

**MINUTES OF THE MEETING
GREAT FALLS BOARD OF ADJUSTMENT/APPEALS
June 4, 2020**

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. via Zoom, in the Gibson Room, at the Civic Center.

ROLL CALL & ATTENDANCE

Great Falls Board of Adjustment/Appeals members present:

Mr. Jule Stuver, Chair
Ms. Krista Smith, Vice Chair
Mr. Joe McMillen
Ms. Aspen Northerner
Mr. Kyle Palagi

Great Falls Board of Adjustment/Appeals members absent:

None

Planning Staff members present:

Mr. Thomas Micuda, Deputy Director, Planning & Community Development
Ms. Erin Borland, Planner III
Ms. Shelley Francis, Permit Technician
Mr. Lonnie Hill, Planner I

Others present:

Ms. Cassidy Blomgren, Deputy Prosecutor
Mr. Joe Cik, Assistant City Attorney joining at 3:21 p.m.
Ms. Lisa Kunz, City Clerk

Mr. Micuda 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 January 9, 2020. Mr. Palagi moved to approve the minutes, seconded by Ms. Smith. All in favor, the minutes were approved.

BOARD ACTIONS REQUIRING PUBLIC HEARING

3004 Lower River Road - Variance to Section 17.20.7.060 of the official Code of the City of Great Falls (OCCGF) that would allow the total maximum garage area to exceed code requirements.

Lonnie Hill, Planner I, presented the variance being requested by the applicants, Lewis and Kandy Zanto. The lot is zoned as R-1, Single-Family Suburban, on 1.85 acres. The request is to increase the total maximum garage area allowed on the property to 5,000 square feet instead of the maximum of 1,800 square feet allowed for a lot size of 1 acre and higher. Mr. Hill did show the board, slides of the property map, zoning map, and a floodplain map and stated that the property is located wholly within the floodplain. He stated that access to the site is provided through the Riverside Townhome property. The lot is currently vacant with the exception of the trees. Mr. Hill stated that the applicant proposes to build a single-family residence with an attached 1,500 square foot garage and then build an additional 3,500 square foot detached garage. Mr. Hill showed the board members a preliminary site plan provided by the applicant that was designed by NCI Engineering. Mr. Hill also presented a video of the preliminary renderings of the project. Mr. Hill stated that the Land Development Code only allows a maximum of 1,800 square feet of garage on an acre or more of property. Therefore, a variance is needed for the additional 3,200 square feet beyond the provision.

Mr. Hill presented the findings for the basis of decision listed in the Land Development Code. He stated that the decision of the Board of Adjustment shall consider the three Basis of Decision criteria. First is the variance is not contrary to the public interest. The second is a literal enforcement would result in unnecessary hardship, owing to conditions unique to the property. Third is the spirit of this Title would be observed and substantial justice done by granting the variance.

The first criteria is that the variance is not contrary to the public interest. The purpose of the total maximum garage area provision is to ensure that large garages are not dominating over the houses on a property and to help prohibit large garages from being turned into businesses or additional dwelling units in residentially zoned areas. He stated that the staff finds that the request would be contrary to public interest. Staff often receives inquiries about larger garages. There was a previous variance request at 2400 6th St NW that was denied last year by the Board. The request was for 2,400 square feet rather than the allowed 1,600 square feet. This request is more than 2.5 times the allowed square footage, which is significantly more than a minor deviation from the code.

The second criteria is that a literal enforcement would result in unnecessary hardship, owing to conditions unique to the property. Hardship is defined as a unique condition on the property that would prohibit the owner from complying with the 1,800 square foot code standard for cumulative garage area. The applicant has stated that due to the location within the floodplain, the lot is unable to receive utilities, which makes it extremely difficult to subdivide. Staff also notes that the property has a remote location and lacks street frontage, which would make a larger garage easier to incorporate into the area's built environment. However, Mr. Hill stated that staff cannot find enough unique conditions to justify such a large deviation from regulations. He stated that staff appreciates the fact that the applicant would like to build a large detached garage, but the amount that the applicant is requesting is 3,200 square feet more than the total

amount allowed for the lot size. Additionally, there are no other single-family detached garages of this size in the immediate area. The Riverside Townhomes shared storage/garage structure for the entire development is 4,872 square feet and was reviewed and permitted through a Planned Unit Development. He also stated that the floodplain implications that prevent subdivision should have been understood by the applicant.

The third criteria for the basis of decision is that the spirit of the Title would be observed and substantial justice done by granting the variance. Staff finds the spirit of the title would not be observed if the variance is granted. Mr. Hill stated that the applicant's request is such a large deviation from the code that it represents an objection to the code provision itself more than a variance based on unique conditions and a hardship. He stated that granting such a variance would be inconsistent with past action from the Board and create uncertainty for handling future requests for larger garages.

Mr. Hill stated that based on the findings, staff recommends denial of the increase of total garage area allowed. He stated that the alternative could be for the Board to approve the variance if sufficient finding of facts are developed to support an approval. If the Board does vote to approve the variance, a condition of approval is that the proposed garage area must be constructed as proposed.

