

**BOARD OF ADJUSTMENT**  
**Tuesday, August 27, 2024 | 9:00AM**  
**City Commission Chambers**  
**AGENDA**

1. Approve Minutes – May 28, 2024
2. New Business
  - a. Variance Request – 2213 7<sup>th</sup> Avenue North
    - i. The request at 2213 7<sup>th</sup> Avenue North, if granted, would allow a new slab on grade accessory structure to be constructed at a lower elevation than would otherwise be required by the City’s Floodproofing Code, as referenced by Article 21-06 of the Fargo Municipal Code.
  - b. Variance Request – 2301 Lilac Lane North
    - i. The request at 2301 Lilac Lane North, if granted, would allow an attached garage to encroach in the required front setback in the SR-2, Single-Dwelling Residential zoning district as outlined in 20-05 of Fargo Municipal Code.
3. Other Business
4. Adjourn – Next Meeting: September 24, 2024

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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 28, 2024**

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, May 28, 2024.

The Members present or absent were as follows:

Present: Deb Wendel-Daub, Matthew Boreen, Michael Love, Michael Orth, Marcia Pulczinski

Absent: None

Chair Love called the meeting to order.

**Item 1: Approval of Minutes: Regular Meeting of January 23, 2024**

Member Wendel-Daub moved the minutes of the January 23, 2024 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 – 97 23rd Avenue North: DENIED**

*The request at 97 23rd Avenue North, if granted, would allow an overhead structure (gazebo/ pergola) to encroach in the Front Setback in the SR-2, Single-Dwelling Residential zoning district as outlined in 20-05 of the Fargo Municipal Code.*

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.

Discussion was held on the type of structure that would be allowed without a variance, and alternative options that were explored.

Applicant Julie Saatoff spoke on behalf of the application.

Discussion continued on reasons for not locating the structure in the backyard, additional alternative options, the heat of the deck from the sun, and allowable structure options.

Plan Reviewer Melissa Gaulrapp spoke on behalf of the Inspections Department, noting any overhead construction is encroaching in the setback.

Further discussion was held on setting a precedence, how the rewrite of the Land Development Code could impact similar situations in the future, the permanence of the proposed structure, consistency and alignment with the Land Development Code, hybrid options, and property versus physical hardship.

Member Orth moved the findings of staff be accepted and the variance be denied as requested. Second by Member Wendel-Daub. Upon call of the roll Members Wendel-Daub, Pulczynski, Orth, and Love voted aye. Member Boreen voted nay. The motion was declared carried.

**Item 3: Other Business**

No other business was presented.

**Item 4: Adjournment: Next Meeting - June 25, 2024**

Member Boreen moved to adjourn the meeting at 9:32 a.m. Second by Member Orth. All Members present voted aye and the motion was declared carried.

## CITY OF FARGO - Board of Adjustment Variance Staff Report

<b>Item No:</b> 2.a.	<b>Date:</b> August 27, 2024
<b>Address:</b> 2213 7th Avenue North	
<b>Legal Description:</b> East 75 feet of Lot 1 & Lot 21, Beardsley's 1 <sup>st</sup> Industrial Addition	
<b>Owner(s)/Applicants:</b> John T. Jones Construction Co./Andrew Thill (Lowry Engineering)	
<b>Reason For Request:</b> To construct a building that would have a lowest opening and fill elevations below what would otherwise be required by the City's Floodproofing Code.	
<b>Zoning District:</b> LI: Limited Industrial (Commercial)	
<b>Status:</b> Board of Adjustment Public Hearing: August 27, 2024	

Floodproofing Code Standards	Proposed Structure
<b>Elevations:</b>	<b>Elevations:</b>
<b>41' WSEIA Elevation:</b> 41' plus 1.2'	<b>Finished Floor:</b> <b>1.0' below required 903.1</b> <b>902.1</b> (FEMA BFE 900.0 plus 2.0')

**Background:**

The applicant has proposed to construct a building at a lower elevation than required by the current City of Fargo Flood Proofing Code. The property and proposed building are within the 41-foot water surface elevation inundation area (WSEIA). At this location, the 41-foot WSEIA is at an elevation of 901.9 feet. The property and building are not located within the FEMA Special Flood Hazard Area.

