

Board of Adjustment

MEETING
February 5, 2026

Tom Baker Meeting Room	City-County Office Building	5:00 PM
Lower level	221 North 5th Street	

The City of Bismarck is encouraging citizens to provide their comments via email to planning@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 planning@bismarcknd.gov at least one business day before the meeting.

1. MEETING INFORMATION

A. Roll Call

2. PUBLIC COMMENT

A. Includes items on the Regular Agenda or items from the previous Board of Adjustment meeting.

3. APPROVAL OF MEETING MINUTES

A. Consider approval of the January 8, 2026, minutes.

REGULAR AGENDA

A. Clear Sky Addition, Lots 7-8, Block 2

Variance from Section 14-03-06(1)(b)(4) of the City Code of Ordinances (Incidental Uses)(Accessory Uses and Buildings) | VAR2026-001

5. OTHER BUSINESS

A. Board of Adjustment Bylaws

6. ADJOURN

A. The next meeting date is scheduled for March 5, 2026, at 5:00pm in the Tom Baker Meeting Room.



Public Comment Policy

The Board of Adjustment welcomes and values public input during its meetings. This policy outlines the procedures for public comment to ensure that all individuals have a fair opportunity to be heard while maintaining an orderly, transparent, and efficient meeting environment.

1. A public comment agenda item will be the first non-procedural agenda item at all regular meetings of the Board of Adjustment.
2. To provide public comments, each individual must sign a speaker sheet located at the podium that includes the individual's name and address. A reasonable accommodation will be made for those requiring it pursuant to the City's Title VI policy.
3. Each individual will be allotted up to five minutes to make comments; the time may be extended at the discretion of the chair. The individual will be notified when the time has expired.
4. An individual may not yield his or her allotted time to another individual.
5. The public comment agenda item may be limited to a total of thirty minutes. The initial thirty minutes may be extended at the discretion of the chair, but each speaker will continue to be limited to five minutes.
6. All comments must address an item of the current agenda or an agenda item from the preceding meeting.
7. Comments may not:
 - a. Be defamatory, abusive, harassing, or unlawful.
 - b. Include information that is exempt or confidential under North Dakota open records law.
 - c. Interfere with the orderly conduct of the meeting.
 - d. Must be pertinent to the public entity.

**BISMARCK BOARD OF ADJUSTMENT
MEETING MINUTES
January 8, 2026**

The Bismarck Board of Adjustment met on January 8, 2026, at 5:00 p.m. in the Tom Baker Meeting Room in the City-County Office Building, 221 N 5th Street.

Board members present were Curt Janssen, Kim Lee, Chris Seifert, Al Wangler, and Chair Jennifer Clark.

Staff members present were Brady Blaskowski – Building Inspections Director, Annie Hojian – Administrative Assistant, and Daniel Nairn – Planning Director, Jenny Wollmuth – Senior Planner.

APPOINTMENTS AND ELECTIONS:

Board member Chris Seifert was reappointed to the Board of Adjustment. Kim Lee was introduced and appointed to the Board of Adjustment. Both will serve a 3-year term expiring December 31, 2028.

Past board member Rick Wohl was recognized for his years of service to the Board of Adjustment.

Elections for officers was conducted.

MOTION: A motion was made by Mr. Seifert to re-elect current Chair Jennifer Clark to the position of Chair. The motion was seconded by Mr. Janssen and with Board Members Lee, Wangler, Janssen, Seifert and Chair Clark all voting in favor, the motion passed.

MOTION: A motion was made by Mr. Janssen to re-elect current Vice Chair Chris Seifert to the position of Vice Chair. The motion was seconded by Mr. Wangler and with Board Members Lee, Wangler, Janssen, Seifert and Chair Clark all voting in favor, the motion passed.

PUBLIC COMMENT:

There were no public comments.

MINUTES:

Chair Clark called for approval of the minutes of the December 4, 2025 meeting of the Board of Adjustment.

MOTION: A motion was made by Mr. Janssen to approve the minutes of the December 4, 2025 meeting, as written. The motion was seconded by Mr. Seifert and the minutes were unanimously approved with Board Members Janssen, Lee, Seifert, Wangler, and Chair Clark voting in favor.

Variance from section 14-03-05(4)(c) of the City Code of Ordinances (Supplementary Provisions)(Location of Residential Accessory Buildings) Sattler's Sunrise Seventh Addition, Block 10, Lot 12.

The Board of Adjustment did previously hear this request on December 4, 2025. At the conclusion of the hearing, the Board voted 3:1 to approve the variance and it was announced at the meeting that the variance was approved. Per section 40-47-07 of the North Dakota Century Code, a concurring vote of 4 members of the Board of Adjustment is required to approve a variance, therefore approval of the variance is not valid. The City Attorney has advised staff that a reintroduction of this request and a new vote be held. The applicant and their contractor have been made aware of this error via phone and certified letter.

