



BOARD OF ADJUSTMENT

MEETING AGENDA

August 5, 2021

Tom Baker Meeting Room	5:00 p.m.	City-County Office Building
The City of Bismarck is encouraging citizens to provide their comments via email to jwollmuth@bismarcknd.gov. The comments will be sent to the Board of Adjustment members prior to the meeting and included in the minutes of the meeting. To ensure that comments are compiled and forwarded to the Board of Adjustment with enough time to review all comments, please submit your comments no later than 12 noon the day of the meeting. Comments should also include which agenda item number or topic your comment references and your name (anonymous comments will not be forwarded		to the Board of Adjustment members or included in the minutes of the meeting). If you would like to appear via video or audio link for a 3-5-minute comment on a public hearing item, please provide your e-mail address and contact information to jwollmuth@bismarcknd.gov at least one business day before the meeting. As always, live meeting coverage is available on Government Access Channels 2 & 602HD, Radio Access 102.5 FM Radio, or stream FreeTV.org and RadioAccess.org.
Item No.		Page No.

MINUTES

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

PUBLIC HEARINGS

2. **Section 14-04-03(6) of the City Code of Ordinances (R5 – Residential / Lot Coverage)** Part of Lot 3, Block 6, Northern Pacific Addition (707 North Washington Street) | VAR2021-007

Owner / Applicant: Sherri Potter

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



3. **Section 14-04-19(6)(b)(5)(a) of the City Code of Ordinances (FP-Floodplain District)** Lot 1 less the East 40 feet, Block 7, Fox Island Second Subdivision (3005 Deer Lodge Drive) | VAR2021-006

Owner / Applicant: Don Roloff

Board Action: ☐approve ☐continue ☐table ☐deny 7

4. **Appeal of Notice and Order** - The South 9 feet of Lot 15 and the North 33 feet of the vacated Palmer Avenue, Block 6, Haight and Little's Addition (1800 North 14th Street) | APPL2021-001

Owner: Algie Mahto and Rosalind Walks

Applicant: Leisha Aaseth

Board Action: ☐approve ☐continue ☐table ☐deny 17

OTHER BUSINESS

5. **Other Business:**
- a. Update on Zoning Ordinance Text Amendment relating to accessory structures located within the Special Flood Hazard Area (SFHA)
 - b. Update on appeal of the November 4, 2020 decision to deny a variance to Bryan Skager

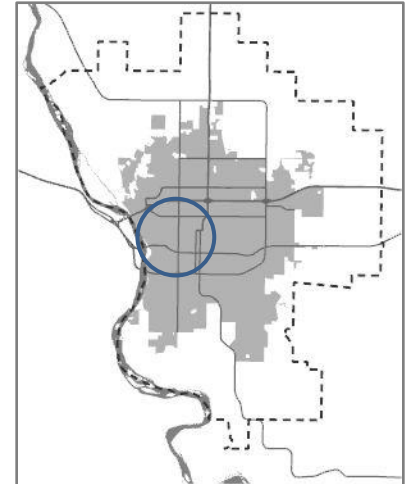
ADJOURNMENT

6. **Adjourn:** The next regular meeting date is scheduled for **September 2, 2021**

Enclosures: Meeting Minutes of July 1, 2021

Project Summary

<i>Title:</i>	Part of Lot 3, Block 6, Northern Pacific Addition (707 North Washington Street)
<i>Status:</i>	Board of Adjustment – Public Hearing
<i>Owner(s):</i>	Sherri Potter
<i>Project Contact:</i>	Todd Freitag, Sparling Construction
<i>Location:</i>	In central Bismarck, along the east side of North Washington Street, between East Avenue C and East Avenue D
<i>Request:</i>	Variance from Section 14-04-03(6) of the City Code of Ordinances (R5 – Residential / Lot Coverage)



Staff Analysis

Sherri Potter is requesting a variance to increase the maximum lot coverage from 30% to 36% in order to demolish an existing 9'5"x17'3" attached garage and construct a 12'x24' addition with a garage to the existing single-family dwelling.

Background information

The property is zoned R5 – Residential. This zoning district permits single-family dwellings, establishes minimum lot sizes, lot widths and building setbacks, and maximum lot coverage. The property is non-conforming, as it does not meet the minimum lot size, lot width, building setbacks, or maximum lot coverage for a property located within the R5 – Residential zoning district.

The zoning ordinance allows additions to existing non-conforming properties, provided that proposed additions do not encroach further into required building setbacks and do not increase the lot coverage.

The proposed addition would not extend further into required side or rear building setbacks but would increase the lot coverage for the property.

A property's lot coverage is determined by adding the ground area of all existing and proposed buildings, including covered decks and porches.

Additional Information

The public has been notified of this request. Sixty-one (61) letters were mailed to the owners of nearby properties on July 23, 2021.

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 owners, as distinguished from a mere

(continued)

inconvenience or desire to increase the financial return.”

Section 14-04-03(6) of the City Code of Ordinances (R5 – Residential / Front Yard) states, “the ground area occupied by the principal and accessory buildings shall not exceed thirty percent (30%) of the total area of the lot.”

According to the information submitted with the application, the proposed addition would increase the lot coverage from 30% to 36%.

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
3. Site Plan
4. Written Statement of Hardship

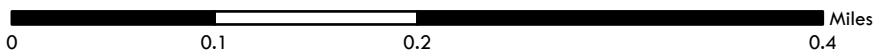
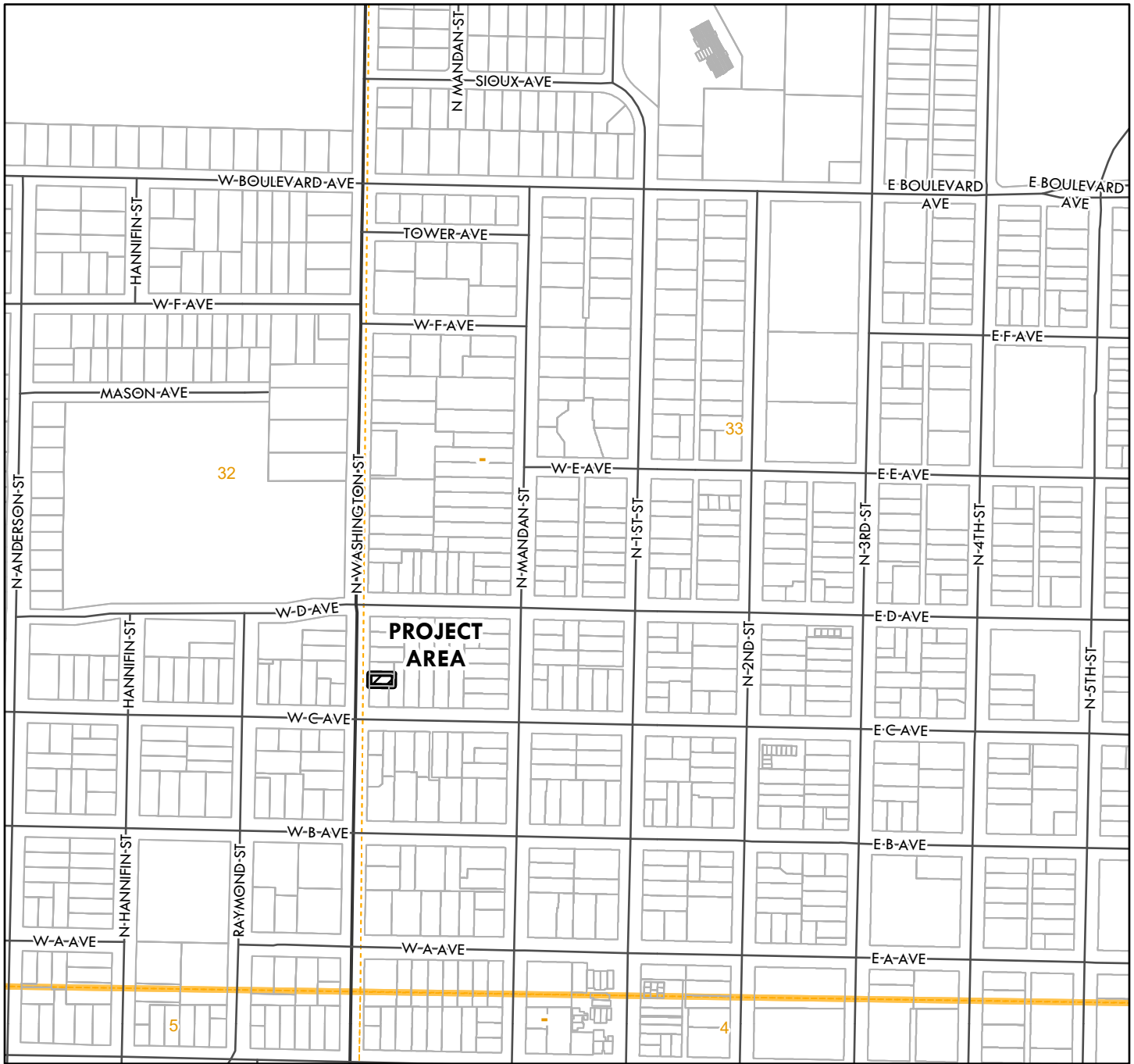
Staff report prepared by: Jenny Wollmuth, AICP, CFM, Senior Planner
701-355-1845 | jwollmuth@bismarcknd.gov