Since this proposed building is within the 41-foot WSEIA, the Floodproofing Code requirements are as follows:

1. The finished floor of a building is required to be at or above an elevation that is 1.2 feet above the 41-foot WSEIA elevation. (901.9 feet 41-foot WSEIA elevation plus 1.2 feet = 903.1')

The lowest opening of the proposed structure would be at an elevation of 902.1 feet, which is 1.0 foot lower than what is required for the lowest opening elevation (41-foot WSEIA+1.2'). Additionally, the fill adjacent to the building would be at an elevation of 902.1 feet, which is 0.5 foot lower than required. The applicant is requesting the variance in order to construct a building that would have a lowest opening at an elevation below what would otherwise be required by the City's Floodproofing Code.

According to the applicant, the proposed variance is necessary to construct the building so as to have the similar finished floor elevations as the existing surrounding buildings, which were constructed prior to the City's current floodproofing elevation requirements. Additional details are provided by the applicant within the attached application materials.

**Criteria for Approval:**

The Floodproofing Code was enacted by reference within Article 21-06 (Flood Plain Management) of the Fargo Municipal Code. Appeals from Article 21-06 are heard and decided upon by the Board of Adjustment as outlined within Section 21-0603 of the Municipal Code.

§21-0603.G.5 of the Municipal Code states that, *In determining appeals or requests for variances, the board of adjustment shall consider all technical evaluations, all relevant factors, standards specified in other sections of this ordinance, and:*

- a. *The danger that materials may be swept onto other lands to the injury of others;*



- b. *The danger to life and property due to flooding or erosion damage;*
- c. *The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owners;*
- d. *The importance of the services provided by the proposed facility to the community;*
- e. *The necessity to the facility of a waterfront location, where applicable;*
- f. *The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;*
- g. *The compatibility of the proposed use with the existing and anticipated development;*
- h. *The relationship of the proposed use to the comprehensive plan and floodplain management program or that area;*
- i. *The safety of access to the property in times of flood for ordinary and emergency vehicles;*
- j. *The expected heights, velocity, duration, rate of rise and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site; and,*
- k. *The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, streets and bridges.*

§21-0603.H.1 of the Municipal Code includes additional considerations for variances:

- 1. *Variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base level, providing items (a-k) in subsection (G)(5) above have been fully considered. As the lot size increases beyond the one-half acre, the technical justifications required for issuing the variance increases.*
- 2. *Variances may be issued for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places or any state or local inventory or register of historic places without regard to the procedures set forth in the remainder of this section.*
- 3. *Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.*
- 4. *Variances shall be issued only upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.*
- 5. *Variances shall be issued only upon:*
  - a. *A showing of good and sufficient cause;*
  - b. *A determination that failure to grant the variance would result in exceptional hardship to the applicant; and*
  - c. *A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.*
- 6. *Any applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built with a lowest floor below the base flood elevation requirement and that the cost of flood insurance will be commensurate with the increased risk from the reduced lowest floor elevation.*

