

MINUTES OF THE MEETING
OF THE
GREAT FALLS BOARD OF ADJUSTMENT

September 5, 2013

CALL TO ORDER

The meeting of the Great Falls Board of Adjustment was called to order by Chairman Chris 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. Jeffrey Foster, Vice Chair
Mr. Tim Peterson
Ms. Kim Martin

Great Falls Board of Adjustment Members absent:

Mr. Casey Cummings

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 July 18, 2013 meeting of the Board of Adjustment. 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

**BOA2013-05, 1121 21st Avenue Southwest
Variance: Side Yard Setback**

Galen Amy, Planner I, reviewed the staff report for the request from applicant/owner Sharman Tokerud for a side yard setback in order to build an addition to the existing attached garage. Ms. Amy entered the staff report into the record. The subject property is located at 1121 21st Avenue Southwest. The existing home and garage area was constructed in 1979 and the property is zoned R-2 Single-family medium density. The applicant is requesting a 5-foot, 9-inch side yard setback from the west property line; City code requires an 8-foot side yard setback.

Ms. Amy stated that when City-wide rezoning occurred in 2005, residential zoning districts were primarily assigned according to lot size, without consideration of existing development and setback conditions. Many of the homes in this vicinity have less than an 8-foot side yard setback, as the previous zoning setback requirement was 6 feet.

Patty Cadwell, Neighborhood Council Coordinator, provided information on this application to Neighborhood Council #6 on August 22, 2013. To date, staff has not received any comments from the public related to the request. Ms. Amy said that the addition will primarily affect the property owner to the west. That home owner, as well as the home owner across the street to the south, have given their support of the addition. The applicant intends to leave the well-established trees in the front yard, which will lessen the impact of the new addition. With the proposed addition, the project is under the permitted garage area for a lot this size.

Ms. Amy concluded her review of the staff report and offered to answer any questions from the Board.

PETITIONER'S PRESENTATION

Mike Moulton, 1121 21st Avenue Southwest, said they chose to build an addition onto the existing structure so that it would be more aesthetically pleasing to the neighborhood. He said they spoke with the neighbors before beginning this project, and the neighbors had no problem with the proposed addition.

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

Mr. Foster said this proposed project looked pretty straightforward. Mr. Peterson asked if the adjacent neighbors were in favor of this application; the petitioner noted they were in favor. Mr. Ward said the pre-existing zoning seemed more important than current code requirements. He said he is not sure he can understand what the spirit of the Title was in requiring a larger side yard setback. Mr. Raymond said staff will be looking at zoning codes and the type of applications that come in time and time again to decide if a code change would be in order. Mr. Ward said he would like to see an "R-2A" zoning designation. He said it bothers him that citizens might dream of building a garage but decide they can't do it when they look at the code requirements. Mr. Foster said that prior zoning is a unique condition.

MOTION: That the Board of Adjustment, based on the Findings for the Basis of Decision, approve a variance on the property legally described as Lot 36, Block 8, Montana Addition, for a 5-foot, 9-inch side yard setback from the west property line, for the construction of a garage addition, subject to Conditions 1 and 2.

Conditions of Approval:

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.

Made by: Mr. Foster
Second: Ms. Martin

VOTE: All being in favor, the motion passed.

BOA2013-06, 1512 16th Street South Variance: Side Yard Setback

Galen Amy, Planner I, reviewed the staff report for the request from applicant/owners Mary Jo and Tim Stebbins for a side yard setback in order to build an addition to an existing attached garage. Ms. Amy entered the staff report into the record. The subject property is zoned R-3 Single-family high density with a 6-foot side yard setback requirement. The applicant is requesting a 3-foot side yard setback from the south property line, which will allow for the proposed addition's exterior wall to be in line with the existing garage. The property and neighborhood were developed in compliance with City Code in effect when the residence and garage were constructed. A number of homes in this district do not meet the current side yard setback requirements. If the proposed addition were to be a detached garage, it would be permitted to be constructed as close as 2 feet from the side property line without a variance.

Patty Cadwell, Neighborhood Council Coordinator, provided information to Neighborhood Council #6 on August 22, 2013. To date, staff has not received any comments from the public

related to this request. The neighbor most affected by this proposed addition is the adjoining property owner to the south. That property owner has a detached garage built 3-feet from their property line and has no objections to this application. The applicant also provided signatures from surrounding neighbors stating they are not in opposition to this proposed project.

Ms. Amy concluded her review of the staff report and offered to answer any questions from the Board. Mr. Ward asked if City code had different setback requirements for an auxiliary building versus the main building. Mr. Raymond said a detached structure could include a garden shed as well as a garage. Code allows a 2-foot side yard setback for detached structures. Ms. Amy explained that a detached garage at the back of a lot allows for maximum living space on the lot, but there are many variables involved in choosing attached versus detached structures. Mr. Ward asked if there are fire safety concerns with buildings being so close together. Ms. Amy said the more dense an area, the more likely fire can spread. Mr. Raymond said the International Building Code addresses fire walls and the property owners will be required to comply with the code.

PETITIONER'S PRESENTATION

Mary Jo Bailey, 1512 16th Street South, said the proposed addition is for a 2-car attached garage, and is attached because of the size of the lot. She said if their house had been built forward on the lot, there would have been room for a detached garage.

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

Ms. Martin asked if the front garage would remain a garage, and the petitioner said it will still be a garage. Mr. Peterson said he was fine with this application.

MOTION: That the Board of Adjustment, based on the Findings for the Basis of Decision, approve a variance on the property legally described as Lot 22, Block 9, Sunnyside Heights Addition, for a 3-foot side yard setback from the south property line, for the construction of an inline garage addition, subject to conditions 1 and 2.

Conditions of Approval:

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.

Made by: Mr. Peterson
Second: Mr. Foster

VOTE: All being in favor, the motion passed.

PUBLIC COMMENT

Mary Jo Bailey, 1512 16th Street South, said that she supported the suggestion by Mr. Raymond to review the changes made to City code in 2005 to long-established areas of the city where the new codes do not make sense.

Mr. Foster asked if all variances to the code must come before this Board. Ms. Amy said that dimensional variance requests must come before this Board, but not all variance requests. Mr. Foster said a change could be adopted which allows the Planning Division to approve variance requests, and then if there was an appeal of a denial, that could come to this Board. Mr. Raymond said staff could make an analysis and a recommendation to the City Commission, which has the ultimate authority to change the code. He said one issue could be consistency between changes in Department staff and how they interpret the code. Mr. Foster said he thought this process could be an administrative function. Ms. Martin said she thought there could be more zoning districts.

Mr. Raymond then noted there is a newly appointed member to this Board, Dale Nelson with Nelson Architects, who replaces Casey Cummings as of October 1, 2013. Mr. Cummings' term ends September 30, 2013.

COMMUNICATIONS

There were no communications.

ADJOURNMENT

There being no further business, Chair Ward adjourned the meeting at 3:41 p.m.