

BOARD OF ADJUSTMENT
June 23, 2026 | 9:00AM
City Commission Chambers
AGENDA

1. Approve Minutes – February 24, 2026
2. New Business – Variance Request: 334 39 St N
Request for a variance of Section 20-0502 of the LDC. The requested variance is to allow a building addition to encroach in the required interior side setback in the GI, General Industrial zoning district.
3. Other Business
4. Adjourn – Next Meeting: July 28, 2026

Board of Adjustment meetings are broadcast live on cable channel TV Fargo 56 and can be seen live by video stream on www.FargoND.gov/streaming. They are rebroadcast each Tuesday at 9:00 a.m. for one month following the meeting.

People with disabilities who plan to attend the meeting and need special accommodations should contact the Planning Office at 701.241.1474 or TDD at 701.241.8258. Please contact us at least 48 hours before the meeting to give our staff adequate time to make arrangements.

BOARD OF ADJUSTMENT MINUTES

Regular Meeting:

Tuesday, February 24, 2026

The Regular Meeting of the Board of Adjustment of the City of Fargo, North Dakota, was held in the Commission Chambers at City Hall at 9:00 a.m., Tuesday, February 24, 2026.

The Members present or absent were as follows:

Present: Deb Wendel-Daub, Michael Love, Michael Orth, Marcia Pulczinski, John Gunkelman (Alternate)

Absent: Matthew Boreen

Chair Love called the meeting to order.

Item 1: Approval of Minutes: Regular Meeting of December 16, 2025

Member Orth moved the minutes of the December 16, 2025 Board of Adjustment meeting be approved. Second by Member Pulczinski. All Members present voted aye and the motion was declared carried.

Item 2: New Business

a. Variance Request – 1422 18th Avenue South

The request at 1422 18th Avenue South, if granted, would allow a new, detached accessory structure (garage) to encroach into the required setback in the SR-2, Single-Dwelling Residential zoning district. Section 20-0403 of Fargo Land Development Code outlines accessory structures shall be set back at least 3 feet from rear and interior-side lot lines.

Planning Coordinator Kim Citrowske presented the staff report and reviewed the criteria used during staff's analysis of the application. She stated staff is recommending denial, as the review criteria (a) and (c) have not been met.

Applicants Duane and Lisa Nokelby spoke on behalf of the application.

Discussion was held on the location of the property line, tightness of the space, and alternative options.

Plan Reviewer Melissa Gaulrapp spoke on behalf of the Inspections Department.

Further discussion was held on alternative options, impervious area and surface, proposed garage size and use, and building area.

Member Wendel-Daub moved the findings of staff be accepted and the variance be denied as requested. Second by Member Orth. Upon call of the roll Members Orth and Love voted aye. Members Wendel-Daub, Gunkelman, and Pulczynski voted nay. Absent and not voting: Member Boreen. The motion was declared failed for lack of a super majority.

Additional discussion was held on garage length, and other viable options for location and garage size.

Item 3: Other Business

No other business was presented.

Item 4: Adjournment: Next Meeting – March 24, 2026

Member Orth moved to adjourn the meeting at 9:27 a.m. Second by Member Pulczynski. All Members present voted aye and the motion was declared carried.

CITY OF FARGO - Board of Adjustment Variance Staff Report

Item No: 2.a **Date:** June 18, 2026

Address: 334 39th Street North

Legal Description: Lot 8, Block 2, E. G. Clapp First Addition

Owner(s)/Applicants: Stillwell Properties LLC

Reason For Request: To allow a building addition to encroach in the required interior side setback

Zoning District: GI, General Industrial

Status: Board of Adjustment Public Hearing: June 23, 2026

GI Dimensional Standards	Proposed Structure
Setbacks:	Setbacks:
Front (east): 50'	Front (east): 50'
Interior-Side (north): 20'	Interior-Side (north): 20'
Interior-Side (south): 20'	Interior-Side (south): 5'
Rear (west): 20'	Rear (west): 20'