**Staff Analysis:**

**a. The danger that materials may be swept onto other lands to the injury of others;**

**Minimal probability**

**b. The danger to life and property due to flooding or erosion damage;**

Minimal probability

- c. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owners;**  
Minimal probability
- d. The importance of the services provided by the proposed facility to the community;**  
The facility provides storage and garage space for the parcel tenants with no connections to City sanitary sewer or water. In a flood situation, it would not impact City infrastructure.
- e. The necessity to the facility of a waterfront location, where applicable;**  
Not applicable. The proposed building is not in the MDZS or the LDZS river setback zones.
- f. The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;**  
The proposed use is for additional storage space for the existing structures. There is no available open space near enough to the existing building that is not within the 41ft WSEIA.
- g. The compatibility of the proposed use with the existing and anticipated development;**  
There is no proposed change in use. The use is compatible with existing and anticipated development at this location. The proposed improvements will have matching ground elevations similar to the existing structures.
- h. The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;**  
No inconsistencies have been identified in relation to the comprehensive plan. Floodplain management is related to the City's floodproofing policies as part of the FEMA BFE and the 41' WSEIA elevation requirements.
- i. The safety of access to the property in times of flood for ordinary and emergency vehicles;**  
Access may be limited as servicing roadways may become inundated during riverine flooding or heavy rainfall events. The applicant will need to understand this potential risk as staff has no data to suggest that the requested variance would result in an increased or decreased safety of access.
- j. The expected heights, velocity, duration, rate of rise and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site; and,**  
Staff has no data to confirm the effects of flooding as a result of overland flooding or storm sewer overflows.
- k. The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, streets and bridges.**  
Costs associated with government services during or after flood conditions will not change due to this variance.

Since this is a variance request to Article 21-06 (Flood Plain Management) related to floodproof construction, the Zoning Administrator defers to the Building Official/Flood Plain Administrator as well as the City Engineer for current and future floodplain management. This application was reviewed by the City's Planning and Development, Engineering, and Building Inspections Departments ("staff"), whose comments are included in this report.

The submitted proposal from the design engineer and the developer identify that the proposed building will be used as an accessory structure for storage and garage space., The building will not have water or sanitary facilities. The proposed building elevation will better match the surrounding building elevations and reduce the runoff towards the existing buildings.

Ultimately, staff is in support this request for a variance. This support is due to the proposed use of the structure as well as the elevating of it to be 2 feet above the nearest FEMA BFE, which exceeds the State of North Dakota requirements.

Staff recommends that any granting of a variance be conditioned upon the applicant agreeing to a waiver of liability against the City. Engineering staff would work with the City Attorney's Office to draft an acknowledgment form that would outline the owner's decision to not follow the City's floodproof construction requirements. The purpose of this document would be to provide additional protection to the City from unforeseen issues that may arise as a result of the variance.

**Staff Recommendation:** "To accept the findings of staff and hereby approve the requested variance on the basis that the review considerations of Section 21-0603 have been satisfied, with the condition that the applicant sign and submit a waiver of liability against the City."





Subject Property

8 AVE N

7 AVE N

24 ST N

29 ST N

21 ST N

ALY N







These data are provided on an "AS-IS" basis, without warranty of any type, expressed or implied, including but not limited to any warranty as to their performance, merchantability, or fitness for any particular purpose.

# 2213 7 Ave N (41' WSEIA)

1:1,128

8/16/2024 2:45 PM

This map is not a substitute for accurate field surveys or for locating actual property lines and any adjacent features.







These data are provided on an "AS-IS" basis, without warranty of any type, expressed or implied, including but not limited to any warranty as to their performance, merchantability, or fitness for any particular purpose.

**2213 7 Ave N (2023 Contours)**

1:1,128	8/16/2024 2:47 PM
This map is not a substitute for accurate field surveys or for locating actual property lines and any adjacent features.	







PLANNING AND DEVELOPMENT  
 200 Third Street North  
 Fargo, North Dakota 58102  
 Phone: (701) 241-1474  
 Fax: (701) 241-1526  
 E-Mail: [planning@cityoffargo.com](mailto:planning@cityoffargo.com)  
[www.cityoffargo.com](http://www.cityoffargo.com)

### FLOOD PLAIN MANAGEMENT VARIANCE APPLICATION (§21-0603)

The Board of Adjustment is authorized to grant variances from the Flood Plain Management requirements of Article 21-06 of the Fargo Municipal Code, pursuant to the considerations and standards of Section 21-0603.

Please contact the Fargo Department of Planning and Development to schedule a pre-application meeting prior to submitting this application.

The following must accompany this application form:

- a. Site plan illustrating existing and proposed buildings, property lines, and other applicable information relevant to the requested variance.
- b. Building plans illustrating information relevant to the requested variance.
- c. Application fee.

