



Community Development Department

BISMARCK BOARD OF ADJUSTMENT MEETING AGENDA

July 14, 2016

Tom Baker Meeting Room

5:00 p.m.

City-County Office Building

MINUTES

- 1. Consider the minutes of the June 2, 2016 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 4, Block 1, Prairie View Subdivision (5313 Southview Lane) | VAR2016-012.

Owner / Applicant: Greg Hartze

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

- 3. Variance from Section 14-04-07(7) of the City Code of Ordinances (RM-Residential)(Front Yard) - Lot 12, less the East 9 feet for alley, Block 42, Northern Pacific 2nd Addition (623 North 6th Street) | VAR2016-011

Owner / Applicant: James Bohe

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) | VAR2016-013.

Owner / Applicant: Mike and Denise Kambeitz

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

- 5. Variance from a platted front yard setback line - Lot 13, Block 4, Highland Acres 2nd Addition (1136 North Parkview Drive) | VAR2016-010

Owner / Applicant: Troy Olson

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



ADJOURNMENT

6. **Adjournment.** The next regular meeting date is scheduled for August 4, 2016



STAFF REPORT

City of Bismarck
Community Development Department
Planning Division

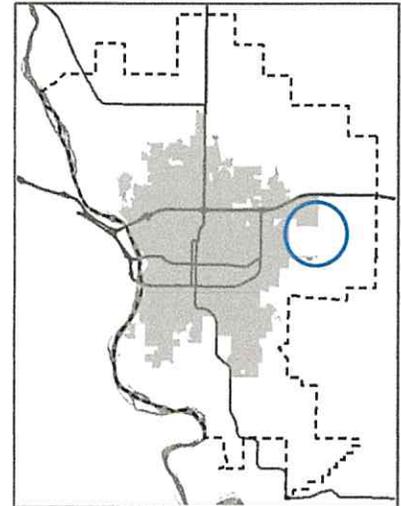
Agenda Item # 2
July 14, 2016

Application for: Variance

TRAKiT Project ID: VAR2016-012

Project Summary

Title:	Lot 4, Block 1, Prairie View Subdivision (5313 Southview Lane)
Status:	Board of Adjustment
Owner(s):	Greg Hartzke
Project Contact:	Greg Hartzke
Location:	East of Bismarck, south of East Main Avenue/County Highway 10 and east of 52 nd Street SE, along the south side of Southview Lane.
Request:	Variance from Section 14-04-01(6) of the City Code of Ordinances (RR – Residential)(Rear Yard)



Staff Analysis

The applicant is requesting a variance to reduce the required rear yard setback for a property located within the RR – Residential zoning district from fifty (50) feet to thirty (30) feet in order to construct an accessory building.

Applicable Provision(s) of Zoning Ordinance

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."

Section 14-04-01(6) of the City Code of Ordinances 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 required rear yard for this lot is fifty (50). According to the site plan submitted with the application, the proposed accessory building would be

set back thirty (30) feet from the rear property line along the south 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 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.

(continued)

Staff Recommendation

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

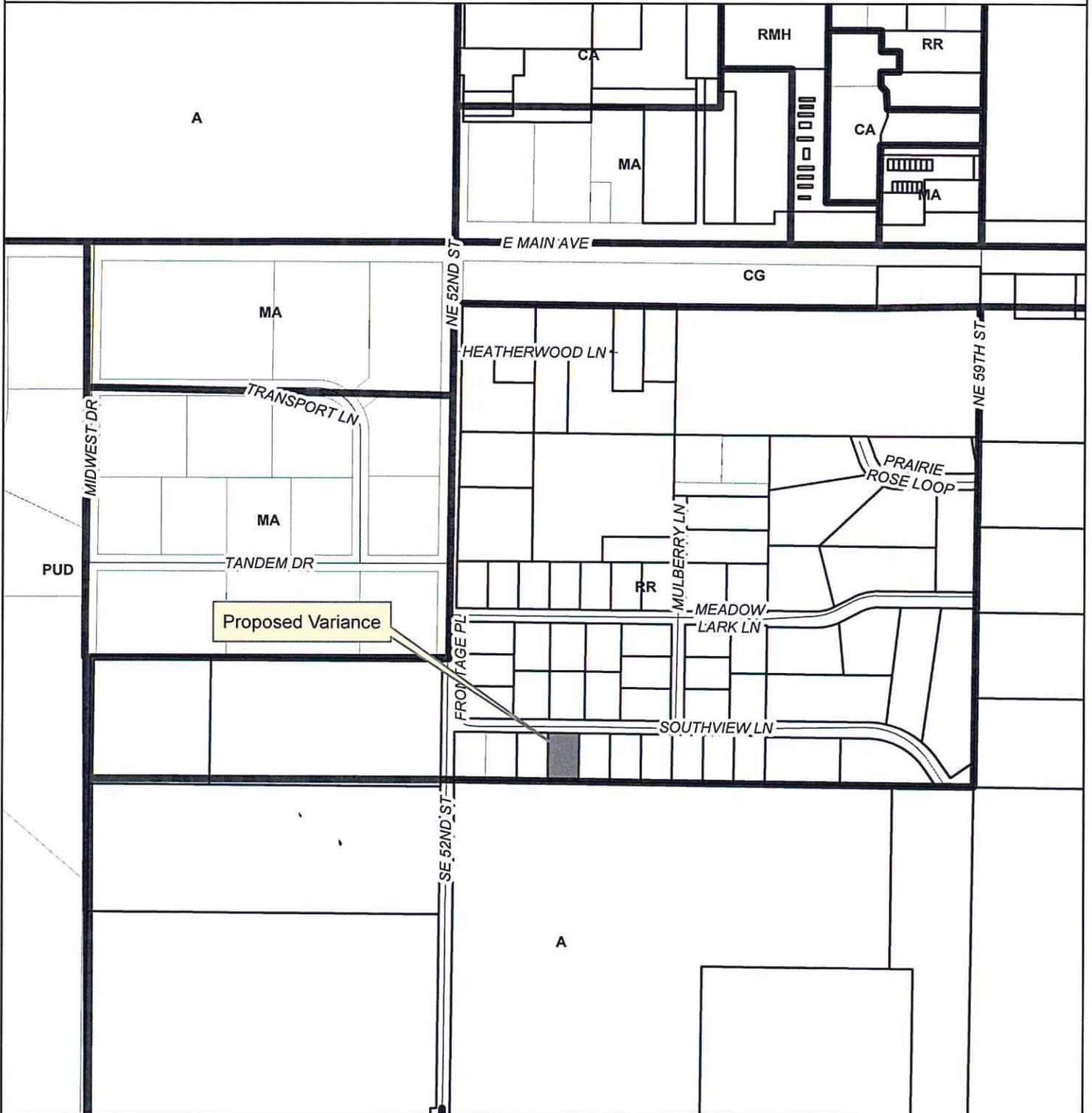
Attachments

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 4, Block 1, Prairie View Subdivision



June 6, 2016 (hlb)

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.



Variance request of 30ft+ from South lot line.



Current 50ft+ restriction





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

1. Property Address or Legal Description: 5313 Southview Ln
2. Location of Property: City of Bismarck Extraterritorial Area (ETA)
3. Type of Variance Requested: Distance from lot line for garage
4. Applicable Zoning Ordinance Chapter/Section: 14-02-03, 14-06-02
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 amount of fill dirt required to build our house on this lot, there is a large, gradual slope on the south rear of the house that extends 50 feet into the backyard. This would make it difficult to back trailers and other accessories into the new garage at the current restriction.

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

We are only able to access the backyard on the west side of the house due to large trees blocking the east side. Due to the slope described above and the location of the drain field, it would be nearly impossible to get past the slope/hill and make the turn into a garage without this variance.

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

The current 50 foot variance would put the garage almost right in the middle of the backyard. We are asking for an additional 50 feet to give us room to get past the slope and maneuver into & out of the garage. This would not obstruct the neighbors land, view, etc as behind it is a mature tree row and then a wheat field. If the section line to the South of our lot was accessible and maintained, I would be able to face the front of the garage south and the 50ft restriction on the South lot line would not be an obstacle.



STAFF REPORT

City of Bismarck
Community Development Department
Planning Division

Agenda Item # 3

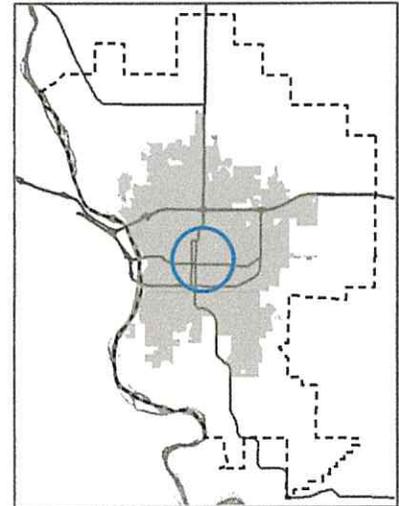
July 14, 2016

Application for: Variance

TRAKiT Project ID: VAR2016-011

Project Summary

Title:	Lot 12, less the East 9 feet for the alley, Block 42, Northern Pacific Addition (623 North 6 th Street)
Status:	Board of Adjustment
Owner(s):	James Bohe
Project Contact:	James Bohe
Location:	In central Bismarck, in the southeast quadrant of the intersection of North 6 th Street and East Avenue C.
Request:	Variance from Section 14-04-07(7) of the City Code of Ordinances (RM – Residential)(Front Yard).



