Bismarck

Community Development Department

BISMARCK BOARD OF ADJUSTMENT
MEETING AGENDA

February 6, 2020

Tom Baker Meeting Room	**5:00 p.m.**	**City-County Office Building**

MINUTES

1. Consider the minutes of the December 5, 2019 and January 2, 2020 meetings of the Board of Adjustment.

PUBLIC HEARINGS

2. **Variance from Section 14-04-03(8) of the City Code of Ordinances (R5-Residential / Side Yard)** – Lot 12, Block 1, Highland Acres (833 Crescent Lane) | VAR2020-001

   Owner / Applicant: Andrew and Sarah Rodenburg

   Board Action: □approve □continue □table □deny……..…… 1

OTHER BUSINESS

3. **Other Business.** None.

ADJOURNMENT

4. **Adjournment.** The next regular meeting date is scheduled for March 5, 2020.

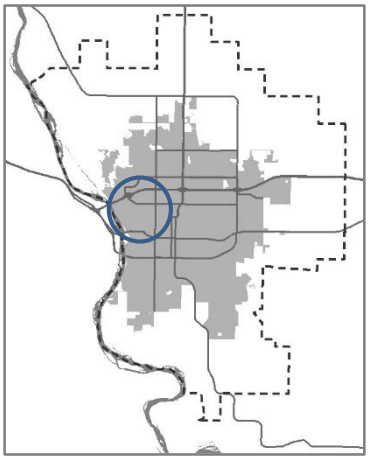
STAFF REPORT

City of Bismarck
Community Development Department
Planning Division

Agenda Item 2
February 6, 2020

Application for: Variance

TRAKiT Project ID: VAR2020-001



Project Summary

Title:	Lot 12, Block 1, Highland Acres (833 Crescent Lane)
Status:	Board of Adjustment
Owner(s):	Andrew and Sarah Rodenburg
Project Contact:	Brian Eiseman, Stoneshire Builders
Location:	In west central Bismarck, north of West Avenue C and west of Ward Road, along the east side of Crescent Lane
Request:	Variance from Section 14-04-03(8) of the City Code of Ordinances (R5-Residential / Side Yard)

Staff Analysis

Andrew and Sarah Rodenburg are requesting a variance to reduce the required side yard setback, located along the south side of Lot 12, Block 1, Highland Acres from six feet to zero feet.

The variance is being requested in order to dedicate a 20-foot access easement and construct a driveway to provide access to Lots 1-4, Block 1, Torrance Hill Addition. These lots are east and adjacent to this property and are owned by the applicants. The applicants have indicated that they would build a single-family dwelling on these lots if the variance is approved as proposed.

The Zoning Ordinance requires a side yard be measured from the interior edge of a private roadway or access easement. If approved as proposed, the measurement from the interior edge of the access easement to the single-family dwelling would be zero feet. The Zoning Ordinance also requires lots to have non-obstructed access to a public right-of-way. Lots 1-4, Block 1, Torrance Hill Addition do not have a non-obstructed access to a public right-of-way.

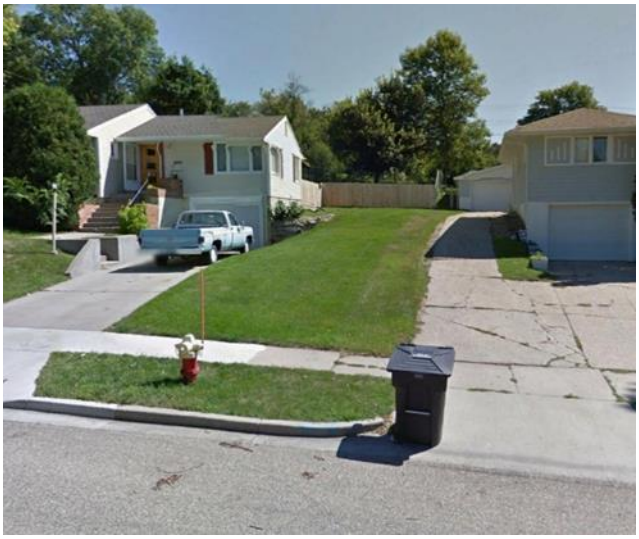
Background information

It should be noted that when the lots to the east of this request were platted (Torrance Hill Addition) in 1986 access to the lots was proposed to be from Crescent Lane. The property developer at the time proposed the demolition of the single-family dwelling located at 825 Crescent Lane (2 lots to the south of the proposed variance). City Staff during the review and ultimate approval of Torrance Hill Addition in 1986 also indicated that access could be provided from the south, through a 19.5-foot wide extension of Williams Street. The extension was platted as Lot 7, Block 1, Torrance Hill Addition. This extension was not favored by staff as additional right-of-way from adjoining properties would be needed to increase the width, additionally, this area was also obstructed by existing fencing and trees. It appears that in 1982, prior to submittal of the plat, the property owners east of the proposed extension of Williams Street vacated the eastern half of the street right-of-way.

According to planning documents, approval of Torrance Hill Addition was dependent on access to this area which was proposed to be provided from 825 Crescent Lane. Court documents from a 1987 South Central Judicial Court case, filed after approval of the Plat, between adjacent property owners and the property developer indicate that an access from 825 Crescent Lane violated the covenants for Highland Acres Addition as only single-family dwellings were permitted on residential lots. The summary opinion also states that "The City may need to be convinced to extend Williams Street to the north or adjoining owners may need to assent to a private access road. And finally it may be

(continued)

that an easement to the property may exist as an easement of necessity." A copy of the judgement summary is attached. Neighborhood covenants are an agreement between property owners in a subdivision, and the City of Bismarck is not to party to them nor does the City enforce them.



Google street view | 833 Crescent Lane

According to the City's property information the applicants entered into a contract for deed for the ownership of Lot 7, Block 1 Torrance Hill Addition. This contract has since been terminated. A copy of Torrance Hill Addition and map depicting the parcels owned by the applicants and Lot 7, Block 1 Torrance Hill Addition are attached.

View of Lot 7 from Williams Street

Additional Considerations

If the variance is approved as proposed the 20-foot wide access easement would need to be recorded with the Burleigh County Recorder and a permit to install a new driveway apron for the access easement would need to be obtained from the City Engineering Department. Additionally, the existing retaining wall located within the proposed access easement must be reconfigured to support the embankment and the access drive lane would need to meet building and fire code requirements. The existing fire hydrant would also need to be relocated and a release of the platted access easements located on the four parcels in Torrance Hill Addition may also need to be released by the City Commission. Lots 1-4, Block 1, Torrance Hill Addition would need to be combined into a single-parcel as well.

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 14-02-03 of the City Code of Ordinances (Definitions) defines a yard as, "An open space of uniform width or depth on the same zoning lot with a building or group of buildings, which open space lies between the buildings or group of buildings and the nearest lot line and is unoccupied and unobstructed, from the ground upward except as may be specifically provided in this article. In measuring a yard, the line of a building shall be deemed to mean a line parallel to the nearest lot line drawn through the point of a building or group of buildings nearest to such lot line, exclusive of such features specified as not to be considered in measuring yard dimensions or as being permitted to extend into a yard, and said measurements shall be taken at right angles from the line of the building to the nearest lot line. When a private roadway easement or access easement is located along a lot line, the yard width for depth shall be measured from the interior edge of said easement rather than the actual lot line." According to the information submitted with the application, the measurement from the edge of the proposed access easement to the single-family dwelling is zero feet.

