

**BOARD OF ADJUSTMENT
MINUTES**

Regular Meeting:

Tuesday:

July 16, 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, July 16, 2015.

The Members present or absent were as follows:

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

Also present: Nicole Crutchfield

Absent: None

Vice Chair Wendel-Daub called the meeting to order.

Item 1a: Approve Order of Agenda

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

Item 1b: Approval of Minutes: Regular Meeting of May 26, 2015

Member Ford-Dunker moved the minutes of the May 26, 2015 Board of Adjustment meeting be approved. Second by Member Fischer. All Members present voted aye and the motion was declared carried.

Item 2: Old Business

No old business was discussed.

Item 3: New Business

Planner Aaron Nelson stated Public Hearing Item No. 3b will be continued as the applicant is not present.

a) Variance Request – 1020 1st Avenue North: Request for a variance of Article 21-06 of the Municipal Code. The requested variance is to allow a proposed single-family house to be constructed to a ground floor elevation of 901.9 feet, which is 1.2 feet lower than the elevation of 903.1 feet that is required by the City's Floodproofing Code: MOTION FAILED FOR LACK OF A MAJORITY

Planner Aaron Nelson presented the staff report. He noted staff members from Inspections and 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.

Ron Strand, Inspections Administrator, reviewed the background on the flood proofing codes, as they exist today.

City Engineer April Walker explained the process staff used to determine the current flood elevations to be in compliance with existing and future guidelines required by FEMA and the State of North Dakota.

Applicant Bruce Taralson spoke on behalf of the proposal. Mr. Taralson explained if he is required to construct his home at this higher elevation, this could cause damage to the abutting homes and property. He submitted documents to the Board further illustrating the existing elevations of the two abutting properties, and the creation of a drop-off from his site if required to construct at the higher elevation of 903.1 feet.

Board discussion followed concerning the impact these guidelines will have on future development downtown in relation to floodplain restrictions and mandated flood insurance on structures that are noncompliant; and clarification regarding the applicant's request as it relates to the 41 foot future floodplain guideline that has been approved by the City Commission.

Architect Elissa Novotny Leino, Roers Development, shared her understanding of the National Flood Insurance Program guidelines, and her concern for property owner rights as it relates to the implementation of the City's Floodproofing Code.

MOTION #1: Member Ford-Dunker moved the findings of staff be accepted and the requested variance to construct a new single-family house that would have a lower elevation than would be required by the City's Floodproofing Code be denied, on the basis it does not meet the criteria contained in Flood Plain Management §21-0603. Second by Member Love. Upon call of the roll Members Love and Ford-Dunker voted aye. Members Fischer, Lundberg, and Wendel-Daub voted nay. The motion was declared failed for the lack of a majority.

MOTION #2: Member Fischer moved the findings of staff be accepted and the requested variance to construct a new single-family house that would have a lower elevation than would be required by the City's Floodproofing Code be approved. Second by Member Lundberg. Upon call of the roll Members Fischer, Lundberg, and Wendel-Daub voted aye. Members Love and Ford-Dunker voted nay. The motion was declared failed for the lack of a majority.

b) Appeal of an Administrative Decision: Appellant claims that staff erred in not approving building plans due to staff's interpretation of Section A.2.3 of Conditional Overlay Ordinance No. 4978, relating to architectural features along building façades: CONTINUED

A Hearing had been set for this date for this date and time; however, the applicant has requested the application be continued.

c) Variance Request – 1005 35th Avenue North: Request for a variance of Section 20-0403 of the Land Development Code. The requested variance is to allow construction of a detached garage that would exceed the maximum allowable height for an accessory structure within the MR-3, Multi-Dwelling Residential zoning district: DENIED

Planner Aaron Nelson presented the staff report for the requested variance. Mr. Nelson stated staff is recommending denial as review criteria a and c have not been met.

Austin Morris of Enclave Development, representing applicant North Town Crossings LLC, spoke on behalf of the proposal.

Member Love moved the findings of staff be accepted and the requested variance to allow a detached garage to exceed the maximum accessory building height in the MR-3, Multi-Residential zoning district be denied, on the basis that the review criteria of Section 20-0914.E.1 have not been met. Second by Member Fischer. Upon call of the roll Members Fischer, Lundberg, Wendel-Daub, Love, and Ford-Dunker voted aye and the motion was declared carried.

Item 4: Other Business

1. Member Love asked about the status regarding the appeal presented at a previous meeting concerning the existing Sign Code criteria. Aaron Nelson explained staff did review and amended the Sign Code language in question. Nicole Crutchfield confirmed the changes have been approved and adopted.

2. Ms. Crutchfield noted the Board of Adjustment will hold the regularly scheduled meeting on Tuesday, July 28, 2015 at 9:00 a.m.

Item 5: Adjournment:

Member Fischer moved to adjourn the meeting at 10:27 a.m. Second by Member Love. All Members present voted aye and the motion was declared carried.