Staff Analysis

The applicant is requesting a variance to reduce the front yard setback for a property located in the RM – Residential zoning district from twenty-five (25) feet to twenty (20) feet in order to construct an attached garage along the east side of the existing home.

The existing single-family dwelling was constructed in 1900. There is no record of the original building permit and there is no indication or record that would suggest the existing single family dwelling did not meet applicable zoning regulations at the time it was constructed.

The existing single-family dwelling is set back twelve (12) feet at its furthest point and three (3) feet at its closest point from the front property line along the north side of the property, adjacent to East Avenue C.

Applicable Provision(s) of Zoning Ordinance

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."

Section 14-04-07(7) of the City Code of Ordinances states, "Each lot shall have a front yard not less than twenty-five (25) feet in depth. Such front yard setbacks shall apply to all structures permitted on or after August 12, 1997. Any structure originally permitted prior to August 12, 1997 that is damaged to the extent that the foundation is no longer usable must comply with this section." According to the site plan submitted with the application the proposed attached garage would be twenty (20) feet from the front property line located along the north side of the property adjacent to East Avenue C.

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 RM – Residential zoning classifications.
2. The hardship is not caused by the provisions of the Zoning Ordinance.

(continued)

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

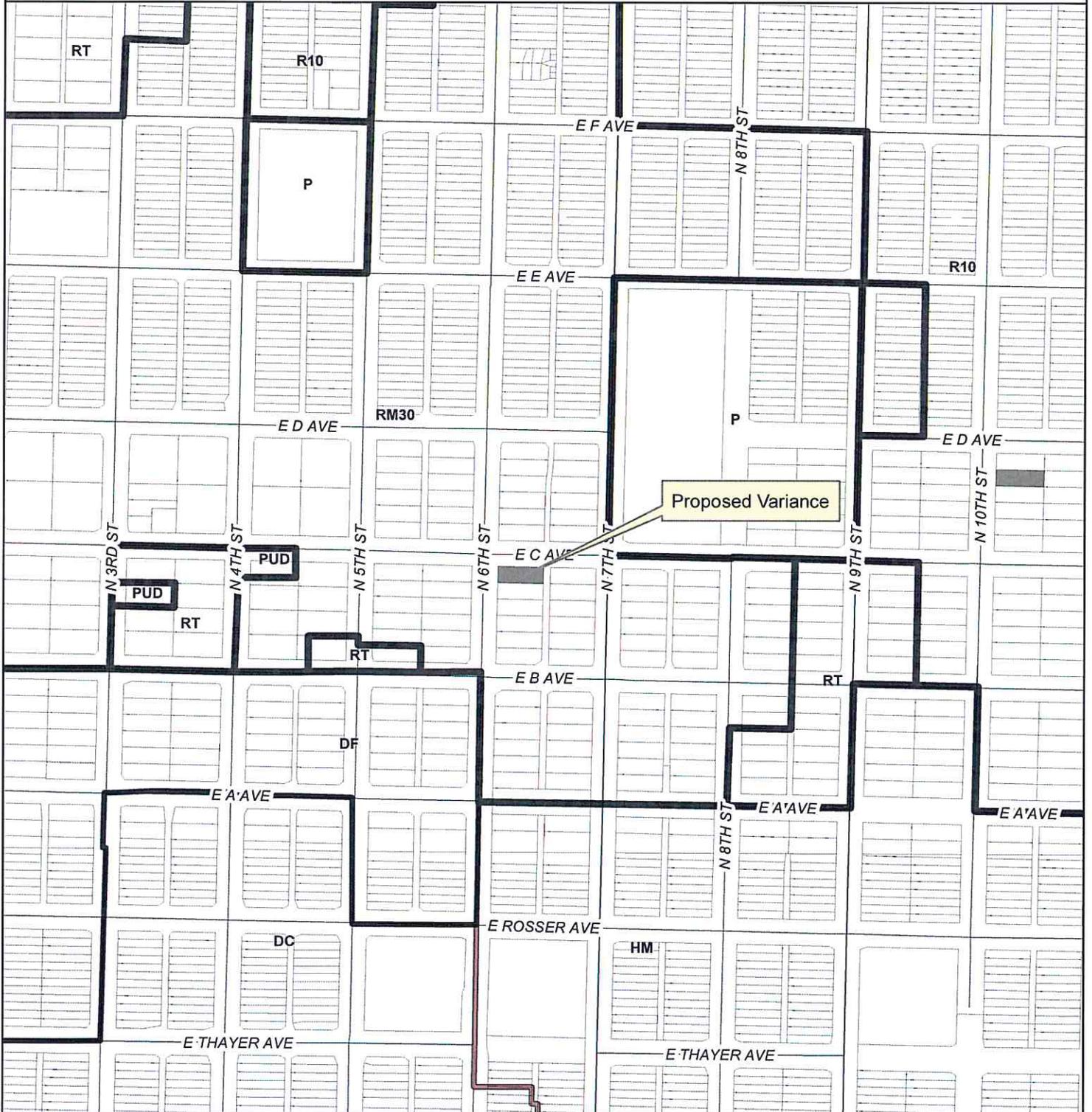
1. Location Map
 2. Site plan
 3. Written Statement of Hardship
-

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

Proposed Variance

Lot 12, less the East 9' taken for alley, Block 42

Northern Pacific 2nd Addition



June 6, 2016 (hlb)

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.

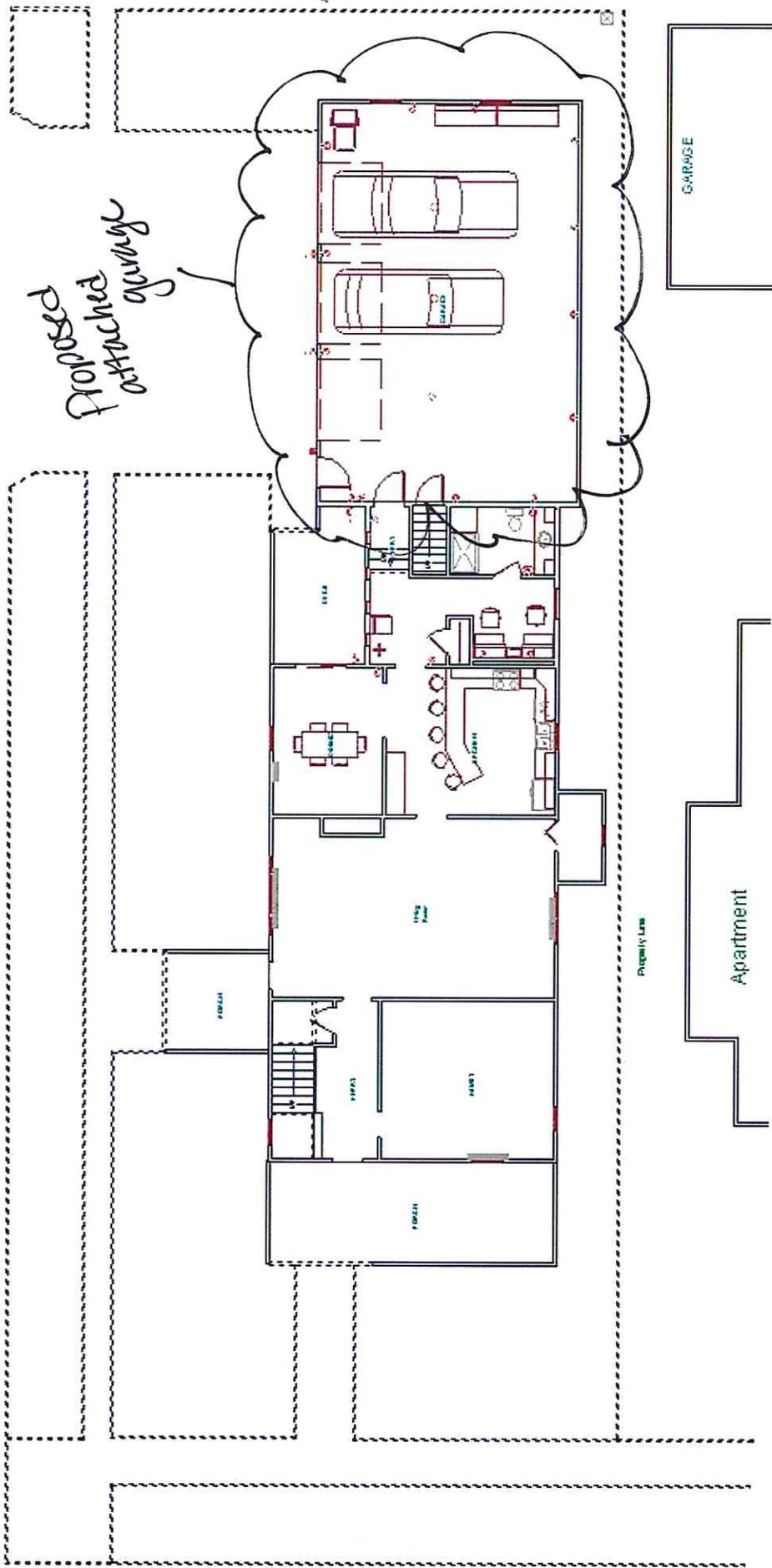


NORTH

Ave C

6th Str

Alley



Proposed Attached Garage

GARAGE

Apartment

Property Line



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

1. Property Address or Legal Description: 623 N 6h Street/ 605 Ave C East, Busmarck

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

3. Type of Variance Requested: Five foot less on driveway requirement in front of garage.

4. Applicable Zoning Ordinance Chapter/Section: 14-02-03

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.)