Location Map

NORTHERN PACIFIC ADDITION, PT L3, B6

VAR2021-007



City Limits



County Outside ETA

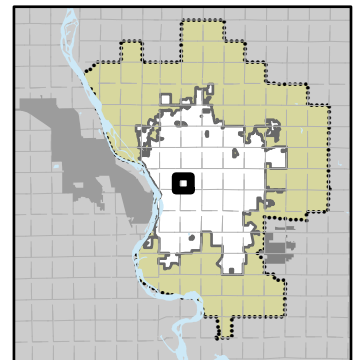


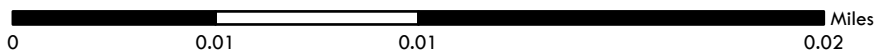
Bismarck ETA Jurisdiction

City of Bismarck
Community Development Department
Planning Division
July 21, 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.*





 City Limits  Bismarck ETA Jurisdiction

Aerial Imagery from April 2020

City of Bismarck
Community Development Department
Planning Division
July 21, 2021

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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)

JUL 0 9 2021

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

PROPERTY INFORMATION

Property Address or Legal Description:
(Lot, Block, Addition/Subdivision)

707 N. Washington St. Bismarck ND 58501

Location of Property:

☒ City of Bismarck

☐ ETA

Type of Variance Requested:

Side and Rear Yard ^{Setback} Variance

Applicable Zoning Ordinance:
(Chapter/Section)

R5

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.)

I'm not easily able to go up and down my steep stairs to use the laundry or get to my storage room. They are very narrow and don't have grab bars. I've had ankle surgery on both of my ankles and my balance isn't good, and I'm now starting to have knee issues. I plan to age in place here and I feel it's time to move my laundry upstairs.

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

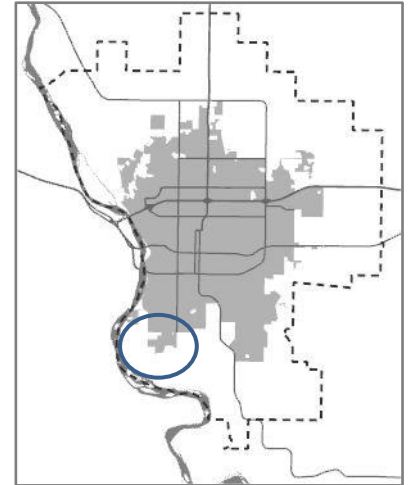
I currently have no room to move my laundry upstairs this is why I want the addition. I also have an Uncle living with me and one bathroom on the main floor which is very small and not enough because one of us has to go downstairs to use the bathroom often if other is in use. This is the reason for the second half bath. My home is very small and I need all the storage I can get. I can't afford to sell and buy a new home so I need to stay here.

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

I already use most of the same area with my existing dilapidated garage. With the addition, I would be moving further away from (south) property line in back and staying the same distance away from back (East). I am simply adding on to the North so house will be flush instead of jutting in around the corner.

Project Summary

<i>Title:</i>	Lot 1 less the East 40 feet, Block 7, Fox Island Second Subdivision (3005 Deer Lodge Drive)
<i>Status:</i>	Board of Adjustment – Public Hearing
<i>Owner(s):</i>	Don Roloff
<i>Project Contact:</i>	Don Roloff
<i>Location:</i>	South of Bismarck, south of Mills Avenue and west of South Washington Street, in the southeast quadrant of the intersection of Larson Road and Deer Lodge Drive
<i>Request:</i>	Section 14-04-19(6)(b)(5)(a) of the City Code of Ordinances (FP-Floodplain District)



Staff Analysis

Don Roloff is requesting a variance to allow the construction of an addition to an existing single-family structure, which is located within the Special Flood Hazard Area (SFHA) or 100-year floodplain, to be constructed below the elevation requirement outlined in the City zoning ordinance.

Background Information

The existing single-family dwelling is considered a post-FIRM building, as it was constructed after the first Flood Insurance Rate Map (FIRM) was created for the community. The proposed addition is not considered a substantial improvement, as the cost of the addition is not valued more than 50% of the existing single-family dwelling.

The existing single-family dwelling was constructed in 2007. At that time, the zoning ordinance required a residential structure to be constructed at least one foot above the Base Flood Elevation (BFE). The zoning ordinance allows the construction of an addition that is not

considered a substantial improvement to be constructed at the same elevation as the building if the building is elevated at least one foot above the BFE.

According to our records, the living area portion of the single-family dwelling is located one foot above the BFE. However, the attached garage is located approximately 2.5 inches above the BFE. Since the attached garage is less than one foot above the BFE, the entire structure is considered to be less than one foot above the BFE for purposes of applying the provisions of the FP-Floodplain District.

If approved as proposed, the addition to the single-family dwelling would be at the same elevation as the living portion of the single-family dwelling, which is one foot above the BFE.

Additional Information

The public has been duly notified of this request. Sixty-nine (69) letters were mailed to the owners of nearby properties on July 23, 2021.

The City of Bismarck and its ETA are a participating community in the National Floodplain Insurance Program (NFIP) Community Rating System (CRS). The CRS is a program that recognizes and encourages floodplain management activities that exceed the minimum NFIP requirements. As a result, flood insurance premium rates may be discounted for policy holders to reflect the reduced flood risk resulting from meeting the goals of the CRS program.

Variances from the provisions outlined in the FP – Floodplain zoning district and subsequent findings to support a variance may be subject to additional review by Hazard Program Specialists with the NFIP. Variances may impact the community's eligibility for participation in the NFIP. By participating in the NFIP, residents of the City of Bismarck and its ETA are eligible for flood insurance.

The CRS designation is awarded to communities that go above and beyond FEMA and State of North Dakota floodplain management practices. Approval of a variance from the provisions in the FP – Floodplain District in the Zoning Ordinance may result in removal of the City of Bismarck and its ETA from the program, which may cause discounted insurance premiums to rise.

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 owners, as distinguished from a mere

inconvenience or desire to increase the financial return."

Section 14-04-19(6)(b)(5)(a) of the City Code of Ordinances (FP-Floodplain District / Additions to existing structures) states, "Any addition to any existing residential structure, non-residential structure, manufactured home, garage, deck, landing or accessory building that is considered a post-FIRM building and is not deemed a substantial improvement may be constructed with the lowest floor at the same elevation as the existing structure, provided the lowest floor of the existing structure is elevated on fill and/or a permanent foundation to at least one (1) foot above the Base Flood Elevation (BFE). Any addition to any existing residential structure, non-residential structure, manufactured home, garage, deck, landing or accessory building that is considered a pre-FIRM building and is not building and is not deemed a substantial improvement may be constructed with the lowest floor at the same elevation as the existing structure." According to the information submitted with the application, the living portion of the single-family dwelling is located one foot above the BFE, but the attached garage is located approximately 2.5 inches above the BFE. The applicant has indicated that the proposed addition will be constructed at the same elevation as the living portion of the existing single-family dwelling.

Required Findings of Fact | Any Variance

1. The need for a variance is not based on special circumstances or conditions unique to the specific parcel of land involved that are not generally applicable to other properties in this area and within RR - Residential zoning district.
2. The hardship is not caused by the provisions of the Zoning Ordinance.

(continued)

3. Strict application of the provisions of the Zoning Ordinance would not deprive the property owner of the reasonable use of the property.
4. The requested variance is not the minimum variance that would accomplish the relief sought by the applicant.
5. The granting of the variance is not in harmony with the general purposes and intent of the Zoning Ordinance.

Additional consideration for variances from floodplain provisions

1. In considering appeals and variance applications, and in addition to the requirements outlined in Section 14-06-02 of the City Code of Ordinances (Powers and Duties), the Board of Adjustment shall consider all technical evaluations, all relevant factors, and the standards specified in this section, including:
2. The danger to life and property due to flooding or erosion damage;
3. The danger that materials may be swept onto other lands to the injury of others;
4. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
5. The importance of the services provided by the proposed facility to the community;
6. The necessity to the facility of a waterfront location, where applicable;
7. The availability of alternative locations for the proposed use, which are not subject to flooding or erosion;
8. The compatibility of the proposed use with the existing and anticipated development;

9. The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
10. The safety of access to the property in times of flood for ordinary and emergency vehicles;
11. The expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site; and
12. The costs of providing governmental services during and after flood conditions, including maintenance and repair of utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.

Required Findings of Fact | Floodplain Variance

1. The proposed accessory building may increase flood levels during the base flood discharge.
2. The variance is not the minimum necessary, considering the flood hazard, to afford relief.
3. The applicant has not shown good and sufficient cause for granting the variance.
4. A failure to grant the variance would not result in exceptional hardship to the applicant.
5. The granting of the variance may result in increased flood heights, additional threats to public safety and conflict with existing local laws or ordinances. However, it is doubtful the granting of the variance would cause fraud or victimization of the public.

