

**MINUTES OF THE MEETING**  
OF THE  
**GREAT FALLS BOARD OF ADJUSTMENT/APPEALS**

March 3, 2016

**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. in the Commission Chambers of the Civic Center.

**ROLL CALL & ATTENDANCE**

Great Falls Board of Adjustment/Appeals members present:

Mr. Jule Stuver, Chair  
Mr. David Saenz  
Ms. Krista Smith  
Mr. Chris Ward

Great Falls Board of Adjustment/Appeals members absent:

None

Planning Staff members present:

Mr. Craig Raymond, Director Planning & Community Development  
Ms. Galen Steffens, Planner II  
Ms. Erin Borland, Planner I  
Mr. Gregory Gordos, 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 February 11, 2016, meeting of the Board of Adjustment/Appeals. Seeing no corrections, Ms. Smith moved to approve the minutes as submitted, seconded by Mr. Saenz. 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

### **BOA2016-03, 1411 10<sup>th</sup> Avenue South Variance: Sections 17.20.4.010 – Minimum rear yard setback**

Galen Steffens, Planner II, presented the staff report for the request from the applicant/owner, New Inns Limited Partnership, for a variance request for a change in minimum rear yard setback for commercial property located on the north side of 10<sup>th</sup> Avenue South between 14<sup>th</sup> Street South and 15<sup>th</sup> Street South. The subject property is zoned C-2 General Commercial, and the proposed redevelopment project consists of a gas station, convenience store and casino Type I.

As part of this development, the applicant needed to vacate 10<sup>th</sup> Alley South, which was conditionally vacated in 1963 for motel purposes. At a City Commission meeting on March 1, 2016, the request to vacate the alley was approved; the status of the alley will not interfere with any current or future redevelopment proposal. The applicant is requesting a variance to Section 17.20.4.010 of the City code, which would require a 32-foot rear yard setback on the subject property. Currently, the property consists of the Townhouse Inn.

Notice of Public Hearing was mailed to neighboring property owners and published in the Great Falls Tribune on January 24, 2016. As a courtesy, Patty Cadwell, Neighborhood Council Coordinator, provided information to Neighborhood Council #9 on February 26, 2016. To date, staff has received numerous phone calls with general inquiries about the project, as well as two written comments in opposition to the variance request. One of the written comments represents two separate residences.

Ms. Steffens reviewed the requirements for the basis of decision for granting a dimensional variance per City Code 17.16.32.040. The existing Townhouse Inn is located 40.5 feet from the north property line, and staff states that the required setback works well to perpetuate a healthy transition between residential and commercial land uses in this area. Ms. Steffens noted that Type I casinos have more stringent zoning requirements than Type II casinos, which are not permitted in the C-2 General Commercial districts. In order to construct a casino in the C-2 General Commercial district, it needs to meet the standards for a Type I casino. Casino Type I standards include increased landscaping and requirements on location of landscaping. This specific location is a highly visible, high traffic area with three adjacent arterial roadways and consists of a full city block. The required rear yard setback will assist with mitigating traffic flow at all times of the day and night, which affects the adjacent neighborhood.

Ms. Steffens reviewed other items for the basis of decision in granting a dimensional variance as presented in the staff report and the reasons staff supports denying the variance request. In conclusion, staff finds inadequate basis and hardship for the requested variance.

## PETITIONER'S PRESENTATION

Joe Murphy, Big Sky Civil and Environmental, 1324 13<sup>th</sup> Avenue Southwest, representing the applicant, said the proposed project includes demolition of the current structure. He said the subject property actually consists of separate lots, even though the current structure covers the entire block. For each lot, it is permissible to have a 15-foot rear yard setback, so therefore the requested variance is, in his opinion, acceptable. He said he understood the vacation of the alley is not official until April 2016. He said that if the development occurred on the north half of the alley, they feel that the 15-foot rear yard setback is permissible.

He said if the alley is vacated and the lots aggregated, it is true that the building could be pulled forward and there could be additional parking and lighting on the north side of the property. He said the developers chose their plan in order to assist the City in order to provide screening on the north side of the property. He does not agree that traffic flow would be better if the development was further south on the property but said that would restrict traffic movements and reduce visibility for parked vehicles and pedestrians. He said that from a standpoint of noise, light pollution and safety, they feel their proposal meets the standards for the City and are requesting the variance.

#### 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

MOTION: That the Board of Adjustment, based on the Findings for the Basis of Decision, deny the variance request for a 15-foot rear yard setback from the northern property line, at the property legally described as Lots 1-14, Block 780, Great Falls Sixteenth Addition.