LOT DEPTH INSUFFICIENT TO ALLOW FOR CLEARANCE OF PROPERTY LINE ON SOUTH SIDE, GARAGE, AND TWENTY-FIVE FOOT DRIVEWAY TO SIDEWALK ON THE NORTH.

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

GARAGE AND ADDITION WOULD ALLOW FOR ENCLOSED ENTRY TO BASEMENT, SECOND BATHROOM FOR HOUSE, EMERGENCY EGRESS FROM SECOND AND FIRST FLOORS.

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

A FIVE FOOT VARIANCE WOULD BE REQUIRED TO ALLOW FOR PROPERTY LINE CLEARANCE, GARAGE AND TWENTY FOOT DRIVEWAY BEFORE THE SIDEWALK.



STAFF REPORT

City of Bismarck
Community Development Department
Planning Division

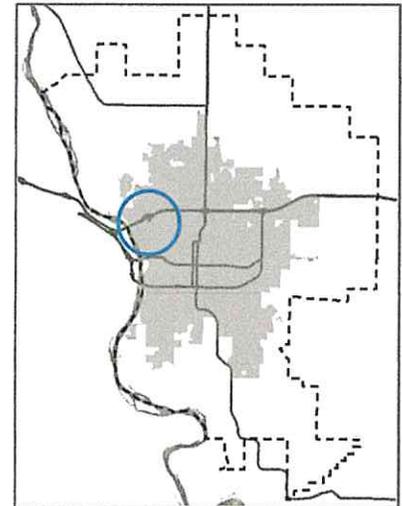
Agenda Item # 4
July 14, 2016

Application for: Variance

TRAKiT Project ID: VAR2016-013

Project Summary

Title:	Lot 5, Block 2, Grandview Heights (1929 North Grandview Lane)
Status:	Board of Adjustment
Owner(s):	Mike and Denise Kambeitz
Project Contact:	Mike and Denise Kambeitz
Location:	In northwest Bismarck, between Interstate 94 and Burnt Boat Drive, along the south side of North Grandview Lane.
Request:	Variance from Section 14-04-03(8) of the City Code of Ordinances (R5 – Residential)(Side Yard)



Staff Analysis

The applicant is requesting a variance to reduce the required side yard setback located along the east side of the property from twelve (12) feet to one (1) foot in order to construct an accessory building / pool house.

If approved as proposed this would be the second variance approved for the property. A variance 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 was approved by the Board of Adjustment at their meeting of November 5, 2015. A copy of the minutes from that meeting is attached.

Applicable Provision(s) of Zoning Ordinance

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."

Section 14-04-03(8) of the City Code of Ordinances 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 twelve (12) foot side yard located along the east side of the property. According to the site plan submitted with the application, the accessory building / pool house would be setback one (1) foot from the property line located along the east 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 parcel of land involved that are not generally

(continued)

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.

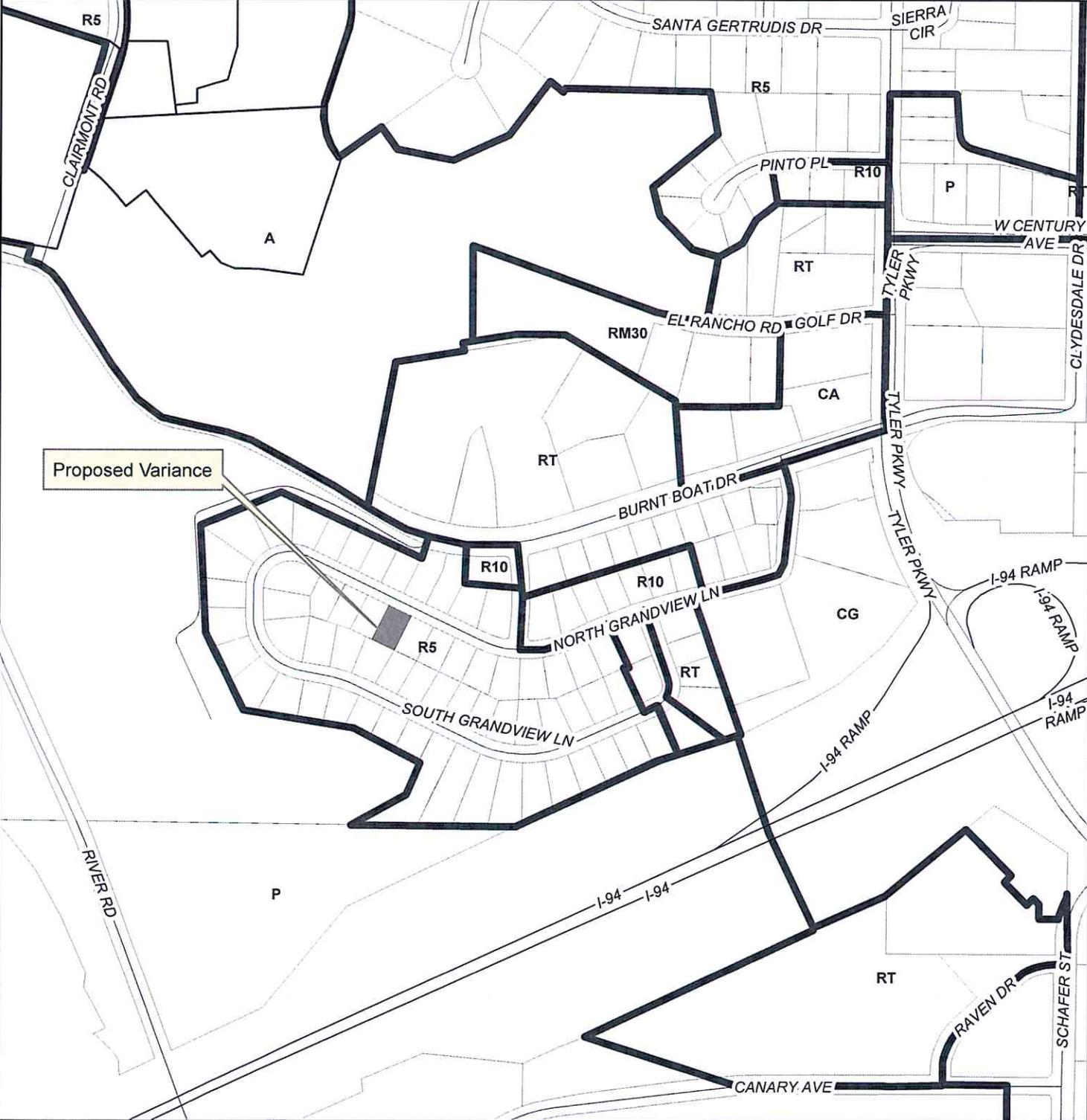
Attachments

1. Location Map
2. Site plan
3. Written Statement of Hardship
4. November 5, 2015 meeting minutes

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

Proposed Variance

Lot 5, Block 2, Grandview Heights

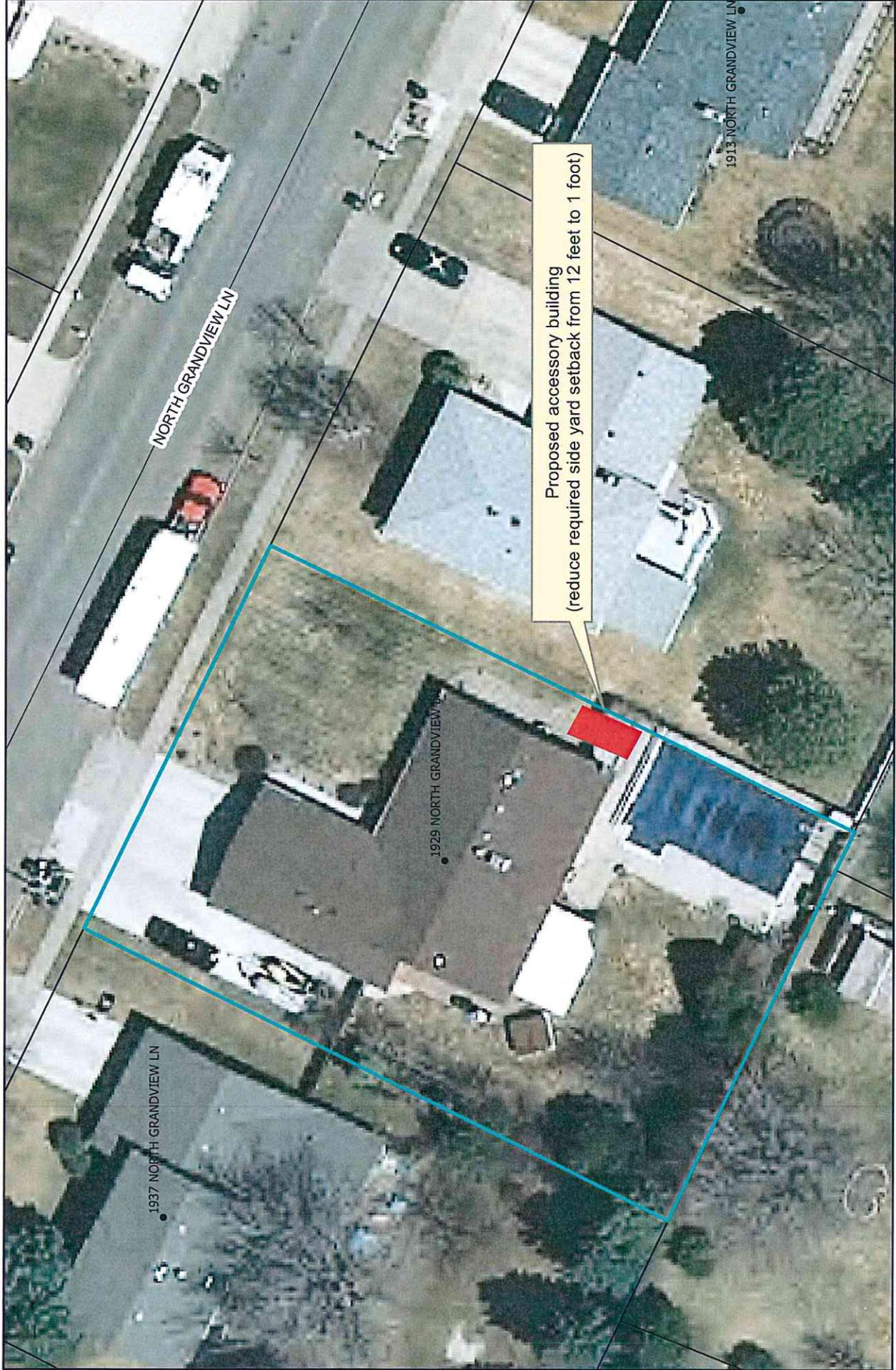


June 23, 2016 (h1b)