Background:

The property is located at 334 39th Street North and is zoned GI, General Industrial. Section 20-0502 of the Land Development Code requires primary structures to be set back at least 20 feet from the interior-side property line in the General Industrial zoning district. The proposed 2,500 square-foot addition (50' x 50') would extend the existing, 5,000 square-foot building (50' x 100') on the subject property, which is currently located five (5) feet from the southern, interior-side property line. Accordingly, the applicant is requesting a variance to allow the proposed building addition to encroach 15 feet into the required 20-foot interior-side setback. The proposed building encroachment would also trigger additional IBC regulations including but not limited to compliance with IBC Table 705.5 related to fire-rated construction.

Criteria for Approval & Staff Analysis:

§20-0914.E.1 of the LDC states that, "A variance may be granted by the Board of Adjustment upon an affirmative finding that all of the following conditions exist."

- a. The requested variance arises from conditions that are unique to the subject property not ordinarily found in the same zoning district and are not a result of the owner's intentional action;**

The subject property is legally described as Lot 8, Block 2, E. G. Clapp First Addition. The property is 25,662 square feet in area and has lot dimensions of 100 feet by 256 feet. The Land Development Code does not include any restrictions for the minimum lot size for General Industrial parcels.

The existing building was constructed in 1998, before the establishment of the current Land Development Code (LDC). When the current LDC was adopted, the existing building became legally non-conforming due to its proximity to the southern property line. Today, the applicant is requesting permission to construct a 2,500 square foot addition in line with the existing structure.

Staff finds that the requested variance does not arise from conditions that are unique to the subject property. Although the existing building has a legally non-conforming interior-side setback, any new addition could be constructed to meet the setback requirements for General Industrial zoning district. **(Criteria NOT satisfied)**

b. The granting of the permit for the variance will not adversely affect the rights of adjacent property owners or residents;

Staff has no data that would identify an adverse impact to adjacent neighbors with this variance. In accordance with the notification requirements of the LDC, neighboring property owners were provided notice of the variance request. To date staff has not received any comments on this application. **(Criteria satisfied)**

c. The strict application of the applicable standards will constitute an unnecessary physical hardship (not economic hardship) because the property cannot be used for an otherwise allowed use without coming into conflict with applicable site development standards;

The variance is being requested in order for the applicant to construct additional building space for production and assembly operations, which is a typical Use permitted by-right in the GI zoning district. Staff contends that no hardship exists as the property is capable of accommodating a building addition that meets the requirements of the LDC.

Staff find the strict application of the applicable standards do not constitute an unnecessary physical hardship because the subject property can be used, and currently is used for, an allowed use without conflict with the LDC. **(Criteria NOT satisfied)**

d. The variance desired will not adversely affect the public health, safety or general welfare;

Staff has no data that would identify an adverse effect on public health, safety, or general welfare. No public health, safety, or general welfare issues have been identified. **(Criteria satisfied)**

e. The variance is the minimum variance that will overcome the hardship;

As mentioned above, staff suggests that there is no hardship to overcome due to the fact that the property can be (and is currently) used for an allowed use without coming into conflict with applicable site development standards. However, if a hardship was found to exist, the proposed variance would be the minimum variance needed for the applicant to construct the attached garage as proposed by the applicant. **(Criteria satisfied)**

Staff Recommendation: “To accept the findings of staff and deny the requested variance to allow the proposed building addition to encroach into the required interior-side setback in the GI zoning district on the basis that the review criteria of Section 20-0914.E.1 (a & c) have not been met.”





