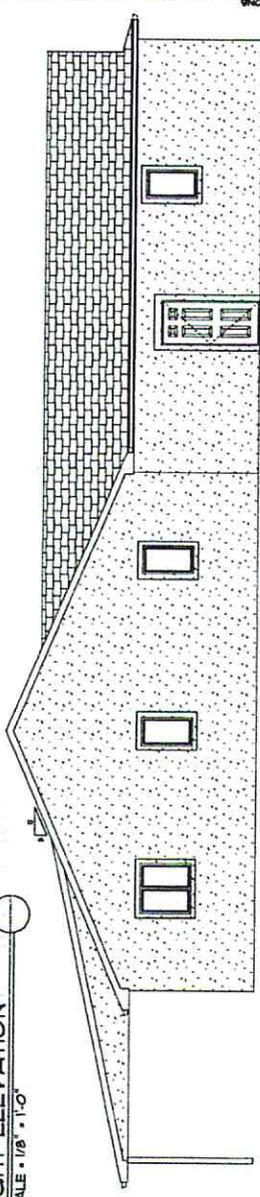
RIGHT ELEVATION
 SCALE = 1/8" = 1'-0"

B-118



RIGHT ELEVATION
 SCALE = 1/8" = 1'-0"

B-118



LEFT ELEVATION
 SCALE = 1/8" = 1'-0"

B-118



LEFT ELEVATION
 SCALE = 1/8" = 1'-0"

B-118



LEFT ELEVATION
 SCALE = 1/8" = 1'-0"

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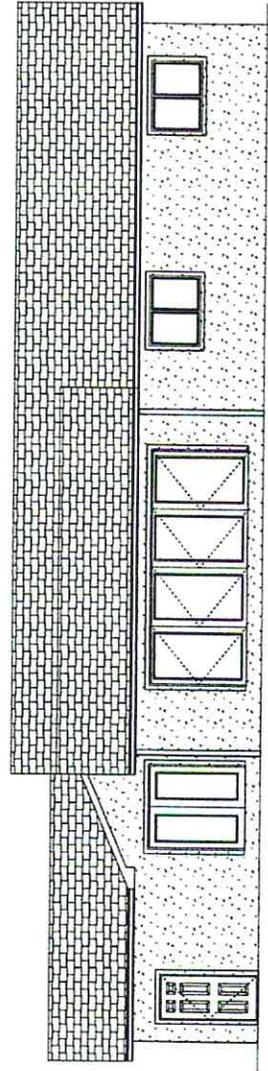
LEFT ELEVATION
 SCALE = 1/8" = 1'-0"

B-118



LEFT ELEVATION
 SCALE = 1/8" = 1'-0"

B-118



BACK ELEVATION
 SCALE = 1/8" = 1'-0"

B-118



BACK ELEVATION
 SCALE = 1/8" = 1'-0"

B-118



BACK ELEVATION
 SCALE = 1/8" = 1'-0"

B-118

ALL RIGHTS RESERVED



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

1. Property Address or Legal Description: 1929 North Grandview

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

3. Type of Variance Requested: Lot coverage/14-04-03 (8) West set back encroachment

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 variance is being requested in order to construct an additional garage stall attached to the west side of the existing garage located at 1929 North Grandview Lane. We are requesting to encroach into the west setback two feet, which will give us a measurement of four total feet away from the west property line. The current setback is limiting the size of the garage and does not provide enough space on the inside of the new addition to accommodate the homeowners work vehicle. He is the owner of a local heating and air company and often has to work out of his truck managing and transporting supplies. This new space would be large enough to accommodate his work truck along with ample space around the vehicle for ease and comfort. The extra two feet would make the space much more functional and also more aesthetically pleasing on the exterior of the home, upholding the integrity of the established neighborhood.

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

The current limitations would make for a garage stall that would be neither functional or aesthetically pleasing on the exterior. If we were limited to the restrictions in place, the new addition would look awkward from the street, degrading the home design and neighborhood aesthetics. It also would limit the space on either side of the vehicle when parked in the garage. The additional two feet would allow for the truck doors to open 100% rather than hitting the wall partly open. The variance would improve the day to day operations for the homeowner by providing him a secure, comfortable, heated space for his sole work vehicle.

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

The variance requested is the minimum allowance necessary to accomplish the proper design and comfort for the homeowner. After the proposed addition, our side yard total percentage would still be under the allotted 20% side yard coverage. As per plan provided, the east side yard is fifteen feet, the home is fifty nine feet, and the requested west side yard would be four feet. The lot is ninety feet total. Total side yard would equal nineteen feet. Twenty percent (code for residential side yard setback) of the ninety foot lot equals eighteen feet allowance. Our plan would fall within this requirement.

**BISMARCK COMMUNITY DEVELOPMENT DEPARTMENT
STAFF REPORT**

BACKGROUND:	
Title: 521 North Washington Street – Variance (Front Yard Setback and Lot Coverage) (The North 70 feet of Lots 13-14, Block 18, Northern Pacific Addition)	
Status: Board of Adjustment	Date: November 5, 2015
Owner(s): Larry and Peggy Shireley	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 nineteen (19) feet and from Section 14-04-03(6) of the City Code of Ordinances (R5-Residential)(Lot Coverage) to increase the allowed lot coverage from 30% to 31.7% for the purpose of constructing an addition to the existing single family house.	
Location: In central Bismarck in the southwest quadrant of the intersection of North Washington Street and East B Avenue.	
ADDITIONAL INFORMATION:	
1. A variance from Section 14-04-03(9) of the City Code of Ordinances (R5 – Residential)(Rear Yard) to reduce the required rear yard setback along the south side of the property from twenty (20) feet to ten (10) feet four (4) inches in order to construct an addition to the existing single-family dwelling was approved in May 2015. According to the information submitted with the application the dimensions of the addition grew slightly after the variance was approved and it was discovered that the proposed sunroom addition was not included in the calculation for lot coverage.	
APPLICABLE PROVISION(S) OF ZONING ORDINANCE:	
1. Section 14-02-03 of the City Code of Ordinances (Definitions) defines a variance as, “A device which grants a property owner relief from certain provisions of the zoning ordinance when, because of the particular physical surroundings, shape or topographical condition of the property, compliance would result in a particular hardship upon the owner, as distinguished from a mere inconvenience or desire to increase the financial return.”	
2. Section 14-04-03(9) 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 addition would be nineteen (19) feet from the front property line located along the north side of the property.	
3. Section 14-04-03(6) of the City Code of Ordinances (R5 – Residential)(Lot Coverage) states, “The ground area occupied by the principal and accessory buildings shall not exceed thirty (30) percent of the total area of the lot. In computing lot coverage, off-street parking areas complying with Section 14-03-10 hereof shall be added to the actual area of the buildings, if such space is not furnished within a building.” According to the information submitted with the application the proposed lot coverage is 31.7 percent.	
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.	