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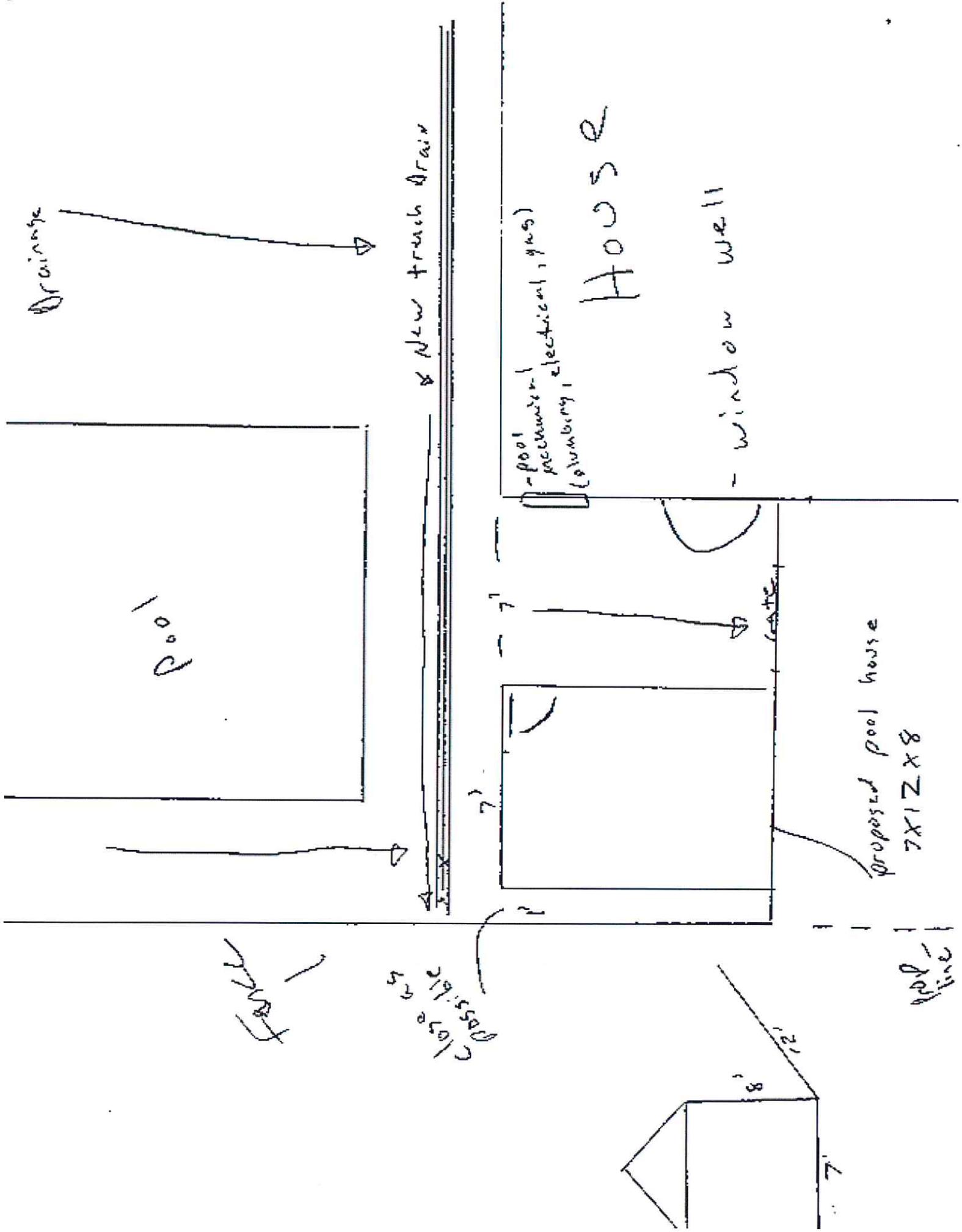


**1929 North Grandview Lane (side yard setback)
Lot 5, Block 2, Grandview Heights**



Date: 6/28/2016

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.



Drainage

pool

new trench drain

pool mechanical, electrical, gas plumbing

House

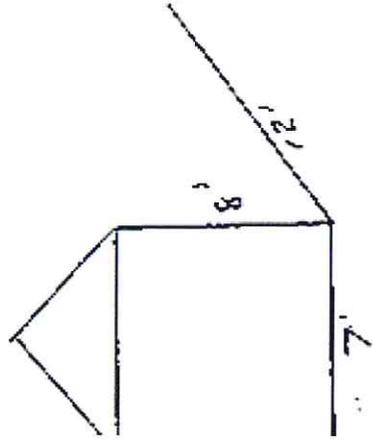
Window well

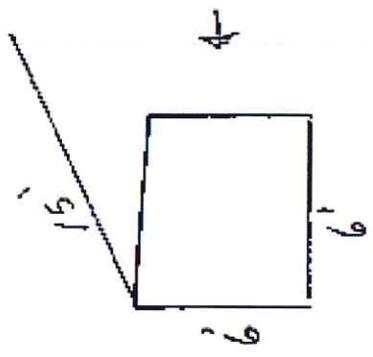
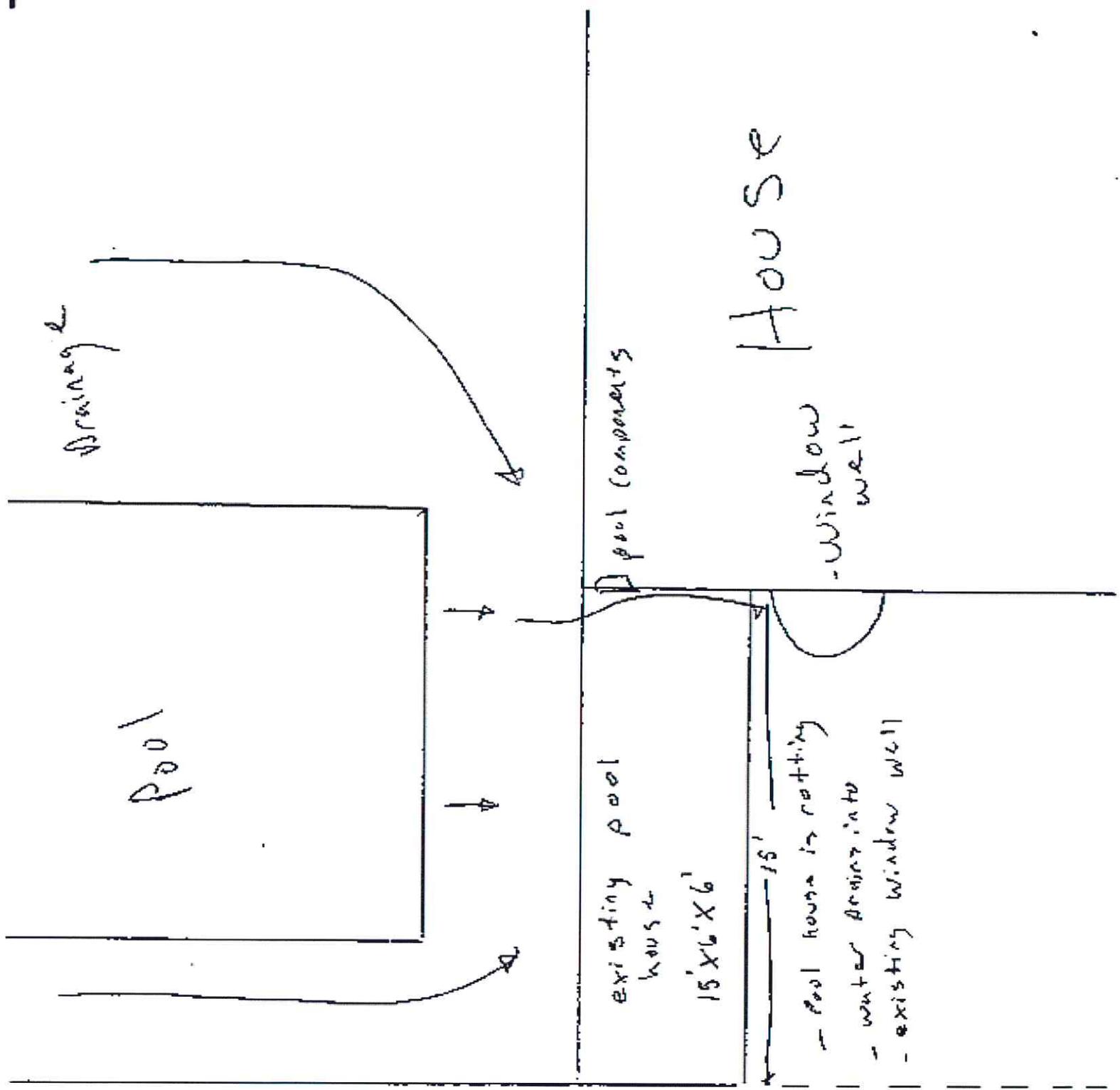
proposed pool house
7x12x8

trench

close
pass line

prop line







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

1. Property Address or Legal Description: 1929 North Grandview Lane

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

3. Type of Variance Requested: Reduce side yard from 6' to 1'-2' (?)

4. Applicable Zoning Ordinance Chapter/Section: 14.03.08 (8) (RS) (Side 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.)