Legend

AG	LC	MR-3	SR-3
DMU	LI	NC	SR-4
GC	MHP	NO	SR-5
GI	MR-1	P/I	UMU
GO		SR-2	City Limit



0 0.01 0.03 0.06 Miles

334 39th Street North



Planning & Development
225 4th Street North
Fargo, ND 58102
Office: 701.241.1474 | Fax: 701.241.1526
Email: Planning@FargoND.gov
www.FargoND.gov

VARIANCES (§20-0914)

The Board of Adjustment is authorized to grant variances from the zoning district dimensional standards and off-street parking and loading standards of the Land Development Code (LDC) that will not be contrary to the public interest or the spirit of the LDC, where owing to special conditions, a literal enforcement of the provisions of this LDC would result in unnecessary physical (not economic) hardship to the property owner.

Variance Application Process

- 1) The application and a nonrefundable fee of \$185 are due at the time of submittal
- 2) Notice of the Public Hearing is mailed to property owners within 300 feet of the proposed site at least 15 days prior to the Hearing and published once a week for two consecutive weeks in the newspaper.
- 3) The City Planner reviews your case, develops a staff report and prepares a recommendation to the Board of Adjustment based on the Criteria for Approval, below.
- 4) Board of Adjustment meetings are scheduled as needed.

Criteria for Approval

A variance may be granted by the Board of Adjustment upon an affirmative finding that all of the following conditions exist.

- a. The requested variance arises from conditions that are unique to the subject property, that are not ordinarily found in the same zoning district and that are not a result of the owner's intentional action;
- b. The granting of the permit for the variance will not adversely affect the rights of adjacent property owners or residents;
- c. The strict application of the applicable standards will constitute an unnecessary physical hardship (not economic hardship) because the property cannot be used for an otherwise allowed use without coming into conflict with applicable site development standards;
- d. The variance desired will not adversely affect the public health, safety or general welfare; and;
- e. The variance is the minimum variance that will overcome the hardship.

Acknowledgement – I hereby acknowledge that I have familiarized myself with the rules and regulations to the preparation of this submittal and that the foregoing information is true and complete to the best of my knowledge. I, the undersigned, do hereby petition the Board of Adjustment of the City of Fargo, North Dakota, to take such action as may be required by law of the City of Fargo to grant a variance pursuant to Section 20-0914 of the Land Development Code of the City of Fargo.

Owner (Signature):  Date: 6/1/26

Note: A nonrefundable filing fee of \$185.00 must be accompanied with the application at time of submittal.

Office Use Only

Date Filed: _____ Planning Contact: _____ Nonrefundable Fee \$185.00: _____



APPLICATION FOR VARIANCE

The Board of Adjustment is authorized to grant variances from the zoning district dimensional standards and off-street parking and loading standards of the Land Development Code (LDC) that will not be contrary to the public interest or the spirit of the LDC, where owing to special conditions, a literal enforcement of the provisions of this LDC would result in **unnecessary physical (not economic) hardship** to the property owner.

Property Owner Information:

Name (printed): Dave Stillwell
Address: 334 39th Street North, Fargo, ND 58102
Primary Phone: 701-353-2735
Alternative Phone: N/a
Fax: N/a
Email: dave@davtechwindowsservices.com

Representation Information: (if applicable)

Name (printed): Jeff Morrau
Address: 325 7th Street South, Fargo ND 58103
Primary Phone: 701-367-3307
Alternative Phone: 701-526-3693
Fax: N/a
Email: jm@artekta.com

Location of property requesting a variance:

Address: 334 39th Street North, Fargo, ND 58102
Zoning District: General Industrial (GI)
Legal Description: REPLAT OF PT OF E.G. CLAPP 1ST ADDITION (11/14/1979 B-L, P-31), BLOCK 2, LOT 8

Proposed Variance Information:

What Land Development Code Standard are you seeking a variance? (e.g. setback, lot coverage, height)

Reduction of Interior Side Setback

Please describe difference between the standard and the proposed (e.g. the standard is 10 ft. and my project would propose a 7' setback).

Current standard is 20'-0" interior side setback and my project would propose a 5'-0" interior side setback.

Please explain your project, describing why you are requesting a variance and why you believe a variance is justified. Along with your project description, please include a site plan/diagram with dimensions. (Attach additional pages, if needed.)

