



CITY OF STAR

LAND USE STAFF REPORT

TO: Mayor & Council

FROM: City of Star Planning Department *Shawn T. Mack*

MEETING DATE: **August 20, 2024 – PUBLIC HEARING**

FILE(S) #: V-24-01 – 686 S. Star Road Variance

OWNER/APPLICANT/REPRESENTATIVE

Applicant/Owner:

Dieter & Catherine Gruner
686 S. Star Road
Star, Idaho 83669

Representative:

Bruce Hessing, Hesscomm
2338 W. Boulder Bar Drive
Meridian, Idaho 83646

REQUEST

Request: The Applicant is seeking approval of a variance from City Council to the Flood Ordinance 10-1-2 to construct a residential addition without adhering to the 2' requirement to construct above the base flood elevation. The property is located at 686 S. Star Road in Star, Idaho.

PROPERTY INFORMATION

Property Location: The subject property is generally located on the west side of N. Star Road, south of S. Main Street. Ada County Parcel No. S0418417322.

APPLICATION REQUIREMENTS

Pre-Application Meeting Held	May 7, 2024
Neighborhood Meeting Held	July 10, 2024
Application Submitted & Fees Paid	July 15, 2024
Application Accepted	July 15, 2024
Residents within 300' Notified	July 30, 2024
Legal Notice Published	August 4, 2024
Property Posted	August 6, 2024

HISTORY

- There are no previous applications for development on this property. The home was built in 1995. A remodel occurred in 2018.

ZONING ORDINANCE STANDARDS / COMPREHENSIVE PLAN

Chapter 1 Flood Ordinance:

10-1-2: Definitions

FLOOD PROTECTION ELEVATION (FPE): The base flood elevation plus the freeboard.

1. In special flood hazard areas where base flood elevations (BFEs) have been determined, this elevation shall be the BFE plus two feet (2') of freeboard; and
2. In special flood hazard areas where no BFE has been established, this elevation shall be at least two feet (2') above the highest adjacent grade.

10-1-4: Administration

C. Floodplain Development Application, Permit, And Certification Requirements:

2. Permit Requirements: The floodplain development permit shall include, but not be limited to:

- a. A complete description of all the development to be permitted under the floodplain development permit (i.e. house, garage, pool, septic, bulkhead, cabana, pole barn, chicken coop, pier, bridge, mining, dredging, filling, rip-rap, docks, grading, paving, excavation or drilling operations, or storage of equipment or materials, etc.).
- b. The special flood hazard area determination for the proposed development in accordance with available data specified in subsection 10-1-3B.
- c. The flood protection elevation required for the lowest floor and all attendant utilities.
- d. The flood protection elevation required for the protection of all utility equipment and machinery.

E. Variance Procedures:

1. The City Council, hereinafter referred to as the "appeal board", shall hear and decide requests for variances from the requirements of this chapter.
2. Variances may be issued for:

- a. The repair or rehabilitation of historic structures upon the determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and that the variance is the minimum necessary to preserve the historic character and design of the structure;
 - b. Functionally dependent facilities, if determined to meet the definition as stated in section 10-1-2, provided provisions of subsections E8b, E8c, and E8d have been satisfied, and such facilities are protected by methods that minimize flood damages during the base flood and create no additional threats to public safety; or
 - c. Any other type of development, provided it meets the requirements of this section.
3. In passing upon variances, the appeal board shall consider all technical evaluations, all relevant factors, all standards specified in other sections of this chapter, 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 owner;
 - d. The importance of the services provided by the proposed facility to the community;
 - e. The necessity to the facility of a waterfront location as defined under section 10-1-2 as a functionally dependent facility, where applicable;
 - f. The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;
 - g. The compatibility of the proposed use with existing and anticipated development;
 - h. The relationship of the proposed use to the comprehensive plan and floodplain management program for 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 floodwaters 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, and streets and bridges.
4. The applicant shall include a written report addressing each of the above factors in subsections E3a through E3k with their application for a variance.
5. Upon consideration of the factors listed above and the purposes of this chapter, the appeal board may attach such conditions to the granting of variances as it deems necessary to further the purposes and objectives of this chapter.
6. Any applicant to whom a variance is granted shall be given written notice specifying the difference between the base flood elevation (BFE) and the elevation to which the structure is to be built and that such construction below the BFE increases risks to life and property, and that the issuance of a variance to construct a structure below the BFE will result in increased premium rates for flood insurance up to twenty five dollars (\$25.00) per one

hundred dollars (\$100.00) of insurance coverage. Such notification shall be maintained with a record of all variance actions, including justification for their issuance.

7. The Floodplain Administrator shall maintain the records of all appeal actions and report any variances to the Federal Emergency Management Agency and the State of Idaho upon request.