Ms. Wollmuth stated that homeowners, Jeremy and Amber Hasenyager, are requesting approval of a variance at 4225 Roosevelt Drive (Lot 12, Block 10, Sattler's Sunrise Seventh Addition), from the following section of the City's Zoning Ordinance:

- Section 14-03-05(4)(c) of the City Code of Ordinances (Supplementary Provisions)(Location of Residential Accessory Buildings) to reduce the front yard setback along the north side of the property from 25 feet to 15 feet for an existing accessory building at 4225 Roosevelt Drive (Lot 12, Block 10 Sattler's Sunrise Seventh Addition).

The proposed variance is located at 4225 Roosevelt Drive in northeast Bismarck, south of 43rd Avenue NE along the east side of Roosevelt Drive.

Ms. Wollmuth informed the Board that the City of Bismarck is currently in the process of updating zoning requirements to a new Land Development Code (LDC). The most recent draft of the proposed LDC includes provisions for setbacks for residential properties on corner lots. In particular, a front yard setback along a side street, a street that the property is not accessed from, is proposed to be 10 feet in the equivalent zoning district. The LDC is proposed to be adopted and finalized in the spring of 2026.

Ms. Wollmuth went on to provide an overview of the request, including background information of the property and findings of fact. She then explained to the Board if they choose to approve the variance as proposed, that they must identify a hardship and modify the review standards or findings outlined in the staff report to support their decision.

MOTION: A motion was made by Ms. Lee to deny the variance based on current ordinances and having not met the burden to successfully argue a hardship has been established. Mr. Janssen seconded the motion. Board members Wangler and Seifert were opposed. Board member Lee, Janssen, and Chair Clark voted in favor of the motion. The variance was denied. Note: to grant a variance, 4 concurring votes are necessary to approve the request per section 40-47-07 of the North Dakota Century Code and section 14-06-03 (2) of the City Code of Ordinances.

Mr. Janssen reiterated had a permit been applied for prior to the start of construction, the setback requirements would have been evident, and the building would have been placed properly. He noted that a permit was applied for 4 months after the fact, and agrees with Ms. Lee that there is not a hardship for this particular lot. Mr. Janssen further highlighted in the applicant's written statement of hardship, the applicant wrote "under the understanding that 15 foot setback would be acceptable based on access and layout of the property." Mr. Janssen believes staff would not have stated a 15 foot setback would be acceptable as the allowable setbacks proposed in the new LDC has not yet been adopted or changed. As he stated in the December 2025 meeting for this variance request, decisions must be made in accordance with

the current ordinances and not what might be in the future. No concrete or electrical inspections were performed due to a building permit not being issued.

Mr. Seiffert believes the statement regarding a 15 foot statement is the contractor's knowledge of the proposed changes in the LDC. Mr. Seiffert stated this is an unusual lot and the change in the setback will not cause anybody any danger and nobody would know it's there. The building is existing and although it is not a guarantee the changes in setback requirements will be approved by the city, he does not see a problem with granting the variance request. He later stated that the property is surrounded by a fence when there was discussion regarding 43rd Avenue NE being an arterial roadway.

Ms. Lee asked the board, had the request been made to grant the variance prior to the start of any construction, if the board would have granted the request. Chair Clark stated upon review of materials, financial hardship cannot be a factor in determining a variance request. This request should be treated as though it is just coming in without a building in place already. Ms. Lee stated that 43rd Avenue NE is an arterial roadway and at some point in the future, it may look like Century Avenue. Using this as a reason to push it closer to that property line would not be permissible in another situation in the community.

Mr. Wangler brought board members' attention to page 13 of the agenda packet, agenda item 4.A., in the second to the last paragraph regarding the City of Bismarck updating the LDC and a distance of 10 feet as a building setback is proposed. Ms. Wollmuth explained to the board the proposed setback for accessory structures will be 10 feet in the latest draft of the proposed LDC. The 15 foot setback in the proposed LDC applies to the principal structure.

OTHER:

Ms. Wollmuth presented the Board of Adjustment with an overview of the Procedures and Protocols as well as the Bylaws.

Mr. Seiffert asked for clarification of the required number of board members in the bylaws. It is stated that 6 members shall be appointed and 4 votes are necessary to approve a variance. Ms. Wollmuth explained in prior years, the Board of Adjustment included 5 members, however it was difficult to meet quorum to conduct a meeting. Due to this, it was determined 6 members shall be required, with the intent at least 4 members should be able to attend a meeting and meet quorum requirements. The City Attorney notified staff a couple years ago that the ordinance and bylaws stated 6 members in error, however as North Dakota Century Code states 5 members are required. At that time, the 6th member was determined to be an "alternate". Currently there is not a 6th member appointed to the Board as an alternate, however, if the board would like, this can be accomplished. Ms. Wollmuth also noted in other communities, while quorum calls are being conducted, in the event only 4 members will be present, the applicant is notified and given the option to proceed with the meeting as scheduled or postpone the hearing for their request. Chair Clark stated having an alternate board member available for a meeting is not necessary as members may attend a meeting remotely. She also agreed with allowing the applicant the option to proceed with the meeting as scheduled or postponing the meeting in the event only 4 board members will be present. Ms. Wollmuth agreed and stated staff will begin doing this.

