

**MINUTES OF THE MEETING**  
OF THE  
**GREAT FALLS BOARD OF ADJUSTMENT/APPEALS**  
January 7, 2016

**CALL TO ORDER**

The meeting of the Great Falls Board of Adjustment/Appeals was called to order by Vice 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:

Ms. Krista Smith  
Mr. Jule Stuver, Vice Chair  
Mr. Patrick Tice  
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. Connie Rosas, Sr. Administrative Assistant

Others present:

None

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

**MINUTES**

Vice Chair Stuver asked if there were any changes to the minutes of the August 6, 2015 meeting of the Board of Adjustment/Appeals. Seeing no corrections, Mr. Ward moved to approve the minutes as submitted, seconded by Ms. Smith. 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

### **Ratification of Design Waivers**

Mr. Raymond said previously the Board expressed concern with the utilization of the Design Waiver process, and the Board requested clarification on the process. He said per the code, although it has not been done before in the City of Great Falls, a body or official can review previously administratively approved Design Waivers, and ratify or revoke those waivers.

Mr. Raymond said the most typical Design Waivers at this time have to do with reducing parking stall width from 10' wide by 19' deep, to 9' wide by 18' deep. He said the intent of the Planning and Community Development Department (P&CD) is to evaluate items such as parking stall width, which are items that are routinely approved, and look at doing a code change for those items so the public does not have to continually go through such an onerous process.

He said before the Board there are five Design Waiver requests, one of them with four separate elements in it. Mr. Raymond said he approved three of the elements and rejected one on the Design Waiver application for Talus Phase I. The three elements that were approved were not necessarily non-conforming to code, but they deviated from the previously approved site plan. The element that was denied was the developer's request to waive the requirement to construct two pedestrian connections to 26 Street South. Mr. Raymond said he denied the request because he felt the developer should be held responsible to complete those connections as they were part of the approval process of the development. He said this particular Design Waiver was the most significant out of the five listed in the staff report.

Mr. Raymond said the Design Waiver request at 1240 Delea Drive was carefully reviewed after a site visit, and he decided to waive some of the landscaping requirements of the code. He said the code itself did not fit this particular development, as it was such a large single family residential parcel which the code did not anticipate and would have required an extraordinary amount of landscaping. The developers had done substantial landscaping improvements to the property which Mr. Raymond felt fit the intent of the code.

The other requests were parking stall dimensional requests which were approved. Mr. Raymond invited the Board to ask any questions. Mr. Stuver said upon reviewing the Waiver for URM Stores, Inc., it appeared that they could have made the intent of the existing code work, and he asked why they applied for the Waiver if they were capable of meeting the code requirements. Mr. Raymond said they were required to get a boundary line adjustment to the west of property in order to meet landscaping requirements, and he felt in light of that requirement, this particular waiver was a reasonable request. The number of parking stalls required was not waived, just the width. Mr. Raymond noted that ADA parking stall widths are not negotiable, and that is a code that is never flexed on.

Ms. Smith asked if it had been taken into consideration that Montanans tend to drive bigger vehicles. Mr. Raymond said yes, and it was the original reason for the code requiring 10' by 19' stalls; however, the advantage of being flexible with this particular aspect of the code can yield less solid surfaces, less storm water issues, and reduced costs. Ms. Smith asked if a percentage of the parking stalls could be larger, possibly along the outside edge, and Mr. Raymond said yes, that is a possibility.

Mr. Ward said he appreciates Mr. Raymond bringing these Design Waivers to the Board for public visibility, but his original concern was the two track process, meaning some projects are told they need to get a variance with the Board of Adjustment/Appeals, while others are told they can get an administrative Design Waiver. He said it is not clear to him why there is a difference. He said he would like to see the City Attorney issue a memo that officially clears up the difference for the Board. Mr. Raymond said since this discussion was brought up to the Board last year, he has re-evaluated the process and become more conservative with the approval of Design Waivers. Mr. Ward asked Mr. Raymond to clarify that the code does not state which body is supposed to review the Waivers, and Mr. Raymond said the code does not appoint a specific body. Mr. Ward asked if any particular body can request to review the Design Waivers, and Mr. Raymond said no. Per his discussion with the City Attorney, there will be proposed code changes to that particular section in order to make everything factually correct and eliminate the conflicting portions of the code. Mr. Ward reiterated that he would like to know for certain what can be relieved with a Design Waiver and what needs a variance. Mr. Raymond said the City Attorney will draft a memo for the Board.

#### BOARD DISCUSSION AND ACTION

MOTION: That the Board of Adjustment postpone their decision until further clarification of code requirements regarding ratification of Design Waivers.

Made by: Mr. Ward

There was no second on the motion.

Mr. Stuver said this process is currently outlined in the code and the Board is doing its due diligence by reviewing what has been approved.

MOTION: That the Board of Adjustment approve and ratify the administratively approved 2015 Design Waivers attached to the agenda report marked as exhibits A-E subject to the following conditions:

- 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.
- If after the approval and ratification of the Design Waivers by this Board, the owner proposes to expand or modify the conceptual development 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 the findings, the proposal shall be resubmitted for review as a new application.

Made by: Mr. Stuver  
Second: Ms. Smith

VOTE: All being in favor, the motion passed.

### **Election of Chair and Vice Chair**

Vice Chair Stuver opened nominations for Chair and Vice Chair for 2016. Mr. Ward nominated Mr. Stuver for Chair and Mr. Tice for Vice Chair, and Ms. Smith seconded the motion. All being in favor, the motion passed.

### **New Member Application**

Mr. Raymond said the Board has the opportunity to provide a recommendation to City Commission on a new member application.

There was discussion on the connection the applicant has to Great Falls, and Ms. Smith asked if anyone had any more background information. Mr. Raymond said he did not. There was also discussion on what vacancy the applicant would replace, and Mr. Ward stated he is willing to stay on, even though he is termed out. Mr. Raymond clarified the applicant would fill the current vacancy and Mr. Ward could remain on the Board until his position is filled.

MOTION: That the Board of Adjustment/Appeals recommends to City Commission that applicant David Saenz fill the current vacancy on the Board.

Made by: Mr. Stuver

Second: Mr. Tice

VOTE: All being in favor, the motion passed.

### **COMMUNICATIONS**

Mr. Raymond said two applications for setback variances have been received, but there is a scheduling conflict for the regularly scheduled meeting on February 4. Mr. Raymond asked if the Board would be willing to move the meeting to February 11 as opposed to waiting until the March meeting, in order to be timely for the applicants. The Board expressed their willingness to be flexible with meeting dates.

### **PUBLIC COMMENT**

There was no public comment.

### **ADJOURNMENT**

There being no further business, Chair Stuver adjourned the meeting at 3:42 p.m.