8. Conditions For Variances:

- a. Variances shall not be issued when the variance will make the structure in violation of other Federal, State, or local laws, regulations, or ordinances.
- b. Variances shall not be issued within any designated floodway if the variance would result in any increase in flood levels during the base flood discharge.
- c. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- d. Variances shall only be issued prior to development permit approval.
- e. Variances shall only be issued upon:
 - 1) A showing of good and sufficient cause;
 - 2) A determination that failure to grant the variance would result in exceptional hardship; and
 - 3) A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, or extraordinary public expense, create nuisance, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.

PROJECT OVERVIEW

VARIANCE:

The applicant is requesting a variance to Section 10-1-2 of the Star Municipal Code Flood Ordinance regarding the Flood Protection Elevation (FPE) requirement of a new addition to an existing single-family dwelling to be two feet (2') above the base flood elevation (BFE). The owner's representative indicates that a new addition is being sought for the existing residence, and that compliance with the requirement to construct the new addition "roughly 1.6 feet above finish floor" of the existing dwelling would negatively impact the owner's accessibility within the structure due to physical mobility limitations of the owner. The applicant requests a variance from the Council to remedy this "unique hardship".

PUBLIC RESPONSES

Idaho Department of Water Resources

May 23, 2024 Via Email

STAFF ANALYSIS & RECOMMENDATIONS

The City of Star Floodplain Manager has reviewed the variance request and supporting documentation and has recommended denial of the request for variance before the Council. In the review letter provided by the Manager, it is stated that alternative construction options exist that would allow ADA accessibility to be achieved without the need for the variance. In addition, the letter indicates that floodplain elevations are dictated by FEMA, with the City being responsible for maintaining an ordinance requirement on the additional elevation from the base flood that is a State of Idaho standard. Finally, it is pointed out in the letter the increased risks to the well-being of the owner, given their mobility concerns, along with the increased safety risks of emergency responders due to rising floodwaters within a floodplain during a 100-year flood event, should these standards not be followed.

The Council should consider the entire record and testimony presented at their scheduled public hearing, including testimony from the applicant and additional input from the City Flood Administrator, and any additional public testimony prior to rendering its decision on the matter. Council should determine if the approval of the variance to allow the addition to the existing residential structure without the addition being elevated 2' above the base flood elevation would meet the following:

- f. Variances shall only be issued upon:
 - 4) A showing of good and sufficient cause;
 - 5) A determination that failure to grant the variance would result in exceptional hardship; and
 - 6) A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, or extraordinary public expense, create nuisance, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.

Should the Council vote to approve the variance, either as presented or with added or revised conditions of approval, Council shall direct staff to draft findings of fact and conclusions of law for the Council to consider at a future date.

COUNCIL DECISION

The Star City Council _____ File Number V-24-01 for 686 S. Star Road on _____, 2024.



VICINITY MAP
NOT TO SCALE



Project No.
R24073

DRAWING NAME
VICINITY MAP

1

REVISIONS	
#	DATE
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#	-/-/----
#	-/-/----

DRAWN BY: AMC
CHECKED BY: AMC

DATE: 06/25/2024

GRUNER RESIDENCE
686 S STAR ROAD, STAR, IDAHO

Application for Variance: Narrative

Introduction:

I, Bruce Hessing, on behalf of the property owner, Dieter and Catherine Gruner, hereby submit this application for a variance for the property located at 686 S. Star Rd. Star, Idaho 83669, within the city of Star. The purpose of this variance is to address a unique hardship specific to the site, taking into consideration the fact that the property owner has mobility issues. This variance is sought without granting any special privileges or rights that are not otherwise permitted within the city.

Statement of Purpose:

We are proposing to construct an addition to the existing house to allow handicap mobility; due to the change in the Boise Flood Elevation, we were told that the new addition should be 2' above base elevation, which amounts to roughly 1.6' above finished floor therefore not making the addition ADA accessible. The requested variance is not intended to provide any special privileges or rights that are not afforded to other properties within the city. Instead, it seeks to alleviate an undue hardship resulting from the unique characteristics of the site, particularly in light of the property owner's handicap accessibility needs.

Justification:

The property at 686 S. Star Rd. Star, Idaho 83669 faces a unique set of challenges due to its topography and location within the designated flood plain of the city, compounded by the accessibility requirements of the property owner. The current flood plain regulations pose significant limitations on the development potential of the site, making it difficult to conform without causing undue hardship to the property owner, who has mobility issues.

Compliance with Regulations:

It is crucial to emphasize that the variance being sought will not result in any special privileges that are denied to other lands, structures, or buildings within the city. FEMA dictates flood elevation height approximately 2' lower than the city of star flood elevations. The proposed variance aims to bring the property into alignment with the city regulations while addressing the specific challenges that the site presents, essential in accommodating mobility needs. Also, considering the adjoining neighbor to the south successfully obtained approval for their permit.