Staff Recommendation

Staff recommends reviewing the above findings, identifying a hardship and modifying the findings as necessary to support the decision of the Board.

(continued)

Attachments

1. Location Map
2. Aerial Map
3. Site Plan
4. Elevation Certificate
5. Written Statement of Hardship

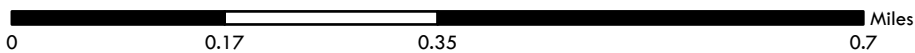
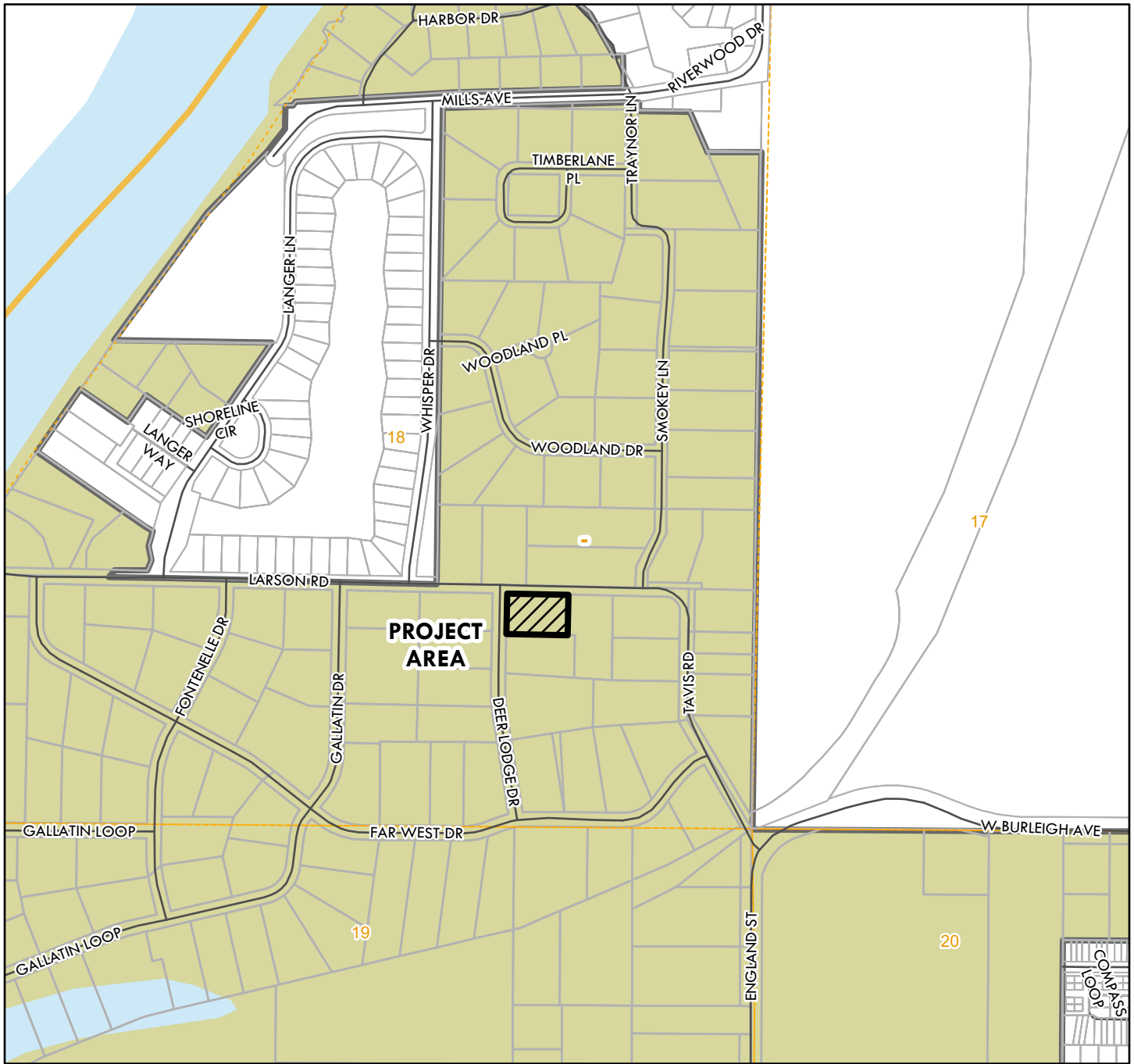
Staff report prepared by: Jenny Wollmuth, AICP, CFM, Senior Planner
701-355-1845 | jwollmuth@bismarcknd.gov



Location Map

FOX ISLAND SECOND SUBDIVISION, L1, B7

VAR2021-006



City Limits



County Outside ETA

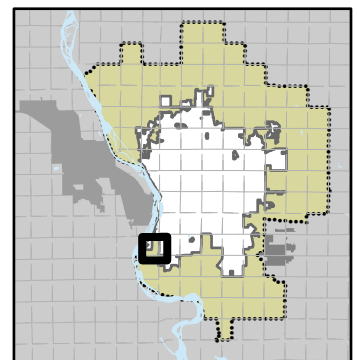


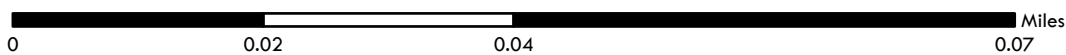
Bismarck ETA Jurisdiction

City of Bismarck
Community Development Department
Planning Division
July 20, 2021 (HLB)

*Section, township, and
range indicated in orange*

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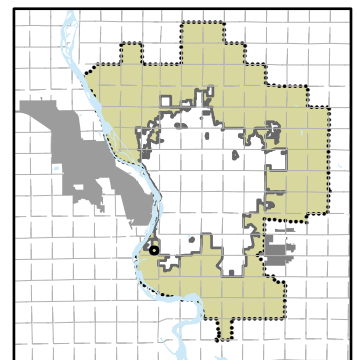


 Bismarck ETA Jurisdiction

Aerial Imagery from April 2020

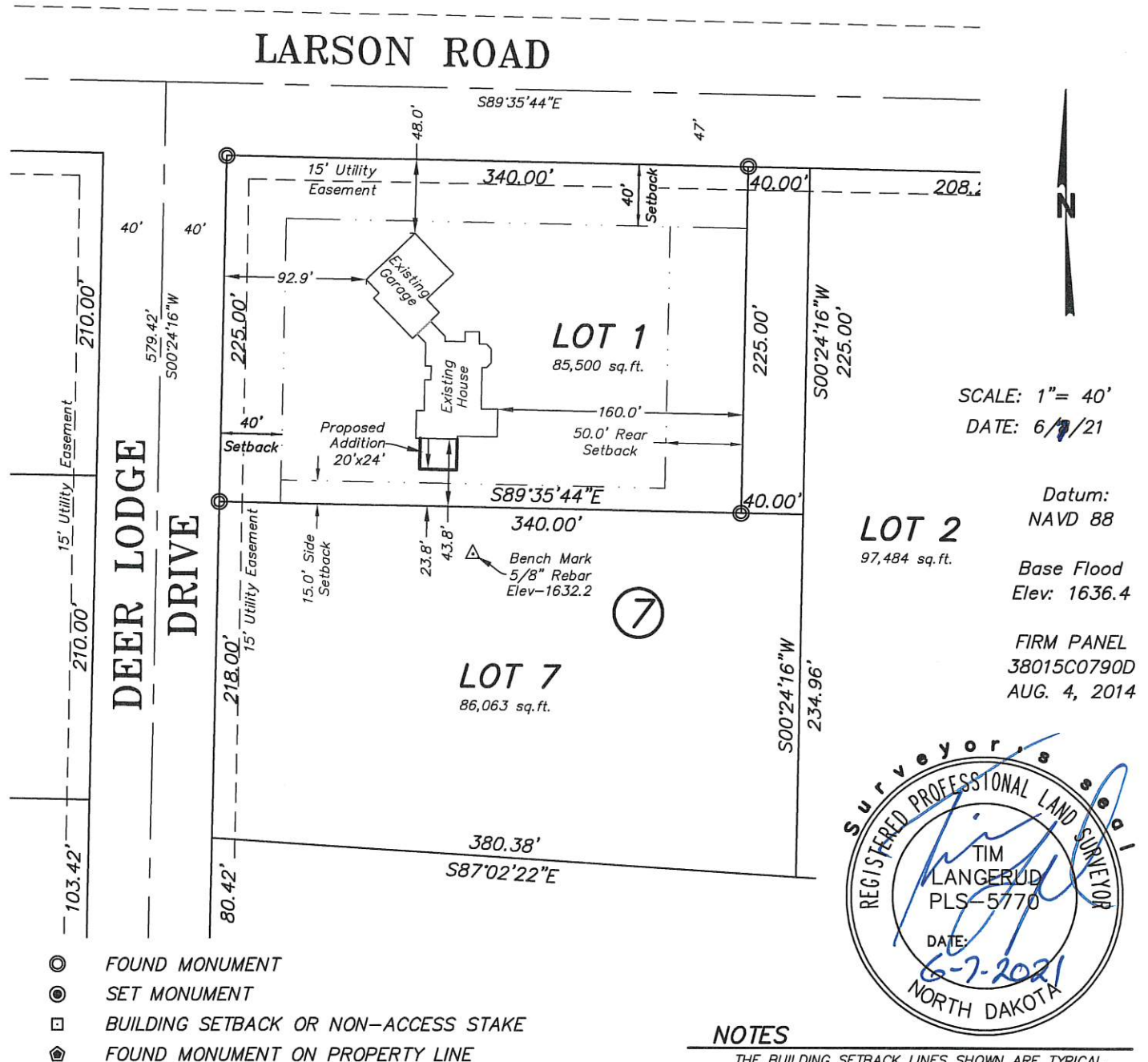
City of Bismarck
Community Development Department
Planning Division
July 22, 2021