(continued)

2. The hardship is not caused by the provisions of the Zoning Ordinance.
3. Strict application of the provisions of the Zoning Ordinance would not deprive the property owner of the reasonable use of the property.
4. The requested variance is not the minimum variance that would accomplish the relief sought by the applicant.
5. The granting of the variance is not in harmony with the general purposes and intent of the Zoning Ordinance

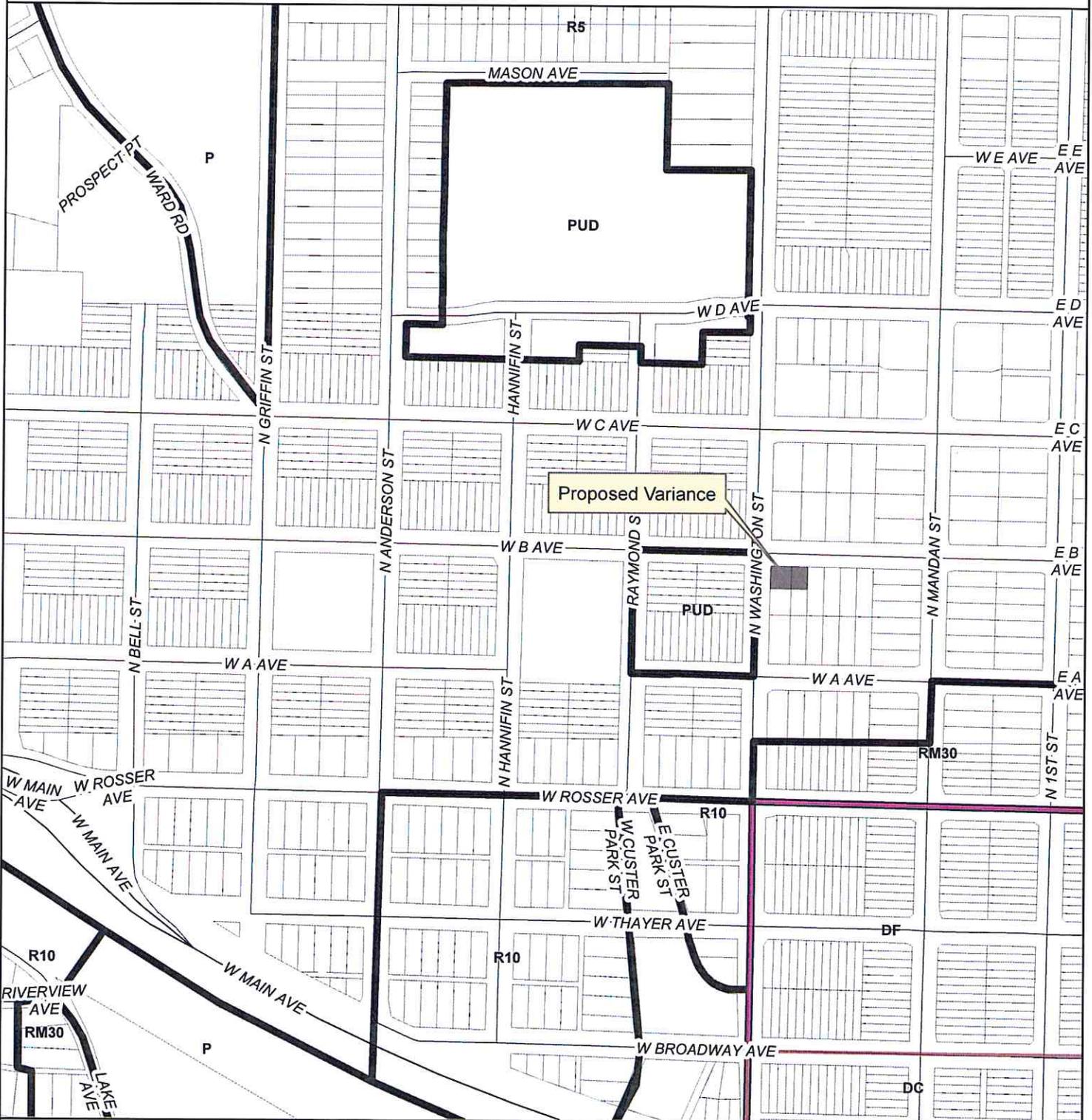
RECOMMENDATION:

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

Proposed Variance

The North 70 feet of Lots 13-14, Block 18

Northern Pacific Addition

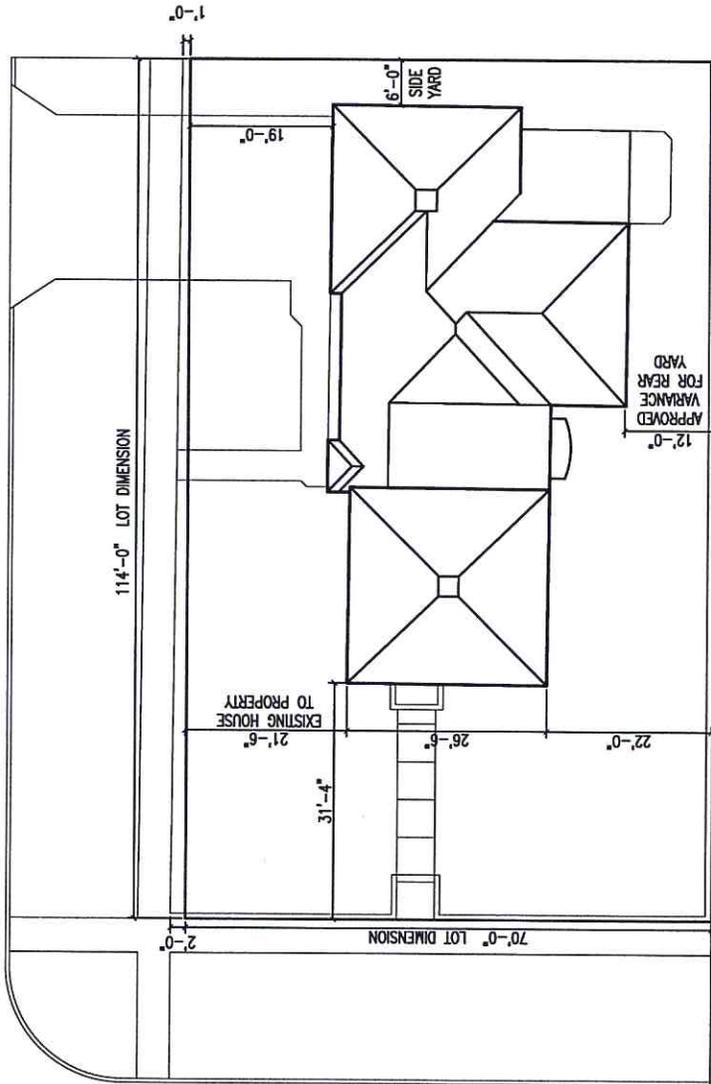


June 15, 2015 (h1b)

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.



LOT AREA: 7988 SF
 EXISTING HOUSE AREA: 1172 SF
 REMOVE EXIST. GARAGE: 227 SF
 HOUSE/GARAGE ADDITION: 1,381 SF
 TOTAL FINISHED AREA: 2326 SF
 2,353 SF FOOTPRINT LOT COVERAGE: 29.4%
 PROPOSED FUTURE SCREENED PATIO 178 SF
 2531 TOTAL (31.7%)



1
A0.2
SITE PLAN
 SCALE: 1/16" = 1'-0"



OCT 21 2015

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

1. Property Address or Legal Description: 521 North Washington Street
2. Location of Property: City of Bismarck Extraterritorial Area (ETA)
3. Type of Variance Requested: Lot coverage/14-04-03 (7) (Front Yard Set-Back Encroachment)
4. Applicable Zoning Ordinance Chapter/Section: 14-04-03 R5 Residential district/6. Lot Coverage: max. thirty percent (30%)

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 couple living at the residence located at 521 North Washington Street is in their 60's and are about to retire. They love the Historic District neighborhood and are proceeding with an addition to the home. In May a variance was requested and approved to permit the encroachment of the lot rear set-back. Unfortunately, it was not realized at the time that a variance should have also been requested for lot coverage. As we finalized the plans to meet the homeowners needs and in keeping the historical appearance of the home, the plan grew slightly in the kitchen, pantry and screened patio area. These changes brought us over the required lot coverage. The owner wishes to replace the existing screened patio area that is being displaced by the addition, which is one of the reasons for this request, as the inclusion of the screened patio area results in exceeding of the lot coverage requirement by 135 SF. This is also a formal request for variance to encroach into the north (25') setback. The existing home already sits at 21'6" or 3'6" into the setback. We are also requesting permission for the addition to encroach into the setback. The proposed encroachment is at 6' into the north setback (19' from the property line). The part of the home that is encroaching into the setback is the garage.