Property Owner Information
Name (printed): <u>Tim Vanderzanden</u>
Address: <u>2213 7th Ave N. Fargo, ND 58102</u>
Primary Phone: <u>701-232-3358</u>
Alternative Phone: <u>701-371-7117</u>
Email: <u>TimJV@jtjconst.com</u>

Representation Information (primary contact)
Name (printed): <u>Andrew Thill, PE</u>
Company <u>Lowry Engineering</u>
Address: <u>5306 51st Ave S Suite A</u>
Primary Phone: <u>701-235-0199</u>
Alternative Phone: <u>651-324-5581</u>
Fax: _____
Email: <u>athill@lowryeng.com</u>
<input type="checkbox"/> Same as property owner

Location of property for which variance is being requested:
Address: <u>2213 7th Ave N, Fargo ND</u>
Zoning District: <u>LI Limited Industrial</u>
Legal Description: <u>PID: 01-0101-00016-000</u>

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 21-0603 of the Fargo Municipal Code.

Owner (Signature): <u>Timothy Vanderzanden</u>	Date: _____
Representative (Signature) <u>Andrew Thill</u>	Date: <u>7/31/2024</u>

Note: A nonrefundable application 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: _____

Proposed Variance Information:  
(Attach additional pages, if needed)

Please list all Flood Plain Management standards for which you are seeking a variance (e.g. elevation of lowest opening, fill adjacent to building, floodproof construction standards).

Elevation of Lowest Opening

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Please describe difference between the standard(s) and the proposed variation (e.g. The standard would require a lowest opening elevation of 901.5 ft. and my project would propose a lowest opening elevation of 900.7 ft.).

We are requesting that this detached, non-primary slab on grade structure be allowed to be 1' below the 41 Foot WSEIA requirement. The 41 Foot WSEIA is 901.90' which would require a lowest opening of 903.10'. We are requesting a lowest opening of 902.10'.

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.

The current building on site is unable to be repaired due to how rough of shape it is in. A new building is proposed to replace the existing building. The new building would create very difficult access and drainage problems without this variance. By having the finished floor elevation 1 foot below 41 Foot WSEIA requirement, we would be more in line with the adjacent properties and by such not adversely affect their buildings, lots or setbacks. The existing building was designed and built prior to the current flood code. The building type to be used is similar to other structures in the area. There is an existing building with a finished floor elevation of +/- 900.91' that is roughly 35 feet south of the proposed new building. With this variance, it allows the new building to be closer in line with the building to the south rather than it having a lowest opening +/- 2.2' higher.

Please explain how failure to grant the variance would result in exceptional hardship.

The hardship is due to a need to replace the existing building since it is in such bad shape that it is not fixable and must be replaced with a new one. It is virtually impossible to raise the proposed structure and make the slopes meet ADA code. The new building would be +/- 2.2' higher than the adjacent building located about 35 feet to the south without this variance. Furthermore, the needed slopes would result in grades up to the new building that would be difficult for equipment and vehicles to traverse.



Considerations for Approval:

Please explain how your requested variance satisfies the following considerations, pursuant to Section 21-0603 of the Fargo Municipal Code: (Attach additional pages, if needed.)

- a. The danger that materials may be swept onto other lands to the injury of others;

The items stored in this building would not be much different than those stored in a non-primary residential structure. This has been determined by the City to not be a concern for residential non-primary structures and likewise should not be a concern here.

- b. The danger to life and property due to flooding or erosion damage;

No one will be permanently housed or have offices here, this is simply storage and garage space. Fill around the structure will be placed to meet Fargo Dike and Levee specifications which should alleviate erosion issues.

- c. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owners;

It would be made very clear to any users of the facility of the very low risk of a flooding scenario that might exist with this structure. Flooding events in the valley happen generally with notice and relatively slowly. There would likely be adequate time for a user to react.

- d. The importance of the services provided by the proposed facility to the community;

The addition of the proposed garage structure benefits the existing owner and their growing business. By adding this structure, the business gets storage space they need without the cost and negative issues that come with moving locations as well as an up to date building that is safe to store equipment and supplies in. Also, there is a great need for businesses to have a presentable storage place for equipment and supplies indoors to avoid exterior clutter and blight.

