

BOARD *of* ADJUSTMENT



Joe Bazzoli
Commission Chair

~ Meeting Agenda ~

Leah Carlson
Staff Liaison

boa@ci.moscow.id.us

208.883.7095

<http://www.ci.moscow.id.us/agendacenter>

**Tuesday
June 25, 2019**

5:30 PM

**Council Chambers
221 E 2nd Street**

Call to order

1. **Approval of Minutes from June 18, 2019**

ACTION: Approve minutes as presented; approve minutes with amendments; or provide staff further direction.

2. **Approval of Relevant Criteria and Standards for a Property Located at 1021 Harold Street—LUP2019-0018**

Proposal for a Variance to construct a six-foot chain-link fence located at the Latah County Fairgrounds at 1021 Harold Street within the Medium Density Residential (R-3) Zoning District per MCC 4-6-8 (A)(2)(A).

ACTION: Review the draft Relevant Criteria and Standards document and approve the document; or approve the document with corrections; or provide Staff further direction as deemed necessary.

3. **Approval of Relevant Criteria and Standards for a Property Located at 206 North Van Buren Street—LUP2019-0039**

Conditional Use Permit application to enlarge an existing non-conforming garage located at 206 N Van Buren Street within the Medium Density Residential (R-3) Zoning District per MCC 4-1-7(D)(4).

ACTION: Review the draft Relevant Criteria and Standards document and approve the document; or approve the document with corrections; or provide Staff further direction as deemed necessary.

4. **Board Communications**

5. **Other Business**

Adjournment

NOTICE: Moscow City Council Commission meetings can be televised, videotaped and/or recorded. Individuals attending the meeting who require special assistance to accommodate physical, hearing, or other impairments, please contact the City Clerk, at (208) 883-7015 or TDD 883-7019, as soon as possible so that arrangements may be made.

BOARD of ADJUSTMENT



Joe Bazzoli
Commission Chair

~Meeting Minutes~
June 18, 2019

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<http://www.ci.moscow.id.us/354/Board-of-Adjustment>

The meeting was called to order at 7:00 PM

MEMBERS PRESENT: Joe Bazzoli, Chair; Annette Bieghler, Steve Bush, Marshall Comstock, Mark Monson, Laurene Sorensen

MEMBERS ABSENT: Tim Thomson

STAFF IN ATTENDANCE: Leah Carlson, Anne Peterson

1. Approval of Minutes from May 22, 2019.

Monson moved approval of the minutes as presented.

RESULT:	ACCEPTED BY ACCLAMATION
MOVER:	Monson
SECONDER:	Bazzoli
AYES:	Bazzoli, Monson
ABSTENTIONS:	Bieghler, Bush, Comstock, Sorensen

2. Public Hearing: Proposal for a Variance at 1021 Harold Street – LUP2019-0018

Proposal for a Variance to construct a six-foot chain-link fence located at the Latah County Fairgrounds property at 1021 Harold Street within the Medium Density Residential (R-3) Zoning District per Moscow City Code 4-6-8 (A)(2)(a).

Carlson presented the application described above and provided images showing the location of the proposed fencing. She explained that typically in the R-3 zoning district, fences within the front yard setback are limited to 4.5 feet in height. In this case, the fence would provide security and crowd control for private events, and livestock control during public events. Subject property uses include the Fairgrounds Exhibit halls, barns, parking, the Ice Rink, a ball field, and Lion's Park. There is existing chain link fence along Blaine Street. Staff recommended approval with no conditions. Bazzoli stated for the record that the chain link will not have barbed wire at the top.

The public hearing opened at 7:05 p.m.

Jim Logan, director of Latah County Fairgrounds at 1021 Harold Street said during fair time they use every square foot of the property and for other events year-round. The property is unique within Moscow, and is the only indoor/outdoor event space within the city limits. Without security fencing they have missed out on the revenue from numerous ticketed events. There has been vandalism on the eastern portion of the property which is currently open to the street on three sides. The variance is required only for the Harold Street side because a 4.5-foot fence isn't tall enough to retain livestock. Pedestrian gates will be open at all times except during ticketed events. At least three 16-foot gates and three 4-foot gates are planned, and perhaps more. The location of the fence on Harold Street will not interfere with the future expansion of the sidewalk, and the current tree line will be maintained.

Comstock asked if the fencing would interfere with the RV Dump Station and Logan replied “no.” Bush asked about large carnival equipment access and Logan said the 16-foot gates will coincide with existing curb cuts.