Grade of the existing pool deck was directed toward the existing pool house and adjacent wall of the house. Rain water frequently drained into the pool house and adjacent window well causing water damage, mold, and decay.

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

The mold was already removed from the inside of the home damages have been repaired. By tearing out the existing pool deck, adding a trench drain, and rebuilding a properly built pool house, the water issues would be alleviated. All of the pool electrical, plumbing and gas components are where the proposed pool house would go.

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

The original pool house went right up to the fence on the east property line. We are requesting to be able to put the pool house back where it already had been. The new pool house will be farther away from the property line than the original. The new pool house would be one foot in from

the property line and also substantially further away from the house than the original. The seven feet away from the house measurement is to allow proper drainage and proper maintenance.

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)

Chairman Marback stated the applicants, Mike and Denise Kambeitz, are requesting a variance 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.

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 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.

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 opened the public hearing.

Jordan Anderson, Big River Builders, said the 12 foot by 40 foot addition to the home would maintain and streamline the elevation aesthetics of the home as well as those around it. He said it would not be symmetrical if it was smaller and the front line of the addition is in line with the neighboring homes as well.

Mr. Kambeitz said the neighbor to the west of him as comfortable with his request and the addition is needed to accommodate the vehicle he uses for work. He said a standard garage would not be big enough as he needs a wider stall and a wider door.

Mr. Hoff asked what the door height is on the existing garage. Mr. Anderson said it is seven feet tall and the new additional garage would be eight feet tall.

Mr. Hoff asked if drainage on the property would be affected at all by the addition. Mr. Anderson it would be constructed so that drainage diverts between the homes and away from the houses.

Additional comments in opposition to this request are attached as Exhibits B, C and D.

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

MOTION: A motion was made by Mr. Seifert to approve the variance to reduce the required side yard setback 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 on Lot 5, Block 2, Grandview Heights (1929 North Grandview Lane), based on special circumstances that the lot is utilized to the best use with the least possible impact on the neighboring property. The motion was seconded by Ms. Clark and with Board Members Hoff, Marback, Seifert and Clark voting in favor of the motion, the motion was approved and the variance was granted.



STAFF REPORT

City of Bismarck
Community Development Department
Planning Division

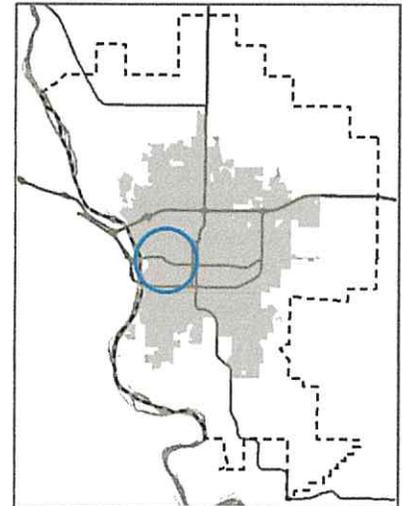
Agenda Item # 5
July 14, 2016

Application for: Variance

TRAKiT Project ID: VAR2016-010

Project Summary

Title:	Lot 13, Block 4. Highland Acres 2 nd Addition (1136 North Parkview Drive)
Status:	Board of Adjustment
Owner(s):	Troy Olson
Project Contact:	Troy Olson
Location:	In west Bismarck, between Schafer Street and Ward Road, along the east side of North Parkview Drive
Request:	Variance from a platted front yard setback line.



Staff Analysis

The applicant is requesting a variance to reduce the front yard setback from a platted setback line as indicated on the subdivision plat of Highland Acres 2nd Addition from thirty (30) feet to twenty-six (26) feet in order to construct a single-family dwelling.

A request to reduce the front yard setback to fifteen (15) feet was denied by the Board of Adjustment at their meeting of June 4, 2015. A copy of the meeting minutes is attached.

Applicable Provision(s) of Zoning Ordinance

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."

Section 14-04-03(7) 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." However, the City has historically honored to

platted set back lines in the Highland Acres neighborhood. According to the site plan submitted with the application, the foundation for the proposed single-family dwelling would be set back the required thirty (30) feet from the front property line located along the east side of the property. However, the attached front porch would be set back twenty-six (26) feet from the front property line located along the east 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 parcel of land involved that are not generally applicable to other properties in this neighborhood.
2. The hardship is not caused by the provisions of the Zoning Ordinance or the platted setback line.
3. Strict application of the provisions of the Zoning Ordinance and the platted setback line 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.

(continued)

5. The granting of the variance is not in harmony with the general purposes and intent of the Zoning Ordinance or the platted set back line.

Staff Recommendation

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

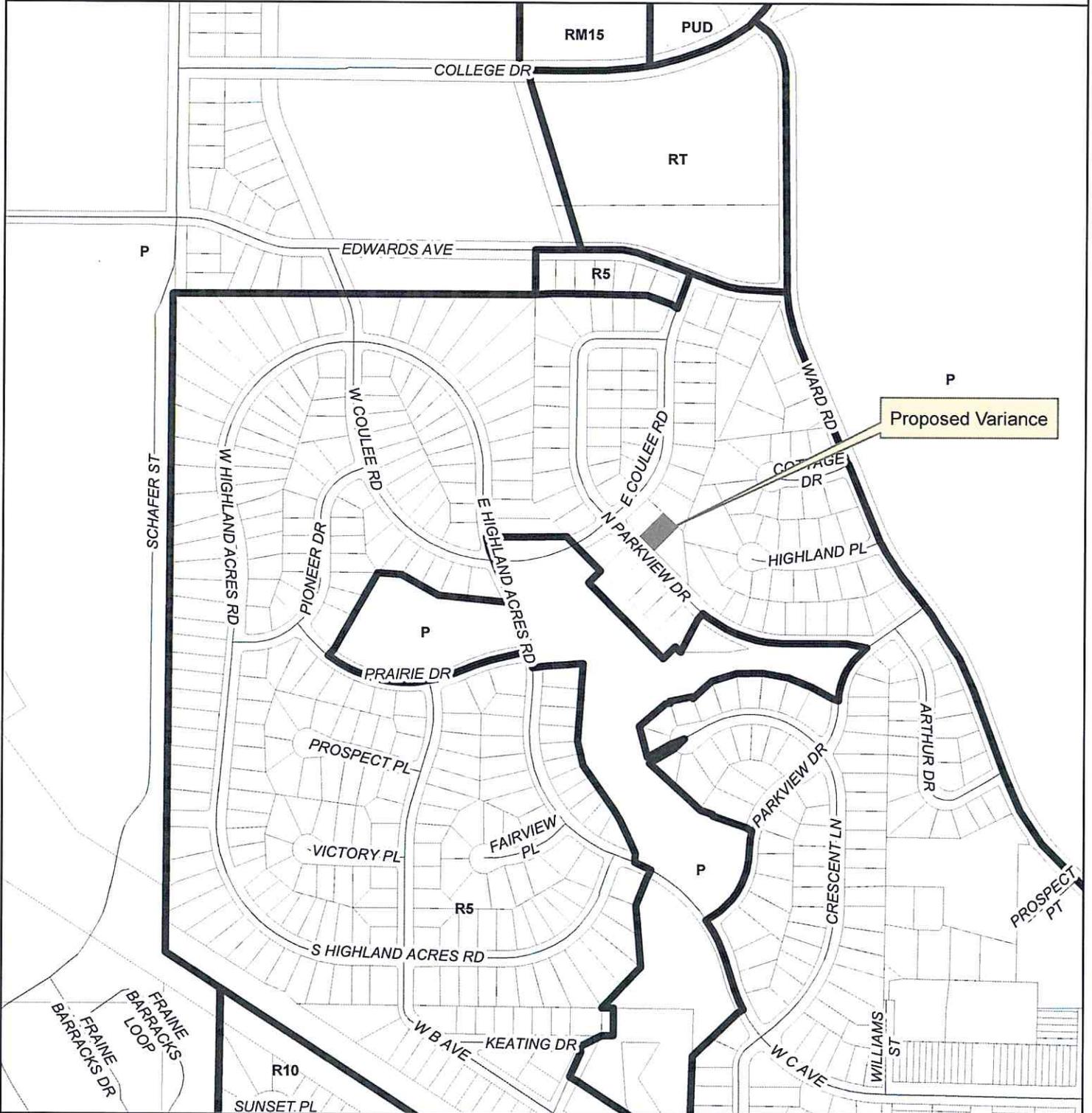
Attachments

1. Location Map
2. Site plan
3. Written Statement of Hardship
4. Minutes from the June 4, 2016 meeting

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

Proposed Variance

Lot 13, Block 4, Highland Acres 2nd Addition



June 1, 2016 (hlb)

