

**BISMARCK BOARD OF ADJUSTMENT
MEETING MINUTES
December 4, 2025**

The Bismarck Board of Adjustment met on December 4, 2025, 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, Vice Chair Chris Seifert, Al Wangler, and Rick Wohl.

Chair Jennifer Clark was absent.

Jeremy Hasenyager – Property Owner, and Todd Freitag – Owner, Sparling Construction.

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

MINUTES:

Vice Chair Seifert called for approval of the minutes of the October 2, 2025 meeting of the Board of Adjustment.

MOTION: A motion was made by Mr. Wangler to approve the minutes of the October 2, 2025 meeting, as written. The motion was seconded by Mr. Janssen and the minutes were unanimously approved with Board Members Janssen, Seifert, Wangler, and Wohl, voting in favor.

PUBLIC COMMENT:

There were no public comments.

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.

Director Nairn 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.

Director Nairn 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 LDC in module one pertaining to the setbacks in residential zoning districts does show a change of the setback of accessory buildings within this zoning district from 25 feet to 10 feet.

Principal building setbacks are proposed to change from 25 feet to 15 feet. He noted this is a draft that has not been reviewed by the Planning Commission, nor approved by the Bismarck City Commission, but it was publicly released in the spring of 2025. The estimated timeline of request for approval of the LDC would be spring of 2026.

Director Nairn went on to provide an overview of the request, including background information of the property and findings of fact. He 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. Freitag, Owner of Sparling Construction, addressed the Board. He explained how the variance request came to be necessary and apologized for any wrongdoing on the part of Sparling Construction. He submitted Exhibits A, B, C and D (attached) for consideration. Mr. Freitag explained during discussion with the homeowner regarding design and placement of the detached accessory structure, it was noted there is an air conditioning unit, as well as an egress window, on the north side of the home. If the accessory structure moved 10 feet to the south, the homeowner would have difficulty maneuvering vehicles in and out of the accessory structure. The homeowner does mechanical work on vehicles as supplemental income, hence the need for the accessory structure. There is also a current deck and patio area in the backyard and moving the structure 10 feet to the south would impede upon his backyard living space. There is a distance between the principal structure and accessory structure of 10 feet. Mr. Freitag felt, should the proposed changes to the LDC not pass, and a variance was granted for this request, the building would still look harmonious with the area.

Mr. Hasenyager addressed the Board. He explained there are two egress windows on the north side of the house that access a bedroom and a living room. If the accessory structure were to be moved 10 feet to the south, Mrs. Hasenyager would lose some of her view to the north and wanted this noted. Mr. Hasenyager also stated should the accessory structure be moved 10 feet to the south, the garage door of the accessory structure would line up halfway with the house, blocking access, and making maneuvering vehicles difficult.

Mr. Wangler asked should the detached accessory structure have to be moved further south, would it also have to be moved east. Director Blaskowski clarified that if an accessory structure is not at least 10 feet from the principal structure, then it must maintain the same setback as the principal structure.

Mr. Janssen stated the accessory structure can be moved to the east further and still maintain the required rear setback. Currently the building is located approximately 19 feet from the rear. Director Blaskowski stated if the accessory structure is greater than 10 feet away from the principal structure, it does not need to meet the rear yard setback for the principal structure. A 20 foot rear yard setback applies only if the accessory structure is closer than 10 feet to the principal (house) structure. Mr. Janssen stated he can appreciate the concern regarding the egress windows and maneuverability of vehicles in and out of the garage, but he is struggling to find what the hardship is in this particular instance. He also stated that while the LDC may change in the future, it is still an unknown as to what will change and when. All decisions made today need to be made based on today's ordinances. He does agree that it would be harmonious with the current neighborhood and finds no issue with this. He did further mention that in the recent past, two homes in the area were out of compliance with the current yard setbacks and they were required to comply. Mr. Janssen asked if there was an option to suspend any construction awaiting final approval to any changes to the LDC in the homeowner's favor, and if there would be any adverse effects in doing so. Director Blaskowski

stated options had been discussed with the homeowner. The request and approval of a variance would be a potential remedy available to the homeowner to complete this project. He noted that if the LDC changes in the future, and the setback requirement would be reduced, allowing the current placement of the accessory structure would comply with the proposed new ordinance. Director Blaskowski did state there is no definitive date of when any request for approval of the LDC would be presented to the Bismarck City Commission. In the event any proposed changes are not approved by the Bismarck City Commission, Building Inspections would then work with the property owner to establish a reasonable timeframe to construct the structure in compliance with ordinances.