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

The original home was located on the lot and built in 1911. In 1936 the home was remodeled and an addition was added. There is currently no bathroom or bedroom on the main level of the home. The kitchen is also small and poorly located. There is also a very small one stall garage that is only accessible from the west. For an older retired couple, it is important and necessary to have a bathroom and bedroom on the main level, as well as having a workable kitchen and garage for their vehicles. The addition will solve these problems and allow them to better meet there needs. They also wish to maintain on of the historic elements of the home, which is the screened patio. The layout and size of the plan was very specific to meet all of there needs. All of the room on the main level will now be wheelchair or handicapped accessible. The north setback encroachment is key to maintaining the historical integrity of the neighborhood as well as creating function and safe living for the homeowners.

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

A variance that would allow a maximum lot coverage to not exceed 32% will allow the inclusion of a screened patio area. The North setback encroachment variance is vital to maintain the historical integrity of the project, as well as producing handicapped accessibility and comfort for the interior layout. The north setback encroachment variance is also detrimental in order to complete the project plan given to, and permitted by, the City Of Bismarck on September 15 2015. The plan was permitted for construction and demolition ensued. Not until after we demolished the existing garage and sunroom were we informed the north setback variance was not permitted. It is now very important that we are given the variance in order to move forward, as there is temporary weather proofing and power set in place that is not meant for long periods of exposure to the elements.

AGREEMENT

On September 15, 2015 building permit number BRES2015-0604 was issued to Big River Builders INC for the construction of an addition to a single family home located at 521 North Washington St, Bismarck ND 58501.

An inspection of the footings was requested on September 28th, 2015. At the time of inspection it was found that the footing forms for the addition were located beyond the required twenty-five foot (25') front yard setback, the inspector failed the inspection at that time.

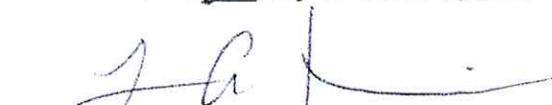
In order for the proposed addition to remain in this location a variance from section 14-0403 (9) of the City Code of Ordinances (R-5- Residential) (Front Yard) to reduce the required front yard setback along the North Side the property would be approved by the Board of Adjustment.

Due to inclement weather that may occur in October the contractor and property owner would like to proceed with the construction of the addition and not wait for the determination of the Board of Adjustment variance request that is scheduled to be heard on November 5th, 2015.

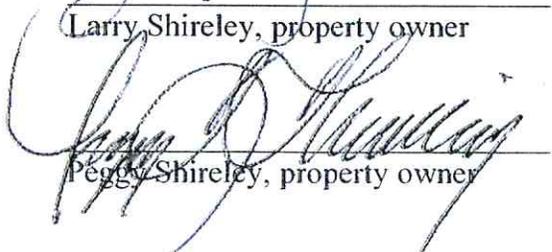
The City of Bismarck Building Inspections Division will allow construction to continue on this project with the understanding that the constrictor and property owner will comply with the determination of the Board of Adjustment.

By signing below you and agree to remove the portion of the structure that is projecting beyond the front yard setback if the requested variance to reduce the required twenty-five foot (25') front yard setback is not approved by the Board of Adjustment.

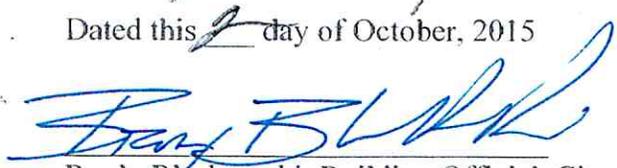
Dated this 2 day of October, 2015


Larry Shireley, property owner


Jordan Anderson, Contractor


Peggy Shireley, property owner

Dated this 2 day of October, 2015


Brady Blaskowski, Building Official, City of Bismarck



Community Development Department

October 26, 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, November 5, 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.

Larry and Peggy Shireley 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 nineteen (19) feet and from Section 14-04-03(6) of the City Code of Ordinances (R5-Residential)(Lot Coverage) to increase the allowed lot coverage from 30% to 31.7% for the purpose of constructing an addition to the existing single family house located on the North 70 feet of Lots 13-14, Block 18, Northern Pacific Addition (521 North Washington Street).

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 BOARD OF ADJUSTMENT
MEETING MINUTES
October 1, 2015**

The Bismarck Board of Adjustment met on October 1, 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 Jennifer Clark, Ken Heier, Ken Hoff, Chris Seifert, Michael Marback and Jeff Ubl.

Staff members present were Brady Blaskowski – Building Official, Jenny Wollmuth – Planner and Hilary Balzum – Community Development Administrative Assistant.

MINUTES:

Chairman Marback called for approval of the minutes of the September 3, 2015 meeting of the Board of Adjustment.

MOTION: A motion was made by Mr. Seifert and seconded by Mr. Heier to approve the minutes of the September 3, 2015, as presented. With Board Members Clark, Heier, Hoff, Marback, Seifert and Ubl voting in favor, the minutes were approved.

VARIANCE FROM SECTION 14-03-10 OF THE CITY CODE OF ORDINANCES (OFF-STREET PARKING AND LOADING) – LOT 2, BLOCK 1, MUNICH ADDITION (1151 WEST DIVIDE AVENUE)

Chairman Marback stated the applicant, Tana Trotter, is requesting a variance to reduce the required number of off-street parking spaces to one hundred eight (108) off-street parking spaces in order to accommodate a multi-use building with assembly and business uses which is already under construction.

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 CG-Commercial 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 the minimum variance that would accomplish the relief sought by the applicant, as there is no space on the site for additional parking spaces.
5. The granting of the variance is not in harmony with the general purposes and intent of the Zoning Ordinance.

