



Community Development Department

BISMARCK BOARD OF ADJUSTMENT MEETING AGENDA

June 2, 2016

Tom Baker Meeting Room

5:00 p.m.

City-County Office Building

MINUTES

- 1. Consider the minutes of the April 27, 2016 and May 5, 2016 meetings of the Board of Adjustment.

REQUESTS

- 2. Variances from Section 14-04-01(6) of the City Code of Ordinances (RR – Residential)(Rear Yard) and Section 14-04-01(5) of the City Code of Ordinances (RR – Residential)(Side Yard) – Lot 26, Block 15, Ponderosa Riverside Village Second Subdivision (5540 Ponderosa Avenue).

Owner / Applicant: Tyler Atkinson

Board Action: []approve []continue []table []deny

- 3. Variance from Section 14-04-03(5) of the City Code of Ordinances (R5-Residential) (Lot Width) – The West 1/2 of the East 1/2 of Lots 5-6, Block 9, Northern Pacific Addition (106 East Avenue B).

Owner / Applicant: Kari Knudson

Board Action: []approve []continue []table []deny

- 4. Variance from Section 14-03-05(2) of the City Code of Ordinances (Supplementary Provisions)(projections Into Yards) – Lot 11, Block 51, Northern Pacific 2nd Addition (717 North 10th Street).

Owner / Applicant: Robert Leingang

Board Action: []approve []continue []table []deny



5. **Variance from Section 14-04-05(3)(f)(1) of the City Code of Ordinances (RMH-Residential)(Development Standards/Setbacks) – Lot 2, Block 1, Mr. B's Addition (2500 Centennial Road)/**

Owner / Applicant: Matt Geiger

Board Action: approve continue table deny

ADJOURNMENT

6. **Adjournment.** The next regular meeting date is scheduled for July 7, 2016



STAFF REPORT

City of Bismarck
Community Development Department
Planning Division

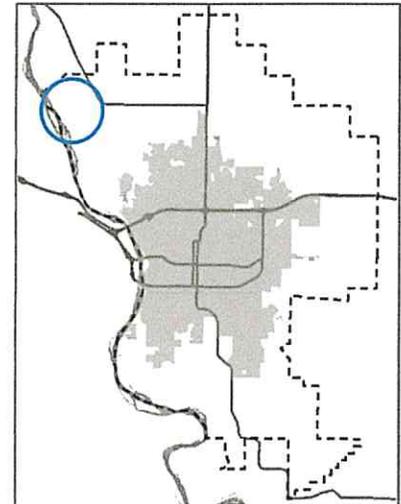
Agenda Item # 2
June 2, 2016

Application for: Variance

TRAKIT Project ID: VAR2016-007

Project Summary

Title:	Lot 26, Block 15, Ponderosa Riverside Second Subdivision (5540 Ponderosa Avenue)
Status:	Board of Adjustment
Owner(s):	Tyler Atkinson
Project Contact:	Tyler Atkinson
Location:	The property is located north of Bismarck, north of Misty Waters Marina, west of Burnt Creek Loop along the north side of Ponderosa Avenue.
Request:	Variations from Section 14-04-01(5) of the City Code of Ordinances (RR – Residential)(Side Yard) and Section 14-04-01(6) of the City Code of Ordinances (RR – Residential)(Rear Yard).



Staff Analysis

The applicant is requesting variances to reduce both the required side yard and rear yard setbacks in order to construct a 192 square foot accessory building along the north side of his property. A written statement of hardship explaining the applicant’s need for the proposed variance and proposed site plan are attached for your review.

If the variance is approved as proposed, the 192 square foot accessory building would be located three (3) feet from the side property line located on the east side of the property and ten (10) feet from the rear property lone located along the north side of the property.

Applicable Provision(s) of Zoning Ordinance

Section 14-04-01(5) of the City Code of Ordinances (RR – 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 (2) 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.” According to the site plan submitted with the application, the proposed accessory building would be located three (3) feet from the side property line located along the east side of the property.

Section 14-04-01(6) of the City Code of Ordinances (RR – Residential)(Rear Yard) states, “Each lot or premises shall have a rear yard depth of not less than fifty (50) feet or twenty (20) percent of the depth of the lot or premises whichever is the larger, but need not exceed seventy-five (75) feet.” According to the site plan submitted with the application, the proposed accessory building would be located ten (10) feet from the rear property line located along the north side of the property.

Required Findings of Fact

1. The need for a variance is not based on special circumstances or conditions unique to the specific

(continued)

parcel of land involved that are not generally applicable to other properties in this area and within 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.

Staff Recommendation

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

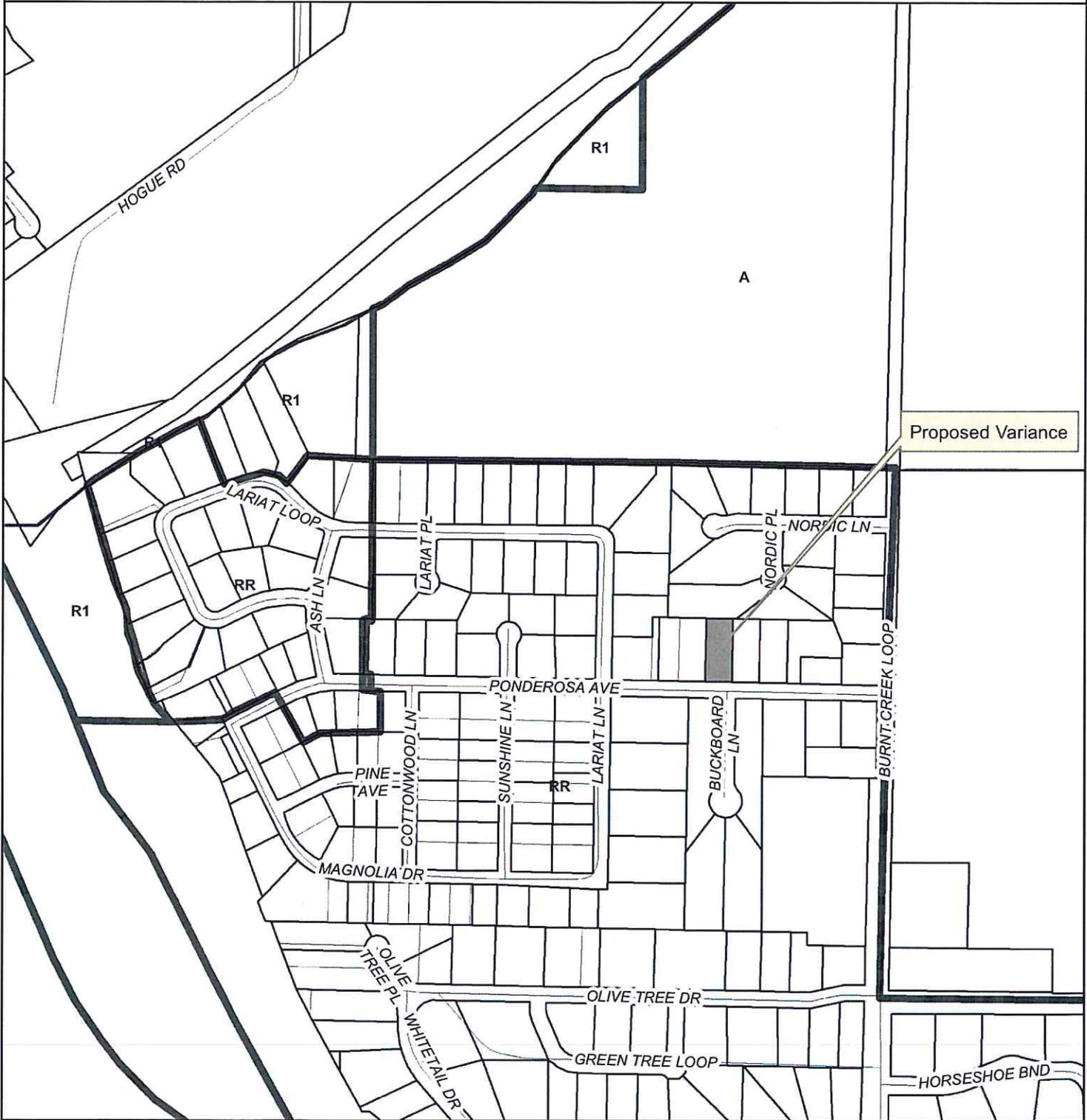
Attachments

1. Location Map
 2. Site plan
 3. Written Statement of Hardship
-

Staff report prepared by: Jenny Wollmuth, Planner
701-355-1845 | jwollmuth@bismarcknd.gov

Proposed Variance

Lot 26, Block 15, Ponderosa Riverside Village Second Subdivision



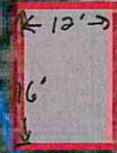
May 6, 2016 (h/b)

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.



Proposed shed location.

