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BOARD OF ADJUSTMENT
Tuesday, July 26, 2022 | 9:00AM
City Commission Chambers
AGENDA

1. Welcome and Introductions
2. Approve Agenda & Minutes……Action Item
3. Annual Meeting / Election of Officers……Action Item
4. Announcements
5. Adjourn – Next Meeting: August 23, 2022

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, October 26, 2021**

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, October 26, 2021.

The Members present or absent were as follows:

Present: Deb Wendel-Daub, Matthew Boreen, Michael Love, Michael Orth (Alternate)

Absent: Jared Heller, Mike Mitchell

Chair Love called the meeting to order.

Item 1: Approval of Minutes: Regular Meeting of July 27, 2021

Member Wendel-Daub moved the minutes of the July 27, 2021 Board of Adjustment meeting be approved. Second by Member Boreen. All Members present voted aye and the motion was declared carried.

Item 2: New Business

a. Variance Request – 1425 Main Avenue: APPROVED

Request for a variance of Section 20-0502 of the LDC and request for a variance of the City's Floodproofing Code. The requested variances are to allow a building to encroach into the required rear setback in the GC, General Commercial zoning district, and have a lowest opening/finish floor below what would otherwise be required by the City's Floodproofing Code.

Planning Coordinator Maegin Elshaug presented the staff report and overview of the request.

Jody Bertrand, spoke on behalf of the Engineering department, and reviewed the Floodproofing Code Standards.

Discussion was held on FEMA allowances to the floodproofing code, the waiver of liability contingency, and the FEMA map and adjustments due to the diversion.

Applicant Elissa Novotny, Dovetail Development, spoke on behalf of the application providing a background of the project and application.

Chair love reminded Board Members that this application is requesting two variances, one for the rear setback, and one for the Floodproofing Code.

Discussion was held on the rear setback.

Planning and Development Assistant Director Mark Williams noted that this is an extremely difficult site, and the proposed request is probably the best option.

Member Wendel-Daub moved the findings of staff be accepted and to accept the project as presented and allow the proposed new building to encroach 5 feet into the required rear side setback in the GC, General Commercial, zoning district and allow the lowest opening/finish floor at a lower elevation than as required by the City's Floodproofing code upon conditions that the applicant agree to a waiver of liability against the City.. Second by Member Boreen. Upon call of the roll Members Orth, Boreen, Wendel-Daub, and Love voted aye and the motion was declared carried.

Item 3: Other Business
No other business was presented.

Item 4: Adjournment
Member Boreen moved to adjourn the meeting at 9:23 a.m. Second by Member Orth. All Members present voted aye and the motion was declared carried.

MEMORANDUM

TO: **Fargo Board of Adjustment**

FROM: **Kim Citrowske, Planning Coordinator**

DATE: **July 26, 2022**

SUBJECT: **Annual Meeting / Election of Officers**

The Board of Adjustment By-laws state that an Annual Meeting should be conducted each July to elect a Chair and Vice Chair for the upcoming year. Thank you to Michael Love for serving as Chair and Deb Wendel-Daub serving as Vice Chair in 2021/22.

The By-laws outline the roles and tasks for each Officer:

- *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*.

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