(continued)

Section 14-04-03(8) of the City Code of Ordinances R5 – Residential / Side Yard) states, "Each lot shall have two (2) side yards, one on each side of the principal building. Each side yard shall be no less than six (6) feet in width. No building on a corner lot shall have side yard on the side street less than twenty-five (25) feet in width." According to the information submitted with the application, the installation of the proposed access easement would reduce the required side yard setback, located along the south side of the property from 6 feet to 0 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 district.
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, identifying a hardship and modifying the findings as necessary to support the decision of the Board.

Attachments

1. Location Map
2. Aerial Map depicting ownership
3. Site plan
4. Written Statement of Hardship
5. Plat of Torrance Hill Addition
6. 1987 Court Documents

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

Aerial Map

VAR2020-001

Lot 12, Block 1, Highland Acres

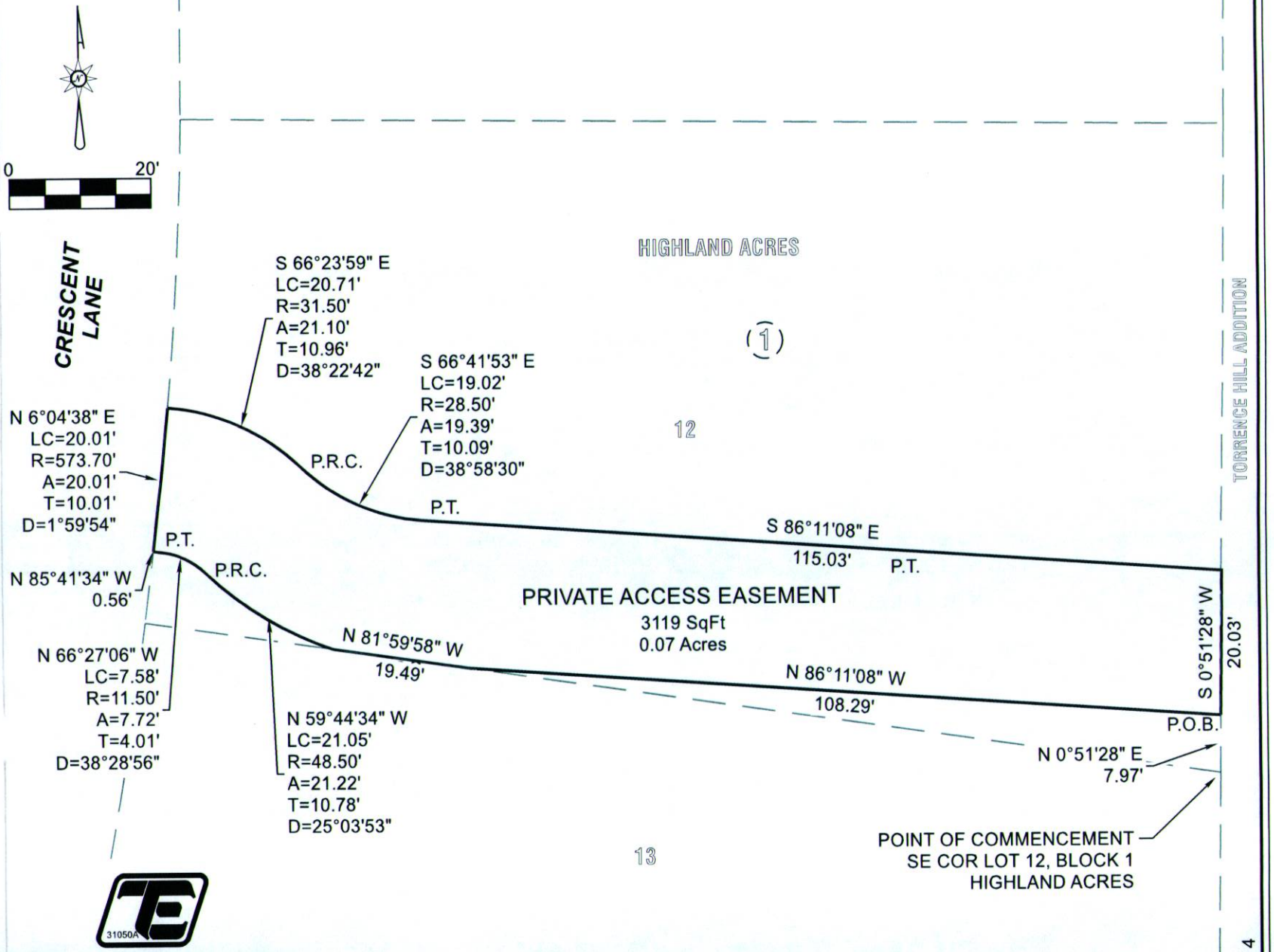
0 0.0425 0.085 0.17 Miles

City of Bismarck
Community Development Department
Planning Division
January 28, 2020

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.

Aerial Imagery from 2018

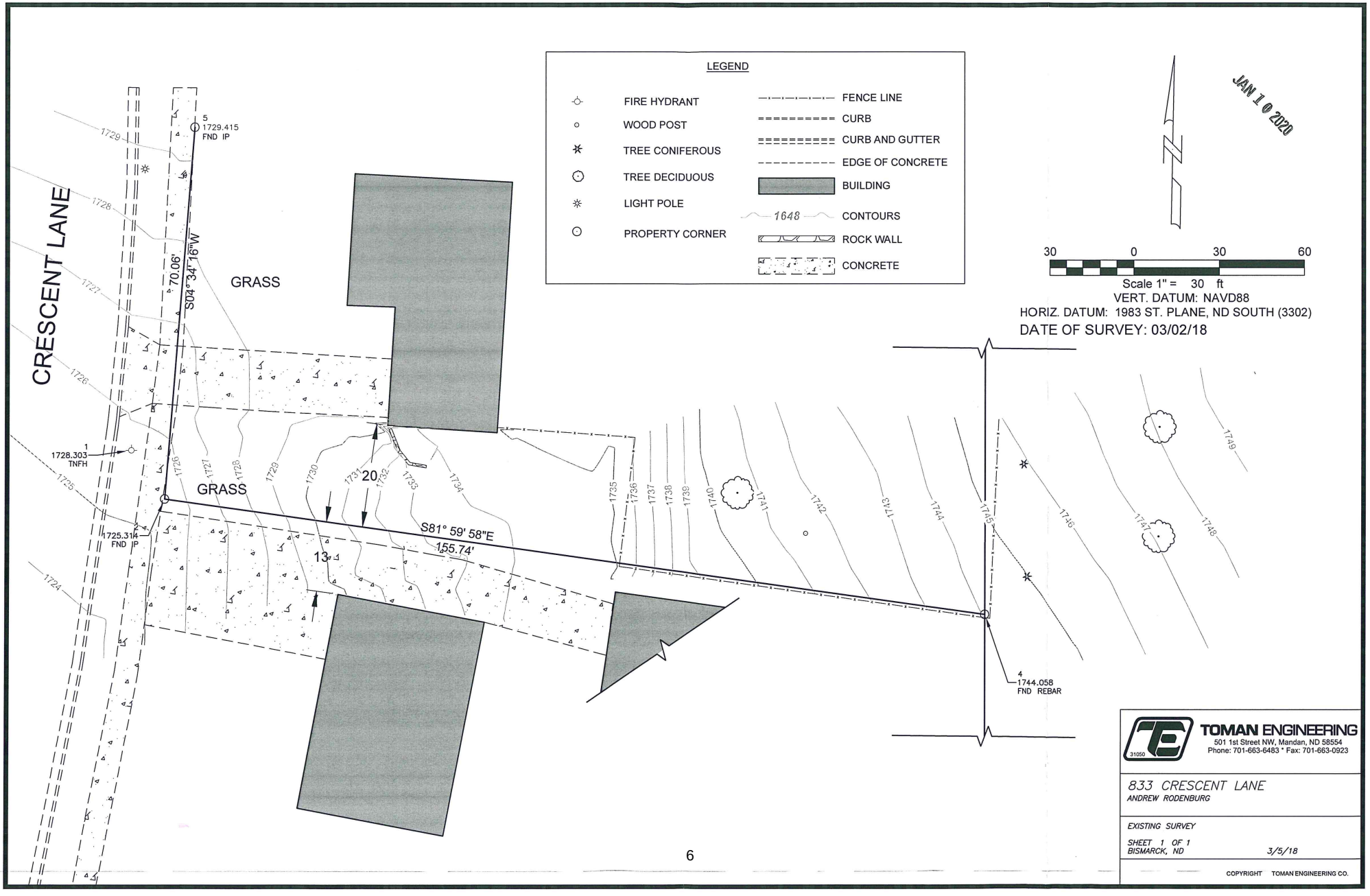
- Proposed Variance
- Proposed single-family dwelling location
- Lot 7