12x16

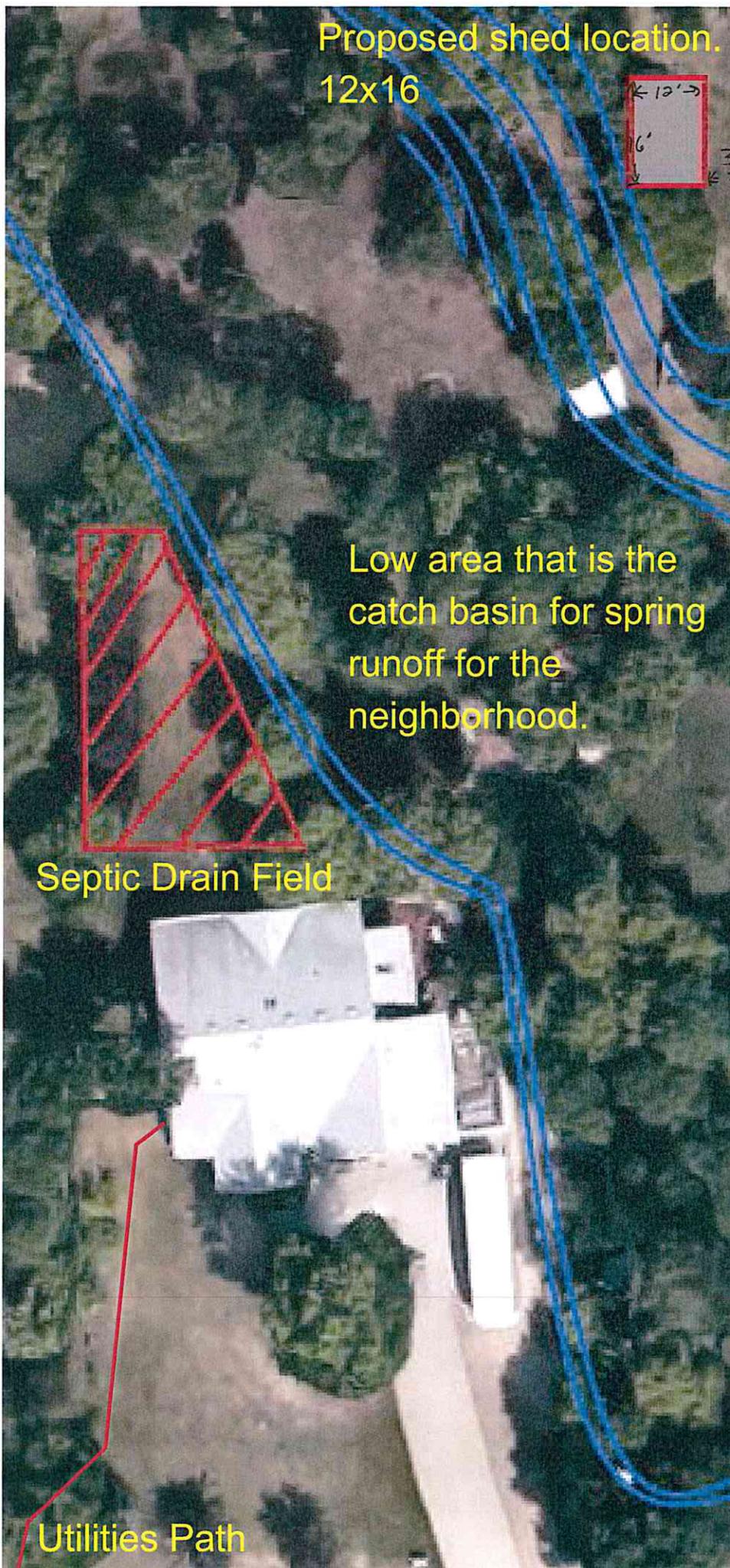


Low area that is the catch basin for spring runoff for the neighborhood.



Septic Drain Field

Utilities Path





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

1. Property Address or Legal Description: 5540 Ponderosa Ave, Bismarck, ND 58503

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

3. Type of Variance Requested: Variance for lot line set backs.

4. Applicable Zoning Ordinance Chapter/Section: Section 14-04-01(6) of the City Code of Ordinances (RR- Residential/Rear Yard)

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 a ditch that runs diagonally through my property. I would like to build a small shed and have it located on the back North East corner of my lot which is out of the ditch. Water was an issue with the shed that used to be on the property. It was installed by the previous owner and I had to remove the shed. The floor is still located in that low spot and you can see the damage that water has done.

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

If I construct a shed in the ditch that runs through my yard, I run the risk of having damage to the shed or shed contents in a very short period of time due to winter snow melt or heavy rains. I would like to build a quality structure that looks good in the neighborhood and stays in good condition for many years.

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

The current ordinance call for me to be 62' off of the rear lot line and 15' off of the side lot line. If I move my shed location to accommodate then my shed moves into the ditch. The other raised area of my yard is currently occupied by my house, the septic drain field, and utility corridor. I cannot build on top of the drain field or utilities. The back corner of my lot has no utilities that I would be hindering access to. I would like to be allowed to build my 12'x16' shed 10' off of the back property line and 3' off off my side lot line to allow me to keep it out of the ditch.



STAFF REPORT

City of Bismarck
Community Development Department
Planning Division

Agenda Item # 3

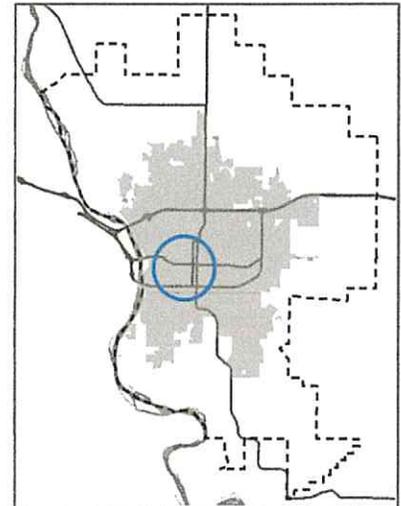
June 2, 2016

Application for: Variance

TRAKiT Project ID: VAR2016-007

9Project Summary

Title:	The W ¹ / ₂ of the E ¹ / ₂ of Lots 5-6, Block 9, Northern Pacific Addition (106 East Avenue B)
Status:	Board of Adjustment
Owner(s):	Kari Knudson
Project Contact:	Bryan Kutzer, Kutzer Construction, Inc.
Location:	The property is located in central Bismarck, between North Mandan Street and North First Street, along the north side of East Avenue B.
Request:	Variations from Section 14-04-03(5) of the City Code of Ordinances (R5 – Residential)(Lot Width).



Staff Analysis

The existing single-family dwelling was constructed in 1926. There is no record of the original building permit. However, the building permit for the existing 16'x20' accessory building which was constructed in 1931 was located. There is no indication or record that would suggest the existing single-family dwelling or accessory building did not meet zoning regulations at that time they were constructed.

The applicant is requesting a variance to allow the construction of a 14'x26' accessory building, which will replace the existing 16'x20' accessory building, on an existing parcel that does not meet the minimum lot width for a lot located within the R5 – Residential zoning district that was platted prior to 1953. A proposed site plan and written statement of hardship are attached.

The City Code of Ordinances gives special consideration to residential properties platted prior to 1953 that do not meet the minimum lot width requirements out lined in the ordinance that allows the reduction of lot width from sixty (60) feet to fifty (50)

feet. The property was originally platted in 1912 and it appears that the property was modified to its current description prior to 1931. As the existing parcel does not comply with the current lot width for a property located within the R5 – Residential zoning district that was platted prior to 1953, which is fifty (50) feet, it is considered to be non-conforming. Therefore approval of a variance to construct the proposed accessory building is required prior to staff issuing a building permit.

Applicable Provision(s) of Zoning Ordinance

Section 14-04-03(5) of the City Code of Ordinances (R5 – Residential)(Lot Width) states, "Each lot shall have a front property line width of not less than forty (40) feet, and in addition, shall have a width of not less than sixty (60) feet, measured along a line approximately parallel to and forty (40) feet back from the front property line. Provided, however, that on a recorded lot corresponding to a plat or deed recording prior to 1953, the minimum lot width measured along the front building line may be reduced to not less than fifty (50) feet." According to property information on file with

(continued)

the City of Bismarck the width of the property is 38 feet.

Required Findings of Fact

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 R5 – 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.

Staff Recommendation

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

Attachments

1. Location Map
2. Site plan
3. Written Statement of Hardship

Staff report prepared by: Jenny Wollmuth, Planner
701-355-1845 | jwollmuth@bismarcknd.gov

Proposed Variance

The West 1/2 of the East 1/2 of Lots 5-6, Block 9 Northern Pacific Addition



May 16, 2016 (h/b)

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 herein.



**The West 1/2 of the East 1/2 of Lots 5-6, Block 9, Northern Pacific Addition
Variance - Lot Width**



Date: 5/18/2016



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**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.)