Mr. Hill read a summary of some phone inquiries that the Planning and Community Development office received regarding the project. He stated that there was some concerns about the project being so large in scale that it seemed as large as a commercial project. There were also concerns with the project being in the floodplain, and if the variance was approved now, it would go with the land and affect surrounding properties.

PETITIONER'S PRESENTATION

Lewis Zanto, 3000 Lower River Road #2, Riverside Townhomes, stated that he didn't have anything more to add factually as the application packet did cover the request, but would be open to questions. He stated that he has a lot that is landlocked and the City does not have a way to provide water and sewer to the lot. He stated that there is no easement available and no access available. He made an agreement with the Townhome Association a number of years ago to join their system, which is a private system, and that agreement was to build two homes on the property. He started the process for subdividing the property. With all of the difficulties with the floodplain, he decided that it did not make sense to pursue that anymore. They need the storage for a boat, utility trailer, jet skis and motorhome that are currently out in the elements. He stated that he knows that a garage of this size has never been requested before, but there are some lots across from him where the land was rezoned to allow 3,200 square foot garages. He said that he does not have the option to rezone this property because it is a single lot. So, he thought his only option to get a larger garage would be to seek a variance

OPPORTUNITY FOR BOARD MEMBERS TO ASK QUESTIONS

There were no questions.

PROPOSERS OPPORTUNITY TO SPEAK

Jim Auth, 3000 Lower River Road, Lives six doors down from Mr. Zanto, in the Riverside Townhomes. He states he has seen the artist's rendition of the project and finds it very pleasing. He lives approximately 200 yards from where the garage would be placed and thinks that it would be an improvement to the property that he lives on and an improvement to Lewis Zanto's property. It would clean up all of the trailers, boats, ski-do's, etc. that Mr. Zanto has parked on his property right now. He is in favor of the erection of the garage.

Robert Symes, 3000 Lower River Road, stated that he believes that this project would be a benefit to the neighborhood as it would clean up Mr. Zanto's belongings and not look like a scrapyard. He is in favor of it.

Mr. Zanto stated that he did get some signatures from other residences at the Riverside Townhomes. He has three plus himself.

OPPONENTS OPPORTUNITY TO SPEAK

Steve Palmer on behalf of his mother who is a residence of the Riverside Townhomes, 3000 Lower River Road Unit #4. His address is 50 Woodside Plaza Redwood City, CA and he does have Power of Attorney for his mother. He stated that the variation is 2.8 times larger than what the code allows, which seems quite excessive and does not seem that there has been any variances like this approved. He also thinks that in the artist renderings they depict ten roll up garage doors by his count. Two of them are double height doors that is likely indicative of markedly increased vehicular traffic on the Riverside access road and that will undoubtedly have wear and tear on the road. It was noted by several people in the meeting that there is access but only through the Riverside Townhomes, and the majority of the cost of maintenance and repairs of that road is borne to the 16 members of the HOA. The owners of the subject property where the variance is applied will only be responsible for 1/17th of the maintenance and repair costs of the road. Lastly, he pointed out that there is no guarantee that the artist's rendering will actually be built and concurs with the staff recommendation for denial of the variation and encouraged the board to deny.

OPPORTUNITY FOR BOARD MEMBERS TO ASK QUESTIONS

There were no questions.

BOARD DISCUSSION AND ACTION

MOTION: That the Board of Adjustment, based on the Findings for the Basis of Decision, deny the variance request from OCCGF Title 17, Chapter 20, Article 7, Section 060, total maximum garage area to allow an additional 3,200 square feet.

Made by: Mr. Palagi
Second: Ms. Northerner

Mr. Palagi stated that he agrees with the City staff's findings. He thinks that the argument here is against the code and does not feel it is the job of the Board of Adjustment to change the code.

He does not see the three conditions for a variance as being met. The renderings look very nice and would be an improvement to the site; it is just not how the code was written.

Mr. McMillen agreed and stated that it is a very excessive sized shop and he has done a lot of work in the townhomes there and it is a real residential area. There are condos that have small residential garages that are attached that only have enough room for their vehicles.

Mr. Stuver asked City staff about the number of inquiries of people wanting to construct larger garages than allowed by code and if it is more prevalent in this area and if there is any intention of future changes to the code that would accommodate larger garages in this area. Mr. Micuda responded that the staff get between 3 and 5 serious inquiries a year, regarding deviating garage sizes. There is not one specific neighborhood. The requests are spread out all over the city. The staff has talked about changing the code on and off for several years, but there has been no formal proposal brought forth.

VOTE: All in favor, the motion passed. 5-0 (Denial of the variance)

COMMUNICATIONS

Mr. Micuda let the board members know that there will be another application coming in any day, so there will be another Board of Adjustment meeting allotted for July 2, 2020, which will be back in the Commission Chambers.

PUBLIC COMMENT

There was no public comment.

ADJOURNMENT

There being no further business, Chair Stuver adjourned the meeting at 3:42 p.m.