MOTION: A motion was made by Mr. Janssen to deny the variance based on current ordinances and having not met the burden to successfully argue a hardship has been established. Mr. Wohl seconded the motion for purposes of discussion. Board members Wangler, Seifert, and Wohl were all opposed. Board member Janssen voted in favor of the motion. The motion did not pass.

Mr. Wohl stated setbacks were known and still a building was placed within the setback. He asked if this lot does have a unique situation and this is the unusually large setback from 43rd Avenue NE. As 43rd Avenue NE is a major roadway, the accessory structure being placed closer to the road would more than likely not even be noticed. Mr. Wohl stated that even though this is a corner lot, it does not have the appearance of such.

Vice Chair Seifert agreed the location of the building more than likely would not be noticed or appear to be inharmonious with the neighborhood. In the event the proposed changes to the LDC are not adopted once presented to the Bismarck City Commission, Building Inspections would then need to work with the homeowner to correct this at that time.

Mr. Wangler stated in the event the homeowner is required to move the detached accessory structure 10 feet south, the hardship would be that the homeowner is deprived of full use of the lot they own. Mr. Wangler stated regardless of whether the building is placed 15 feet, or 25 feet, from the property line most citizens would not pay any attention to it.

Mr. Janssen stated there is room on the lot to shift the structure to the east and be in compliance with the ordinance that is in effect today. He further clarified 43rd Avenue NE is a main roadway and not a side street receiving most traffic from residents in the neighborhood. Mr. Janssen stated the structure currently existing has no bearing on his decision. Had the contractor submitted the application prior to construction, as required, this would not be an issue. Mr. Janssen is attempting to stay consistent with decisions the Board has made on past requests according to the ordinances in place as of today.

MOTION: A motion was made by Mr. Wangler to approve the variance with special circumstances regarding the deprivation of use of the property and creating unusable space on the north side of the property. It is believed the requested 15 foot setback is the minimum necessary to accomplish relief and that granting the variance will be harmonious with the general purpose and intent of the article, and that granting the variance would not be injurious to the neighborhood. Mr. Wohl seconded the motion. Board members Wangler, Seifert, and Wohl all voted in favor. Board member Janssen was opposed. Vice Chair Seifert announced the motion passed and the variance will be granted.

SECRETARY'S NOTE:

At the conclusion of the public hearing, the Board of Adjustment voted 3:1 to approve the variance and it was announced during the meeting that the variance was approved. However, per Section 40-47-07 of the North Dakota Century Code the concurring vote of four members of the Board of Adjustment is needed to approve a variance. Therefore, approval of the variance is not valid. A copy of this section of the North Dakota Century Code can be found [HERE](#).

The City Attorney has advised that a reintroduction of the variance and new vote be held at the January 8, 2026, Board of Adjustment meeting. The applicant and their contractor have been made aware of this error via phone and certified letter.

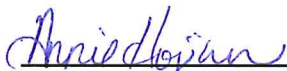
OTHER:

Director Nairn informed board members that application deadlines were November 30, 2025, for appointments to all City of Bismarck boards. The Bismarck City Administration has re-opened the window to accept applications for appointments, including the Board of Adjustment. At this time, one position remains vacant for the Board of Adjustment.

ADJOURNMENT:

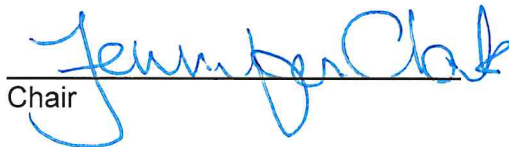
There being no other business, Vice Chair Seifert declared the meeting of the Bismarck Board of Adjustment adjourned at 5:36 p.m. The next Bismarck Board of Adjustment meeting will be January 8, 2026.

Respectfully Submitted,



Annie Hojian
Recording Secretary

APPROVED:


Chair