

## **LDC Task Force**

November 19, 2015

Meeting Packet

### **Item 1 – Issue Defined**

#### **Problem Statement 1:**

Vision: The City would like to be able to quickly and efficiently approve residential construction projects that are in line with the adopted policies and goals of the City of Fargo.

Issue: Currently, there are many residential construction projects in core neighborhoods which are generally believed to substantially align with city policy and goals, but that cannot be quickly and efficiently approved because they require a variance due to minor infringement of LDC dimensional standards. While these variances are generally believed to be reasonable, most must be denied by the Board of Adjustment because the review criteria cannot be met, resulting in a lengthy appeals process through the City Commission which consumes time, recourses, and energy of City Commissioners, Board of Adjustment members, home owners, and city staff.

#### **Problem Statement 2:**

Vision: The City desires that construction and redevelopment within core neighborhoods be done in a manner that is contextually consistent with surrounding properties in order to stabilize, protect, and maintain the historic and unique character of individual neighborhoods.

Issue: Within core neighborhoods, there is concern that residential buildings and additions can be constructed that could detract from the surrounding neighborhood because they are not constructed in a manner that is contextually consistent with surrounding properties. These buildings generally tend to stand out when contrasted against the existing neighborhood form, weather due to inconsistent scale, style, materials, etc. As a result, they are typically viewed by neighboring residents as having a negative effect on surrounding property values.

#### **Issue Details:**

To qualify for a variance a physical hardship that is unique to the property needs to be proven. This requirement is hard to meet and, as a result, most variance requests are not granted. Approximately 12 cases are heard a year by the Board of Adjustment for a variance from dimensional standards. Of those cases, about half are appealed to the City Commission and ultimately overturned and approved. As staff, we would like to codify or put into process the values the City Commission members are able to bring into the review of the case.

In addition to the cases that are heard by the Board of Adjustment, staff from the Inspections and Planning departments probably discusses variance options with approximately one potential applicant every week. Only property owners willing to pay the fee and spend the time to proceed to a variance

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option submit an application. Of those, only applicants that have the patience and confidence decide to appeal to city commission. As such, staff believes that there is the potential of varied results for what initially could be a similar application. As a matter of principle, staff strives for consistent application of policies and codes.

### Discussion Questions:

- 1) Do you agree with this problem statement? Why or why not?
- 2) Context & character is not something that the LDC dimensional standards are generally designed to address other than through the historic overlay zoning districts. As such, should context & character factor into variances from these dimensional standards more broadly?

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## Item 2 – Dimensional Standards Review

### Purpose of Dimensional Standards

*"In general, the purpose of setbacks is to ensure that the use of a property does not infringe on the rights of neighbors, to allow room for lawns and trees, for light and sunshine in the home, for space for recreation outside the home, and to serve as filtration areas for storm water run-off." [Calvert County, MD](#).*

- Interior/Rear Setbacks – Provides separation of buildings on adjacent properties for purposes of privacy, fire prevention, building maintenance, sunshine, openspace, and stormwater runoff.
- Front/Street Setbacks – Provides separation of buildings from the street for purposes of buffering homes from automobiles (noise, safety, & exhaust), privacy, openspace, visibility at roadway intersections, and aesthetics along public thoroughfares.
- Building Height – Restricts the height of buildings for purposes of privacy, fire safety, and sunshine.
- Building Coverage – Restricts the coverage of a lot by buildings for purposes of preserving openspace and sunshine.

Our GO2030 Initiatives related to this discussion include:

- 1) Promote Infill
- 2) Strengthen historic preservation incentives
- 3) Develop higher quality housing near NDSU
- 4) Pursue strategies to increase access to housing for workforce and low income residents
- 5) Encourage neighborhoods to establish a vision and create neighborhood plans
- 6) Green Stormwater Infrastructure

### Code Comparisons

In reviewing Fargo's zoning code, staff wanted to compare ourselves between neighboring cities, and cities that have similar historic neighborhoods.

Madison, WI – City created "TR-C" (Traditional Residential – Consistent) zoning districts for historic/core neighborhoods.

Minneapolis, MN – Most of Minneapolis's residential zoning districts are for existing historic/core neighborhoods.

West Fargo, ND – West Fargo's R-1B zoning district is intended for traditional neighborhoods.