Ms. Wollmuth then gave the following additional information:

1. The proposed building is a multi-use building that will include a fitness area, a physical therapy clinic with associated support spaces, a fitness area, a child care center and a coffee shop. According to the site plan submitted with the variance request, the maximum number off off-street parking spaces the site can provide is one hundred eight (108).
2. The Board of Adjustment, at their meeting of August 7, 2014, held a public hearing on the request for a variance to reduce the required number of off-street parking spaces from two hundred fourteen (214) off-street parking spaces to one hundred eight (108) off-street parking spaces. During the public hearing, it was suggested by the Board that the applicant continue the variance request to the September 2014 meeting of the Board of Adjustment in order to allow staff the opportunity to work the architect, engineer and applicant to modify the size and uses of the building to comply with off-street parking requirements. The applicant stated that they were comfortable with the variance as requested to reduce the off-street parking requirement to one hundred eight (108) off-street parking spaces. The Board of Adjustment denied the proposed variance with a vote of four to one. After the vote took place and the variance was denied, a request was made by the applicant's consulting engineer to continue the public hearing to the September 2014 meeting of the Board of Adjustment to allow the applicant time to work with their architect, engineer and City staff to modify the size and use of the building to comply with off-street parking requirements. A copy of the August 7, 2014 Board of Adjustment minutes are attached.
3. Prior to the September 2014 meeting of the Board of Adjustment, an email requesting the proposed variance be withdrawn was submitted by the applicant's architect. The email indicated that the applicant had reevaluated the uses in the multi-use building, and in order to comply with off-street parking requirements, decided to eliminate the fitness center (assembly use) portions of the building. A copy of the email and staff memo dated August 28, 2014 notifying the Board of the request to withdraw the requested variance is attached. As the Board of Adjustment continued the variance request to the September 2014 meeting, a public hearing on the request was held. The letter notifying the applicant of the Board's acknowledgement of the withdrawal request is attached.
4. According to the information submitted with the application, it appears that the applicant has modified the total area devoted to certain uses in the multi-use building.

According to the applicant's information regarding uses and total area of those uses, one hundred seventy six (176) off-street parking spaces are required. One hundred eight (108) off-street parking spaces have been provided on-site.

Ms. Wollmuth said staff recommends reviewing the findings in the staff report and modifying them as necessary to support the decision of the Board, and if the Board approves the variance as proposed, staff further recommends the following.

1. Approval of a special use permit by the Bismarck Planning and Zoning Commission is required prior to the operation of the proposed child care facility.

Ms. Wollmuth explained that the proposed variance is a multi-use building that will include a fitness acres, a physical therapy clinic with support spaces, a child care center and a coffee shop. She then said the Board of Adjustment, at their meeting of August 7, 2014 held a public hearing on the request for a variance to reduce the required number of off-street parking spaces from two hundred fourteen (214) off-street parking spaces to one hundred eight (108) off-street parking spaces and that during the public hearing, it was suggested by the Board that the applicant continue the variance request to the September 2014 meeting of the Board of Adjustment in order to allow staff the opportunity to work with the architect, engineer and applicant to modify the size and uses of the building to comply with off-street parking requirements. She said a copy of the August 7, 2014 meeting minutes is included in your packet.

Ms. Wollmuth said prior to the September meeting, an email requesting the proposed variance be withdrawn was submitted by the applicant's architect and the email indicated that the applicant had reevaluated the uses in the building and in order to comply with off-street parking requirements decided to eliminate the fitness center portions of the building. She said a copy of the email and staff memo notifying the board of the withdrawal was also included in the agenda packet for this meeting.

Ms. Wollmuth further explained that according to information submitted with the application, it appears that the applicant has modified the total area devoted to certain uses in the multi-use building and that according to the applicants' information regarding uses and the total area of those uses located within the building; one hundred seventy six (176) off-street parking spaces are required. She then said one hundred eight (108) off-street parking spaces have been provided on site.

Tana Trotter, Proximal 50, LLP, said her building plans have changed since they were originally approved and she now needs the parking variance she had previously requested in August 2014 but withdrew. She said the fitness use in the building will be physical therapy related with nutritionists, nurses and life coaches and one on one treatment for clients and fitness times will be scheduled by appointment. She said her goal is to collect data including how many patients come and go within a period of time and use that information to propose a new zoning ordinance related to parking requirements for the type of use her building will be. She said being classified as a public assembly space for

this type of use is not necessary as the fitness use will be more health oriented and medical based than a typical fitness center. She said she has already contracted to have snow hauled away from the parking lot during the winter and has received permission from Horizon Bank Center for employees to use their parking lot adjacent to her property. She said the drive-through in conjunction with the coffee shop on the northeast side of the building will be in and out on the same side so patrons will not have to drive all the way around the building and through the parking lot to leave the property, which will help reduce congestion. She feels with all of the growth and changes happening in Bismarck, a request like hers is certain to come up again.

Chairman Marback asked if staff has considered looking at revising the zoning ordinance to accommodate for different types of fitness uses.

Mr. Blaskowski said they have considered revising the parking ordinance in general, not just specifically for fitness uses.

Ms. Trotter said a public assembly use would be more appropriate for those facilities with pools, tracks and sports courts, which she does not offer.

Mr. Heier asked how many machines will be in the physical fitness area. Ms. Trotter said 46 machines of various functions have been ordered and since the facility will receive a unique wellness credential, some insurance companies might cover portions of the treatment.

Chairman Marback opened the public hearing.

John Sagsveen, 533 Portage Drive, said he would like an explanation of why construction is already started, the building is almost done and only now the request for a parking variance is being discussed.

Chairman Marback explained that this same request was submitted by Ms. Trotter last August, but the request was withdrawn after her business plan was modified. He said her plan has now changed so the request was resubmitted.

Additional written comments regarding this request are attached as Exhibit A.

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

Mr. Seifert asked if Ms. Trotter consulted the Planning staff when her building plans needed to change or if the need for a parking variance was discovered by staff.

Mr. Blaskowski said some complaints and concerns were received from various people and it was brought to Ms. Trotter's attention so the issues could be addressed prior to a certificate of occupancy being issued.

Mr. Seifert asked if there are penalties required for these types of things if permits and a certificate of occupancy have been issued and the building does not comply with the zoning requirements. Mr. Blaskowski said there are a variety of penalties that could be enforced if an owner does not adhere to the approved site plan.

Ms. Trotter said in no way is she trying to be deceitful or avoid complying with the zoning ordinance, but she wants to utilize the facility to the best of its ability and focus on her philosophy of health and therapy through physical fitness.

Chairman Marback asked how many employees will be on site throughout the day. Ms. Trotter said her hours of operation are planned to be 5 a.m. to 9 p.m. with eight to ten employees working at any given time.

Ms. Clark said they are in the same position as they were with Ms. Trotter's original request. She said the original focus of integrated health is the same as before and her plan does not seem to have changed that much.

Ms. Trotter said it was her understanding that if she was a more patient based center, having clients be by appointment only, then that plan would be deemed acceptable as opposed to a general fitness use which is an assembly use.

Chairman Marback asked if fitness club memberships will be in place. Ms. Trotter said clients can pay monthly, but the treatment is employee guided which is the main difference between her and a regular public fitness facility.

Mr. Ubl asked how many patients can be expected to be in the building at one time. Ms. Trotter said she would estimate 15-20 patients per hour with some in group fitness classes with therapists or on their own on individual machines, but their time slot will always be reserved ahead of time.

Mr. Ubl asked to what extent restrictions can be placed on the facility and what would need to change in order for it to need to be reevaluated.

Ms. Clark asked if this variance is granted and then ownership of the building changed, would the same uses still be allowed.

Mr. Blaskowski said if the use changes it would have to be reevaluated, but a similar use would not require any reviews.

Chairman Marback asked if a condition could be placed on the variance that is specific to this owner. Mr. Blaskowski said he would have to consult with the City Attorney but he cannot think of an instance where that has been allowed in the past.

Mr. Heier said he does not see the need for parking at a ratio of one space per sixty square feet for a fitness use so the zoning ordinance should probably be revised.