Mr. Wangler stated the discrepancy of 6 members exists on the website and search for "board of adjustment". Ms. Wollmuth stated that staff will work to have this corrected.

Ms. Lee suggested a statement “a denial requires a simple majority” may be beneficial to add to the bylaws to promote clarity and understanding. Ms. Wollmuth said that this would be added to the bylaws.

MOTION: A motion was made by Mr. Janssen to approve the bylaws as amended, Article 3 Item A, the board of adjustment shall consist of 5 members not 6, Article 6 Item b, a simple majority is needed to deny a request. Mr. Seiffert seconded the motion and with Board Members Lee, Janssen, Seiffert, Wangler and Chair Clark all in agreement, the motion passed.

Ms. Wollmuth will amend the bylaws and they will be available for review and approval at the next meeting.

ADJOURNMENT:

There being no other business, Chair Clark declared the meeting of the Bismarck Board of Adjustment adjourned at 5:43 p.m. The next Bismarck Board of Adjustment meeting will be February 5, 2026.

Respectfully Submitted,

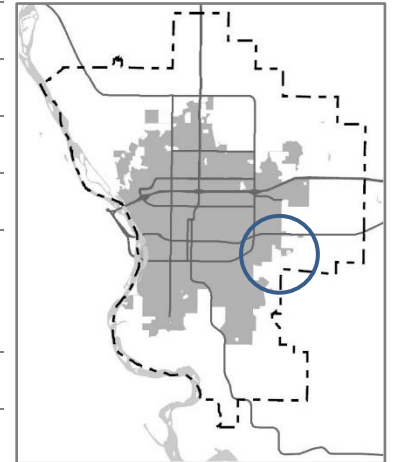
Annie Hojian
Recording Secretary

APPROVED:

Chair

Project Summary

<i>Title:</i>	Clear Sky Addition, Lots 7-8, Block 2
<i>Status:</i>	Board of Adjustment - Public Hearing
<i>Property Owner(s):</i>	Henry and Lisa Gerving
<i>Project Contact:</i>	Henry and Lisa Gerving
<i>Project Location:</i>	In southeast Bismarck, east of 52nd Street NE between East Main Avenue and Apple Creek Road, along the west side of Mehrer Drive
<i>Project Size:</i>	19,4000 square feet
<i>Applicant Request:</i>	Variance from Section 14-03-06(1)(b)(4) of the City Code of Ordinances (Incidental Uses)(Accessory Uses and Buildings)



Site Information

<i>Existing Conditions</i>		<i>Proposed Conditions</i>	
<i>Lots/Blocks:</i>	1 parcel in 1 block	<i>Lots/Blocks:</i>	No change
<i>Land Use:</i>	Single-family residential	<i>Land Use:</i>	No change
<i>Future Land Use:</i>	Urban Neighborhood (UN)	<i>Future Land Use:</i>	No change
<i>Zoning:</i>	R5 – Residential	<i>Zoning:</i>	No change
<i>Uses Allowed:</i>	Single-family residential	<i>Uses Allowed:</i>	No change
<i>Max Density:</i>	R5 – 5 units / acre	<i>Max Density:</i>	No change

Area Information

<i>Zoning Jurisdiction:</i>	Bismarck City Limits
<i>Township:</i>	N/A (City of Bismarck)
<i>Neighborhood:</i>	Clear Sky

Property History

<i>Zoned:</i>	07/2019
<i>Platted:</i>	07/2019
<i>Annexed:</i>	07/2019

Project Narrative

Henry and Lisa Gerving are requesting approval of a variance from Section 14-03-06(1)(b)S(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 1,320 square feet at 602 Mehrer Drive

(continued)

(Lots 7-8, Block 2, Clear Sky Addition).