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SCALE:

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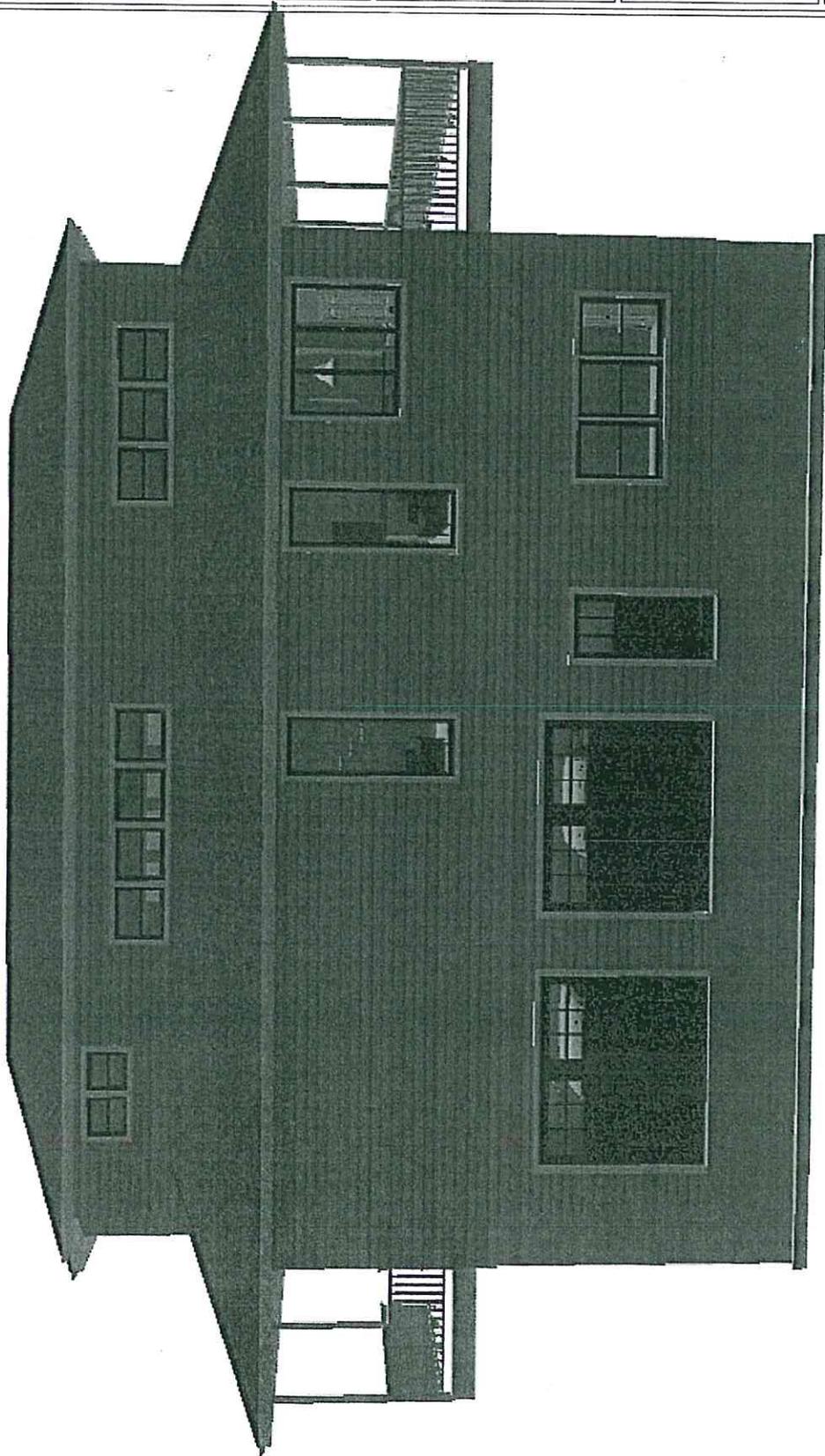
1/28/2016