MOTION: A motion was made by Mr. Heier to approve the variance to reduce the required number of off-street parking spaces to one hundred eight (108) off-street parking spaces in order to accommodate a multi-use building with assembly and business uses which is already under construction for Lot 2, Block 1, Munich Addition (1151 West Divide Avenue). The motion failed due to a lack of a second.

Mr. Ubl asked if there are any similar facilities in town that this project could be compared to. Mr. Blaskowski said Ms. Trotter did some comparisons and found similar cities require anywhere from one space per one hundred square feet to one space per three hundred square feet of space depending on the use classification. Mr. Ubl also stated it is difficult to say what requirement would be appropriate here, but one space per sixty square feet does not seem necessary in this case.

Mr. Hoff asked if the request can be continued in order to allow time to find out how other cities have done their ordinances and modify ours before granting the request.

Mr. Blaskowski said there has been variances granted for larger fitness facilities, such as the YMCA, who received a substantial variance for their most recent building addition and their parking ratio is approximately one space per two hundred ninety six square feet of space.

MOTION: A motion was made by Mr. Heier to approve the variance to reduce the required number of off-street parking spaces from 177 to one hundred eight (108) off-street parking spaces in order to accommodate a multi-use building with assembly and business uses which is already under construction for Lot 2, Block 1, Munich Addition (1151 West Divide Avenue), based on the nature of the medical component of the facility and the ratio of one space per two hundred and fifty square feet for the entire building being more appropriate. The motion was seconded by Mr. Ubl and with Board Members Heier, Marback and Ubl voting in favor of the motion and Board Members Clark, Hoff and Seifert opposing the motion, the variance not approved by the Board of Adjustment, as four affirmative votes are required to grant any variance under North Dakota Century Code 40-47-07.

VARIANCE FROM SECTION 14-04-01(10) OF THE CITY CODE OF ORDINANCES (RR – RESIDENTIAL)(ACCESSORY BUILDING) – LOT 12, BLOCK 2, SOUTHRIDGE SUBDIVISION (3739 SOUTHRIDGE LANE)

Chairman Marback stated the applicant, Damion Deibert, is requesting a variance to increase the maximum sidewall height of an accessory building from fourteen (14) feet to 16 (sixteen) feet for an existing accessory building.

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 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 reasonable use of the property.
4. The granting of the variance is not in harmony with the general purposes and intent of the Zoning Ordinance.

Ms. Wollmuth then gave the following additional information:

1. A building permit was issued on October 10, 2014 to construct an accessory building. The provisions outlined in the zoning ordinance for accessory buildings located within the RR – Residential zoning district limit the side wall height to fourteen (14) feet. After the accessory building was constructed it was discovered that the side wall height of the accessory building is sixteen (16) feet. The requested variance would allow the accessory building to remain in place and be compliant with the zoning ordinance.

Ms. Wollmuth said staff recommends reviewing the findings in the staff report and modifying them as necessary to support the decision of the Board.

Ms. Wollmuth explained that a building permit was issued in October 2014 to construct a 2400 square foot accessory building and the provisions outlined in the zoning ordinance for accessory buildings located within the rural residential zoning district limit the side wall of the building to 14 feet. She said after the building was constructed it was discovered that the side wall height of the accessory building is 16 feet and the requested variance would allow the accessory building to remain in place and be compliant with the zoning ordinance.

Ms. Wollmuth then said the accessory building is 2,604 square feet in area and is 204 square feet over the requirement for an accessory building located on a lot of this size in the rural residential zoning district. She said approval of a special use permit for the increase building size is required by the Bismarck Planning and Zoning Commission and a public hearing on the special use permit is scheduled for October 28, 2015.

Mr. Deibert explained that he applied for a building permit for his accessory building and it was issued. He said it was inspected and the building inspector signed off in approval and he even received approval from 75% of his surrounding neighbors as the covenants of the subdivision require. He said he did not realize a sixteen foot side wall was not acceptable and he needs the building to store his camper, trailer, vehicles and similar items as the covenants also state storage of those items outside is prohibited.

Chairman Marback opened the public hearing.

Curt Janssen, 4016 Southridge Lane, said he lives down the road from this property and when he moved in he asked what he was allowed to build before he did it and was restricted to 2,400 square feet. He said he read the covenants and had to submit building plans before he could start construction and he feels the building process has failed in this case. He said Mr. Deibert will be the only person in the neighborhood with his camper inside an accessory building even though the covenants do say outside parking of them is prohibited. He said other people would like a similar accessory building to this but they are restricted by the covenants and he does not want to see a precedent being set if this request is approved.

Keith Wise, 7232 Signal Street, said he lives next door to Mr. Deibert and the covenants state the siding and roof must be in like to the existing house and this building does not comply with that. He said it looks more like a farm building that is exceeding its allowances.

Chairman Marback said the Board cannot enforce covenants and can only decide on the variance request. He then asked if the side wall height is listed on the permit.

Mr. Blaskowski said currently the Building Inspections staff is looking into a way to have the side wall height automatically populated when the permit is issued, however, the sidewall height is not listed on this particular permit.

Mr. Heier asked why the current maximum side wall height is 14 feet. Ms. Wollmuth said because of the property is zoned rural residential and the accessory building is considered to be used for residential purposes as opposed to buildings located in agriculture or commercial zoning districts that are used for those types of uses. She said there is a construction method that would allow a 14 foot access door on a building that could house a camper with the use of scissor trusses in the ceiling of the structure.

Mr. Ubl asked how this problem was discovered and how it got this far in the process before it was brought to somebody's attention.

Mr. Blaskowski said when the structure of a building is inspected, it is made sure that applicable building codes are being followed when those inspections are done. He said in this case the inspectors are only the inspectors and office staff is relied on to issue permits correctly.

Mr. Hoff asked if a special use permit has also been applied for. Ms. Wollmuth said it has been and the request by Mr. Deibert for an oversized accessory building is an allowable use in the rural residential zoning district, as long as it is approved the Planning and Zoning Commission. She said the special use permit could allow for up to 3,200 square feet of accessory buildings on the property.

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

MOTION: A motion was made by Mr. Seifert to approve the variance to increase the maximum sidewall height of an accessory building from fourteen (14) feet to 16 (sixteen) feet for an existing accessory building on Lot 12, Block 2, Southridge Subdivision (3739 Southridge Lane), based on special circumstances that the work has already been done and a mistake was made in the issuance of the building permit. The motion was seconded by Ms. Clark and with Board Members Clark, Heier, Seifert, Ubl and Marback voting in favor of the motion, the motion was approved and the variance was granted. Mr. Hoff opposed the motion.

VARIANCE FROM SECTION 14-04-19(6)(B)(1) OF THE CITY CODE OF ORDINANCES (FP – FLOODPLAIN DISTRICT) – LOT 5 OF GOVERNMENT LOT 4, SECTION 28 T138N-R80W/LINCOLN TOWNSHIP (5160 WILLOW OAKS ROAD)

Chairman Marback stated the applicant, Leo Hoff, is requesting a variance to allow the construction of an accessory building, which is located within the Special Flood Hazard Area (SFHA) or 100-year floodplain, that is proposed to be constructed below the required elevation of two (2) feet above the Base Flood Elevation (BFE).

Ms. Wollmuth gave an overview of the request, including the following findings for any variance:

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 will 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; however, it is doubtful that it would be injurious to the neighborhood or otherwise detrimental to the public welfare.

