

MINUTES OF THE MEETING
OF THE
GREAT FALLS BOARD OF ADJUSTMENT/APPEALS
March 23, 2017

CALL TO ORDER

The meeting of the Great Falls Board of Adjustment/Appeals was called to order by Chair Jule Stuver at 3:00 p.m. in the Commission Chambers of the Civic Center.

ROLL CALL & ATTENDANCE

Great Falls Board of Adjustment/Appeals members present:

Mr. Jule Stuver, Chair
Mr. David Saenz
Mr. David Carlson
Ms. Krista Smith
Mr. Kyle Palagi

Great Falls Board of Adjustment/Appeals members absent:

None

Planning Staff members present:

Mr. Craig Raymond, Director Planning & Community Development
Mr. Thomas Micuda, Deputy Director Planning & Community Development
Mr. Charlie Sheets, Development Review Coordinator
Ms. Connie Tryon, Sr. Administrative Assistant
Ms. Genna Boland, Temp Assistant

Others present:

Mr. Joseph Cik, Assistant City Attorney

Mr. Raymond affirmed a quorum of the Board was present.

MINUTES

Chair Stuver asked if there was a motion to approve the meeting minutes as stated for May 5, 2016. Seeing no corrections, Ms. Smith moved to approve the minutes as submitted, seconded by Mr. Saenz. All in favor, the minutes were approved.

Action Minutes of the Board of Adjustment/Appeals. Please refer to the audio/video recording of this meeting for additional detail.

OLD BUSINESS

There was no old business.

BOARD COMMUNICATIONS

Election of new Board chair and vice chair.

Ms. Smith moved to elect Mr. Stuver as Chair and Mr. Carlson as Vice Chair. Mr. Palagi seconded, and the motion was approved.

NEW BUSINESS

BOA2017-03, 225 2nd Street South

Variance: Sections 17.20.4.010 – Minimum rear yard setback of 10-feet

Charlie Sheets, Development Review Coordinator, presented the staff report for a variance request for a change in minimum rear yard setback at 225 2nd Street South.

The property was built as a warehouse with a loading dock. The applicant is proposing to construct a 360 square-foot addition to the building and create a patio in the 10-foot rear yard of the property. Mr. Sheets said the Board must consider if the variance is contrary to public interest, if the enforcement of the City Code is an unnecessary hardship, and if the spirit of the title is continued.

This building was originally a railroad warehouse that was later developed into a commercial office along 2nd Street South. The area has been redeveloped with a few exceptions, including the property next door which is a Contractor Yard Type 1. To the east of the property is a Contractor Yard Type 2. The rear yard setback of the existing building was a loading dock that was recently removed by the owner. The owner wishes to construct an open patio for a portion of it, and in the south-east corner of the lot build a ten-foot addition which will be 36 feet long and enclosed. The addition will encroach on the 10-foot minimum yard setback.

Mr. Sheets said a basis of finding is included in the staff report. This property is zoned M2, Mixed-Use Transitional, established for the transition of the existing warehouses to a potentially better use. Some of the properties along this busy corridor have developed into commercial buildings. At this time, two contractor yards still exist and those two historic uses will be allowed to continue. The owner wishes to fully enjoy all of his property and create a buffer between himself and the surrounding contractor yards.

The fence bordering the property to the east, belonging to Northwest Fencing, has become dilapidated which can be seen in the site photos. To the south is the contractor yard belonging to Talon Plumbing, where his equipment and excess material is stored. By enforcing the M2 Setback, it does not provide the full benefit of the property to the applicant.

The enclosed and open patio encourages sound development by screening some of the noise between those two neighboring construction uses, and would allow full use of the property by the applicant. Mr. Sheets offered to answer any questions from the Board.

PETITIONER'S PRESENTATION

James Page, 322 Belt Creek Road, said many of the buildings are already developed to the rear property line along 2nd Street South. In granting the variance, the Board would not be changing

the look of the area because most of the properties are already developed similarly. The patio will provide some screening from the surrounding construction yards.

Mr. Carlson asked if the current screening in the parking lot belonged to the property owner or the neighboring land owner. Mr. Page stated that the fence is an old chain link fence that is starting to fall down, and it does not belong to the property owner.

Ms. Smith asked if there is any reason Talon Plumbing would not be able to access or remove their things from the back. Mr. Bloomgren stated Talon Plumbing has access through their building, and he has no intention of blocking them. Talon is aware of the proposed changes to the property.

PROponents OPPORTUNITY TO SPEAK

There were no proponents.

OPponents OPPORTUNITY TO SPEAK

There were no opponents.

PETITIONER'S CLOSING

The petitioner had no further comments.

PUBLIC COMMENT

There was no public comment.

BOARD DISCUSSION AND ACTION

Mr. Carlson asked if granting this variance would fit with the spirit of the transition of the property, and if there are any impacts.

Mr. Sheets stated that the existing M2 Zoning District, by its creation, was anticipating a shift in the existing warehouses - the contractor yards would go away, and a potentially better use would be established along 2nd Street South. The zoning setback was established in 2005, and the warehouses were built many years before. As Mr. Page indicated, many of the properties have already been built back to the property line, and this is one of the final properties to make the adjustment.