TOMAN ENGINEERING COMPANY
501 1st Street NW, Mandan, ND 58554
Phone: 701-663-6483 * Fax: 701-663-0923

EXHIBIT "A"
PRIVATE ACCESS EASEMENT

Page 4 of 4


LEGEND
FIRE HYDRANT
WOOD POST
TREE CONIFEROUS
TREE DECIDUOUS
LIGHT POLE
PROPERTY CORNER
FENCE LINE
CURB
CURB AND GUTTER
EDGE OF CONCRETE
BUILDING
1648 CONTOURS
ROCK WALL
CONCRETE
JAN 1 0 2020
30 0 30 60
Scale 1" = 30 ft
VERT. DATUM: NAVD88
HORIZ. DATUM: 1983 ST. PLANE, ND SOUTH (3302)
DATE OF SURVEY: 03/02/18
CRESCENT LANE
GRASS
GRASS
S04° 34' 16"W
70.06'
S81° 59' 58"E
155.74'
20
13
5
1729.415
FND IP
1
1728.303
TNFH
2
1725.314
FND IP
4
1744.058
FND REBAR
TOMAN ENGINEERING
501 1st Street NW, Mandan, ND 58554
Phone: 701-663-6483 * Fax: 701-663-0923
833 CRESCENT LANE
ANDREW RODENBURG
EXISTING SURVEY
SHEET 1 OF 1
BISMARCK, ND
3/5/18
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City of Bismarck
Community Development Department
Planning Division
Phone: 701-355-1840 * FAX: 701-222-6450 * TDD: 711
PO Box 5503 *Bismarck, ND 58506-5503
planning@bismarcknd.gov

Last Revised: 01/2017

WRITTEN STATEMENT OF HARDSHIP
(VARIANCE REQUEST)

NOTE: WRITTEN STATEMENTS OF HARDSHIP MUST ACCOMPANY EVERY VARIANCE REQUEST APPLICATION

PROPERTY INFORMATION	
Property Address or Legal Description: (Lot, Block, Addition/Subdivision)	833 Crescent Lane (Lot 12, Block 1, Highland Acres)
Location of Property:	■ City of Bismarck ☐ ETA
Type of Variance Requested:	Reduce side yard setback requirement
Applicable Zoning Ordinance: (Chapter/Section)	Chapter 14-04-03, Section 8 - Side Yards

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.)

When Torrance Hill Addition was platted in 1986, access to lots 1-4 of Torrance Hill Addition was to be provided via Williams Street and a 20' access on lot 7 of Torrance Hill Addition. Over the past 30 years, property owners adjacent to Williams Street and lot 7 have constructed structures encroaching on lot 7 (including onto lot 7), thereby prohibiting the use of lot 7 as a viable access point without removing these structures and encroaching on the current property owners. The owners of lots 1-4, Torrance Hill Addition (Sarah & Andrew Rodenburg) also own the property at 833 Crescent Lane - adjacent to lots 1-4, Torrance Hill Addition. They would like to develop a 20' access on 833 Crescent Lane in order to access lots 1-4, Torrance HIll Addition. However, the 20' access would encroach on the required 6' side yard setback. They are asking to reduce the side yard to 0' from the access easement, which stills maintains a 20' separation of the building to the property line.

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

Setbacks are calculated from the right-of-way or the edge of an access easement. The existing home at 833 Crescent Lane is 20' at its closest point to the adjacent property line. In order to comply with the city of Bismarck's request of a 20' minimum access easement, the existing home would be at the edge of the access easement, thereby, encroaching on the required 6' setback per Chapter 14-04-03, Section 8 of the zoning ordinance for R5 zoning. However, without this access easement, lots 1-4 Torrance Hill Addition do not have access and therefore, would be undevelopable for a single family home.

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

In order to construct a single family home on lots 1-4 Torrance Hill Addition, access is necessary. The residences adjacent to the original proposed access have developed their properties to infringe on this access point. In order to be the least disruptive to the neighborhood, the owners of lots 1-4 are proposing the establishment of a new access point on their own property at 833 Crescent Lane, thereby impacting only their property. However, this would require a variance of the 6' side yard setback requirement in one small area where the corner of the existing garage is 20' from the property line, which would be 0' from the edge of the proposed access easement.

TORRANCE HILL ADDITION

PART OF AUDITOR'S LOT 36 SECTION 32 T. 139 N., R. 80 W.

BISMARCK, NORTH DAKOTA

DESCRIPTION

ALL THAT PART OF AUDITOR'S LOT 36 AND THE NORTH 82.00 FEET OF THE WEST 19.5 FEET OF AUDITOR'S LOT 35 SECTION 32 TOWNSHIP 139 NORTH , RANGE 80 WEST OF THE 5th PRINCIPAL MERIDIAN BURLEIGH COUNTY, NORTH DAKOTA THAT LIES WITHIN THE FOLLOWING DESCRIBED TRAVERSE:

BEGINNING AT THE SOUTHWEST CORNER OF AUDITOR'S LOT 36 SECTION 32; THENCE NORTH 0 DEGREES 21 MINUTES 30 SECONDS WEST, ALONG THE EAST LINE OF HIGHLAND ACRES ADDITION TO THE CITY OF BISMARCK, NORTH DAKOTA, A DISTANCE OF 338.37 FEET; THENCE NORTH 89 DEGREES 38 MINUTES 06 SECONDS EAST A DISTANCE OF 215.08 FEET; THENCE SOUTH 0 DEGREES 19 MINUTES 41 SECONDS EAST A DISTANCE OF 140.11 FEET; THENCE SOUTH 76 DEGREES 29 MINUTES 58 SECONDS WEST A DISTANCE OF 279.00 FEET TO THE WEST LINE OF AUDITOR'S LOT 33 SECTION 32; THENCE SOUTH 0 DEGREES 29 MINUTES 34 SECONDS EAST ALONG THE WEST LINE OF AUDITOR' LOT 33, A DISTANCE OF 136 FEET TO THE NORTH LINE OF AUDITOR'S LOT 34 OF SECTION 32 ; THENCE NORTH 89 DEGREES 49 MINUTES 24 SECONDS WEST, ALONG THE NORTH LINE OF AUDITOR'S LOTS 34 AND 35 OF SECTION 32, A DISTANCE OF 466.73 FEET; THENCE SOUTH 0 DEGREES 21 MINUTES 30 SECONDS EAST A DISTANCE OF 82.00 FEET; THENCE NORTH 89 DEGREES 49 MINUTES 24 SECONDS WEST A DISTANCE OF 19.50 FEET TO THE EAST LINE OF HIGHLAND ACRES ADDITION; THENCE NORTH 0 DEGREES 21 MINUTES 30 SECONDS WEST, ALONG SAID EAST LINE OF HIGHLAND ACRES ADDITION A DISTANCE OF 82.00 FEET TO THE POINT OF BEGINNING.