We are in need of Rebuilding the current structure. The size of the current Garage is small and the need for a larger Garage is needed ~~to~~ to fit a vehicle in with some room for storage of common yard & house tools

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

the current ~~to~~ Garage structure is narrow and to store a current size car in it is very ~~hard~~ hard. the New Garage would allow for a larger Door to Drive through.

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

We. are asking to enlarge the current building from 12x20 to 14x26, ~~to~~ and also Relocate the structure 10 ft from House.



STAFF REPORT

City of Bismarck
Community Development Department
Planning Division

Agenda Item # 4

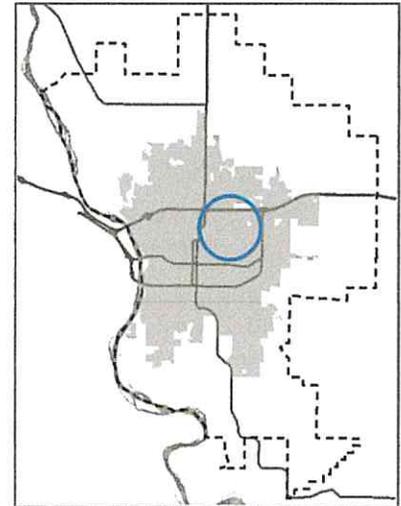
June 2, 2016

Application for: Variance

TRAKiT Project ID: VAR2016-008

Project Summary

Title:	Lot 11, Block 51, Northern Pacific 2 nd Addition (717 North 10 th Street)
Status:	Board of Adjustment
Owner(s):	Robert Leingang
Project Contact:	Robert Leingang
Location:	The property is located in central Bismarck, between East C Avenue and East D Avenue, along the east side of North 10 th Street.
Request:	Variance from Section 14-04-03(2) of the City Code of Ordinances (Supplementary Provisions)(Projections Into Yards)



Staff Analysis

The existing single-family dwelling was constructed in 1939. According to the original building permit the house was proposed to be constructed ten (10) feet from the front property line adjacent to North 10th Street. However, based on aerial measurements the existing single-family dwelling is setback approximately eighteen (18) feet from the front property line. It appears that the single-family dwelling met zoning regulations at that time.

The applicant is requesting a variance to construct an uncovered 126 square foot front porch that will be approximately 47 inches from the ground at its tallest point. A site plan, written statement of hardship and building plan are attached.

If approved as proposed the front porch would project eight (8) feet from the existing single family dwelling and would be approximately ten (10) feet from the front property line located along the west side of the property adjacent to North 10th Street.

The zoning ordinance allows front porches that are uncovered and no taller than 18 inches to project or extend into any minimum front yard no more than fifteen (15) feet provided the porch is at least 10 feet from the front lot line. However, provisions of this section are applied to properties that are considered to be conforming. As the existing single-family house does not comply with the current front yard setback for the R10 – Residential zoning district, which is twenty-five (25) feet, it is considered to be non-conforming. Therefore approval of a variance to construct the proposed front porch is required prior to staff issuing a building permit.

Applicable Provision(s) of Zoning Ordinance

Section 14-03-05(2) of the City Code of Ordinances (Supplementary Provisions)(Projections Into yards) states, "Steps, terraces and uncovered porches may extend into any minimum front or rear yard not more than six feet, provided the floor thereof is no higher than that of the first floor entrance to the buildings; and such features may extend into any minimum side yard

(continued)

not more than four feet, provided, however, that such feature shall not be less than four feet from any lot line. Uncovered decks and patios no more than 18 inches above grade at any point, exclusive of guardrails, may extend into any minimum side or rear yard up to the lot line, and may extend into any minimum front yard no more than 15 feet provided the deck or patio is at least 10 feet from the front lot line. Fire escapes and outside open stairways may project not more than two feet into any minimum required yard. Chimneys may extend into any minimum yard not more than two feet. Civil defense shelters may extend into any required side yard to within two feet of the lot line; they may extend into a required front or rear yard not more than twelve feet. The roof of the shelter that extends into any required yard shall not extend over eight inches above outside grade or above existing basement height, whichever is the lesser. Accessibility ramps for one and two-family dwellings shall be exempt from the provisions of this section, provided that they are constructed with the minimum encroachment necessary to accommodate access and are removed when no longer needed." According to the site plan submitted with the application, the proposed front porch will extend eight (8) feet into the front yard and ten (10) feet from the front lot line adjacent to North 10th Street.

Required Findings of Fact

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 R10 - 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.

Staff Recommendation

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

Attachments

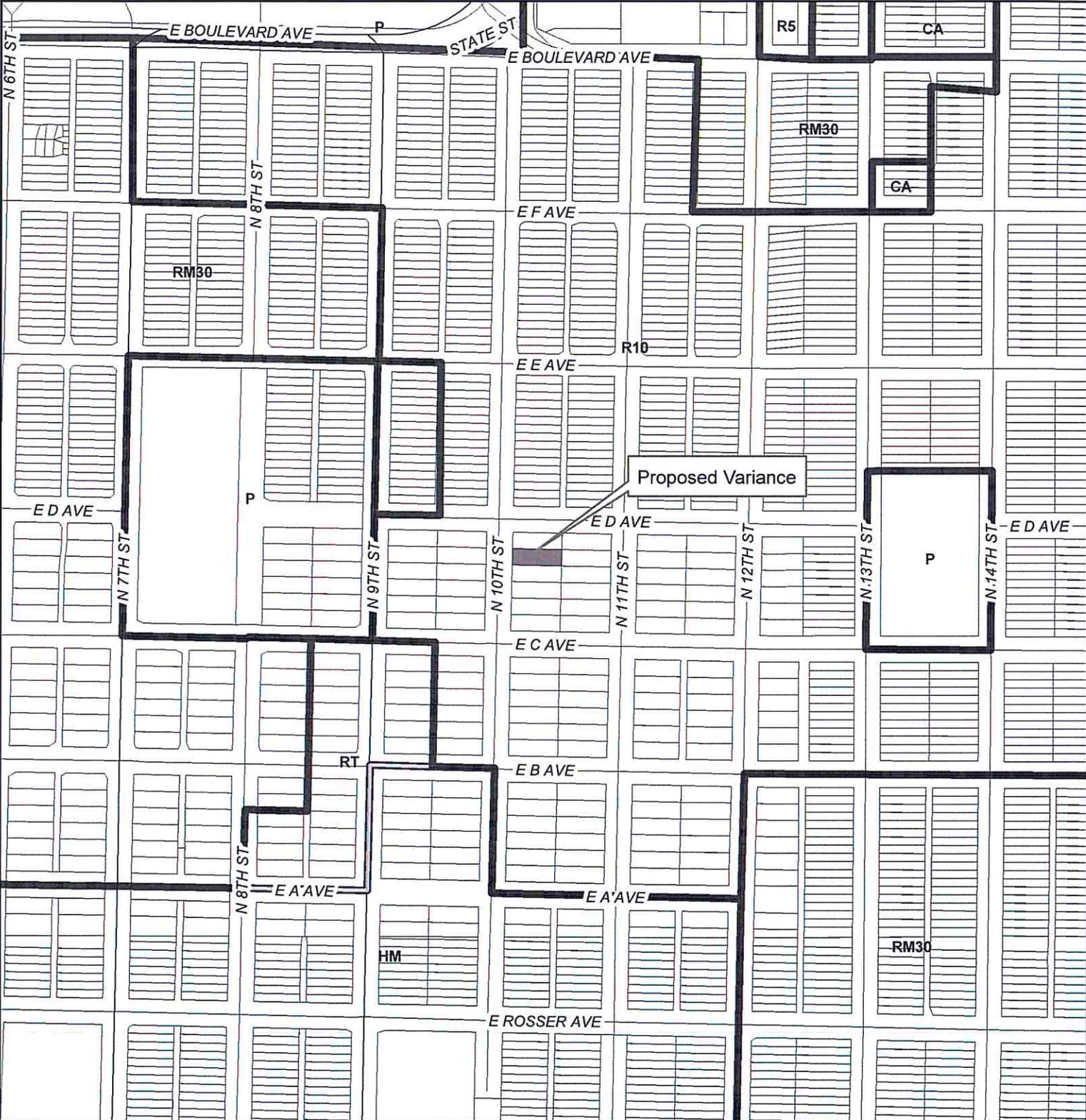
1. Location Map
2. Site plan
3. Building Plan
4. Written Statement of Hardship

Staff report prepared by: Jenny Wollmuth, Planner

701-355-1845 | jwollmuth@bismarcknd.gov

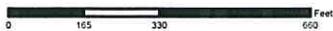
Proposed Variance

Lot 11, Block 51, Northern Pacific 2nd Addition



May 17, 2016 (h1b)

