

**BISMARCK BOARD OF ADJUSTMENT
MEETING MINUTES
February 5, 2026**

The Bismarck Board of Adjustment met on February 5, 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, Sarah Fricke – Senior Administrative Assistant, and Jenny Wollmuth – Senior Planner.

PUBLIC COMMENT:

There were no public comments.

MINUTES:

Chair Clark called for approval of the minutes of the January 8, 2026 meeting of the Board of Adjustment.

MOTION: A motion was made by Mr. Janssen to approve the minutes of the January 8, 2026 meeting. 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 14-03-06(1)(b)(4) of the City Code of Ordinances (Incidental Uses)(Accessory Uses and Buildings) Clear Sky Addition, Block 2, Lots 7-8.

Ms. Wollmuth stated that homeowners, Henry and Lisa Gerving, are requesting approval of a variance at 602 Mehrer (Lots 7-8, Block 2, Clear Sky Addition), from the following section of the City's Zoning Ordinance:

- Section 14-03-06(1)(b)(4) of the City Code of Ordinances (Incidental Uses)(Accessory Uses and Buildings) to increase the area of accessory buildings from 1,200 square feet to 1,320 square feet.

The proposed variance is located in southeast Bismarck, east of 52nd Street SE, between East Main Avenue and Apple Creek Road, along the west side of Mehrer Drive.

Ms. Wollmuth informed the Board one public comment and one phone call was received from adjacent property owners regarding this request.

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.

Mr. Janssen asked if there had been correspondence with the applicant regarding this matter and the number of times, content and information exchanged. Ms. Wollmuth informed the Board Mr. Gerving was present online and had received notification letters, as well as has worked with Inspections during the construction of the home and accessory building.

Mr. Seifert asked for verification regarding the applicant's statement that no building permit was necessary due to the size of the building. Ms. Wollmuth affirmed this and stated that although the Inspections Department does not require a building permit for structures 120 square feet or less, the buildings must still comply with zoning ordinance. Mr. Seifert further asked for verification regarding the maximum allowable square footage on the lot and Ms. Wollmuth stated in the R5 Residential Zoning district, a maximum of 1,200 square feet is allowed for all accessory buildings regardless of how large the lot is. Mr. Seifert asked if the property has always had City of Bismarck water or if the property was annexed. Ms. Wollmuth stated this property is in Clear Sky Addition, which is annexed, and is provided water and sewer from the City of Bismarck.

Mr. Wangler asked for verification that this property is not in the extraterritorial area. Ms. Wollmuth affirmed this property is not in the ETA. Mr. Wangler asked if the City of Bismarck will be doing any modifications to the allowable sizes of accessory buildings within city limits. Ms. Wollmuth stated that the current ordinance states a maximum of 1,200 square feet is allowed for all accessory buildings, and the proposed Land Development Code (LDC) that is currently being reviewed, does not propose any changes to allow for additional square footage of accessory buildings within the city of Bismarck limits. Ms. Wollmuth stated this property was two lots that were combined to create one parcel and is treated as one property. Mr. Wangler asked if there were plans for a concrete floor as he feels a 10'x12' building is larger than what is needed for a building to protect only a well, as proposed by the applicant.

Chair Clark stated she had not received a copy of the public comment. It was emailed to Board members and Mr. Janssen provided a copy for her review. Chair Clark opened the meeting to comments from the petitioner.

Mr. Gerving addressed the Board. He stated he purchased his home as a "spec" home and found the lot next his newly purchased home was vacant. He contacted the owner, who was the developer who built his residence, who agreed to sell the lot depending on Mr. Gerving's intentions. Mr. Gerving informed him he intended to build a shop and the landowner, Tim Rusch, agreed to the purchase and a 40'x50' shop was designed. Mr. Gerving stated the staff contacted regarding a building permit, used a formula that calculated a percentage of his lot, and he found this to be confusing. He further stated that he himself did not work with the City of Bismarck, however his contractor, Mr. Rusch, did. Mr. Gerving went on to state there was a timing gap where the building was designed and when he contacted the well driller. Initially the well was to be contained within the shop. After the well was drilled, Mr. Rusch submitted the building permit application and that was when it was discovered there is a 1,200 square foot limit. The allowable building was constructed. The well is on a 5'x5' concrete pad in the rear yard away from the existing shop. Mr. Gerving acknowledged the 10'x12' requested is larger than what is needed to protect the well, but decided since he'd need a variance granted for any structure to be built, he'd build it as large as possible. He stated he spoke with Residential Plans Examiner Mark Kern several times, however he was a third party and Mr. Rusch handled the lot modification request to combine parcels for it to be allowable to construct the shop. Mr. Gerving states the proposed building will be constructed in the same style as the other buildings on the property and believes it will enhance the neighborhood.