Ms. Wollmuth then gave the following finds for a floodplain variance:

1. The proposed variance may increase flood levels during the base flood discharge.

2. The variance is not the minimum necessary, considering the flood hazard, to afford relief.
3. The applicant has not shown good and sufficient cause for granting the variance.
4. A failure to grant the variance would not result in exceptional hardship to the applicant.
5. The granting of the variance may result in increased flood heights, additional threats to public safety and conflict with existing local laws or ordinances. However, it is doubtful the granting of the variance would cause fraud or victimization of the public.

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.

Chairman Marback asked if there any risk of liability with Federal Emergency Management Agency (FEMA) if this variance is granted and then there is a flood incident on the property. Ms. Wollmuth stated that the State of North Dakota requires new construction to be elevated at least one foot above BFE and the NFIP requires new construction to be built at BFE. The requirements for the City of Bismarck are more restrictive because they require new building construction to be elevated to at least two feet above BFE.

Mr. Leo Hoff said he had some water in his shop in the 2011 flood, but putting this new building at base elevation plus two feet would bring it up so high that the driveway to the building would also have to be elevated and inclined so much that it would be hard to access in general and dangerous to access in the winter time.

Chairman Marback asked how large the building would be. Mr. Hoff said it would be 1,344 square feet and that the shop that is there now is 1,008 square feet and will stay so he has as much storage space as he can get.

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 allow the construction of an accessory building, which is located within the Special Flood Hazard Area (SFHA) or 100-year floodplain, at an elevation of one foot above BFE on Lot 5 of Government Lot 4, Section 28, T138N-R80W/Lincoln Township (5160 Willow Oaks Road), based on special circumstances that the proposed location of the accessory building is on the highest elevation of the property. The motion was seconded by Mr. Ubl and with Board Members Heier, Hoff, Marback, Seifert, Clark and Ubl voting in favor of the motion, the motion was approved and the variance was granted.

VARIANCE FROM SECTION 14-03-10 OF THE CITY CODE OF ORDINANCES (OFF-STREET PARKING AND LOADING) – LOT 1, BLOCK 1, NORTH HILLS 16TH ADDITION AND LOT 4B OF LOT 4, BLOCK 3, NORTH HILLS 15TH ADDITION (4202 COLEMAN STREET)

Chairman Marback stated the applicant, Dakota Carrier Network, is requesting a variance to reduce the required amount of off-street parking at the above mentioned property to one hundred thirty five (135) off-street parking spaces, for the purpose of constructing a 30,000 square foot addition to the existing 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 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.

Ms. Wollmuth said staff recommends reviewing the findings in the staff report and modifying them as necessary to support the decision of the Board.

Ms. Wollmuth explained that the applicant has indicated that an error was made calculating the existing off-street parking on the application and the two existing parking lots on site contain one hundred thirty five (135) spaces, not one hundred nineteen (119) as indicated in the application. She then said the existing 42,000 square foot building was constructed in 2012 and the building is classified as an office use, which requires one off-street parking space per two hundred and fifty (250) square feet, which would require one hundred sixty eight (168) off-street parking spaces to be provided on site. She added, however, according to the building permit a total of ninety seven (97) spaces were required and according to the site plan submitted with the application one hundred thirty five (135) spaces were provided. She then said a variance request to reduce the number of off-street parking spaces was not submitted prior to the building permit being issued in 2012.

Seth Arndorfer, Dakota Carrier Network Chief (DCN) Executive Officer, said DCN is experiencing substantial business and is required to pursue one expansion to meet those

needs. He said their business is primarily data connections and their facilities are mostly hardware based that require large heating and cooling systems. He said on average, 22 parking spaces are used each day and there is also enough green space on the property that if a new use were to go into that building, some of that green space could be converted into parking if needed.

Mr. Ubl asked how much of the space inside the building would be usable space rather than data center storage space. Mr. Arndorfer estimated approximately 25% would be usable space for employees and guests.

Chairman Marback opened the public hearing.

Jay Espeseth, 4100 Coleman Street Unit I, said the condos he lives in are right next to the DCN property and he would like to know why these requests are not addressed at the time the permit is requested and why the building addition is going to be built on an undeveloped parking area.

Mr. Blaskowski explained that a building permit for this addition actually has not been issued yet.

Mr. Arndorfer said the green space immediately to the west and to the south of the addition could include another 100 parking spaces if needed.

Ms. Clark said in order to distinguish from the previous request, the space needed for parking is here but the owner does not wish to utilize it at this time.

Mr. Blaswkoski said that is correct and that if the use of the building changed and additional parking is required it can be installed since the space needed for off street parking is available on site.

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

MOTION: A motion was made by Ms. Clark to approve the variance to reduce the required amount of off-street parking at the above mentioned property to one hundred thirty five (135) off-street parking spaces, for the purpose of constructing a 30,000 square foot addition to the existing building on Lot 1, Block 1, North Hills 16th Addition and Lot 4B of Lot 4, Block 3, Northern Hills 15th Addition (4202 Coleman Street), based on the unique construction and uses of the building and it not being easily converted for a new use, and that extra parking spaces are available if needed. The motion was seconded by Mr. Seifert and with Board Members Heier, Hoff, Marback, Seifert, Ubl and Clark voting in favor of the motion, the motion was approved and the variance was granted.

VARIANCE FROM SECTION 14-03-10(2) OF THE CITY CODE OF ORDINANCES (OFF-STREET PARKING AND LOADING) – LOT 8, BLOCK 1, MIRIAM INDUSTRIAL PARK 2ND ADDITION (400 CHANNEL DRIVE)

Chairman Marback stated the applicant, Mitch Becker, is requesting a variance to eliminate the requirement to pave the driveway providing access to the seven (7) building cold storage facilities already under construction.

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 MA-Industrial zoning classifications.
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 then gave the following additional information:

1. The City of Bismarck requires approval of a site plan for all new commercial projects prior to issuing a building permit for the development of the site. The site plan review process also includes plans for storm water management for the site. The review process involves reviews from multiple City Departments and Divisions including the Planning Division, Building Inspections Division, Engineering Department and Fire Department. A site plan was submitted for review for a seven (7) building cold storage facility in April 2015. The original site plan indicated that the driveway providing access to the cold storage facility would not be paved or surfaced with a dustless all-weather hard surface material as required in Section 14-03-10(2) of the City Code of Ordinances (Off-Street Parking and Loading). During the review of the cold storage facility, it was determined by the Building Inspections Division and Fire Department that the driveway must be paved prior to approval of the site plan. According to correspondence with the applicant's consulting engineer (Houston Engineering) it was agreed that the driveway would be paved. See attached review comments. The storm water management plan was also modified to reflect the paving of the driveway. After the site plan and storm water management plan were approved, a building permit for the seven (7) building cold storage facility was issued. The facility is currently under construction and foundations for five (5) of the

seven (7) buildings have been poured. The applicant is now requesting a variance to not pave the driveway providing access the cold storage facility.

2. The City Engineer Department is concerned with the proposed variance. In particular, if approved as proposed, the approved Storm Water Management Plan must be revised to address the change and to insure sufficient erosion control methods are in place to limit the amount of sediment eroded into Hay Creek, and the revised plan must be approved by the City Engineering Department. Due to the ongoing mitigation efforts of the City and private agencies, Hay Creek was recently delisted from the Environmental Protection Agency (EPA) Impaired Waterway Listing. The EPA has determined that the water quality of Hay Creek is no longer threatened for certain fish and other aquatic animals to live or propagate in the Hay Creek channel or within the vicinity of Hay Creek. Any additional discharge into Hay Creek that may threaten the recent delisting may not be approved by the City Engineering Department.
3. Certification by a registered Professional Engineer verifying that the type of gravel surfacing can support the heaviest fire apparatus currently used by the Fire Department would be required if the variance is approved as proposed.
4. The proposed variance is located within the Special Flood Hazard Area (SFHA) or 100-year floodplain and a portion of the Floodway. All applicable requirements for developing in the SFHA and Floodway will be met.

