

**BISMARCK BOARD OF ADJUSTMENT  
MEETING MINUTES  
April 7, 2016**

The Bismarck Board of Adjustment met on April 7, 2016 at 5:00 p.m. in the Tom Baker Meeting Room in the City-County Office Building, 221 North 5<sup>th</sup> Street. Chairman Marback presided.

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

Members absent were Jeff Ubl and Ken Heier.

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

**MINUTES:**

Chairman Marback called for approval of the minutes of the January 7, 2016 meeting of the Board of Adjustment.

**MOTION:** A motion was made by Mr. Seifert and seconded by Ms. Clark to approve the minutes of the January 7, 2016, as presented. With Board Members Clark, Hoff, Marback and Seifert voting in favor, the minutes were approved.

**VARIANCE FROM SECTION 14-04-01(4) OF THE CITY CODE OF ORDINANCES (RR – RESIDENTIAL/FRONT YARD) – LOT 4, BLOCK 2, PINE MEADOWS SUBDIVISION (8201 WHITE OAK LOOP)**

Chairman Marback stated the applicants, Jason and Chris Dirk, are requesting a variance to reduce the front yard setback located along the north side of the property, from forty (40) feet to thirty-five (35) feet in order to construct a 1,350 square foot accessory building.

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

1. The need for a variance is not based on special circumstances or conditions unique to the specific parcel of land involved that are not generally applicable to other properties in this area and within the RR-Residential zoning 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 said staff recommends reviewing the findings in the staff report and modifying them as necessary to support the decision of the Board.

Chairman Marback asked how close the trees would be to the accessory building if it were to be moved back another 5 feet as the ordinance requires. Mr. Dirk said they would not be able to get in and that the ditch would create too steep of a driveway.

Mr. Seifert asked if they would enter the building from the east side. Mr. Dirk said that is correct and that it would be similar construction to that of a property nearby.

Mr. Hoff asked if they knew they were going to need accessory buildings when they bought the property and built the house. Mr. Dirk said they did not think they would need one when the plans for the house were done but as their family has grown, so has their need for more space.

Mr. Hoff asked what the hardship is with this request. Mr. Dirk said the established tree row and the steep grade in the location of the proposed driveway would impede them from putting it the required 40 feet from the front property line. He said he would also like to make it look attractive with landscape around the sides and mowing around it would be difficult if it were back any further.

Mr. Seifert said it is ultimately the trees that are hindering the placement of the building. Mr. Dirk said that is correct and that the trees were originally put in to act as a privacy screen between his property and his neighbors.

Chairman Marback opened the public hearing.

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

Ms. Clark said she feels this is a fairly minimal request and she can appreciate the need for the property to grow as the family grows. She said she likes that there will be a side approach to the building therefore you will not see the garage doors from the front of the property.

Mr. Hoff said he does not see a hardship and granting this variance will result in more of this type of request. He said he feels there needs to be more planning in the beginning stages when building a new home.

**MOTION:** A motion was made by Ms. Clark to approve the variance to reduce the front yard setback located along the north side of the property, from forty (40) feet to thirty-five (35) feet in order to construct a 1,350 square foot accessory building on Lot 4, Block 2, Pine Meadows Subdivision (8201 White Oak Loop), based on the unique grade and characteristics of the property. The motion was seconded by Mr. Seifert and with Board Members Clark, Hoff, Seifert and Marback voting in favor of the motion, the motion was approved and the variance was granted.

**VARIANCES FROM SECTION 14-04-06(7) OF THE CITY CODE OF ORDINANCES (R10 – RESIDENTIAL/FRONT YARD) AND SECTION 14-04-06(9) OF THE CITY CODE OF ORDINANCES (R10-RESIDENTIAL/REAR YARD) – THE WEST 100 FEET OF LOTS 31-32, BLOCK 20, FLANNERY & WETHERBY ADDITION (831 NORTH 16TH STREET)**

Chairman Marback stated the applicants, Morris and Jacqueline Conklin, are requesting variances to reduce the required front yard setback located along the north side of the property from twenty-five (25) feet to nineteen feet six inches (19' 6") and to reduce the required rear yard setback along the south side of the house from twenty (20) feet to seven feet, four inches (7' 4") for the purpose of constructing a detached accessory building.