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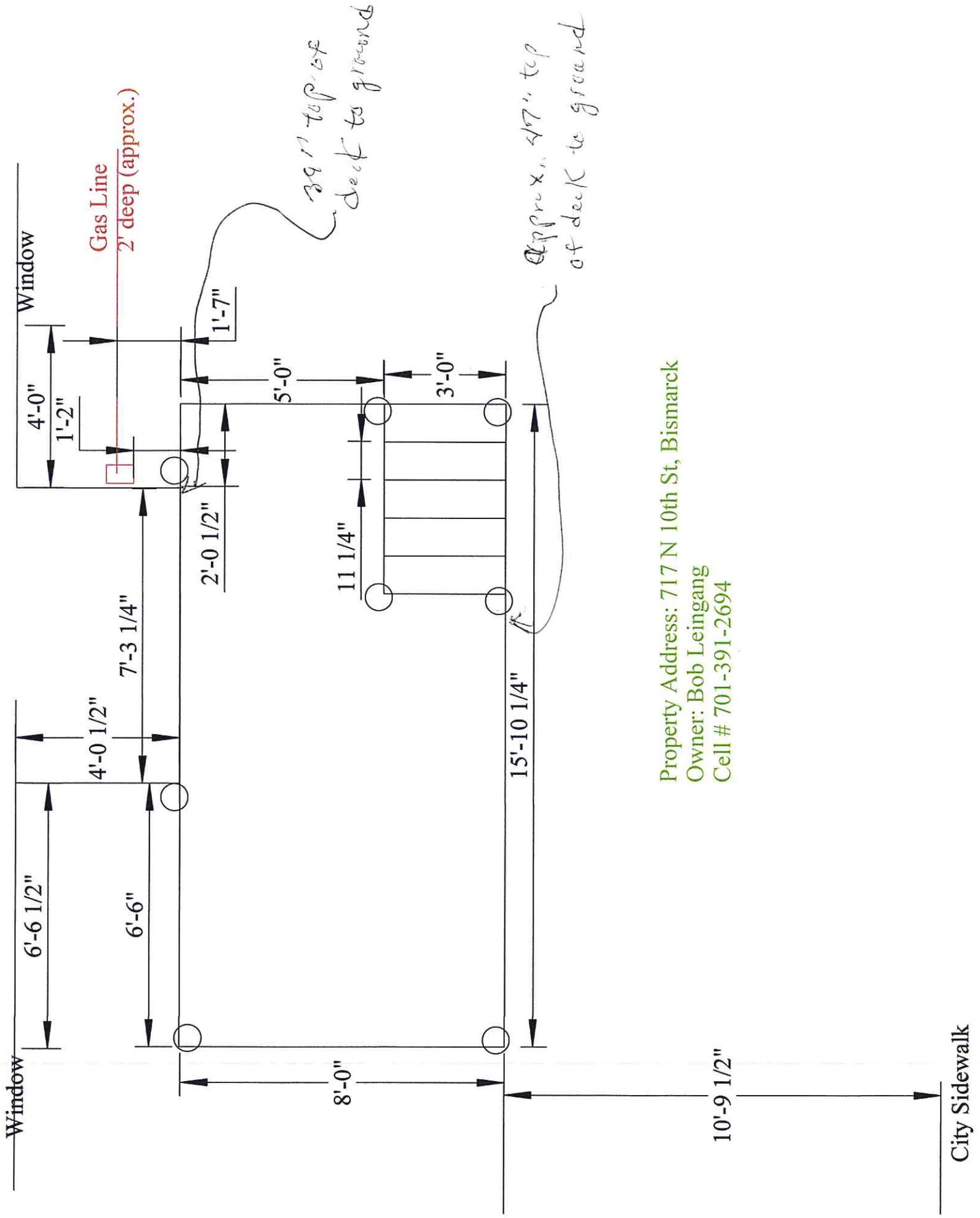


717 North 10th Street (Supplementary Provisions) Projections into Yards
Lot 11, Block 51, Northern Pacific 2nd Addition



Date: 5/26/2016

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.



Property Address: 717 N 10th St, Bismarck
 Owner: Bob Leingang
 Cell # 701-391-2694

Bismarck

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

1. Property Address or Legal Description: 717 N 10th ST

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

3. Type of Variance Requested: Set back Variance

4. Applicable Zoning Ordinance Chapter/Section: R-10

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 current code requirements will not allow us to replace the front steps with a large enough landing at the front door without getting too close to the city sidewalk.

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

The existing steps have settled and deteriorated. In addition to that the concrete under the front entry has cracked away from the main basement walls and now it is not supporting the entry. The steps must be removed to remove the concrete under the entry. The entry must be supported. Replacing the steps as requested will allow a safe convenient entry with a small deck.
(See attached photos)

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

The design will allow moving large items in and out. Such as furniture and appliances. The entry will be supported adequately and the steps will meet code requirements.



STAFF REPORT

City of Bismarck
Community Development Department
Planning Division

Agenda Item # 5

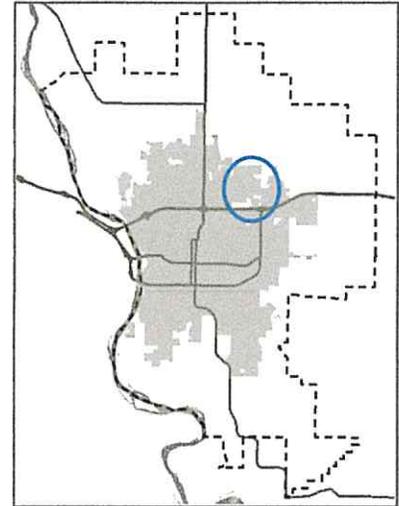
June 2, 2016

Application for: Variance

TRAKiT Project ID: VAR2016-006

Project Summary

Title:	Lot 2, Block 1, Mr. B's Addition (2520 Centennial Road)
Status:	Board of Adjustment
Owner(s):	Matt Geiger
Project Contact:	Mark Swenson, Swenson Engineering
Location:	The property is located in east Bismarck, between Interstate Avenue and East Century Avenue, west of Centennial Road, along the west side of 600 Street in Centennial Mobile Home Community.
Request:	Variance from Section 14-04-05(3)(f)(1) of the City Code of Ordinances (RMH – Residential)(Development Standards/Setbacks)



Staff Analysis

The applicant is requesting a variance to reduce the required front yard setback in order to place twenty-five (25) new mobile homes along 600 Street in Centennial Mobile Home Community. A site plan and written statement of hardship are attached.

If approved as proposed the proposed manufactured homes would be setback twelve feet 6 inches (12' 6") from the front property line located along the east side of the property.

A number of existing manufactured homes located within the Centennial Mobile Home Community do not meet the required setbacks outlined in Section 14-04-05(3)(f)(1) of the City Code of Ordinances (RMH – Residential)(Development Standards/Setbacks).

Applicable Provision(s) of Zoning Ordinance

Section 14-04-05(3)(f)(1) of the City Code of Ordinances (RMH – Residential)(Development

Standards/Setbacks) states, "No manufactured home or any other legal attachments to said dwelling shall be located less than twenty (20) feet from the front lot line measured back from the walkway or sidewalk. No building on a corner lot shall have a side yard on the side street less than twenty (20) feet in width measured back from the walk way or sidewalk. Side yard measurements are to be taken at right angles to the building at the closest point to a property line. Detached accessory buildings shall be located not less than five (5) feet from the side or rear lot lines. The ends of the manufactured homes shall be at least twelve (12) feet apart. No portion of a manufactured home, or attachment thereto, or any other structure in non-conforming manufactured home parks shall be located less than fifteen (15) feet away from any property line adjacent to a public right-of-way." According to the site plan submitted with the application, the proposed mobile homes would be setback twelve feet six inches (12' 6") from the front setback line.

(continued)

Required Findings of Fact

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 RMH - 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.