DRAWINGS PROVIDED BY:
GTG Homes

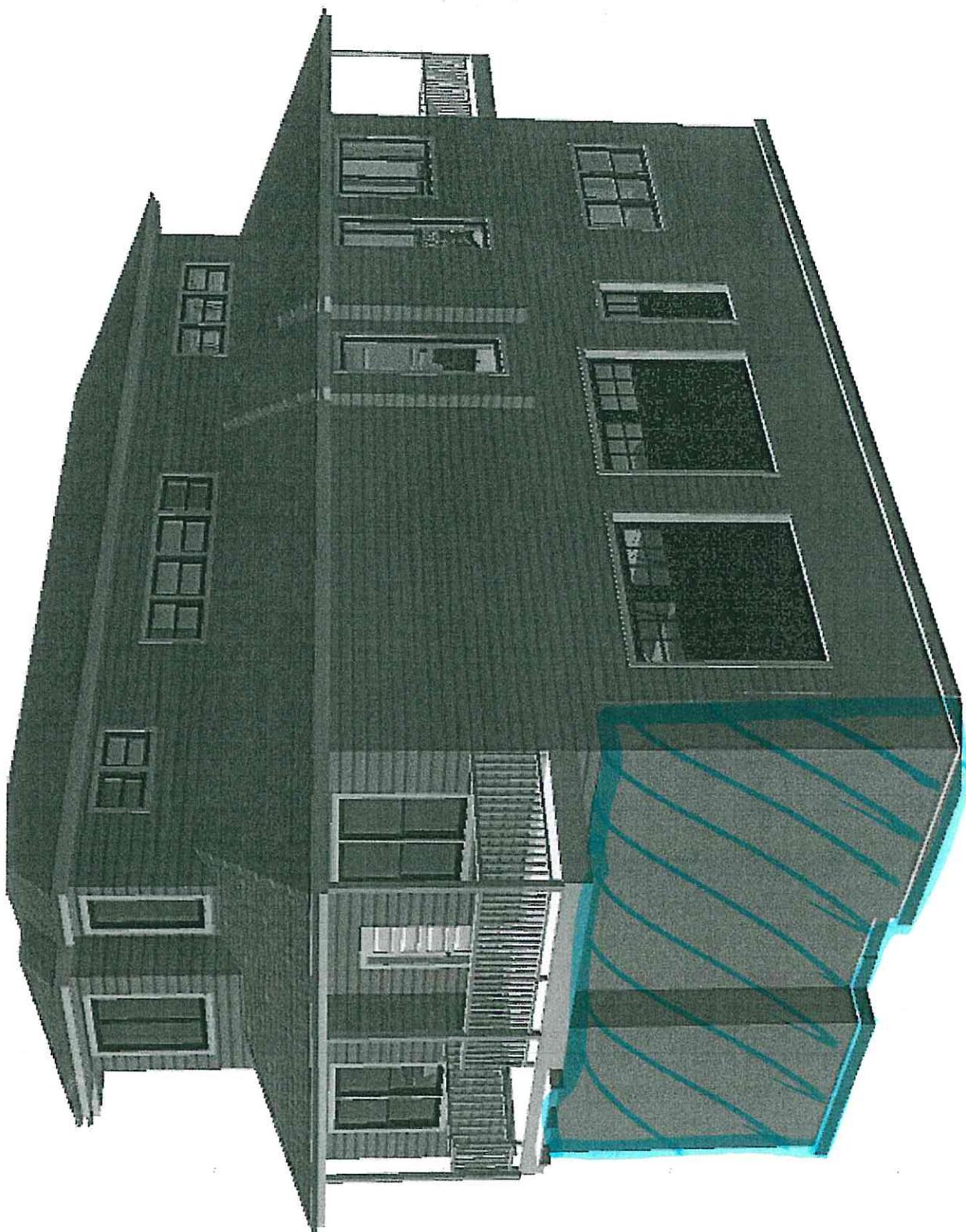
PROJECT DESCRIPTION:
Olson

SHEET TITLE:
Cape Cod

NO.	DESCRIPTION	BY	DATE



DRAWINGS PROVIDED BY: GTG Homes		PROJECT DESCRIPTION: Olson	SHEET TITLE: Cape Cod																																												
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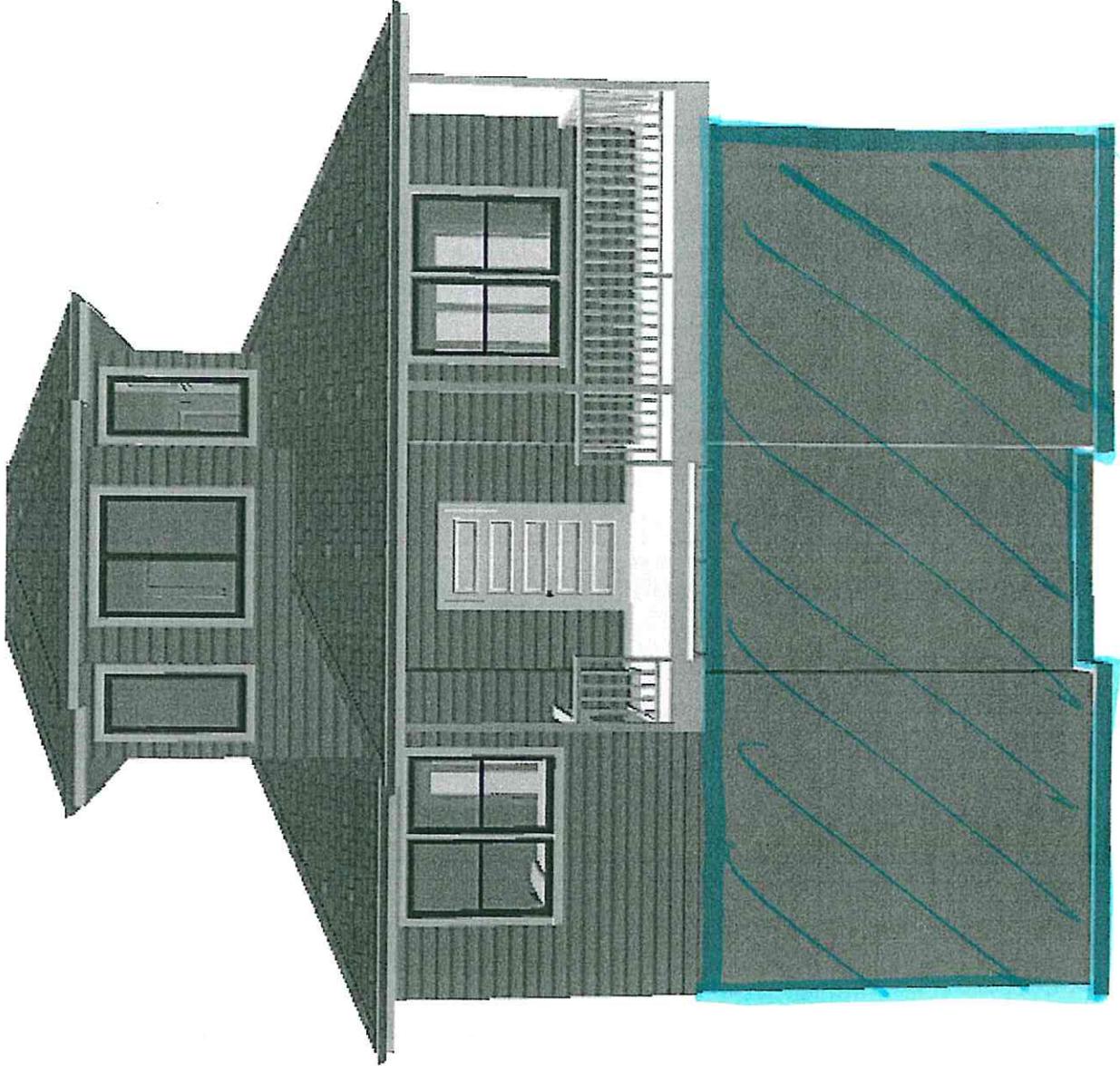
1/28/2016

DRAWINGS PROVIDED BY:
GTG Homes

PROJECT DESCRIPTION:
Olson

SHEET TITLE:
Cape Cod

NO.	DESCRIPTION	BY	DATE



A-1

SHEET:

SCALE:

DATE:

1/28/2016

DRAWINGS PROVIDED BY:

GTG Homes

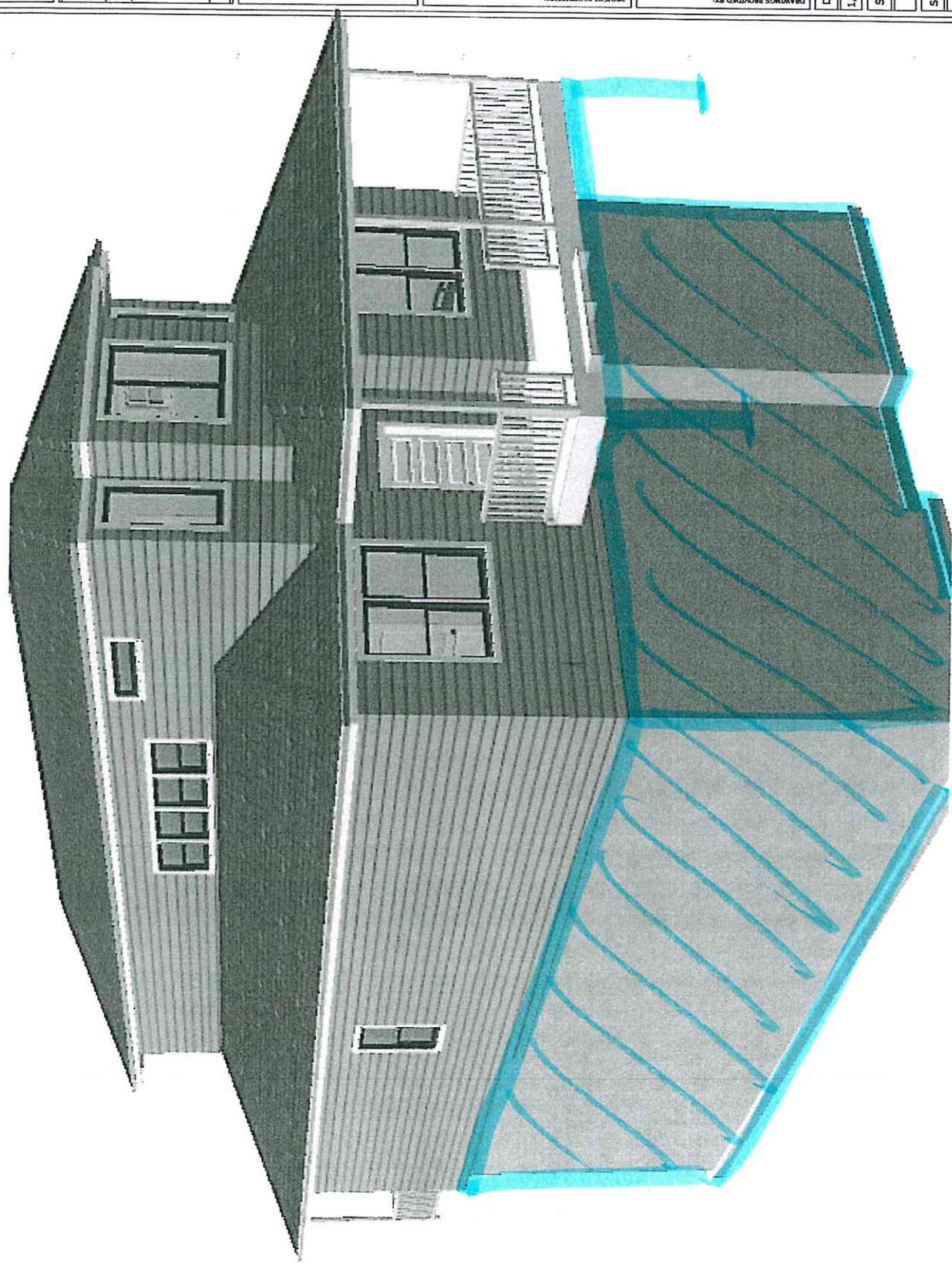
PROJECT DESCRIPTION:

Olson

SHEET TITLE:

Cape Cod

NO.	DESCRIPTION	BY	DATE



VARIANCE FROM SECTION 14-04-03(7) OF THE CITY CODE OF ORDINANCES (R5 – RESIDENTIAL)(FRONT YARD) – LOT 13, BLOCK 4, HIGHLAND ACRES SECOND ADDITION (1136 NORTH PARKVIEW DRIVE)

Vice Chairman Clark stated the applicant, Troy Olson, is requesting a variance to reduce the required front yard setback located on the west side of their property from twenty-five (25) feet to fifteen (15) feet in order to construct a single family dwelling.

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

1. The need for a variance is not based on special circumstances or conditions unique to the specific parcel of land involved that are not generally applicable to other properties in this area and within the R5-Residential zoning classification.
2. The hardship is not caused by the provisions of the Zoning Ordinance.
3. Strict application of the provisions of the Zoning Ordinance would not deprive the property owner of the reasonable use of the property.
4. The requested variance is not the minimum variance that would accomplish the relief sought by the applicant.
5. The granting of the variance is not in harmony with the general purposes and intent of the Zoning Ordinance.

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

Mr. Olson explained there is a grade difference at both the front and the rear of the lot into heavily watered areas that putting the house anywhere other than proposed would create significant problems. He said he would like to maintain a decently sized backyard as well and with the corner of the proposed house already being near the slope in the back, moving it further back would be difficult.

Vice Chairman Clark asked what the planned square footage of the new home would be. Mr. Olson said approximately 1,535 square feet so not overly large but average size and comparable to others in the area.

Vice Chairman Clark said she would like to remind those present that this is not a request for a variance from the covenants of the subdivision and that discussion needs to be applicable to the variance request from the setback requirements.

Vice Chairman Clark opened the public hearing.

Ms. Clark asked if there is a parking requirement for single family homes. Mr. Blaskowski explained that the only requirement for parking for single family homes is that covered parking on a slab must be provided.

Bruce Whittey, 1139 North Parkview Drive, provided an aerial map image and explained that this area was first subdivided in the 1960's and has definitely had its challenges since then including the coulee that runs through the property which most of the homes back up to. He said all of the homes in the subdivision conform to what the requirements were when it was first platted which included 20 foot setbacks on corner lots and 30 foot setbacks on all of the others. He said he is not opposed to new construction in the neighborhood but a home with a 15 foot setback when the others next to it have a 30 foot setback will not be consistent or aesthetically pleasing. He said many of the residents in this neighborhood are opposed to the request and provided petition signatures from those residents. Petition and signatures in opposition to this request are attached as Exhibit A.

Mr. Ubl asked if any sidewalks have been planned to be constructed. Mr. Whittey said their HOA has discussed it as it is mandated but there has not been any formal action to get that process started as of yet.