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LOT SURVEY EXHIBIT

LOT 1 Less the East 40' BLOCK 7
 SUBDIVISION Fox Island 2nd Subdivision
 ADDRESS 3005 Deer Lodge Drive
 OWNER Don Roloff



NOTES

THE BUILDING SETBACK LINES SHOWN ARE TYPICAL, THERE MAY BE OTHER BUILDING RESTRICTIONS, COVENANTS OR INTERPRETATIONS THAT AFFECT THIS PROPERTY. THE BUILDER IS RESPONSIBLE FOR VERIFYING THE BUILDING DIMENSIONS AND VERIFYING THE BUILDING SETBACKS WITH THE APPROPRIATE APPROVING AUTHORITIES. DIMENSIONS ARE FROM PLAT. BUILDING AS SHOWN HAS BEEN FIELD SURVEYED.

FAXED OR EMAILED TO:
 BUILDER OR OWNER

DATED:



SWENSON, HAGEN & COMPANY P.C.

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

909 Basin Avenue
 Bismarck, North Dakota 58504
 sheng@swensonhagen.com
 Phone (701) 223 - 2600
 Fax (701) 223 - 2606

ELEVATION CERTIFICATE

Important: Follow the instructions on pages 1-9.

Copy all pages of this Elevation Certificate and all attachments for (1) community official, (2) insurance agent/company, and (3) building owner.

SECTION A - PROPERTY INFORMATION						FOR INSURANCE COMPANY USE
A1. Building Owner's Name Don Roloff						Policy Number:
A2. Building Street Address (including Apt., Unit, Suite, and/or Bldg. No.) or P.O. Route and Box No. 3005 Deer Lodge Drive						Company NAIC Number:
City Bismarck		State North Dakota		ZIP Code 58504		
A3. Property Description (Lot and Block Numbers, Tax Parcel Number, Legal Description, etc.) Lot 1 Less the East 40' Block 7 Fox Island 2nd Subdivision						
A4. Building Use (e.g., Residential, Non-Residential, Addition, Accessory, etc.) <u>Addition</u>						
A5. Latitude/Longitude: Lat. <u>N46.7689</u> Long. <u>W100.8207</u> Horizontal Datum: ☐ NAD 1927 ☒ NAD 1983						
A6. Attach at least 2 photographs of the building if the Certificate is being used to obtain flood insurance.						
A7. Building Diagram Number <u>1B</u>						
A8. For a building with a crawlspace or enclosure(s):						
a) Square footage of crawlspace or enclosure(s) <u>N/A</u> sq ft						
b) Number of permanent flood openings in the crawlspace or enclosure(s) within 1.0 foot above adjacent grade <u>N/A</u>						
c) Total net area of flood openings in A8.b <u>N/A</u> sq in						
d) Engineered flood openings? ☐ Yes ☒ No						
A9. For a building with an attached garage:						
a) Square footage of attached garage <u>1956.00</u> sq ft						
b) Number of permanent flood openings in the attached garage within 1.0 foot above adjacent grade <u>N/A</u>						
c) Total net area of flood openings in A9.b <u>N/A</u> sq in						
d) Engineered flood openings? ☐ Yes ☒ No						
SECTION B - FLOOD INSURANCE RATE MAP (FIRM) INFORMATION						
B1. NFIP Community Name & Community Number City of Bismarck 380149				B2. County Name Burleigh		B3. State North Dakota
B4. Map/Panel Number 38015C0790D	B5. Suffix D	B6. FIRM Index Date 08-04-2014	B7. FIRM Panel Effective/ Revised Date 08-04-2014	B8. Flood Zone(s) AE	B9. Base Flood Elevation(s) (Zone AO, use Base Flood Depth) 1636.4	
B10. Indicate the source of the Base Flood Elevation (BFE) data or base flood depth entered in Item B9: ☐ FIS Profile ☒ FIRM ☐ Community Determined ☐ Other/Source: _____						
B11. Indicate elevation datum used for BFE in Item B9: ☐ NGVD 1929 ☒ NAVD 1988 ☐ Other/Source: _____						
B12. Is the building located in a Coastal Barrier Resources System (CBRS) area or Otherwise Protected Area (OPA)? ☐ Yes ☒ No Designation Date: _____ ☐ CBRS ☐ OPA						

ELEVATION CERTIFICATE

OMB No. 1660-0008
Expiration Date: November 30, 2022

IMPORTANT: In these spaces, copy the corresponding information from Section A.			FOR INSURANCE COMPANY USE
Building Street Address (including Apt., Unit, Suite, and/or Bldg. No.) or P.O. Route and Box No. 3005 Deer Lodge Drive			Policy Number:
City Bismarck	State North Dakota	ZIP Code 58504	Company NAIC Number

SECTION C – BUILDING ELEVATION INFORMATION (SURVEY REQUIRED)

C1. Building elevations are based on: ☒ Construction Drawings* ☐ Building Under Construction* ☐ Finished Construction

*A new Elevation Certificate will be required when construction of the building is complete.

C2. Elevations – Zones A1–A30, AE, AH, A (with BFE), VE, V1–V30, V (with BFE), AR, AR/A, AR/AE, AR/A1–A30, AR/AH, AR/AO. Complete Items C2.a–h below according to the building diagram specified in Item A7. In Puerto Rico only, enter meters.

Benchmark Utilized: BSMK CORS Vertical Datum: NAVD 1988

Indicate elevation datum used for the elevations in items a) through h) below.

☐ NGVD 1929 ☒ NAVD 1988 ☐ Other/Source: _____

Datum used for building elevations must be the same as that used for the BFE.

Check the measurement used.

a) Top of bottom floor (including basement, crawlspace, or enclosure floor)	<u>1637.3</u>	☒ feet	☐ meters
b) Top of the next higher floor	<u>1646.9</u>	☒ feet	☐ meters
c) Bottom of the lowest horizontal structural member (V Zones only)	<u>N/A</u>	☐ feet	☐ meters
d) Attached garage (top of slab)	<u>1636.6</u>	☒ feet	☐ meters
e) Lowest elevation of machinery or equipment servicing the building (Describe type of equipment and location in Comments)	<u>1636.9</u>	☒ feet	☐ meters
f) Lowest adjacent (finished) grade next to building (LAG)	<u>1636.4</u>	☒ feet	☐ meters
g) Highest adjacent (finished) grade next to building (HAG)	<u>1637.1</u>	☒ feet	☐ meters
h) Lowest adjacent grade at lowest elevation of deck or stairs, including structural support	<u>N/A</u>	☐ feet	☐ meters

SECTION D – SURVEYOR, ENGINEER, OR ARCHITECT CERTIFICATION

This certification is to be signed and sealed by a land surveyor, engineer, or architect authorized by law to certify elevation information. I certify that the information on this Certificate represents my best efforts to interpret the data available. I understand that any false statement may be punishable by fine or imprisonment under 18 U.S. Code, Section 1001.

Were latitude and longitude in Section A provided by a licensed land surveyor? ☒ Yes ☐ No ☐ Check here if attachments.

Certifier's Name Tim Langerud		License Number 5770	
Title PLS			
Company Name Swenson, Hagen & Co.			
Address 909 Basin Avenue			
City Bismarck	State North Dakota	ZIP Code 58504	
Signature 	Date 6-7-2021	Telephone (701) 223-2600	Ext.

Copy all pages of this Elevation Certificate and all attachments for (1) community official, (2) insurance agent/company, and (3) building owner.

Comments (including type of equipment and location, per C2(e), if applicable)

This certificate is valid only for the information in A1 through A3 and Section B and not intended for insurance purposes. Information in C2 a-h was provided by survey performed June 2, 2021. Information in Section C2.e) is for A/C unit located on the south side of the building. The purpose of this elevation certificate is for proposed building addition.



