

# BOARD OF ADJUSTMENT MEETING MINUTES

June 12<sup>th</sup>, 2023

## OPENING CEREMONIES AND PRESENTATIONS

### I. CALL TO ORDER

Chairman Larry Bares called the meeting to order at 7:30 am.

### ROLL CALL

PRESENT: Chairman Larry Bares, Vice Chair Pat Bren, Shawn Soehren, Trevor Ernst, Bruce Burke

ABSENT:

STAFF Blaine Dukart, Christina Wenko

### II. PLEDGE OF ALLEGIANCE

### III. STANDARD MOTIONS MINUTES

Minutes for May 8<sup>th</sup>, 2023 submitted for approval.

To approve the May 8<sup>th</sup>, 2023 meeting minutes.

Minutes corrected.

**MOTION BY:** Pat Bren **SECOND:** Shawn Soehren

**DISPOSITION:** Motion carried unanimously.

### IV. REGULAR AGENDA

- 1. To consider a variance request to exceed the maximum square footage of a detached structure on a RR zoned lot by 400 square feet. (1200 to 1600). Property located at 3148 111 E Avenue SW, Dickinson, ND 58601.**

No one is present to speak on the request. Board member Pat Bren asks if there were any covenants in that subdivision, but since there is no one present to speak Mr. Bren motions to table the request.

I move to table the variance until next month when the applicant can be present.

#### **\*\*Motion to Table Variance\*\***

**MOTION BY:** Pat Bren **SECOND:** Trevor Ernst

**DISPOSITION:** Roll call vote... Aye 5, Nay 0, Absent

Motion declared duly passed.

- 2. To consider a variance request exceed the maximum square footage of a detached structure on a RR zoned lot by 1300 square feet. (2700 to 4,000). Property located at 3571 106T Avenue SW, Dickinson, ND 58601.**

Ryan Romanyshyn owner of the property steps up to explain that their intent was to build a shop in the future after purchasing the property. Chairman Larry Bares clarifies that the second item is to approve the location of the shop. Mr. Romanyshyn explains the reason for wanting to put it where he has it laid out in

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the plans. Board member Pat Bren asks owner if there is a covenant in the area of where the building can be placed. Mr. Romanyshyn explains that he does not believe there is one as far as where it is placed, he states that he sent the covenants to their builder. Mr. Bren asks where the gravel is placed that is where the building will be placed. Mr. Romanyshyn states yes, but it can be moved around, he also explains the dirt is there but it can be moved around or removed if the request was denied. Mr. Bares asks Inspector Blaine Dukart, is there is many houses that the garage extends passed the house and what is the main reason for the garage or out building to be behind the house. Mr. Dukart explains that most of those structures were built that way and most of the garages are built in front. Mr. Dukart explains that the reason it was put into the code was because there where people putting in small sheds in front of the house without a permit. Mr. Dukart also explains the set back from the house on this property is enough that there is not an issue, but it still has to be addressed by the building department. Mr. Bares opens the meeting to the public. Mr. Dukart states there have been no comments from the public at this time. No one is present to speak for or against, Mr. Bares closes the public hearing. Board member Bruce Burke states normally when they allow the building to exceed the max, there is limitations on other outbuilding. Mr. Romanyshyn explains there is a garden shed that is maybe 10x10 and there is a steel horse shed that was there when they moved in, it can be moved and go away. Board member Shawn Soehren asks with the variance that includes the tractor storage building. Mr. Dukart confirms that yes, the number includes the shed and the staff recommends that there be no other buildings built. Mr. Soehren motions to approve the request with the condition that no additional structures be placed.

I move to approve the variance finding that the requirements of Section 39.12.011(c)(1) have been met by the applicant for a variance with the following condition(s):

- 1. No additional structures be placed permitted or unpermitted.**

**\*\*Motion to Approve Variance\*\***

**MOTION BY:** Shawn Soehren   **SECOND:** Bruce Burke  
**DISPOSITION:** Roll call vote... Aye 5, Nay 0, Absent  
Motion declared duly passed.

- 3. To consider a variance request to build an accessory building in front of the principal building. Property located at 3571 106T Avenue SW, Dickinson, ND 58601.**

Board member Shawn Soehren asks what the setback from the street is to be. Mr. Romanyshyn explains from the house to the street it is 150 and the shop is 115 it can be pushed back a bit but not much. Mr. Soehren asks if it meets all requirements. Inspector Blaine Dukart explains it does meet the requirements for setbacks. Chairman Larry Bares opens the meeting to the public. No one is present Mr. Bares closes the public meeting. Board member Bruce Burke motions to approve the setback subject to the conditions show on the drawing.