The project is a 50'-0" by 50'-0" (2,500 sf) pre-engineered metal building (PEMB) addition to the existing Davtech Windows and Doors facility. This addition will support the company's production and assembly operations for aluminum window and door systems.

The existing facility was originally constructed with a 5'-0" setback on the south interior side. We are requesting approval to maintain the same 5'-0" setback for the proposed addition, so that it may align directly with the existing building elevation.

By maintaining the same setback, it will allow for a more efficient integration of the new and existing PEMB systems, while also producing a cohesive building facade. Additionally, by utilizing the reduced setback area will preserve adequate space on the north side of the addition to allow for additional parking stalls required by the LDC, without negatively impacting site traffic flow.

See attached site plan with proposed interior side setback.



Criteria for Approval:

Please explain how your requested variance meets the following five criteria for approval, pursuant to Section 20-0914 of the Land Development Code: (Attach additional pages, if needed.)

1. The requested variance arises from conditions that are unique to the subject property, that are not ordinarily found in the same zoning district and that are not a result of the owner's intentional action;

The current facility was originally constructed with a 5'-0" setback along the south property line. In order to provide a functional and cohesive expansion of the existing facility, the proposed addition must align with the existing building elevation and structural system. The request is not the result of intentional action by the current owner, but rather a condition created by the original placement of the existing structure and the operational need to connect the new addition directly to the existing facility.

2. The granting of the permit for the variance will not adversely affect the rights of adjacent property owners or residents;

The proposed addition will remain compatible with the existing industrial use of the property and maintains the established building alignment already present on the site. Therefore, the variance will not adversely affect adjacent property owners or residents

Additionally, several adjacent properties were developed with the same previous side setback, demonstrating that the requested variance reflects existing neighborhood conditions while allowing the addition to maintain continuity with the current building alignment.

3. The strict application of the applicable standards will constitute an unnecessary physical hardship (not economic hardship) because the property cannot be used for an otherwise allowed use without coming into conflict with applicable site development standards;

Requiring a larger setback would offset the addition from the current building footprint, resulting in inefficient building design, structural complications, and disruption to the intended production and assembly operations. Additionally, compliance with the standard setback would reduce the available area needed to accommodate required parking and maintain safe on-site circulation in accordance with the Land Development Code.

4. The variance desired will not adversely affect the public health, safety, or general welfare; and

The requested variance will not adversely affect public health, safety, or general welfare. The proposed addition will comply with all applicable building codes, including the IBC Section 705 requirement that the new exterior will be constructed with the required 1-hour fire resistance rating due to the fire separation distance (FSD) being greater than 5 feet and less than 10 feet.

5. The variance is the minimum variance that will overcome the hardship.

The proposed 5'-0" setback matches the existing setback condition of the current facility and allows the addition to align directly with the existing building. No greater reduction is being requested beyond what currently exists on the property, and the variance is limited only to the extent necessary to accommodate the building addition and required parking.



FABRICATION ADDITION
334 39TH ST NORTH
FARGO, NORTH DAKOTA 58102

PERMIT SET

01/26 SETBACK VARIANCE

ECT #:	2617.0
:	06/01/202
EN BY:	N
ED BY:	B

A001
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SITE PLAN GENERAL NOTES

