



Community Development Department

BISMARCK BOARD OF ADJUSTMENT MEETING AGENDA

May 6, 2021

Tom Baker Meeting Room

5:00 p.m.

City-County Office Building

SPECIAL NOTICE ON PUBLIC PARTICIPATION

Watch live meeting coverage on Government Access Channels 2 & 602HD, listen to Radio Access 102.5 FM Radio, or stream FreeTV.org and RadioAccess.org. Agenda items can be found at www.bismarcknd.gov/agendacenter.

Due to ongoing public health concerns related to COVID-19, the City of Bismarck is encouraging citizens to provide their comments via email to jwollmuth@bismarcknd.gov. All comments must include the name of the commenter to be made part of the official record. The comments will be sent to the Bismarck Board of Adjustment prior to the meeting and included in the minutes of the meeting. To ensure your comments are received and distributed prior to the meeting, please submit them by 12 noon on the day of the meeting and reference the agenda item your comment addresses.

If you would like to appear via video or audio link for the public input / comment section of the agenda, please provide your e-mail address and contact information to jwollmuth@bismarcknd.gov, at least one business day before the meeting.

The physical meeting room will be open to the public, but we certainly understand the public wishing to limit their exposure at this time, while still participating in government. Before entering the City-County Office Building, all individuals should self-screen for COVID-19 symptoms or potential exposure and, if unable to pass the screening protocol, will be expected to participate remotely in the meeting for the public's safety.

It is anticipated that some of the Bismarck Board of Adjustment members will be attending this meeting in person and others will be participating remotely.

Full agenda starts on next page.



MINUTES

1. Consider approval of the minutes of the April 1, 2021 meeting of the Bismarck Board of Adjustment.

CONTINUED PUBLIC HEARING

2. **Section 14-4-01(5) of the City Code of Ordinances (RR – Residential / Side Yard)**
Lot 23, Block 2, Copper Ridge Subdivision (5627 Kayley Drive) | VAR2021-003

Owner / Applicant: Aaron Jaramo and Jerri Buchmiller

Board Action: ☐approve ☐continue ☐table ☐deny.....1

OTHER BUSINESS

3. **Other Business.**
 - a. Member terms and application process.
 - b. Bismarck Community Development Map.

ADJOURNMENT

4. **Adjournment.** The next regular meeting date is scheduled for **June 3, 2021.**



STAFF REPORT

City of Bismarck
Community Development Department
Planning Division

Agenda Item # 2

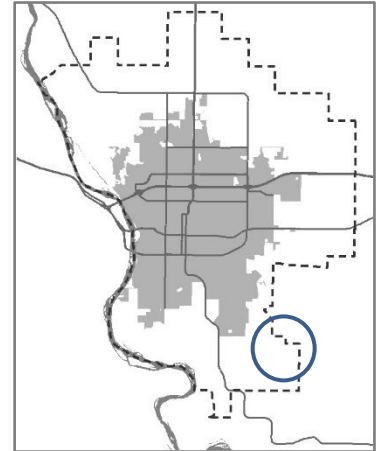
May 6, 2021

Application for: Variance

TRAKiT Project ID: VAR2021-003

Project Summary

Title:	Lot 23, Block 2, Copper Ridge Subdivision (5627 Kayley Drive)
Status:	Board of Adjustment
Owner(s):	Aaron Joramo and Jerri Buchmiller
Project Contact:	Aaron Joramo
Location:	South of Bismarck, south of 62 nd Avenue SE and west of 52 nd Street SE, along the south side of Kayley Drive
Request:	Variance from Section 14-04-01(5) of the City Code of Ordinances (RR – Residential / Side Yard)



Staff Analysis

Aaron Joramo and Jerri Buchmiller are requesting a variance to reduce the required side yard setback, located along the west side of their property, from 15 feet to 11.5 feet in order to construct a 2,304 square foot accessory building.