Community Impact:

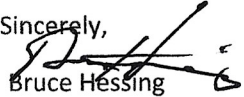
The granting of this variance will not be detrimental to public health, safety, or welfare. On the contrary, it will enable the responsible and sustainable development of the property in a manner that is inclusive and accessible, thereby enhancing the quality of life for the property owner and contributing positively to the surrounding community and neighborhood.

Conclusion:

In conclusion, the requested variance is essential to address the unique hardships presented by the site at 686 S. Star Rd. Star, Idaho 83669, particularly in consideration of the property owner's mobility needs. This variance will allow for a reasonable and fair use of the property while ensuring that the rights and privileges of others in the city are not compromised. I respectfully urge the mayor and city council to consider this application favorably and grant the variance to facilitate the appropriate development of the property.

Thank you for your attention to this matter.

Sincerely,


Bruce Hessing

Hesscomm

Bruce.hesscom@aol.com



07/15/2024 2:34:05 PM

VARIANCE APPLICATION

***All information must be filled out to be processed.

File No.: <u>V-24-01</u>	Fee Paid: _____
Date Application Received: <u>07/15/2024</u>	Fee Paid: _____
Processed by: City: <u>BN</u>	

Applicant Information:

PRIMARY CONTACT IS: Applicant ___ Owner ___ Representative

Applicant Name: Dieter and Catherine Gruner
 Applicant Address: 686 S. Star Rd Star, ID Zip: 83669
 Phone: 805 588 3061 Fax: _____ Email: dcg1820@gmail.com

Owner Name: Dieter and Catherine Gruner
 Owner Address: 686 S. Star Rd Star, ID Zip: 83669
 Phone: 805 588 3060 Fax: _____ Email: dcg1820@gmail.com

Representative (e.g., architect, engineer, developer):
 Contact: Bruce Hessing Firm Name: Hesscomm
 Address: 2338 W. Boulder Blvd Meridian, ID Zip: 83646
 Phone: 208 831 7111 Fax: _____ Email: bruce.hesscom@aol.com

Property Information:

Site Address: 686 S. Star Rd Star, ID 83669
 Approved Zoning: R1C Parcel Number(s): R1842701804

Application Requirements:

(Applications are required to contain one copy of the following unless otherwise noted.)

Applicant (✓)	Description	Staff (✓)
✓	Pre-application meeting with the Planning Department required prior to neighborhood meeting.	
✓	Copy of neighborhood meeting notice sent to property owners within 300 feet and meeting sign-in sheet. (Applicants are required to hold a neighborhood meeting to provide an opportunity for public review of the proposed project prior to the submittal of an application.)	BN
✓	Completed and signed Variance Application	BN
✓	Fee	

✓	Narrative fully describing the request: (must be signed by applicant) Address in the narrative how this request meets the following findings: <ul style="list-style-type: none"> ➤ The variance shall not grant a right or special privilege that is not otherwise allowed in the district. ➤ Granting the variance will not provide any special privilege that is denied to other lands, structures or buildings in the same district. ➤ The variance relieves an undue hardship because of characteristics of the site ➤ The variance shall not be detrimental to the public health, safety, and welfare. 	BN
✓	Recorded warranty deed for the subject property	
✓	One (1) 8 ½" X 11" Copy of the recorded plat the property lies within	BN
✓	Legal description of the subject property with engineer's seal. (Lot, Block, and Subdivision name if located in a recorded subdivision OR a metes and bounds legal description of the property if not in a subdivision) <ul style="list-style-type: none"> • Submit two (2) paper and one (1) electronic copy 	BN
✓	Two (2) 11" X 17" vicinity maps showing the location of the subject property	BN
✓	One (1) 8 ½" X 11" vicinity maps showing the location of the subject property	BN
✓	Two (2) 11" X 17" copies of site plan	
✓	If the signature on this application is not the owner of the property, an original notarized statement (affidavit of legal interest) from the owner stating the applicant is authorized to submit this application.	
✓	Names and addresses, printed on address labels, of property owners within three hundred feet (300') of the external boundaries of the property being considered as shown on record in the County Assessor's office.	BN
	Two (2) Electronic versions of the site plan, vicinity map, & legal description in PDF format submitted on disks with the files named with project name & plan type. We encourage you to submit at least one color version.	
	Signed Certification of Posting with pictures. (see attached posting requirements and certification form)	

FEE REQUIREMENT:

*** I have read and understand the above requirements. I further understand fees are due at the time of filing. I understand that there may be other fees associated with this application incurred by the City in obtaining reviews or referrals by architect, engineering, or other professionals necessary to enable the City to expedite this application. I understand that I, as the applicant, am responsible for all payments to the City of Star.*

Brian Bruner
Applicant/Representative Signature

6/11/2024
Date

****Note:** All presentation boards, material boards, and documentation that are a part of the public hearing shall become property of the City of Star.