Made by: Mr. Ward  
Second: Ms. Smith

Ms. Smith asked Mr. Murphy what type of barrier was proposed between the residential properties and the proposed project. Mr. Murphy brought forward the landscape plan and explained some details of that plan; he said he felt this plan is a better fit for the neighborhood. Mr. Saenz asked if there had been any acoustic study, and Mr. Raymond said the City has not received any. Ms. Steffens said City Code requires a buffer between uses, and the trees shown on the landscaping plan are according to Code requirements.

Mr. Ward asked about adding parking in a setback, and Ms. Steffens said there cannot be parking in the setback. Mr. Murphy asked Ms. Steffens to clarify parking in a setback, and she referred to the Code and then stated that parking can be allowed to within 6 feet of the property line, and therefore could be in the setback. Mr. Murphy said that if the building were reconfigured, then parking could exist north of the building. Mr. Raymond said that the challenge in that situation would be to fulfill the landscaping requirements.

Mr. Ward asked if the 14 lots could be aggregated into two lots, one north and one south. Ms. Steffens said that there are still requirements for parking and landscaping that cannot be met on

two partial lots. Mr. Murphy said they had proposed two separate lots but the City said this project had to be developed as a whole. Mr. Ward said that the hardship factor for the developer is related to aggregating the lots, and Ms. Steffens addressed some of the issues for the code requirements related to aggregating into two lots.

Dan Sampson, Construction Development Manager for Town Pump, 600 South Main, Butte, MT, gave clarification on the reasons for the current site design. He said drive aisles within the site are greater than code requirements for safety reasons and reduction of vehicle conflicts both on site and on the streets. He said on the west side of the proposed fuel islands, there is a tank field where tanker vehicles deliver fuel, so it is a larger space.

Ms. Smith asked if the developers have considered a CMU block fence along the north side for the benefit of the neighbors. Mr. Sampson said they were hoping to use the backside of the building as a noise buffer. Their goal was to put in a retention wall along 9<sup>th</sup> Avenue South, as well as fence and landscaping. He noted that if the building is moved toward the south, there is no extra landscaping requirement, so the potential of noise and light in the neighborhood is greater. They were considering a 6-foot opaque fence.

Ms. Steffens said it is possible to design a site to meet all the code requirements, even if it means reducing the number of fuel pumps. Mr. Sampson agreed but said the reduction of fuel islands is a hardship. He said the developer is trying to create a larger offering in the store portion also, and that shrinking the number of fuel islands or reducing store size could mean the economic factor won't be there for this project. It looks like there is one extra parking space than required in the most current plan, and maybe more.

Chair Stuver said that it looks like there is the potential to adjust details of the plan. Mr. Saenz asked about the height of the Townhouse Inn and the proposed height of this project. Ms. Steffens said the issue is more about how a two-story building versus a one-story building impacts a neighborhood. Mr. Murphy said there are industry standards for spacial distances between fueling islands and the face of the building and necessary traffic movements, and the developer is trying to achieve those standards here, particularly with fuel trucks making deliveries. By decreasing those spaces, you give up safety and vehicle turning movements. Ms. Steffens said the City has requested but not yet been provided with information on turning movements and safety standards.

Mr. Ward asked if the building front were rotated on the property, would the setbacks rotate also, and Ms. Steffens said they would. Ms. Smith said she understood the neighbors' concerns and that she would be more comfortable with a buffer other than trees.

Mr. Ward asked for further input on the hardship factor from the developer's point of view. Mr. Sampson said there is no better buffer for the neighbors than the wall of the proposed building. He said that reducing the drive aisles, size of the fuel islands and the building will make this project less economically viable. He said they design their sites for the best design for customer, pedestrian and vehicle safety. Mr. Murphy said that if they were allowed to aggregate into two parcels, they would be able to have a 15-foot setback without a variance and therefore, this becomes a hardship.

Mr. Ward had a question about vacating the alley. Mr. Raymond said it is not desirable with a development like this to have a public alley going through it. He said there is still room to be flexible with this development, and there are lots of developments of this type in Montana that

are doing economically well and are not developed on an entire city block. Mr. Ward asked if staff have a concern about the quality of the buffer, and there was discussion among staff regarding plants being as effective as fencing.

Mr. Stuver reviewed details of the variance request. He said there are areas of flexibility in the site design and he has a difficult time seeing a hardship. Mr. Ward agreed, saying there may be a justification for serving the public interest with the current design but he has a difficult time finding a hardship.

There was no further discussion by the Board.

VOTE: All being in favor, the motion passed.

#### PUBLIC COMMENT

Mr. Raymond said there are a couple of applications for appointments by City Commission to the Board of Adjustment. Those will be on the next meeting agenda.

#### ADJOURNMENT

There being no further business, Ms. Smith motioned to adjourn, seconded by Mr. Saenz. All being in favor, the meeting adjourned at 4:17 p.m.