

**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

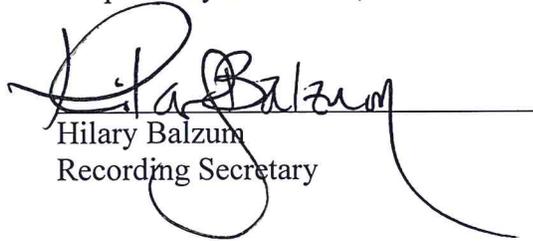
Chairman Marback asked if somebody has been found to replace the member vacancy. Ms. Wollmuth said in the event somebody cannot be found the announcement will be put on the website for applicants to be sought.

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.

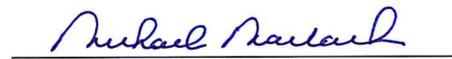
ADJOURNMENT

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