Staff Recommendation

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

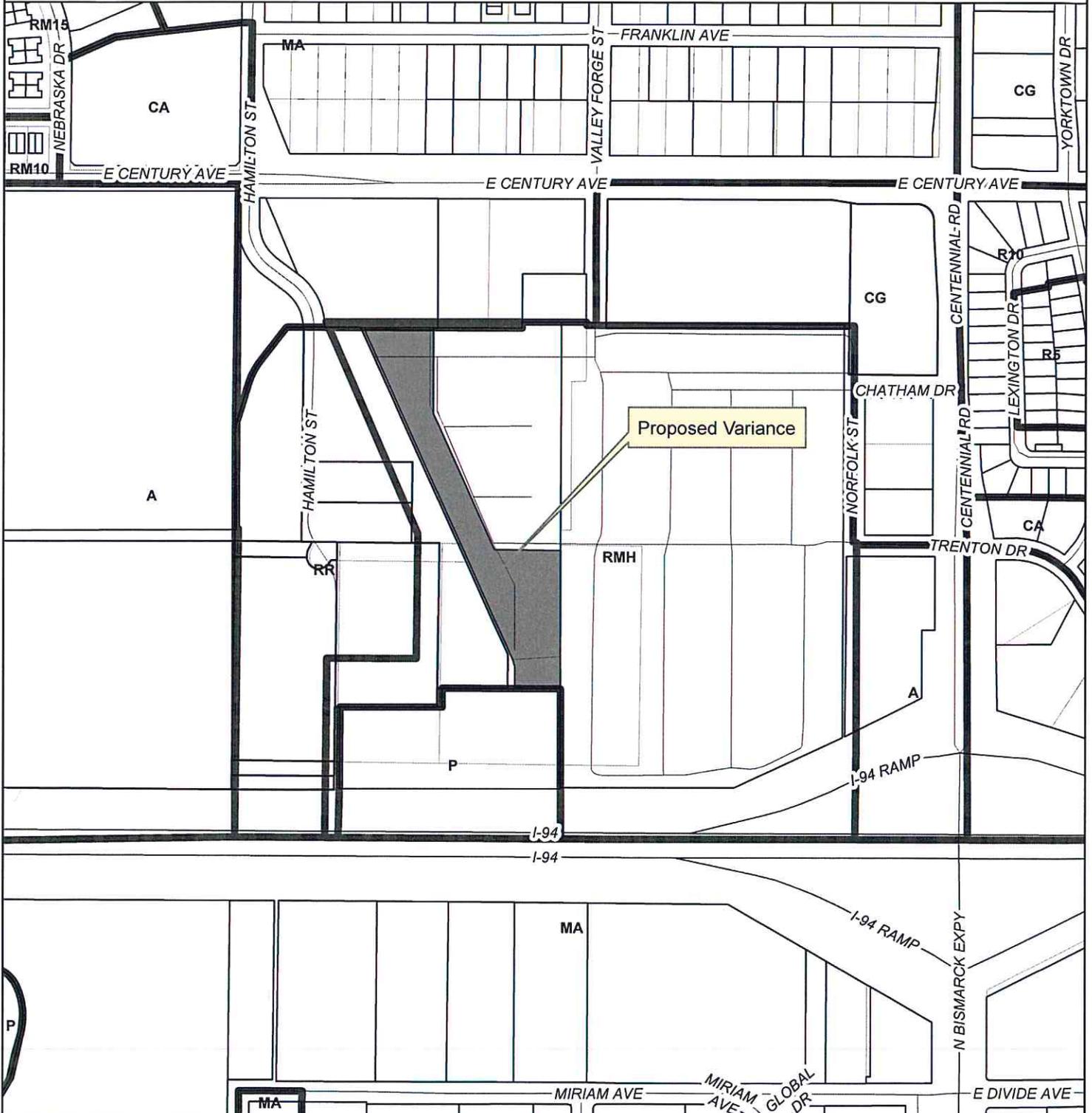
Attachments

1. Location Map
2. Site plan
3. Written Statement of Hardship

Staff report prepared by: Jenny Wollmuth, Planner
701-355-1845 | jwollmuth@bismarcknd.gov

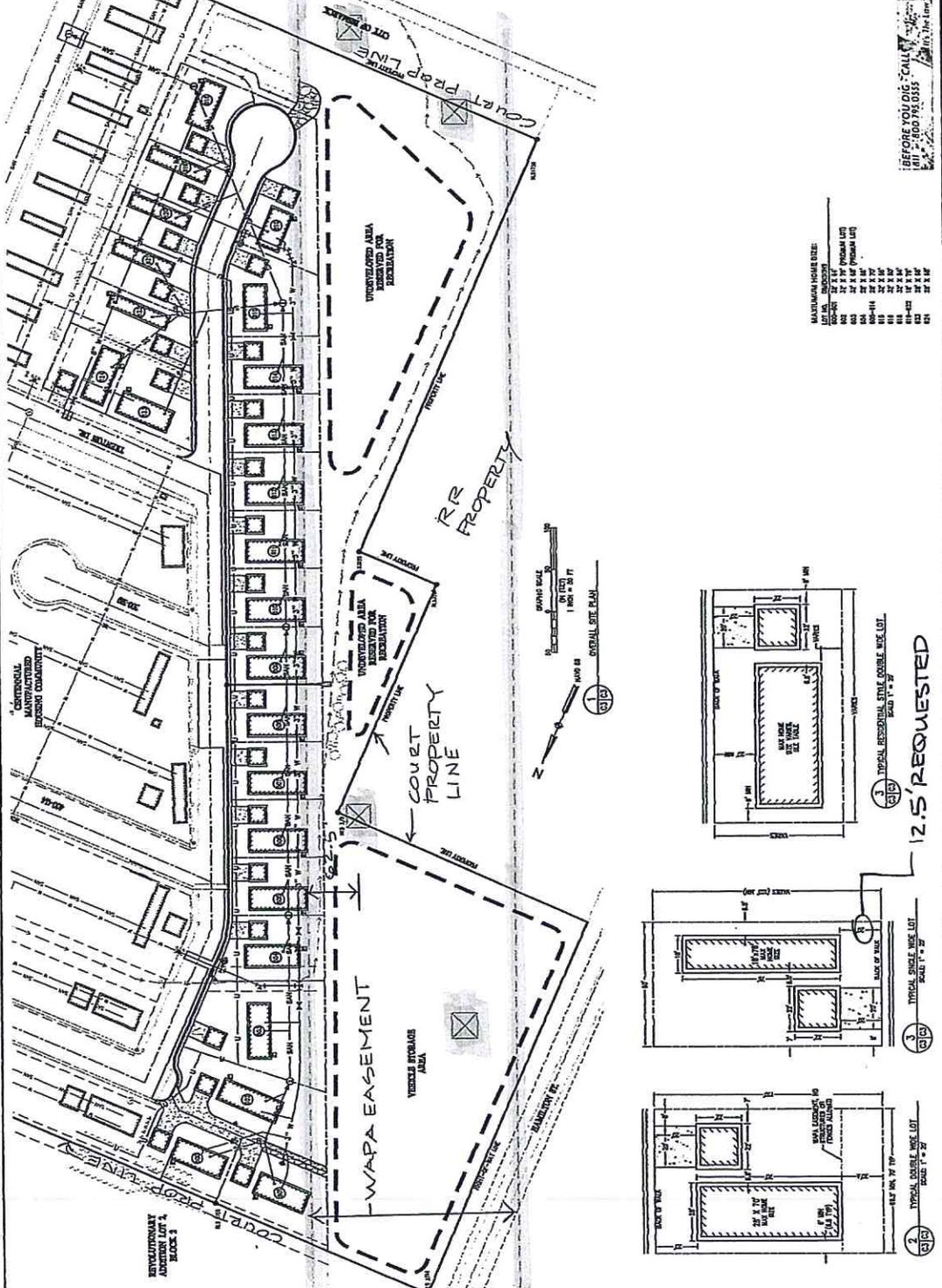
Proposed Variance

Lot 2, Block 1, Mr. B's Addition



June 15, 2015 (h1b)

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MAXIMUM HOME SIZE:

LOT NO.	RESIDENCY	MAXIMUM HOME SIZE
101	24' x 36'	PROGRAM LOT
102	24' x 36'	PROGRAM LOT
103	24' x 36'	PROGRAM LOT
104	24' x 36'	PROGRAM LOT
105	24' x 36'	PROGRAM LOT
106	24' x 36'	PROGRAM LOT
107	24' x 36'	PROGRAM LOT
108	24' x 36'	PROGRAM LOT
109	24' x 36'	PROGRAM LOT
110	24' x 36'	PROGRAM LOT
111	24' x 36'	PROGRAM LOT
112	24' x 36'	PROGRAM LOT
113	24' x 36'	PROGRAM LOT
114	24' x 36'	PROGRAM LOT
115	24' x 36'	PROGRAM LOT
116	24' x 36'	PROGRAM LOT
117	24' x 36'	PROGRAM LOT
118	24' x 36'	PROGRAM LOT
119	24' x 36'	PROGRAM LOT
120	24' x 36'	PROGRAM LOT