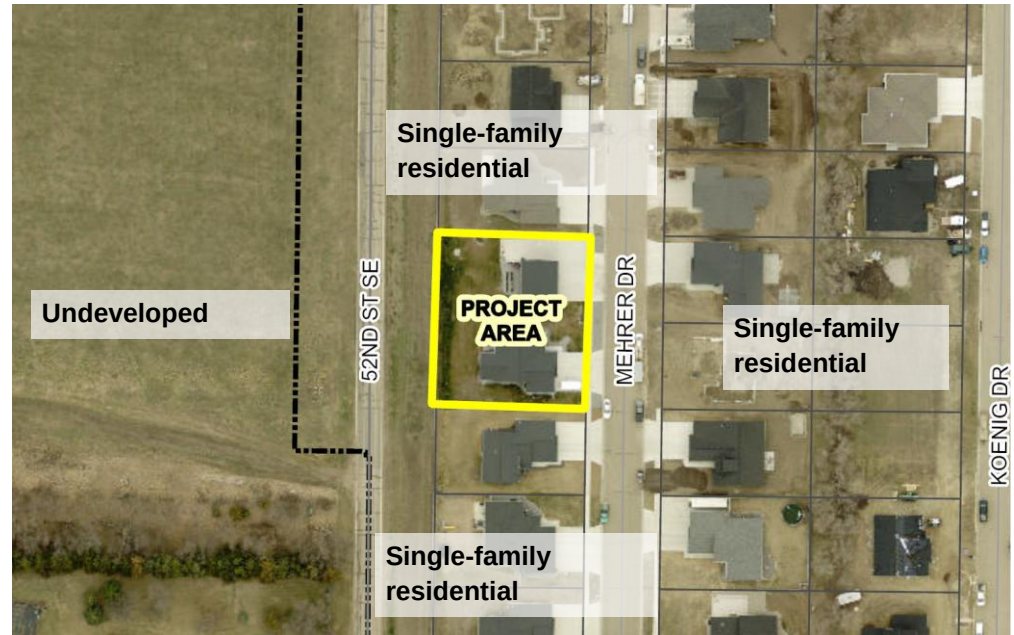
the applicants intend to construct a 120 square foot shed on the property.

A 1,200 square foot accessory building was constructed on this property in 2024. If approved,

Project Context

Land uses adjacent to the project area are depicted on the adjacent map:

A Zoning and Plan Reference Map is attached to this staff report, including current zoning, the Future Land Use Plan, Major Street Plan, and Active Mobility Plan.



The property has been identified as Urban Neighborhood (UN) in the Future Land Use Plan. The UN areas are a place for quiet enjoyment of home life. Goals and objectives of this plan as they relate to this request are referenced in review standards below.

Adjacent land uses include single-family residential uses to the north, south, and east across Mehrer Drive, and undeveloped Conditional MA – Industrial zoned land to the west across 52nd Street SE.

Public Engagement

The public has been duly notified of this request. 43 letters were mailed to the owners of nearby properties on January 26, 2026.

A physical sign providing information on the public hearing was placed in a publicly accessible spot at the project location on January 26, 2026.

Basic project information, with the ability to contact staff for more details, has been provided publicly online through the Community Development Activities map.

All written comments received by staff prior to the public hearing will be distributed to the Board of Adjustment and summarized by staff during the oral presentation.

Review Standards and Findings of Fact

The request is evaluated according to standards contained within the Comprehensive Plan, Bismarck Code of Ordinances, and relevant state law. Findings of fact, related to land use, are presented in response to each standard. Pursuant to Section 14-06-02 of the City Code of Ordinances, the Board of Adjustment may

(continued)

vary or adjust the strict application of any of the requirements of the zoning ordinance in case of an exceptionally irregular, narrow, shallow or steep lot or other exceptional physical or topographical, by reason of which the strict application of the provisions of the zoning ordinance would result in an unnecessary hardship that would deprive the owner of a reasonable use of land or building involved, but in no other case.

No adjustment in the strict application of any provisions of the zoning ordinance shall be granted by the Board of Adjustment unless it finds the following:

That there are special circumstances or conditions fully described in the findings of the Board, applying to the land or buildings for which the variance is sought, which circumstances or conditions are peculiar to such land or building, and do not apply generally to land or buildings in the neighborhood, and have not resulted from any act of the applicant taken subsequent to the adoption of this article, whether in violation of the provisions of the article, or not ([Goal G10-f](#))

That, for reasons fully set forth in the findings of the Board, the circumstances or conditions so found are such that the strict application of the provisions of this article would deprive the applicant of the reasonable

use of said land or building, and the granting of the variance is necessary for the reasonable use of the land or building, and that the variance as granted by the Board is the minimum variance that will accomplish the relief sought by the applicant.

That the grant of the variance will be in harmony with the general purposes and intent of this article, and will not be injurious to the neighborhood or otherwise detrimental to the public welfare ([Goal S10-a](#))

A variance granted under this chapter must be put into use within 24 months of the granting of the variance or it shall lapse and the landowner must re-apply.