Saint Alphonsus

A Member of Trinity Health

SAINT ALPHONSUS STAR FAMILY MEDICINE

10717 W STATE ST

STAR ID 83669-6046

Phone: 208-302-6300

Fax: 208-302-6355

July 2, 2024

Patient: **Dieter Gruner**

Date of Birth: **6/16/1945**

Date of Visit: **6/27/2024**

To Whom It May Concern:

Dieter Gruner was seen in my clinic on 6/26/2024. He has parkinson's, history of falls and an unsteady gait requiring the use of a 4 wheeled walker for safe ambulation. He would benefit from widened doorways in his home to allow for easy mobility. In addition would benefit from having his home as a single level given his chronic gait issues are expected to continue.

If you have any questions or concerns, please don't hesitate to call.

Sincerely,

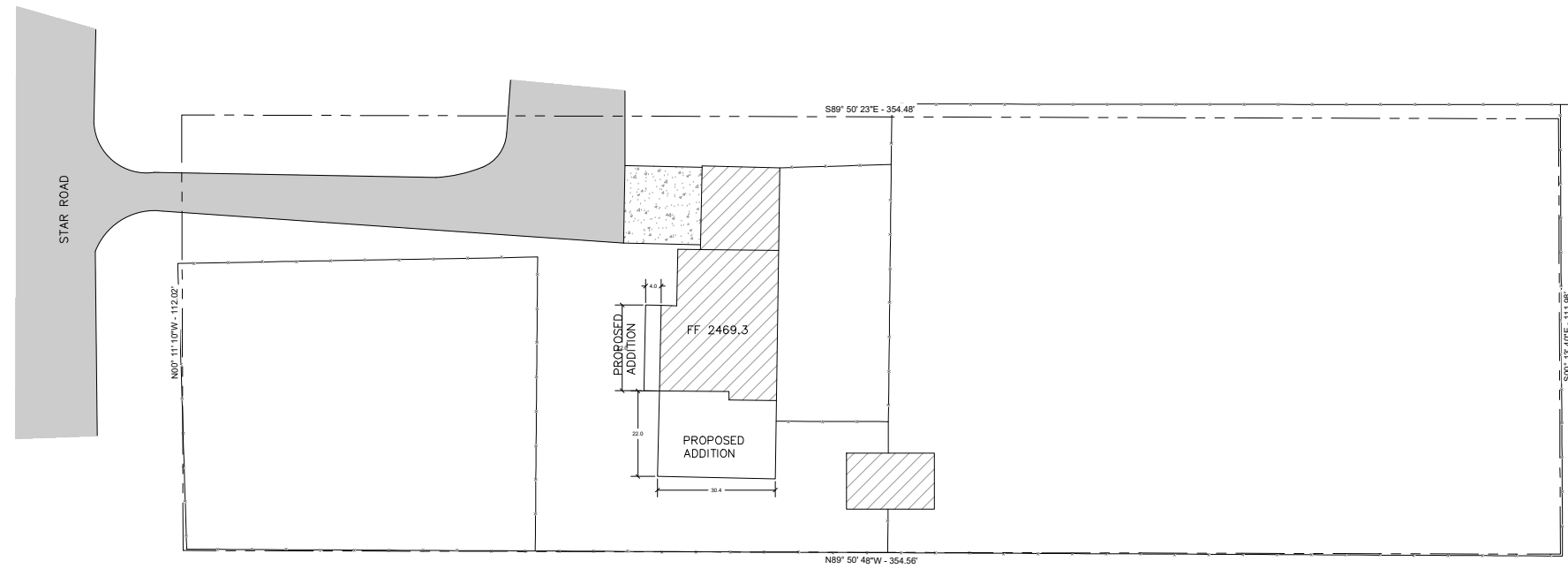
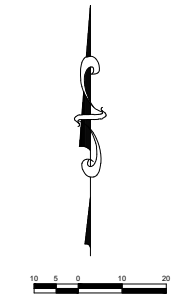
Nathan R Mason, MD

CC:

No Recipients

BOUNDARY INFORMATION IS APPROXIMATE. A
BOUNDARY SURVEY WAS NOT PERFORMED AT
THIS TIME

FLOOD INFORMATION
ZONE AE
BASE FLOOD ELEVATION: 2,468.9



**ACKERMAN
ESTVOLD**
7661 West Riverside Drive, Ste. 102 · Garden City, ID 83714
208.853.6470 · www.ackerman-estvold.com
Minot, ND | Fargo, ND | Williston, ND | Boise, ID

GRUNER RESIDENCE
686 S STAR ROAD, STAR, IDAHO

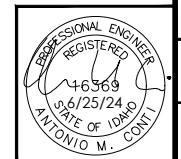
DRAWN BY: AMC
CHECKED BY: AMC

DATE: 06/25/2024

REVISIONS	
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Project No.
R24073