BEFORE YOU DIG - CALL 811
 1-800-487-4811
 811 DENVER

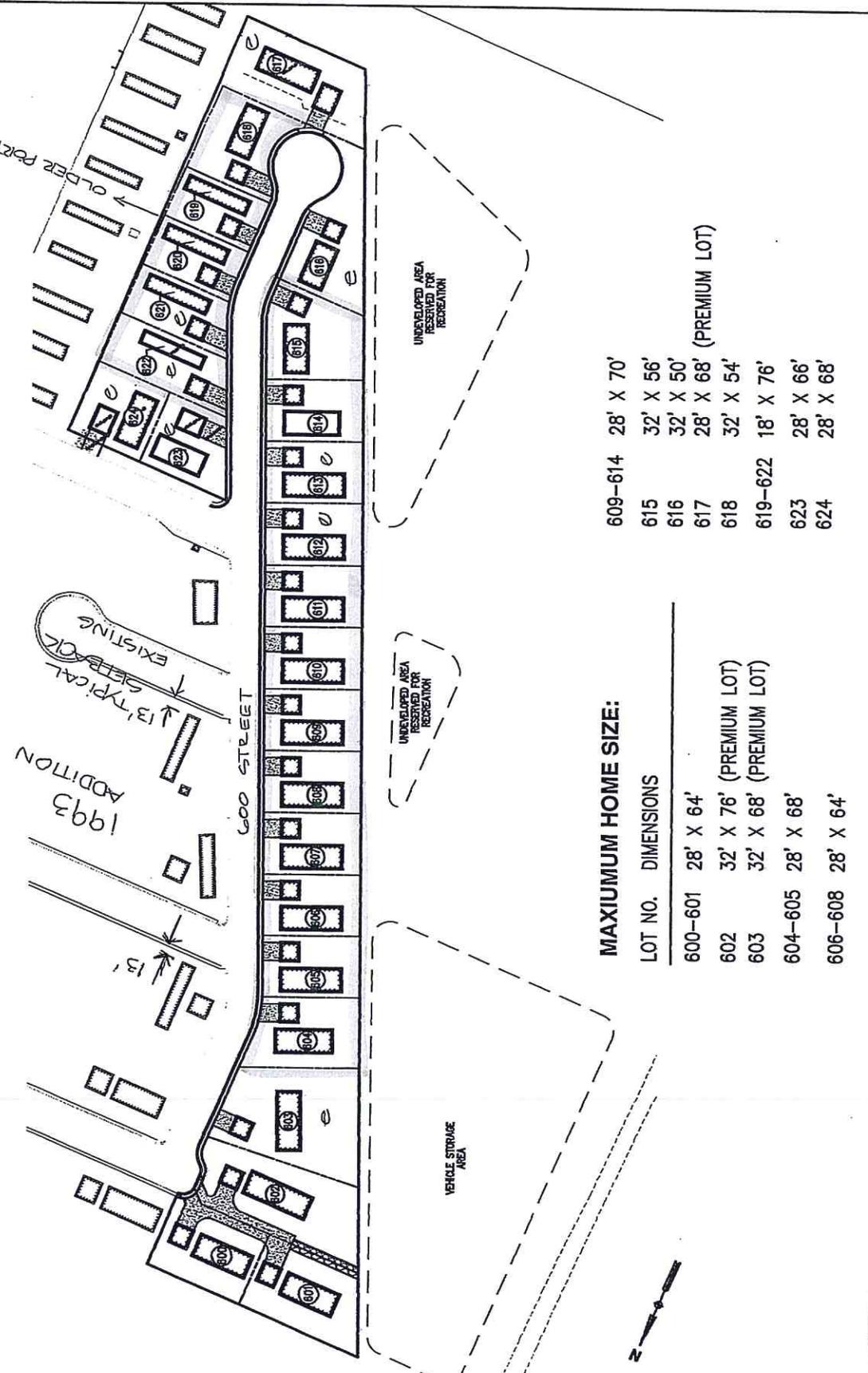


#1 LIMITS OF WAPA EASEMENT

12.5' REQUESTED

CLINICAL MOBILE HOME COMMUNITY
 2520 CENTENNIAL ROAD

BASELINE
 Engineering • Planning • Surveying
 655 UNIVERSITY DR., SUITE 2500
 FORT WORTH, TX 76102
 P. 817.227.2701 • C. 817.226.2610
 www.baseline.com



MAXIMUM HOME SIZE:

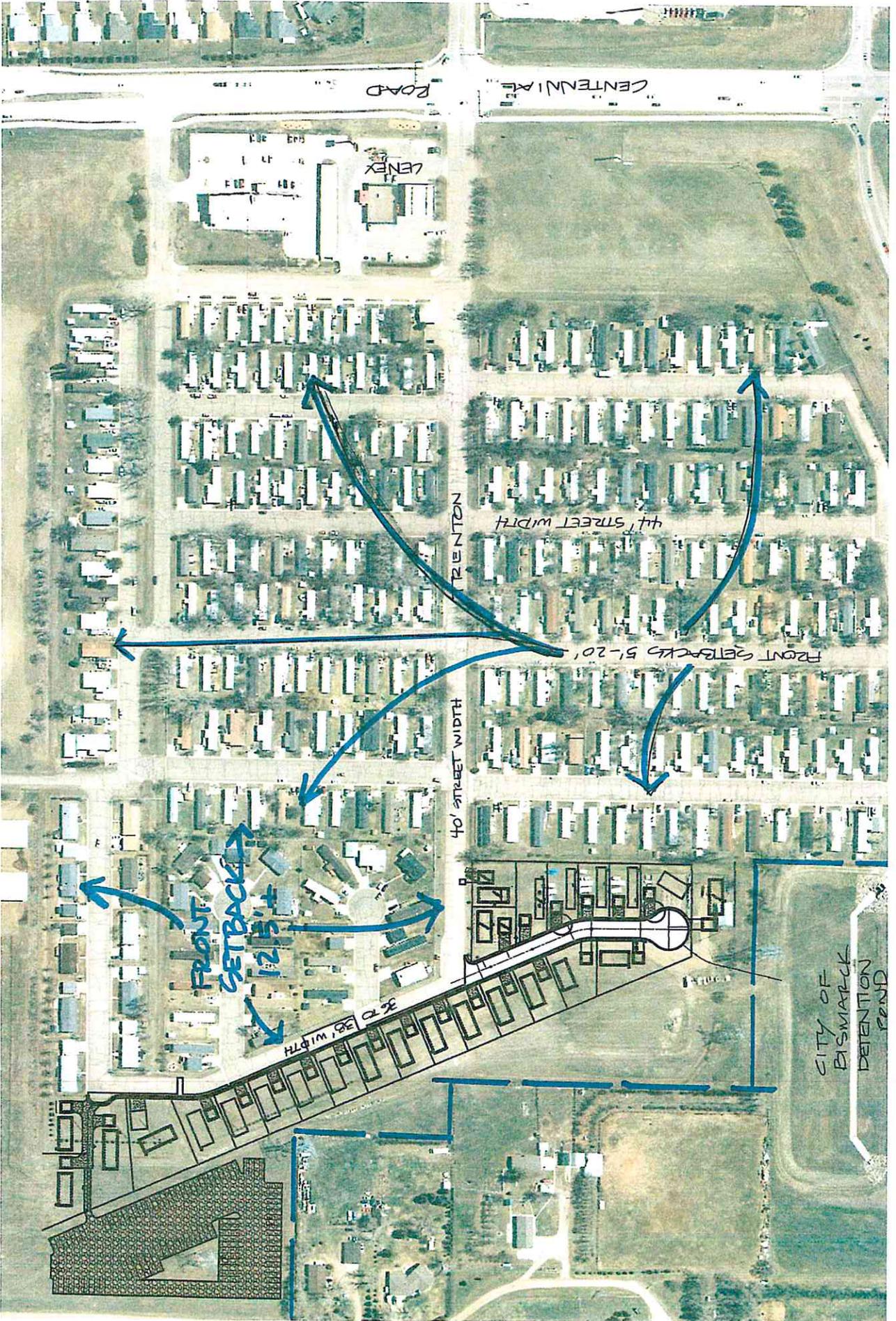
LOT NO.	DIMENSIONS
600-601	28' X 64'
602	32' X 76' (PREMIUM LOT)
603	32' X 68' (PREMIUM LOT)
604-605	28' X 68'
606-608	28' X 64'

609-614	28' X 70'
615	32' X 56'
616	32' X 50'
617	28' X 68' (PREMIUM LOT)
618	32' X 54'
619-622	18' X 76'
623	28' X 66'
624	28' X 68'

#2 HOME LOTS REQUESTED TO HAVE
 12.5' SETBACK VARIANCE

← NORTH

CENTENNIAL AHTC



CENTENNIAL RD

CENTENNIAL RD

LENEX

RENTON

44' STREET WIDTH

FRONT SETBACKS 5'-20'

40' STREET WIDTH

FRONT SETBACK
12.5'

36' W, 38' W, 38' W

CITY OF BISMARCK
DETENTION
ROAD

City of Bismarck Board of Adjustment
Front Yard Setback Variance Request
Centennial Manufactured Home Community

Board of Adjustment Members,

Centennial Mobile Home Court is requesting a front yard setback variance (from 20' to 12.5') for the lots within the 2015 Expansion onto the west side of Centennial Mobile Home Court. Due to special circumstances unique to this court, the applicant cannot place the type of home on the finished lots that the market is currently demanding. The current demand that the home supplier is encountering is for the most economical home which are 76' long "single-wide" homes. The street width requirement and setback requirements of the most current zoning ordinance do not allow enough space for 76' long homes.

