

**MINUTES OF THE MEETING
OF THE
GREAT FALLS BOARD OF ADJUSTMENT
August 2, 2012**

CALL TO ORDER

The meeting of the Great Falls Board of Adjustment was called to order by Chair Cummings at 3:01 p.m. in the Commission Chambers of the Civic Center.

ROLL CALL & ATTENDANCE

Great Falls Board of Adjustment Members present:

Mr. Casey Cummings
Mr. Tim Peterson
Mr. Jeff Foster
Mr. Chris Ward
Ms. Kim Martin

Great Falls Board of Adjustment Members absent:

None

City Staff Members present:

Mr. Mike Haynes, AICP, Director, Planning and Community Development
Ms. Galen Amy, Planner I
Ms. Phyllis Tryon, Sr. Administrative Assistant
Ms. Patty Cadwell, Neighborhood Coordinator

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

MINUTES

Chair Cummings asked if there were any amendments to the minutes of the July 16, 2012 meeting, and there were none. Mr. Ward noted a correction to the minutes. Mr. Foster moved to adopt the minutes as corrected, Mr. Cummings seconded, and all being in favor, the motion passed.

OLD BUSINESS

There was no old business.

NEW BUSINESS

BOA2012-05, 1525 3rd Avenue Northwest Request for Variance – Side yard setback requirement (Karen Winterrowd)

PLANNING STAFF REPORT & RECOMMENDATION

Galen Amy, Planner I, reviewed the staff report for the request for a side yard setback dimensional variance for Karen Winterrowd's property located at 1525 3rd Avenue South. The requested variance would reduce the required side yard setback in order for the applicant to build a detached, private garage. Ms. Amy stated she was entering the Staff report into the record.

The property is zoned C-2 (General commercial) district and is ±0.143 acres. The applicant is proposing new construction of a 16 x 20 s.f. garage and is requesting a 6-foot side yard setback from the west property line, adjoining existing commercial development, in lieu of 10 feet. The proposed garage would be constructed at the front southwest corner of the lot and the surrounding neighbors are in support of Ms. Winterrowd's proposed project.

Notice of the Public Hearing was mailed to neighboring property owners and published in the *Great Falls Tribune* on July 11, 2012. Staff did not receive any questions or comments from the public.

The standard setback from the side property line in the C-2 (General commercial) zoning district is 10 feet. Though the property is zoned commercial, the property has been in a residential use since the existing mobile home was placed on the lot in 1998. Ms. Amy stated that the proposed 6-foot side yard setback provides adequate room for construction and maintenance, would accommodate the needs of the current resident, and would be permitted by-right in the R-3 zoning district that most of the subject block and the residential neighborhood are designated. Literal enforcement of the side yard setback requirement would represent a clear hardship and is not consistent with development in the surrounding neighborhood.

Ms. Amy concluded her review of the staff report and stated that staff supports this application.

PETITIONER'S PRESENTATION

Ms. Winterrowd stated that she purchased the property for her disabled sister. Due to the fact that Ms. Winterrowd will be taking care of her sister as she ages, she would like to have a garage to accommodate her sister's car and possibly a wheel chair. Ms. Winterrowd concluded by thanking the board for their considerations.

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. Foster asked why there was a residence on a commercial lot. Ms. Amy noted the zoning map and the background of the four properties originally had the same owner, and City Code at the time did not restrict a residence from being built on a commercial property.

Mr. Foster inquired about the use of the property in the future. Ms. Amy stated that if a future owner wanted to continue using the mobile home as a residence, they could do so. They could also tear it down and build a commercial business. Mr. Haynes pointed out that a new home could not be built on the property without a zoning change, and that there are many properties where the zoning and actual use of property are inconsistent. He stated that the intent of the citywide rezoning in 2005 was to resolve as many of those inconsistencies as possible, but that there still many properties that have nonconforming conditions. Mr. Haynes went on to explain that the subject property is in a transitional area with a mix of commercial and residential uses. The mix of uses often fluctuates in such areas with rezoning and variance requests common.

Mr. Foster asked about clarification on the letter of support and which property owners were in support. Ms. Amy stated that the two immediately adjoining property owners were in support, as well as the others that signed.

Mr. Foster asked what the point of a 10-foot side yard setback in C-2 zoning is, and Mr. Haynes explained that because C-2 districts are generally located in high-traffic corridors where there is a lot of development, the lots are usually much larger, so the setback makes sense in that context. For instance, on 10th Avenue South that setback is very reasonable. Mr. Peterson asked about the 2-foot space between the mobile home and proposed garage and whether that is okay. Mr. Haynes stated that there is no problem with the separation distance; it would just affect the materials that would be used in construction.

Mr. Cummings asked if that 2 feet was overhang, and Ms. Winterrowd stated that the trailer does not have an overhang, but that the garage would. Mr. Ward stated that there was not an issue with the required setback being needed to protect a residence from a commercial property.

MOTION: That the Board of Adjustment approve the requested variance for 1525 3rd Avenue Northwest.

Made by: Mr. Peterson
Second: Mr. Ward

VOTE: All being in favor, the motion passed.

Ms. Amy advised the petitioner on the next procedural steps.

COMMUNICATIONS

There were no communications.

ADJOURNMENT

The meeting was adjourned at 3:21 p.m.