- e. The necessity to the facility of a waterfront location, where applicable;

Not Applicable.

- f. The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;

The owner needs this garage and storage space to stay on the same property so that they are able to maintain yard space in order to operate.

- g. The compatibility of the proposed use with the existing and anticipated development;

There is good compatibility as this proposed structure is being built to serve the existing users of the facility. The surrounding area includes similar structures and uses.

- h. The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;

The proposed use would generally fit with other uses in the area and even with the variance, elevations would be higher than surrounding buildings. For this reason, it would be assumed that it would fit with the current floodplain management program for that area.

- i. The safety of access to the property in times of flood for ordinary and emergency vehicles; Nothing is changing as far as site access. The site is existing and access will remain the same as it is today.

- j. The expected heights, velocity, duration, rate of rise and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site; and,

This should be non-applicable at this location. This is a considerable distance from the flood way and would be impacted only by overland flooding which should have very limited risk of the above mentioned concerns.

- k. The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, streets and bridges.

These items would be the same cost regardless of the height of the building. Nothing regarding public infrastructure would be changing.











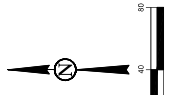
PROJECT # 22108  
PROJECT DATE 08/08/2023  
CHECKED BY: PWB  
DRAWN BY: PWB  
APPROVED BY: AJT