The public hearing closed at 7:15 p.m.

Comstock said this was a unique situation because the Fairgrounds existed first before the City expanded around it. He thought a fence was a good idea and moved approval of the application with no conditions. Sorensen agreed it would be good for the neighborhood and participant safety.

RESULT:	APPROVED BY ROLL CALL [UNANIMOUS]
MOVER:	Comstock
SECONDER:	Sorensen

Comstock moved to direct staff to prepare the Reasoned Statement of Relevant Criteria and Standards. Bazzoli said the use and existence of the fairgrounds creates a special condition or circumstance. He added the fence would not be a nuisance to the public, but rather helpful to the adjacent properties.

RESULT:	APPROVED BY ROLL CALL [UNANIMOUS]
MOVER:	Comstock
SECONDER:	Monson

3. Public Hearing: Proposal for a Conditional Use Permit to enlarge an existing non-conforming garage at 206 N Van Buren Street – LUP2019-0019

Proposal for a Conditional Use Permit to enlarge an existing non-conforming garage located at 206 N Van Buren Street within the Medium Density Residential (R-3) Zoning District per Moscow City Code 4-1-7 (D)(4).

Carlson explained the code requirement for a Conditional Use Permit to modify an existing non-conforming structure, and illustrated the proposed garage expansion. The lot is nonconforming in size, and the existing garage has non-conforming set-backs of 2.5 feet rather than 5. That setback will remain the same. Staff recommended approval with no conditions.

Monson asked how the revision will change the street view of the garage. Carlson said it will be closer to the street but not any taller or wider, so the nonconformities will not change. Bazzoli asked if the garage wall next to the property line would be required to be a fire wall. Comstock said only if it was within five feet of another structure. Carlson added that if the Fire Department has any concern that would be addressed at the building permit stage. Comstock asked what the distance was between the garage and the house; Carlson replied 6.5 feet.

The public hearing opened at 7:24 p.m.

Tom O’Malley, 206 Van Buren, and his architect, John Paul, 615 Ekes Rd, introduced themselves. Paul said the current garage is an existing nonconformity that is similar in aesthetics to the house’s Craftsman style architecture. The expansion will maintain the architectural scale and aesthetic, while providing better coverage for vehicles. The current garage slab is a low point which collects water, so that will also be addressed. Board members asked if any city services extended to the structure and O’Malley said only electric. Paul surmised it was originally a carriage house, based on the age of the buildings.

Tom Brainerd, 210 N Van Buren, testified that he lives immediately to the north of the applicant and would be the most impacted by this expansion, but he fully supports the application. He and his wife appreciate all the improvements the applicants have already made to the property.

Jean Brainerd, 210 N Van Buren, said she has no concerns with the proposal, nor concerns that the construction would disturb her plantings.

Bill Woolston, 220 N Van Buren, has lived nearby for 33 years. He commended the changes the applicants have made to the property and the improvement to the neighborhood. His only question pertained to the north wall which is proposed to be completely blank. He suggested a window would be a nice visual break.

The public hearing closed at 7:29 p.m.

Comstock thought this type of issue occurs often in the Fort Russell neighborhood. Bazzoli added that getting one more car off the street would be an enhancement. Monson moved approval of the application as presented.

RESULT:	APPROVED BY ROLL CALL [UNANIMOUS]
MOVER:	Monson
SECONDER:	Sorensen

Monson moved to direct staff to prepare the Reasoned Statement of Relevant Criteria and Standards.

RESULT:	APPROVED BY ROLL CALL [UNANIMOUS]
MOVER:	Monson
SECONDER:	Comstock

4. Board Communications

Meeting for approval of the Relevant Criteria was scheduled for Tuesday, June 25, at 5:30pm in Council Chambers.

Adjournment

The meeting adjourned at 7:32 pm.

Joe Bazzoli, Chair

Date

**BEFORE THE BOARD OF ADJUSTMENT
OF THE CITY OF MOSCOW, COUNTY
OF LATAH, STATE OF IDAHO**

REASONED STATEMENT OF RELEVANT CRITERIA AND STANDARDS

REASONED STATEMENT OF RELEVANT CRITERIA AND STANDARDS REGARDING A VARIANCE REQUEST TO CONSTRUCT A SIX-FOOT CHAIN-LINK FENCE WITHIN THE FRONT YARD SETBACK LOCATED AT 1021 HAROLD STREET WITHIN THE MEDIUM DENSITY RESIDENTIAL (R-3) ZONING DISTRICT PER MOSCOW CITY CODE 4-6-8(A)(2)(A).