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

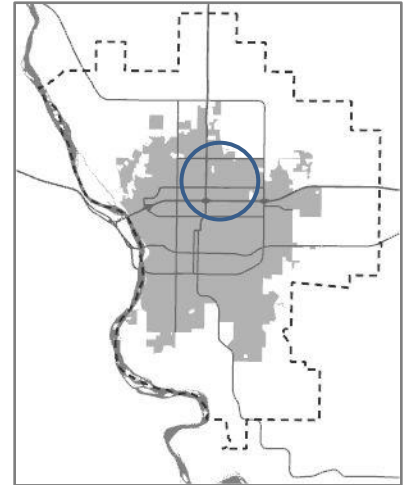
WRITTEN STATEMENT OF HARDSHIP (VARIANCE REQUEST)

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

PROPERTY INFORMATION	
Property Address or Legal Description: (Lot, Block, Addition/Subdivision)	3005 DEER LODGE DRIVE, BISMARCK ND
Location of Property:	☒ City of Bismarck ☐ ETA
Type of Variance Requested:	ELEVATION REQUEST
Applicable Zoning Ordinance: (Chapter/Section)	
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.)	
We are requesting an ELEVATION VARIANCE. THE HOUSE MEETS CURRENT ELEVATION STANDARDS. THE ADDITION WOULD BE ATTACHED TO THE HOUSE. THE GARAGE ELEVATION IS IN QUESTION SINCE IT IS ONE STEP LOWER THAN THE HOUSE.	
Describe how these limitations would deprive you of reasonable use of the land or building involved, and result in unnecessary hardship.	
WE WOULD NOT BE ABLE TO ADD THE SUNROOM ONTO THE HOUSE WITHOUT THE VARIANCE. NO VARIANCE WOULD RESULT IN DEPRIVING US OF REASONABLE USE OF OUR PROPERTY.	
Describe how the variance requested is the minimum variance necessary to allow reasonable use of the property.	
THE HOUSE ELEVATION MEETS THE STANDARD. THE ADDITION WOULD THEN ALSO MEET THE STANDARD. THIS REQUEST IS A MINIMUM OF 8" TO HAVE THE GARAGE ALIGNED WITH THE VARIANCE.	

Project Summary

<i>Title:</i>	The South 9 feet of Lot 15 and the North 33 feet of the vacated Palmer Avenue, Block 6, Haight and Little's Addition (1800 North 14 th Street)
<i>Status:</i>	Board of Adjustment – Public Hearing
<i>Owner(s):</i>	Algie Mahto and Rosalind Walks (Owners) Leisha Aaseth (applicant)
<i>Project Contact:</i>	Leisha Aaseth
<i>Location:</i>	In north-central Bismarck, north of East Divide Avenue and east of US Highway 83/State Street, along the west side of North 14 th Street
<i>Request:</i>	Appeal of Notice and Order requiring the removal or storage in an enclosed building of prohibited items



Staff Analysis

Algie Mahto, Rosalind Walks, and Leisha Aaseth are requesting an appeal of a Notice and Order, requiring the removal or storage in an enclosed building of tires, scrap lumber, surplus, scrap, salvage and similar items on their property as required in Section 14-05-05.1 of the City Code of Ordinances (Accumulation of Certain Items Prohibited).

Background Information

The City of Bismarck – Environmental Health Division received a complaint regarding the property on April 5, 2021. A code case (CEEH2021-0038) was opened and inspections and correspondence with the property owners to ensure compliance began on April 6, 2021. Copies of the case details, including a timeline of inspections and correspondence, are attached.

A Notice and Order was sent to the property owners on May 17, 2021. A copy of the Notice and Order is attached.

A Notice and Order is a formal request by the City of Bismarck to comply with regulations outlined in the City Code of Ordinances; in this case specifically, Section 14-05-051 (Accumulation of Certain Items Prohibited).

The property owner submitted an appeal to the Notice and Order to the Planning Division on June 17, 2021. The letter of appeal is attached.

Additional Information

The public has been notified of this request. Forty-two (42) letters were mailed to the owners of nearby properties on July 23, 2021.

(continued)

Applicable Provision(s) of Zoning Ordinance

Section 14-05-05.1(1) of the City Code of Ordinances (Accumulation of Certain Items Prohibited) states, "No person shall cause, permit, keep, accumulate or allow the accumulation of any commercial equipment, junk, refuse, surplus, scrap, salvage or other similar items outside of a closed building in any residentially-zoned district. The items for which accumulations are prohibited under this section may include one or more of the following but are not limited to hazardous wastes, scrap metals, used or scrap lumber, household appliances, machinery, farm machinery, commercial equipment, new or used building materials, construction of demolition waste or salvage, abandoned or unlicensed vehicle(s), automotive or machinery parts, tires, used oil or solvents, garbage or rubbish of any kind, waste paper, used furniture or other household goods, barrels, rags, boxes, cardboard, or other similar items. The fact that an item or items has value or is operational shall not excuse conduct prohibited by this section. For the purposes of this section, residential districts shall include, RR, RR5, R5, RMH, R10, RM, RT, PUD and HM. Prior to signing a complaint under this section, the Health Officer or his or her agent must serve the property owner or tenant with a notice and order Pursuant to Section 14-05-03.1."

Section 14-06-02 (1) of the City Code of Orders (Powers and Duties/Interpretation) states, "On appeal from an order, requirement, determination or provision made by the Zoning Administrator or other administrative official, or by request from any official, agency or head of the city, the board of adjustment shall decide any question involving the interpretation of any provision of this article. The board of adjustment may, in conformity with this article, reverse, affirm, or modify wholly or in part, or render a decision upon any such appeal or request."

Staff Recommendation

Staff recommends reviewing the attached information and rendering a decision regarding the appeal of the Notice and Order.

Attachments

1. Location Map
2. Aerial Map
3. Appeal of Notice and Order
4. Notice and Order
5. Code Case Details (CEEH2021-038)

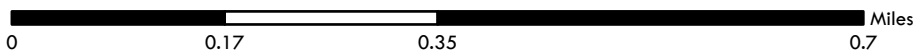
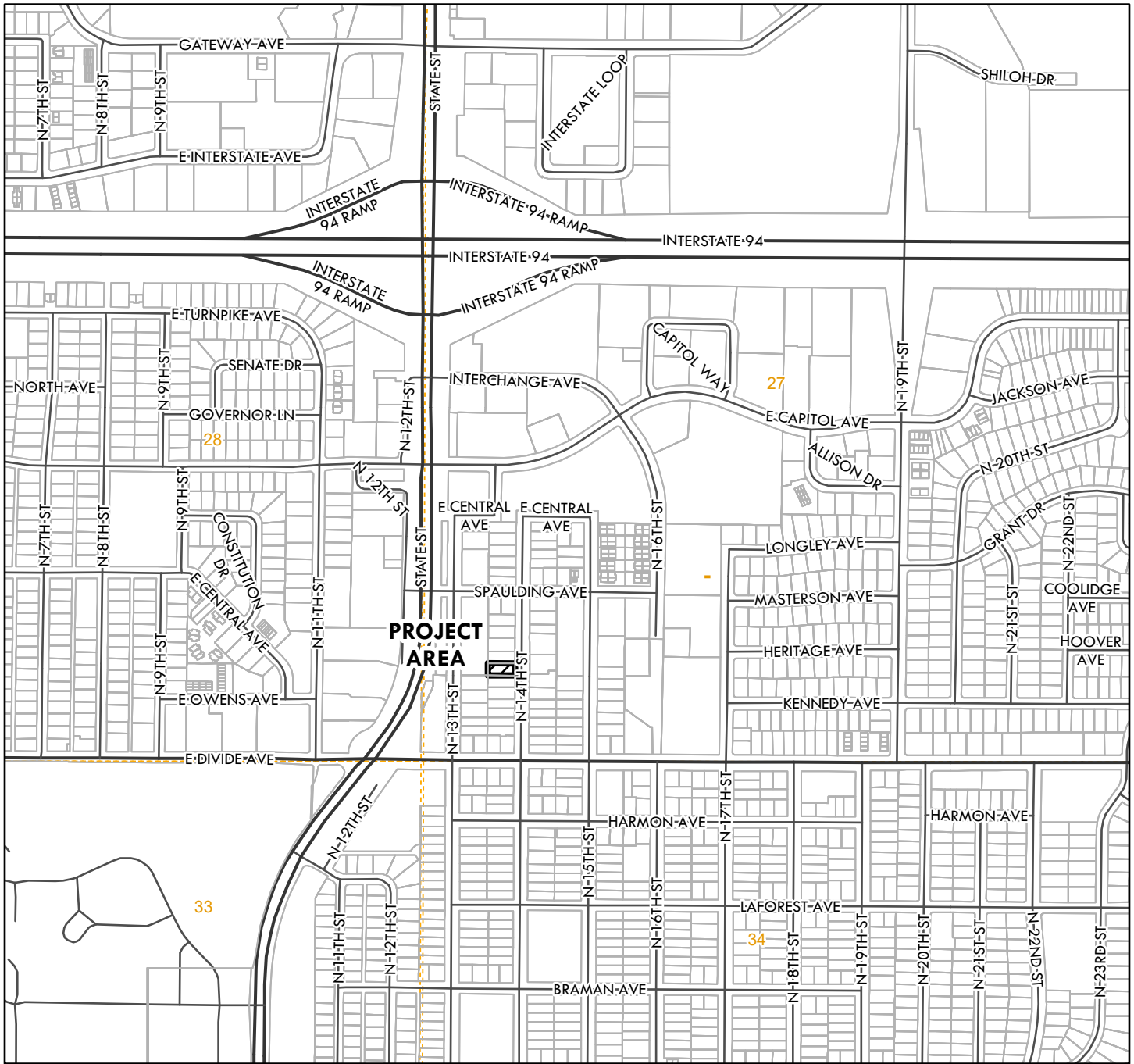
Staff report prepared by: Jenny Wollmuth, AICP, CFM, Senior Planner
701-355-1845 | jwollmuth@bismarcknd.gov