Ms. Wollmuth said staff recommends reviewing the findings in the staff report and modifying them as necessary to support the decision of the Board. If the Board approves the variance as proposed, staff further recommends the following.

1. The approved Storm Water Management Plan must be revised to address the change and to insure sufficient erosion control methods are in place to limit the amount of sediment eroded into Hay Creek, and a revised plan must be approved by the City Engineering Department.
2. Certification by a registered Professional Engineer verifying that the type of gravel surfacing can support the heaviest fire apparatus currently used by the Fire Department be submitted and approved by the Fire Department.

Ms. Wollmuth explained that the City of Bismarck requires approval of a site plan for all new commercial projects prior to issuing a building permit for the development of the site and that the site plan review process also includes plans for storm water management for the site. She said the review process involves reviews from multiple City Departments and Divisions including the Planning Division, Building Inspections Division, Engineering Department and Fire Department and a site plan was submitted for review for a seven (7) building cold storage facility in April 2015. She added that the original site plan indicated that the driveway providing access to the cold storage facility would

not be paved or surfaced with a dustless all-weather hard surface material as required in Section 14-03-10(2) of the City Code of Ordinances (Off-Street Parking and Loading). During the review of the cold storage facility, it was determined by the Building Inspections Division and Fire Department that the driveway must be paved prior to approval of the site plan. She then said according to correspondence with the applicant's consulting engineer (Houston Engineering), it was agreed that the driveway would be paved and these review comments are attached to the packet for this meeting. She then said the storm water management plan was also modified to reflect the paving of the driveway and after the site plan and storm water management plan were approved, a building permit for the seven (7) building cold storage facilities was issued. She said the facility is currently under construction and foundations for five (5) of the seven (7) buildings have been poured and the applicant is now requesting a variance to not pave the driveway providing access the cold storage facility.

Ms. Wollmuth added that the City Engineer Department is concerned with the proposed variance, in particular, if approved as proposed, the approved Storm Water Management Plan must be revised to address the change and to insure sufficient erosion control methods are in place to limit the amount of sediment eroded into Hay Creek, and the revised plan must be approved by the City Engineering Department. She said due to the ongoing mitigation efforts of the City and private agencies, Hay Creek was recently delisted from the Environmental Protection Agency (EPA) Impaired Waterway Listing and the EPA has determined that the water quality of Hay Creek is no longer threatened for certain fish and other aquatic animals to live or propagate in the Hay Creek channel or within the vicinity of Hay Creek. She also said any additional discharge into Hay Creek that may threaten the recent delisting may not be approved by the City Engineering Department. Ms. Wollmuth closed by saying certification by a registered Professional Engineer verifying that the type of gravel surfacing can support the heaviest fire apparatus currently used by the Fire Department would be required if the variance is approved as proposed.

Mitch Becker, Channel Storage, said a plan with a gravel road to accommodate traffic as needed was submitted, to include the appropriate needs of emergency services and general traffic. He said a portion of the roadway is in the floodway but paving that portion would create more stormwater runoff into Hay Creek causing a hazard. He said crushed concrete will also be included in the required fire truck turnaround area.

Chairman Marback said when the site plan was approved and permit issued, the requirement was to have that driveway paved. Mr. Becker said it was, but that the Fire Department is okay with it not being paved as long as it is accessible in all weather conditions and meets all the other standards. He said eight inches of crushed concrete in this case would be sufficient and if there is a flood incident then a non-permeable surface could be an issue.

Mr. Blaskowski said a statement or no rise certificate was verified by the applicants' consulting engineer when the site plan and stormwater management plan were reviewed

and approved stating a paved roadway would not cause a rise in that floodway so much as to cause a flood hazard situation.

Chairman Marback opened the public hearing.

Brent Olson, Credit Collections Bureau, said his business is adjacent to this driveway path and he is opposed to the request because of all of the dust hazards and other safety issues it would create.

Mr. Becker said he has been watering down the current gravel surface and turning that into crushed concrete would eliminate the dust problems even more.

Chairman Marback asked how long paving has been a requirement of our zoning ordinance. Mr. Blaskowski said as long as he has been employed with the City, so at least 10 years.

Mr. Ubl said the biggest issue with this request is that it has been through site plan review and stormwater management plan review, and the approval process has been completed with the understanding that the driveway would be paved. He said granting the request would be going backwards in that process and maybe this should have to go through site plan review again with the request of not paving the driveway and see if it is approved again.

Additional written comments in opposition to this request are attached as Exhibits B, C, D, E, F, G and H.

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

MOTION: A motion was made by Mr. Ubl to deny the variance to eliminate the requirement to pave the driveway providing access to the seven (7) building cold storage facilities already under construction on Lot 8, Block 1, Miriam Industrial Park 2nd Addition (400 Channel Drive). The motion was seconded by Mr. Hoff and with Board Members Heier, Hoff, Marback, Seifert, Ubl and Clark voting in favor of the motion, the motion was approved and the variance request was denied.

OTHER BUSINESS

BYLAWS OF THE BOARD OF ADJUSTMENT

Chairman Marback said he would entertain a motion to continue discussion of the bylaws of the Board of Adjustment to the next meeting.

MOTION: A motion was made by Ms. Clark to continue discussion of the bylaws of the Board of Adjustment to the next meeting. The motion was seconded by Mr.

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

ADJOURNMENT

There being no further business, Chairman Marback declared the meeting of the Bismarck Board of Adjustment adjourned at 7:15 p.m. to meet again on November 5, 2015.

Respectfully Submitted,

Hilary Balzum
Recording Secretary

APPROVED:

Michael Marback, Chairman

Hilary Balzum

From: Laura Kourajian <kourajian@yahoo.com>
Sent: Thursday, September 24, 2015 8:46 AM
To: Planning - General Mailbox
Subject: Variance request comment

Good morning Jenny Wollmuth.

I am commenting on the letter we received yesterday regarding to the request for a variance to reduce the required number of off-street parking spaces for property at 1151 W. Divide Ave.

The letter indicates the reduced number of spaces is 108, but does not indicate what the required number should be, so it is difficult to make a judgment on whether the reduction still provides adequate parking space.

It is unlikely the property we own in this area will be affected by the reduction in parking spaces, however it is my experience that parking spaces are a lot of like electrical outlets in a new build: You can't have too many. It is also my experience that the minimum number required by zoning regulations is generally the absolute minimum number necessary, and typically additional spaces would be helpful.

Thank you for allowing my comments.

Laura Kourajian
Property Owner - 1208 W. Owens Ave.

EXHIBIT D.

