

MEMORANDUM

TO: Board of Adjustment
FROM: Aaron Nelson, Planning Coordinator *AN*
Maggie Squyer, Assistant Planner
DATE: July 21, 2020
RE: Board of Adjustment Meeting

The next meeting of the Board of Adjustment will be held on Tuesday, July 28, 2020 at 9:00 a.m. in the Commission Chambers at Fargo City Hall. If you are not able to attend, please contact staff at (701) 241-1474 or planning@FargoND.gov. Thank you.

BOARD OF ADJUSTMENT
Tuesday, July 28, 2020 9:00 a.m.
Commission Chambers
AGENDA

1. Approve Minutes of May 26, 2020 Meeting
2. New Business
(none)
3. Other Business
 - a) Board Membership Update (*Informational Item*)
 - b) Annual Nomination and Election of Officers
 - Chairperson
 - Vice-Chairperson
4. Adjournment

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, May 26, 2020

The Regular Meeting of the Board of Adjustment of the City of Fargo, North Dakota, was held virtually at 9:00 a.m., Tuesday, May 26, 2020.

The Members present or absent were as follows:

Present: Deb Wendel-Daub, Matthew Boreen, Russell Ford-Dunker, Michael Love, Mike Mitchell

Absent: Jared Heller

Chair Love called the meeting to order.

Item 1: Approval of Minutes: Regular Meeting of November 26, 2019

Member Wendel-Daub moved the minutes of the November 26, 2019 Board of Adjustment meeting be approved. Second by Member Mitchell. All Members present voted aye and the motion was declared carried.

Item 2: New Business

a) Variance Request – 2402 Lilac Lane North: APPROVED

Request for a variance of Section 20-0403 of the Land Development Code. The requested variance is to allow a detached garage to encroach into the required front setback in the SR-2, Single-Dwelling Residential zoning district.

Assistant Planner Maggie Squyer presented the staff report and reviewed the criteria used during staff's analysis of the application. Ms. Squyer stated staff is recommending denial, as the review criteria (a) and (c) have not been met.

Applicant Brian Martin spoke on behalf of the application.

Discussion was held regarding how the proposal will affect existing trees and fence.

Member Boreen moved the findings of staff be accepted and the variance be denied as recommended.

The motion failed for lack of a second.

Discussion continued regarding the design and location of the proposed structure.

Member Ford-Dunker moved to accept the project as presented and allow the proposed detached garage to encroach into the required front setback in the SR-2, Single-Dwelling Residential zoning district. Second by Member Wendel-Daub. Upon call of

the roll Members Wendel-Daub, Boreen, Ford-Dunker, Mitchell, and Love voted aye. The motion was declared carried.

**b) Variance Request – 2921 1st Avenue North: APPROVED WITH CONDITION
Request for a variance of Section 20-0502 of the Land Development Code. The requested variance is to allow a building addition to encroach into the required interior-side setback in the LI, Limited Industrial zoning district.**

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

Applicant Mike Peterson spoke on behalf of the application.

Member Wendel-Daub asked about an existing No-Build Easement Agreement and if staff is in the process of reviewing this agreement.

Chris Rose, Inspections Deputy Administrator, stated staff has asked the property owner to record this agreement if the variance is approved, so that it follows the property through the life of the building. She noted it is the property owner's responsibility to record the No-Build Easement Agreement.

Discussion began regarding adding a condition to the motion that the agreement must be recorded if the variance is approved, and that staff has reviewed and verified that the agreement information is correct.

Mr. Peterson continued with further details regarding his proposal.

Discussion continued regarding the feasibility of building the addition offset from the existing structure.

Member Wendel-Daub moved to accept the project as presented and allow the proposed building addition to encroach into the required interior-side setback in the LI, Limited Industrial zoning district on the condition that the No-Build Easement Agreement is recorded. Second by Member Ford-Dunker. Upon call of the roll Members Mitchell, Boreen, Ford-Dunker, Wendel-Daub, and Love voted aye. The motion was declared carried.

Item 3: Other Business

No other business was discussed.

Item 4: Adjournment:

Member Ford-Dunker moved to adjourn the meeting at 9:39 a.m. Second by Member Wendel-Daub. All Members present voted aye and the motion was declared carried.



PLANNING & DEVELOPMENT

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MEMORANDUM

TO: Fargo Board of Adjustment

FROM: Aaron Nelson, Planning Coordinator *AN*

DATE: July 21, 2020

SUBJECT: Item 3.a – Board Membership Update

The terms of Russell Ford-Dunker and Jared Heller expired on June 30, 2020. Mr. Ford-Dunker opted not to seek an additional term and is therefore no longer serving on the Board of Adjustment. Staff thanks Mr. Ford-Dunker for his service to the Board of Adjustment.

The Board of Adjustment consists of five (5) regular members and one (1) alternate member.

Mr. Heller had been serving as the Board's alternate member, but was willing to fill the vacancy as a regular member of the Board created by the resignation of Mr. Ford-Dunker. As such, the Board of City Commissioners, at their regular meeting of June 29, 2020, appointed Mr. Heller to a three-year term as a regular member of the Board of Adjustment.

Consequently, the alternate member position of the Board of Adjustment is currently vacant. City staff is currently working to fill this vacancy.

This item is informational only. No discussion or action is necessary.

MEMORANDUM

TO: Fargo Board of Adjustment

FROM: Aaron Nelson, Planning Coordinator *AN*

DATE: July 21, 2020

SUBJECT: Item 3.b – Annual Election of Officers

According to the Bylaws of the Board of Adjustment, *“At the regular annual meeting on the fourth Tuesday of July of each year, the Board shall elect a Chairperson and Vice-Chairperson for the ensuing year.”* As such, at the July 28, 2020 meeting, the Board shall elect a Chairperson and Vice-Chairperson for the ensuing year.

