

## **BOARD OF ADJUSTMENT MINUTES**

**Regular Meeting:**

**Thursday:**

**December 22, 2016**

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., Thursday, December 22, 2016.

The Members present or absent were as follows:

Present: Deb Wendel-Daub, Matthew Boreen, Russell Ford-Dunker, Michael Love, Mark Lundberg

Also present: Commissioner Grindberg

Absent: Mike Mitchell

Chair Wendel-Daub called the meeting to order.

### **Item 1: Approval of Minutes: Regular Meeting of November 22, 2016**

Member Love moved the minutes of the November 22, 2016 Board of Adjustment meeting be approved. Second by Member Lundberg. All Members present voted aye and the motion was declared carried.

### **Item 2: Approve Order of Agenda**

Chair Wendel-Daub noted that Item 2b is being continued.

Member Lundberg moved the Order of Agenda be approved as presented. Second by Member Love. All Members present voted aye and the motion was declared carried.

Before proceeding with Item 2a, Chair Wendel-Daub asked for clarification on the number of affirmative votes required for a super-majority to approve this application. City Attorney Erik Johnson explained the State of North Dakota's statutory provisions requires a concurring vote of four Board Members to approve this application.

Member Love declared a conflict of interest on Item 2a. Mr. Love stated he is employed by the applicant, Houston Engineering, Inc.

Chair Wendel-Daub explained that for a variance to be approved four affirmative votes are required. She stated with only four out of the five Board Members present eligible to vote, the applicant does have the option to continue this item. Applicant representative Brian Pattengale stated he would like the meeting to proceed.

**Item 3: New Business**

**a) Variance Request – 303 11th Street North: Request for a variance of Article 21-06 of the Municipal Code. The requested variance is to allow the lowest opening of the proposed building to be approximately 0.9 feet lower, and the fill around the building to be 0.7 feet lower, than would otherwise be required by the City's Floodproofing Code: DENIED**

Planning Administrator Nicole Crutchfield presented the staff report, providing an introduction to this type of variance request involving the City's Floodproofing Code. She explained the administration of the Floodproofing Code is done by the Inspections and Engineering Departments, whose staff will be presenting their recommendations and information on the technical aspects of this request. Ms. Crutchfield referred to the criteria used during Planning staff's analysis of the request and their recommendation for approval with the following condition: The applicant agreeing to a waiver of liability against the City and with the Facility's organization administering an emergency response plan.

Inspections Administrator Bruce Taralson presented his department's review of the request and their recommendation that the applicant finish the ground level of the structure using floodproof construction, and that the engineer of the applicant verify it to be of floodproof construction.

Stormwater Division Engineer Jody Bertrand shared concerns on the placement of a mechanical room in a lower area that could be prone to flooding in relation to FEMA requirements.

Applicant Brian Pattengale, Houston Engineering, Inc., spoke on behalf of the application and addressed how they plan to accommodate staff's concern regarding the location of a mechanical room.

Board discussion continued regarding concerns on the accessibility of emergency vehicles, and the request for removal of the proposed flood gates.

City Engineer April Walker spoke about the importance of providing a floodproof foundation when constructing a new building or updating an existing structure, to provide the City with needed protection should a flooding event happen in the future.

Member Lundberg moved the findings and recommendations of staff be denied, and denial be recommended for the requested variance to allow the lowest opening of the proposed building to be approximately 0.9 feet lower, and the fill around the building to be 0.7 feet lower, as it does not comply with the City's Floodproofing Code. Second by Member Ford-Dunker. On call of the roll Members Boreen, Lundberg, Ford-Dunker, and Wendel-Daub voted aye. Member Love abstained from voting. Absent and not voting: Member Mitchell. The motion was declared carried.

**b) Variance Request – 510 4th Street South: Request for a variance of Article 21-06 of the Municipal Code. The requested variance is to allow the opening of a proposed building to be approximately 18.9 feet lower, the fill around the building to be 18.9 feet lower, and the fill 15 feet away from the building to be 20.6 feet lower, than would otherwise be required by the City's Floodproofing Code: CONTINUED TO JANUARY 24, 2017**

**Item 4: Other Business**

**a. 2017 Meeting Dates**

Planner Aaron Nelson presented this calendar which was included in the packet.

**Item 5: Adjournment:**

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