THE ABOVE DESCRIBED TRACT OF LAND CONTAINS 2.72 ACRES, MORE OR LESS.

SURVEYOR'S CERTIFICATE

I, HARLEY SWENSON, A REGISTERED PROFESSIONAL ENGINEER AND LAND SURVEYOR IN THE STATE OF NORTH DAKOTA HEREBY CERTIFY THAT THE ANNEXED PLAT IS A TRUE COPY OF THE NOTES OF A SURVEY PERFORMED UNDER MY SUPERVISION AND COMPLETED ON AUGUST 26, 1986, AND THAT ALL INFORMATION SHOWN HEREON IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF.

HARLEY SWENSON REGISTERED PROFESSIONAL ENGINEER AND LAND SURVEYOR 951 NORTH DAKOTA

SWENSON, HAGEN AND COMPANY
CONSULTING ENGINEERS
P.O. BOX 1135 909 BASIN AVENUE
BISMARCK, NORTH DAKOTA 58502

HARLEY SWENSON
REGISTERED PROFESSIONAL ENGINEER
AND LAND SURVEYOR
N.D. REGISTRATION NO. 951

STATE OF NORTH DAKOTA)
) SS
COUNTY OF BURLEIGH)

ON THE 12TH DAY OF DECEMBER, 1986, BEFORE ME PERSONALLY APPEARED HARLEY SWENSON, KNOWN TO ME TO BE THE PERSON WHO EXCUTED THE FORGOING SURVEYOR'S CERTIFICATE AND ACKNOWLEDGED TO ME THAT HE EXCUTED THE SAME.

DAVID PATIENCE NOTARY PUBLIC STATE OF NORTH DAKOTA

DAVID PATIENCE - NOTARY PUBLIC
BURLEIGH COUNTY, NORTH DAKOTA
MY COMMISSION EXPIRES 7-24-92

APPROVAL OF CITY ENGINEER

I, RAYMOND J. JUNDT, CITY ENGINEER OF THE CITY OF BISMARCK, NORTH DAKOTA, HEREBY APPROVE " TORRANCE HILL ADDITION " AS SHOWN ON THE ANNEXED PLAT.

RAYMOND J. JUNDT REGISTERED PROFESSIONAL ENGINEER 2036 NORTH DAKOTA

RAYMOND J. JUNDT, CITY ENGINEER

APPROVAL OF BOARD OF CITY COMMISSIONERS

THE BOARD OF CITY COMMISSIONERS OF THE CITY OF BISMARCK, NORTH DAKOTA, HAS APPROVED THE SUBDIVISION OF LAND AS SHOWN ON THE ANNEXED PLAT, HAS ACCEPTED THE DEDICATION OF ALL EASEMENTS THEREON AND HAS APPROVED THE GROUNDS AS SHOWN ON THE ANNEXED PLAT AS AN AMENDMENT TO THE MASTER PLAN OF THE CITY OF BISMARCK.

THE FOREGOING ACTION OF THE BOARD OF CITY COMMISSIONERS OF THE CITY OF BISMARCK, NORTH DAKOTA, WAS TAKEN BY RESOLUTION APPROVED THE 12TH DAY OF DECEMBER, 1986.

SAID RESOLUTION STIPULATES THAT A MAXIMUM OF 6 SINGLE FAMILY HOUSES MAY BE PLACED ON THE PROPERTY PLATTED AS "TORRANCE HILL ADDITION" AND THAT A CURB AND GUTTER BE CONSTRUCTED ALONG THE SOUTH SIDE OF THE ACCESS EASEMENT.

ATTEST : GRANT BERQUIST, CITY AUDITOR

APPROVAL OF PLANNING COMMISSION

THE SUBDIVISION OF LAND AS SHOWN ON THE ANNEXED PLAT HAS BEEN APPROVED BY THE PLANNING COMMISSION OF THE CITY OF BISMARCK ON THE 9TH DAY OF NOVEMBER, 1986, IN ACCORDANCE WITH THE LAWS OF THE STATE OF NORTH DAKOTA, ORDINANCES OF THE CITY OF BISMARCK, AND REGULATIONS ADOPTED BY SAID PLANNING COMMISSION. IN WITNESS WHEREOF ARE SET THE HANDS AND SEALS OF THE CHAIRMAN AND SECRETARY OF THE PLANNING COMMISSION OF THE CITY OF BISMARCK.

DAVID BLACKSTEAD, CHAIRMAN

W. C. WOCKEN, SECRETARY

OWNER'S CERTIFICATE

KNOW ALL MEN BY THESE PRESENTS THAT CHARLES R. VOLK M.D. AND JOYCE L. VOLK BEING THE OWNERS AND PROPRIETORS OF THE PROPERTY SHOWN AND DESCRIBED ON THE ANNEXED PLAT, HAVE CAUSED THE SAME TO BE SURVEYED AND PLATTED AS "TORRANCE HILL ADDITION".

THEY ALSO DEDICATE EASEMENTS, TO RUN WITH THE LAND, FOR SEWER, WATER, GAS, ELECTRIC, TELEPHONE, OR OTHER PUBLIC UTILITIES OR SERVICE UNDER, ON OR OVER THOSE CERTAIN STRIPS OF LAND DESIGNATED HEREON AS "UTILITY EASEMENT".

THEY FURTHERMORE GRANT ACCESS EASEMENTS FOR ALL LAND OWNING PARTIES, THEIR HEIRS AND ASSIGNS, OVER THOSE TRACTS DESIGNATED HEREON AS "ACCESS EASEMENTS". SAID EASEMENTS TO INCLUDE THE FULL AND FREE RIGHT FOR ALL PARTIES, THEIR TENANTS, VISITORS AND LICENSEES, IN COMMON WITH ALL OTHERS HAVING LIKE RIGHT AT ALL TIMES HEREAFTER FOR ALL PURPOSES CONNECTED WITH THE USE OF SAID PARTIES, TO PASS AND REPASS ALONG SAID EASEMENT AND TO HOLD SAID EASEMENT TO SAID PARTIES, THEIR HEIRS AND ASSIGNS AND APPURTENANT TO THE LAND OF SAID PARTIES. SAID ACCESS EASEMENT ALSO BEING RESERVED TO AND FOR THE USE OF ANY GOVERNMENTAL SUBDIVISION ITS OFFICERS AND EMPLOYEES FOR UTILITIES AND OTHER GOVERNMENTAL USES NECESSARY OR ADVISABLE, PROVIDED THAT SAID SUBDIVISION SHALL NOT BE RESPONSIBLE TO FURNISH ANY SERVICES IF SUCH ACCESS EASEMENTS ARE NOT PROPERLY MAINTAINED OR ARE OBSTRUCTED BY THE OWNERS OF THE PROPETY WITHIN THE SUBDIVISION.