Location Map

HAIGHT & LITTLES ADDITION, PT. L15-16, B6

APPL2021-001



City Limits



County Outside ETA

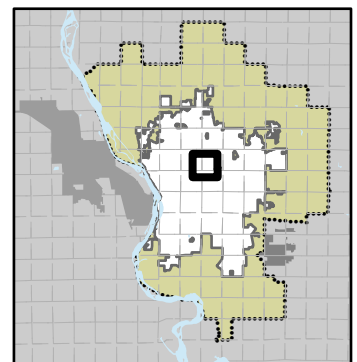


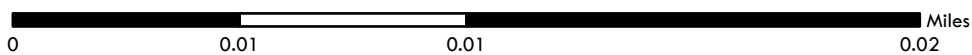
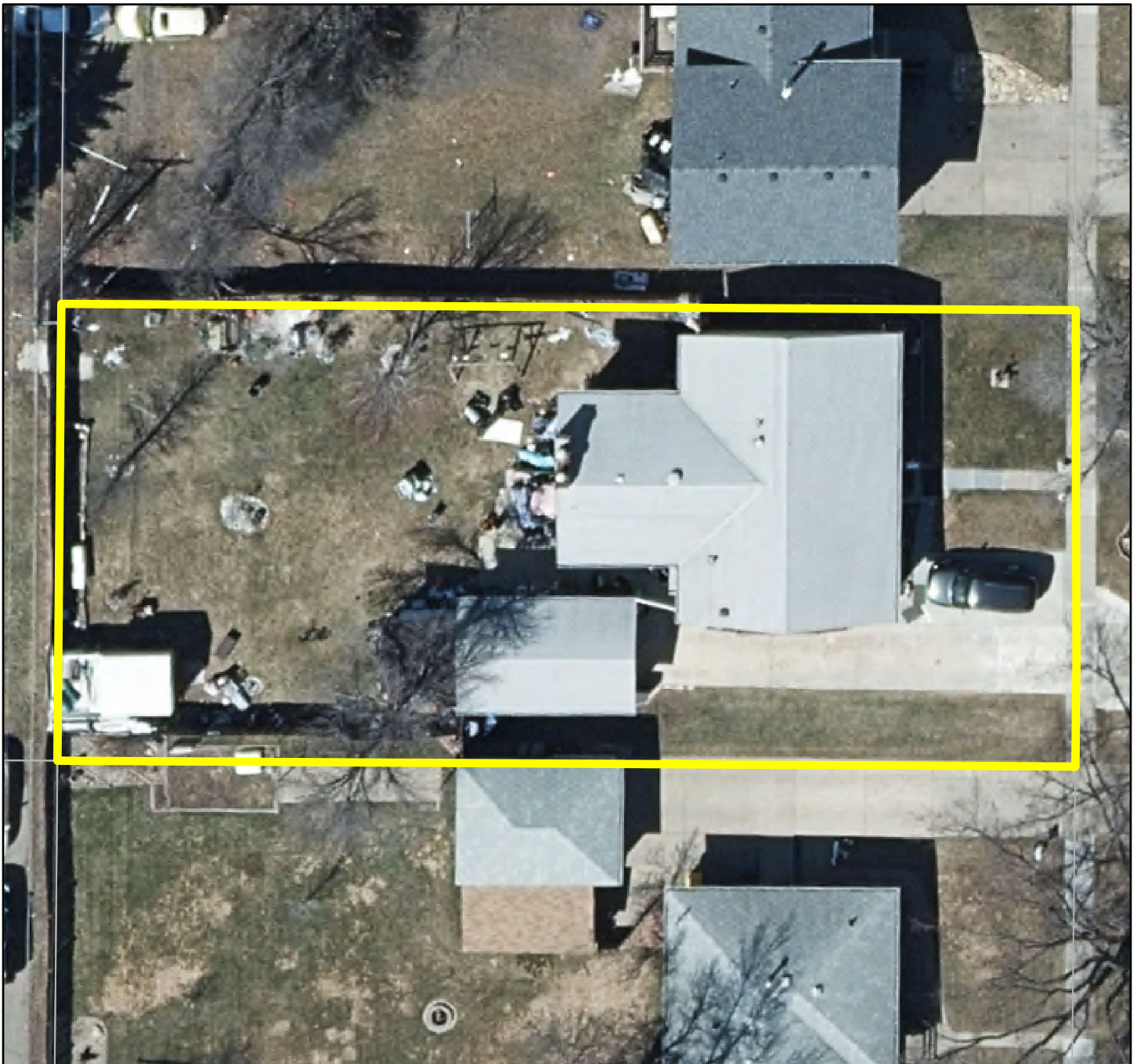
Bismarck ETA Jurisdiction

City of Bismarck
Community Development Department
Planning Division
July 20, 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.*



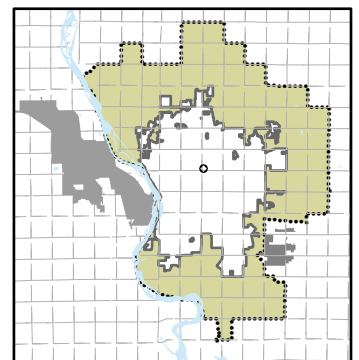


 City Limits  Bismarck ETA Jurisdiction

Aerial Imagery from April 2020

City of Bismarck
Community Development Department
Planning Division
July 22, 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.



JUNE 17th
(The 20th is on
a Sunday)

JUN 23 2021

Board of adjustment:

My letter to appeal for same Reasons
in the letter Leisha Jaseeth mailed out.

1. PRIVATE PROPERTY - OWNER RIGHTS
2. Privacy fence - My privacy
3. TRESPASS - No permission was given
4. Invasion of privacy - peering past the fence in place
5. Discrimination - Native/elder.

As city workers pulled up to my home. The yard cannot BEEN SEEN from City property. CASE CLOSED!

YET. City workers decided to trespass onto private property to invade my privacy & take photos over my privacy fence. Discriminating against me as a native/elder. And what is Right & Wrong.

The Contents of my yard is NOT A problem here. The problem is SEEKING A lawyer to protect my privacy Rights as a home owner from the City & those who also have no Right OR BUSINESS in or on my property.

Thank you

Rosalind Makto



Bismarck-Burleigh Public Health

CEEH2021-0038

04/06/2021

MAHTO, ALGIE & WALKS, ROSALIND
1800 N 14TH ST
BISMARCK ND 58501-2013

RE: NOTICE OF VIOLATION

Dear: ALGIE MAHTO & ROSALIND WALKS,

An inspection of your property located at 1800 N 14TH ST was made on 4/6/2021. This inspection revealed it to be in violation of Bismarck's Code of Ordinances. Section 14-05-05.1 of Bismarck's code of ordinances prohibits the following items from being stored outside of a closed building.

Items found in violation include: scrap lumber between garages, excess propane tanks, junk materials store on boulevard, automotive or machinery parts, and tires on driveway and used furniture or other household goods found on the property. Please remove these items from outdoor storage before April 20, 2021.

If the violations listed above are not corrected within the timeframes indicated in this letter, action may be taken against you by the City of Bismarck either by preferring charges against you and/or abatement at your expense.

I thank you for your prompt attention to this matter. If you have any questions or need additional time, please call me at 701-355-3400.

Sincerely,

Payton Larson

Environmental Health Specialist

Enclosed: Copy of City of Bismarck Code of Ordinances Section 14-05-05.1
Pictures of 1800 N 14TH ST



14-05-05.1. Accumulation of Certain Items Prohibited.

1. No person shall cause, permit, keep, accumulate or allow the accumulation of any commercial equipment, junk, refuse, surplus, scrap, salvage or other similar items outside of a closed building in any residentially-zoned district. The items for which accumulations are prohibited under this section may include one or more of the following but are not limited to hazardous wastes, scrap metals, used or scrap lumber, household appliances, machinery, farm machinery, commercial equipment, new or used building materials, construction or demolition waste or salvage, abandoned or unlicensed vehicle(s), automotive or machinery parts, tires, used oil or solvents, garbage or rubbish of any kind, waste paper, used furniture or other household goods, barrels, rags, boxes, cardboard, or other similar items. The fact that an item or items has value or is operational shall not excuse conduct prohibited by this section. For the purposes of this section, residential districts shall include RR, RR5, R5, RMH, R10, RM, RT, PUD, and HM. Prior to signing a complaint under this section, the Health Officer or his or her agent must serve the property owner or tenant with a notice and order pursuant to Section 14-05-03.1.