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. Zoning Plan and Reference Map
2. Written Statement of Hardship
3. Site Exhibit

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

Zoning Districts

A	Agriculture
RR	Rural
R5	Residential
RMH	Manufactured Home Residential
R10	Residential
RM	Residential Multifamily
RT	Residential (Offices)
HM	Health and Medical
CA	Commercial
CG	Commercial
MA	Industrial
MB	Industrial
PUD	Planned Unit Development
DC	Downtown Core
DF	Downtown Fringe

Future Land Use Plan

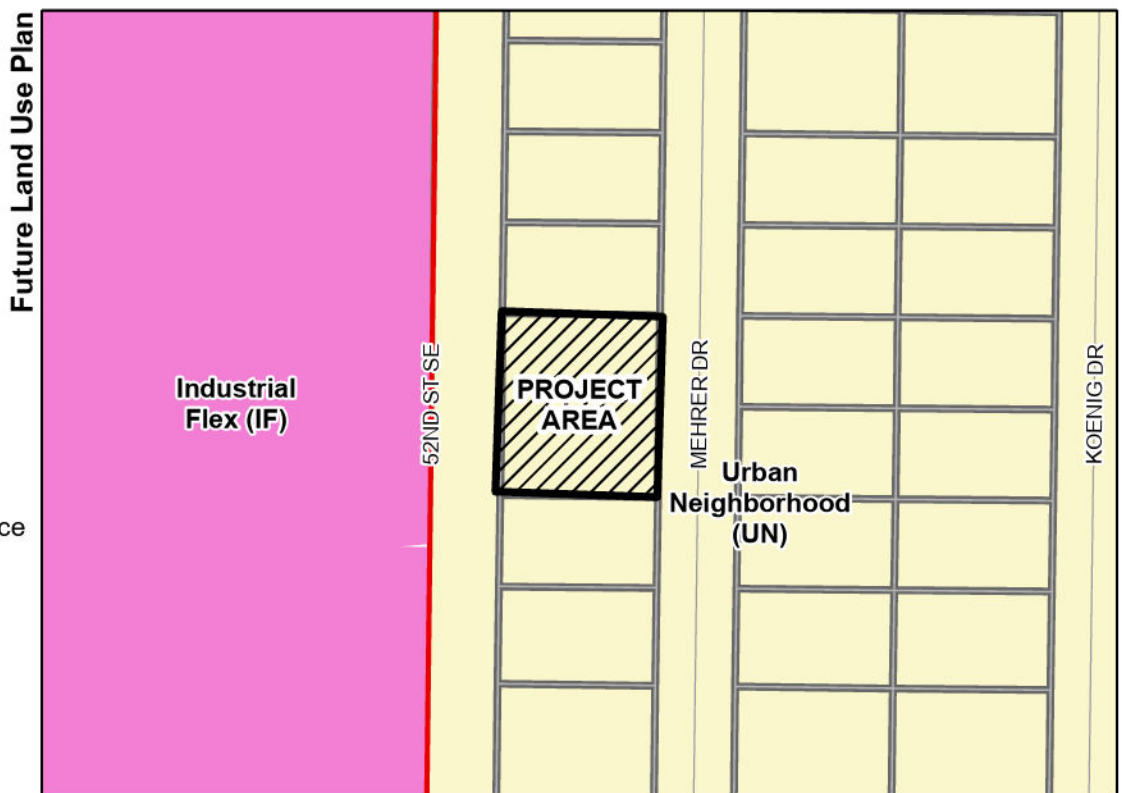
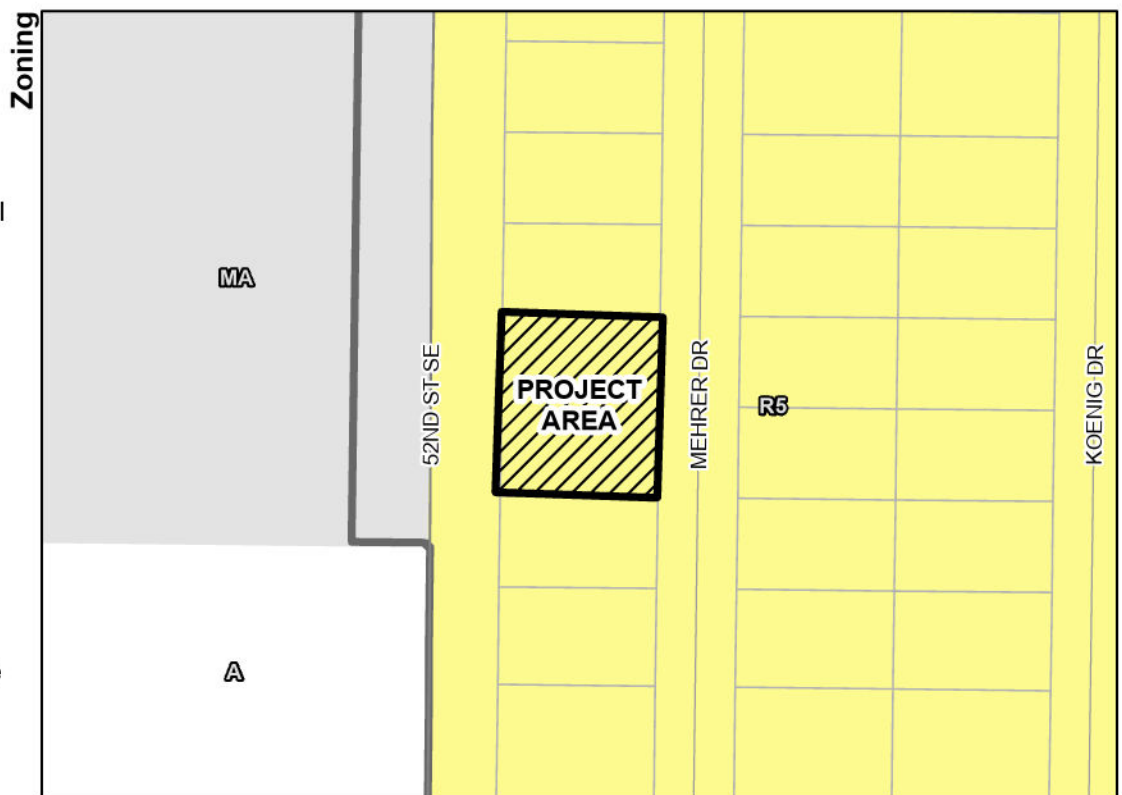
UN	Urban Neighborhood
NMU	Neighborhood Mixed Use
CMU	Community Mixed Use
DMU	Destination Mixed Use
DT	Downtown
IND	Industrial
IF	Industrial Flex
IMU	Industrial Mixed Use
INS	Institutional
RR	Rural
TR	Residential Transitional
PKOS	Parks/Open Space
URA/URB	Urban Reserve Mid/Long-Term

