



Community Development Department

**BISMARCK BOARD OF ADJUSTMENT
SPECIAL MEETING AGENDA
OCTOBER 21, 2010**

Tom Baker Meeting Room	4:00 p.m.	City-County Office Building
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REQUESTS

1. **1009 Ash Coulee Place** (Jack Knutson) Request for variances to reduce the combined side yard building setback distance from 18.1-feet to 16.1-feet and to reduce the front yard building setback distance from 25-feet to 20-feet for the purpose of constructing a house at the above-mentioned property.

ADJOURNMENT

2. **Adjourn.** The next regular meeting date is scheduled for November 4, 2010.

**BISMARCK-BURLEIGH COMMUNITY DEVELOPMENT DEPARTMENT
STAFF REPORT**

BACKGROUND:	
Title: 1009 Ash Coulee Place – front and side yard setbacks for a house (front 25' to 20'/ side 18.1' to 16.1') (Lot 5, Block 1, Ash Coulee Replat)	
Status: Board of Adjustment	Date: October 21, 2010
Owner(s): Jack Knutson	
Reason for Request: The applicant wishes to construct a house that would encroach on the front and side yards of a pie-shaped lot on a cul-de-sac. Because of an existing utility easement in the rear yard, the footprint of the proposed house will not fit in the buildable area without first vacating and relocating the utility easement <i>and</i> getting approvals for the requested setback variances. The applicant has also applied for vacating and relocating the utility easement.	
Location: Northeast Bismarck. Located west of Horizon School on the south side of Ash Coulee Drive. Ash Coulee Place is at the same intersection and south of Amberglow Drive. Lot 5 is on the south side of the west cul-de-sac (see the location map).	
Applicable Provision(s) of Zoning Ordinance: 14-04-06(7). Front yard. Each lot shall have a front yard of not less than twenty-five (25) feet in depth 14-04-06(8). Side yards. . . 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 . . . the average width of the lot. <i>Note: 20% of the average lot width of 90.5-feet = 18.1-feet</i>	
FINDINGS:	
<ol style="list-style-type: none"> 1. The need for a variance is not based on special circumstances or conditions unique to the specific parcel of land involved that are not generally applicable to other properties in this area and within the R10 zoning classification. 2. The hardship is not caused by the provisions of the Zoning Ordinance. 3. Strict application of the provisions of the Zoning Ordinance would not deprive the property owner of the reasonable use of the property. 4. The requested variance is the minimum variance that will accomplish the relief sought by the applicant. 5. The granting of the variance is not in harmony with the general purposes and intent of the Zoning Ordinance; however, it is doubtful that it would be injurious to the neighborhood or otherwise detrimental to the public welfare. 	
RECOMMENDATION:	
Staff recommends reviewing the above findings and modifying them as necessary to support the decision of the Board. If granted, the variance must be put to use within 24 months or it shall lapse and the landowner must reapply.	

Proposed Variance
1009 Ash Coulee Place
Lot 5, Block 1 Ash Coulee Replat



DISCLAIMER: This map is for representation use only and does not represent a survey. No liability is assumed as to the accuracy of the data delineated hereon.
Map was Updated/Created: October 14, 2010 (klr)