Background

Centennial Manufactured Home Community is located in Northwest Bismarck on the west side of Centennial Road. The majority of the court was built in the late 1960's. A plat was created in the year 1993 and 24 lots were developed. That platted area covered by the 1993 plat was not entirely developed. In the year 2015, the remaining undeveloped area within the 1993 plat was developed into 25 single and double-wide lots. The total number of lots within the court is 290.

The entire court is privately owned with privately maintained streets and sidewalks. The lots are rented to the homeowners. The renters own the homes within the park. To allow the 2015 Expansion, one existing street was widened to meet the requirements of the newest version (1996) of the mobile home ordinance. All of the homes within the 2015 Expansion are set and tied down on permanent concrete pier foundations.

West of the 2015 Expansion is a large open undeveloped area. This undeveloped area is covered by a WAPA (Western Area Power Association) exclusive easement. The easement language is very restrictive and does not allow for structures. WAPA is an agency of the federal government.

According to the current City zoning requirements for mobile home courts, setbacks are measured from the back of the sidewalk. For the 2015 Expansion that front yard setback is 20' per City zoning requirements. Since the original development of the court in the late 1960's, and for the 24 lots constructed in 1993, the zoning standards regarding setbacks have changed.

In the older portions of the court (pre 1993) front yard setbacks (as in-place) from the back of the sidewalk are as small as 5'; however, most are between 10' and 15'. In the 1993 addition, we measured setbacks from the back of the sidewalk to be as small as 12.5'. Most of the 24 lots constructed in 1993 addition have a 13' front yard setback.

Anticipated Questions

To help foster an understanding of the request we have offered answers to what we believe would be the likely anticipated questions:

If the developer anticipated homes as long as 76' long, why didn't they design this newest addition with sufficient space to allow for that home length?

Unfortunately, the previous construction by the previous court owner did not leave enough undeveloped space to accommodate 76' long homes. Single wide homes that are used for these types of permanent courts (as differentiated from temporary courts) are 76' long in length. However that previous developer could not have known that the future setback and street width requirements would change. To comply with the current zoning requirements, the current owner widened the existing street. Due to the constraint of the WAPA easement, along with the street widening and the larger setback requirements, the max home length on the west side of the street is 70'. If a 76' long home is placed on the lots on the west side of the street the home would extend into the WAPA easement.

Are there any health and safety concerns by allowing the setbacks to be less than 20'?

To the best of my knowledge and belief, the setback for mobile homes as stated in the 1996 zoning ordinance was set at 20' for aesthetic reasons. Having 20' setbacks was considered a way to make mobile home courts more "residential". It is my opinion that the setbacks for homes on private mobile home courts should be based primarily on health and safety. Court owners may and should always consider having greater front yard setbacks for aesthetic or other reasons. This newer portion of the court has street widths of 36' (face of curb to face of curb or edge of asphalt). The older portions of the court actually have street widths of 44' (typical City standard street width is 40'). Some very old courts have very narrow streets – more like driveways. Street widths influence our opinion of what the minimum health and safety front yard setback should be. Also please note, the single-wide homes will need a 14' minimum setback to clearly not extend into the WAPA easement. Factoring in the fact that the streets are wide, it is my opinion that a 12.5' front setback for the home is an appropriate minimum for the 2015 Expansion.

Will allowing a lessening of the setback affect the harmony or be injurious to the other mobile homes within the park?

The homes within the closest adjacent portions of the court have setbacks as small as 12.5'. Therefore lessening the setback will not negatively affect the neighboring homes. It will match-in with the current home setbacks.

Why didn't this request come sooner such as before the 2015 expansion was constructed?

Owners and developers of courts cannot definitely know what the market will demand. In the past the demand for mobile homes has vacillated between double-wide and single-wide homes. There were even periods in the 1980's where it was believed that single-wide homes would be phased out. Single-wide homes are still popular. The home supplier placing the homes within the 2015 Expansion is seeing greater demand for single-wide homes. They have stated that emphasis from the potential buyers is economy. Double-wides are typically less than 70' in length. The original layout utilized double-wide home of lengths less than 70' for these particular lots.

Summary

The 1996 zoning changes and WAPA easement presents a special circumstance that limits the potential length of the homes that can be placed on these particular lots. Strict application of the zoning requirements will deprive Centennial Manufactured Home Community the option of utilizing longer single-wide homes. The market in Bismarck is demanding the longer single-wide homes due to their economy. Since the setbacks in the existing pre-2015 court are less than 20', allowing this portion of the court to also have setbacks less than 20' would be in harmony with the neighboring rental lots. The setbacks for sides and rears of the lots would not change.

**BISMARCK BOARD OF ADJUSTMENT
MEETING MINUTES
April 27, 2016**

The Bismarck Board of Adjustment met for a special meeting on April 27, 2016 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, Chris Seifert, Ken Heier, Ken Hoff, Jeff Ubl and Michael Marback.

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

VARIANCE FROM SECTION 14-04-12(6) OF THE CITY CODE OF ORDINANCES (CG-COMMERCIAL/FRONT YARD) – LOTS 11-13, LESS THE US HIGHWAY 83 RIGHT-OF-WAY AND THE EAST 35 FEET OF THE VACATED OTTAWA STREET ADJACENT, BLOCK 1, WUTZKE'S SUBDIVISION (4291, 5003 AND 5015 OTTAWA STREET)

Chairman Marback stated the applicant, Drazen Samardic, is requesting a variance to reduce the required front yard setback adjacent to US Highway 83, a principal arterial roadway, from fifty (50) feet to ten (10) feet for the purpose of constructing a 225' x 110' commercial 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 CG-Commercial 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.

Jason Petryszyn, Swenson, Hagen & Co., said he has been working with the property owner and a site survey performed last week showed an 18-foot grade differential from the east side of the property to the south side of the property. He said for this reason, when addressing the parking needs, it would be necessary to have parking on the west side rather than backsloping towards Ottawa Street. He said a retaining wall would accommodate the eight foot grade change and allow enough parking as well as emergency vehicle access. He said a turnaround for emergency vehicles would not fit on the property if the building is moved and they would also lose required parking spaces. He said they are trying to maintain a two percent grade so as to meet ADA and access requirements as well.

Mr. Hoff asked if the use of the building is known at this time. Mr. Petryszyn said it is planned to be a Sky Zone Trampoline Park and being a franchise, the building is required to be a certain size.

Mr. Hoff asked why the variance is being requested prior to a site plan being submitted and reviewed. Mr. Petryszyn said they cannot create a site plan that meets all of the requirements without a variance. He said they are trying to be proactive and do their due diligence to make sure this will function efficiently.

Mr. Seifert asked if the North Dakota Department of Transportation (NDDOT) has expressed any concerns or issues regarding the proximity of this building to US Highway 83.

Mr. Petryszyn said he has not received any comments to that affect and that they are only going by the City zoning ordinance requirements which do not specify NDDOT requirements.

Mr. Ubl asked how much public right-of-way is on that side of US Highway 83. Mr. Petryszyn said it meanders east and west so they did take the plat into consideration when they performed the site survey and followed the NDDOT right-of-way corners. He said the property line is approximately 50 feet from the shoulder of US Highway 83.

Ms. Clark said she has concerns because it is not a matter of there being a slope in the property but rather the building is just too big for the property.

Mr. Petryszyn said there are areas along US Highway 83 that do maintain a 50-foot setback so it seemed circumstantial to qualify for a lesser setback requirement.

Me. Heier asked what the principal reason is for having a 50-foot setback requirement from an arterial roadway.

Ms. Wollmuth said to ensure safety for both those in traffic as well as the adjacent property owners. She said an ordinance amendment in 1996 added the additional setback requirement.

Mr. Heier said snowplows also move quickly down that roadway and throw snow a good distance in the snow removal process. He asked how far south the 50-foot setback requirement extends.

Mr. Blaskowski said it extends as far as the arterial roadway classification goes which would mean it ends where US Highway 83 turns into State Street near the 7th and 9th Street South area.

Chairman Marback asked if parking would be allowed in the setback if the building were to be moved. Mr. Petryszyn said that would be an allowance, similar to a residential use, but then they would lose parking spaces and not meet that requirement.

Chairman Marback opened the public hearing.

Joel Maixner, Century 21 Morrison, said the owner has been diligent in making sure he is doing this project correctly and the City has guided him as appropriately as they can but he was informed that the required setback adjacent to US Highway 83 is 10 feet. He said they learned right before the property was purchased that it is in fact a 50-foot setback because of the arterial roadway. He said the owner has already invested \$50,000 into this property and with the future potential business being very popular, he feels it would be a good overall addition to the City.

Mr. Heier said regardless of the adjacent highway, the setback would be 15 feet, not 10.

Mr. Maixner said it is his understanding that the front yard should be that which faces Ottawa Street because that is what it is addressed to be.

Ms. Wollmuth said because it has frontage on a public right-of-way it actually has three front yards (Ottawa Street, East Lasalle Drive and US Highway 83).

