

MINUTES OF THE MEETING
OF THE
GREAT FALLS BOARD OF ADJUSTMENT
July 18, 2013

CALL TO ORDER

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

ROLL CALL & ATTENDANCE

Great Falls Board of Adjustment Members present:

Mr. Chris Ward, Chair
Mr. Casey Cummings
Mr. Tim Peterson
Ms. Kim Martin

Great Falls Board of Adjustment Members absent:

Mr. Jeffry Foster, Vice Chair

Planning Staff Members present:

Mr. Craig Raymond, Director Planning & Community Development
Ms. Galen Amy, Planner I
Ms. Phyllis Tryon, Sr. Administrative Assistant

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

MINUTES

Chair Ward asked if there were any changes to the minutes of the June 20, 2013 meeting of the Board of Adjustment/Appeals. Ms. Martin moved to approve the minutes of the meeting and Mr. Peterson seconded. All being in favor, the motion passed.

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.

NEW BUSINESS

**BOA2013-03, 112 8th Street Southwest
Variance: Side Yard and Front Yard Setback**

Galen Amy, Planner I, reviewed the staff report for the request from applicant/owner Brian Mader of 112 8th Street Southwest for a side yard and front yard setback. The subject property, legally described as the N 50' Lot 8, Block 577, Great Falls Fifth Addition, is generally located on the northwest corner of 8th Street Southwest and 2nd Avenue Southwest, on the lot located on the alley. In 1920 two residences were built on the property, which was later divided by Deed 116427 and Deed 116428 on December 2, 1922. This division created a substandard lot abutting the alley.

Ms. Amy stated that the applicant owns this lot, which measures 50 feet by 50 feet, or \pm 2,500 square feet. The residence on the property is 665 square feet. The property is zoned R-3 Single-family high density. To the west is the R-6 Multi-family high density Franklin School Apartments. To the east, south, and immediately to the north is R-3 zoning with C-2 General commercial development along Central Avenue West further north. The applicant is requesting the variance in order to construct a 385 square foot detached garage, as he wishes to clean up the property (see Exhibit E - Site Plan).

In the 2005 citywide rezoning, residential zoning districts were primarily assigned according to lot size, without consideration of setbacks. Resultantly, the aerial photo (Exhibit A) confirms that many of the homes in the vicinity do not meet the required side yard and front yard setbacks for the R-3 district, and all the lots in the area are substandard, being \pm 6,250 square feet (City Code requires lots be at least 7,500 square feet for the R-3 district).

Ms. Amy noted that City Code requires no more than 50% lot coverage of principal and accessory buildings in R-3 districts. The existing home and proposed garage would create a total of \pm 42% lot coverage. In support of the request, the property owner has spoken with four of his neighbors. None of the neighbors contacted have objection to the project (see Exhibit C and aerial on Page 3 which provides their addresses). The Notice of Public Hearing was mailed to the neighboring property owners and published in the Great Falls Tribune on June 30, 2013. Patty Cadwell, Neighborhood Council Coordinator, provided the information to Neighborhood Council 2 on July 2, 2013.

As of writing of this report, Staff has received no comments from the public related to the request.

Ms. Amy reviewed the Findings of Fact and Conditions of Approval as listed in the staff report. The Conditions of Approval are as follows:

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 by this Board, the owner proposes to expand or modify said plan, 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 said plan, the proposal shall be resubmitted for review as a new application.

3. The owner shall comply with City Code pertaining to Home Occupations (5.02.200 and 17.20.7.070). Failure to comply, or providing false information or misinformation, will result in an inspection of the owner's premises and the possible revoking of the Home Occupation Permit.
4. The nonconforming fence encroaching upon the boulevard and exceeding height standards shall be removed prior to issuance of any permits by the City for garage construction.
5. No outside storage or rubbish is permitted on the property which is visible from Public Street, alley, and ad-joining properties. The applicant shall clean up the property to be in compliance with City Ordinance Title 8, Chapter 51, Maintenance and Sanitation of Premises, which states: Any person owning, leasing, occupying, or having charge or possession of any premises in the City, and the agent thereof, shall keep and maintain such premises and the right-of-way abutting such premises in a safe, clean, orderly, sanitary and aesthetic condition.