At the request of staff, the Board of Adjustment, during their April 1, 2021 meeting, continued the public hearing for the proposed variance. Staff indicated to the Board that an error was made, and the applicant was notified of the wrong meeting date for the public hearing.

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(5) of the City Code of Ordinances (RR – Residential / Side Yard) states, "Each lot shall have two (2) side yards, one on each side of the principal and accessory buildings. Each side yard shall

be no less than fifteen (15) feet in width. No building on a corner lot shall have a side yard on the side street less than forty (4) feet in width." The property is not located on a corner lot and according to the site plan submitted with the application, the proposed accessory building would be setback 11.5 feet from the west property line.

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 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.

(continued)

Attachments

1. Location Map
 2. Aerial Map
 3. Site exhibit
 4. Written Statement of Hardship
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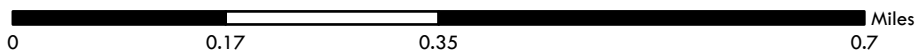
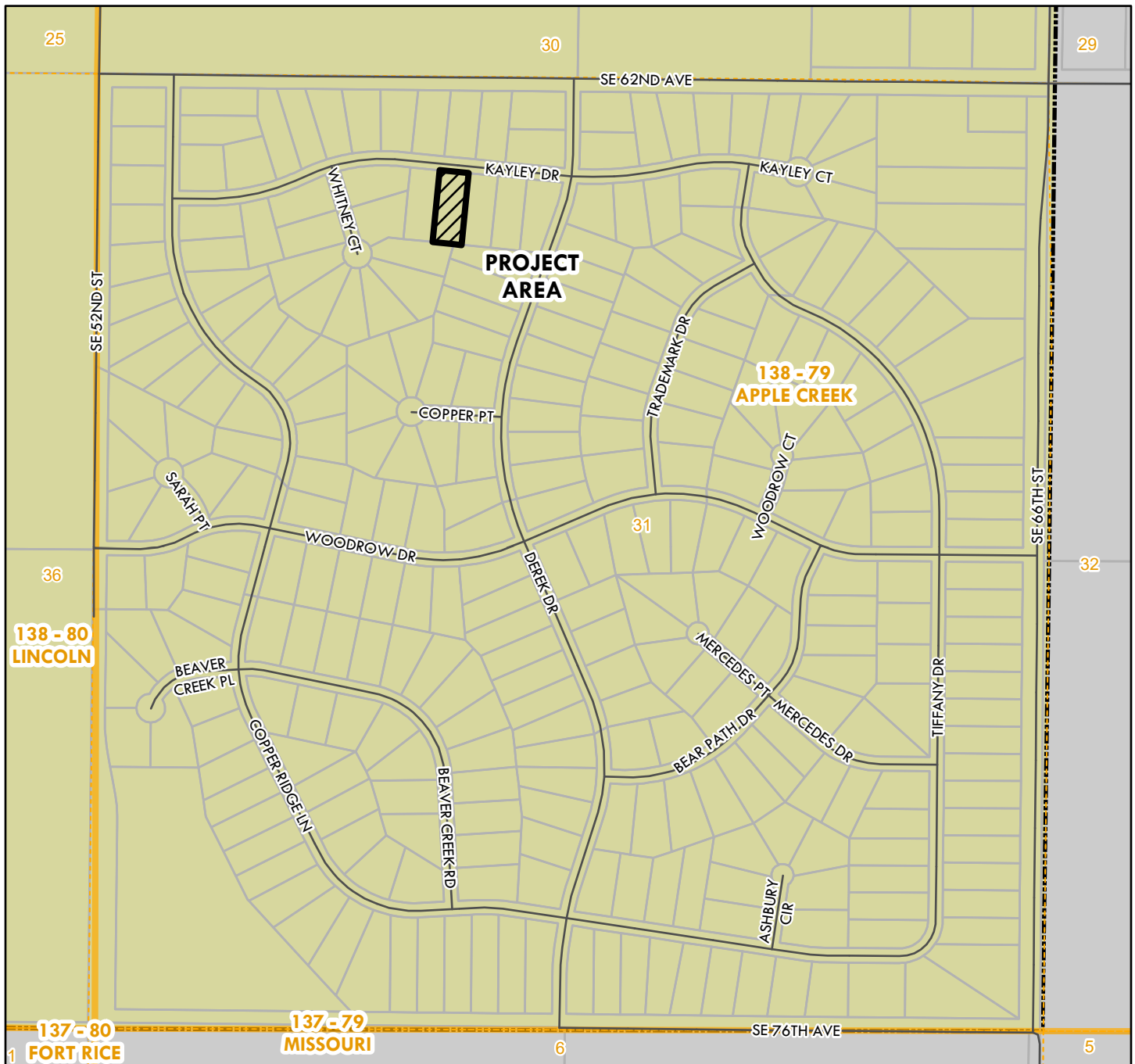
Staff report prepared by: Jenny Wollmuth, AICP, CFM, Senior Planner
701-355-1845 | jwollmuth@bismarcknd.gov