CHARLES R. VOLK M.D.

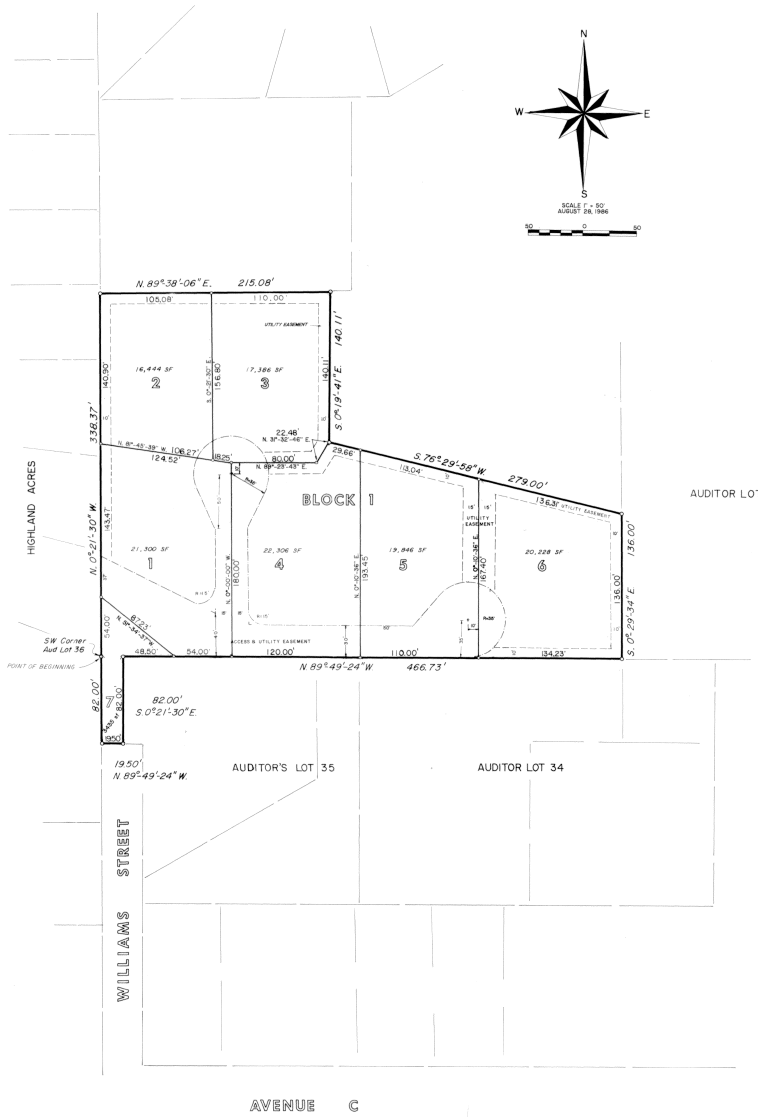
JOYCE L. VOLK

STATE OF NORTH DAKOTA)
) SS
COUNTY OF BURLEIGH)

ON THE 12TH DAY OF DECEMBER, 1986, BEFORE ME PERSONALLY APPEARED CHARLES R. VOLK AND JOYCE L. VOLK, KNOWN TO ME TO BE THE PERSONS WHO EXECUTED THE WITHIN INSTRUMENT AND ACKNOWLEDGED TO ME THAT THEY EXECUTED THE SAME.

DAVID PATIENCE NOTARY PUBLIC STATE OF NORTH DAKOTA

DAVID PATIENCE - NOTARY PUBLIC
BURLEIGH COUNTY, NORTH DAKOTA
MY COMMISSION EXPIRES 7-24-92



STATE OF NORTH DAKOTA — IN DISTRICT COURT

COUNTY OF BURLEIGH — SOUTH CENTRAL JUDICIAL DISTRICT

Grady Moore and Judy Moore, husband and wife, Erwin Neuharth and Iris Neuharth, husband and wife, Nels Skaar and Florence Skaar, husband and wife, and Kathryn Reinert,	)	
Plaintiffs,	)	Civil No. 39079
vs.	)	
Charles R. Volk, M.D., and Joyce L. Volk, husband and wife, and Michael J. Boulter and Daisy Boulter, husband and wife,	)	
Defendants.	)	

MEMORANDUM OPINION

In this declaratory judgment action the opposing sides have each asked for summary judgment.

The defendant Dr. Volk proposes to utilize Lot 14, Block 1, Highland Acres Subdivision as an access to his six platted lots in Torrance Hill Addition which adjoins Highland Acres. His subdivision is "landlocked" for access in that Williams Street, a public road to the south, does not extend to his property. Further, an access road is not feasible from the north because of the steep grade or from the east because of other existing homes. Hence he proposes to utilize Lot 14 from the west as a private access road. He has purchased (conditionally) Lot 14.

The plaintiffs assert that the protective covenants of Highland Acres Subdivision prohibit the usage of Lot 14 as proposed by Dr. Volk. The pertinent restrictive covenants state in

part: (paragraph 1) That all lots shall be known and described as residential lots or plots...and (paragraph 3) that no more than single-family occupancy shall be permitted to exist on a permanent basis on any residential building plot....

Does the proposed access use of Lot 14 violate the covenants?

The Court concludes that it does.

The covenants are not vague or ambiguous. Clearly the covenants restrict the use of the lot to a purpose of living accommodations. A road/street/access is not in keeping with that purpose.

The case law supports this conclusion as collected in the annotation at 25 ALR2d 904 and Later Case Service.

The defendants' argument that the covenants have expired is without merit. The plain wording calls for their automatic renewal each succeeding ten years. The renewal is "open-ended" and not restricted to a set number of renewals. It is in reality renewed in perpetuity in ten-year increments.

The added arguments of waiver, laches and estoppel are devoid of merit and need not be refuted by the Court in this opinion. The plaintiffs' right of action is grounded in paragraph 21 of the covenants regardless of the other subdivision owners' reticence or neglect to enforce the provisions.

Having concluded that the proposed use of Lot 14 violates the restrictive covenants, it is appropriate that the defendants be prohibited by injunction from such use. The plaintiffs' motion for summary judgment is granted and the defendants' motion is denied.

The practical consequences of the Court's decision is apparent--Dr. Volk has a subdivision which cannot be reached by himself or other prospective owners. Restrictions on the use of property are not favored, but when valid are enforceable. Other solutions to his problem include assent as described in paragraph 19 of the covenants. Or the city may need to be convinced to extend Williams Street to the north to his property. Or adjoining owners may need to assent to a private access road. And finally it may be that an easement to the property may exist as an easement of necessity. See 25 AmJur2d, Easements, §§34-38 and 28 CJS, Easements, §§30-37. This legal theory would involve a different factual situation than has been presented to the Court in this case.

Plaintiffs' counsel will prepare the concluding documents.

Dated this 6th day of August, 1987.