- A. ARCHITECT IS NOT RESPONSIBLE FOR ANY PREVIOUSLY COMPLETED WORK BY OTHERS.
- B. SHADED OR HALF-TONED WALLS AND ELEMENTS ON THE PLANS REPRESENT EXISTING CONSTRUCTION TO REMAIN.
- C. CONTRACTOR SHALL VERIFY EXISTING CONDITIONS, DIMENSIONS, AND ELEVATIONS PRIOR TO STARTING WORK. REPORT ANY ERRORS OR DISCREPANCIES WITH THE PLANS TO THE ARCHITECT.
- D. PROTECT EXISTING STRUCTURE, FINISHES, AND SYSTEMS TO REMAIN THROUGHOUT CONSTRUCTION. REPAIR OR REPLACE DAMAGE CAUSED BY THE CONTRACTOR AT NO ADDITIONAL COST TO THE OWNER.
- E. COORDINATE ALL UTILITY SHUTDOWNS & INTERRUPTIONS WITH THE OWNER AND BUILDING TENANTS. PROVIDE MIN. 72-HOUR NOTICE BEFORE ANY DISRUPTION OF SERVICES.
- F. CONTRACTOR SHALL COORDINATE WORK WITH ALL TRADES AND REVIEW THE ENTIRE DRAWING SET AND PROJECT DOCUMENTS FOR COORDINATION PURPOSES. CERTAIN COMPONENTS, EQUIPMENT, OR INFORMATION MAY BE PARTIALLY OR COMPLETELY OBTAINED IN DISCIPLINE-SPECIFIC DRAWINGS. CONTRACTOR IS RESPONSIBLE FOR CROSS-REFERENCING ARCHITECTURAL, STRUCTURAL, MEP, AND OTHER RELEVANT DOCUMENTS TO ENSURE COMPLETE AND ACCURATE CONSTRUCTION. ALL COORDINATION DISCREPANCIES SHALL BE PROMPTLY REPORTED TO THE ARCHITECT.

PARKING TABLE

	REQ'D	PROVIDED
STANDARD PARKING STALLS	9	13
ACCESSIBLE PARKING STALLS	1	1
TOTAL	10	14

NOTES:
OFFICE SPACE = 2,446 / 400 SF = 7 STALLS
WAREHOUSE = 5,652 / 2,500 SF = 3 STALLS
TOTAL REQUIRED STALLS = 10 STALLS

* 2% OF PARKING STALLS REQUIRED TO BE ADA ACCESSIBLE

SITE SQUARE FOOTAGE TABLE

	S.F.	% SITE
BUILDING FOOTPRINT	7,500	29.4%
EXISTING & PROPOSED CONCRETE	7,038	27.4%
GRAVEL PARKING	5,530	21.6%
OPEN / PERVIOUS AREA	5,592	21.6%
TOTAL	25,660	100%

NOTES:
1. NONE.