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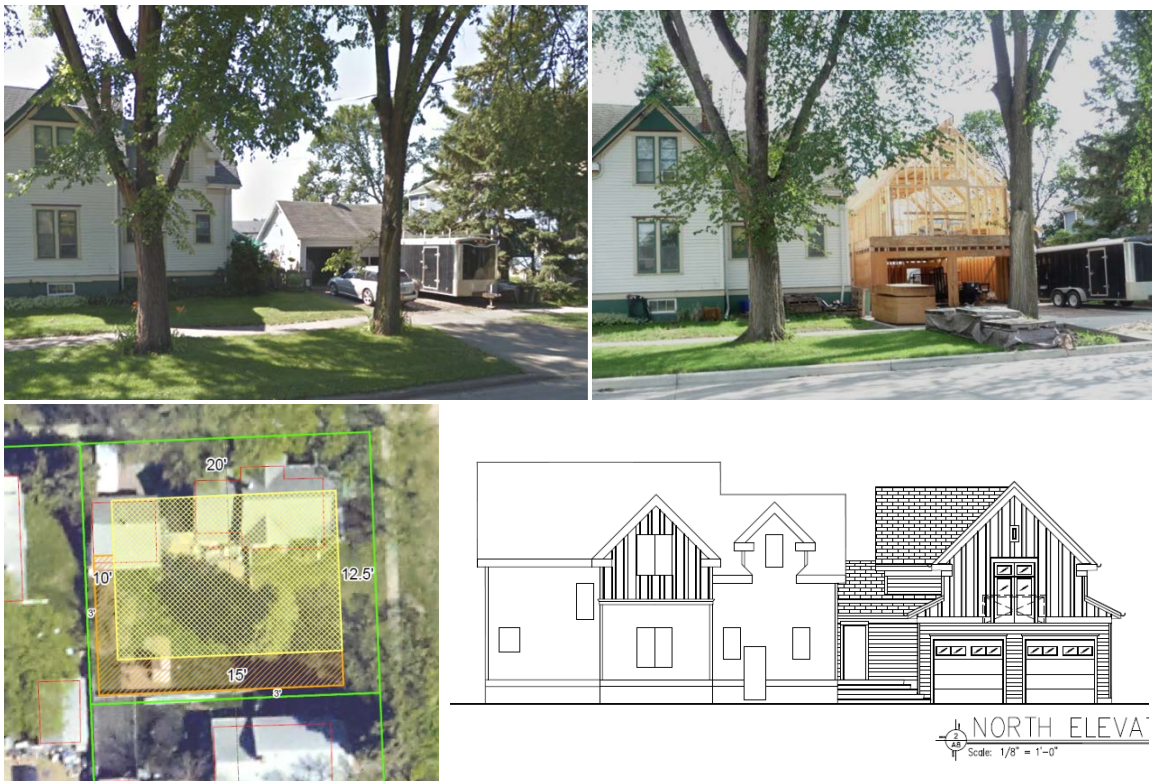
City	Fargo		Madison		Minneapolis		West Fargo	
Zoning	SR-2	SR-3	TR-C1	TR-C4	R2	R2B	R-1B	R-1
Front	30	20	20	20	20	20	20 (25 for garages)	25
Interior	10%/10	10%/10	6/7	5/6	5-12	5-12	5	5
Street	15	12.5	15	12	8	8	12 (20 for garages)	12 (20 for garages)
Rear	25	15	30%/35	30%/35	5	5	25	30
Building Coverage	30%	35%	-	-			35%	30%
Open Space	-	-	50%	35%			30%	30%
Height	35	35	35	35			30	30

### Case Studies:

The following case studies highlight recent board of adjustment appeals that were favorably approved by the Board of Adjustment or City Commission.

#### 1) 224 14<sup>th</sup> Street N – Variance from rear/interior-side setback

This variance decreased the interior-side setback from 10 feet down to 3 feet for the purpose of constructing a two-story garage addition.