2. No person shall cause, permit, keep, accumulate or allow the accumulation of any junk, refuse, surplus, scrap, salvage or similar items outside of a closed building or opaque fencing in any commercially, industrially or agriculturally-zoned district absent a special use permit. The items for which accumulations are prohibited under this section may include one or more of the following but are not limited to hazardous wastes, scrap metals, used or scrap lumber, household or commercial appliances, used building materials or salvage, construction demolition waste or salvage, abandoned or unlicensed vehicle(s), automotive or machinery parts, used tires, used oil or solvents, garbage or rubbish of any kind, waste paper, used furniture or other household goods, barrels, rags, boxes, cardboard, or other similar items. The fact that an item or items may have value does not excuse the conduct prohibited by this section. The prohibitions contained in this section shall apply to properties zoned CA, CB, PUD, CR, CG, MA, MB, or A. Prior to signing a complaint under this section, the Health Officer or his or her agent must serve the property owner or tenant with a notice and order pursuant to Section 14-05-03.1.



Pictures of 1800 N 14TH ST

Taken by: Payton M Larson on 4/6/2021





Bismarck-Burleigh Public Health, Renae Moch, MBA, FACMPE, Director
 Phone: 701-355-1540 • Fax: 701-221-6883 • 500 E Front Avenue, Bismarck, ND 58504
 Website: www.bismarcknd.gov/publichealth • Email: bbph@bismarcknd.gov





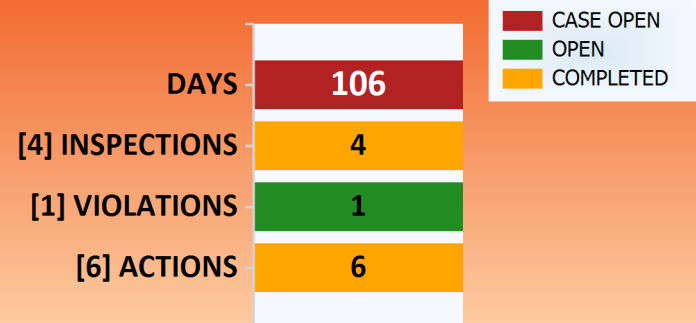
Case Details - No Attachments

City of Bismarck

Case Number
CEEH2021-0038

Description: Purple Impala - wood pile, LEISHA			Status: NOTICE AND ORDER
Type: ENVIRONMENTAL HEALTH		Subtype: TITLE 14: ZONING	
Opened: 4/7/2021	Closed:	Last Action: 6/21/2021	Flw Up: 6/21/2021
Site Address: 1800 N 14TH ST BISMARCK, ND			
Site APN: 0260-006-030		Officer: Payton M Larson	
Details:			

Case Summary



ADDITIONAL SITES

LINKED CASES

CHRONOLOGY

CHRONOLOGY TYPE	STAFF NAME	ACTION DATE	COMPLETION DATE	NOTES
				Sent: Monday, April 5, 2021 10:51 PM To: Anton Sattler <asattler@bismarcknd.gov> Subject: Online Form Submittal: Nuisance and Complaint Form ***External Email - Use caution clicking links or opening attachments*** Nuisance and Complaint Form Bismarck-Burleigh Public Health Environmental Health 500 E Front Avenue * Bismarck, ND 58504 * Phone: (701) 355-3400 * Fax: (701) 221-6883 * Email: bbph@bismarcknd.gov Date and Time 4/5/2021 Location of the Complaint 1800 N 14th St



Case Details - No Attachments

City of Bismarck

Case Number

CEEH2021-0038

Email	Payton M Larson	4/6/2021	4/6/2021	Complaint Description Clothing and materials piled on the boulevard, furniture and appliances clutter the driveway and front area and back yard. Scrap wood is a danger and is piled along the garage along with propane tanks along with bed frames and coat hooks. Garage is used for someone to sleep in along with being filled with floor to ceiling items. Makeshift ramp was built on the front of the house. Environmental Health Response Scrap wood and propane tanks being stored outside in a unsafe way. Unsure what waste is stored in the back yard or garage. Upload Files 718B3E9C-34BD-4AA4-8487-3448628971EF.jpeg Reporting Party's Name Field not completed. Reporting Party's Address Field not completed. Reporting Party's Phone Field not completed. Reporting Party's Email Field not completed.
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Case Details - No Attachments

City of Bismarck

Case Number
CEEH2021-0038

Letter	Anton Sattler	6/9/2021	6/9/2021	Jenny with Planning received letter from Leisha From: Jenny Wollmuth Sent: Wednesday, June 9, 2021 10:55 AM To: Anton Sattler <asattler@bismarcknd.gov>; Jannelle Combs <jcombs@bismarcknd.gov>; Brady Blaskowski <bblaskowski@bismarcknd.gov>; Kim Lee <klee@bismarcknd.gov> Subject: CEEH2021-0038 1800 N 14th Street Good morning, Planning received the attached letter yesterday in reference to a Notice and Order issued to 1800 North 14th Street. I am not certain if the letter is an appeal of the Notice and Order. The original letter will be sent via interoffice to Environmental Health. Thanks, Jenny Wollmuth, AICP, CFM Senior Planner Planning Division Community Development Department 701.355.1840-Department 701.355.1845- Direct www.bismarcknd.gov
Notice and Order	Anton Sattler	5/17/2021	5/17/2021	5/17/2021 - Sent notice and order via mail and certified mail. 5/19/2021 - Notice and order return receipt was signed.



Case Details - No Attachments

City of Bismarck

Case Number
CEEH2021-0038

Phone Call	Anton Sattler	6/9/2021	6/9/2021	I called Leisha and spoke with her this afternoon. I informed her that the City had received her letter but that the letter never stated the appeal of the notice and order. I also informed that only the property owner (whom the notice and order is addressed to) can make the appeal. She stated that the intent of her letter was to appeal the notice and order and that she would have her mother submit an appeal letter. I mentioned that we must receive the appeal by no later than June 20th – the deadline for the notice and order.
Phone Call	Payton M Larson	4/13/2021	4/13/2021	Spoke with Lisa - parents house - 4/13 @ 1245 [REDACTED] wanting extension
Phone Call	Payton M Larson	4/28/2021	4/28/2021	Anton called Lisa @ 2:15 - extension given to clear out garage and move items to enclosed building. Follow up May 12th

CONTACTS

NAME TYPE	NAME	ADDRESS	PHONE	FAX	EMAIL
OWNER	MAHTO, ALGIE & WALKS, ROSALIND	1800 N 14TH ST BISMARCK, ND 58501-2013			
TENANT	LEISHA AASETH	,	(701)516-0646		[REDACTED]

FINANCIAL INFORMATION

INSPECTIONS

INSPECTION TYPE	INSPECTOR	SCHEDULED DATE	COMPLETED DATE	RESULT	REMARKS	NOTES
EH FOLLOW-UP INSP	PLAR	5/14/2021	5/14/2021	NOT IN COMPLIANCE	no progress	No progress - notice and order
EH FOLLOW-UP INSP	PLAR	4/28/2021	4/28/2021	NOT IN COMPLIANCE	No progress	Anton and I went to property to see progress, nothing made - Anton called Lisa when we got back to the office
EH FOLLOW-UP INSP	PLAR	6/21/2021	6/22/2021	NOT IN COMPLIANCE		Backyard still a mess - front yard looks fine. Pictures in attachments



Case Details - No Attachments

City of Bismarck

Case Number

CEEH2021-0038

EH SITE INSPECTION	PLAR	4/6/2021	4/6/2021	NOT IN COMPLIANCE		Scrap lumber between garages, excess propane tanks, junk materials store on boulevard, furniture and car parts on driveway
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VIOLATIONS

VIOLATION TYPE	USER NAME	OBSERVED DATE	CORRECTED DATE	LOCATION	REMARKS	NOTES

**BISMARCK BOARD OF ADJUSTMENT
MEETING MINUTES
July 1, 2021**

The Bismarck Board of Adjustment met on July 1, 2021, at 5:00 p.m. in the Tom Baker Meeting Room in the City-County Office Building, 221 North 5th Street. The meeting was held in person and via Zoom. Chair Marback presided and was present in the Tom Baker Meeting Room.

Members present were Jennifer Clark, Curtis Janssen, Michael Marback, Chris Seifert and Rick Wohl. Alternate member Ken Hoff was also present, but did not vote on any agenda items.

Staff members present were Brady Blaskowski – Building Official/Floodplain Administrator, Jannelle Combs – City Attorney, Ben Ehreth – Community Development Director, Kim Lee – Planning Manager and Jenny Wollmuth – Senior Planner.

MINUTES:

Chair Marback called for approval of the minutes of the May 6, 2021 meeting of the Board of Adjustment.

MOTION: A motion was made by Mr. Seifert and seconded by Mr. Janssen to approve the minutes of the May 6, 2021 meeting, as presented. With Board Members Clark, Janssen, Marback, Seifert, and Wohl voting in favor, the minutes were approved.

(Secretary's Note: To accommodate the arrival of an applicant, the order of agenda items was switched.)