Source: City of Bismarck

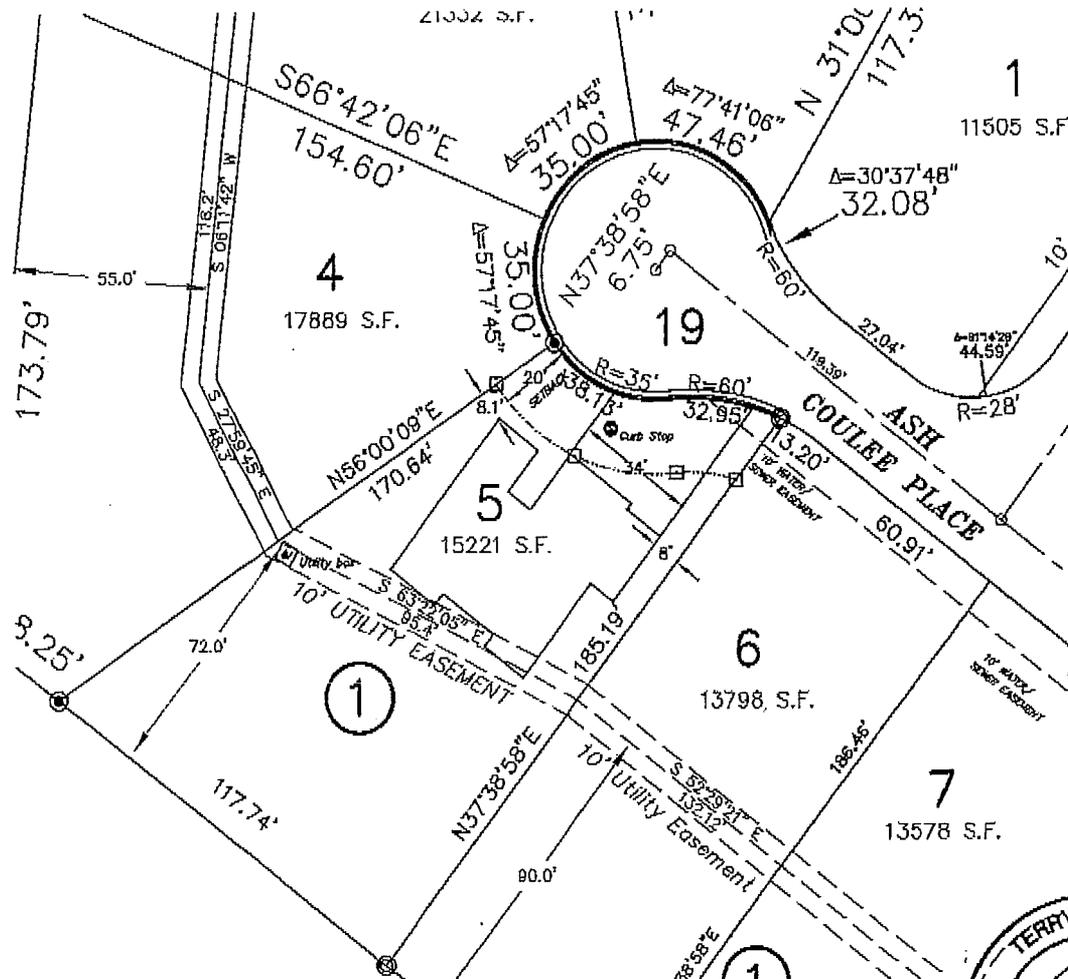


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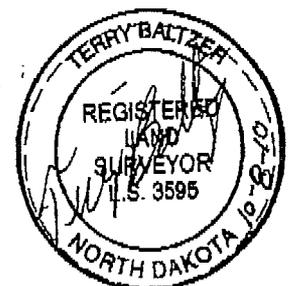
OCT 12 2010

LOT SURVEY EXHIBIT

LOT 5 BLOCK 1
 SUBDIVISION Ash Coulee Replat
 ADDRESS 1009 Ash Coulee Place
 BUILDER Knutson Homes



SCALE: 1" = 50'
 DATE: 10/8/10



- FOUND MONUMENT
- SET MONUMENT
- BUILDING SETBACK OR NON-ACCESS STAKE



SWENSON, HAGEN & COMPANY P.C.

Surveying
 Hydrology
 Land Planning
 Civil Engineering
 Landscape & Site Design
 Construction Management

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 Bismarck, North Dakota 58504
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NOTES

RLS

THE BUILDING SETBACK LINES SHOWN ARE AT OWNER'S DIRECTION. THERE MAY BE OTHER BUILDING RESTRICTIONS THAT AFFECT THIS PROPERTY. THE BUILDER IS RESPONSIBLE FOR VERIFYING THE BUILDING SETBACKS. DIMENSIONS ARE FROM PLAT. BUILDING AS SHOWN WAS NOT FIELD STAKED AND POSITION MAY CHANGE FROM THAT SHOWN.