Hilary Balzum

From: Megan Brandriet <meganbrandriet@ccbinet.com>
Sent: Monday, September 28, 2015 11:02 PM
To: Planning - General Mailbox
Subject: Variance Hearing - Channel Storage, LLC

To whom it may concern:

Please let this email serve as written opposition to the proposed variance request by Channel Storage, LLC. As in-house counsel for Credit Collections Bureau, I am writing on behalf of my client. Credit Collections Bureau, as an adjacent property owner, is opposed to the variance request for several reasons. Most notably, Channel Storage, LLC's request to eliminate the requirement to pave the driveway will be a nuisance to Credit Collections Bureau, as well as all neighboring properties. By eliminating the paved driveway requirement, there will be a dramatic increase in dust and dirt in the area, thereby creating a nuisance for the entire neighborhood. It is Credit Collections Bureau's position that the variance be denied.

If you have any questions, please feel free to contact me.

Thanks,

Megan Brandriet
In-House Counsel
Credit Collections Bureau
PO Box 9490
Rapid City, SD 57709-9490
(877) 534-4179
(605) 341-5771 Fax
meganbrandriet@ccbinet.com



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Hilary Balzum

From: Brent Olsen <brent@ccbinet.com>
Sent: Tuesday, September 29, 2015 7:44 AM
To: Planning - General Mailbox
Subject: Variance Hearing - Channel Storage, LLC

This is a response in regards to the variance request by Channel Storage, LLC and an opposition to that request.

Credit Collections Bureau, an adjacent property owner, is opposed to the variance for several reasons. Mainly the dust that is created by traffic and the poor air quality that comes along with an unpaved road. Also, when it rains the mud that the traffic drops on the road could be avoided as well.

Please consider denying the variance.

Thank you.

Brent Carter
Executive Collection Director



Phn: 866-829-8699
brent@ccbinet.com
www.payccb.com

This is an attempt to collect a debt by a debt collector and any information obtained will be used for that purpose. This message is intended for the sole use of the individual and entity to whom it is addressed, and may contain information that is privileged, confidential and exempt from disclosure under applicable law. If you have received this message in error, please immediately advise the sender by reply email and delete the message.

Hilary Balzum

From: Heather Jones <heather@cityairmechanical.com>
Sent: Tuesday, September 29, 2015 11:22 AM
To: Planning - General Mailbox
Subject: Channel Storage, LLC
Attachments: FullSizeRender.jpg

Bismarck Board of Adjustment Members,

I am the owner of City Air Mechanical, Inc. located at 3505 E Rosser Ave Bismarck, just across from the property in question. I also own HHM Properties which has storage units located on 311 Enterprise Street, located just south of City Air Mechanical's buildings.

I oppose this variance request for two different reasons:

1. Rosser Ave is a heavily traveled road, with both commercial and residential traffic. Any approach on or off of Rosser should be maintained in such a way that eliminates dust and debris from encroaching on this public roadway. We already have some access that creates this issue, and I believe we need to begin to hold a new standard for the value to the existing property owners and the value of the residential property and traffic around the area.
2. I also have storage units located on Enterprise Street, which are located on the south side of the same block as City Air Mechanical. These storage units were constructed 3 years ago to meet the requirements of paved access, all applicable landscaping and even a sidewalk for walking traffic access. I feel that this standard that was invested by HHM Properties should be the same for any other like properties going into the area. (I have attached a picture of the units for reference.)

I will not be available to attend the hearing, so please accept this as comments to the Board.

Respectfully,

HEATHER JONES ~ PRESIDENT



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Hilary Balzum

From: [REDACTED]
Sent: Tuesday, September 29, 2015 6:08 PM
To: Planning - General Mailbox
Subject: Variance public hearing - Oct 1 5:00

*Bismarck Community Development Dept
Planning Div*

Regarding Channel Storage's request for a variance to avoid paving a road leading to storage units.

As the commercial property owner next to this project we would like to go on record in opposition to this variance request.

Our main concern is the dust that would be created without the paved road. The dust is a problem for me personally as I am allergic to dust as are some of the other employees (allergic or sensitive to dust) at Credit Collections Bureau.

It is also a cleaning concern for computer equipment, furnaces and air conditioners and cars that are parked in our lot, of employees and customers.

Respectfully, I would ask that you deny this variance and hold Channel to follow the current ordinances in place.

Thank You

Duane Reiswig

Duane Reiswig

ccbceo@aol.com

1-877-REISWIG

Credit Collections Bureau

3550 East Rosser Av

Bismarck, ND 58503

Hilary Balzum

From: Gary Van Beek <GaryV@rivercityboats.com>
Sent: Wednesday, September 30, 2015 8:22 AM
To: Planning - General Mailbox
Subject: variance

Jenny, I am writing in response to the request for a variance from Channel Storage. I am not in favor of this, and am surprised it was even an item of discussion, as I thought any driveway in the city would have to be paved. I just think it's a bad road to go down and really don't want to see dirt driveways in our city. Our lot is paved and from what I can tell so is everyone else in the area, lets keep our city clean and consistant.

Thank you,

Gary Van Beek
Vice President
General Manager



3751 E. Rosser Ave.
Bismarck, ND 58501

Hilary Balzum

From: Jenny Wollmuth
Sent: Wednesday, September 30, 2015 11:45 AM
To: Hilary Balzum
Subject: FW: Channel Storage variance request

Jenny Wollmuth, Planner
Community Development Department
Planning Division
701.355.1840-Department
701.355.1845- Direct
www.bismarcknd.gov

From: Cary, Neil [<mailto:NeilCary@iheartmedia.com>]
Sent: Wednesday, September 30, 2015 11:24 AM
To: Jenny Wollmuth
Subject: RE: Channel Storage variance request

As Market President of iheartMedia radio stations on Rosser I am concerned about the dust that will be blowing and drifting on our property from the traffic if the road to Channel Storage is not paved. Please tar this road.

Thank you

Neil

Neil C. Cary

Market President | Bismarck & Dickinson, North Dakota

iHeartMedia

O: 701-255-1234 | D: 701-333-0311 | Cell: [REDACTED] F: 701-222-1131
3500 E Rosser Ave | Bismarck, North Dakota 58501
Reaching a quarter billion consumers every month
Radio/Digital/Outdoor/Mobile/Social/Events

From: Jenny Wollmuth [<mailto:jwollmuth@bismarcknd.gov>]
Sent: Wednesday, September 30, 2015 11:12 AM
To: Cary, Neil
Subject: RE: Channel Storage variance request

Neil,

I do not think I received the entire email message or attachment. Please see thread below. You may need to resend the document.

Thanks,

Jenny Wollmuth, Planner
Community Development Department
Planning Division

Hilary Balzum

From: Megan Brandriet <meganbrandriet@ccbinet.com>
Sent: Monday, September 28, 2015 11:02 PM
To: Planning - General Mailbox
Subject: Variance Hearing - Channel Storage, LLC

To whom it may concern:

Please let this email serve as written opposition to the proposed variance request by Channel Storage, LLC. As in-house counsel for Credit Collections Bureau, I am writing on behalf of my client. Credit Collections Bureau, as an adjacent property owner, is opposed to the variance request for several reasons. Most notably, Channel Storage, LLC's request to eliminate the requirement to pave the driveway will be a nuisance to Credit Collections Bureau, as well as all neighboring properties. By eliminating the paved driveway requirement, there will be a dramatic increase in dust and dirt in the area, thereby creating a nuisance for the entire neighborhood. It is Credit Collections Bureau's position that the variance be denied.

If you have any questions, please feel free to contact me.

Thanks,

Megan Brandriet
In-House Counsel
Credit Collections Bureau
PO Box 9490
Rapid City, SD 57709-9490
(877) 534-4179
(605) 341-5771 Fax
meganbrandriet@ccbinet.com



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