Chair Clark stated that one of the requirements for a variance request is that it be the minimum request possible. She asked Mr. Gerving if a smaller building could be constructed to meet this requirement and if by doing so, he'd still be able to accomplish his goal. Mr. Gerving stated he could, but because of the 125' depth of the well, there is a high mineral content. Due to this, he also needs to put in a water purification system that measures approximately 5'x3'x18' deep. To allow access to change the filters, it would be better if the building was larger than the 5'x5' needed to contain the well. If a 10'x12' was allowed, it would allow for the well and purification system to be contained in the same building and allow easier access for Mr. Gerving to change the filters.

Mr. Seifert asked Mr. Gerving for clarification as to the water use of this well. Mr. Gerving stated it is for watering his lawn only.

Mr. Janssen asked why the well needs to be covered by a building and further explained that for proper well maintenance, it needs to be accessible to pull out several working parts and it is more advisable to have the well uncovered. He asked if Mr. Gerving was more concerned about the water softener. Mr. Gerving stated it is for the water softener, but also because he drains the system and blows it out completely in the fall, the pressure tank is disconnected. The water softener system has not been installed yet as there is no place to mount it. Mr. Gerving wants the well to be covered so that he does not have to disconnect the pressure tank to move it inside of another structure and he also wants the purification system covered.

Ms. Lee asked staff if it was known how many private wells exist within city limits. Building Inspections Director Brady Blaskowski stated a permit for a well is not issued by the Building Inspections Department and as such, cannot give an accurate account of how many wells there may be within city limits.

MOTION: A motion was made by Mr. Janssen to deny the variance as requested. Ms. Lee seconded the motion. Board members Lee, Janssen, Seifert and Chair Clark voted in favor to deny the variance. Board Member Wangler opposed. The variance was denied.

Mr. Seifert questioned why the pressure tank and necessary accompanying equipment was not installed in the shop that was newly constructed. Mr. Seifert does not see this as a hardship.

Chair Clark stated that the requests that come before the Board are to be evaluated on whether the circumstances are of the petitioner's doing, or if the petitioner's request comes due to being subject to something somebody else created. She re-iterated the request is not the minimum to meet the needs and this also does not address the initial creation of the hardship.

Mr. Wangler stated the original plan was to construct a 2,000 square foot building. He is familiar with Mr. Rusch's work and most of it has been completed in Lincoln. As Lincoln and Bismarck have different codes, and there may have been some confusion as to jurisdiction, inaccurate information may have been given regarding allowable size. He believes after the building had been planned, adjustments had to be made due to size limitations. He stated it was confusing as to why the well would have been placed in the NW corner of the lot unless the building was going to be placed in that location.

Mr. Janssen stated Mr. Gerving is on City water and this well is for irrigation purposes. Although he can appreciate there may have been some discrepancies in what was told to Mr. Gerving and his contractor regarding allowable building size, he does not believe this meets the

definition of a hardship. The distance is not so great that the few lines needed cannot be run to place the pressure tank and water softener in the existing shop if Mr. Gerving desires it to be covered

REVIEW OF BYLAWS:

Ms. Wollmuth presented the Board of Adjustment with changes to the Bylaws. Page 1, Article 3, Section A "membership" has been changed to match current state requirements and reduced from 6 members needed to 5. Page 3 Article 6 "appeals to the board" a statement was added to clarify a simple majority.

MOTION: A motion was made by Mr. Seifert to approve the Bylaws as written. Mr. Janssen seconded the motion. Board members Lee, Janssen, Seifert, Wangler and Chair Clark all voted in favor.

ADJOURNMENT:

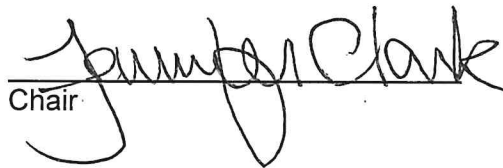
There being no other business, Chair Clark declared the meeting of the Bismarck Board of Adjustment adjourned at 5:27 p.m. The next Bismarck Board of Adjustment meeting will be March 5, 2026.

Respectfully Submitted,



Annie Hojian
Recording Secretary

APPROVED:


Chair