

**BOARD OF ADJUSTMENT  
MINUTES**

**Regular Meeting:**

**Tuesday:**

**August 25, 2015**

The Regular Meeting of the Board of Adjustment of the City of Fargo, North Dakota, was held in the City Commission Room at City Hall at 9:00 o'clock a.m., Tuesday, August 25, 2015.

The Members present or absent were as follows:

Present: Deb Wendel-Daub, Dominic Fischer, Russell Ford-Dunker, Michael Love

Also present: Erik Johnson

Absent: Mark Lundberg

Chair Wendel-Daub called the meeting to order.

Chair Wendel-Daub made the following announcements:

1. Public Hearing Item No. 4a will be continued to September 22, 2015.
2. Public Hearing Item No. 4b: She noted with 4 of the 5 Board Members present and the requirement of 4 affirmative votes for a motion to pass, the applicant has the option to reschedule. Applicant Jerrod McPherson, Wholesalers Property Co., and Roers Development Representative Elissa Novotny Leino stated they would like the meeting to proceed.

**Item 1: Approve Order of Agenda**

Member Fischer moved the Order of Agenda be approved as presented. Second by Member Ford-Dunker. All Members present voted aye and the motion was declared carried.

**Item 2: Approval of Minutes: Regular Meeting of July 28, 2015**

Member Fischer moved the minutes of the July 28, 2015 Board of Adjustment meeting be approved. Second by Member Love. All Members present voted aye and the motion was declared carried.

**Item 3: Old Business**

No old business was discussed.

**Item 4: New Business**

**a) Continued Hearing on a Variance Request – 1005 South Drive South. Request for a variance of Section 20-0501 of the Land Development Code. The requested variance is to allow construction of a building addition that would encroach into**

**the required interior-side setback area with the SR-2, Single-Dwelling Residential zoning district: CONTINUED TO SEPTEMBER 22, 2015**

A Hearing had been set for July 28, 2015. At the July 28, 2015 meeting, the Hearing was continued to this date and time; however, the applicant has requested this item be continued to September 22, 2015.

**b) Variance Request – 3333 39th Street South. Request for a variance of Article 21-06 of the Municipal Code. The requested variance is to allow earth fill around a proposed building to be approximately 1.5 feet lower than what is required by the City’s Floodproofing Code.**

Planner Aaron Nelson presented the staff report and reviewed the criteria used during staff’s analysis of the proposal. He noted planning staff does not administer the Floodproofing Code, and that staff members from Engineering are present to share their expertise regarding this unique variance request of the City’s Floodproofing Code. Mr. Nelson stated staff is recommending denial as the review criteria have not been met.

Before discussion started, Chair Wendel-Daub noted a potential conflict of interest as the applicant is a client of her employer, Roers Development. She stated City Attorney Erik Johnson is present to explain the statutory provision in the law pertaining to these types of potential conflicts.

Mr. Johnson explained the statutory provisions pertaining to potential conflicts of interest.

Member Fischer moved to waive a conflict of interest based on the information provided by the City Attorney, and to approve Chair Wendel-Daub be allowed to vote on Item 4b. Second by Member Love. Upon call of the roll Members Love, Fischer, and Ford-Dunker voted aye. Absent and not voting: Member Lundberg. The motion was declared carried.

City Division Engineer Nathan Boerboom shared staff recently met with FEMA to review updated City maps, and reaffirmed the City’s existing Floodproofing Code remains compliant with the guidelines required by FEMA. Mr. Boerboom noted if the variance request is approved, documentation must be provided by the Board and staff explaining the decision.

Applicant representative Elissa Novotny Leino spoke on behalf of the requested variance. She stated the proposed design followed the guidelines provided by the City’s Engineering Department, and was signed-off by a structural engineer.

Applicant Jerrod McPherson shared his concern regarding the degree of slope the required fill elevation would create and possible adverse effects to neighboring properties regarding water run-off.

Further discussion by the Board concluded in a request to the applicant to complete a geotechnical survey on the site. The Board stated they felt this data was essential for staff to determine if this type of variance is appropriate for approval.

Ms. Novotny Leino responded the applicant would like the Board's decision today so the project can move forward.

Member Love moved to continue the variance request until such time that the applicant provides sufficient technical data to the City Engineer to allow staff time to provide a recommendation on the variance. Second by Member Ford-Dunker. Upon call of the roll Members Fischer, Ford-Dunker, Love, and Wendel-Daub voted aye. Absent and not voting: Member Lundberg. The motion was declared carried.

**Item 5: Other Business**

No other business was discussed.

**Item 6: Adjournment**

Member Ford-Dunker moved to adjourn the meeting at 10:00 a.m. Second by Member Love. All Members present voted aye and the motion was declared carried.