Location Map

COPPER RIDGE SUBDIVISION, L23, B2

VAR2021-003

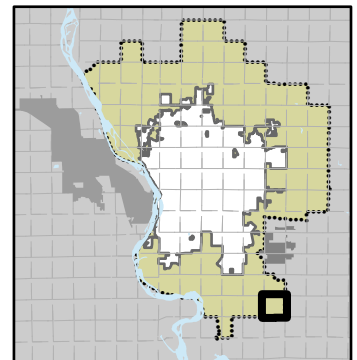


-  Bismarck ETA Jurisdiction
-  County Outside ETA

City of Bismarck
Community Development Department
Planning Division
March 26, 2021 (HLB)

*Section, township, and
range indicated in orange*

*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.*

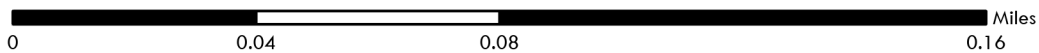




Aerial Map

COPPER RIDGE SUBDIVISION, L23, B2

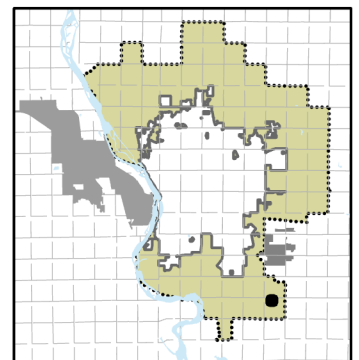
VAR2021-003

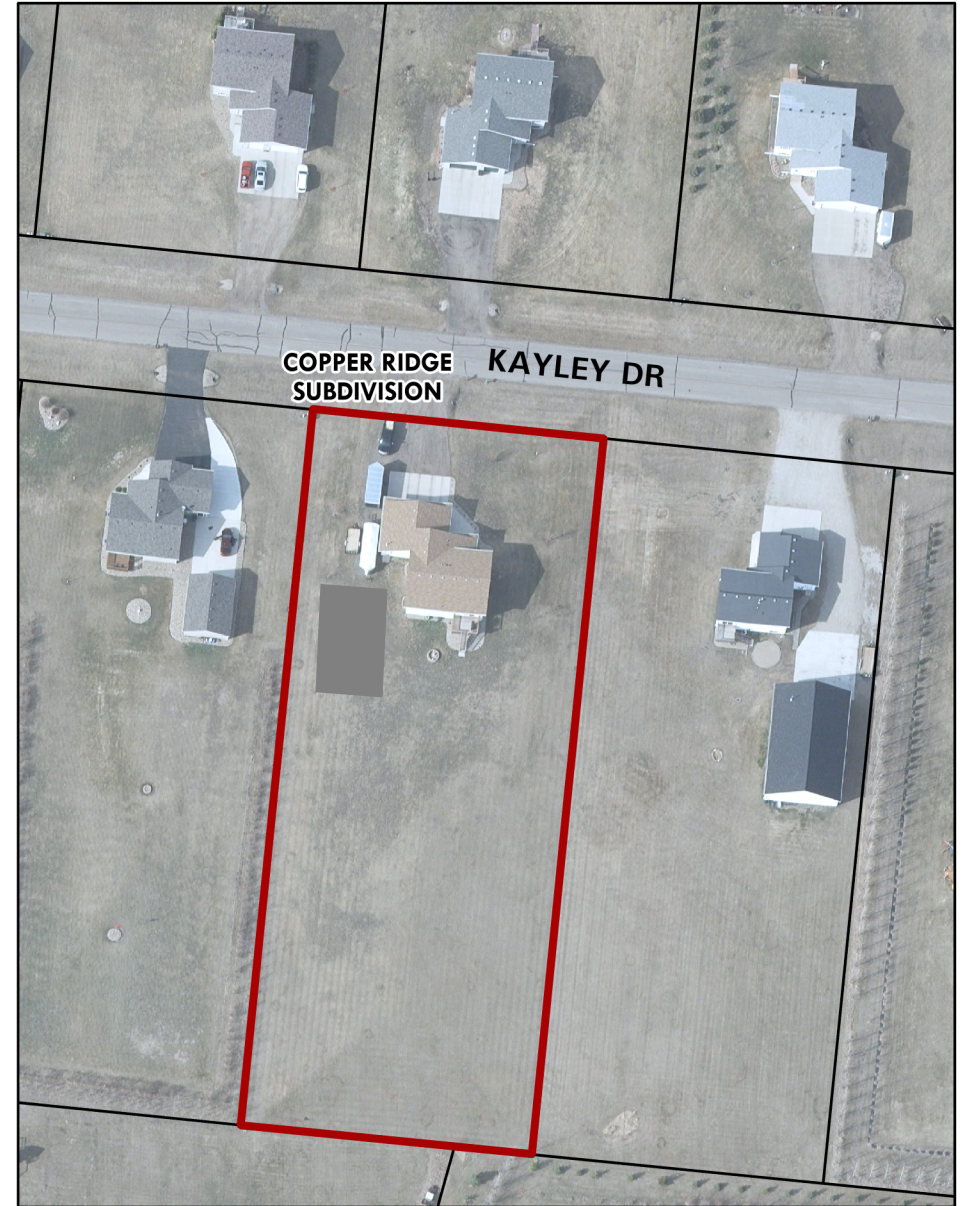
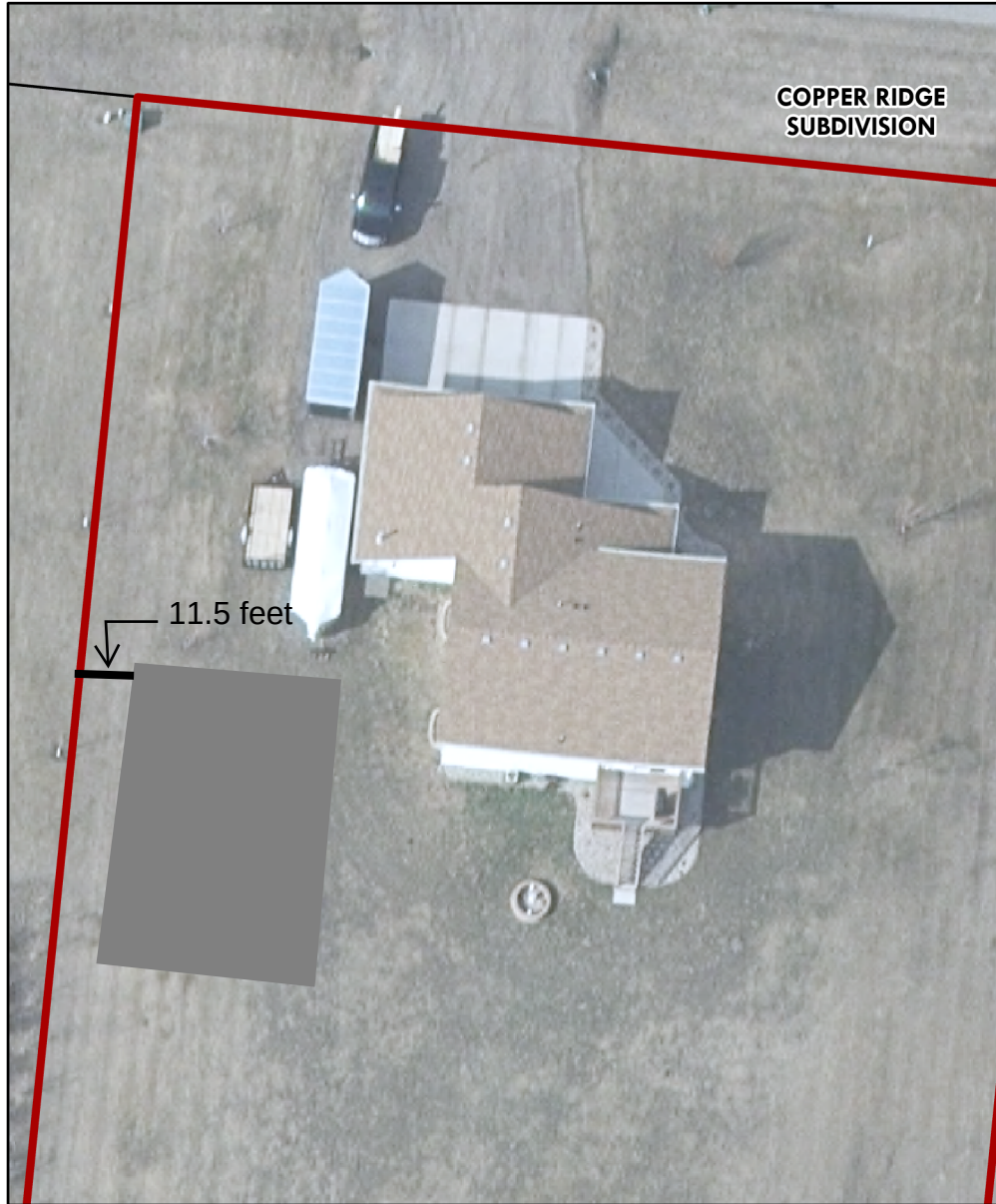