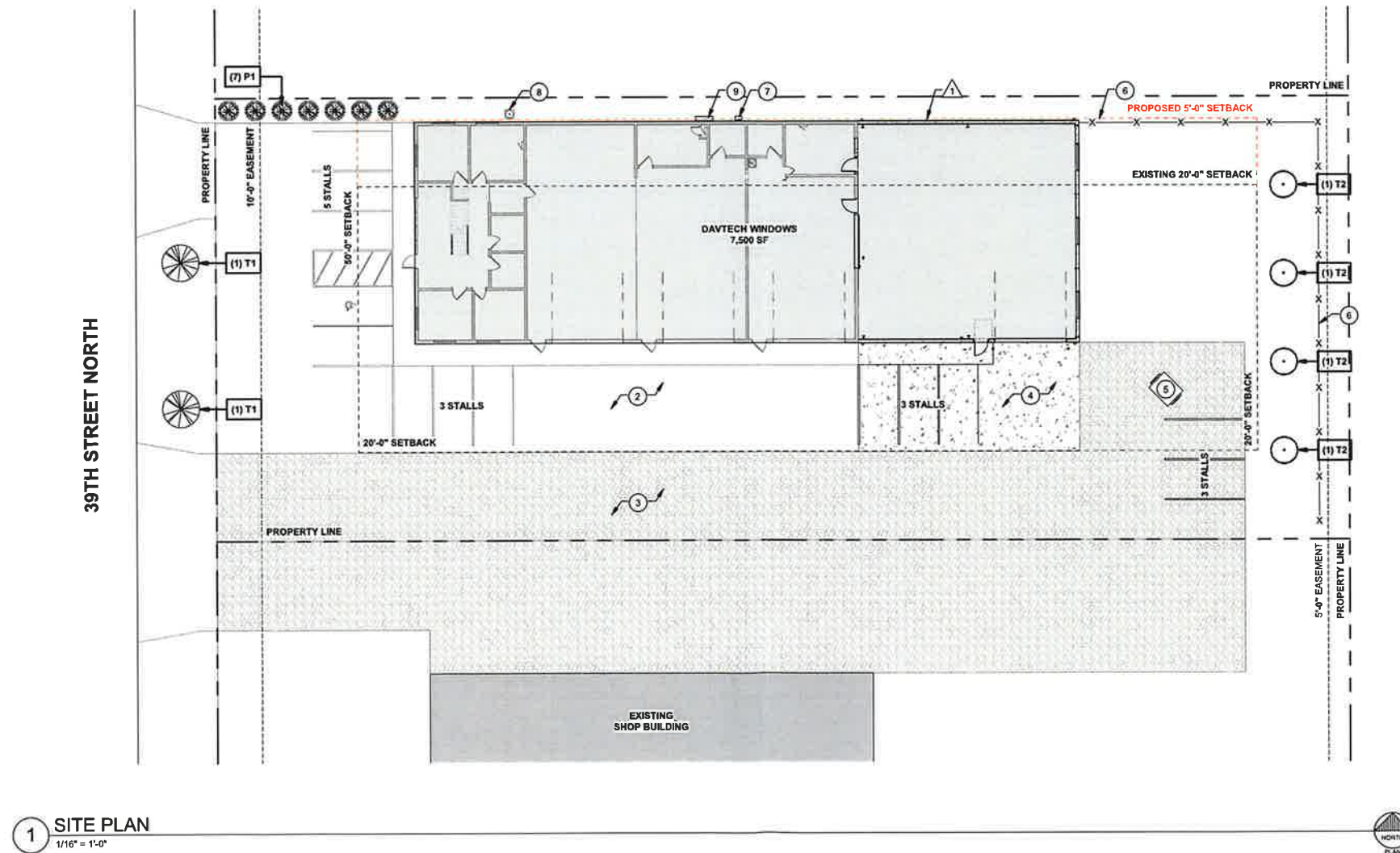
LANDSCAPE TABLE

TYPE OF PLANT	UNITS:	QTY:	TOTAL:
T1 - SMALL DECIDUOUS TREE	5	2	-
T2 - SMALL EVERGREEN TREE	5	4	20
P1 - 2 GAL PERENNIALS:	1	7	7
TOTAL			27

NOTES:
OPEN SPACE UNITS:
1 UNIT PER 1,000 SF = 25,650 / 1,000 = 26 UNITS
STREET TREES:
1 PER 50 FEET OF FRONTAGE = 100'-0" / 50'-0" = 2 TREES

SITE PLAN KEY NOTES

- 1 REMOVE AND SALVAGE EXISTING FENCE TO ALLOW FOR NEW CONSTRUCTION.
- 2 EXISTING CONCRETE PAVEMENT TO REMAIN. PATCH AND REPAIR AS NECESSARY
- 3 EXISTING SURFACE GRAVEL LOT TO REMAIN
- 4 NEW 6" MIN. REINFORCED CONCRETE PAVEMENT (SEE STRUCT).
- 5 APPROXIMATE DUMPSTER LOCATION. VERIFY FINAL LOCATION WITH OWNER.
- 6 APPROXIMATE LOCATION OF SALVAGED FENCING TO BE REINSTALLED. COORDINATE EXTENTS W/ OWNER
- 7 EXISTING GAS METER TO REMAIN. M.C. TO VERIFY METER CAPACITY.
- 8 EXISTING AIR CONDENSING UNIT TO REMAIN.
- 9 EXISTING ELECTRIC PAVEMENT TO REMAIN (4 THUS).



1 SITE PLAN
1/16" = 1'-0"