

**MINUTES OF THE MEETING**  
OF THE  
**GREAT FALLS BOARD OF ADJUSTMENT/APPEALS**  
February 11, 2016

**CALL TO ORDER**

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

**ROLL CALL & ATTENDANCE**

Great Falls Board of Adjustment/Appeals members present:

Mr. David Saenz  
Ms. Krista Smith  
Mr. Jule Stuver, Chair  
Mr. Patrick Tice, Vice Chair  
Mr. Chris Ward, via telephone

Great Falls Board of Adjustment/Appeals members absent:

None

Planning Staff members present:

Mr. Craig Raymond, Director Planning & Community Development  
Mr. Charlie Sheets, Development Review Coordinator  
Ms. Galen Steffens, Planner II  
Ms. Erin Borland, Planner I  
Ms. Connie Rosas, Sr. Administrative Assistant

Others present:

None

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

**MINUTES**

Chair Stuver asked if there were any changes to the minutes of the January 7, 2016 meeting of the Board of Adjustment/Appeals. Seeing no corrections, Ms. Smith moved to approve the minutes as submitted, seconded by Mr. Tice. All being 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.

## NEW BUSINESS

### **New member application**

MOTION: That the Board of Adjustment/Appeals recommend that applicant Beverley McCurry be appointed to fill Chris Ward's expired term that ended on 9/30/15.

Made By: Ms. Smith

Second: Mr. Tice

VOTE: All being in favor, the motion passed.

### **BOA2016-02, 501 Smelter Avenue Northwest Variances: Minimum Lot Size, Accessory Use, Minimum Front Yard Setback**

Charlie Sheets, Development Review Coordinator, presented the staff report for the request from the applicant/owner for three separate variances at 501 Smelter Avenue Northwest. The existing zoning is R-2 Single family used for residential purposes, and currently conforms to code. The applicant is proposing to subdivide the lot to create two 10,000 square foot lots; City Code currently requires the minimum lot size be 11,000 square feet. The existing single family residence will be on the southern lot, and the existing detached garage will be on the second northern lot; the detached garage will then become nonconforming land use, as the code requires the primary land use of a residence be established before an accessory structure can be built. The garage will also encroach the new front yard setback as it is built 18 feet from the northern property line, and code requires a minimum front yard setback of 20 feet.

Mr. Sheets reviewed photos of the site, the garage, and the proposed subdivision and site plan. He said the applicant published public notice, and a number of calls have been received on the property, most of them wondering if the property was going up for sale. One caller did ask that if the variances were approved, the garage not be allowed to be turned into a business.

Mr. Sheets said staff supports the requests for variances on the lot size and dimensional front yard setback; however, staff cannot support the nonconforming land use of the existing garage as a primary use, as it is specifically prohibited in City Code. He said the Board has the option to deny all three variance requests, approve the first request and deny the latter two, or approve the first request and conditionally approve the second and third variance requests.

## PETITIONER'S PRESENTATION

Robert Edwards, owner and applicant, said this will provide the City another opportunity for a family to live here, and his son's family, who currently resides in California, is looking to retire here, but not for another three years. Mr. Edwards intention with this property is to subdivide it, sell the front lot and have his son build a house on the rear lot.

Ms. Smith asked if there was a possibility that this could be built on sooner than the three years. Mr. Edwards said there is a possibility, but because his son broke his arm and is currently disabled, there is no way to have a definitive time frame. Ms. Smith asked if he considered

tearing down the garage to alleviate some of these issues. Mr. Edwards said yes, but it is a very well built garage, and it would be a detriment to tear it down if it can be used for his family.

Mr. Tice asked about the existing shed on the northeast corner of the lot. Mr. Edwards said that will be torn down.

#### PROPOSERS OPPORTUNITY TO SPEAK

Donna Whitmore, 513 50<sup>th</sup> Street South, rents property from Mr. Edwards and said he takes pride in his property and what he owns. She recommended granting him the variances.

#### OPPOSERS OPPORTUNITY TO SPEAK

Michael Thompson, 505 Colorado Avenue, said he questioned the accessory use variance, and is worried the lot size is not big enough to build a house on the lot in addition to the existing garage. He also said the garage is not very well built and he believes it is not on a permanent foundation. He said he was concerned about the traffic increase with the addition of a house, and the additional structure will block the view from his current home. He said he is opposing all three variances.

#### PETITIONER'S CLOSING

Mr. Edwards said he was willing to answer any questions anyone may have. Mr. Tice asked how big the intended house will be. Mr. Edwards said most likely two bathrooms, three or four bedrooms, and be a single story home.

Mr. Stuver asked if the garage was on a permanent foundation. Mr. Edwards said it has a wood floor, but he did not know for sure if it was on a permanent foundation.

#### PUBLIC COMMENT

Michael Thompson, 505 Colorado Avenue, said he has been in the garage, it is old and not on legitimate foundation, and would pose a problem with building codes if Mr. Edwards plans on attaching the existing garage to the proposed home. Mr. Raymond said from a building code standpoint, the garage would be allowed to continue to exist unless it became a public nuisance or endanger the public. He said zoning regulations are the issue here, not necessarily building code regulations.