BY THE COURT:

Dennis A. Schneider
District Judge

Williams substandard width drainage problems

1 Those could be remedied

3

BISMARCK BOARD OF ADJUSTMENT
MEETING MINUTES
December 5, 2019

The Bismarck Board of Adjustment met on December 5, 2019, at 5:00 p.m. in the Tom Baker Meeting Room in the City-County Office Building, 221 North 5th Street. Chair Marback presided.

Members present were Jennifer Clark, Ken Hoff, Curtis Janssen, Michael Marback and Rick Wohl.

Member Chris Seifert was absent.

Staff members present were Ben Ehreth – Community Development Director, Kim Lee – Planning Manager, Brady Blaskowski – Building Official, Jannelle Combs – City Attorney, Jenny Wollmuth – Planner and Hilary Balzum – Community Development Administrative Assistant.

MINUTES:

Chair Marback called for approval of the minutes of the November 7, 2019 meeting of the Board of Adjustment.

MOTION: A motion was made by Mr. Hoff and seconded by Mr. Janssen to approve the minutes of the November 7, 2019 meeting, as presented. With Board Members Clark, Hoff, Janssen, Marback and Wohl voting in favor, the minutes were approved.

VARIANCE FROM SECTION 14-03-06(1)(B)(4) OF THE CITY CODE OF ORDINANCES (INCIDENTAL USES/ACCESSORY USES AND BUILDINGS) - LOT 2, BLOCK 5, IMPERIAL VALLEY SUBDIVISION (3651 WEST PRINCETON AVENUE)

Chair Marback stated the applicants, Jason and Nita Sherwin, are requesting variances to increase the area of accessory buildings from 1,200 square feet to 1,600 square feet and to increase the side wall height of an accessory building from 12 feet to 15 feet.

Ms. Wollmuth said the property is located outside corporate limits within the City's Extraterritorial Area (ETA) and is zoned R10 – Residential. She added that the R10 – Residential zoning district limits the total area of accessory buildings to 1,200 square feet.

Ms. Wollmuth gave an overview of the requests, 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. Wohl said this is in the same area as a previous variance granted for a similar request and asked when the requirements of the zoning ordinance changed.

Ms. Wollmuth said it was limited in 2015 for R5-Residential and R10-Residential zoning districts from 40% lot coverage to 1200 square feet with a 12-foot side wall.

(Secretary's Note: The ordinance was changed in 2015 to limit to 1,200 square feet but prior to the change the ordinance was 40% lot coverage or 1,400 square feet whichever was most restrictive.)

Chair Marback opened the public hearing.

Mr. Sherwin said this is the third home they have owned with an extended garage and bought it with the intention of building more. He said there was not a paved road at the time their house was built and they have had to add some security measures to their property due to the increased traffic. He said some of the snow and ice prevention materials the county has used have deteriorated the edge of his driveway as well.

Ms. Sherwin said they do not have any street lights and would also like more storage for privacy reasons. She said they were not informed that there are rental properties or a group home nearby when they purchased their lot and the mature trees on their property will help to obscure the proposed accessory building from view.

Mr. Janssen said when he searched for their address he was given a business name at the same location.

Mr. Sherwin explained that he does have a lawn care business as a seasonal side job and some of the equipment used for that is also for his own personal use.

Ms. Sherwin added that they have some recreational vehicles and are considering purchasing a camper which they would want to keep inside, in addition to a hydro seeder for their lawn care business that needs to be moved.

Mr. Hoff asked who maintains the streets and installs lights in Imperial Valley Subdivision. Mr. Sherwin said Burleigh County handles all of those things and their road was only recently paved because they are in a newer part of the subdivision and said that cost was assessed to benefitting property owners.

Ms. Wollmuth added that because the subdivision is in the ETA road maintenance and snow removal, like any other county property, would be maintained and developed by Burleigh County.

Mr. Wohl asked how close to the side property line the driveway for the accessory building would be. Mr. Sherwin said it would be approximately 13-15 feet away from the neighboring property line.

Ms. Clark asked if the heightened side wall is absolutely necessary. Mr. Sherwin said they would like to be allowed the higher side wall in the event they purchase a camper, but it is not a critical need.

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

Ms. Clark asked what the side wall height approved was on the previous variance request similar to this one.

Ms. Wollmuth said that request was for a 15-foot side wall and 2400 square feet. She said the Board of Adjustment approved a 15-foot side wall and 1,400 square feet which was appealed to the Board of City Commissioners which then approved a and 1,600 square foot accessory building.

Mr. Janssen said he is concerned about the overall size and feels they are setting the trend that 15-16-foot sidewalls are acceptable.

Ms. Clark said she agrees, that it would be very tall, but she also has a hard time distinguishing any differences between this property and the neighboring property that received the previous variances.

Mr. Janssen said there is a lot more separation as it relates to the property that received the previous variances of the same kind.

Chair Marback said he is not opposed to the higher side wall or the size given the trees on the property and feels it will be better hidden than most.

MOTION: A motion was made by Ms. Clark to approve the variances from Section 14-03-06(1)(b)(4) of the City Code of Ordinances (Incidental Uses/Accessory Uses and Buildings) to increase the area of accessory buildings from 1,200 square feet to 1,600 square feet and to increase the side wall height of an accessory building from 12 feet to 15 feet on Lot 2, Block 5, Imperial Valley Subdivision (3651), based on it being consistent with neighboring accessory building uses. The motion was seconded by Mr. Wohl and with Board Members Clark, Marback and Wohl voting in favor of the motion and Board Members Hoff and Janssen opposing the motion, the variance was not approved by the Board of Adjustment, as four affirmative votes are required to grant any variance under North Dakota Century Code 40-47-07, therefore the variance is denied.

VARIANCE FROM SECTION 14-03-10(3) OF THE CITY CODE OF ORDINANCES (OFF-STREET PARKING AND LOADING) – AUDITOR'S LOT H AND TRACTS 2 AND 3 OF LOT 1, BLOCK 1, NORTHERN PLAINS COMMERCE CENTRE ADDITION (2103 TRADE STREET)

Chair Marback stated the applicants, LaFarge Holcim (lessee) and the City of Bismarck (owner), are requesting a variance to eliminate the requirement to pave the access (driveway) from Trade Street to three required off-street parking spaces located adjacent to a 5,000 square foot building which is proposed to be constructed.

Ms. Wollmuth said the applicant originally indicated that the proposed building would require 15 off-street parking spaces. However, upon further review by staff, as the proposed use of the site is not specifically referenced in the zoning ordinance; the Zoning Administrator is permitted to assign required off-street parking spaces based on similar uses listed in the ordinance. She said based on the information outlining how the site would function, which was submitted with the application, it has been determined that three off-street parking spaces, one for each employee, would be required.

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 MA-Industrial 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.

Chair Marback asked if there is railroad right-of-way on either side, since the property is adjacent to a railroad spur.

Ms. Wollmuth said the applicant would likely be able to define that information best.

Ms. Clark asked what is to the south of this property and if there is the potential for development there in the future.

Ms. Wollmuth said to the south is all airport property, so further development is not likely.

Brad Krogstad, KLJ, said the road leading to the property is approximately 1500 feet long, adding that the parking area on-site would be paved. He said there is one-foot deep crushed concrete on the road now and that works well for the moving of heavy equipment, such as their concrete trucks. He said the concern with the paving requirement is that a lot of maintenance would end up being involved and it would not be cost effective. He said it would cost approximately $250,000 for asphalt and even more for concrete. He said the proposed building is proposed to be 5,000 square feet with a small office area. He added that to his knowledge there is not any railroad right-of-way easements here.