Regarding these two officers, the Bylaws state that:

The Chairperson shall generally preside and conduct all Board meetings, with the advice and consent of other members, may appoint committees from Board members to perform specific duties.

The Vice Chairperson - In the event of the absence, disability, resignation or conflict of interest of the Chairperson, the Vice-Chairperson shall exercise all the powers and duties of said Chairperson, performing this function, the Vice Chairperson shall automatically become Board Chairperson and the position of Vice Chairperson shall be deemed vacant and the Board may elect from its own members a successor Vice Chairperson to fill this vacancy at its next meeting.

Attachment

**BOARD OF ADJUSTMENT
BY-LAWS
CITY OF FARGO
(ADOPTED AUGUST 27, 2013)**

The Board of Adjustment for the City of Fargo, North Dakota, hereinafter referred to as the "Board," does hereby adopt these by-laws that shall govern its internal operations.

I. MEMBERSHIP

The Board shall be composed of those individuals who have been duly appointed thereto by the Board of City Commissioners.

The Board shall consist of five (5) members and one (1) alternate to be appointed for three (3) year terms by the Mayor and subject to confirmation by the City Commission.

Vacancies shall be filled in the same manner as other appointments to the Board.

II. OFFICERS

The Chairperson shall generally preside and conduct all Board meetings, with the advice and consent of other members, may appoint committees from Board members to perform specific duties.

The Vice Chairperson - In the event of the absence, disability, resignation or conflict of interest of the Chairperson, the Vice-Chairperson shall exercise all the powers and duties of said Chairperson, performing this function, the Vice Chairperson shall automatically become Board Chairperson and the position of Vice Chairperson shall be deemed vacant and the Board may elect from its own members a successor Vice Chairperson to fill this vacancy at its next meeting.

III. MEETINGS

Quorum - A quorum shall consist of four (4) members.

Annual Meeting - At the regular annual meeting on the fourth Tuesday of July of each year, the Board shall elect a Chairperson and Vice-Chairperson for the ensuing year.

Meetings - The Board shall meet on the fourth Tuesday of each month at 9:00 o'clock a.m. If the regular meeting date falls on a holiday when the City governing offices are generally closed, the meeting will be held on the regular meeting day and time of the succeeding week.

Continued Meetings - The City will send out re-notification to all interested parties when a variance request has been tabled by the Board.

Meeting Location - All regular meetings of the Board shall be held in the City Commission Room unless otherwise published or distributed in the public notice for the public hearing.

Order of Business - The items of business to be considered at any meeting shall be specified on the notice of such meetings, which shall be the meeting agenda and which shall be transmitted to each member not later than five days immediately preceding the meeting date. Items of business at any meeting will be considered by the Board in the order in which they appear on the meeting agenda and, except in the cases of emergency or mistake, no items shall be added thereto after said written agenda is transmitted to Board members.

Records - The Board shall keep a record of its resolutions, transactions, findings, and determinations; and, such record shall be a public record.

IV. VOTING

All Board members, including the Chairperson and Vice-Chairperson, shall be entitled to one equal vote at any meeting. There shall be no voting by proxy. Dissenting votes or abstentions on any matter presented to the Board shall be clearly expressed orally or in writing when voting is in process. All administrative matters, other than appeals presented for Board consideration, shall be decided by the majority vote of those present at the meeting. The concurring vote of four (4) members of the Board shall be necessary to reverse any order, requirement, decision, or determination of the building official or to decide in favor of the applicant any matter upon which it has jurisdiction.

V. COMPENSATION

All members of the Board shall serve without compensation. When duly authorized by the Board, members thereof may attend planning conferences or meetings of planning institutions or hearings upon legislation, and the Board may pay the reasonable traveling expenses incidental to such attendance pursuant to a resolution spread upon its minutes.

VI. PURPOSE

The purpose of this Board is to provide for deviations from the literal provisions of the Zoning codes in specific instances where their strict enforcement would cause undue hardship because of circumstances unique to the individual property under consideration, and to grant such variances to those particular parcels only when it is demonstrated that such actions will be in keeping with the spirit and intent of this code.

VII. OTHER PROCEDURES

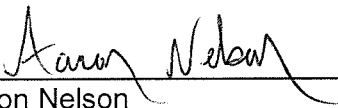
All operating procedures not specifically provided for herein shall generally be governed by "Robert's Rules of Order" which is hereby incorporated for purposes of reference. In the event any provision of "Robert's Rules of Order" are inconsistent herewith, these By-Laws shall govern.

VIII. CONTROL OF LAW

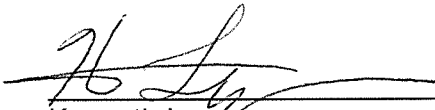
The By-Laws of the Board generally shall be governed by the applicable ordinances of the City of Fargo, laws of the State of North Dakota, and laws of the United States of America and any provisions herein inconsistent or in conflict with such laws or ordinances shall be deemed void.

IX. AMENDMENT AND REPEAL

Except when in conflict with state statutes, these By-Laws may be amended or repealed from time to time by the affirmative vote of a majority of the appointed Board members at a meeting. Said By-Laws may be made inoperative regarding any particular subject matter by the affirmative vote of a majority of Board members.



Aaron Nelson
Secretary, Board of Adjustment



Kenneth Lepper
Chairperson, Board of Adjustment