DRAWING NAME
SITE PLAN



City of Star

P.O. Box 130
Star, Idaho 83669
208-286-7247
Fax 208-286-7569

www.staridaho.org



Mayor:
Trevor A. Chadwick

Council:
Kevin Nielsen
Jennifer Salmonsens
Kevan Wheelock
David Hershey

8 August 2024

Bruce Hessing
Hesscomm
2338 W Boulder Bar Dr
Meridian, ID 83642

Re: Gruner Home Floodplain Variance Application

Dear Mr. Hessing

As the City Floodplain Manager, I have reviewed your Variance Application and supporting documents submitted to the City on July 15, 2024. I am recommending denial of the application. The reasons for my recommendation are listed in the following paragraphs.

First, you indicate that this variance is based on a unique hardship. While I understand that your client has some health concerns and limited mobility, I received a similar request for constructing an addition to a home located around the corner from this property only two months ago. During my conversations with that property owner, they also mentioned their limited mobility and difficulty with stairs. I sympathize with health concerns but suggest that they are not a unique situation, even for homes located within the floodplain.

Secondly, you claim that construction of a finish floor higher than the existing floor would make the house non-ADA accessible. There are ways to construct the home with the elevated floor ADA accessible. Again, referring to the other property around the corner from you, we explored several options, including the construction of a ramp located within an adjacent hallway to the new elevated rooms.

Some additional clarifications I would like to provide here. The City of Star does not dictate or determine floodplain elevations, that is done by FEMA and their consultants. Star does have a floodplain ordinance that requires buildings to elevate the finish floor of a building two feet above the Base Flood Elevations determined by FEMA. This requirement is not unusual and is the recommended requirement by the State of Idaho. The language used in our ordinance is included as part of the State's standard floodplain ordinance template.

You also refer to your neighbor to the south successfully obtaining a building permit. I assume you are referring to 720 S Star Road. If I am correct in this assumption, they went through the

floodplain ordinance, submitted a floodplain application and met all the requirements. Their existing building was already elevated to the required height of the floodplain ordinance and so their new addition was also in compliance with this ordinance. Additionally, Your claim that the proposed variance aims to bring the property into alignment with the City regulations is an incorrect statement. If you wanted to bring it into compliance you would not need a variance request.

Finally, I disagree with your claim that granting the variance will not be detrimental to public health, safety or welfare. I would argue that you are actually creating more health, safety and welfare concerns. What happens if a 1.0 percent flood (also known as the hundred-year flood) as determined by FEMA were to occur. Your client with their limited mobility would be trapped in the home, the additional elevation would allow them to remain in the home safe from rising floodwaters. A rescue attempt for homes not built to the Flood Ordinance requirements also endangers emergency responders. This request, while it may appear to reduce cost, in the long term that is not the case. Your client would be responsible for higher insurance premiums and the cost to rebuild after flood may be higher. It also increases the City and possibly the surrounding community cost to rebuild as there will be more potential for damage to the home and furnishings. This is the exact reason for floodplain ordinances.

Again, I am sympathetic to the health concerns of your client but do not feel that granting a variance to the floodplain ordinance does them, the community or the first responders, any long-term benefits. There are other alternatives for constructing a safe home to meet their needs. I have reached out to the State Floodplain Coordinator regarding this matter, and he agrees with the recommendation for denial. I have included his email, and the preceding emails to his comments for your review.

Sincerely,

Ryan V. Morgan, P.E.
Floodplain Manager/City Engineer

Ryan Morgan

From: Jackson, Peter <Peter.Jackson@idwr.idaho.gov>
Sent: Thursday, May 23, 2024 8:02 AM
To: Ryan Morgan; Antonio Conti; Bruce Hessing
Cc: Building Dept; Shawn Nickel; Ryan Field; Tim Clark
Subject: RE: 686 S Star Road

Ryan,

The City of Star is correctly looking out for the safety of its residents.

This area is in a Special Flood Hazard Area, Zone AE. Variances are not a good idea and add increased risks to the public.

Granting a Variance for a homeowner that is dependent on a walker only increases the risk to persons during a flood event and makes emergency response a greater risk.

Items # 2 & 9 in your variance procedures are highlighted below.