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

1. The need for a variance is not based on special circumstances or conditions unique to the specific parcel of land involved that are not generally applicable to other properties in this area and within the R10 – Residential zoning classification.
2. The hardship is not caused by the provisions of the Zoning Ordinance.
3. Strict application of the provisions of the Zoning Ordinance would not deprive the property owner of 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 purpose 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. Clark asked if the footprint would be the same as the existing structure but with the addition of an overhang. Ms. Wollmuth said that is correct, that the overhang is what would extend the building into the setback.

Mr. Conklin said this property was constructed in 1948 and there have been issues with the building settling and he has concerns about the stability of the structure. He said rather than lift it up off the foundation he would like to tear it down and rebuild it with an overhang. He said the overhang will help prevent water issues and they will also be widening the driveway in order to add parking for the basement rental unit. He said they will do the slab for the garage now and the driveway expansion later and the siding will match the house. He said it will be only slightly higher than the old building because they will have a thickened slab to help avoid water problems as well.

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 reduce the required front yard setback located along the north side of the property from twenty-five (25) feet to nineteen feet six inches (19' 6") and to reduce the required rear yard setback along the south side of the house from twenty (20) feet to seven feet, four inches (7' 4") for the purpose of constructing a detached accessory building on The West 100 feet of Lots 31-32, Block 20, Flannery & Wetherby Addition (831 North 16th Street), based on the size of the lot and the fact that it was platted in 1948. The motion was seconded by Ms. Clark and with Board Members Clark, Hoff, Seifert and Marback voting in favor of the motion, the motion was approved and the variance was granted.

**VARIANCE FROM SECTION 14-05-07 OF THE CITY CODE OF ORDINANCES (REQUIREMENTS FOR A BUILDING PERMIT) – PART OF THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 2/HAY CREEK TOWNSHIP (7201 BURNT CREEK LOOP)**

Chairman Marback stated that the applicants, Bill and Marcia Patrie, are requesting a variance in order to construct a 1,280 square foot accessory building on a parcel of record, also known as an Auditor's lot.

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 A-Agricultural 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 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 purpose 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.

Mr. Hoff asked what the land to the south of this property is zoned. Ms. Wollmuth said it is zoned RR-Residential.

Mr. Hoff asked why this property has not yet been platted and zoned RR-Residential. Ms. Wollmuth said the owners have not brought a request forward to have it platted and when the Extra-Territorial Area (ETA) was negotiated a mass rezoning was completing to change properties from the R1-Residential zoning district to the RR-Residential zoning district. This property was not included in those changes as it was zoned A-Agricultural, not R1-Residential.

Mr. Patrie said they purchased the property in 1992 because it was zoned A-Agricultural and they want to stay in that zoning district because they have chickens. He said there is a nearby pasture and the entire section is agricultural which makes it nice for wildlife. He said his neighbors want to stay zoned agricultural as well.

Mr. Hoff asked if there is any benefit or not to staying in the A-Agricultural zoning district. Mr. Patrie said he can continue to maintain his chickens without limitations.

Mr. Hoff asked if the neighbors to the north have been asked about selling or keeping the agricultural uses. Mr. Patrie said he does not know but it is currently all farm land.

Chairman Marback opened the public hearing.

Written comments in support of this request are attached as Exhibits A-E.

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

Mr. Hoff asked if the size of the property would be in compliance with a zoning change to the RR-Residential zoning district. Mr. Blaskowski said if zoned RR-Residential, the lot would meet the required minimum lot size.