Mr. Hoff asked if the intent is to keep their current location.

Dale Demaray, LaFarge Holcim, said they would keep their location on Front Street for now since the oil boom tripled their business. He said they eventually would like to move completely, but for now they own their location on Front Street and would continue to lease the additional land from Burlington Northern Santa Fe.

Ms. Clark asked then if the variance is to not pave the road, but the parking area would still be paved.

Mr. Krogstad said that is correct, that the parking lot would be paved in addition to the sidewalk around the building and a concrete pad in the shop area.

Chair Marback opened the public hearing.

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

Mr. Hoff asked if this has all been covered with fire and the other emergency services.

Ms. Wollmuth said those items would be reviewed during the site plan approval process. Any compliance issues would need to be corrected during the review process at that time.

Ms. Clark asked if there has been requests similar to this one in the past. Ms. Wollmuth recalled one similar request for a property on Channel Drive which was denied.

MOTION: A motion was made by Mr. Wohl to approve the variance from Section 14-03-10(3) of the City Code of Ordinances (Off-street Parking and Loading) to eliminate the requirement to pave the access to the required parking in conjunction with the construction of a 5,000 square-foot building to be constructed on Auditor's Lot H and Tracts 2 and 3, Block 1, Northern Plains Commerce Centre Addition (2103 Trade Street), based on the infeasibility of paving a 1500-foot long roadway and this being an extreme case. The motion was seconded by Ms. Clark and with Board Members Clark, Hoff, Janssen, Marback and Wohl voting in favor of the motion, the motion was approved and the variance was approved.

PARKING DETERMINATION – AUDITOR'S LOTS A & B OF THE SE¼ OF THE NE¼ OF SECTION 33, T139N-R80W/CITY LANDS AND LOTS 1 & 2, BLOCK 1, REPLAT OF CALKINS ADDITION (1100 EAST BOULEVARD AVENUE)

Chair Marback stated City staff is requesting the Board of Adjustment make a parking determination in accordance with Section 14-03-10 of the City Code of Ordinances (Off-street Parking and Loading/Uses Not Specifically Listed).

Ms. Wollmuth said Lutheran Social Services is currently managing the property located at 1100 East Boulevard Avenue, previously owned and operated by Ruther Meiers Hospitality House. She said Lutheran Social Services has a purchase agreement for the property and is proposing to renovate the facility to enhance underutilized areas within the existing buildings and upgrade existing parking lots. Ms. Wollmuth further explained that the facility will include a total of 108 residential apartments with a mix of efficiency, 1, 2, and 3-bedroom units for low- and moderate-income tenants and office space for 28-30 Lutheran Social Services staff. Ms. Wollmuth added that renovations would also allow for the existing commercial kitchen, located in the main building, to be rented by local food entrepreneurs and educational partners within the community. She said the existing parking areas on site would be upgraded and hard surfaced with curb and gutter, and will include landscaping and lighting. Lutheran Social Services has indicated that 158 off-street parking spaces would be sufficient for the facility, based on their experience with similar housing projects, and as outlined in project narrative attached to the staff report.

Ms. Wollmuth went on to say the Bismarck City Commission approved a zoning change to the Conditional CA – Commercial zoning district, which allows for the mix of residential and office uses, and utilization of the commercial kitchen in September 2019. Ms. Wollmuth closed by explaining that Community Development staff have reviewed the project narrative and tentative site plan in conjunction with the proposed renovations for Boulevard Avenue Apartments, and concurs with Lutheran Social Services that 158 off-street parking spaces would be sufficient for the facility. She said as the zoning ordinance does not specifically identify parking requirements for low- and moderate-income residential units, staff is requesting the Board of Adjustment make a parking determination for the facility.

Mr. Janssen asked if there are any other properties with a similar situation. Ms. Wollmuth said there are other low- and moderate-income properties in Bismarck, but stated that current ordinances does not make any distinction based on income level. However, ordinance amendments are being drafted so for now they take into consideration various planning and traffic engineering materials which indicate parking for these types of uses to be less than the current requirements.

Mr. Wohl said there is not currently a requirement for low-income housing, but there is one for multi-family uses. Ms. Wollmuth said that is correct.

Mr. Wohl further stated this property does not fit the typical multi-family use. Ms. Wollmuth said that is also correct.

Chair Marback said at this time they just need to determine if the existing 158 on-site parking spaces are sufficient for this use.

MOTION: A motion was made by Ms. Clark to determine that the 158 existing off-street parking spaces are adequate to support the use of the facility for Auditor's Lots A & B of the SE¼ of the NE¼ of Section 33, T139N-R80W/City Lands and Lots 1 & 2, Block 1, Replat of Calkins Addition (1100 East Boulevard Avenue). The motion was seconded by Mr. Janssen and with Board Members Clark, Hoff, Janssen, Marback and Wohl voting in favor of the motion, the motion was unanimously approved and the parking determination was granted.

OTHER BUSINESS

There was no other business to discuss at this time.

ADJOURNMENT

There being no further business, Chair Marback declared the meeting of the Bismarck Board of Adjustment adjourned at 5:36 p.m. to meet again on January 2, 2020.

Respectfully Submitted,

_____
Hilary Balzum
Recording Secretary

APPROVED:

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Michael Marback, Chair

DRAFT

BISMARCK BOARD OF ADJUSTMENT
MEETING MINUTES
January 2, 2020

The Bismarck Board of Adjustment met on January 2, 2020, at 5:00 p.m. in the Tom Baker Meeting Room in the City-County Office Building, 221 North 5th Street. Chair Marback presided.

Members present were Jennifer Clark, Curtis Janssen, Michael Marback, Chris Seifert and Rick Wohl.

Member Ken Hoff was absent.

Staff members present were Ben Ehreth – Community Development Director, Kim Lee – Planning Manager, Jannelle Combs – City Attorney, Jenny Wollmuth – Planner and Hilary Balzum – Community Development Administrative Assistant.

MINUTES:

Chair Marback stated the minutes of the December 5, 2019 meeting of the Board of Adjustment would be presented again at the next meeting.

VARIANCE FROM 14-04-03(8) OF THE CITY CODE OF ORDINANCES (R5 – RESIDENTIAL/SIDE YARD) - LOT 4, BLOCK 11, SILVER RANCH ADDITION (3912 SILVER BOULEVARD)

Chair Marback stated the applicant, Premier Homes Inc., is requesting a variance to reduce the required side yard setback, located along the southern portion of the property, from six feet to four feet six inches for the construction of a proposed single-family dwelling.

Ms. Wollmuth said a building permit to construct a single-family dwelling was obtained October 30, 2019 and a lot survey indicating the placement of the proposed single-family dwelling conforming to required setbacks was submitted and reviewed prior to approval of the permit. She said a footing inspection occurred on November 21, 2019 and a foundation inspection occurred on December 3, 2019. Ms. Wollmuth said the building division passed both inspections; as the proposed single-family dwelling footings and foundation met the setback requirements according to the property pins set by the owners' surveyor. The owner's surveyor determined that the foundation of the proposed single-family dwelling was projecting approximately one foot six inches into the required side yard setback located along the southern portion of the property, as the property pins were set in the incorrect location.