Variance Procedures:

1. The City Council, hereinafter referred to as the "appeal board", shall hear and decide requests for variances from the requirements of this chapter.
2. Variances may be issued for:
 1. The repair or rehabilitation of historic structures upon the determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and that the variance is the minimum necessary to preserve the historic character and design of the structure;
 2. Functionally dependent facilities, if determined to meet the definition as stated in section 10-1-2, provided provisions of subsections E8b, E8c, and E8d have been satisfied, and such facilities are protected by methods that minimize flood damages during the base flood and create no additional threats to public safety; or
 3. Any other type of development, provided it meets the requirements of this section.
3. In passing upon variances, the appeal board shall consider all technical evaluations, all relevant factors, all standards specified in other sections of this chapter, and:
 1. The danger that materials may be swept onto other lands to the injury of others;
 2. The danger to life and property due to flooding or erosion damage;
 3. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
 4. The importance of the services provided by the proposed facility to the community;
 5. The necessity to the facility of a waterfront location as defined under section 10-1-2 as a functionally dependent facility, where applicable;
 6. The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;
 7. The compatibility of the proposed use with existing and anticipated development;
 8. The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
 9. The safety of access to the property in times of flood for ordinary and emergency vehicles;
 10. The expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site; and

11. 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, and streets and bridges.

IDWR supports the City of Star in their recommendation of denial of a variance at this location.

IDWR recommends that you verify that these two additions do not exceed your Substantial Improvement provision of your ordinance.

Please let me know if you have any other questions or concerns.
I am available to attend a meeting to discuss further.

Thanks for all that you do,



Peter Jackson, CFM
Idaho Dept. of Water Resources
State Floodplain Manager/NFIP
Coordinator

Office # 208-287-4973
Cell # 208-912-5123

Peter.Jackson@idwr.idaho.gov
<https://www.idwr.idaho.gov/floods/>

From: Ryan Morgan <rmorgan@staridaho.org>

Sent: Thursday, May 23, 2024 7:51 AM

To: Antonio Conti <Antonio.Conti@ackerman-estvold.com>; Bruce Hessing <bruce.hesscom@aol.com>

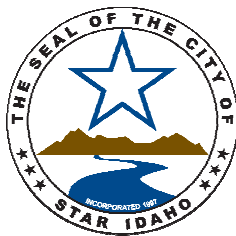
Cc: Building Dept <building@staridaho.org>; Jackson, Peter <Peter.Jackson@idwr.idaho.gov>; Shawn Nickel <snickel@staridaho.org>; Ryan Field <rfield@staridaho.org>; Tim Clark <tclark@staridaho.org>

Subject: RE: 686 S Star Road

CAUTION: This email originated outside the State of Idaho network. Verify links and attachments BEFORE you click or open, even if you recognize and/or trust the sender. Contact your agency service desk with any concerns.

See comments

Ryan V. Morgan; P.E., CFM
City Engineer
City of Star
P.O. Box 130
Star, ID 83669
208-286-7247 x3002



"The brightest jewel in the Gem State"

This message has been sent to you as official business of the City of Star. This E-mail and any attachments may be considered confidential. If you are not the intended recipient, please be advised that you are legally prohibited from retaining, using, copying, distributing, or otherwise disclosing this information in any manner. If you have received this communication in error, please reply to the sender and then immediately delete it. Thank you for your cooperation.

PUBLIC RECORD NOTICE: All communications transmitted within the City of Star Email system may be a public record and may be subject to disclosure under the Idaho Public Records Act (Idaho Code 9-337 et seq.) and as such may be copied and reproduced by members of the public.

From: Antonio Conti <Antonio.Conti@ackerman-estvold.com>
Sent: Wednesday, May 22, 2024 7:19 PM
To: Ryan Morgan <rmorgan@staridaho.org>; Bruce Hessing <bruce.hesscom@aol.com>
Cc: Building Dept <building@staridaho.org>; Jackson, Peter <Peter.Jackson@idwr.idaho.gov>; Shawn Nickel <snickel@staridaho.org>; Ryan Field <rfield@staridaho.org>; Tim Clark <tlark@staridaho.org>
Subject: RE: 686 S Star Road

Ryan,

Thank you for the detailed response. There are a couple of items I would like to point out.

Portion of the improvements are tied to extending the bedroom for 4' so the owner can easily move around the bed with the walker. This extension account for less than 50SF and needs to be at level with the existing finish floor. **This is still a structural change and a building expansion and therefor must meet current code requirements. If the improvements where to be done all within the existing structure then the rules are a little more flexible. I also want to point out that if the wall is removed then the entire room has to be elevated. See link to the document below. Specifically the Figure 8-4 on page 8-12.**

https://www.fema.gov/pdf/floodplain/nfip_sg_unit_8.pdf

The other expansion could be handled with ramps on the inside of the house if we have to.

I do not agree with labeling this house a non-conforming use. When the house was built it was constructed above the then Base Flood Elevation. FEMA decided to raise the BFE. The finish floor is still above the BFE but does not meet the 2' freeboard which is a City requirement. **See the definition of nonconforming use.**

NONCONFORMING STRUCTURE: A structure that was lawfully constructed and/or existing prior to the effective date of this title but that does not conform to the standards for the district in which it is located.

NONCONFORMING USE: A use that lawfully existed prior to the effective date of this title but that does not now conform to the allowed uses for the district in which it is located. For the purposes of this title, **nonconforming** parking lot design and landscaping shall be deemed a **nonconforming** use.