SURVEY OVERLAY  
DEMOLITION PLAN

C-4

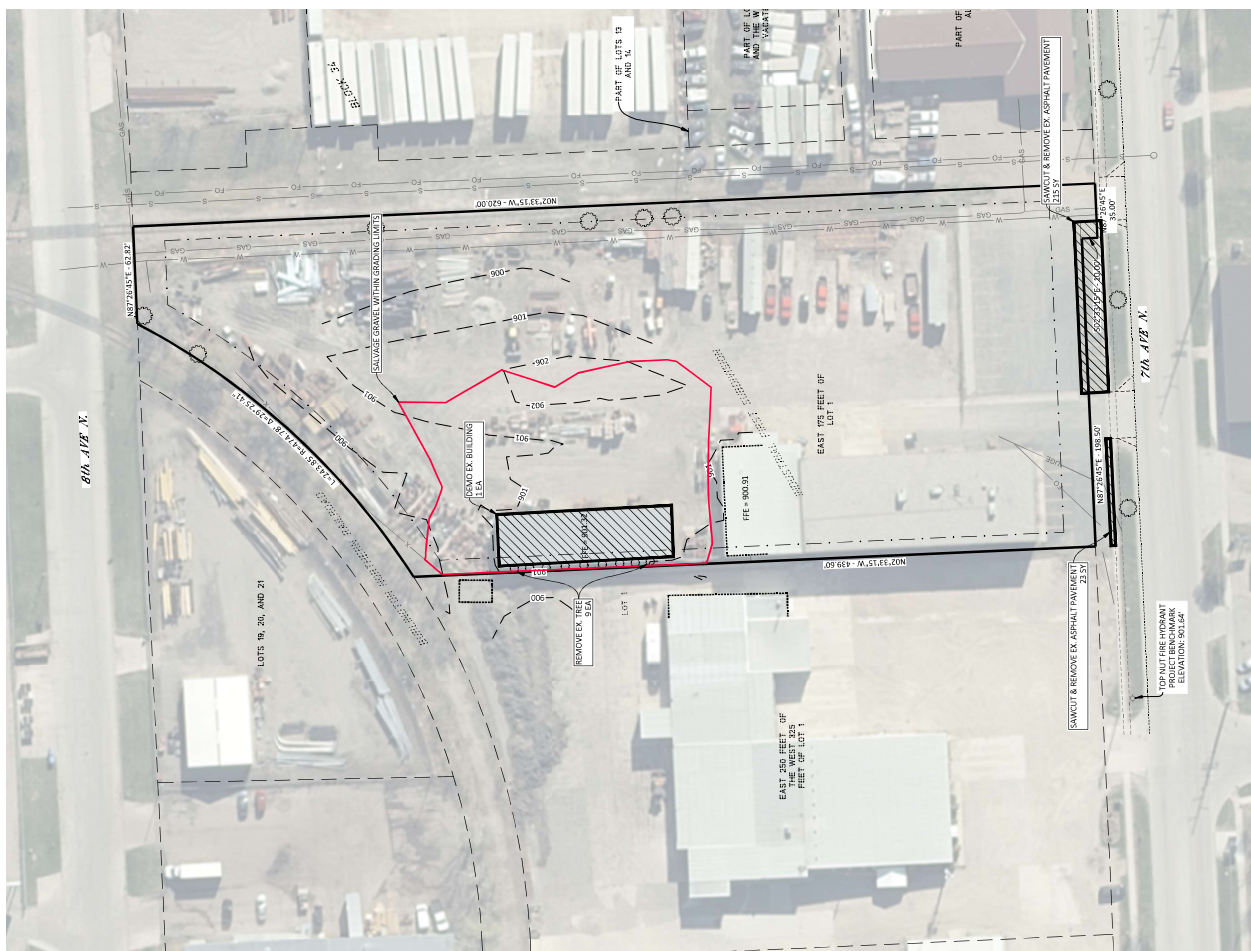
- REMOVAL AREAS

DEMOLITION CALLOUTS	ITEM	QUANTITY	UNIT
	DEMCO EX. BUILDING	1	EA
	SAWCUT & REMOVE EX. ASPHALT PAVEMENT	238	SF
	REMOVE EX. TREE	9	EA



CALL BEFORE YOU DIG  
NORTH DAKOTA  
UTILITIES UNDERGROUND LOCATION SERVICE  
1-800-368-5858

BENCHMARK: 1" NUT OF FIRE HYDRANT LOCATED SOUTHWEST OF THE SUBJECT  
ELEVATION: 540.14 (NAD83)  
BASE OF BEARING: CITY OF FARGO







## CITY OF FARGO - Board of Adjustment Variance Staff Report

<b>Item No:</b> 2.b	<b>Date:</b> August 21, 2024
<b>Address:</b> 2301 Lilac Lane North	
<b>Legal Description:</b> Lot 6, Block 12, Woodcrest Second Addition	
<b>Owner(s)/Applicants:</b> Andrew Schefter	
<b>Reason For Request:</b> To allow an attached garage to encroach in the required front setback	
<b>Zoning District:</b> SR-2, Single-Dwelling Residential	
<b>Status:</b> Board of Adjustment Public Hearing: August 27, 2024	

SR-2 Dimensional Standards	Proposed Structure
<b>Setbacks:</b>	<b>Setbacks:</b>
<b>Front (west):</b> 30'	<b>Front (west):</b> <span style="color: red;">24'-11"</span>
<b>Street-Side (south):</b> 15'	<b>Street-Side (south):</b> 15'
<b>Interior-Side (north):</b> 10%/5'	<b>Interior-Side (north):</b> 10%/5' (6' utility easement)
<b>Rear (east):</b> 25'	<b>Rear (east):</b> 25'

**Background:**

The applicant is requesting a variance to allow an addition to an existing attached garage to encroach into the required front setback. The property is located at 2301 Lilac Lane North with SR-2, Single-Dwelling Residential zoning. Section 20-05 of the Land Development Code states that the required front setback in the SR-2, Single Dwelling Residential district is 30 feet. The proposal would expand the existing attached garage to be located 24'-11" from the front (west) property line. The applicant is requesting a variance to allow the detached garage to encroach 5 feet – 1 inch into the required front setback.