Additional written comments in opposition to this request are attached as Exhibit A.

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

Ms. Clark asked what has been had for conversations between the owner and City staff.

Mr. Blaskowski said the owner inquired on the setback requirements, however, without a site plan to review, general setback information was given.

Ms. Clark said the owner has relied on the information given by staff which has resulted in detriment and money invested by both the previous and current owner. She said on the other hand, this is new construction in a rapidly developing area of town and others have to comply with the requirements. She said the proposed structure is just too big for this property.

Mr. Ubl said it is too big but the owner also knew the size the building would have to be due to the franchise requirements and tried to purchase land appropriately but was misinformed.

Chairman Marback said he can appreciate the owner doing due diligence but he cannot see how this building can fit on the property. He said on the other hand, it would be a tremendous hardship if the owner had to start over elsewhere.

Mr. Ubl said there is limited flexibility on any changes to the building because of franchise requirements.

Mr. Hoff asked if this is a standard building size for the trampoline park use. Mr. Samardic said the size is a requirement of the selected package based on the internal building requirements. He said some are bigger and that this particular one is the minimum size offered, being the same size is the one in Fargo.

Mr. Heier said more properties nearby this area are going to run into similar problems and he suggests an amendment to the ordinance to reduce the setback requirement from an arterial roadway.

MOTION: A motion was made by Ms. Clark to approve the variance to reduce the required front yard setback adjacent to US Highway 83, a principal arterial roadway, from fifty (50) feet to ten (10) feet for the purpose of constructing a 225' x 110' commercial building on Lots 11-13, less the US Highway 83 right-of-way and the East 35 feet of the vacated Ottawa Street adjacent, Block 1, Wutzke's Subdivision (4291, 5003 and 5015 Ottawa Street), based on the grade differential throughout the property. The motion was seconded by Mr. Ubl and with Board Members Ubl, Hoff, Seifert and Marback voting in favor of the motion, the motion was approved and the variance was granted. Board Members Clark and Heier opposed the motion.

OTHER BUSINESS

There was no other business to discuss at this time.

ADJOURNMENT

There being no further business, Chairman Marback declared the meeting of the Bismarck Board of Adjustment adjourned at 12:30 p.m. to meet again on May 5, 2016.

Respectfully Submitted,

Hilary Balzum
Recording Secretary

APPROVED:

Michael Marback, Chairman

Hilary Balzum

From: Planning - General Mailbox
Sent: Tuesday, April 26, 2016 8:27 AM
To: Carl Hokenstad; Daniel Nairn; Hilary Balzum; Jason Tomanek; Jenny Wollmuth; Kim Lee
Subject: FW: Variance for Drazen Samardic

From: brendle_may@yahoo.com [mailto:brendle_may@yahoo.com]
Sent: Tuesday, April 26, 2016 7:24 AM
To: Planning - General Mailbox
Subject: Variance for Drazen Samardic

Dear Board of Adjustment

Please do not allow the required front yard to be reduced. There is such a lack of green space at that corner already. It already seems like a concrete jungle. 40 feet may not seem like that much however to this neighborhood it will be.

Thank you

1117 E LaSalle, Bismarck

**BISMARCK BOARD OF ADJUSTMENT
MEETING MINUTES
May 5, 2016**

The Bismarck Board of Adjustment met on May 5, 2016 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, Chris Seifert, Ken Heier, Ken Hoff and Michael Marback.

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 April 7, 2016 meeting of the Board of Adjustment.

Mr. Heier said the end of the variance approval is missing from page 3.

MOTION: A motion was made by Mr. Hoff and seconded by Mr. Heier to approve the minutes of the April 7, 2016, with corrections to be made prior to publication. With Board Members Clark, Heier, Hoff, Marback and Seifert voting in favor, the minutes were approved.

Mr. Seifert stated he has a conflict with this particular request as a contracted vendor for Good Shepherd Lutheran Church. He said this will not have an impact on how he votes on the request but would like the Board to vote on keeping him on as a voting member.

MOTION: A motion was made by Mr. Hoff to allow Mr. Seifert to remain on the Board as a voting member for the following agenda item. The motion was seconded by Mr. Heier and with Board Members Clark, Heier, Hoff and Marback voting in favor of the motion, the motion was approved.

VARIANCES FROM SECTION 14-03-08(4)(Q) OF THE CITY CODE OF ORDINANCES (SPECIAL USES / CHILD CARE CENTER) AND FROM SECTION 14-03-10 OF THE CITY CODE OF ORDINANCES (OFF-STREET PARKING AND LOADING) – LOTS 1-8, BLOCK 25, CASEY'S 4TH ADDITION (106 OSAGE AVENUE)

Chairman Marback stated the applicant, Missouri Valley Family YMCA, is requesting variances to reduce the required front yard setback for the proposed outdoor recreation area, located on the north side of the property adjacent to East Divide Avenue, from

twenty-five (25) feet to twenty feet six inches (20'6") and to eliminate seventeen (17) off-street parking spaces required for the proposed child care center.

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 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 opened the public hearing.

Pastor Craig Schweitzer, Good Shepherd Lutheran Church, said they were contacted by the YMCA regarding their need for more child care space and they are excited for the opportunity to be able to help the community. He said the church is not themselves opening a child care center but rather offering up their facility and space for use by the YMCA.

Chairman Marback asked how they intend to handle scheduling conflicts if there happens to be an event like a wedding or funeral during child care hours.

Pastor Schweitzer said that has been discussed and since weddings are mostly on Saturdays there should not be an issue. He said in the even there is a funeral during child care hours, the children can be taken on a field trip or go over the main YMCA facility across the street so as to not interfere with other functions.

Mr. Hoff asked what the space needed indoor and outdoor is based off of. Ms. Wollmuth said indoor space by ordinance is 35 square feet per child and outdoor space is 75 square feet per child assuming children will rotate through that space and not all being outside at once. She said the parking ordinance requires there to be one space per employee and one space for every 10 children. She said the current parking regulations for a church is one space per every five seats available, which would require 98 spaces for this particular

church and that they are currently deficient in off-street parking because the extra lot owned by the church is across a public right-of-way to the south, and on the same lot as the church, however it is still utilized for church parking.

Ms. Clark asked if this is going to be a temporary use or a total relocation from another space. Pastor Schweitzer said Century Baptist Church currently houses a YMCA after school program but it is being renovated and after the remodel is complete will no longer be conducive for a child care use, so this relocation would be permanent.

Ms. Clark asked if pick-up and drop-off of children will take place on the east side of the church. Pastor Schweitzer said the space to be used is on the west side of the building so they would either enter south off of Osage Avenue or use the northwest entrance which is closer to the parking lot so as to avoid children having to cross the street.

Tim Olson, Missouri Valley Family YMCA Facilities Director, said the need for child care in the community is great. He said Century Baptist Church will no longer be a viable space after the building is remodeled so good community partners are needed to help as commercial space is financially not feasible at this time. He said he feels the relationship between the YMCA and Good Shepherd Lutheran Church makes this a good fit and their space can be used during unutilized times, making their space functional to its fullest capabilities. He said there will be a non-climbable fence around the outdoor play space and YMCA staff will be directed to park in the south lot off of Osage Avenue.

Mr. Seifert asked if after-school children will be bussed to this location. Mr. Olson said that is correct.

Mr. Seifert asked what the average length of pick-up times for each child might be. Mr. Olson said typically 5-10 minutes, being staggered anywhere from four o'clock to six o'clock.

Ms. Clark asked if the other YMCA site used in the church down the street has worked well. Mr. Olson said they have had a very positive experience at that location as well as at the expansion site at their Century Avenue location. He said that location is still gradually working towards full capacity.

Mr. Heier asked if it is the child care use that makes the variance for the outdoor recreation area necessary. Ms. Wollmuth said yes, that the ordinance states the outdoor play area must be behind the building with a non-climbable fence.

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

MOTION: A motion was made by Ms. Clark to approve the variances to reduce the required front yard setback for the proposed outdoor recreation area, located on the north side of the property adjacent to East Divide Avenue, from twenty-five (25) feet to twenty feet six inches (20'6") and to eliminate

seventeen (17) off-street parking spaces required for the proposed child care center on Lots 1-8, Block 25, Casey's 4th Addition (106 Osage Avenue), based on the existing structure being landlocked and unique for re-use. The motion was seconded by Mr. Hoff and with Board Members Clark, Heier, Hoff, Seifert and Marback voting in favor of the motion, the motion was approved and the variance was granted.

OTHER BUSINESS

There was no other business to discuss at this time.

ADJOURNMENT

There being no further business, Chairman Marback declared the meeting of the Bismarck Board of Adjustment adjourned at 5:22 p.m. to meet again on June 2, 2016.

Respectfully Submitted,

Hilary Balzum
Recording Secretary

APPROVED:

Michael Marback, Chairman