Ms. Clark said she expects they will see more needs like this in unique developments and she can appreciate wanting to keep the agricultural areas in order to maintain the fit of the area.

**MOTION:** A motion was made by Mr. Seifert to approve the variance in order to construct a 1,280 square foot accessory building on a parcel of record, also known as an Auditor's lot, for Part of the southwest quarter of the southwest quarter of Section 2/Hay Creek Township (7201 Burnt Creek Loop), based on the size of the lot and the adjacent layouts and uses. The motion was seconded by Ms. Clark and with Board Members Clark, Hoff, Seifert and Marback voting in favor of the motion, the motion was approved and the variance was granted.

### **OTHER BUSINESS**

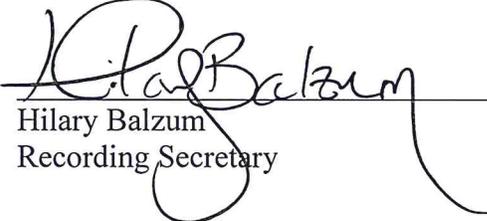
Chairman Marback asked for an update on the proposed zoning ordinance text amendment relating to off-street parking. Ms. Wollmuth said the amendment was adopted on March 22<sup>nd</sup> so they should hopefully not see as many requests for parking variances as they have in the past.

Chairman Marback complimented staff on how nice the new staff reports and packets look.

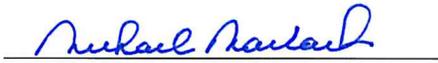
### **ADJOURNMENT**

There being no further business, Chairman Marback declared the meeting of the Bismarck Board of Adjustment adjourned at 5:33 p.m. to meet again on May 5, 2016.

Respectfully Submitted,

  
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Hilary Balzum  
Recording Secretary

APPROVED:

  
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Michael Marback, Chairman

To: Board of Adjustment

From: Shawn Newsma

Address: 7000 Horseshoe Bend Bismarck, ND 58503

RE: Variance Request by William and Marcia Patrie

It is our understanding that our neighbors, Bill and Marcia Patrie, are requesting a variance to build a 32' x 40' pole building on land adjacent to ours. We support the variance request and do not feel the proposed structure will conflict with the existing land use of the neighborhood.

Signed 

Date 3-12-16

To: Board of Adjustment

From: DAVID RENWICH

Address: 7060 HORSESHOE BEND

RE: Variance Request by William and Marcia Patrie

It is our understanding that our neighbors, Bill and Marcia Patrie, are requesting a variance to build a 32' x 40' pole building on land adjacent to ours. We support the variance request and do not feel the proposed structure will conflict with the existing land use of the neighborhood.

Signed David C Renwich

Date 3-12-2016

To: Board of Adjustment

From: Jay Wheeler

Address: 7030 Horseshoe Bend

RE: Variance Request by William and Marcia Patrie

It is our understanding that our neighbors, Bill and Marcia Patrie, are requesting a variance to build a 32' x 40' pole building on land adjacent to ours. We support the variance request and do not feel the proposed structure will conflict with the existing land use of the neighborhood.

Signed 

Date 3/10/16

To: Board of Adjustment

From: Janet Muhlbradt

Address: 4351 Burnt Creek

RE: Variance Request by William and Marcia Patrie

It is our understanding that our neighbors, Bill and Marcia Patrie, are requesting a variance to build a 32' x 40' pole building on land adjacent to ours. We support the variance request and do not feel the proposed structure will conflict with the existing land use of the neighborhood.

Signed Janet Muhlbradt

Date March 12

To: Board of Adjustment

From: Brandon Sjoi

Address: 7050 Burnt Creek LP

RE: Variance Request by William and Marcia Patrie

It is our understanding that our neighbors, Bill and Marcia Patrie, are requesting a variance to build a 32' x 40' pole building on land adjacent to ours. We support the variance request and do not feel the proposed structure will conflict with the existing land use of the neighborhood.

Signed B Sjoi

Date 3-12-16