Mr. Hoff asked what the building allowances for this lot would be as it is technically in a flood hazard area. Ms. Wollmuth explained that if any portion of a lot is located within the Special Flood Hazard Area (SFHA) or 100-year floodplain, the structure or house would need to be constructed two (2) feet above base flood elevation. She said Mr. Olson could petition to have his property removed from the SFHA with a Letter of Map Amendment (LOMA) through the Federal Emergency Management Agency.

Ms. Clark said she will leave it up to Mr. Olson at this time if he would like to withdraw his request and submit a new one after he has had some time to redraw the placement of a home on this property and have the request continued to the next meeting of the Board of Adjustment or have the Board make a motion and vote on the request as they normally would. Mr. Olson said he would like this request to be voted on.

Mr. Hoff pointed out that the house meets the setback requirement but it is the garage that will be partially in the setback.

Keith Larson, 1143 East Coulee Road, said his home is almost twenty feet from the same water hazard Mr. Olson would have and the house could easily be moved closer to the back of the lot and still avoid any flood threats.

Mr. Ubl said all of Highland Acres has grade issues and considering all of the information that has been provided he cannot support this request and would encourage the applicant to redraw the layout of his home on this lot.

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

MOTION: A motion was made by Mr. Ubl to deny the variance to reduce the required front yard setback located on the west side of their property from twenty-five (25) feet to fifteen (15) feet in order to construct a single family dwelling. The motion was seconded by Mr. Seifert and with Board Members Heier, Hoff, Seifert, Ubl, Marback and Clark voting in favor of the motion, the motion was approved and the variance request was denied.

**BISMARCK BOARD OF ADJUSTMENT
MEETING MINUTES
June 2, 2016**

The Bismarck Board of Adjustment met on June 2, 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 27, 2016 and May 5, 2016 meetings of the Board of Adjustment.

MOTION: A motion was made by Mr. Hoff and seconded by Mr. Heier to approve the minutes of the April 27, 2016 and May 5, 2016 meetings as presented. With Board Members Clark, Heier, Hoff, Marback and Seifert voting in favor, the minutes were approved.

VARIANCES FROM SECTION 14-04-01(6) OF THE CITY CODE OF ORDINANCES (RR-RESIDENTIAL)(REAR YARD) AND FROM SECTION 14-04-01 OF THE CITY CODE OF ORDINANCES (RR-RESIDENTIAL)(SIDE YARD) – LOT 26, BLOCK 15, PONDEROSA RIVERSIDE VILLAGE SECOND SUBDIVISION (5540 PONDEROSA AVENUE)

Chairman Marback stated the applicant, Tyler Atkinson, is requesting variances to reduce the rear yard setback located along the north side of the property, from sixty-two (62) feet to ten (10) feet and 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 a 192 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.

Ms. Clark asked if there are issues with flooding on this property. Ms. Wollmuth said it is in the 500-year floodplain so elevation requirements do not apply.

Mr. Atkinson said he would like to avoid the low spots on his property and put this building where damage to it is least likely. He said his neighbors put their accessory building in a similar location on their property and did end up with water damage and he would like to avoid that happening to his.

Ms. Clark said this building will end up being very close to their rear yard neighbor and asked if they have considered putting it somewhere else and moving a couple of their trees.

Mr. Atkinson said he would like to avoid having to incur extra costs by needing to build one side up with a lot of concrete and they put their trees where they did to act as a screen between them and their neighbors.

Mr. Hoff asked what the height of the building will be. Mr. Atkinson said it will be the standard 12 feet with a rafter style roof.

Chairman Marback opened the public hearing.

Lynn Prouty said she does not live in this neighborhood but she does take issue with the suggestion of removing trees. She said it is more appropriate to add trees to shelter themselves from their neighbors and thinks the addition of a shed would be fine where it is proposed.

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

MOTION: A motion was made by Mr. Seifert to approve the variances to reduce the rear yard setback located along the north side of the property, from sixty-two (62) feet to ten (10) feet and 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 a 192 square foot accessory building on Lot 26, Block

15, Ponderosa Riverside Village Second Subdivision (5540 Ponderosa Avenue), based on the unique layout of the lot and the proposed location being the only spot safe from flood hazards without having to remove any trees. The motion was seconded by Mr. Heier and with Board Members Heier, Hoff, Seifert and Marback voting in favor of the motion, the motion was approved and the variance was granted. Board Member Clark opposed the motion.

VARIANCE FROM SECTION 14-04-01(6) OF THE CITY CODE OF ORDINANCES (RR-RESIDENTIAL)(REAR YARD) AND FROM SECTION 14-04-01 OF THE CITY CODE OF ORDINANCES (RR-RESIDENTIAL)(SIDE YARD) – LOT 26, BLOCK 15, PONDEROSA RIVERSIDE VILLAGE SECOND SUBDIVISION (5540 PONDEROSA AVENUE)

Chairman Marback stated the applicant, Kari Knudson, 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.

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

1. The need for a variance is not based on special circumstances or conditions unique to the specific parcel of land involved that are not generally applicable to other properties in this area and within the R5-Residential zoning 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.

Ms. Knudson said the existing garage is only 12 feet by 20 feet and she would like to rebuild it to 14 feet by 26 feet so it can accommodate more modern sized vehicles. She said the new garage would be further away from the house but the same distance from her neighbors as the existing one.

Chairman Marback opened the public hearing.

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

MOTION: A motion was made by Ms. Clark to approve the 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 on the West ½ of the East ½ of Lots 5-6, Block 9, Northern Pacific Addition (106 East Avenue B), based on the age of the property and the proposed accessory building not further encroaching on the neighboring property. The motion was seconded by Mr. Seifert 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.

VARIANCE FROM SECTION 14-04-03(2) OF THE CITY CODE OF ORDINANCES (SUPPLEMENTARY PROVISIONS)(PROJECTIONS INTO YARDS) – LOT 11, BLOCK 51, NORTHERN PACIFIC 2ND ADDITION (717 NORTH 10TH STREET)

Chairman Marback stated the applicant, Robert Leingang, 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.

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.

Mr. Leingang said they are just trying to solve these problems reasonably. He said the steps sank and separate from the foundation and they need to replace them with

something that looks decent and is functional. He said the steps right now come out seven feet and the new ones as well as the proposed porch would come out eight feet.

Chairman Marback opened the public hearing.

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

MOTION: A motion was made by Mr. Heier to approve the variance to construct an uncovered 126 square foot front porch that will be approximately 47 inches from the ground at its tallest point on Lot 11, Block 51, Northern Pacific 2nd Addition (717 North 10th Street), based on the need to correct a safety hazard and code requirements are not being met with the condition it is in now. The motion was seconded by Mr. Seifert 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.

VARIANCE FROM SECTION 14-04-05(3) OF THE CITY CODE OF ORDINANCES (RMH-RESIDENTIAL)(DEVELOPMENTAL STANDARDS/SETBACKS) – LOT 2, BLOCK 1, MR. B'S ADDITION (2520 CENTENNIAL ROAD)

Chairman Marback stated the applicant, Matt Geiger, 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.

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 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.

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 when the setback requirement was changed to 20 feet. Ms. Wollmuth said it was changed in 1996 but this property was platted in 1993.

Mark Swenson, Swenson Engineering, said the current owners are relatively new and the main point with this issue is that the property was platted in 1993 but only half of it was developed at that time. He said requirements have changed since then and the majority of the existing homes are only set back approximately 13 feet. He said this mobile home court is almost entirely single-wide homes and that is what the demand is for as it falls into the much needed entry-level housing category.

Mr. Hoff asked if there is room on each lot for a garage. Mr. Swenson said they all have room for one at the expense of the owner and homes could be moved out but that is extremely unlikely and does not usually happen. He said utilities are also already in place and this setback reduction would allow them to fit the best at only 12 feet back.

Ms. Wollmuth said the request is for all of Lot 2 which is the entire mobile home strip so this would be applicable to every home that gets put on that lot.

Mr. Hoff asked if this variance is granted and the standard size of a mobile home changes, would another variance have to be granted. Ms. Wollmuth said no, the variance stays applicable to that lot and would be defined on the permit.

Chairman Marback opened the public hearing.

Matt Geiger said he is looking to have some conformity with the existing homes so that overall the appearance would be better and that at most, nine homes would sit at the reduced setback distance.

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

Mr. Hoff asked if the number of potential future homes was known at the time the property was platted. Ms. Wollmuth said it was not known as it was all platted as one lot.

Chairman Marback asked if mobile home lots have gotten bigger over the years. Mr. Geiger said yes, that since they are not legally described lots the standards have changed and they have become larger, even exceeding the size of some single family lots and they are not as dense.

MOTION: A motion was made by Mr. Seifert 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 on Lot 2, Block 1, Mr. B's Addition (2520 Centennial Road), based on special circumstances because the property was platted prior to the requirements changing before it was developed and utilities already being in place. 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

Chairman Marback asked if somebody has been found to replace the member vacancy. Ms. Wollmuth said in the event somebody cannot be found the announcement will be put on the website for applicants to be sought.

Chairman Marback said Ms. Clark is unable to attend the July meeting and asked if a different meeting day should be picked. Ms. Wollmuth said she will check the availability of the conference room and send an e-mail with some choices on dates and times.

ADJOURNMENT

There being no further business, Chairman Marback declared the meeting of the Bismarck Board of Adjustment adjourned at 5:50 p.m. to meet again on a date to be determined.

Respectfully Submitted,

Hilary Balzum
Recording Secretary

APPROVED:

Michael Marback, Chairman