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.

Mr. Wohl reiterated that no responses were received from adjacent owners and asked if the majority of the surrounding properties are still developer owned, or have been sold for development.

Ms. Wollmuth said it is some of both.

Mr. Janssen asked if there is a similar situation from the past that this could be compared to.

Ms. Wollmuth said not that she can recall from recently and indicated that possibly there may have been one like this a longer time ago.

Mr. Seifert said asked if it was platted and staked at that time then how was this caught or was it surveyed incorrectly.

Ms. Wollmuth said when the property was platted it was surveyed for building after which a building inspector measured and discovered the pins were incorrectly placed. She said those issues have all been corrected with the consulting engineer and the City Engineering Department.

Chair Marback asked if Mountain Plains was the surveyor that created the subdivision plat. Ms. Wollmuth said it was not Mountain Plains; the original plat of Silver Ranch First Addition was surveyed by another firm. She said Mountain Plains is now doing the individual lot surveys for some of the lots for construction and they discovered the issue.

Brian Zuroff, Mountain Plains, said both of the requests on the agenda today have the same issue. He said the coordinates were labeled and monumented and built in their system based off of what was on the plat, so what was on the plat is what was surveyed and staked by their surveyor. He said when inspecting the foundations, they found they did not line up and worked with City staff right away to correct it so that these would be the only ones with issues.

Mr. Seifert asked who originally engineered and surveyed the subdivision.

Mr. Zuroff said it was another local firm.

Mr. Janssen asked if all of the lots are wrong or just some. Mr. Zuroff said they are measured in relation to each other and in relation to the coordinates and measurements. He said the measurements for the two properties they surveyed are off by 4 feet in the east and west direction and 1.1 feet in the north and south direction.

Chair Marback opened the public hearing.

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

Chair Marback said there have been situations in the past where a house was placed incorrectly, that it is rare, but never as a result of an incorrect survey.

Mr. Janssen said this is complicated being a new development, but there is a level of professionalism to do right and there are insurances to cover these types of mistakes. He said if the plat was wrong, other means and methods could have been taken preventively to correct it. He said this could have been discovered ahead of time and the responsible party is the one that can make it right again.

Ms. Clark said 18 inches is generally not alot, but this is only a 6-foot side yard to begin with, so it is a significant portion in this case.

Mr. Wohl said the final property owners being affected are not known at this time and so are not able to be here to say anything. He said he feels this would set a precedent.

MOTION: A motion was made by Mr. Seifert to approve the variance from Section 14-04-03(8) of the City Code of Ordinances (R5 – Residential/Side Yard) to reduce the required side yard setback, located along the southern portion of the property, from six feet to four feet six inches for the construction of a proposed single-family dwelling on Lot 4, Block 11, Silver Ranch First Addition, based on this being a mistake that has now created a hardship with the foundation and footings having already been poured. The motion was seconded by Ms. Clark and with Board Members Clark, Seifert and Marback voting in favor of the motion and Board Members Janssen and Wohl opposing the motion, the variance was not approved by the Board of Adjustment, as

four affirmative votes are required to grant any variance under North Dakota Century Code 40-47-07, therefore the variance is denied.

VARIANCE FROM SECTION 14-04-03(7) OF THE CITY CODE OF ORDINANCES (R5 – RESIDENTIAL/FRONT YARD) – LOT 26, BLOCK 10, SILVER RANCH ADDITION (4011 SILVER BOULEVARD)

Chair Marback stated the applicant, Premier Homes Inc., is requesting a variance to reduce the required front yard setback located along the western portion of the property, adjacent to Silver Boulevard, from 25 feet to 21 feet for the construction of a single-family dwelling.

Ms. Wollmuth said a building permit to construct a single-family dwelling was obtained October 30, 2019 and a lot survey indicating the placement of the proposed single-family dwelling conforming to required setbacks was submitted and reviewed prior to approval of the permit. She then said a footing inspection occurred on November 14, 2019 and a foundation inspection occurred on November 15, 2019. Ms. Wollmuth said both passed inspection; however, while performing an inspection on an adjacent property, the owner's surveyor determined that the foundation of the proposed single-family dwelling was projecting approximately 4 feet into the required front yard setback located along the western portion of the property, adjacent to Silver Boulevard, as the property pins were set incorrectly.

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.

Chair Marback opened the public hearing.

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

MOTION: A motion was made by Mr. Wohl to deny the variance from Section 14-04-03(7) of the City Code of Ordinances (R5 – Residential/Front Yard) to reduce the required front yard setback located along the western portion of the property, adjacent to Silver Boulevard, from 25 feet to 21 feet for the construction of a proposed single-family dwelling on Lot 26, Block 10, Silver Ranch Addition (4011 Silver Boulevard). The motion was seconded by Mr. Janssen and with Board Members Clark, Janssen, Marback, Seifert and Wohl voting in favor of the motion, the motion was approved and the variance was denied.

OTHER BUSINESS

BYLAWS

The bylaws were presented included with the meeting packet for approval at this time.

MOTION: A motion was made by Ms. Clark to approve the bylaws as presented. The motion was seconded by Mr. Seifert and with Board Members Clark, Janssen, Marback, Seifert and Wohl voting in favor of the motion, the motion was unanimously approved.

CITY ATTORNEY COMBS

Ms. Combs said she is giving all of the City Boards and Commissions a refresher on some of the meeting rules and requirements. She said there was a memo shared that can be included with these meeting minutes. She said one of the main items is the need for there to be four votes in favor of a variance for it to be approved, but other items brought before this Board only need a majority, such as the bylaws. She said there is also information in the memo regarding amending motions and other procedural items, such as opening and closing public hearings. She said this Board always makes a motion for discussion, which is great, along with waiting until a public hearing is closed to hold discussion. She said any motion by this Board requires having a basis of a finding modified, which can never be a cost related finding. She reminded everyone that they are subject to open records requests and to be cautious of having serial conversations on agenda items so as to not violate any open meeting laws.

Chair Marback asked how to address the issue of applicants calling all of the Board members and if they are allowed to ask if they have already visited with other Board members. Ms. Combs said it is helpful to ask that question and indicated that the Attorney General would call that an open meeting. She said it needs to be made certain that the general public can see and hear any and all proceedings and to use caution with e-mails as well. She said those can be subject to open records requests and she, as well as Planning staff, is always available for consultation as needed.

Mr. Janssen asked if emails asking for general information should also be forwarded to Planning staff. Ms. Combs said that is the best and safest practice and those items can then be included in the meeting minutes as well.

Ms. Combs points are attached as Exhibit A.

Chair Marback informed those present that the November 2020 meeting of the Board of Adjustment will need to be held on a different date due to a conflict with the Burleigh County Commission meeting and election week.

Ms. Wollmuth said the day before and the day after the regular date, either November 4th or November 6th, are both available.

Chair Marback said a Wednesday is more preferable and to please put that meeting on the books for November 4th.

Ms. Wollmuth said the election of officers will be on the next meeting agenda.

There was no other business to discuss at this time.

ADJOURNMENT

There being no further business, Chair Marback declared the meeting of the Bismarck Board of Adjustment adjourned at 5:27 p.m. to meet again on February 6, 2020.

Respectfully Submitted,

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Hilary Balzum
Recording Secretary

APPROVED:

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Michael Marback, Chair