Ms. Amy concluded her review of the staff report and offered to answer any questions from the Board. Mr. Ward asked a question with regards to the fence. Ms. Amy reviewed the site plan and photos once again and advised that the existing fence would need to be brought into compliance. Mr. Ward asked if noncompliance would make the variance, if approved, void. Ms. Amy advised that it would not but that it would prevent the garage building permit from being approved/issued. Mr. Raymond elaborated by confirming the applicant would need to confirm compliance with variance conditions at the time the building permit was submitted. Mr. Ward asked for further clarification of conditions 3 and 5. Ms. Amy confirmed that these conditions are specific to this applicant and his home business.

PETITIONER'S PRESENTATION

Brian Mader of 112 8th Street Southwest, addresses the Board noting that he lives in a low income neighborhood and that the garage would provide safe storage in addition to allowing him to clean the property up. Mr. Peterson asked if the applicant had spoken to the neighbor to the South side of the property. Mr. Mader stated that he had not spoken to him personally but that the neighbor received the notice letter and that he has yet to hear anything. Ms. Martin asked for confirmation of the lot size at 807 2nd Ave SW and where the applicant parks his work truck when it isn't at his residence. Mr. Mader confirmed that in most cases, the truck is parked wherever he is working at the time. Mr. Mader was asked if he was aware of all of the conditions of approval to which he noted that he had not been aware that his fence was not in compliance. Ms. Amy restated the two areas he would need to address to resolve the noncompliance issue. Mr. Cummings reiterated the conditions recommended by Ms. Amy to ensure the applicant is aware of everything he must adhere to should the variance be granted.

PROponents OPPORTUNITY TO SPEAK

There were no proponents.

OPPONENTS OPPORTUNITY TO SPEAK

There were no opponents.

PETITIONER'S CLOSING

The petitioner did not wish to close.

PUBLIC COMMENT

There was no public comment.

BOARD DISCUSSION AND ACTION

The conditions of approval were discussed once more. It was noted by Mr. Ward that the Board felt that the variance process was being used as leverage to enforce code and noncompliance issues. Mr. Raymond addressed this by confirming that reasonable conditions could be placed on the variance since it is a special request whereas that is not the case with building permits.

MOTION: That the Board of Adjustment approve the variance as written in the staff report with the Conditions proposed, and incorporate page 6 of the staff report.

Page 6 of the staff report reads as follows:

I move the Board of Adjustment, based on the Findings for the Basis of Decision, approve a variance on the property legally described as the north 50 feet of lot 8, block 577, Great Falls 5th Addition, for a 3-foot side yard setback from the south property line and an 18-foot front yard setback from the east property line, for the construction of an accessory garage, subject to conditions 1 through 5:

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 by this Board, the owner proposes to expand or modify said plan, 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 said plan, the proposal shall be resubmitted for review as a new application.
3. The owner shall comply with City Code pertaining to Home Occupations (5.02.200 and 17.20.7.070). Failure to comply, or providing false information or misinformation, will result in an inspection of the owner's premises and the possible revoking of the Home Occupation Permit.
4. The nonconforming fence encroaching upon the boulevard and exceeding height standards shall be removed prior to issuance of any permits by the City for garage construction.
5. No outside storage or rubbish is permitted on the property which is visible from Public Street, alley, and ad-joining properties. The applicant shall clean up the property to be in compliance with City Ordinance Title 8, Chapter 51, Maintenance and Sanitation of

Premises, which states: Any person owning, leasing, occupying, or having charge or possession of any premises in the City, and the agent thereof, shall keep and maintain such premises and the right-of-way abutting such premises in a safe, clean, orderly, sanitary and aesthetic condition.

Made by: Mr. Peterson
Second: Ms. Martin

VOTE: All being in favor, the motion passed.

**BOA2013-04, Skyline Heights Apartments
Variance: Three-story building in R-5**

This agenda item is postponed until the applicant evaluates his options after the Aug. 6th City Commission hearing.

PUBLIC COMMENT

Brian Mader thanked everyone for their time.

COMMUNICATIONS

There were no communications.

ADJOURNMENT

There being no further business, Mr. Peterson moved to adjourn the meeting, seconded by Mr. Foster. All being in favor, the meeting was adjourned at 3:25 p.m.