VARIANCE FROM SECTION 14-04-03(6) OF THE CITY CODE OF ORDINANCES (R5 – RESIDENTIAL / LOT COVERAGE) – LOT 23, BLOCK 5, COTTONWOOD PARKVIEW ADDITION (406 LENNOX DRIVE)

Chair Marback stated the applicant, Al Wangler, is requesting a variance to increase the maximum lot coverage for a lot located within the R5 – Residential zoning district from 30% to 31.2% in order to construct a covered patio (approximately 180 square feet) onto the single-family dwelling currently under construction.

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 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.

Ms. Wollmuth said staff recommends reviewing the findings contained in the staff report, identifying any hardship and modifying the findings as necessary to support the decision of the Board.

Al Wangler presented a copy of an email from Chris Wachter stating he is ok with the additional lot coverage being requested. Mr. Wangler stated he was not aware of the issue of the 35% lot coverage and going over the allowed size, as he had assumed it was 40%. Mr. Wangler also stated that a 12x15 area for a covered porch will also be used for storage because he cannot have an accessory building. He then stated it also will not be visible from the street.

Mr. Janssen asked if a permit would be granted if the covered porch was removed.

Mr. Wangler said yes and added that a permit could not be issued until a contract was in place for ~~utilities~~ municipal improvements. He said it was during this process that further review found his lot coverage was over the allowed amount and added that while the basement was already being dug, the footprint would not change. Mr. Wangler stated he had worked with Brady Blaskowski and a covered porch did not change anything.

Mr. Janssen asked if the developer was aware of the lot coverage.

Mr. Wangler said to his knowledge the developer was aware of the lot coverage allowed in the R5-Residential and R10-Residential zoning districts. He said some lots are zoned R5-Residential around the southwest retention pond and other lots are zoned R10-Residential. He closed with saying further to the west properties are zoned RM30-Residential, but he believes the developer was aware of the allowed lot coverage.

Chair Marback opened the public hearing.

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

MOTION: A motion was made by Mr. Janssen to deny the request for variance from Section 14-04-03(6) of the City Code of Ordinances (R5-Residential)(Lot Coverage) to increase the maximum lot coverage from 30% to 31.2% for the purpose of constructing a covered patio on the residence being constructed on

Lot 23, Block 5, Cottonwood Parkview Addition (406 Lennox Drive) due to there being no hardship identified. The motion was seconded by Ms. Clark and with Board Members Clark, Janssen, Marback, Seifert and Wohl voting in favor of the motion, the motion was unanimously approved and the variance request was denied.

Ms. Clark said she would like to have approved this request; however, overbuilding the lot left her with no ability to approve it. Mr. Seifert agreed that there is not a hardship and Mr. Wohl agreed that the motion is correct, as there is no basis for a hardship.

Chair Marback stated the motion to deny is upheld and told Mr. Wangler that he can appeal the decision to the Board of City Commissioners, if he wishes to do so.

VARIANCE FROM SECTION 14-04-03(7) OF THE CITY CODE OF ORDINANCES (R5 – RESIDENTIAL / FRONT YARD) – LOT 12, BLOCK 3, REPLAT OF LOT 10, BLOCK 1, NORTH HILLS 1ST ADDITION (2981 VANCOUVER LANE)

Chair Marback stated the applicants, Jeramie and Janelle Middlestead, are requesting a variance to reduce the required front yard setback located along the north side of their property, adjacent to Ontario Lane, from 25 feet to 4 feet in order to construct 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 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.

Ms. Wollmuth said staff recommends reviewing the findings contained in the staff report, identifying any hardship and modifying the findings as necessary to support the decision of the Board.

Ms. Wollmuth stated that the former Building Official administratively approved the location of the existing accessory building within this required setback.

Mr. Seifert asked if the permit was issued in 2007.

Ms. Wollmuth said yes, but it may have been subsequently removed.

Mr. Wohl asked if the building was outside the required setback for Winnipeg Drive and outside of the site triangle.

Ms. Wollmuth replied yes to both.

Mr. Janssen asked why it could not be attached.

Ms. Wollmuth stated it would still need to meet the 25-foot front yard setback requirement.

Chair Marback asked Mr. Middlestead if he was the owner in 2007.

Mr. Middlestead replied he was not.

Mr. Marback asked Mr. Middlestead if the building was there when they moved in.

Mr. Middlestead said yes, but they removed it a few weeks ago. He added that the garage is not big enough to hold all that they have and he has not parked in his garage since they have lived there.

Ms. Clark asked about the location and purpose of the three existing concrete slabs.

Mr. Middlestead stated in the back corner, where the shed was, is a pad they plan to use for a pool or patio. He added that the slab where the camper is parked is where the original shed was previously located, from what he understood, and the new slab was poured with the intention of a shed if approved, otherwise they will use for a patio.

Mr. Middlestead stated he looked into other options; however, it is not really an option with the roof line. He said he would have to redo rafters and have it engineered, but he felt it would be better and more cost effective to do the shed.

Mr. Janssen asked what will go in the building.

Mr. Middlestead said it would house items such as bikes and a snow blower, etc. and would be 28 feet around and have a fence installed around the perimeter, with 3 to 4 feet of the shed showing above fence.

Mr. Janssen stated he was concerned with the appearance and where it would line up with the egress window.

Mr. Middlestead stated the egress window was to the office in the basement and the depth of the garage was done in 1984-1985 from what he understands. He added that it is too shallow to get a pick-up inside and he wants to stay 10 feet away to avoid completely sheetrocking the shed, but he will do that if necessary.

Mr. Janssen stated he was wondering if there were other options that would make more sense.

Chair Marback opened the public hearing.

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

Mr. Janssen asked staff if the property is zoned R5-Residential.

Ms. Wollmuth stated it is and that 30% lot coverage is allowed. She further explained with the current structures on the lot, there is still 872 square feet of buildable space on the property.

Chair Marback stated the proposed building would be 192 square feet.

Mr. Janssen asked if the shed was put on the Winnipeg side if it would still be out of compliance.

Ms. Wollmuth said that this is correct.

Ms. Clark stated she felt this was a continuation of previous action.

MOTION: A motion was made by Mr. Wohl to approve the request for a 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 north side of your property, adjacent to Ontario Lane, from twenty-five (25) feet to four (4) feet for the purpose of constructing a detached accessory building on Lot 12, Block 3, Replat of Lot 10, Block 1, North Hills 1st Addition (2981 Vancouver Lane), due to the hardship being a unique circumstance of having front yard setbacks on three sides and rights-of-way on three sides. 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 and the variance was approved.

OTHER BUSINESS

MEMBER AND ALTERNATE MEMBER APPOINTMENT

Ms. Wollmuth stated that after the unanimous vote during the May 6, 2021 Board of Adjustment meeting, an alternate member selection tool was used and Ken Hoff was selected as the alternate member of the Board of Adjustment. She further shared that the Bismarck

City Commission, at their meeting of June 22, 2021, reappointed Jennifer Clark and Ken Hoff to serve on the Board of Adjustment and that Ken Hoff serve as the alternate member. Their terms will expire in June 2024.

Ms. Wollmuth addressed that Planning staff will initiate a zoning ordinance text amendment to change the number of Board members, as it is currently not in compliance. She said this is typically a four-month process and the bylaws will also need to be updated. She also informed the Board that quorum calls will be moved up to Monday afternoons or Tuesday mornings the week of the meeting, as to better accommodate the needs of the alternate if necessary.

ZONING ORDINANCE TEXT AMENDMENTS

Ms. Wollmuth informed the Board that the City Commission, at their meeting of June 8, 2021, voted to deny the request for a public hearing related to keeping chickens within rural residential lots outside of City limits and regulations to allow chickens within the City.

Ms. Wollmuth informed the Board that the Planning and Zoning Commission, at their meeting of June 23, 2021, approved the zoning ordinance text amendment that would revise the construction and elevation requirements for accessory structures located within the Special Flood Hazard Area. She explained that the proposed changes would allow for accessory structures less than 600 square feet in area to be constructed below the Base Flood Elevation (BFE), according to floodproofing techniques approved by FEMA. She then explained that accessory structures greater than 600 square feet in area would be allowed to be constructed one foot above the BFE.

Ms. Wollmuth stated that the City Commission upheld the May 6th denial of a variance to reduce the required side yard setback on Lot 23, Block 2, Copper Ridge Subdivision. She added that the applicant came in the next day and to obtain a permit and will be building within the zoning requirements.

Chair Marback asked if the Floodplain ordinance passes through the City Commission, would it then need to be approved by FEMA.

Ms. Wollmuth replied that what was proposed has already been discussed and approved by FEMA prior to being presented to the Planning and Zoning Commission.

Chair Marback asked how many times we have used an alternate board member in the last calendar year.

Ms. Wollmuth stated the last time four members were used versus 5 members was in March 2019.

Chair Marback asked if there are any other questions for staff.

Chair Marback welcomed reappointed members Jennifer Clark and alternate member Ken Hoff.

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 5:44 p.m. to meet again on August 5, 2021.

Respectfully Submitted,

Michelle Fischer
Recording Secretary

APPROVED:

Michael Marback, Chair