Active Mobility Plan

— Future Shared Trail

Major Street Plan

- Existing Arterial
- Future Arterial
- Existing Collector
- Future Collector
- Existing Interstate
- Future Interstate
- City Limits



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.

0 115 230 460 Feet



City of Bismarck
Planning Department
January 27, 2026



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)

Lots 7 & 8 Block 2, Clear Sky addition

Location of Property:



City of Bismarck



ETA

Type of Variance Requested:

Accessory buiding limitation of 1200 Sq Ft be varied to 1320 sq fr

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 not able to protect an existing well, the cost of maintenance and exposure is excessive, as constructed. With out the variance we will be forced to discontinue the use of our well. With this variance we will be able to continue the use of the well, which in turn reduces our water consumption greatly during the summer, costing us less and using less city water.

The structure we are proposing 10 x 12 does not require a permit.

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

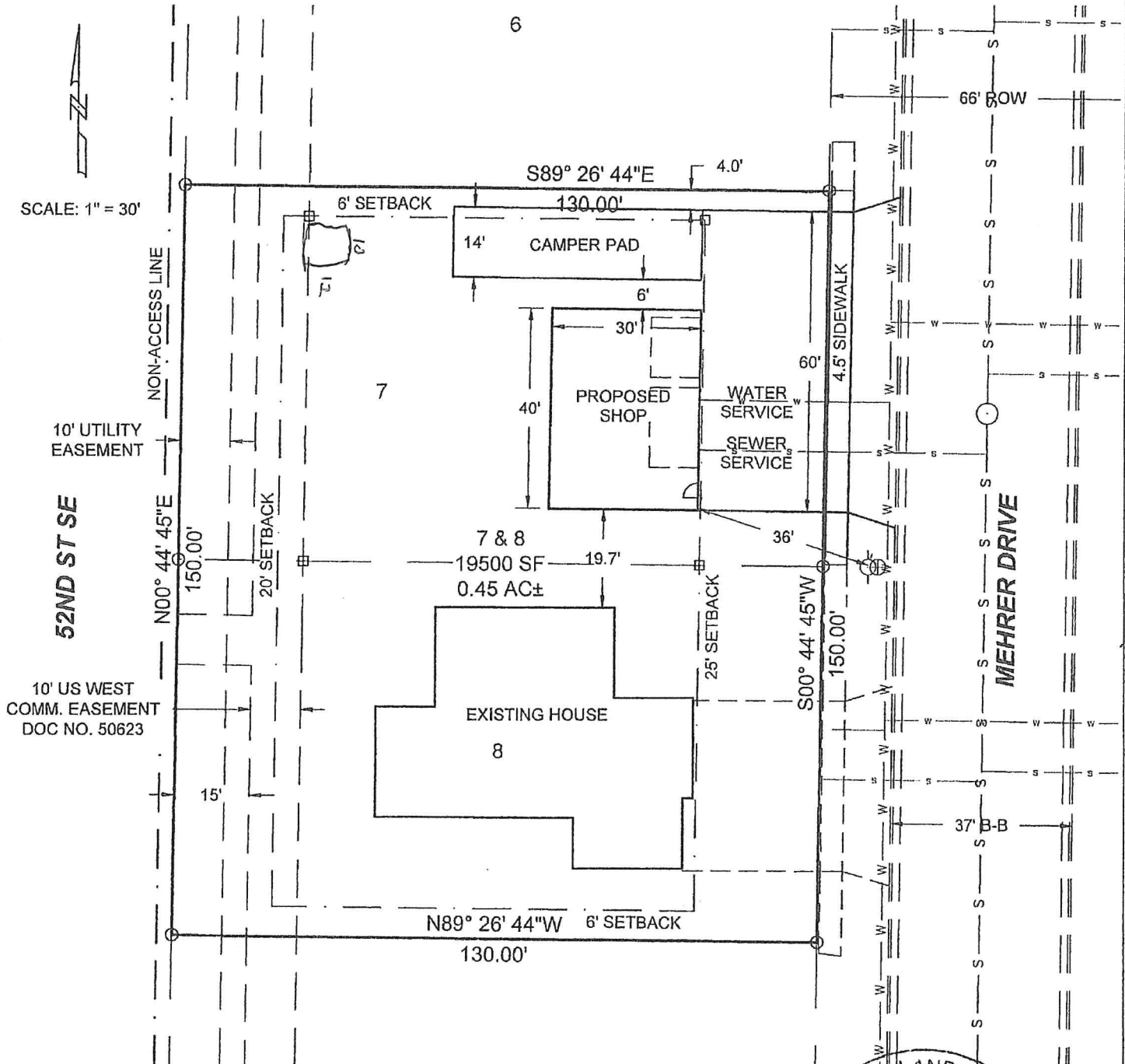
We will not be able to continue to operate the well.