I move to approve the variance finding that the requirements of Section 39.12.011(c)(1) have been met by the applicant for a variance with the following condition(s):

- 1. Subject to the conditions shown on the drawing provided.**

**\*\*Motion to Approve Variance\*\***

**MOTION BY:** Bruce Burke   **SECOND:** Shawn Soehren

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**DISPOSITION:** Roll call vote... Aye 5, Nay 0, Absent  
Motion declared duly passed.

**4. To consider a variance request to exceed the maximum square footage of an On-Premises sign on a CC zoned lot by 61 square feet. Property located at 1674 15<sup>th</sup> Street West, Dickinson, ND 58601.**

Mr. Luke Steiner owner of Elite PT, this pertains to their signs that were put up in 2017. Mr. Steiner explains that they were audited a year ago based on when someone applies for a permit. Mr. Steiner explains that they didn't know they were supposed to get a permit for the signs, they are trying to get a permit. Mr. Steiner believes that how he interprets the code they are within the rights of the code, they would like a variance for the sign. Mr. Bares asks Mr. Dukart for comments. Mr. Dukart explains they are looking at the application and there was 101 sqft of sign, their application is 61 sqft over code. The building department is looked at on the side that the address is located. Mr. Bares asks where the entrance is. Mr. Steiner explains their entrance is from the North, he also explains that that is not stated in the code based on how it reads. Mr. Steiner explains he just wants to keep his signs up, they have had no complaints they also have signed statements that no one has any issue. Mr. Bares asks they are just looking to keep the signs they have. Mr. Steiner explains they are asking for 140 sqft so if they do change their signs, they have room to work with. Ms. Wenko explains that the definition for building frontage as defined by code (watch video). Building frontage is further defined which explains that in the (watch video). Mr. Ernst asks the building frontage when the BD uses it to determine and where the address is placed. Ms. Wenko believes that is correct. Mr. Dukart confirms this. Discussion by Mr. Ernst as far as the building frontage definition. Mr. Burke asks if there is any consideration for as far as how far a commercial building is off set from the road. Mr. Steiner states that yes, with the size it would be too small for their clients to see. Mr. Burke asks if there is any consideration from the distance. Mr. Dukart explains no that is not taken into consideration. Mr. Ernst asks what if there is 3 businesses that share 30 feet of frontage. Mr. Dukart explains what the code states. Discussion takes place between Mr. Steiner and Mr. Dukart about the code and how it is interrupted. Mr. Soehren asks is it splitting because there is a sign on the front and the side. Mr. Dukart explains it is because there is a sign on both sides. Mr. Steiner explains that that is not how it was explained to him. Mr. Bares asks where is the entrance for their location. Mr. Steiner explains their entrance is actually the North. Mr. Ernst asks if there is a lot of other signs with the same issue. Mr. Dukart explains that there are a couple others that he has been working on. Mr. Bares opens the meeting to the public, no one is present to speak for or against. Mr. Burke asks 100 sqft is the total for the front side and the side sign. Mr. Steiner explains that Mr. Dukart told him to use the lettering, Mr. Steiner talked to Sure Sign and the south was 36 sqft and the north was 21.4 for the actual lettering, but the actual sign was bigger. Mr. Ernst asks what the variance would be. Mr. Dukart explains it would be for the whole sign. Discussion between Mr. Soehren and Mr. Dukart about sign frontage. Mr. Ernst states since they look at this as a one off and since they are already there, he is more inclined to approve it. Mr. Dukart explains that they would ask for a condition. Mr. Bren asks for the plan review and if there is a section that explains that they need a permit, this has been there for 5 years already. Discussion between Mr. Dukart and Mr. Bren about sign permits and them being enforced. Mr. Burke asks Mr. Dukart if there will be other signs for this building that will be coming forward. Mr. Dukart explains that all the others are within code. Mr. Ernst explains that he is torn the signs are already there and the owner didn't let the tenant know that they needed a permit or the requirements. Mr. Steiner explains that in 2017 there must not have been a lot of people getting permits for the signs. Mr. Ernst explains that the hardship isn't really the tenant's fault. Mr. Steiner explains that he is hoping the city will look at the code and not limit the small businesses. Mr. Ernst asks if they approved it with the size of the letters. Mr. Dukart explains it still exceeds the 40 sqft even with the letters. Mr. Burke asks for a refresher

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the sign on the north side is. Mr. Steiner states the North is 21.4 and the south is 36 in the letters. Mr. Burke asks if the sign was the same size as the sign on the back would he be within code. Mr. Dukart explains he would be close. Mr. burke also asks if they could read it from the road. Mr. Steiner states no, you would not be able to. Mr. Burke motions to approve the motion. Ms. Wenko asks for clarification, are you asking the applicant to apply for a permit with the correct signage. Mr. Burke explains yes.