Aerial Imagery from April 2020

City of Bismarck
Community Development Department
Planning Division
March 23, 2021

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.





Request: Variance from Section 14-04-01(5) of the City Code of Ordinances (RR-Residential / Side Yard) to reduce the required side yard setback along the west side of the property from fifteen (15) feet to eleven and a half (11.5) feet in order to construct a 2,304 square-foot detached accessory building

With Variance

Car

Crushed
Rock

Utility Lines

21 ft

Horse

15' 6"

N

10 1/2 post

11' 6"

M

Property Line

5' 11"

Drain Field

10 ft

36 x 64
Shop

S

Drawing #2

No holes on utility
Lines Both sides

Neighbor is willing to sign off
on variance, he has no problem
with 10' 6" off property line.

W. front
various

Clush Room
Drive way

13 ft
from
garage

10 ft
from
House

H

No post on utility lines
here

36 x 64
Shop

Septic
11 ft

S

Utility line

Possibly two post on utility lines

Building is 8' on center
for columns

Drawing
#1

15
3

Order Line



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)

5627 Kayle Dr. Bismarck, ND 58504

Location of Property:

☐ City of Bismarck

☒ ETA

Type of Variance Requested:

We are requesting a variance for 11' 6" off the west property line.

Applicable Zoning Ordinance:
(Chapter/Section)

14-04

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.)