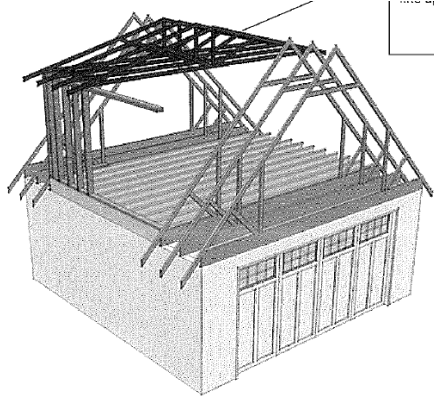
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### 2) 1514 14 ½ Street S – Variance from accessory building height

This variance increased the maximum accessory building height from 15 feet up to 16.7 feet for the purpose of adding a second story to an existing garage.



### 3) 1802 7<sup>th</sup> Street S – Variance from interior-side setback

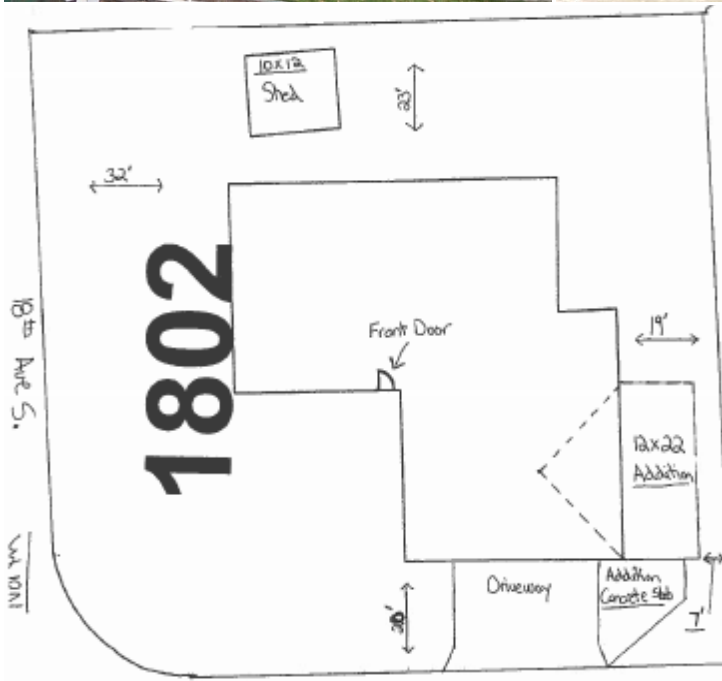
This variance decreased the minimum interior-side setback from 10 feet down to 7 feet for the purpose of adding a third garage stall.



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#### 4) 1534 14<sup>th</sup> Street S – Variance from accessory building coverage

This variance increased the maximum accessory building coverage from 672 square-feet to 1,056 square-feet for the purpose of constructing an addition to a detached garage.



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### Discussion Questions:

- 1) What other purposes do you feel dimensional standards serve?
- 2) Is the original purpose of setbacks unnecessary?
- 3) In what situations can these dimensional standards be modified/varied to better address key initiatives of the Go2030 Comprehensive Plan?

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### **Item 3 – Introduction to Alternatives**

#### **Narrowing the scope for next steps**

Most dimensional variance items are related to additions to existing homes or detached garages, as highlighted by the case study examples. When trying to address these variance requests in relation to the problem statement, staff poses the following preliminary alternatives and related questions:

#### **Preliminary Alternatives**

- Amend dimensional standards – Relax the LDC dimensional standards to allow greater flexibility in design.
  - a. Are reduced setback standards appropriate for the entire city?
  - b. What are the priorities:
    - i. Keep existing homeowners within their houses?
    - ii. Modernize existing homes?
    - iii. Adding reinvestment in existing homes?
    - iv. Consistent character within the block?
- Waiver process – Create a waiver process which would allow the Zoning Administrator to administratively address proposed deviations from standards. This process would likely include a notification to neighbors (similar to waivers of Residential Protection Standards).
  - a. What criteria are necessary for determining if the expansion is appropriate?
- Amend the variance review process – Reduce the restrictiveness of the variance review criteria in order to accommodate a “reasonableness” factor.
  - a. What makes a setback variance reasonable?
- No Action – Determine that the existing LDC standards are appropriate and the existing process is working.
  - a. Are Fargo’s zoning regulations adequately addressing the goals of Go2030?
  - b. Is it reasonable for variances to be appealed to City Commission on a regular basis