Ms. Smith asked if Mr. Sheets could answer the question of the foundation, as he has been on the site. Mr. Sheets said he believed it was constructed post and beam style, with the beams embedded in the ground. He does not believe there is any concrete associated with the base.

#### BOARD DISCUSSION AND ACTION

There was discussion regarding the lot subdivision, and agreement that 10,000 square feet was a reasonable lot size, and an acceptable variance request. There was also discussion that 18 feet versus 20 feet was not that big of an issue for the front yard setback.

Mr. Stuver said regarding the nonconforming use variance request for the garage, he felt if they supported the front yard set setback, they were essentially supporting the use of the structure.

Ms. Smith said she has issue with the fact that the lot will remain vacant with a garage on it for three years, and will most likely not be used.

Mr. Raymond asked that the Board make a motion, and then have further discussion.

MOTION: That the Board of Adjustment, based on the Findings for the Basis of Decision, conditionally approve variances for the property located at 501 Smelter Avenue Northwest, legally described as Lot 3, Block 1, Viles & Robinson Acre Tracts, for the following:

Variance from City Code Title 17, Chapter 20, Article 4, Section 010, Exhibit 20-4, Lot Area and Dimensional Standards to allow the creation of two (2) 10,000 square foot lots.

Variance of City Code Title 17, Chapter 20, Article 4, Section 010, Exhibit 20-4, development standards for a residential use zoning district, R-2, Minimum front yard setback. The existing private garage is currently 18 feet from the north property line that would become the front and can remain upon approval of the variance. This variance does not provide for a setback variance for future structures which may be constructed on the property in the future.

#### Conditions of Approval

1. The processing, approval and filing with the Cascade County Clerk and Records office of the land division as proposed shall not take place until such time that a valid building permit is filed for the construction of a compliant single family dwelling on the future northern parcel created by said land division.
2. The proposed project shall be developed consistent with the conditions in this agenda report, all other codes and ordinances of the City of Great Falls, the State of Montana, and all other applicable regulatory agencies.
3. If after the approval of the conceptual development plan by this Board, the owner proposes to expand or modify said plans, the Director of the Planning and Community Development Department shall determine in writing if such proposed change would alter the findings 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. Ward  
Second: Ms. Smith

Ms. Smith said she has no issue with the setback and lot size variances, but in the event that Mr. Edward's family goes to get financing for the home, they would not be able to if the lot was not already split. Her concern is with the length of time the lot will sit. Mr. Raymond said the variance is only good for one year; meaning Mr. Edwards would have a year to file for a building permit and a year to separate the property. Once those have been approved, he would then have six months to call for his first inspection on the building permit. Mr. Raymond said he recognizes this only gives Mr. Edwards a year and a half, not three, but this is as flexible as the code allows. Mr. Ward clarified that if the Board approves the variances and they expire, Mr. Edwards would have to reapply. Mr. Raymond said that was correct.

There was more discussion regarding the timeline the building permit imposes, and the most likely outcome being that the applicant lets the variances expire and has to reapply.

PUBLIC COMMENT

Michael Thompson, 505 Colorado Avenue, clarified with Mr. Raymond that a building permit would have to be applied for before Mr. Edwards could divide and sell the lot. Mr. Raymond said yes.

Mr. Stuver called for a vote on the motion.

VOTE: All being in favor, the motion passed.

**BOA2016-03, 1411 10<sup>th</sup> Avenue South  
Variance: Minimum Rear Yard Setback**

Ms. Steffens, Planner II, presented the staff report for the applicant/owner New Inns Limited Partnership. She said the applicant originally submitted the variance application for a rear yard setback for public hearing at this meeting; however, in processing the proposed redevelopment, it was discovered that 10<sup>th</sup> Alley South was vacated in 1963 for motel purposes only. The applicant will be going through the public hearing process before the City Commission in order to request vacating said alleyway regardless of land use, and has requested the Board of Adjustment table the variance public hearing until March 3, 2016, after City Commission has take final action upon the vacation of 10<sup>th</sup> Alley South.

PETITIONER'S PRESENTATION

Joe Murphy, representing Townhouse Inn, said they need to see what the City Commission's wishes are with respect to the alley vacation before they come to the Board of Adjustment with any proposal for a variance on the setback.

PROPOSERS OPPORTUNITY TO SPEAK

There were no proposers.

OPPOSERS OPPORTUNITY TO SPEAK

There were no opposers.

PUBLIC COMMENT

There was no public comment.

BOARD DISCUSSION AND ACTION

MOTION: That the Board of Adjustment table the public hearing, related to a variance request for the required rear yard setback for the property addressed as 1411 10th Avenue South and legally described above, to March 3, 2016.

Made by: Ms. Smith  
Second: Mr. Saenz

PUBLIC COMMENT

There was no public comment.

VOTE: All being favor, the motion passed.

COMMUNICATIONS

There were no communications.

PUBLIC COMMENT

Mr. Tice informed the Board that he accepted a job in Bozeman, and this will be his last meeting for the Board of Adjustment/Appeals, as he is resigning.

ADJOURNMENT

There being no further business, Chair Stuver adjourned the meeting at 4:05 p.m.