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

The variance would allow to place a protective structure over the well which would allow us to continue to operate it, with minimal cost and maintenance.

LOT SURVEY EXHIBIT

LOT 7 & 8 BLOCK 2
 SUBDIVISION CLEAR SKY ADDITION
 ADDRESS 516 & 602 MEHRER DRIVE
 BUILDER RUSCH HOMES, LLC



TOMAN ENGINEERING

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

SYMBOL LEGEND

- FOUND MONUMENT
- ⊙ SET MONUMENT
- BUILDING SETBACK NAIL OR WOOD STAKE





Bylaws of the City of Bismarck Board of Adjustment

Article I. Authorization

A. Authority. The Board of Adjustment is established pursuant to Chapter 14-06 of the City of Bismarck Code of Ordinances (Title 14) and pursuant to provisions in the North Dakota Century Code (NDCC) Chapter 40-47.

Article II. Purpose

A. Purpose. The purpose of the Board of Adjustment is to promote the health, safety, and general welfare of the citizens of the City of Bismarck and the City's extraterritorial jurisdictional boundary by hearing and deciding appeals of orders, requirements, and decisions or determinations of an administrative official appropriate under Title 14.

Article III. Membership and Organization

A. Membership. The Board of Adjustment consists of ~~six (6)~~ five (5) members, each to be appointed by the Board of City Commissioners for a term of three (3) years. (*Title 14*)

B. Organization. The organization of the Board of Adjustment consists of a chairperson and vice-chairperson selected by the membership who serve at the pleasure of the membership for one year. Nominations and election of officers shall be taken from the floor at the Board of Adjustment's first meeting of the year. If an officer is unable to complete the specified term, a special election shall be held for the completion of the term.

The chairperson shall preside at all Board of Adjustment meetings and review agendas with staff.

The vice-chairperson shall conduct all business delegated by the chairperson, in the absence of the chairperson.

Article IV. Conduct of Members and Ethics

A. General Conduct. Members of the Board of Adjustment shall make every effort to attend all meetings and shall make every effort to represent the interests of all of the citizens of the City of Bismarck and the City's extraterritorial jurisdictional boundary in a fair and impartial manner.

B. Conflict of Interest. A member of the Board of Adjustment who has a direct and substantial personal or financial interest in a matter before the Board shall disclose that

fact to the Board and may not participate or vote on that particular matter without the consent of a majority of the other members of the Board present.

C. Removal of Members. The Board of Adjustment may recommend that the Board of City Commissioners remove any member of the Board if that member failed to attend three (3) consecutive regular meetings of the Board of Adjustment or has failed to attend seven (7) regular meetings within one calendar year. The Board of City Commissioners shall make judgment on such matters after receiving a report from the chairperson of the Board of Adjustment.

D. Ex-parte Communication. Ex-parte communication includes any oral or written communication between a member of the Board and any other person interested in an item before or scheduled to be before the Board. Communications on a particular item sent to the Board after the agenda packet has been sent via email or mail may be distributed and announced at the Board of Adjustment meeting. Board of Adjustment members shall comply with applicable City and State open meeting requirements.