Two issues arose when staking shop on the property - 1) When the shop is placed 15 ft from the west property line we are 10 ft from the house and this would place the NW corner pole of the shop directly on top of utility lines. 2) Moving the shop farther south behind the house places the shop on/near the septic tank drain field leach lines - they travel SW across the property.

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

The shop size purchased for our needs is 36 x 64. The size of the shop is similar to neighbors in the area.

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

The variance requested allows for less than 4 feet of encroachment on our side of the property line. The neighbors to the west are willing to sign off on the variance. This still keeps the shop 11 ft away from the neighbors tree row.

BISMARCK BOARD OF ADJUSTMENT
MEETING MINUTES
April 1, 2021

The Bismarck Board of Adjustment met on April 1, 2021, at 5:00 p.m. in the Tom Baker Meeting Room in the City-County Office Building, 221 North 5th Street. Due to ongoing public health concerns related to COVID-19, the meeting was held via Zoom. Chair Marback presided and was present in the Tom Baker Meeting Room.

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

Staff members present were Hilary Balzum – Community Development Administrative Assistant, Brady Blaskowski – Building Official/Floodplain Administrator, Jannelle Combs – City Attorney, Ben Ehreth – Community Development Director and Jenny Wollmuth – Senior Planner.

MINUTES:

Vice Chair Clark called for approval of the minutes of the February 4, 2021 meeting of the Board of Adjustment.

Mr. Seifert indicated to switch around the member who made the motion and who seconded the motion on page 3 of the minutes.

MOTION: A motion was made by Mr. Hoff and seconded by Mr. Seifert to approve the minutes of the February 4, 2021 meeting, with the noted correction. With Board Members Clark, Janssen, Hoff, Wohl and Seifert voting in favor, the minutes were approved.

Chair Marback joined the meeting at this time.

VARIANCE FROM SECTION 14-04-01(5) OF THE CITY CODE OF ORDINANCES (RR – RESIDENTIAL / SIDE YARD) – LOT 23, BLOCK 2, COPPER RIDGE SUBDIVISION (5627 KAYLEY DRIVE)

Chair Marback stated the applicants, Aaron Joramo and Jerri Buchmiller, are requesting a variance to reduce the required side yard setback, located along the west side of their property, from 15 feet to 11.5 feet in order to construct a 2,304 square foot accessory building on Lot 23, Block 2, Copper Ridge Subdivision (5627 Kayley Drive). The property is located south of Bismarck, south of 62nd Avenue SE and west of 52nd Street SE, along the south side of Kayley Drive.

Ms. Wollmuth then gave the following findings for all variances:

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 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.

Ms. Wollmuth then shared that it has been discovered by City staff that the applicant was mistakenly informed of the wrong meeting date for this meeting and it is recommended that the request be continued to the May 6th meeting of the Board of Adjustment.

MOTION: A motion was made by Mr. Seifert to continue the request for a from Section 14-04-01(5) of the City Code of Ordinances (RR – Residential / Side Yard) to reduce the required side yard setback, located along the west side of their property, from 15 feet to 11.5 feet in order to construct a 2,304 square foot accessory building to be located on Lot 23, Block 2, Copper Ridge Subdivision (5627 Kayley Drive), to allow time for staff to inform the applicant of the correct meeting date and to renotify the adjacent property owners of the request. The motion was seconded by Mr. Janssen and with Board Members Clark, Hoff, Janssen, Marback, Seifert and Wohl voting in favor of the motion, the motion was unanimously approved and the variance request was continued to the May 6th meeting of the Board of Adjustment.

OTHER BUSINESS

MEMBER TERMS AND APPLICATION PROCESS

Ms. Wollmuth said Mr. Hoff and Ms. Clark have expiring terms and the process would be for them to reapply for those positions if they wish to do so. She said Mayor Bakken would provide a recommendation of appointments to the City Commission.

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 5:10 p.m. to meet again on May 6, 2021.

Respectfully Submitted,

Hilary Balzum
Recording Secretary

APPROVED:

Michael Marback, Chair

DRAFT