MOTION: That the Board of Adjustment approve with conditions the application of Allen Bloomgren, represented by James Page, as shown in the conceptual development plans contained within this report, for the requested variance of City Code Title 17, Chapter 20, Article 4, Section 010, Exhibit 20-4, Minimum rear yard setback of 10 feet subject to the following conditions:

1. The proposed project shall be developed consistent with the conditions in this agenda report, all codes and ordinances of the City of Great Falls, the State of Montana, and all other applicable regulatory agencies.

2. If after the approval of the conceptual development plan as amended by this Board, the owner proposes to expand or modify the conceptual development plans, the Director of the Planning and Community Development Department shall determine in writing if such proposed change would alter the concept for one or more review criteria. If such proposed change would alter the plan, the proposal shall be resubmitted for review as a new application.

Made by: Ms. Smith
Second: Mr. Palagi

There was no further discussion.

VOTE: All being in favor, the motion passed.

**BOA2017-03, #11 34th Street North and 3401 & 3405 Central Avenue
Variance: Sections 17.20.4.010.20-4 – Minimum lot size and Side Yard Setback**

Charlie Sheets, Development Review Coordinator, presented the staff report for the request from the applicant/owner, Sam Wipf, represented by Rina Fontana Moore, for a variance request for a change in minimum lot size and side yard setback at 11 34th Street North, 3401 Central Avenue, and 3405 Central Avenue.

The property is just over 15,000 square feet and is zoned R-3 Single-Family High-Density. There are three dwelling units: a duplex on the southern portion of the lot and a single family dwelling on the northern portion of the lot. The applicant recently discovered that part of the existing duplex is encroaching on the current property line on the northern boundary. Mr. Sheets explained this is a dimensional variance, and the Board should consider if the variance is contrary to public interest, if the enforcement of the city code is an unnecessary hardship, and if the spirit of the title is continued.

The development of the property happened prior to the 2005 amendment to the Land Development Code, where the side yard setback and lot sizes were created. The property is currently not in conformance with the current requirements. The existing duplex on the southern side of the property was originally built in 1957, and in 1977 an addition was permitted to be built on it. That addition encroaches on a common boundary line between the two buildings. The applicant purchased the property in 2002; at the time it was purchased Mr. Wipf was unaware of the existing property line. The applicant would like to redraw that property line and create two lots. The proposed southern lot would be 8,300 square feet, and the northern lot would be 6,740 square feet, which falls short of the required 7,500 square feet required by the R-3 Zoning District. Additionally, by placing the property line three feet from the northern elevation of the duplex structure, the owner could eliminate the property line completely creating one property with the duplex and the single family dwelling on one tract of land. Doing so would make it hard for the owner to refinance if he wanted to resell one building separately.

Discovering the encroachment created several problems, both legal and financial for the property owner. Granting the variance for both the lot size and side yard setback would allow the owner to either refinance or sell the properties independent from one another, and would clear up the violation of having a building through a property line.

PETITIONER'S PRESENTATION

Rina Fontana Moore, 200 13th Street North, representative to applicant Sam Wipf, stated that Mr. Wipf tried to refinance the property to the south. The appraiser noted the encroachment, which sent Mr. Wipf back to the lender and he will either need to refinance the whole tract or he will have to fix the violations. If the Board does not grant the variance he will not have the opportunity to sell the house or the duplex, which will put financial strain on Mr. Wipf. Ms. Fontana Moore asked the board to approve the variance so Mr. Wipf can move on with his life. Mr. Wipf purchased the property in 2002 and it was not until he tried to refinance that the violations were brought to his attention.

PROponents OPPORTUNITY TO SPEAK

There were no proponents.

OPponents OPPORTUNITY TO SPEAK

There were no opponents.

PETITIONER'S CLOSING

The petitioner had no further comments.

PUBLIC COMMENT

There was no public comment.

BOARD DISCUSSION AND ACTION

MOTION: That the Board of Adjustment approve with conditions the application of Sam Wipf, represented by Rina Moore, as shown in the conceptual plan contained within this report, of City Code Title 17, Chapter 20, Article 4, Section 010, Exhibit 20-4, Minimum lot size and side yard setback subject to the following conditions:

1. The proposed project shall be developed consistent with the conditions in this agenda report, all codes and ordinances of the City of Great Falls, the State of Montana, and all other applicable regulatory agencies.
2. If after the approval of the conceptual development plan as amended by this Board, the owner proposes to expand or modify the conceptual development plans, the Director of the Planning and Community Development Department shall determine in writing if such proposed change would alter the concept for one or more review criteria. If such proposed change would alter the plan, the proposal shall be resubmitted for review as a new application.

Made by: Mr. Carlson
Second: Mr. Palagi

There was no further discussion.

VOTE: All being in favor, the motion passed.

PUBLIC COMMENT

No public comment.

ADJOURNMENT

There being no further business, Chair Stuver adjourned the meeting at 3:34 p.m.