This is the exact thing that is labeled as nonconforming, it was built under old codes but does not meet new codes.

Variances are usually granted due to undo hardship and forcing an elderly person with a walker to go up steps or ramps is an undue hardship. **That is your opinion, but in my opinion does not meet the other requirements outlined in the variance, there are other solutions, and any response I provide to a variance request will state as much.**

Could we set up the pre application meeting to go over this ? I do not schedule the preapps, this is something that has to go to City Council so you will have to schedule this with Shawn.

Thank you

Antonio Conti
Ackerman-Estvold

From: Ryan Morgan <rmorgan@staridaho.org>
Sent: Wednesday, May 22, 2024 2:14 PM
To: Antonio Conti <Antonio.Conti@ackerman-estvold.com>; Bruce Hessing <bruce.hesscom@aol.com>
Cc: Building Dept <building@staridaho.org>; Jackson, Peter <Peter.Jackson@idwr.idaho.gov>; Shawn Nickel <snickel@staridaho.org>; Ryan Field <rfield@staridaho.org>; Tim Clark <tclark@staridaho.org>
Subject: RE: 686 S Star Road

Antonio,

Here is what our Code says on variances

8-1B-6: Variance

1. Authority To Grant Variances: The council may authorize, in specific cases, such variance from the terms of this title as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of this title would result in unnecessary hardship. No nonconforming use of neighboring lands, structures or buildings in the same district and no permitted or nonconforming use of lands, structures or buildings in other districts shall be considered grounds for issuance of a variance. Variances shall not be granted on the grounds of convenience or profit, but only where strict application of the provisions of this title would result in unnecessary, non-financial hardship.
2. Process:
 1. The applicant shall complete a pre-application conference with the administrator prior to submittal of an application for a variance.
 2. A neighborhood meeting shall be held by the applicant pursuant to Section 8-1A-6C of this title.
 3. An application and fees shall be submitted to the administrator on forms provided by the city.
3. Standards: The variance shall comply with Idaho Code section 67-6516. A variance may be considered as a waiver of development standards when associated with a conditional use permit, development agreement or planned unit development.
4. Required Findings: In order to grant a variance, the council shall review the application at a public hearing and use its discretion to make the following findings:
 1. The variance does not grant a right or special privilege that is not otherwise allowed in the district;
 2. The variance relieves an undue hardship because of characteristics of the site, which must be other than financial in nature; and
 3. The variance is not detrimental to the public health, safety, and welfare.

8-2-4: Nonconforming Use

1. The nonconforming use may continue as long as the use remains lawful and is not expanded or extended, subject to the following provisions:
 1. Alteration: No existing structure containing a nonconforming use may be enlarged, extended, constructed, reconstructed, moved or structurally altered except: a) through the approval of a conditional use permit in accord with the procedures set forth in this title; or b) where the use of the structure is changed to a conforming use.
 2. Extension: A nonconforming use may be extended to occupy additional land area only through the approval of a conditional use permit in accord with the procedures set forth in this title.
2. If a nonconforming use has ceased for twelve (12) consecutive months or has been replaced with a conforming use, the nonconforming use shall be deemed abandoned and shall not be reestablished.
3. A nonconforming use or structure housing a nonconforming use that is damaged more than fifty percent (50%) of its current assessed taxable value by fire, flood, explosion, wind, earthquake, war, riot, calamity, or other catastrophic event, shall comply with this title upon reconstruction. If the damage to the nonconforming use or structure housing the nonconforming use is fifty percent (50%) or less of its current assessed taxable value, the nonconforming use may continue, provided that the nonconforming use commences within twelve (12) months of the event.

8-2-5: Nonconforming Structure

1. Nonconforming structures may be enlarged, repaired or modified, with approval of a conditional use permit, provided that the additions or modifications to the structure conform to the requirements of this title.
2. A nonconforming structure that is damaged more than fifty percent (50%) of its current assessed taxable value by fire, flood, explosion, wind, earthquake, war, riot, calamity, or other catastrophic event, shall comply with this title upon restoration or reconstruction. If the damage to the nonconforming structure is fifty percent (50%) or less of its current assessed taxable value, the structure may be restored or reconstructed, provided that restoration or reconstruction commences within twelve (12) months of the event.
3. Structures listed on the national register of historic places shall be exempt from the regulations of this section.

From the floodplain ordinance:

Variance Procedures:

1. The City Council, hereinafter referred to as the "appeal board", shall hear and decide requests for variances from the requirements of this chapter.
2. Variances may be issued for:
 1. The repair or rehabilitation of historic structures upon the determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and that the variance is the minimum necessary to preserve the historic character and design of the structure;
 2. Functionally dependent facilities, if determined to meet the definition as stated in section 10-1-2, provided provisions of subsections E8b, E8c, and E8d have been satisfied, and such facilities are protected by methods that minimize flood damages during the base flood and create no additional threats to public safety; or
 3. Any other type of development, provided it meets the requirements of this section.