FAXED TO:
 BUILDER OR OWNER

DATED:

10-8-10

**EXCERPTS FROM BISMARCK ZONING ORDINANCE
RELATING TO VARIANCES
(City of Bismarck & ETA Requests)**

14-02-03. Definitions. The following definitions represent the meanings of terms as they are used in these regulations:

Variance: A device which grants a property owner relief from certain provisions of a 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 a desire to increase the financial return.

14-06-02. Powers and Duties.

* * * * *

2. Variances. On appeal from an order, requirement, decision or determination made by an administrative official, the board of adjustment may vary or adjust the strict application of any of the requirements of this article in the case of an exceptionally irregular, narrow, shallow or steep lot or other exceptional physical or topographical condition, by reason of which the strict application of the provisions of the article would result in unnecessary hardship that would deprive the owner of a reasonable use of the land or building involved, but in no other case.

No adjustment in the strict application of any provisions of this article shall be granted by the board of adjustment unless it finds:

- a. That there are special circumstances or conditions, fully described in the findings of the board, applying to the land or buildings for which the variance is sought, which circumstances or conditions are peculiar to such land or building, and do not apply generally to land or buildings in the neighborhood, and have not resulted from any act of the applicant taken subsequent to the adoption of this article, whether in violation of the provisions of the article, or not.
- b. That, for reasons fully set forth in the findings of the board, the circumstances or conditions so found are such that the strict application of the provisions of this article would deprive the applicant of the reasonable use of said land or building, and the granting of the variances is necessary for the reasonable use of the land or building, and that the variance as granted by the board is the minimum variance that will accomplish the relief sought by the applicant.
- c. That the grant of the variance will be in harmony with the general purposes and intent of this article, and will not be injurious to the neighborhood or otherwise detrimental to the public welfare.
- d. A variance granted under this chapter must be put into use within 24 months of the granting of the variance or it shall lapse and the landowner must re-apply.

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

- 1. Property Address or Legal Description: 1009 Ash Coulee Place
- 2. Location of Property: City of Bismarck ETA Burleigh County
- 3. Type of Variance Requested: side yard and front set back varied
- 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.)

Lot 5 is both narrow and shallow. (not deep)
Also, because the lot widens in the back
it calls for more side yard than if lot was
rectangular. Because the front of this lot
is on a curve it essentially shortens the
depth.

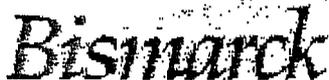
6. Describe how these limitations would deprive you of reasonable use of the land or building involved and result in unnecessary hardship.

The plan to be used for this
lot is quite narrow. It is average depth,
It would be very difficult to design
a plan to fit the current constraints
of said lot.

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

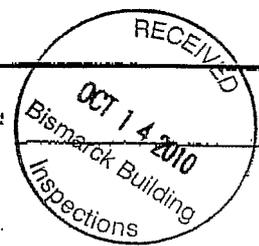
Please refer to the plat and site
plan.

B17010



CITY OF BISMARCK
BUILDING DIVISION
221 N 5TH ST
BISMARCK, ND 58506-5503
PH (701) 355-1465

CITY OF BISMARCK / ETA & BURLEIGH COUNTY



RECEIVED DATE:

CONTACT INFORMATION:

- 1. Name: Jack Knutson
- 2. Phone Number: 701-258-3464
- 3. Property Address: 1009 Ash Coulee Place
- 4. Location of Property: City of Bismarck ETA Burleigh County

5. Reason for variance: This is an irregular lot shape and is difficult to fit a plan on.

6. In the space below, please draw your lot, all existing buildings located on your lot and the proposed structure. Include dimensions of buildings, distance between buildings and your property lines.

See attached

Move utility easement in rear
 Reduce side setback from 18.1 to 16.1 ft
 Reduce front setback from 25-20 ft

SS

7. Your application has been reviewed. It has been:

Approved

Denied

Reviewed By:

Tom Darger

Date:

10-14-10

8. Reason for denial:

Does not meet City Ordinance

Please make the corrections and resubmit the application

Please note that an application for a permit is deemed to be abandoned 180 days after the date of filing, unless the application has been pursued in good faith or a permit has been issued. Therefore, supply us with the required plans at your earliest convenience.