**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 6, Block 12, Woodcrest Second Addition. The property is 14,589 square feet in area, which is larger than the minimum required lot size of 8,000 square feet for the SR-2 zoning district. Although not perfectly square, the lot is generally similar if not slightly larger than other lots in the neighborhood. The proposed addition design including size and layout is a result of the owner's intentional action including additional depth and length than the existing and typical garage dimensions. (A concept study of potential design options that meet SR-2 dimensional standards and attempt to preserve the existing mature trees is included for reference.)

Staff finds the requested variance does not arise from conditions that are unique to the subject property. Although mature trees exist on site and warrant protections, alternative design options exist to both meet setback requirements and preserve the existing tree. **(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 received no inquiry with no comment. **(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 a addition to an existing attached garage, which is a typical use permitted by-right in the SR-2 zoning district. Staff contends that no hardship exists as the property functions with the garage addition and options exist for additional garage space that meets required setbacks. **(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 applicant has offered options for a requested minimum variance needed for the applicant to construct the garage addition. **(Criteria satisfied)**

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**Staff Recommendation:** “To accept the findings of staff and deny the requested variance to allow an attached garage to encroach in the required front setback in the SR-2 zoning district on the basis that the review criteria of Section 20-0914.E.1 (a & c) have not been met.”







WILLOW RD N

LILAC LN N

Subject Property

SOUTH WOODCREST DR N







**Planning & Development**  
 225 4th Street North  
 Fargo, ND 58102  
 Office: 701.241.1474 | Fax: 701.241.1526  
 Email: Planning@FargoND.gov  
[www.FargoND.gov](http://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: 2024-07-30

**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): <u>Andrew Schefter</u>
Address: <u>2301 Lilac Lane N</u>
Primary Phone: <u>701-793-0105</u>
Alternative Phone: _____
Fax: _____
Email: <u>schef061@umn.edu</u>

Representation Information: <i>(if applicable)</i>
Name (printed): _____
Address: _____
Primary Phone: _____
Alternative Phone: _____
Fax: _____
Email: _____

Location of property requesting a variance:
Address: <u>2301 Lilac Lane N, 58102</u>
Zoning District: <u>SR-2</u>
Legal Description: _____
_____

### Proposed Variance Information:

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

Front 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).

Standard is 30', primary proposal is 24'11"; secondary proposal is 27'3"

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.)

Project is adding additional garage space to existing structure. Nearest mature tree on property would not survive if structure is built within standard setback code. Violating front setback improves chances of tree survival by minimizing structure protrusion into tree's drip zone.

Setback request does not negatively impact neighboring home views and also offers greater street facing dimension to the structure, improving cosmetic appeal of addition.

Structure can be built within setback code, but intent of variance request is to improve chances of mature tree survival and help maintain a characteristic that North Fargo is known for. Residence 2402 Lilac Lane was granted variance approval for mature tree protection in May of 2020, this request is in line with that neighboring precedent.

If 24'11" is cause for concern, minimum request is to allow structure addition to have a front setback of 27'3"; this would align the corner of the structure closest to the street with neighboring home 2311 to the north of subject property, 2301; although not as favorable, this is still supports requested cause, but does not extend out past the front face of 2311 structure.



**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;

Mature tree location on property likely an act of nature and predates my ownership of the property.

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

True. Adjacent property owner impact is equivalent whether new structure is built within standard setback code or with requested variance.

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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;

Hardship is associated with mature tree presence on property and intent to try and improve chances of tree survival by reducing protrusion of new structure within tree's drip zone. Reference similar variance approval granted to neighboring 2402 property.