Article V. Powers and Duties of the Board

A. Powers and Duties of the Board. The Board of Adjustment has all of the powers and duties confirmed by Chapter 14-06 of Title 14 of the City Code of Ordinances and Chapter 40-47 of the NDCC. These powers and duties include:

1. Interpretation. The Board of Adjustment shall decide any question involving the interpretation of any provision of Title 14. *(Title 14)*
2. Variances. The Board of Adjustment may vary or adjust the strict application of any of the requirements of Title 14. The Board of Adjustment shall prescribe any conditions to the approval of a variance necessary or desirable to carry out the general purposes of the title or preserve the neighborhood or general welfare from injury. *(Title 14)*
3. Parking Determination. The Board of Adjustment shall decide questions of off-street parking and off-street loading in unique situations for any use not specifically mentioned in Title 14, Section 14-03-10(4). *(Title 14)*

Article VI. Appeals to the Board

A. Appeal – How Taken. An appeal to the Board of Adjustment may be taken by any aggrieved applicant, including any person, firm, or corporation aggrieved, or by any governmental officer, department, board, or bureau affected by any decision of the Zoning Administrator, based in whole or in part upon the provisions of Title 14. A party may appear at the hearing in person or by agent or by attorney. *(Title 14)*

B. Appeal – Procedure. The Board of Adjustment shall fix a reasonable time for the hearing of an appeal or for action on any matter upon which the Board is required to decide under Title 14 of the City Code of Ordinances and give due notice of the time to interested parties and make all decisions within a reasonable time. *(Title 14)*

The concurring vote of four (4) members of the board is necessary to reverse any order, requirement, decision, or determination of the Zoning Administrator or other official, or to

decide in favor of the applicant any matter or to effect any variation from Title 14. *(Title 14)*

A simple majority of the board members being present shall be required to uphold any order, requirement, decision, or determination of the Zoning Administrator or other official, or to decide against the applicant any matter or variation from Title 14.

C. Appeal to the Board of City Commissioners. A decision of the Board of Adjustment may be appealed to the Board of City Commissioners by either the aggrieved applicant or by any officer, department, board, or bureau of the City by filing the request for appeal, within fifteen (15) calendar days after notice of the decision, with the office of the City Administrator or the Planning Department. *(Title 14)*

The Board of City Commissioners shall fix a time, within thirty (30) days of receipt of the request for appeal, for the hearing of the appeal and shall give due notice of the hearing to the parties.

Article VII. Findings of Fact

A. Findings of Fact. In accordance with Chapter 14-06 of Title 14, an adjustment or variance in the strict application of any provisions of Title 14 may not be granted by the Board of Adjustment unless the Board finds the following:

1. That there are special circumstances or conditions, fully described in the findings of the board, applying to the land or buildings for which the variance is sought, which circumstances or conditions are peculiar to such land or building, and do not apply generally to land or buildings in the neighborhood, and have not resulted from any act the applicant has taken.
2. That, for reasons fully set forth in the findings of the Board, the circumstances or conditions so found are such that the strict application of the provisions of Title 14 would deprive the applicant of the reasonable use of said land or building, and the granting of the variances is necessary for the reasonable use of the land or building, and that the variance as granted by the Board of Adjustment is the minimum variance that will accomplish the relief sought by the applicant.
3. That the granting of the variance will be in harmony with the general purposes and intent of Title 14, and will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

Article VIII. Lapse

A. Lapse. A variance granted must be put into use within twenty-four (24) months of the granting of the variance or the variance lapses and the landowner or their agent must re-apply for a variance if the landowner seeks to put the variance into use.

Article IX. Meetings

A. Meetings. The Board of Adjustment's regular meeting time is 5:00pm on the first Thursday of each month in the Tom Baker Meeting Room in the City-County Building.

Special meetings may be held at any time and may be called by the chairperson. Special and regular meetings of the Board are open meetings that are open to the general public.

B. Meeting Notice. Notice of the time and place of a hearing shall be sent to the applicant or their agent after a complete application is submitted to staff for action by the Board of Adjustment. Notice of the time, place and request of the Board of Adjustment shall be sent to all known adjacent property owners no later than ten (10) days before to the Board of Adjustment meeting unless specifically approved by the chairperson of the Board.

C. Participation. A Board member may join the meeting by telephone. A member participating by telephone is included in the determination of a quorum and eligible to participate in discussion and voting on all agenda items.

D. Meeting Rules. Unless otherwise specified, Robert's Rules of Order governs the proceedings of the Board of Adjustment.

E. Meeting Documents. All notices, agendas, requests, letters, reports, maps, photographs, staff reports, minutes, and other related items constitute the documents of the Board of Adjustment and shall be maintained in the Planning Development Department.

Article X. Staff Responsibilities

A. Staff Responsibilities. The Bismarck Planning Department shall provide administrative and technical support to the Board of Adjustment.

Article XI. Amendment of Bylaws

A. Amendments. These Bylaws may be amended at any regular or special meeting of the Board of Adjustment, if the proposed amendment has been introduced in writing at least seventeen (17) days before the meeting of the Board. Amendment of the Bylaws requires the affirmative vote of at least four (4) members of the Board.

Board of Adjustment - Chair

Date