WHEREAS, the applicant filed an application for a variance on May 15, 2019; and

WHEREAS, this matter came before the Moscow Board of Adjustment during a duly noticed public hearing on June 18, 2019; and

WHEREAS, having reviewed the application, including all exhibits entered, and having considered the issues presented:

THE MOSCOW BOARD OF ADJUSTMENT OF THE CITY OF MOSCOW, IDAHO, AFTER DUE DELIBERATION AND CONSIDERATION, HEREBY CONCLUDES:

I. RELEVANT FACTS AND CONCLUSIONS

1. The Board of Adjustment considered the request pursuant to the City of Moscow Zoning Code, Comprehensive Plan, and Moscow City Code.
2. The subject property is located within the Medium Density Residential (R-3) Zoning District, where fences located within the front yard setback are limited to a height of 4.5 feet where the posts and materials constitute not more than 60% of the fence area.
3. Properties immediately adjacent to the subject property to the north, south, and west are primarily zoned R-3 with the majority of the parcels consisting of residential uses. To the northeast, across Mountain View Road, are residential uses located in the Low Density Single Family Residential (R-1) Zone. Further south across White Avenue are commercial uses located within the Motor Business (MB) Zone.
4. The subject property is approximately 14.5 acres in size, with approximately 1,100 feet of frontage on Harold Street, 427 feet of frontage on Mountain View Road, and the property is partially bounded by South Blaine Street and White Avenue on the southwest corner.
5. Primary access to the subject property is from White Avenue, with a service road providing access from Mountain View Road and another vehicle access point from Harold Street.
6. The subject property often holds both public and private events on the premises. The six-foot fence would provide security and crowd control for private events, and animal and livestock security during public events.
7. Several other fences of the same height and style already exist around different sections of the subject property.

8. Several gates would be installed around the subject property allowing for accessibility throughout the site.

BASED ON THE ABOVE RELEVANT FACTS AND CONCLUSIONS, THE BOARD OF ADJUSTMENT OF THE CITY OF MOSCOW HEREBY FINDS THE FOLLOWING RELEVANT CRITERIA AND STANDARDS:

II. RELEVANT CRITERIA AND STANDARDS

1. **Are there special conditions or circumstances that exist which are peculiar to the property (such as size, shape, topography or location) which are not applicable to other properties similarly situated in the same Zoning District?** The subject property has numerous uses including the Ice Rink, Fairgrounds buildings, Exhibit halls, Parking areas, Lions Club Park, and a Ballfield on the SE corner. Because of these uses, a fence would provide security and crowd control for private events and livestock security during public events that occur throughout the year. The uses of the subject property create special conditions that are unique to this property and that are not applicable to other properties similarly situated within the same zoning district.
2. **Because of the aforementioned special conditions of the property, would application of the provisions of the Zoning Code impose undue hardship and deprive the property owner of rights commonly enjoyed by owners of other property similarly situated in the same Zoning District?** Due to the unique uses of the subject property, limiting the fence height to 4.5' would limit the type of events that the Fairgrounds would be able to host, thus imposing undue hardship on the property owner.
3. **Will the granting of the Variance be in conflict with the public interest or injurious to the property or persons in the vicinity of the subject property?** No. The six-foot chain link fence would create greater security by creating a barrier between events occurring on the subject property and the adjacent residential properties.

III. DECISION

Based on the above Reasoned Statement of Relevant Criteria, the City of Moscow Board of Adjustment approves the application for a Variance to construct a six-foot chain-link fence within the front yard setback located at 1021 Harold Street, with no conditions.

PASSED BY THE BOARD OF ADJUSTMENT OF THE CITY OF MOSCOW THE _____ OF _____, 2019.