I move to approve the variance finding that the requirements of Section 39.12.011(c)(1) have been met by the applicant for a variance with the following condition(s):

### **\*\*Motion to Approve Variance\*\***

**MOTION BY:** Bruce Burke      **SECOND:** Pat Bren  
**DISPOSITION:** Roll call vote... Aye 3, Nay 2, Absent  
Motion declared duly passed

Board member Bruce Burke makes a motion for reconsideration for the purpose of amending this prior motion to include certain limitations. Board member Pat Bren seconds the motion for reconsideration. Chairman Larry Bares asks for further discussion on the motion. Mr. Burke explains there were some footages brought up based on the lettering size and that if the signs were replaced that the north sign be 21.4 sqft and the south be 36 feet total. Mr. Burke feels that the original motion left it wide open in the event the signs needed to be replaced. There is additional discussion between Mr. Burke and Mr. Dukart about the size of signs and where they are placed. Mr. Bren asks Mr. Dukart if there have been other signs like this. Mr. Dukart states there are a few but with a sign that's been there for 15 years they will not ask them to take them down. Discussion of when the sign was placed between Mr. Dukart and the Board. Discussion between Mr. Dukart and Mr. Ernst about the difference between a bank and this building being a multitenant building. There is further discussion about the removal and replacement of the existing signs.

I move to amend the original motion finding that the requirements of Section 39.12.011(c)(1) have been met by the applicant for a variance with the following condition(s):

- 1. If the sign is to be replaced signs will need to be in compliance.**

### **\*\*Motion to Amend Variance Motion\*\***

**MOTION BY:** Bruce Burke      **SECOND:** Pat Bren  
**DISPOSITION:** Roll call vote... Aye 3, Nay 2, Absent  
Motion declared duly passed

- 5. To consider a variance request to exceed the maximum square footage of a detached structure on a R-1 zoned lot by 150 square feet (1450 to 1600). Property located at 11085 32V avenue southwest, Dickinson, ND 58601.**

Property owner Matt Michaelson is asking for 150 square feet on a detached garage. Chairman Larry Bares asks if it is 50 feet from the property line. Mr. Michaelson explains it would be more than 50 feet from the property line. Mr. Bares asks for clarification on the size of his lot. Mr. Michaelson explains he

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is not sure but it's close to 1.5 acres. Board member Pat Bren asks if they have a pad poured for this already. Mr. Michaelson explains yes, they do. Mr. Bares opens the meeting to the public. No one is present to speak for or against. Mr. Bares closes the meeting to the public. Mr. Bares asks for clarification for the motion that no other building be permitted. Board member Trevor Ernst asks if the city has received anything from the public about this project. Inspector Blaine Dukart states there has been one person asking what was being built. Mr. Bren motions to approve the variance with the condition there be no other structures built on this lot.

I move to approve the variance finding that the requirements of Section 39.12.011(c)(1) have been met by the applicant for a variance with the following condition(s):

1. No additional structures be added to the property permitted or unpermitted.

### **\*\*Motion to Approve Variance\*\***

**MOTION BY:** Pat Bren    **SECOND:** Trevor Ernst  
**DISPOSITION:** Roll call vote... Aye 5, Nay 0, Absent  
Motion declared duly passed

### **I. OTHER BUSINESS**

Mr. Burke asks about the motion on the signage, Ms. Wenko explains because it is not on the agenda then no, but it can be added to the next month's agenda as a work session. Mr. Burke states that he wanted to put in the motion the limitation of the size of the sign. Ms. Wenko asks that they would have to amend the motion.

### **II. ADJOURNMENT**

Motion to adjourn:

**MOTION BY:** Pat Bren    **SECOND:** Trevor Ernst  
**DISPOSITION:** Roll call vote... Aye 5, Nay 0, Absent  
Motion declared duly passed.

There being no further business to discuss Chairman Larry Bares called the meeting to a close; meeting adjourned at 8:36 am

PREPARED BY:

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Hailey Richter

APPROVED BY:

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Blaine Dukart