3. In passing upon variances, the appeal board shall consider all technical evaluations, all relevant factors, all standards specified in other sections of this chapter, and:
 1. The danger that materials may be swept onto other lands to the injury of others;
 2. The danger to life and property due to flooding or erosion damage;
 3. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
 4. The importance of the services provided by the proposed facility to the community;
 5. The necessity to the facility of a waterfront location as defined under section 10-1-2 as a functionally dependent facility, where applicable;
 6. The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;
 7. The compatibility of the proposed use with existing and anticipated development;
 8. The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
 9. The safety of access to the property in times of flood for ordinary and emergency vehicles;
 10. The expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site; and
 11. 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, and streets and bridges.

In my opinion you do not meet most of these requirements and my report to City Council would be to deny any variance for this parcel. Not trying to be harsh here, but the City adopted these Codes for a reason and granting variances defeats these reasons. Also it sets a precedence as if have had similar conversations for three other properties located within ½ mile of this address.

I have included the State Floodplain Coordinator on this email as well. Peter, please feel free to weigh in on granting variances to floodplain ordinances for residential building additions.

Sincerely,

Ryan V. Morgan; P.E., CFM
City Engineer
City of Star
P.O. Box 130
Star, ID 83669
208-286-7247 x3002



“The brightest jewel in the Gem State”

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From: Antonio Conti <Antonio.Conti@ackerman-estvold.com>
Sent: Tuesday, May 21, 2024 1:09 PM
To: Ryan Morgan <rmorgan@staridaho.org>; Bruce Hessing <bruce.hesscom@aol.com>
Cc: Building Dept <building@staridaho.org>
Subject: RE: 686 S Star Road

Ryan

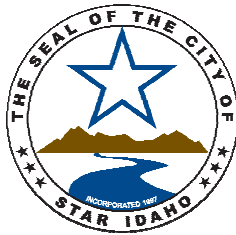
Thank you. I have one more. Can we ask council to override your denial due to the required 2' above BFE? Not sure we can build it if that is the case.

Antonio Conti
Ackerman-Estvold

From: Ryan Morgan <rmorgan@staridaho.org>
Sent: Tuesday, May 21, 2024 12:59 PM
To: Antonio Conti <Antonio.Conti@ackerman-estvold.com>; Bruce Hessing <bruce.hesscom@aol.com>
Cc: Building Dept <building@staridaho.org>
Subject: RE: 686 S Star Road

See below for responses

Ryan V. Morgan; P.E., CFM
City Engineer
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From: Antonio Conti <Antonio.Conti@ackerman-estvold.com>
Sent: Tuesday, May 21, 2024 11:27 AM
To: Ryan Morgan <rmorgan@staridaho.org>; Bruce Hessing <bruce.hesscom@aol.com>
Cc: Building Dept <building@staridaho.org>
Subject: RE: 686 S Star Road

Ryan

I am reviewing your comments on this application and I have some questions:

- In the Narrative Description, I am not sure what is needed. We are not doing any significant grading. Just building an addition to the house and minor landscape around the house. No watercourse alteration, no road fills, embankments etc. **Sounds like this will be a short paragraph or two.**
- Certification of registered engineer. I thought that it applies to non-residential structure. **Required for all floodplain improvements (elevation certificate)**
- Due to ADA needs, we cannot change the floor elevation of the addition. The finish floor is less than the minimum 2' above BFE, but still above BFE. Any thoughts? **I cannot approve anything bellow the 2 foot requirement.**

Thank you

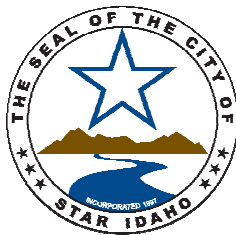
Antonio Conti
Ackerman-Estvold

From: Ryan Morgan <rmorgan@staridaho.org>
Sent: Tuesday, May 7, 2024 8:40 AM
To: Antonio Conti <Antonio.Conti@ackerman-estvold.com>; Bruce Hessing <bruce.hesscom@aol.com>
Cc: Building Dept <building@staridaho.org>
Subject: 686 S Star Road

Bruce,

I have reviewed the attached floodplain application. I have several comments that I have included on the marked up document. Additionally, please note that an elevation certificate will be required for the new addition. I also need some additional information on the new addition. What will be the finished floor of this addition, what is the finished floor of the existing structure, please note that the new addition may have to be elevated higher than the existing building to meet our floodplain ordinance.

Ryan V. Morgan; P.E., CFM
City Engineer
City of Star
P.O. Box 130
Star, ID 83669
208-286-7247 x3002



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