Joe Bazzoli, Chairman
Board of Adjustment

**BEFORE THE BOARD OF ADJUSTMENT
OF THE CITY OF MOSCOW, COUNTY OF LATAH,
STATE OF IDAHO**

REASONED STATEMENT OF RELEVANT CRITERIA AND STANDARDS

**REASONED STATEMENT OF RELEVANT CRITERIA AND STANDARDS
REGARDING A CONDITIONAL USE PERMIT APPLICATION TO EXPAND AN
EXISTING NONCONFORMING GARAGE LOCATED AT 206 NORTH VAN BUREN
STREET IN THE CITY OF MOSCOW, IDAHO WITHIN THE MEDIUM DENSITY,
SINGLE FAMILY RESIDENTIAL (R-3) ZONING DISTRICT PER MCC 4-1-7(D)(4).**

WHEREAS, the applicant filed an application for a conditional use permit on May 20, 2019; and

WHEREAS, this matter came before the Moscow Board of Adjustment during a duly noticed public hearing on June 18, 2019; and

WHEREAS, during the public hearing and having considered the matter including all testimony presented, the Moscow Zoning Board of Adjustment approved the proposed Conditional Use Permit and instructed Staff to prepare the Reasoned Statement of Relevant Criteria for the Board's review and approval; and

WHEREAS, having reviewed the application, including all exhibits entered, and having considered the issues presented by the applicant and the opponents:

**THE BOARD OF ADJUSTMENT OF THE CITY OF MOSCOW, IDAHO, AFTER DUE
DELIBERATION AND CONSIDERATION, HEREBY CONCLUDES:**

I. RELEVANT FACTS AND CONCLUSIONS

1. The Board of Adjustment considered the request pursuant City of Moscow Comprehensive Plan, City of Moscow Zoning Ordinance, the Local Land Use Planning Act, and other applicable development regulations.
2. The applicant proposes to expand an existing non-conforming garage located at 206 N Van Buren Street Street.
3. The subject property is located within the Medium Density, Single Family Residential (R-3) Zoning District, where a nonconforming structure may be enlarged or altered with the same zoning nonconformities through the issuance of a Conditional Use Permit per MCC 4-1-7(D)(4).
4. Accessory structures over 200 square feet must be setback a minimum of 5' (five feet) from side and rear property lines. The existing garage is 225 square feet and is located 2' 2" (2

feet and 2 inches) away from the northern property line, making the existing structure non-conforming.

5. The applicant proposes to expand the existing structure by an additional 250 square feet, while maintaining the nonconformities of the existing structure.
6. The subject property sits at the corner of Van Buren Street and 'A' Street, and is accessed from Van Buren Street.
7. Chapter 3 of the City's Comprehensive Plan, Community Mobility, identifies Van Buren Street as a local neighborhood street.

BASED ON THE ABOVE RELEVANT FACTS AND CONCLUSIONS, THE BOARD OF ADJUSTMENT OF THE CITY OF MOSCOW HEREBY FINDS THE FOLLOWING RELEVANT CRITERIA AND STANDARDS:

II. RELEVANT CRITERIA AND STANDARDS

1. **The proposed use is a conditionally permitted use within the Zoning District:** According to Moscow City Code 4-1-7(D)(4), "A nonconforming structure may be enlarged or altered with the same zoning nonconformities through the issuance of a Conditional Use Permit."
2. **The character of the proposed use will be in harmony with the neighborhood and surrounding land uses:** The Board finds that the proposed use will be in harmony with the neighborhood and surrounding land uses. The architecture of the proposed garage extension matches the existing home on the subject property as well as other architectural features of nearby residences.
3. **The proposed use, as approved with conditions, will not generate nuisances that would be injurious or detrimental to the adjoining properties or the neighborhood (including, but not limited to, noise, dust, glare, vibrations, odors, and the like):** The Board finds that the proposed use is not anticipated to generate nuisances detrimental to the neighborhood. The use of the structure will remain the same.
4. **The location, design, and size of the proposed use is adequately served by existing streets, public facilities, and services:** The Board finds that the proposed use is adequately served by existing streets, public facilities, and services. The extended garage will provide adequate parking for the single-family home on the subject property.
5. **The proposed use will not endanger the public health or safety if located where proposed:** The Board finds that the proposed use will not endanger the public health or safety.

6. **Proposed use meets all applicable development standards of the Zoning Code:** The Board finds that the proposed use meets all applicable development standards of the City Code.
7. **The proposed use will not be in conflict with the Comprehensive Plan:** The use is consistent with the Comprehensive Plan as it supports the goals and strategies of multiple chapters and does not conflict with other sections of the Plan.

III. DECISION

Based on the above Reasoned Statement of Relevant Criteria, the City of Moscow Board of Adjustment approves the application for the expansion of an existing non-conforming garage located at 206 North Van Buren Street with no conditions.

PASSED BY THE BOARD OF ADJUSTMENT OF THE CITY OF MOSCOW THE ____ DAY
OF _____, 2019.

Joe Bazzoli, Chair
Board of Adjustment