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

True

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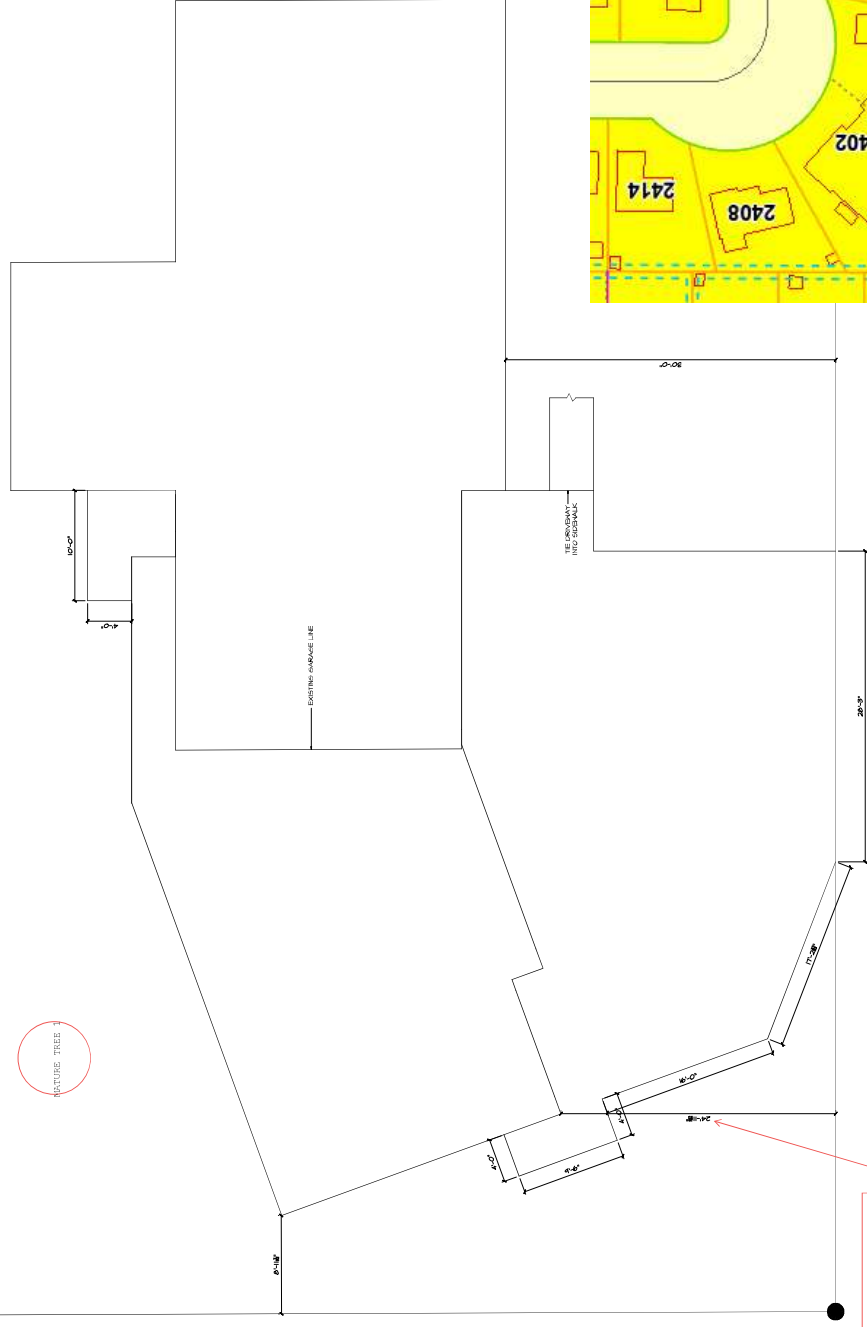
5. The variance is the minimum variance that will overcome the hardship.

Yes, front setback variance request is minimal enough to prevent sight line impacts that can stem from exceeding standard front setback code.

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REQUEST TO VIOLATE FRONT 30' SETBACK.  
HARDSHIP IS ASSOCIATED WITH INTENT TO TRY AND PROTECT  
EXISTING MATURE TREES TO EAST OF GARAGE ADDITION STRUCTURE.  
NEIGHBORING HOME TO THE NORTH, 2311, MEASURES ~273" BETWEEN  
STRUCTURE EXTENT AND SIDEWALK. REQUEST TO ONLY EXTEND ~23"  
CLOSER TO SIDEWALK THAN 2311 PROPERTY.  
VIOLATING SETBACK PROVIDES GREATER STREET FACING DIMENSION  
TO STRUCTURE, IMPROVING COSMETIC APPEAL OF ADDITION.

